

118TH CONGRESS
2D SESSION

S. _____

To require congressional approval for rules that are expected to cost not less than \$50,000,000 annually, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require congressional approval for rules that are expected to cost not less than \$50,000,000 annually, 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 “Bureaucratic Limita-
5 tion and Overreach Control Act” or the “BLOCK Act”.

6 **SEC. 2. CONGRESSIONAL REVIEW OF AGENCY RULE-**
7 **MAKING.**

8 Chapter 8 of title 5, United States Code, is amended
9 to read as follows:

1 **“CHAPTER 8—CONGRESSIONAL REVIEW**
2 **OF AGENCY RULEMAKING**

“Sec.

“801. Congressional review.

“802. Congressional approval procedure for major rules.

“803. Congressional disapproval procedure for nonmajor rules.

“804. Definitions.

“805. Judicial review.

“806. Exemption for monetary policy.

“807. Effective date of certain rules.

“808. Review of rules currently in effect.

3 **“§ 801. Congressional review**

4 “(a)(1)(A) Before a rule may take effect, the Federal
5 agency promulgating such rule shall publish in the Federal
6 Register a list of information on which the rule is based,
7 including data, scientific and economic studies, and cost-
8 benefit analyses, and identify how the public can access
9 such information online, and shall submit to each House
10 of the Congress a report containing—

11 “(i) a copy of the rule;

12 “(ii) a concise general statement relating to the
13 rule;

14 “(iii) a finding, rendered by the Comptroller
15 General of the United States, of whether the rule is
16 a major rule or nonmajor rule;

17 “(iv) a list of any other related regulatory ac-
18 tions intended to implement the same statutory pro-
19 vision or regulatory objective as well as the indi-
20 vidual and aggregate economic effects of those ac-
21 tions;

1 “(v) the proposed effective date of the rule; and

2 “(vi) a statement of the constitutional authority
3 authorizing the agency to make the rule.

4 “(B) On the date of the submission of the report
5 under subparagraph (A), the Federal agency promulgating
6 the rule shall submit to the Comptroller General and make
7 available to each House of Congress (and to each com-
8 mittee of jurisdiction in each House)—

9 “(i) a complete copy of the cost-benefit analysis
10 of the rule, if any, including an analysis of any jobs
11 added or lost, differentiating between public and pri-
12 vate sector jobs;

13 “(ii) the agency’s actions pursuant to sections
14 603, 604, 605, 607, and 609 of this title;

15 “(iii) the agency’s actions pursuant to sections
16 202, 203, 204, and 205 of the Unfunded Mandates
17 Reform Act of 1995;

18 “(iv) an estimate of the effect on inflation of
19 the rule; and

20 “(v) any other relevant information or require-
21 ments under any other Act and any relevant Execu-
22 tive orders.

23 “(C) Upon receipt of a report submitted under sub-
24 paragraph (A), each House shall provide copies of the re-
25 port to the chairman and ranking member of each stand-

1 ing committee with jurisdiction under the rules of the
2 House of Representatives or the Senate to report a bill
3 to amend the provision of law under which the rule is
4 issued.

5 “(2)(A) The Comptroller General shall provide a re-
6 port on each major rule to the committees of jurisdiction
7 by the end of 15 calendar days after the submission or
8 publication date. The report of the Comptroller General
9 shall include an assessment of the agency’s compliance
10 with procedural steps required by paragraph (1)(B) and
11 an assessment of whether the major rule imposes any new
12 limits or mandates on private-sector activity.

13 “(B) Federal agencies shall cooperate with the Comp-
14 troller General by providing information relevant to the
15 Comptroller General’s report under subparagraph (A).

16 “(3) A major rule relating to a report submitted
17 under paragraph (1) shall take effect upon enactment of
18 a joint resolution of approval described in section 802 or
19 as provided for in the rule following enactment of a joint
20 resolution of approval described in section 802, whichever
21 is later.

22 “(4) A nonmajor rule shall take effect as provided
23 by section 803 after submission to Congress under para-
24 graph (1).

1 “(5) If a joint resolution of approval relating to a
2 major rule is not enacted within the period provided in
3 subsection (b)(2), then a joint resolution of approval relat-
4 ing to the same rule may not be considered under this
5 chapter in the same Congress by either the House of Rep-
6 resentatives or the Senate.

7 “(b)(1) A major rule shall not take effect unless the
8 Congress enacts a joint resolution of approval described
9 under section 802.

10 “(2) If a joint resolution described in subsection (a)
11 is not enacted into law by the end of 30 session days or
12 legislative days, as applicable, beginning on the date on
13 which the report referred to in subsection (a)(1)(A) is re-
14 ceived by Congress (excluding days either House of Con-
15 gress is adjourned for more than 3 days during a session
16 of Congress), then the rule described in that resolution
17 shall be deemed not to be approved and such rule shall
18 not take effect.

19 “(c)(1) Notwithstanding any other provision of this
20 section (except subject to paragraph (3)), a major rule
21 may take effect for one 15-session-day period if the Presi-
22 dent makes a determination under paragraph (2) and sub-
23 mits written notice of such determination to the Congress.

24 “(2) Paragraph (1) applies to a determination made
25 by the President by Executive order that the major rule

1 should take effect because such rule is necessary for na-
2 tional security or disaster response.

3 “(3) An exercise by the President of the authority
4 under this subsection shall have no effect on the proce-
5 dures under section 802.

6 “(d)(1) In addition to the opportunity for review oth-
7 erwise provided under this chapter, in the case of any rule
8 for which a report was submitted in accordance with sub-
9 section (a)(1)(A) during the period beginning on the date
10 occurring—

11 “(A) in the case of the Senate, 60 session days;
12 or

13 “(B) in the case of the House of Representa-
14 tives, 60 legislative days,

15 before the date the Congress is scheduled to adjourn a
16 session of Congress through the date on which the same
17 or succeeding Congress first convenes its next session, sec-
18 tions 802 and 803 shall apply to such rule in the suc-
19 ceeding session of Congress.

20 “(2)(A) In applying sections 802 and 803 for pur-
21 poses of such additional review, a rule described under
22 paragraph (1) shall be treated as though—

23 “(i) such rule were published in the Federal
24 Register on—

1 “(I) in the case of the Senate, the 15th
2 session day; or

3 “(II) in the case of the House of Rep-
4 resentatives, the 15th legislative day,
5 after the succeeding session of Congress first con-
6 venes; and

7 “(ii) a report on such rule were submitted to
8 Congress under subsection (a)(1) on such date.

9 “(B) Nothing in this paragraph shall be construed
10 to affect the requirement under subsection (a)(1) that a
11 report shall be submitted to Congress before a rule can
12 take effect.

13 “(3) A rule described under paragraph (1) shall take
14 effect as otherwise provided by law (including other sub-
15 sections of this section).

16 **“§ 802. Congressional approval procedure for major**
17 **rules**

18 “(a)(1) For purposes of this section, the term ‘joint
19 resolution’ means only a joint resolution addressing a re-
20 port classifying a rule as major pursuant to section
21 801(a)(1)(A)(iii) that—

22 “(A) bears no preamble;

23 “(B) bears the following title (with blanks filled
24 as appropriate): ‘Approving the rule submitted by
25 _____ relating to _____.’;

1 “(C) includes after its resolving clause only the
2 following (with blanks filled as appropriate): ‘That
3 Congress approves the rule submitted by _____ re-
4 lating to _____.’; and

5 “(D) is introduced pursuant to paragraph (2).

6 “(2) After a House of Congress receives a report
7 classifying a rule as major pursuant to section
8 801(a)(1)(A)(iii), the majority leader of that House (or
9 his or her respective designee) shall introduce (by request,
10 if appropriate) a joint resolution described in paragraph
11 (1)—

12 “(A) in the case of the House of Representa-
13 tives, within 3 legislative days; and

14 “(B) in the case of the Senate, within 3 session
15 days.

16 “(3) A joint resolution described in paragraph (1)
17 shall not be subject to amendment at any stage of pro-
18 ceeding.

19 “(b) A joint resolution described in subsection (a)
20 shall be referred in each House of Congress to the commit-
21 tees having jurisdiction over the provision of law under
22 which the rule is issued.

23 “(c) In the Senate, if the committee or committees
24 to which a joint resolution described in subsection (a) has
25 been referred have not reported it at the end of 15 session

1 days after its introduction, such committee or committees
2 shall be automatically discharged from further consider-
3 ation of the resolution and it shall be placed on the cal-
4 endar. A vote on final passage of the resolution shall be
5 taken on or before the close of the 15th session day after
6 the resolution is reported by the committee or committees
7 to which it was referred, or after such committee or com-
8 mittees have been discharged from further consideration
9 of the resolution.

10 “(d)(1) In the Senate, when the committee or com-
11 mittees to which a joint resolution is referred have re-
12 ported, or when a committee or committees are discharged
13 (under subsection (c)) from further consideration of a
14 joint resolution described in subsection (a), it is at any
15 time thereafter in order (even though a previous motion
16 to the same effect has been disagreed to) for a motion
17 to proceed to the consideration of the joint resolution, and
18 all points of order against the joint resolution (and against
19 consideration of the joint resolution) are waived. The mo-
20 tion is not subject to amendment, or to a motion to post-
21 pone, or to a motion to proceed to the consideration of
22 other business. A motion to reconsider the vote by which
23 the motion is agreed to or disagreed to shall not be in
24 order. If a motion to proceed to the consideration of the
25 joint resolution is agreed to, the joint resolution shall re-

1 main the unfinished business of the Senate until disposed
2 of.

3 “(2) In the Senate, debate on the joint resolution,
4 and on all debatable motions and appeals in connection
5 therewith, shall be limited to not more than 2 hours, which
6 shall be divided equally between those favoring and those
7 opposing the joint resolution. A motion to further limit
8 debate is in order and not debatable. An amendment to,
9 or a motion to postpone, or a motion to proceed to the
10 consideration of other business, or a motion to recommit
11 the joint resolution is not in order.

12 “(3) In the Senate, immediately following the conclu-
13 sion of the debate on a joint resolution described in sub-
14 section (a), and a single quorum call at the conclusion of
15 the debate if requested in accordance with the rules of the
16 Senate, the vote on final passage of the joint resolution
17 shall occur.

18 “(4) Appeals from the decisions of the Chair relating
19 to the application of the rules of the Senate to the proce-
20 dure relating to a joint resolution described in subsection
21 (a) shall be decided without debate.

22 “(e) In the House of Representatives, if any com-
23 mittee to which a joint resolution described in subsection
24 (a) has been referred has not reported it to the House
25 at the end of 15 legislative days after its introduction,

1 such committee shall be discharged from further consider-
2 ation of the joint resolution, and it shall be placed on the
3 appropriate calendar. On the second and fourth Thursdays
4 of each month it shall be in order at any time for the
5 Speaker to recognize a Member who favors passage of a
6 joint resolution that has appeared on the calendar for at
7 least 5 legislative days to call up that joint resolution for
8 immediate consideration in the House without intervention
9 of any point of order. When so called up a joint resolution
10 shall be considered as read and shall be debatable for 1
11 hour equally divided and controlled by the proponent and
12 an opponent, and the previous question shall be considered
13 as ordered to its passage without intervening motion. It
14 shall not be in order to reconsider the vote on passage.
15 If a vote on final passage of the joint resolution has not
16 been taken by the third Thursday on which the Speaker
17 may recognize a Member under this subsection, such vote
18 shall be taken on that day.

19 “(f)(1) If, before passing a joint resolution described
20 in subsection (a), one House receives from the other a
21 joint resolution having the same text, then—

22 “(A) the joint resolution of the other House
23 shall not be referred to a committee; and

24 “(B) the procedure in the receiving House shall
25 be the same as if no joint resolution had been re-

1 ceived from the other House until the vote on pas-
2 sage, when the joint resolution received from the
3 other House shall supplant the joint resolution of
4 the receiving House.

5 “(2) This subsection shall not apply to the House of
6 Representatives if the joint resolution received from the
7 Senate is a revenue measure.

8 “(g) If either House has not taken a vote on final
9 passage of the joint resolution by the last day of the period
10 described in section 801(b)(2), then such vote shall be
11 taken on that day.

12 “(h) This section and section 803 are enacted by
13 Congress—

14 “(1) as an exercise of the rulemaking power of
15 the Senate and House of Representatives, respec-
16 tively, and as such are deemed to be part of the
17 rules of each House, respectively, but applicable only
18 with respect to the procedure to be followed in that
19 House in the case of a joint resolution described in
20 subsection (a) and superseding other rules only
21 where explicitly so; and

22 “(2) with full recognition of the constitutional
23 right of either House to change the rules (so far as
24 they relate to the procedure of that House) at any

1 time, in the same manner and to the same extent as
2 in the case of any other rule of that House.

3 **“§ 803. Congressional disapproval procedure for**
4 **nonmajor rules**

5 “(a) For purposes of this section, the term ‘joint res-
6 olution’ means only a joint resolution introduced in the
7 period beginning on the date on which the report referred
8 to in section 801(a)(1)(A) is received by Congress and
9 ending 60 days thereafter (excluding days either House
10 of Congress is adjourned for more than 3 days during a
11 session of Congress), the matter after the resolving clause
12 of which is as follows: ‘That Congress disapproves the
13 nonmajor rule submitted by the _____ relating to
14 _____, and such rule shall have no force or effect.’ (The
15 blank spaces being appropriately filled in).

16 “(b) A joint resolution described in subsection (a)
17 shall be referred to the committees in each House of Con-
18 gress with jurisdiction.

19 “(c) In the Senate, if the committee to which is re-
20 ferred a joint resolution described in subsection (a) has
21 not reported such joint resolution (or an identical joint
22 resolution) at the end of 15 session days after the date
23 of introduction of the joint resolution, such committee may
24 be discharged from further consideration of such joint res-
25 olution upon a petition supported in writing by 30 Mem-

1 bers of the Senate, and such joint resolution shall be
2 placed on the calendar.

3 “(d)(1) In the Senate, when the committee to which
4 a joint resolution is referred has reported, or when a com-
5 mittee is discharged (under subsection (c)) from further
6 consideration of a joint resolution described in subsection
7 (a), it is at any time thereafter in order (even though a
8 previous motion to the same effect has been disagreed to)
9 for a motion to proceed to the consideration of the joint
10 resolution, and all points of order against the joint resolu-
11 tion (and against consideration of the joint resolution) are
12 waived. The motion is not subject to amendment, or to
13 a motion to postpone, or to a motion to proceed to the
14 consideration of other business. A motion to reconsider the
15 vote by which the motion is agreed to or disagreed to shall
16 not be in order. If a motion to proceed to the consideration
17 of the joint resolution is agreed to, the joint resolution
18 shall remain the unfinished business of the Senate until
19 disposed of.

20 “(2) In the Senate, debate on the joint resolution,
21 and on all debatable motions and appeals in connection
22 therewith, shall be limited to not more than 10 hours,
23 which shall be divided equally between those favoring and
24 those opposing the joint resolution. A motion to further
25 limit debate is in order and not debatable. An amendment

1 to, or a motion to postpone, or a motion to proceed to
2 the consideration of other business, or a motion to recom-
3 mit the joint resolution is not in order.

4 “(3) In the Senate, immediately following the conclu-
5 sion of the debate on a joint resolution described in sub-
6 section (a), and a single quorum call at the conclusion of
7 the debate if requested in accordance with the rules of the
8 Senate, the vote on final passage of the joint resolution
9 shall occur.

10 “(4) Appeals from the decisions of the Chair relating
11 to the application of the rules of the Senate to the proce-
12 dure relating to a joint resolution described in subsection
13 (a) shall be decided without debate.

14 “(e) In the Senate, the procedure specified in sub-
15 section (c) or (d) shall not apply to the consideration of
16 a joint resolution respecting a nonmajor rule—

17 “(1) after the expiration of the 60 session days
18 beginning with the applicable submission or publica-
19 tion date; or

20 “(2) if the report under section 801(a)(1)(A)
21 was submitted during the period referred to in sec-
22 tion 801(d)(1), after the expiration of the 60 session
23 days beginning on the 15th session day after the
24 succeeding session of Congress first convenes.

1 “(f) If, before the passage by one House of a joint
2 resolution of that House described in subsection (a), that
3 House receives from the other House a joint resolution
4 described in subsection (a), then the following procedures
5 shall apply:

6 “(1) The joint resolution of the other House
7 shall not be referred to a committee.

8 “(2) With respect to a joint resolution described
9 in subsection (a) of the House receiving the joint
10 resolution—

11 “(A) the procedure in that House shall be
12 the same as if no joint resolution had been re-
13 ceived from the other House; but

14 “(B) the vote on final passage shall be on
15 the joint resolution of the other House.

16 **“§ 804. Definitions**

17 “For purposes of this chapter:

18 “(1) The term ‘Federal agency’ means any
19 agency as that term is defined in section 551(1).

20 “(2) The term ‘major rule’ means any rule, in-
21 cluding an interim final rule, that the Comptroller
22 General of the United States determines has re-
23 sulted in or is likely to result in an annual cost of
24 compliance of not less than \$50,000,000.

1 “(3) The term ‘nonmajor rule’ means any rule
2 that is not a major rule.

3 “(4) The term ‘rule’ has the meaning given
4 such term in section 551, except that such term—

5 “(A) includes interpretative rules, general
6 statements of policy, and all other agency guid-
7 ance documents; and

8 “(B) does not include—

9 “(i) any rule of particular applica-
10 bility, including a rule that approves or
11 prescribes for the future rates, wages,
12 prices, services, or allowances therefore,
13 corporate or financial structures, reorga-
14 nizations, mergers, or acquisitions thereof,
15 or accounting practices or disclosures bear-
16 ing on any of the foregoing;

17 “(ii) any rule relating to agency man-
18 agement or personnel; or

19 “(iii) any rule of agency organization,
20 procedure, or practice that does not sub-
21 stantially affect the rights or obligations of
22 non-agency parties.

23 “(5) The term ‘submission or publication date’,
24 except as otherwise provided in this chapter,
25 means—

1 “(A) in the case of a major rule, the date
2 on which the Congress receives the report sub-
3 mitted under section 801(a)(1); and

4 “(B) in the case of a nonmajor rule, the
5 later of—

6 “(i) the date on which the Congress
7 receives the report submitted under section
8 801(a)(1); and

9 “(ii) the date on which the nonmajor
10 rule is published in the Federal Register, if
11 so published.

12 **“§ 805. Judicial review**

13 “(a) No determination, finding, action, or omission
14 under this chapter shall be subject to judicial review.

15 “(b) Notwithstanding subsection (a), a court may de-
16 termine whether a Federal agency has completed the nec-
17 essary requirements under this chapter for a rule to take
18 effect.

19 “(c) The enactment of a joint resolution of approval
20 under section 802 shall not be interpreted to serve as a
21 grant or modification of statutory authority by Congress
22 for the promulgation of a rule, shall not extinguish or af-
23 fect any claim, whether substantive or procedural, against
24 any alleged defect in a rule, and shall not form part of
25 the record before the court in any judicial proceeding con-

1 cerning a rule except for purposes of determining whether
2 or not the rule is in effect.

3 **“§ 806. Exemption for monetary policy**

4 “Nothing in this chapter shall apply to rules that con-
5 cern monetary policy proposed or implemented by the
6 Board of Governors of the Federal Reserve System or the
7 Federal Open Market Committee.

8 **“§ 807. Effective date of certain rules**

9 “Notwithstanding section 801—

10 “(1) any rule that establishes, modifies, opens,
11 closes, or conducts a regulatory program for a com-
12 mercial, recreational, or subsistence activity related
13 to hunting, fishing, or camping; or

14 “(2) any rule other than a major rule which an
15 agency for good cause finds (and incorporates the
16 finding and a brief statement of reasons therefore in
17 the rule issued) that notice and public procedure
18 thereon are impracticable, unnecessary, or contrary
19 to the public interest,

20 shall take effect at such time as the Federal agency pro-
21 mulgating the rule determines.

22 **“§ 808. Review of rules currently in effect**

23 “(a) ANNUAL REVIEW.—Beginning on the date that
24 is 6 months after the date of enactment of this section
25 and annually thereafter for the 4 years following, each

1 agency shall designate not less than 20 percent of eligible
2 rules made by that agency for review, and shall submit
3 a report including each such eligible rule in the same man-
4 ner as a report under section 801(a)(1). Section 801, sec-
5 tion 802, and section 803 shall apply to each such rule,
6 subject to subsection (c) of this section. No eligible rule
7 previously designated may be designated again.

8 “(b) SUNSET FOR ELIGIBLE RULES NOT EX-
9 TENDED.—Beginning after the date that is 5 years after
10 the date of enactment of this section, if Congress has not
11 enacted a joint resolution of approval for that eligible rule,
12 that eligible rule shall not continue in effect.

13 “(c) APPROVAL OF RULES.—

14 “(1) Unless Congress approves all eligible rules
15 designated by executive agencies for review within
16 90 days of designation, they shall have no effect.

17 “(2) A single joint resolution of approval shall
18 apply to all eligible rules in a report designated for
19 a year as follows: ‘That Congress approves the rules
20 submitted by the _____ for the year _____.’ (The
21 blank spaces being appropriately filled in).

22 “(3) A member of either House may move that
23 a separate joint resolution be required for a specified
24 rule.

1 “(d) DEFINITION.—In this section, the term ‘eligible
2 rule’ means a rule that is in effect as of the date of enact-
3 ment of this section.”.

4 **SEC. 3. BUDGETARY EFFECTS OF RULES SUBJECT TO SEC-**
5 **TION 802 OF TITLE 5, UNITED STATES CODE.**

6 Section 257(b)(2) of the Balanced Budget and Emer-
7 gency Deficit Control Act of 1985 (2 U.S.C. 907(b)(2))
8 is amended by adding at the end the following new sub-
9 paragraph:

10 “(E) BUDGETARY EFFECTS OF RULES
11 SUBJECT TO SECTION 802 OF TITLE 5, UNITED
12 STATES CODE.—Any rule subject to the con-
13 gressional approval procedure set forth in sec-
14 tion 802 of chapter 8 of title 5, United States
15 Code, affecting budget authority, outlays, or re-
16 ceipts shall be assumed to be effective unless it
17 is not approved in accordance with such sec-
18 tion.”.