

109TH CONGRESS
1ST SESSION

S. 1519

To provide for an economic analysis of the impact on small business concerns and small governmental jurisdictions of agency and other decisions that result in a net loss of at least 1,000 jobs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2005

Ms. SNOWE (for herself, Mr. LIEBERMAN, and Mr. THUNE) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

A BILL

To provide for an economic analysis of the impact on small business concerns and small governmental jurisdictions of agency and other decisions that result in a net loss of at least 1,000 jobs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Eco-
5 nomic Impact Analysis Act of 2005”.

1 **SEC. 2. AGENCY RESTRUCTURING OR TERMINATION OF**
2 **USE OF FACILITY.**

3 (a) IN GENERAL.—The Small Business Act (15
4 U.S.C. 631 et seq.) is amended—

5 (1) by redesignating section 37 as section 38;

6 and

7 (2) by inserting after section 36 the following:

8 **“SEC. 37. AGENCY RESTRUCTURING OR TERMINATION OF**
9 **USE OF FACILITY.**

10 “(a) DEFINITIONS.—As used in this section, the fol-
11 lowing definitions apply:

12 “(1) AGENCY.—The term ‘agency’ has the
13 meaning given the term in section 551(1) of title 5,
14 United States Code.

15 “(2) QUALIFYING TERMINATION OR RESTRUC-
16 TURING.—The term ‘qualifying termination or re-
17 structuring’ means any termination of the use of a
18 facility or restructuring that will result in the net
19 loss of at least 1,000 governmental and nongovern-
20 mental jobs in any State.

21 “(3) RESTRUCTURING.—The term ‘restruc-
22 turing’ means any action by an agency that both re-
23 duces and relocates functions and personnel, but
24 does not include a reduction in personnel resulting
25 from workload adjustments, reduced funding levels,
26 or skill imbalances.

1 “(4) SMALL GOVERNMENTAL JURISDICTION.—
2 The term ‘small governmental jurisdiction’ has the
3 meaning given the term in section 601(5) of title 5,
4 United States Code.

5 “(5) STATE.—The term ‘State’ means each of
6 the several States of the United States, the District
7 of Columbia, and the Commonwealth of Puerto Rico.

8 “(b) GENERAL REQUIREMENT.—

9 “(1) AGENCIES.—An agency may not make a
10 qualified termination or restructuring until after
11 complying with the requirements of subsections (c)
12 through (e).

13 “(2) OTHER ENTITIES.—An entity that is
14 statutorily authorized to recommend a qualified ter-
15 mination or restructuring may not finalize its rec-
16 ommendation until after complying with the require-
17 ments of subsections (c) through (e).

18 “(c) ECONOMIC ANALYSIS.—

19 “(1) ECONOMIC ANALYSIS REQUIRED.—

20 “(A) AGENCIES.—Prior to making any
21 qualifying termination or restructuring, an
22 agency shall conduct a detailed analysis of the
23 impact on small business concerns and small
24 governmental jurisdictions of the proposed ter-
25 mination or restructuring.

1 “(B) OTHER ENTITIES.—Prior to recom-
2 mending a qualifying termination or restruc-
3 turing, any entity statutorily authorized to
4 make such recommendations shall conduct a de-
5 tailed analysis of the impact on small business
6 concerns and small governmental jurisdictions
7 of the proposed termination or restructuring.

8 “(2) SCOPE OF ECONOMIC ANALYSIS.—The
9 analysis required under paragraph (1) shall in-
10 clude—

11 “(A) a description of the small business
12 concerns and small governmental jurisdictions
13 that will be affected by the proposed termi-
14 nation or restructuring and an estimate of the
15 number of such small business concerns and
16 small governmental jurisdictions;

17 “(B) a description of the efforts by the
18 agency or entity to minimize the significant ad-
19 verse economic impact on small business con-
20 cerns and small governmental jurisdictions of
21 the proposed termination or restructuring; and

22 “(C) a description of any alternative termi-
23 nation or restructuring that would reduce the
24 overall impact of the proposed termination or
25 restructuring on small business concerns, to-

1 gether with an explanation of the reasons for
2 not proposing such alternative termination or
3 restructuring.

4 “(3) COST-BENEFIT ANALYSIS OF IMPACT ON
5 CERTAIN STATES.—

6 “(A) IN GENERAL.—In conducting the
7 analysis required under paragraph (1), the
8 agency or entity shall also conduct, consistent
9 with the principles stated in Office of Manage-
10 ment and Budget Circular A-4 (September 17,
11 2003), a quantitative cost-benefit analysis of
12 the economic impact upon small business con-
13 cerns and small governmental jurisdictions of
14 the proposed termination or restructuring in
15 any State where the agency or entity deter-
16 mines the economic impact of such termination
17 or restructuring would exceed \$100,000,000.

18 “(B) SCOPE OF COST-BENEFIT ANAL-
19 YSIS.—In conducting a cost-benefit analysis
20 under subparagraph (A), the agency or entity
21 shall—

22 “(i) evaluate and compare the costs
23 and benefits to small business concerns
24 and small governmental jurisdictions of the
25 proposed termination or restructuring,

1 quantifying and expressing in monetized
2 values to the maximum extent possible
3 such costs and benefits;

4 “(ii) provide clearly stated alternatives
5 to the proposed termination or restruc-
6 turing; and

7 “(iii) prepare a summary report of the
8 costs and benefits to small business con-
9 cerns and small governmental jurisdictions
10 of the termination or restructuring pro-
11 posed under each such set of alternate pro-
12 posals.

13 “(C) TRANSPARENCY OF COST-BENEFIT
14 ANALYSIS.—

15 “(i) IN GENERAL.—In conducting a
16 cost-benefit analysis under subparagraph
17 (A) or preparing a summary report under
18 subparagraph (B)(iii), the agency or entity
19 shall take measures to ensure the trans-
20 parency of such actions, including the
21 bases for making estimates and forming
22 conclusions for purposes of such analysis
23 or report.

1 “(ii) REQUIRED MEASURES.—The
2 measures an agency or entity takes to en-
3 sure transparency shall include—

4 “(I) incorporating an executive
5 summary;

6 “(II) detailing the assumptions
7 that were used in the analysis and the
8 discount rates applied to future costs
9 and benefits;

10 “(III) specifically referencing all
11 sources of data;

12 “(IV) providing appendices with
13 documentation of any models used;
14 and

15 “(V) including the results of for-
16 mal sensitivity and other uncertainty
17 analyses.

18 “(d) PUBLICATION OF ECONOMIC ANALYSIS.—

19 “(1) DRAFT ECONOMIC ANALYSIS.—Not later
20 than 180 days before taking final action on a quali-
21 fying termination or restructuring, an agency or en-
22 tity shall—

23 “(A) publish a draft of its economic anal-
24 ysis under subsection (c) on its website; and

1 “(B) provide notice of the draft economic
2 analysis in the Federal Register with at least a
3 60-day period for public comment.

4 “(2) FINAL ECONOMIC ANALYSIS.—After due
5 consideration of any comments, the agency or entity
6 shall publish—

7 “(A) a final economic analysis on its web
8 site; and

9 “(B) a notice regarding the final economic
10 analysis in the Federal Register.

11 “(e) GAO REVIEW.—

12 “(1) IN GENERAL.—After publishing the final
13 economic analysis under subsection (d), an agency or
14 entity shall submit its final economic analysis to the
15 Comptroller General of the United States for review
16 of the analysis.

17 “(2) DEADLINE.—Not later than 90 days after
18 receiving a final economic analysis under paragraph
19 (1), the Comptroller General of the United States
20 shall complete an analysis of the submission and
21 publish a report regarding the sufficiency of the
22 analysis.

23 “(3) REVISED ECONOMIC ANALYSIS REQUIRED
24 UPON DETERMINATION OF INSUFFICIENT ANAL-
25 YSIS.—If the Comptroller General of the United

1 States determines that the final economic analysis is
2 insufficient, the agency or entity shall repeat the
3 procedures required under subsections (c) and (d)
4 and paragraph (1).

5 “(f) FINAL ACTION.—An agency or entity may not
6 take final action on a qualifying termination or restruc-
7 turing until after receiving a satisfactory review from the
8 Comptroller General of the United States under sub-
9 section (e).

10 “(g) JUDICIAL REVIEW.—

11 “(1) IN GENERAL.—Not later than 90 days
12 after the notice regarding the final economic anal-
13 ysis is published in the Federal Register under sub-
14 section (d)(2)(B), any small business concern or
15 small governmental jurisdiction adversely affected or
16 aggrieved by the qualifying termination or restruc-
17 turing may file a petition for judicial review of the
18 qualifying termination or restructuring with the
19 United States Court of Appeals for the circuit in
20 which the small business concern or small govern-
21 mental jurisdiction is located.

22 “(2) EXPEDITED REVIEW.—The Court of Ap-
23 peals shall provide for expedited review of a petition
24 under paragraph (1).

1 “(3) SCOPE OF REVIEW.—Any review under
2 paragraph (1) shall be limited to determining wheth-
3 er—

4 “(A) the qualifying termination or restruc-
5 turing constitutes an agency action that is arbi-
6 trary, capricious, an abuse of discretion, or oth-
7 erwise not in accordance with law; and

8 “(B) the economic analysis under sub-
9 section (c) was insufficient.”.

10 (b) APPLICABILITY.—The requirements of section 37
11 of the Small Business Act, as added by subsection (a),
12 shall apply to any qualifying termination or restructuring
13 (as that term is defined in subsection (a) of such section)
14 for which final action has not occurred as of the date of
15 the enactment of this Act.

○