

Senator Mark R. Warner

Senate Committee on Homeland Security and Government Affairs
Hearing: A Review of Regulatory Reform Proposals
Statement for the Record, September 16, 2015

I am pleased that the Committee is currently considering the Independent Agency Regulatory Analysis Act, legislation to require independent agencies to follow the same rules as other federal agencies in analyzing the costs and benefits of new regulations. As a co-sponsor of this bipartisan legislation, I believe that it will help to ensure that all agencies have a firm understanding of costs and benefits when advancing major regulations.

Federal regulations are a frequent topic on Wall Street, Main Street and at kitchen tables across the country. It is important that the federal government strike an appropriate balance between ensuring vital public safeguards and imposing costly regulatory burdens; we need balanced regulations to protect the environment and the health and safety of our citizens. This bill does not question the need for regulations – but challenges these agencies to think about smarter regulations.

Currently, the regulatory review process differs significantly between executive and independent agencies. In September, 2013, the Government Accountability Office released a report that Chairman Johnson and I requested, examining the federal rulemaking process and the extent to which agencies are adhering to existing requirements to conduct cost benefit analysis for economically significant rules. GAO found that while executive agencies monetized costs in about 97% of these cases, independent regulatory agencies monetized costs in only about 78%; additionally, independent agencies included monetized benefits in only 5% of their major rules. We need to close this gap and ensure that families and businesses face a consistent landscape when it comes to the federal regulatory process.

For 30 years, presidents of both parties have required agencies to scrutinize the costs and benefits of major new regulations, but this process has exempted independent agencies. While these agencies exercise vast power over major sectors of our economy, including telecom, agriculture, and financial services, they are exempt from these same commonsense requirements. The Independent Regulatory Analysis Act would close that gap by authorizing the president to bring independent agencies into the analysis and review process that governs executive agencies.

In both parties, legal scholars, former heads and senior official of independent agencies, and other experts have supported proposals along these lines. In fact, in January 2012 the President's Council on Jobs recommended that "Congress should require [independent agencies] to conduct cost-benefit analysis for economically significant regulations. A requirement that [independent agencies] must conduct regulatory impact analyses . . . would prompt [independent agencies] to perform better analyses and to issue better and smarter regulations."

Independent agencies, like all federal agencies, should consider the impacts—positive and negative—of their regulations on American families and businesses. The Independent Agency Regulatory Analysis Act would align these requirements and ensure that the appropriate balance is struck. I appreciate the Homeland Security and Government Affairs Committee's attention to this issue and look forward to addressing this important issue.