

**Congressman Doug Ose's Statement
on H.R. 2432, the "Paperwork and Regulatory Improvements Act"
for the May 18, 2004 Floor Debate**

First, let me thank Chairman Davis for his kind remarks about my oversight as Chairman of the Government Reform Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs. I am also grateful for his becoming an original co-sponsor of H.R. 2432, the "Paperwork and Regulatory Improvements Act."

As I mentioned in my support for today's Rule for H.R. 2432, last June, with bi-partisan co-sponsorship, I introduced this good government bill. This bill makes incremental improvements in the existing processes governing paperwork and regulations instead of fundamentally changing the role of Congress in its oversight of agency rules.

Now, let me turn to the bill itself. The bill includes legislative changes to: (1) ensure reduction in tax paperwork burdens on small business, (2) assist Congress in its review of agency regulatory proposals, and (3) improve public and Congressional understanding of the true costs and benefits of regulations ("regulatory accounting").

My Manager's Amendment makes no changes in Sections 1, 2, 3 and 4 of the reported bill. I will discuss the changes to Sections 5 and 6, which I included based on specific requests from the General Accounting Office (GAO) and the Office of Management and Budget (OMB).

Section 3

The overall burden of Federal paperwork and regulatory requirements is staggering and is a real drain on job growth, productivity, and American competitiveness. Incredibly, Federal paperwork and regulatory burdens have increased, not decreased, in each of the last eight years. Currently, the Internal Revenue Service (IRS) accounts for 80 percent of the total government-wide paperwork burden on the public of over 8 billion hours.

To reduce paperwork, Section 3 requires OMB, after consultation with the IRS and two other identified Federal offices, to review and report to Congress on actions that the IRS can take to reduce paperwork burden imposed on small business. For example, IRS could introduce thresholds below which reporting is not required, change existing threshold levels, or change the reporting frequency.

Section 5

To assist Congress in its review of agency regulatory proposals, Section 5 permanently establishes a regulatory analysis function in GAO. In the Truth in Regulating Act of 2000, Congress authorized a 3-year pilot test for this regulatory analysis function, but it was never funded. This was partly because GAO intended to use contractors instead of in-house expert staff during the test period. H.R. 2432 would ensure that GAO has in-house expertise comparable to the expertise in OMB's Office of Information and Regulatory Affairs (OIRA).

On the eve of last Wednesday's full Committee markup, GAO submitted a letter requesting various changes in the bill. I did not include these changes in my Manager's Amendment during the markup because GAO had not provided certain information that my Subcommittee had

previously requested.

OMB's current line-item budget for OIRA is \$7 million. But, OIRA has multiple functions besides review of agency paperwork and regulatory proposals and analyses. For example, OIRA is responsible for government-wide statistical policy, information policy, and information technology policy. Since GAO had not provided information about the share of OIRA's budget devoted to regulatory analysis activities, after the full Committee markup, I asked OMB what proportion of its budget is devoted to review of agency paperwork and regulatory proposals and the related regulatory analyses. It estimated 65 to 70 percent.

Thus, my Manager's Amendment authorizes \$5 million in Fiscal Year 2005 and each year thereafter for GAO to perform its independent evaluations at the request of Congress of certain economically significant rules. GAO will be reviewing the various agency analyses, such as its regulatory impact analysis (RIA) and its regulatory flexibility analysis (RFA), the regulatory alternatives considered by the agency, and the legislative history to ensure that the proposed and final agency rules are consistent with Congressional intent.

In addition, GAO asked me to include a delayed effective date of 90 days after enactment. This provision is in a new Sec. 5 (b).

Section 6

Section 6 requires certain changes to improve regulatory accounting. In 1996, Congress required OMB to submit its first regulatory accounting report. In 1998 and 2000, Congress enacted additional legislation to make OMB's regulatory accounting reports more useful. Currently, OMB is required to estimate the total annual costs and benefits for all Federal rules and paperwork in the aggregate, by agency, by agency program, and by major rule, and to prepare an associated report on the impacts of Federal rules and paperwork on certain groups, such as small business.

To date, OMB has issued six final and a seventh draft regulatory accounting reports. Each of the seven did not meet one or more of the content requirements under the statute. Part of the reason for this incompleteness is that OMB has not requested agency estimates, as it does annually for its Information Collection Budget (paperwork budget) and for the President's Budget (fiscal budget). Section 6(a) requires Federal agencies to annually submit estimates of the costs and benefits associated with the Federal rules and paperwork for each of their agency programs. The caveat for agency input to be provided "to the extent feasible" was added to ensure no further burden on or cost to the agencies.

Currently, the economic impacts of Federal regulation receive much less scrutiny than programs in the fiscal Budget. Both the introduced and reported bill versions of H.R. 2432 required OMB to integrate its annual regulatory accounting statement into the fiscal Budget so that Congress can review simultaneously both the on-budget and off-budget costs associated with each Federal agency imposing regulatory or paperwork burdens on the public. Current law requires OMB to submit its regulatory accounting report "with" the Budget instead of "as part of" the Budget. However, OMB has never submitted its final accounting statement with the Budget. Only once

OMB published its “draft” in the Federal Register on the same day as the Budget was submitted to Congress. Not submitting the regulatory accounting statement at the same time as the Budget or publishing it separately from the Budget in the Federal Register has precluded a timely side-by-side comparison for analytic purposes of the on-budget and off-budget costs associated with each major regulatory agency and each of its regulatory programs.

Last July, OMB’s OIRA Administrator testified that, “OMB believes it could be feasible to issue a separate volume with the budget that contains the final regulatory accounting report and perhaps some related budget information for comparison purposes” (p. 22, Serial No. 108-68, 7/22/04).

Nonetheless, at the insistence of OMB in a letter submitted yesterday to Chairman Davis, my Manager’s Amendment reluctantly removes the integration (“as part of” the Budget) requirement; thus, the current law “with” the Budget requirement is retained without change. Congress still expects OMB to comply with the law, i.e., to issue its final regulatory accounting statement and associated report at the same time as and in a document that accompanies the fiscal Budget documents. The House Report accompanying H.R. 2432 (House Rept. 108-490 Part 1) provides ample justification for integration, including witness testimony in support of integration and my 9-page April 22, 2004 comment letter to OMB on its draft seventh regulatory accounting report.

Section 6(b) requires OMB to designate not less than three agencies (or offices within an agency) to participate in a study of regulatory budgeting for fiscal years 2006 and 2007, and then report to Congress on this study. These tests will determine if agencies can better manage regulatory burdens on the public. My Manager’s Amendment ensures that OMB will consult with the key Congressional Committees: the Committees on the Budget and on Government Reform in the House and the Committees on the Budget and on Governmental Affairs in the Senate.

H.R. 2432 should result in needed paperwork and regulatory relief, especially for small business, and help Congress fulfill its Constitutional role as a co-equal branch of Government.