

H.R. ___, the “Regulations From the Executive in Need of Scrutiny Act of 2017”

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill, as prepared to be introduced. The bill replicates the text of the legislation as passed by the House during the 114th Congress (H.R. 427), with two exceptions: (1) section 3 of the bill treats rules implementing the Patient Protection and Affordable Care Act, Pub. L. 111-148, as it does rules implementing all other statutes (major rules require congressional approval; non-major rules are subject to congressional disapproval); and, (2) section 6 of the bill includes an effective date provision rendering sections 3 and 4 of the bill effective one year after the date of enactment.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as the ‘Regulations From the Executive In Need of Scrutiny Act of 2017.’

Sec. 2. Purpose. Section 2 establishes the purpose of the REINS Act, which is to increase accountability and transparency in the Federal regulatory process by requiring Congress to approve all new major regulations.

Sec. 3. Congressional Review of Agency Rule Making. The bill amends chapter 8 of title 5, U.S. Code, to create the following method for congressional review of new major Federal rules:

*801. Congressional Review--*This section requires enhanced reporting of all Federal rules to Congress and the Comptroller General and provides that a major rule shall not take effect without a joint resolution of approval under section 802. Section 801 also caps the time to enact a joint resolution of approval at 70 legislative days, and empowers the President to grant 90-day waivers for certain emergency situations. Finally, Section 801 outlines carry-over provisions from one session of Congress to the next.

*802. Congressional Approval Procedure for Major Rules--*Subsection (a) describes the content and method of introduction for a joint resolution of approval within 3 legislative or session days (as applicable), and prohibits any amendments to that joint resolution during its consideration. Subsection (b) provides for the appropriate referral of the measure to committees in both the Senate and House of Representatives.

Subsections (c) and (d) provide for expedited consideration of the joint resolution in the Senate. In the Senate, a vote on passage must occur within 15 session days after a committee is discharged or reports the measure. A motion to proceed to the joint resolution is in order any time after the committees are discharged or have reported.

All points of order against the joint resolution are waived. The motion to proceed is not subject to amendment, a motion to postpone, or a motion to proceed to other business. A motion to reconsider the vote on the motion to proceed is not in order. If a motion to proceed to a joint resolution is agreed to, debate on the joint resolution (and all related motions and appeals) is limited to 2 hours. The joint resolution is not amendable, and motions to postpone, motions to proceed to other business, and a motion to recommit are not in order. All appeals are decided without debate, and a vote on final passage must occur after the conclusion of debate on the joint resolution.

Subsection (e) provides for consideration of the joint resolution in the House. Committees in the House must report the joint resolution without amendment within 15 days after referral, or they are automatically discharged from further consideration. After the joint resolution is on the calendar for at least 5 legislative days, the Speaker may recognize a Member favoring passage of the joint resolution on the second and fourth Thursdays of each month to call up the joint resolution for immediate consideration. All points of order against the resolution and its consideration are waived, and the resolution is debatable for 1 hour. The bill prohibits amendments, motions to recommit, and motions to reconsider. If a vote on final passage of the joint resolution has not been taken by the third Thursday on which the Speaker may recognize a member for consideration of the joint resolution, the vote on final passage will occur on that day without debate.

Subsection (f) provides for the disposition of a joint resolution by the other House. Notably, paragraph (2) provides that the House does not have to vote on passage of a joint resolution passed by the Senate if that joint resolution is a revenue measure.

Finally, subsection (g) provides that sections 802 and 803 are enacted as a rulemaking exercise and are deemed to be part of the rules of each body with respect to the joint resolution of approval, and supersedes other rules only where it explicitly does so and that Congress reserves the right to change these rules in the same manner as any other rule.

803. Congressional Disapproval Procedure for Nonmajor Rules--Section 803 preserves the existing disapproval process under the Congressional Review Act for all non-major rules. This section permits Congress to disapprove a rule if both houses of Congress pass a joint resolution of disapproval that the President signs (or if Congress overrides the veto). Section 803 also provides expedited procedural mechanisms in the Senate.

804. Definitions--This section defines certain terms, including 'major rule' and 'nonmajor rule.' It also provides that rules of particular applicability, rules relating to

agency management, or rules relating to agency organization are exempt from the REINS Act.

805. Judicial Review--This section provides that no determination, finding, action, or omission under this chapter will be subject to judicial review.

806. Exemption for Monetary Policy--Like the Congressional Review Act, section 806 exempts any rules concerning monetary policy promulgated by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

807. Effective Date of Certain Rules--Section 807 permits certain rules relating to hunting, fishing, or camping and certain non-major rules to take effect notwithstanding section 801.

Sec. 4. Budgetary Effects of Rules Subject to Section 802 of Title 5, United States Code. Provides for amendment of section 257(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 to add that rules subject to the congressional approval procedure set forth in section 802 of title 5 and `affecting budget authority, outlays, or receipts shall be assumed to be effective unless . . . not approved in accordance with such section.

Sec. 5. Government Accountability Office Study of Rules. Commissions a study and report to Congress by the Comptroller General on the number of regulations in effect on the date of enactment, the number of major regulations in effect on the date of enactment, and the total estimated economic cost imposed by all such regulations.

Sec. 6. Effective Date. Provides that sections 3 and 4 of the bill, and the amendments made by those sections, will take effect on the date that is one year after the date of enactment.