

104TH CONGRESS
1ST SESSION

S. 1

AN ACT

To curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, 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 “Unfunded Mandate
5 Reform Act of 1995”.

1 **SEC. 2. PURPOSES.**

2 The purposes of this Act are—

3 (1) to strengthen the partnership between the
4 Federal Government and State, local, and tribal gov-
5 ernments;

6 (2) to end the imposition, in the absence of full
7 consideration by Congress, of Federal mandates on
8 State, local, and tribal governments without ade-
9 quate Federal funding, in a manner that may dis-
10 place other essential State, local, and tribal govern-
11 mental priorities;

12 (3) to assist Congress in its consideration of
13 proposed legislation establishing or revising Federal
14 programs containing Federal mandates affecting
15 State, local, and tribal governments, and the private
16 sector by—

17 (A) providing for the development of infor-
18 mation about the nature and size of mandates
19 in proposed legislation; and

20 (B) establishing a mechanism to bring
21 such information to the attention of the Senate
22 and the House of Representatives before the
23 Senate and the House of Representatives vote
24 on proposed legislation;

1 (4) to promote informed and deliberate deci-
2 sions by Congress on the appropriateness of Federal
3 mandates in any particular instance;

4 (5) to require that Congress consider whether
5 to provide funding to assist State, local, and tribal
6 governments in complying with Federal mandates, to
7 require analyses of the impact of private sector man-
8 dates, and through the dissemination of that infor-
9 mation provide informed and deliberate decisions by
10 Congress and Federal agencies and retain competi-
11 tive balance between the public and private sectors;

12 (6) to establish a point-of-order vote on the con-
13 sideration in the Senate and House of Representa-
14 tives of legislation containing significant Federal
15 mandates; and

16 (7) to assist Federal agencies in their consider-
17 ation of proposed regulations affecting State, local,
18 and tribal governments, by—

19 (A) requiring that Federal agencies de-
20 velop a process to enable the elected and other
21 officials of State, local, and tribal governments
22 to provide input when Federal agencies are de-
23 veloping regulations; and

24 (B) requiring that Federal agencies pre-
25 pare and consider better estimates of the budg-

1 etary impact of regulations containing Federal
2 mandates upon State, local, and tribal govern-
3 ments before adopting such regulations, and en-
4 suring that small governments are given special
5 consideration in that process.

6 **SEC. 3. DEFINITIONS.**

7 For purposes of this Act—

8 (1) the terms defined under section 408(h) of
9 the Congressional Budget and Impoundment Control
10 Act of 1974 (as added by section 101 of this Act)
11 shall have the meanings as so defined; and

12 (2) the term “Director” means the Director of
13 the Congressional Budget Office.

14 **SEC. 4. EXCLUSIONS.**

15 This Act shall not apply to any provision in a bill,
16 joint resolution, amendment, motion, or conference report
17 before Congress and any provision in a proposed or final
18 Federal regulation that—

19 (1) enforces constitutional rights of individuals;

20 (2) establishes or enforces any statutory rights
21 that prohibit discrimination on the basis of race,
22 color, religion, sex, national origin, age, handicap, or
23 disability;

24 (3) requires compliance with accounting and
25 auditing procedures with respect to grants or other

1 money or property provided by the United States
2 Government;

3 (4) provides for emergency assistance or relief
4 at the request of any State, local, or tribal govern-
5 ment or any official of a State, local, or tribal gov-
6 ernment;

7 (5) is necessary for the national security or the
8 ratification or implementation of international treaty
9 obligations; or

10 (6) the President designates as emergency legis-
11 lation and that the Congress so designates in stat-
12 ute.

13 **SEC. 5. AGENCY ASSISTANCE.**

14 Each agency shall provide to the Director such infor-
15 mation and assistance as the Director may reasonably re-
16 quest to assist the Director in carrying out this Act.

17 **TITLE I—LEGISLATIVE**
18 **ACCOUNTABILITY AND REFORM**

19 **SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND**
20 **REFORM .**

21 (a) IN GENERAL.—Title IV of the Congressional
22 Budget and Impoundment Control Act of 1974 is amend-
23 ed by adding at the end thereof the following new section:

1 **“SEC. 408. LEGISLATIVE MANDATE ACCOUNTABILITY AND**
2 **REFORM .**

3 “(a) DUTIES OF CONGRESSIONAL COMMITTEES.—

4 “(1) IN GENERAL.—When a committee of au-
5 thorization of the Senate or the House of Represent-
6 atives reports a bill or joint resolution of public
7 character that includes any Federal mandate, the re-
8 port of the committee accompanying the bill or joint
9 resolution shall contain the information required by
10 paragraphs (3) and (4).

11 “(2) SUBMISSION OF BILLS TO THE DIREC-
12 TOR.—When a committee of authorization of the
13 Senate or the House of Representatives orders re-
14 ported a bill or joint resolution of a public character,
15 the committee shall promptly provide the bill or joint
16 resolution to the Director of the Congressional
17 Budget Office and shall identify to the Director any
18 Federal mandates contained in the bill or resolution.

19 “(3) REPORTS ON FEDERAL MANDATES.—Each
20 report described under paragraph (1) shall con-
21 tain—

22 “(A) an identification and description of
23 any Federal mandates in the bill or joint resolu-
24 tion, including the direct costs to State, local,
25 and tribal governments, and to the private sec-

1 tor, required to comply with the Federal man-
2 dates;

3 “(B) a qualitative, and if practicable, a
4 quantitative assessment of costs and benefits
5 anticipated from the Federal mandates (includ-
6 ing the effects on health and safety and the
7 protection of the natural environment); and

8 “(C) a statement of the degree to which a
9 Federal mandate affects both the public and
10 private sectors and the extent to which Federal
11 payment of public sector costs or the modifica-
12 tion or termination of the Federal mandate as
13 provided under subsection (c)(1)(B) would af-
14 fect the competitive balance between State,
15 local, or tribal governments and privately owned
16 businesses including a description of the ac-
17 tions, if any, taken by the committee to avoid
18 any adverse impact on the private sector or the
19 competitive balance between the public sector
20 and the private sector.

21 “(4) INTERGOVERNMENTAL MANDATES.—If any
22 of the Federal mandates in the bill or joint resolu-
23 tion are Federal intergovernmental mandates, the
24 report required under paragraph (1) shall also con-
25 tain—

1 “(A)(i) a statement of the amount, if any,
2 of increase or decrease in authorization of ap-
3 propriations under existing Federal financial
4 assistance programs, or of authorization of ap-
5 propriations for new Federal financial assist-
6 ance, provided by the bill or joint resolution and
7 usable for activities of State, local, or tribal
8 governments subject to the Federal intergovern-
9 mental mandates;

10 “(ii) a statement of whether the committee
11 intends that the Federal intergovernmental
12 mandates be partly or entirely unfunded, and if
13 so, the reasons for that intention; and

14 “(iii) if funded in whole or in part, a state-
15 ment of whether and how the committee has
16 created a mechanism to allocate the funding in
17 a manner that is reasonably consistent with the
18 expected direct costs among and between the
19 respective levels of State, local, and tribal gov-
20 ernment; and

21 “(B) any existing sources of Federal as-
22 sistance in addition to those identified in sub-
23 paragraph (A) that may assist State, local, and
24 tribal governments in meeting the direct costs
25 of the Federal intergovernmental mandates.

1 “(5) PREEMPTION CLARIFICATION AND INFOR-
2 MATION.—When a committee of authorization of the
3 Senate or the House of Representatives reports a
4 bill or joint resolution of public character, the com-
5 mittee report accompanying the bill or joint resolu-
6 tion shall contain, if relevant to the bill or joint reso-
7 lution, an explicit statement on the extent to which
8 the bill or joint resolution preempts any State, local,
9 or tribal law, and, if so, an explanation of the rea-
10 sons for such preemption.

11 “(6) PUBLICATION OF STATEMENT FROM THE
12 DIRECTOR.—

13 “(A) Upon receiving a statement (includ-
14 ing any supplemental statement) from the Di-
15 rector under subsection (b), a committee of the
16 Senate or the House of Representatives shall
17 publish the statement in the committee report
18 accompanying the bill or joint resolution to
19 which the statement relates if the statement is
20 available at the time the report is printed.

21 “(B) If the statement is not published in
22 the report, or if the bill or joint resolution to
23 which the statement relates is expected to be
24 considered by the Senate or the House of Rep-
25 resentatives before the report is published, the

1 committee shall cause the statement, or a sum-
2 mary thereof, to be published in the Congres-
3 sional Record in advance of floor consideration
4 of the bill or joint resolution.

5 “(b) DUTIES OF THE DIRECTOR; STATEMENTS ON
6 BILLS AND JOINT RESOLUTIONS OTHER THAN APPRO-
7 PRIATIONS BILLS AND JOINT RESOLUTIONS.—

8 “(1) FEDERAL INTERGOVERNMENTAL MAN-
9 DATES IN REPORTED BILLS AND RESOLUTIONS.—

10 For each bill or joint resolution of a public character
11 reported by any committee of authorization of the
12 Senate or the House of Representatives, the Director
13 of the Congressional Budget Office shall prepare
14 and submit to the committee a statement as follows:

15 “(A) If the Director estimates that the di-
16 rect cost of all Federal intergovernmental man-
17 dates in the bill or joint resolution will equal or
18 exceed \$50,000,000 (adjusted annually for in-
19 flation) in the fiscal year in which any Federal
20 intergovernmental mandate in the bill or joint
21 resolution (or in any necessary implementing
22 regulation) would first be effective or in any of
23 the 4 fiscal years following such fiscal year, the
24 Director shall so state, specify the estimate, and
25 briefly explain the basis of the estimate.

1 “(B) The estimate required under subpara-
2 graph (A) shall include estimates (and brief ex-
3 planations of the basis of the estimates) of—

4 “(i) the total amount of direct cost of
5 complying with the Federal intergovern-
6 mental mandates in the bill or joint resolu-
7 tion, but no more than 10 years beyond
8 the effective date of the mandate; and

9 “(ii) the amount, if any, of increase in
10 authorization of appropriations under ex-
11 isting Federal financial assistance pro-
12 grams, or of authorization of appropria-
13 tions for new Federal financial assistance,
14 provided by the bill or joint resolution and
15 usable by State, local, or tribal govern-
16 ments for activities subject to the Federal
17 intergovernmental mandates.

18 “(C) If the Director determines that it is
19 not feasible to make a reasonable estimate that
20 would be required under subparagraphs (A) and
21 (B), the Director shall not make the estimate,
22 but shall report in the statement that the rea-
23 sonable estimate cannot be made and shall in-
24 clude the reasons for that determination in the
25 statement. If such determination is made by the

1 Director, a point of order shall lie only under
2 subsection (c)(1)(A) and as if the requirement
3 of subsection (c)(1)(A) had not been met.

4 “(2) FEDERAL PRIVATE SECTOR MANDATES IN
5 REPORTED BILLS AND JOINT RESOLUTIONS.—For
6 each bill or joint resolution of a public character re-
7 ported by any committee of authorization of the
8 Senate or the House of Representatives, the Director
9 of the Congressional Budget Office shall prepare
10 and submit to the committee a statement as follows:

11 “(A) If the Director estimates that the di-
12 rect cost of all Federal private sector mandates
13 in the bill or joint resolution will equal or ex-
14 ceed \$200,000,000 (adjusted annually for infla-
15 tion) in the fiscal year in which any Federal
16 private sector mandate in the bill or joint reso-
17 lution (or in any necessary implementing regu-
18 lation) would first be effective or in any of the
19 4 fiscal years following such fiscal year, the Di-
20 rector shall so state, specify the estimate, and
21 briefly explain the basis of the estimate.

22 “(B) Estimates required under this para-
23 graph shall include estimates (and a brief expla-
24 nation of the basis of the estimates) of—

1 “(i) the total amount of direct costs of
2 complying with the Federal private sector
3 mandates in the bill or joint resolution, but
4 no more than 10 years beyond the effective
5 date of the mandate; and

6 “(ii) the amount, if any, of increase in
7 authorization of appropriations under ex-
8 isting Federal financial assistance pro-
9 grams, or of authorization of appropria-
10 tions for new Federal financial assistance,
11 provided by the bill or joint resolution usa-
12 ble by the private sector for the activities
13 subject to the Federal private sector man-
14 dates.

15 “(C) If the Director determines that it is
16 not feasible to make a reasonable estimate that
17 would be required under subparagraphs (A) and
18 (B), the Director shall not make the estimate,
19 but shall report in the statement that the rea-
20 sonable estimate cannot be made and shall in-
21 clude the reasons for that determination in the
22 statement.

23 “(3) LEGISLATION FALLING BELOW THE DI-
24 RECT COSTS THRESHOLDS.—If the Director esti-
25 mates that the direct costs of a Federal mandate

1 will not equal or exceed the thresholds specified in
2 paragraphs (1) and (2), the Director shall so state
3 and shall briefly explain the basis of the estimate.

4 “(4) AMENDED BILLS AND JOINT RESOLU-
5 TIONS; CONFERENCE REPORTS.—If a bill or
6 joint resolution is passed in an amended form
7 (including if passed by one House as an amend-
8 ment in the nature of a substitute for the text
9 of a bill or joint resolution from the other
10 House) or is reported by a committee of con-
11 ference in amended form, and the amended
12 form contains a Federal mandate not previously
13 considered by either House or which contains
14 an increase in the direct cost of a previously
15 considered Federal mandate, then the commit-
16 tee of conference shall ensure, to the greatest
17 extent practicable, that the Director shall pre-
18 pare a statement as provided in this paragraph
19 or a supplemental statement for the bill or joint
20 resolution in that amended form.

21 “(c) LEGISLATION SUBJECT TO POINT OF ORDER IN
22 THE SENATE.—

23 “(1) IN GENERAL.—It shall not be in order in
24 the Senate to consider—

1 “(A) any bill or joint resolution that is re-
2 ported by a committee unless the committee has
3 published a statement of the Director on the di-
4 rect costs of Federal mandates in accordance
5 with subsection (a)(6) before such consider-
6 ation; and

7 “(B) any bill, joint resolution, amendment,
8 motion, or conference report that would in-
9 crease the direct costs of Federal intergovern-
10 mental mandates by an amount that causes the
11 thresholds specified in subsection (b)(1)(A) to
12 be exceeded, unless—

13 “(i) the bill, joint resolution, amend-
14 ment, motion, or conference report pro-
15 vides direct spending authority for each
16 fiscal year for the Federal intergovern-
17 mental mandates included in the bill, joint
18 resolution, amendment, motion, or con-
19 ference report in an amount that is equal
20 to the direct costs of such mandate;

21 “(ii) the bill, joint resolution, amend-
22 ment, motion, or conference report pro-
23 vides an increase in receipts and an in-
24 crease in direct spending authority for
25 each fiscal year for the Federal intergov-

1 ernmental mandates included in the bill,
2 joint resolution, amendment, motion, or
3 conference report in an amount equal to
4 the direct costs of such mandate; or

5 “(iii) the bill, joint resolution, amend-
6 ment, motion, or conference report in-
7 cludes an authorization for appropriations
8 in an amount equal to the direct costs of
9 such mandate, and—

10 “(I) identifies a specific dollar
11 amount of the direct costs of the man-
12 date for each year or other period up
13 to 10 years during which the mandate
14 shall be in effect under the bill, joint
15 resolution, amendment, motion or con-
16 ference report, and such estimate is
17 consistent with the estimate deter-
18 mined under paragraph (5) for each
19 fiscal year; and

20 “(II) identifies any appropriation
21 bill that is expected to provide for
22 Federal funding of the direct cost re-
23 ferred to under subclause (III);

24 “(III)(aa) provides that if for any
25 fiscal year the responsible Federal

1 agency determines that there are in-
2 sufficient appropriations to provide
3 for the estimated direct costs of the
4 mandate, the Federal agency shall
5 (not later than 30 days after the be-
6 ginning of the fiscal year) notify the
7 appropriate authorizing committees of
8 Congress of the determination and
9 submit either—

10 “(1) a statement that the
11 agency has determined, based on
12 a re-estimate of the direct costs
13 of a mandate, after consultation
14 with State, local, and tribal gov-
15 ernments, that the amount ap-
16 propriated is sufficient to pay for
17 the direct costs of the mandate;
18 or

19 “(2) legislative recommenda-
20 tions for either implementing a
21 less costly mandate or making
22 the mandate ineffective for the
23 fiscal year;

24 “(bb) provides expedited proce-
25 dures for the consideration of the

1 statement or legislative recommenda-
2 tions referred to in item (aa) by Con-
3 gress not later than 30 days after the
4 statement or recommendations are
5 submitted to Congress; and

6 “(cc) provides that the mandate
7 shall—

8 “(1) in the case of a state-
9 ment referred to in item (aa)(1),
10 cease to be effective 60 days
11 after the statement is submitted
12 unless Congress has approved the
13 agency’s determination by joint
14 resolution during the 60-day pe-
15 riod;

16 “(2) cease to be effective 60
17 days after the date the legislative
18 recommendations of the respon-
19 sible Federal agency are submit-
20 ted to Congress under item
21 (aa)(2) unless Congress provides
22 otherwise by law; or

23 “(3) in the case of a man-
24 date that has not yet taken ef-
25 fect, continue not to be effective

1 unless Congress provides other-
2 wise by law.

3 “(2) RULE OF CONSTRUCTION.—The provisions
4 of paragraph (1)(B)(III) shall not be construed to
5 prohibit or otherwise restrict a State, local, or tribal
6 government from voluntarily electing to remain sub-
7 ject to the original Federal intergovernmental man-
8 date, complying with the programmatic or financial
9 responsibilities of the original Federal intergovern-
10 mental mandate and providing the funding necessary
11 consistent with the costs of Federal agency assist-
12 ance, monitoring, and enforcement.

13 “(3) COMMITTEE ON APPROPRIATIONS.—(A)
14 Paragraph (1)—

15 “(i) shall not apply to any bill or resolution
16 reported by the Committee on Appropriations of
17 the Senate or the House of Representatives; but

18 “(ii) shall apply to—

19 “(I) any legislative provision increas-
20 ing direct costs of a Federal intergovern-
21 mental mandate contained in any bill or
22 resolution reported by such Committee;

23 “(II) any legislative provision increas-
24 ing direct costs of a Federal intergovern-
25 mental mandate contained in any amend-

1 ment offered to a bill or resolution re-
2 ported by such Committee;

3 “(III) any legislative provision in-
4 creasing direct costs of a Federal intergov-
5 ernmental mandate in a conference report
6 accompanying a bill or resolution reported
7 by such Committee; and

8 “(IV) any legislative provision increas-
9 ing direct costs of a Federal intergovern-
10 mental mandate contained in any amend-
11 ments in disagreement between the two
12 Houses to any bill or resolution reported
13 by such Committee.

14 “(B) Upon a point of order being made by any
15 Senator against any provision listed in subparagraph
16 (A)(ii), and the point of order being sustained by the
17 Chair, such specific provision shall be deemed strick-
18 en from the bill, resolution, amendment, amendment
19 in disagreement, or conference report and may not
20 be offered as an amendment from the floor.

21 “(4) DETERMINATIONS OF APPLICABILITY TO
22 PENDING LEGISLATION.—For purposes of this sub-
23 section, in the Senate, the presiding officer of the
24 Senate shall consult with the Committee on Govern-
25 mental Affairs, to the extent practicable, on ques-

1 tions concerning the applicability of this section to
2 a pending bill, joint resolution, amendment, motion,
3 or conference report.

4 “(5) DETERMINATIONS OF FEDERAL MANDATE
5 LEVELS.—For purposes of this subsection, in the
6 Senate, the levels of Federal mandates for a fiscal
7 year shall be determined based on the estimates
8 made by the Committee on the Budget.

9 “(d) ENFORCEMENT IN THE HOUSE OF REPRESENT-
10 ATIVES.—It shall not be in order in the House of Rep-
11 resentatives to consider a rule or order that waives the
12 application of subsection (c) to a bill or joint resolution
13 reported by a committee of authorization.

14 “(e) REQUESTS FROM SENATORS.—At the written
15 request of a Senator, the Director shall, to the extent prac-
16 ticable, prepare an estimate of the direct costs of a Fed-
17 eral intergovernmental mandate contained in a bill, joint
18 resolution, amendment, or motion of such Senator.

19 “(f) CLARIFICATION OF APPLICATION.—(1) This sec-
20 tion applies to any bill, joint resolution, amendment, mo-
21 tion, or conference report that reauthorizes appropria-
22 tions, or that amends existing authorizations of appropria-
23 tions, to carry out any statute, or that otherwise amends
24 any statute, only if enactment of the bill, joint resolution,
25 amendment, motion, or conference report—

1 “(A) would result in a net reduction in or elimi-
2 nation of authorization of appropriations for Federal
3 financial assistance that would be provided to State,
4 local, or tribal governments for use for the purpose
5 of complying with any Federal intergovernmental
6 mandate, or to the private sector for use to comply
7 with any Federal private sector mandate, and would
8 not eliminate or reduce duties established by the
9 Federal mandate by a corresponding amount; or

10 “(B) would result in a net increase in the ag-
11 gregate amount of direct costs of Federal intergov-
12 ernmental mandates or Federal private sector man-
13 dates otherwise than as described in subparagraph
14 (A).

15 “(2)(A) For purposes of this section, the direct cost
16 of the Federal mandates in a bill, joint resolution, amend-
17 ment, motion, or conference report that reauthorizes ap-
18 propriations, or that amends existing authorizations of ap-
19 propriations, to carry out a statute, or that otherwise
20 amends any statute, means the net increase, resulting
21 from enactment of the bill, joint resolution, amendment,
22 motion, or conference report, in the amount described
23 under subparagraph (B)(i) over the amount described
24 under subparagraph (B)(ii).

1 “(B) The amounts referred to under subparagraph
2 (A) are—

3 “(i) the aggregate amount of direct costs of
4 Federal mandates that would result under the stat-
5 ute if the bill, joint resolution, amendment, motion,
6 or conference report is enacted; and

7 “(ii) the aggregate amount of direct costs of
8 Federal mandates that would result under the stat-
9 ute if the bill, joint resolution, amendment, motion,
10 or conference report were not enacted.

11 “(C) For purposes of this paragraph, in the case of
12 legislation to extend authorization of appropriations, the
13 authorization level that would be provided by the extension
14 shall be compared to the authorization level for the last
15 year in which authorization of appropriations is already
16 provided.

17 “(g) EXCLUSIONS.—This section shall not apply to
18 any provision in a bill, joint resolution, amendment, mo-
19 tion, or conference report before Congress that—

20 “(1) enforces constitutional rights of individ-
21 uals;

22 “(2) establishes or enforces any statutory rights
23 that prohibit discrimination on the basis of race,
24 color, religion, sex, national origin, age, handicap, or
25 disability;

1 “(3) requires compliance with accounting and
2 auditing procedures with respect to grants or other
3 money or property provided by the United States
4 Government;

5 “(4) provides for emergency assistance or relief
6 at the request of any State, local, or tribal govern-
7 ment or any official of a State, local, or tribal gov-
8 ernment;

9 “(5) is necessary for the national security or
10 the ratification or implementation of international
11 treaty obligations; or

12 “(6) the President designates as emergency leg-
13 islation and that the Congress so designates in stat-
14 ute.

15 “(h) DEFINITIONS.—For purposes of this section:

16 “(1) The term ‘Federal intergovernmental man-
17 date’ means—

18 “(A) any provision in legislation, statute,
19 or regulation that—

20 “(i) would impose an enforceable duty
21 upon State, local, or tribal governments,
22 except—

23 “(I) a condition of Federal as-
24 sistance; or

1 “(II) a duty arising from partici-
2 pation in a voluntary Federal pro-
3 gram, except as provided in subpara-
4 graph (B)); or

5 “(ii) would reduce or eliminate the
6 amount of authorization of appropriations
7 for—

8 “(I) Federal financial assistance
9 that would be provided to State, local,
10 or tribal governments for the purpose
11 of complying with any such previously
12 imposed duty unless such duty is re-
13 duced or eliminated by a correspond-
14 ing amount; or

15 “(II) the control of borders by
16 the Federal Government; or reim-
17 bursement to State, local, or tribal
18 governments for the net cost associ-
19 ated with illegal, deportable, and ex-
20 cludable aliens, including court-man-
21 dated expenses related to emergency
22 health care, education or criminal jus-
23 tice; when such a reduction or elimi-
24 nation would result in increased net
25 costs to State, local, or tribal govern-

1 ments in providing education or emer-
2 gency health care to, or incarceration
3 of, illegal aliens; except that this
4 subclause shall not be in effect with
5 respect to a State, local, or tribal gov-
6 ernment, to the extent that such gov-
7 ernment has not fully cooperated in
8 the efforts of the Federal Government
9 to locate, apprehend, and deport ille-
10 gal aliens;

11 “(B) any provision in legislation, statute,
12 or regulation that relates to a then-existing
13 Federal program under which \$500,000,000 or
14 more is provided annually to State, local, and
15 tribal governments under entitlement authority,
16 if the provision—

17 “(i)(I) would increase the stringency
18 of conditions of assistance to State, local,
19 or tribal governments under the program;
20 or

21 “(II) would place caps upon, or other-
22 wise decrease, the Federal Government’s
23 responsibility to provide funding to State,
24 local, or tribal governments under the pro-
25 gram; and

1 “(ii) the State, local, or tribal govern-
2 ments that participate in the Federal pro-
3 gram lack authority under that program to
4 amend their financial or programmatic re-
5 sponsibilities to continue providing re-
6 quired services that are affected by the leg-
7 islation, statute, or regulation.

8 “(2) The term ‘Federal private sector mandate’
9 means any provision in legislation, statute, or regu-
10 lation that—

11 “(A) would impose an enforceable duty
12 upon the private sector except—

13 “(i) a condition of Federal assistance;
14 or

15 “(ii) a duty arising from participation
16 in a voluntary Federal program; or

17 “(B) would reduce or eliminate the amount
18 of authorization of appropriations for Federal
19 financial assistance that will be provided to the
20 private sector for the purposes of ensuring com-
21 pliance with such duty.

22 “(3) The term ‘Federal mandate’ means a Fed-
23 eral intergovernmental mandate or a Federal private
24 sector mandate, as defined in paragraphs (1) and
25 (2).

1 “(4) The terms ‘Federal mandate direct costs’
2 and ‘direct costs’—

3 “(A)(i) in the case of a Federal intergov-
4 ernmental mandate, mean the aggregate esti-
5 mated amounts that all State, local, and tribal
6 governments would be required to spend in
7 order to comply with the Federal intergovern-
8 mental mandate; or

9 “(ii) in the case of a provision referred to
10 in paragraph (1)(A)(ii), mean the amount of
11 Federal financial assistance eliminated or re-
12 duced;

13 “(B) in the case of a Federal private sec-
14 tor mandate, mean the aggregate estimated
15 amounts that the private sector will be required
16 to spend in order to comply with the Federal
17 private sector mandate;

18 “(C) shall not include—

19 “(i) estimated amounts that the State,
20 local, and tribal governments (in the case
21 of a Federal intergovernmental mandate)
22 or the private sector (in the case of a Fed-
23 eral private sector mandate) would
24 spend—

1 “(I) to comply with or carry out
2 all applicable Federal, State, local,
3 and tribal laws and regulations in ef-
4 fect at the time of the adoption of the
5 Federal mandate for the same activity
6 as is affected by that Federal man-
7 date; or

8 “(II) to comply with or carry out
9 State, local, and tribal governmental
10 programs, or private-sector business
11 or other activities in effect at the time
12 of the adoption of the Federal man-
13 date for the same activity as is af-
14 fected by that mandate; or

15 “(ii) expenditures to the extent that
16 such expenditures will be offset by any di-
17 rect savings to the State, local, and tribal
18 governments, or by the private sector, as a
19 result of—

20 “(I) compliance with the Federal
21 mandate; or

22 “(II) other changes in Federal
23 law or regulation that are enacted or
24 adopted in the same bill or joint reso-
25 lution or proposed or final Federal

1 regulation and that govern the same
2 activity as is affected by the Federal
3 mandate; and

4 “(D) shall be determined on the assump-
5 tion that State, local, and tribal governments,
6 and the private sector will take all reasonable
7 steps necessary to mitigate the costs resulting
8 from the Federal mandate, and will comply with
9 applicable standards of practice and conduct es-
10 tablished by recognized professional or trade as-
11 sociations. Reasonable steps to mitigate the
12 costs shall not include increases in State, local,
13 or tribal taxes or fees.

14 “(5) The term ‘amount’, with respect to an au-
15 thorization of appropriations for Federal financial
16 assistance, means the amount of budget authority
17 for any Federal grant assistance program or any
18 Federal program providing loan guarantees or direct
19 loans.

20 “(6) The term ‘private sector’ means all per-
21 sons or entities in the United States, including indi-
22 viduals, partnerships, associations, corporations, and
23 educational and nonprofit institutions, but shall not
24 include State, local, or tribal governments.

1 “(7) The term ‘local government’ has the same
2 meaning as in section 6501(6) of title 31, United
3 States Code.

4 “(8) The term ‘tribal government’ means any
5 Indian tribe, band, nation, or other organized group
6 or community, including any Alaska Native village
7 or regional or village corporation as defined in or es-
8 tablished pursuant to the Alaska Native Claims Set-
9 tlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.)
10 which is recognized as eligible for the special pro-
11 grams and services provided by the United States to
12 Indians because of their special status as Indians.

13 “(9) The term ‘small government’ means any
14 small governmental jurisdictions defined in section
15 601(5) of title 5, United States Code, and any tribal
16 government.

17 “(10) The term ‘State’ has the same meaning
18 as in section 6501(9) of title 31, United State Code.

19 “(11) The term ‘agency’ has the meaning as de-
20 fined in section 551(1) of title 5, United States
21 Code, but does not include independent regulatory
22 agencies, as defined in section 3502(10) of title 44,
23 United States Code, or the Office of the Comptroller
24 of the Currency or the Office of Thrift Supervision.

1 “(12) The term ‘regulation’ or ‘rule’ has the
2 meaning of ‘rule’ as defined in section 601(2) of title
3 5, United States Code.

4 “(13) The term ‘direct savings’, when used with
5 respect to the result of compliance with the Federal
6 mandate—

7 “(A) in the case of a Federal intergovern-
8 mental mandate, means the aggregate esti-
9 mated reduction in costs to any State, local, or
10 tribal government as a result of compliance
11 with the Federal intergovernmental mandate;
12 and

13 “(B) in the case of a Federal private sec-
14 tor mandate, means the aggregate estimated re-
15 duction in costs to the private sector as a result
16 of compliance with the Federal private sector
17 mandate.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The table of contents in section 1(b) of the Congressional
20 Budget and Impoundment Control Act of 1974 is amend-
21 ed by adding after the item relating to section 407 the
22 following new item:

“Sec. 408. Legislative mandate accountability and reform.”.

23 **SEC. 102. ASSISTANCE TO COMMITTEES AND STUDIES.**

24 The Congressional Budget and Impoundment Control
25 Act of 1974 is amended—

1 (1) in section 202—

2 (A) in subsection (c)—

3 (i) by redesignating paragraph (2) as
4 paragraph (3); and

5 (ii) by inserting after paragraph (1)
6 the following new paragraph:

7 “(2) At the request of any committee of the
8 Senate or the House of Representatives, the Office
9 shall, to the extent practicable, consult with and as-
10 sist such committee in analyzing the budgetary or fi-
11 nancial impact of any proposed legislation that may
12 have—

13 “(A) a significant budgetary impact on
14 State, local, or tribal governments; or

15 “(B) a significant financial impact on the
16 private sector.”;

17 (B) by amending subsection (h) to read as
18 follows:

19 “(h) STUDIES.—

20 “(1) CONTINUING STUDIES.—The Director of
21 the Congressional Budget Office shall conduct con-
22 tinuing studies to enhance comparisons of budget
23 outlays, credit authority, and tax expenditures.

24 “(2) FEDERAL MANDATE STUDIES.—

1 “(A) At the request of any Chairman or
2 ranking member of the minority of a Committee
3 of the Senate or the House of Representatives,
4 the Director shall, to the extent practicable,
5 conduct a study of a Federal mandate legisla-
6 tive proposal.

7 “(B) In conducting a study on intergovern-
8 mental mandates under subparagraph (A), the
9 Director shall—

10 “(i) solicit and consider information
11 or comments from elected officials (includ-
12 ing their designated representatives) of
13 State, local, or tribal governments as may
14 provide helpful information or comments;

15 “(ii) consider establishing advisory
16 panels of elected officials or their des-
17 ignated representatives, of State, local, or
18 tribal governments if the Director deter-
19 mines that such advisory panels would be
20 helpful in performing responsibilities of the
21 Director under this section; and

22 “(iii) if, and to the extent that the Di-
23 rector determines that accurate estimates
24 are reasonably feasible, include estimates
25 of—

1 “(I) the future direct cost of the
2 Federal mandate to the extent that
3 such costs significantly differ from or
4 extend beyond the 5-year period after
5 the mandate is first effective; and

6 “(II) any disproportionate budg-
7 etary effects of Federal mandates
8 upon particular industries or sectors
9 of the economy, States, regions, and
10 urban or rural or other types of com-
11 munities, as appropriate.

12 “(C) In conducting a study on private sec-
13 tor mandates under subparagraph (A), the Di-
14 rector shall provide estimates, if and to the ex-
15 tent that the Director determines that such es-
16 timates are reasonably feasible, of—

17 “(i) future costs of Federal private
18 sector mandates to the extent that such
19 mandates differ significantly from or ex-
20 tend beyond the 5-year time period re-
21 ferred to in subparagraph (B)(iii)(I);

22 “(ii) any disproportionate financial ef-
23 fects of Federal private sector mandates
24 and of any Federal financial assistance in
25 the bill or joint resolution upon any par-

1 ticular industries or sectors of the econ-
2 omy, States, regions, and urban or rural or
3 other types of communities; and

4 “(iii) the effect of Federal private sec-
5 tor mandates in the bill or joint resolution
6 on the national economy, including the ef-
7 fect on productivity, economic growth, full
8 employment, creation of productive jobs,
9 and international competitiveness of
10 United States goods and services.”; and

11 (2) in section 301(d) by adding at the end
12 thereof the following new sentence: “Any Committee
13 of the House of Representatives or the Senate that
14 anticipates that the committee will consider any pro-
15 posed legislation establishing, amending, or reau-
16 thorizing any Federal program likely to have a sig-
17 nificant budgetary impact on any State, local, or
18 tribal government, or likely to have a significant fi-
19 nancial impact on the private sector, including any
20 legislative proposal submitted by the executive
21 branch likely to have such a budgetary or financial
22 impact, shall include its views and estimates on that
23 proposal to the Committee on the Budget of the ap-
24 plicable House.”.

1 **SEC. 103. COST OF REGULATIONS.**

2 (a) SENSE OF THE CONGRESS.—It is the sense of the
3 Congress that Federal agencies should review and evaluate
4 planned regulations to ensure that the cost estimates pro-
5 vided by the Congressional Budget Office will be carefully
6 considered as regulations are promulgated.

7 (b) STATEMENT OF COST.—At the written request of
8 any Senator, the Director shall, to the extent practicable,
9 prepare—

10 (1) an estimate of the costs of regulations im-
11 plementing an Act containing a Federal mandate
12 covered by section 408 of the Congressional Budget
13 and Impoundment Control Act of 1974, as added by
14 section 101(a) of this Act; and

15 (2) a comparison of the costs of such regula-
16 tions with the cost estimate provided for such Act by
17 the Congressional Budget Office.

18 (c) COOPERATION OF OFFICE OF MANAGEMENT AND
19 BUDGET.—At the request of the Director of the Congres-
20 sional Budget Office, the Director of the Office of Man-
21 agement and Budget shall provide data and cost estimates
22 for regulations implementing an Act containing a Federal
23 mandate covered by section 408 of the Congressional
24 Budget and Impoundment Control Act of 1974, as added
25 by section 101(a) of this Act.

1 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Con-
3 gressional Budget Office \$4,500,000 for each of the fiscal
4 years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to
5 carry out the provisions of this Act.

6 **SEC. 105. EXERCISE OF RULEMAKING POWERS.**

7 The provisions of section 101 are enacted by Con-
8 gress—

9 (1) as an exercise of the rulemaking power of
10 the Senate and the House of Representatives, re-
11 spectively, and as such they shall be considered as
12 part of the rules of such House, respectively, and
13 such rules shall supersede other rules only to the ex-
14 tent that they are inconsistent therewith; and

15 (2) with full recognition of the constitutional
16 right of either House to change such rules (so far
17 as relating to such House) at any time, in the same
18 manner, and to the same extent as in the case of
19 any other rule of each House.

20 **SEC. 106. REPEAL OF CERTAIN ANALYSIS BY CONGRES-**
21 **SIONAL BUDGET OFFICE.**

22 Section 403 of the Congressional Budget Act of 1974
23 is amended—

24 (1) in subsection (a)—

25 (A) by striking paragraph (2);

1 (B) in paragraph (3) by striking “para-
2 graphs (1) and (2)” and inserting “paragraph
3 (1)”; and

4 (C) by redesignating paragraphs (3) and
5 (4) as paragraphs (2) and (3), respectively;
6 (2) by striking “(a)”; and
7 (3) by striking subsections (b) and (c).

8 **SEC. 107. CONSIDERATION FOR FEDERAL FUNDING.**

9 Nothing in this Act shall preclude a State, local, or
10 tribal government that already complies with all or part
11 of the Federal intergovernmental mandates included in the
12 bill, joint resolution, amendment, motion, or conference re-
13 port from consideration for Federal funding for the cost
14 of the mandate, including the costs the State, local, or
15 tribal government is currently paying and any additional
16 costs necessary to meet the mandate.

17 **SEC. 108. IMPACT ON LOCAL GOVERNMENTS.**

18 (a) FINDINGS.—The Senate finds that—

19 (1) the Congress should be concerned about
20 shifting costs from Federal to State and local au-
21 thorities and should be equally concerned about the
22 growing tendency of States to shift costs to local
23 governments;

24 (2) cost shifting from States to local govern-
25 ments has, in many instances, forced local govern-

1 ments to raise property taxes or curtail sometimes
2 essential services; and

3 (3) increases in local property taxes and cuts in
4 essential services threaten the ability of many citi-
5 zens to attain and maintain the American dream of
6 owning a home in a safe, secure community.

7 (b) SENSE OF THE SENATE.—It is the sense of the
8 Senate that—

9 (1) the Federal Government should not shift
10 certain costs to the State, and States should end the
11 practice of shifting costs to local governments, which
12 forces many local governments to increase property
13 taxes;

14 (2) States should end the imposition, in the ab-
15 sence of full consideration by their legislatures, of
16 State issued mandates on local governments without
17 adequate State funding, in a manner that may dis-
18 place other essential government priorities; and

19 (3) one primary objective of this Act and other
20 efforts to change the relationship among Federal,
21 State, and local governments should be to reduce
22 taxes and spending at all levels and to end the prac-
23 tice of shifting costs from one level of government to
24 another with little or no benefit to taxpayers.

1 **SEC. 109. EFFECTIVE DATE.**

2 This title shall take effect on January 1, 1996 or on
3 the date 90 days after appropriations are made available
4 as authorized under section 104, whichever is earlier and
5 shall apply to legislation considered on and after such
6 date.

7 **TITLE II—REGULATORY**
8 **ACCOUNTABILITY AND REFORM**

9 **SEC. 201. REGULATORY PROCESS.**

10 (a) IN GENERAL.—Each agency shall, to the extent
11 permitted in law—

12 (1) assess the effects of Federal regulations on
13 State, local, and tribal governments (other than to
14 the extent that such regulations incorporate require-
15 ments specifically set forth in legislation), and the
16 private sector, including specifically the availability
17 of resources to carry out any Federal intergovern-
18 mental mandates in those regulations; and

19 (2) seek to minimize those burdens that unique-
20 ly or significantly affect such governmental entities,
21 consistent with achieving statutory and regulatory
22 objectives.

23 (b) STATE, LOCAL, AND TRIBAL GOVERNMENT
24 INPUT.—Each agency shall, to the extent permitted in
25 law, develop an effective process to permit elected officials
26 (or their designated representatives) of State, local, and

1 tribal governments to provide meaningful and timely input
2 in the development of regulatory proposals containing sig-
3 nificant Federal intergovernmental mandates. Such a
4 process shall be consistent with all applicable laws.

5 (c) AGENCY PLAN.—

6 (1) EFFECTS ON STATE, LOCAL, AND TRIBAL
7 GOVERNMENTS.—Before establishing any regulatory
8 requirements that might significantly or uniquely af-
9 fect small governments, agencies shall have devel-
10 oped a plan under which the agency shall—

11 (A) provide notice of the contemplated re-
12 quirements to potentially affected small govern-
13 ments, if any;

14 (B) enable officials of affected small gov-
15 ernments to provide input under subsection (b);
16 and

17 (C) inform, educate, and advise small gov-
18 ernments on compliance with the requirements.

19 (2) AUTHORIZATION OF APPROPRIATIONS.—
20 There are authorized to be appropriated to each
21 agency to carry out the provisions of this section,
22 and for no other purpose, such sums as are nec-
23 essary.

1 **SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REG-**
2 **ULATORY ACTIONS.**

3 (a) IN GENERAL.—Before promulgating any final
4 rule that includes any Federal intergovernmental mandate
5 that may result in the expenditure by State, local, or tribal
6 governments, and the private sector, in the aggregate, of
7 \$100,000,000 or more (adjusted annually for inflation by
8 the Consumer Price Index) in any 1 year, and before pro-
9 mulgating any general notice of proposed rulemaking that
10 is likely to result in promulgation of any such rule, the
11 agency shall prepare a written statement containing—

12 (1) estimates by the agency, including the un-
13 derlying analysis, of the anticipated costs to State,
14 local, and tribal governments and the private sector
15 of complying with the Federal intergovernmental
16 mandate, and of the extent to which such costs may
17 be paid with funds provided by the Federal Govern-
18 ment or otherwise paid through Federal financial as-
19 sistance;

20 (2) estimates by the agency, if and to the ex-
21 tent that the agency determines that accurate esti-
22 mates are reasonably feasible, of—

23 (A) the future costs of the Federal inter-
24 governmental mandate; and

25 (B) any disproportionate budgetary effects
26 of the Federal intergovernmental mandate upon

1 any particular regions of the Nation or particu-
2 lar State, local, or tribal governments, urban or
3 rural or other types of communities;

4 (3) a qualitative, and if possible, a quantitative
5 assessment of costs and benefits anticipated from
6 the Federal intergovernmental mandate (such as the
7 enhancement of health and safety and the protection
8 of the natural environment);

9 (4) the effect of the Federal private sector man-
10 date on the national economy, including the effect on
11 productivity, economic growth, full employment, cre-
12 ation of productive jobs, and international competi-
13 tiveness of United States goods and services; and

14 (5)(A) a description of the extent of the agen-
15 cy's prior consultation with elected representatives
16 (or their designated representatives) of the affected
17 State, local, and tribal governments;

18 (B) a summary of the comments and concerns
19 that were presented by State, local, or tribal govern-
20 ments either orally or in writing to the agency;

21 (C) a summary of the agency's evaluation of
22 those comments and concerns; and

23 (D) the agency's position supporting the need
24 to issue the regulation containing the Federal inter-
25 governmental mandates (considering, among other

1 things, the extent to which costs may or may not be
2 paid with funds provided by the Federal Govern-
3 ment).

4 (b) AGENCY STATEMENT; PRIVATE SECTOR MAN-
5 DATES.—Notwithstanding any other provision of this Act,
6 an agency statement prepared pursuant to subsection (a)
7 shall also be prepared for a Federal private sector man-
8 date that may result in the expenditure by State, local,
9 tribal governments, or the private sector, in the aggregate,
10 of \$100,000,000 or more (adjusted annually for inflation
11 by the Consumer Price Index) in any 1 year.

12 (c) PROMULGATION.—In promulgating a general no-
13 tice of proposed rulemaking or a final rule for which a
14 statement under subsection (a) is required, the agency
15 shall include in the promulgation a summary of the infor-
16 mation contained in the statement.

17 (d) PREPARATION IN CONJUNCTION WITH OTHER
18 STATEMENT.—Any agency may prepare any statement re-
19 quired under subsection (a) in conjunction with or as a
20 part of any other statement or analysis, provided that the
21 statement or analysis satisfies the provisions of subsection
22 (a).

1 **SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET**
2 **OFFICE.**

3 The Director of the Office of Management and
4 Budget shall—

5 (1) collect from agencies the statements pre-
6 pared under section 202; and

7 (2) periodically forward copies of such state-
8 ments to the Director of the Congressional Budget
9 Office on a reasonably timely basis after promulga-
10 tion of the general notice of proposed rulemaking or
11 of the final rule for which the statement was pre-
12 pared.

13 **SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXI-**
14 **BILITY.**

15 (a) **IN GENERAL.**—The Director of the Office of
16 Management and Budget, in consultation with Federal
17 agencies, shall establish pilot programs in at least 2 agen-
18 cies to test innovative, and more flexible regulatory ap-
19 proaches that—

20 (1) reduce reporting and compliance burdens on
21 small governments; and

22 (2) meet overall statutory goals and objectives.

23 (b) **PROGRAM FOCUS.**—The pilot programs shall
24 focus on rules in effect or proposed rules, or a combination
25 thereof.

1 **SEC. 205. EFFECTIVE DATE.**

2 This title and the amendments made by this title
3 shall take effect 60 days after the date of enactment.

4 **TITLE III—REVIEW OF UN-**
5 **FUNDED FEDERAL MAN-**
6 **DATES**

7 **SEC. 301. BASELINE STUDY OF COSTS AND BENEFITS.**

8 (a) **IN GENERAL.**—Not later than 180 days after the
9 date of enactment of this Act, the Advisory Commission
10 on Intergovernmental Relations (hereafter in this title re-
11 ferred to as the “Advisory Commission”), in consultation
12 with the Director, shall begin a study to examine the
13 measurement and definition issues involved in calculating
14 the total costs and benefits to State, local, and tribal gov-
15 ernments of compliance with Federal law.

16 (b) **CONSIDERATIONS.**—The study required by this
17 section shall consider—

18 (1) the feasibility of measuring indirect costs
19 and benefits as well as direct costs and benefits of
20 the Federal, State, local, and tribal relationship; and

21 (2) how to measure both the direct and indirect
22 benefits of Federal financial assistance and tax ben-
23 efits to State, local, and tribal governments.

1 **SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY**
2 **ADVISORY COMMISSION ON INTERGOVERN-**
3 **MENTAL RELATIONS.**

4 (a) IN GENERAL.—The Advisory Commission on
5 Intergovernmental Relations shall in accordance with this
6 section—

7 (1) investigate and review the role of unfunded
8 Federal mandates in intergovernmental relations and
9 their impact on State, local, tribal, and Federal gov-
10 ernment objectives and responsibilities;

11 (2) make recommendations to the President
12 and the Congress regarding—

13 (A) allowing flexibility for State, local, and
14 tribal governments in complying with specific
15 unfunded Federal mandates for which terms of
16 compliance are unnecessarily rigid or complex;

17 (B) reconciling any 2 or more unfunded
18 Federal mandates which impose contradictory
19 or inconsistent requirements;

20 (C) terminating unfunded Federal man-
21 dates which are duplicative, obsolete, or lacking
22 in practical utility;

23 (D) suspending, on a temporary basis, un-
24 funded Federal mandates which are not vital to
25 public health and safety and which compound
26 the fiscal difficulties of State, local, and tribal

1 governments, including recommendations for
2 triggering such suspension;

3 (E) consolidating or simplifying unfunded
4 Federal mandates, or the planning or reporting
5 requirements of such mandates, in order to re-
6 duce duplication and facilitate compliance by
7 State, local, and tribal governments with those
8 mandates; and

9 (F) establishing common Federal defini-
10 tions or standards to be used by State, local,
11 and tribal governments in complying with un-
12 funded Federal mandates that use different
13 definitions or standards for the same terms or
14 principles; and

15 (3) identify in each recommendation made
16 under paragraph (2), to the extent practicable, the
17 specific unfunded Federal mandates to which the
18 recommendation applies.

19 (b) TREATMENT OF REQUIREMENTS FOR METRIC
20 SYSTEMS OF MEASUREMENT.—

21 (1) TREATMENT.—For purposes of subsection
22 (a) (1) and (2), the Commission shall consider re-
23 quirements for metric systems of measurement to be
24 Federal mandates.

1 (2) DEFINITION.—In this subsection, the term
2 “requirements for metric systems of measurement”
3 means requirements of the departments, agencies,
4 and other entities of the Federal Government that
5 State, local, and tribal governments utilize metric
6 systems of measurement.

7 (c) CRITERIA.—

8 (1) IN GENERAL.—The Commission shall estab-
9 lish criteria for making recommendations under sub-
10 section (a).

11 (2) ISSUANCE OF PROPOSED CRITERIA.—The
12 Commission shall issue proposed criteria under this
13 subsection not later than 60 days after the date of
14 the enactment of this Act, and thereafter provide a
15 period of 30 days for submission by the public of
16 comments on the proposed criteria.

17 (3) FINAL CRITERIA.—Not later than 45 days
18 after the date of issuance of proposed criteria, the
19 Commission shall—

20 (A) consider comments on the proposed
21 criteria received under paragraph (2);

22 (B) adopt and incorporate in final criteria
23 any recommendations submitted in those com-
24 ments that the Commission determines will aid

1 the Commission in carrying out its duties under
2 this section; and

3 (C) issue final criteria under this sub-
4 section.

5 (d) PRELIMINARY REPORT.—

6 (1) IN GENERAL.—Not later than 9 months
7 after the date of the enactment of this Act, the
8 Commission shall—

9 (A) prepare and publish a preliminary re-
10 port on its activities under this title, including
11 preliminary recommendations pursuant to sub-
12 section (a);

13 (B) publish in the Federal Register a no-
14 tice of availability of the preliminary report;
15 and

16 (C) provide copies of the preliminary re-
17 port to the public upon request.

18 (2) PUBLIC HEARINGS.—The Commission shall
19 hold public hearings on the preliminary rec-
20 ommendations contained in the preliminary report of
21 the Commission under this subsection.

22 (e) FINAL REPORT.—Not later than 3 months after
23 the date of the publication of the preliminary report under
24 subsection (c), the Commission shall submit to the Con-
25 gress, including the Committee on Government Reform

1 and Oversight of the House of Representatives and the
2 Committee on Governmental Affairs of the Senate, and
3 to the President a final report on the findings, conclusions,
4 and recommendations of the Commission under this sec-
5 tion.

6 **SEC. 303. SPECIAL AUTHORITIES OF ADVISORY COMMIS-**
7 **SION.**

8 (a) EXPERTS AND CONSULTANTS.—For purposes of
9 carrying out this title, the Advisory Commission may pro-
10 cure temporary and intermittent services of experts or
11 consultants under section 3109(b) of title 5, United States
12 Code.

13 (b) DETAIL OF STAFF OF FEDERAL AGENCIES.—
14 Upon request of the Executive Director of the Advisory
15 Commission, the head of any Federal department or agen-
16 cy may detail, on a reimbursable basis, any of the person-
17 nel of that department or agency to the Advisory Commis-
18 sion to assist it in carrying out this title.

19 (c) CONTRACT AUTHORITY.—The Advisory Commis-
20 sion may, subject to appropriations, contract with and
21 compensate government and private persons (including
22 agencies) for property and services used to carry out its
23 duties under this title.

1 **SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated to the Advi-
3 sory Commission to carry out section 301 and section 302,
4 \$1,250,000 for each of fiscal years 1995 and 1996.

5 **TITLE IV—JUDICIAL REVIEW**

6 **SEC. 401. JUDICIAL REVIEW.**

7 (a) IN GENERAL.—Any statement or report prepared
8 under this Act, and any compliance or noncompliance with
9 the provisions of this Act, and any determination concern-
10 ing the applicability of the provisions of this Act shall not
11 be subject to judicial review.

12 (b) RULE OF CONSTRUCTION.—No provision of this
13 Act or amendment made by this Act shall be construed
14 to create any right or benefit, substantive or procedural,
15 enforceable by any person in any administrative or judicial
16 action. No ruling or determination made under the provi-
17 sions of this Act or amendments made by this Act shall
18 be considered by any court in determining the intent of
19 Congress or for any other purpose.

 Passed the Senate January 27 (legislative day, Jan-
uary 10), 1995.

Attest:

Secretary.

S 1 ES—2

S 1 ES—3

S 1 ES—4

S 1 ES—5

104TH CONGRESS
1ST SESSION

S. 1

AN ACT

To curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes.