

96TH CONGRESS
1ST SESSION

S. 51

To amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1979

Mr. BENTSEN introduced the following bill; which was read twice and referred jointly pursuant to order of August 4, 1977, to the Committees on Budget and Governmental Affairs

A BILL

To amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, 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 That (a) the Congressional Budget Act of 1974 is amended
- 4 by adding at the end thereof the following new title:

1 "TITLE XI—REGULATORY BUDGET PROCEDURE

2 "STATEMENT OF FINDINGS AND PURPOSE

3 "SEC. 1101. (a) The Congress finds that—

4 "(1) Federal rules and regulations often impose
5 excessive costs of compliance upon the non-Federal
6 sector;7 "(2) Federal rules and regulations have grown in
8 number and scope so rapidly that the agencies and the
9 Congress have not had an adequate opportunity to ex-
10 amine the costs of compliance with such rules and reg-
11 ulations; and12 "(3) it is the responsibility of the Congress to de-
13 termine the appropriate levels of costs of compliance
14 with Federal rules and regulations.15 "(b) It is the purpose of this title to require the Con-
16 gress to establish, for each fiscal year, a regulatory budget
17 for each agency which sets the maximum costs of compliance
18 with all rules and regulations promulgated by that agency. It
19 is the intent of Congress, for each of the first five years for
20 which a regulatory budget is prepared, to impose a budget
21 which will result in reducing the total costs of compliance
22 with Federal rules and regulations by 5 percent per year.

1 "DEVELOPMENT OF REGULATORY COSTS ANALYSIS

2 PROCEDURES

3 "SEC. 1102. (a) The President shall, in consultation
4 with the Business Advisory Council established pursuant to
5 subsection (g)—

6 "(1) establish criteria for use in the determination
7 of which rules or regulations are rules or regulations
8 within the meaning of this title and furnish such crite-
9 ria to the head of each agency; and

10 "(2) develop methods of determining the costs of
11 compliance with rules or regulations and furnish such
12 methods to the head of each agency.

13 "(b) In developing the methods required under subsec-
14 tion (a)(2), the President shall, after consultation with the
15 Business Advisory Council—

16 "(1) take such action as may be necessary to
17 insure that such methods are based upon the most ac-
18 curate available statistical and accounting knowledge
19 and techniques; and

20 "(2) provide, to the maximum extent feasible, that
21 such methods are uniform for all agencies while taking
22 into account the different functions of each agency.

23 "(c)(1) At least ninety days before the submission of the
24 criteria and methods required under subsection (a) to the
25 head of each agency, the President shall—

1 “(A) publish such criteria and methods in the
2 Federal Register in order to solicit public comments
3 thereon for a period not in excess of forty-five days;
4 and

5 “(B) submit such criteria and methods to the
6 Comptroller General, the Director of the Council on
7 Wage and Price Stability, the Chairman of the Admin-
8 istrative Conference of the United States, and the Di-
9 rector for their review and comments.

10 “(2) The Comptroller General, the Director of the
11 Council on Wage and Price Stability, the Chairman of the
12 Administrative Conference of the United States, and the Di-
13 rector shall submit comments and recommendations concern-
14 ing the criteria and methods submitted pursuant to paragraph
15 (1)(B) within forty-five days of the receipt of such criteria and
16 methods.

17 “(d) Each year, at a time and in a manner consistent
18 with the provisions of sections 1103 and 1104, the President
19 shall review and update the criteria and methods established
20 under this section in accordance with the procedures estab-
21 lished in this section.

22 “(e) The President may delegate his responsibilities
23 under this section to the Director of the Office of Manage-
24 ment and Budget.

1 “(f) The head of each agency shall utilize the criteria
2 and methods developed by the President under this section to
3 carry out the functions required under section 1103.

4 “(g)(1) The President shall, in accordance with the Fed-
5 eral Advisory Committee Act (5 U.S.C. App.), establish a
6 Business Advisory Council to provide such information and
7 advice as he may require to carry out his responsibilities
8 under subsections (a) and (b) of this section.

9 “(2) The Council shall be composed of not less than
10 twenty-five nor more than fifty members selected by the
11 President. Such members shall include representatives of
12 each major industrial and commercial sector, and shall in-
13 clude individuals from each geographic region. Such individ-
14 uals shall include members from enterprises of various sizes,
15 and shall include, to the extent possible, individuals from
16 businesses affected by each of the major areas of Federal
17 regulation.

18 “(3) The President shall provide the Council with neces-
19 sary clerical and other supportive services and shall cause
20 the minutes of meetings of the Council to be duly published.
21 Members of the Council, other than full-time employees of
22 the Federal Government, while attending meetings of the
23 Council or otherwise serving at the request of the Council or
24 the President away from their homes or regular places of
25 business, may be allowed travel expenses, including per diem

1 in lieu of subsistence, as authorized by section 5703 of title 5,
2 United States Code, for individuals in the Government serv-
3 ing without pay.

4 "REGULATORY COST COMPLIANCE REPORTS

5 "SEC. 1103. (a)(1) Each year, the head of each agency
6 shall conduct a study of the costs of compliance with rules
7 and regulations promulgated by that agency. The head of
8 each agency shall utilize the criteria established by the Presi-
9 dent under section 1102 in conducting the study required
10 under this subsection.

11 "(2) The head of each agency shall submit a report to
12 the President, the Congress, and the Comptroller General by
13 the November 10 preceding the beginning of each fiscal year.
14 The report shall contain the results of the study required
15 under paragraph (1), and shall contain a statement of—

16 "(A)(i) the costs of compliance for the fiscal year
17 ending on the September 30 prior to the date on which
18 the report is submitted;

19 "(ii) a comparison of the costs of compliance for
20 such fiscal year with the regulatory budget, if any, es-
21 tablished for such fiscal year under section 1105; and

22 "(iii) a full explanation for any costs of compliance
23 which exceeded the regulatory budget for such fiscal
24 year; and

1 “(B) the estimated costs of compliance for the
2 fiscal year in progress when the report is submitted
3 and for the succeeding fiscal year—

4 “(i) with rules and regulations of such
5 agency in effect on the date on which the report
6 is submitted;

7 “(ii) with rules and regulations of such
8 agency which are to be issued, or are expected to
9 be issued, after the date on which the report is
10 submitted; and

11 “(iii) with all rules and regulations of such
12 agency as specified in clauses (i) and (ii).

13 “(b) By May 15 of each year, the Comptroller General
14 shall review the reports required by subsection (a), and shall
15 submit a report to the Congress containing the results of such
16 review. Such report shall identify (1) any inadequacies in the
17 reports submitted by the head of each agency, and (2) any
18 errors in estimates of the costs of compliance specified in
19 such reports.

20 “REGULATORY BUDGET RECOMMENDATIONS

21 “SEC. 1104. The budget transmitted pursuant to sec-
22 tion 201(a) of the Budget and Accounting Act, 1921, for
23 each fiscal year, shall include a regulatory budget for each
24 agency which shall contain recommendations for the maxi-
25 mum costs of compliance with all rules and regulations of

1 each agency during the fiscal year for which the budget is
2 submitted. If the proposed regulatory budget for any agency
3 is lower than the estimated total costs of compliance deter-
4 mined by the agency head under section 1103(a)(2)(B), the
5 Budget message shall recommend specific actions which may
6 be taken during such fiscal year to reduce the costs of compli-
7 ance with the rules or regulations of such agency.

8 "REGULATORY BUDGET RESOLUTION

9 "SEC. 1105. (a)(1) On or before September 15 of each
10 year, the Congress shall complete action on a concurrent res-
11 olution to establish a regulatory budget for each agency
12 which sets the maximum costs of compliance with all rules
13 and regulations promulgated by each agency which will be in
14 effect during the fiscal year beginning on October 1 of such
15 year. In developing such regulatory budget, the Congress
16 shall utilize the reports submitted by the head of each agency
17 pursuant to section 1103(a), the report submitted by the
18 Comptroller General pursuant to section 1103(b), and the
19 recommendations submitted by the President pursuant to sec-
20 tion 1104.

21 "(2) The provisions of section 305 shall apply to the
22 consideration of concurrent resolutions required under this
23 subsection.

24 "(b) On or before July 15 of each year, each standing
25 committee of the House of Representatives shall submit to

1 the Committee on the Budget of the House, each standing
2 committee of the Senate (and each other committee of the
3 Senate which has legislative jurisdiction) shall submit to the
4 Committee on the Budget of the Senate, and the Joint Eco-
5 nomic Committee and Joint Committee on Internal Revenue
6 Taxation shall submit to the Committees on the Budget of
7 both Houses its views and estimates with respect to the es-
8 tablishment of the maximum costs of compliance with rules
9 and regulations which relate to matters within the respective
10 jurisdiction or function of such committee or joint committee.

11 “(c) In developing the concurrent resolution required
12 under subsection (a) for each fiscal year, the Committee on
13 the Budget of each House shall hold hearings and receive
14 testimony from among Members of Congress and such appro-
15 priate representatives of the agencies, the general public, and
16 national organizations as the committee deems desirable. On
17 or before August 15 of each year, the Committee on the
18 Budget of each House shall report to its House the concur-
19 rent resolution required under subsection (a) for the fiscal
20 year beginning on October 1 of such year.

21 “REPORTS AND SUMMARIES OF CONGRESSIONAL ACTION

22 “SEC. 1106. (a) Whenever a committee of either House
23 reports a bill or resolution to its House, the report accompa-
24 nying that bill or resolution shall contain a statement, pre-
25 pared after consultation with the Director, which contains an

1 estimate of the costs of compliance with the rules or regula-
2 tion required to carry out the provisions of such bill or resolu-
3 tion.

4 “(b) The Director shall issue periodic reports detailing
5 and tabulating the progress of congressional action on bills
6 and resolutions which will create costs of compliance as a
7 result of rules or regulations required to carry out the provi-
8 sions of such bill or resolution. Such report shall include—

9 “(1) an up-to-date tabulation, by agency, of the
10 costs of compliance with rules or regulations required
11 to carry out the provisions of each such bill or resolu-
12 tion on which Congress has completed action;

13 “(2) an up-to-date status report on all bills and
14 resolutions which would create such costs of compli-
15 ance; and

16 “(3) an up-to-date comparison, by agency, of the
17 maximum costs of compliance established for each
18 agency pursuant to section 1105 with the costs of
19 compliance—

20 “(A) with rules or regulations in effect on
21 the date of such report; and

22 “(B) with rules or regulations required to
23 carry out the provisions of bills or resolutions on
24 which Congress has completed action.

1 "NEW LEGISLATION MUST BE WITHIN REGULATORY
2 BUDGET

3 "SEC. 1107. (a) After the Congress has completed
4 action on the concurrent resolution required under section
5 1105 for a fiscal year, it shall not be in order in either the
6 House of Representatives or the Senate to consider any bill,
7 resolution, or amendment which would result in additional
8 costs of compliance in such fiscal year, or any conference
9 report on such bill or resolution, if—

10 "(1) the enactment of such bill or resolution as re-
11 ported;

12 "(2) the adoption and enactment of such amend-
13 ment; or

14 "(3) the enactment of such bill or resolution in the
15 form recommended in such conference report;

16 would cause the level of costs of compliance for any agency
17 to exceed the maximum costs of compliance established for
18 that agency in the concurrent resolution required under sec-
19 tion 1105.

20 "(b) For purposes of subsection (a), the costs of compli-
21 ance during a fiscal year shall be determined on the basis of
22 estimates made by the Committee on the Budget of the
23 House of Representatives or the Senate, as the case may be.

24 "(c)(1) The committee of the Senate which reports any
25 bill or resolution may, at or after the time it reports such bill

1 or resolution, report a resolution to the Senate (A) providing
2 for the waiver of subsection (a) with respect to such bill or
3 resolution, and (B) stating the reasons why the waiver is nec-
4 essary. The resolution shall then be referred to the Commit-
5 tee on the Budget of the Senate. The Committee on the
6 Budget shall report the resolution to the Senate, within ten
7 days after the resolution is referred to it (not counting any
8 day on which the Senate is not in session) beginning with the
9 day following the day on which it is so referred, accompanied
10 by that committee's recommendations and reasons for such
11 recommendations with respect to the resolution. If the com-
12 mittee does not report the resolution within such ten-day
13 period, it shall automatically be discharged from further con-
14 sideration of the resolution and the resolution shall be placed
15 on the calendar.

16 “(2) During the consideration of any such resolution,
17 debate shall be limited to one hour, to be equally divided
18 between, and controlled by, the majority leader and the mi-
19 nority leader or their designees, and the time on any debat-
20 able motion or appeal shall be limited to twenty minutes, to
21 be equally divided between, and controlled by, the mover and
22 the manager of the resolution. In the event the manager of
23 the resolution is in favor of any such motion or appeal, the
24 time in opposition thereto shall be controlled by the minority
25 leader or his designee. Such leaders, or either of them, may,

1 from the time under their control on the passage of such reso-
2 lution, allot additional time to any Senator during the consid-
3 eration of any debatable motion or appeal. No amendment to
4 the resolution is in order.

5 “(3) If, after the Committee on the Budget has reported
6 (or been discharged from further consideration of) the resolu-
7 tion, the Senate agrees to the resolution, then subsection (a)
8 of this section shall not apply with respect to that bill or
9 resolution referred to in the resolution.

10 “DEFINITIONS

11 “SEC. 1108. For purposes of this title—

12 “(1) the term ‘agency’ has the meaning given to it
13 by section 551(1) of title 5, United States Code;

14 “(2) the term ‘Comptroller General’ means the
15 Comptroller General of the United States;

16 “(3) the term ‘costs of compliance’ means, with
17 respect to an agency, the costs imposed upon the non-
18 Federal sector as a result of compliance with rules or
19 regulations promulgated by that agency, including
20 wages, salaries, benefits, capital costs, rents, interests,
21 State and local taxes, and costs due to data collection
22 and recordkeeping, preparation and submission of
23 forms, data, and reports, purchase of necessary equip-
24 ment, management time, training, and changes in the
25 quality or mixture of raw materials or output, except

1 that such term does not include normal business or rec-
2 ordkeeping costs which would exist in the absence of
3 such rules or regulations;

4 “(4) the term ‘Director’ means the Director of the
5 Congressional Budget Office;

6 “(5) the term ‘non-Federal sector’ means an indi-
7 vidual, partnership, association, corporation, business
8 trust or legal representative thereof, organized group of
9 individuals, labor organization, State or territorial gov-
10 ernment or branch thereof, or political subdivision of a
11 State or territory or a branch thereof; and

12 “(6) the terms ‘rule and regulation’ mean any rule
13 as defined in section 551(4) of title 5, United States
14 Code.

15 “EFFECTIVE DATE

16 “SEC. 1109. The provisions of this title shall take effect
17 on the date of its enactment, except that the provisions of
18 sections 1103 through 1107 shall apply only with respect to
19 the first fiscal year beginning at least eighteen months after
20 the date of enactment of this title, and succeeding fiscal
21 years.”.

22 (b) Section 1(a) of such Act is amended—

23 (1) by striking out the word “and” before “title
24 X”, and

1 (2) by inserting before the period a comma and
2 the following: "and title XI may be cited as the 'Regu-
3 latory Budget Act of 1979'."

4 (c) Section 1(b) of such Act is amended by adding at the
5 end of the table of contents the following new items:

 "TITLE XI—REGULATORY BUDGET PROCEDURE

- "Sec. 1101. Statement of findings and purpose.
- "Sec. 1102. Development of regulatory costs analysis procedures.
- "Sec. 1103. Regulatory costs compliance reports.
- "Sec. 1104. Regulatory budget recommendations.
- "Sec. 1105. Regulatory budget resolutions.
- "Sec. 1106. Reports and summaries of congressional actions.
- "Sec. 1107. New legislation must be within regulatory budget.
- "Sec. 1108. Definitions.
- "Sec. 1109. Effective date."

6 (d) Section 904(a) of such Act is amended by striking
7 out "and 1017" and inserting in lieu thereof "1017, 1105,
8 1106, and 1107".

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