

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1

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.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. KEMPTHORNE (for himself, Mr. DOLE, Mr. GLENN, Mr. ROTH, Mr. DOMENICI, Mr. EXON, Mr. COVERDELL, Mr. BROWN, Mr. BURNS, Mr. CRAIG, Mr. FAIRCLOTH, Mr. GREGG, Mr. BENNETT, Mrs. HUTCHISON, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BOND, Mr. BREAUX, Mr. CAMPBELL, Mr. COATS, Mr. COCHRAN, Mr. COHEN, Mr. D'AMATO, Mr. DEWINE, Mr. FRIST, Mr. GORTON, Mr. GRAMM, Mr. GRAMS, Mr. HATCH, Mr. HATFIELD, Mr. HEFLIN, Mr. HELMS, Mr. INHOFE, Mrs. KASSEBAUM, Mr. KYL, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCONNELL, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. NICKLES, Mr. PACKWOOD, Mr. PRESSLER, Mr. ROBB, Mr. SANTORUM, Mr. SHELBY, Mr. SIMPSON, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, and Mr. WARNER) introduced the following bill; which was read twice and referred jointly pursuant to the order of August 4, 1977, to the Committees on the Budget and Governmental Affairs, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged

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## A BILL

To curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the part-

nership 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”.

6        **SEC. 2. PURPOSES.**

7        The purposes of this Act are—

8            (1) to strengthen the partnership between the  
 9        Federal Government and States, local governments,  
 10       and tribal governments;

11           (2) to end the imposition, in the absence of full  
 12       consideration by Congress, of Federal mandates on  
 13       States, local governments, and tribal governments  
 14       without adequate Federal funding, in a manner that  
 15       may displace other essential State, local, and tribal  
 16       governmental priorities;

1           (3) to assist Congress in its consideration of  
2 proposed legislation establishing or revising Federal  
3 programs containing Federal mandates affecting  
4 States, local governments, tribal governments, and  
5 the private sector by—

6           (A) providing for the development of infor-  
7 mation about the nature and size of mandates  
8 in proposed legislation; and

9           (B) establishing a mechanism to bring  
10 such information to the attention of the Senate  
11 and the House of Representatives before the  
12 Senate and the House of Representatives vote  
13 on proposed legislation;

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

17          (5) to require that Congress consider whether  
18 to provide funding to assist State, local, and tribal  
19 governments in complying with Federal mandates, to  
20 require analyses of the impact of private sector man-  
21 dates, and through the dissemination of that infor-  
22 mation provide informed and deliberate decisions by  
23 Congress and Federal agencies and retain competi-  
24 tive balance between the public and private sectors;

1           (6) to establish a point-of-order vote on the con-  
2           sideration in the Senate and House of Representa-  
3           tives of legislation containing significant Federal  
4           mandates; and

5           (7) to assist Federal agencies in their consider-  
6           ation of proposed regulations affecting States, local  
7           governments, and tribal governments, by—

8                   (A) requiring that Federal agencies de-  
9                   velop a process to enable the elected and other  
10                  officials of States, local governments, and tribal  
11                  governments to provide input when Federal  
12                  agencies are developing regulations; and

13                   (B) requiring that Federal agencies pre-  
14                  pare and consider better estimates of the budg-  
15                  etary impact of regulations containing Federal  
16                  mandates upon States, local governments, and  
17                  tribal governments before adopting such regula-  
18                  tions, and ensuring that small governments are  
19                  given special consideration in that process.

20 **SEC. 3. DEFINITIONS.**

21           (a) IN GENERAL.—For purposes of this Act—

22                   (1) the terms defined under paragraphs (11)  
23                  through (21) of section 3 of the Congressional  
24                  Budget and Impoundment Control Act of 1974 (as

1 added by subsection (b) of this section) shall have  
2 the meanings as so defined; and

3 (2) the term “Director” means the Director of  
4 the Congressional Budget Office.

5 (b) CONGRESSIONAL BUDGET AND IMPOUNDMENT  
6 CONTROL ACT OF 1974.—Section 3 of the Congressional  
7 Budget and Impoundment Control Act of 1974 is amend-  
8 ed by adding at the end thereof the following new para-  
9 graphs:

10 “(11) The term ‘Federal intergovernmental  
11 mandate’ means—

12 “(A) any provision in legislation, statute,  
13 or regulation that—

14 “(i) would impose an enforceable duty  
15 upon States, local governments, or tribal  
16 governments, except—

17 “(I) a condition of Federal as-  
18 sistance or

19 “(II) a duty arising from partici-  
20 pation in a voluntary Federal pro-  
21 gram, except as provided in subpara-  
22 graph (B)); or

23 “(ii) would reduce or eliminate the  
24 amount of authorization of appropriations  
25 for Federal financial assistance that would

1 be provided to States, local governments,  
2 or tribal governments for the purpose of  
3 complying with any such previously im-  
4 posed duty unless such duty is reduced or  
5 eliminated by a corresponding amount; or

6 “(B) any provision in legislation, statute,  
7 or regulation that relates to a then-existing  
8 Federal program under which \$500,000,000 or  
9 more is provided annually to States, local gov-  
10 ernments, and tribal governments under entitle-  
11 ment authority, if the provision—

12 “(i)(I) would increase the stringency  
13 of conditions of assistance to States, local  
14 governments, or tribal governments under  
15 the program; or

16 “(II) would place caps upon, or other-  
17 wise decrease, the Federal Government’s  
18 responsibility to provide funding to States,  
19 local governments, or tribal governments  
20 under the program; and

21 “(ii) the States, local governments, or  
22 tribal governments that participate in the  
23 Federal program lack authority under that  
24 program to amend their financial or pro-  
25 grammatic responsibilities to continue pro-

1           viding required services that are affected  
2           by the legislation, statute or regulation.

3           “(12) The term ‘Federal private sector man-  
4           date’ means any provision in legislation, statute, or  
5           regulation that—

6                   “(A) would impose an enforceable duty  
7           upon the private sector except—

8                           “(i) a condition of Federal assistance;  
9                           or

10                           “(ii) a duty arising from participation  
11                           in a voluntary Federal program; or

12                           “(B) would reduce or eliminate the amount  
13           of authorization of appropriations for Federal  
14           financial assistance that will be provided to the  
15           private sector for the purposes of ensuring com-  
16           pliance with such duty.

17           “(13) The term ‘Federal mandate’ means a  
18           Federal intergovernmental mandate or a Federal  
19           private sector mandate, as defined in paragraphs  
20           (11) and (12).

21           “(14) The terms ‘Federal mandate direct costs’  
22           and ‘direct costs’—

23                           “(A)(i) in the case of a Federal intergov-  
24                           ernmental mandate, mean the aggregate esti-  
25                           mated amounts that all States, local govern-

1           ments, and tribal governments would be re-  
2           quired to spend in order to comply with the  
3           Federal intergovernmental mandate; or

4           “(ii) in the case of a provision referred to  
5           in paragraph (11)(A)(ii), mean the amount of  
6           Federal financial assistance eliminated or re-  
7           duced.

8           “(B) in the case of a Federal private sec-  
9           tor mandate, mean the aggregate estimated  
10          amounts that the private sector will be required  
11          to spend in order to comply with the Federal  
12          private sector mandate;

13          “(C) shall not include—

14               “(i) estimated amounts that the  
15               States, local governments, and tribal gov-  
16               ernments ( in the case of a Federal inter-  
17               governmental mandate) or the private sec-  
18               tor (in the case of a Federal private sector  
19               mandate) would spend—

20                       “(I) to comply with or carry out  
21                       all applicable Federal, State, local,  
22                       and tribal laws and regulations in ef-  
23                       fect at the time of the adoption of the  
24                       Federal mandate for the same activity

1 as is affected by that Federal man-  
2 date; or

3 “(II) to comply with or carry out  
4 State, local governmental, and tribal  
5 governmental programs, or private-  
6 sector business or other activities in  
7 effect at the time of the adoption of  
8 the Federal mandate for the same ac-  
9 tivity as is affected by that mandate;  
10 or

11 “(ii) expenditures to the extent that  
12 such expenditures will be offset by any di-  
13 rect savings to the States, local govern-  
14 ments, and tribal governments, or by the  
15 private sector, as a result of—

16 “(I) compliance with the Federal  
17 mandate; or

18 “(II) other changes in Federal  
19 law or regulation that are enacted or  
20 adopted in the same bill or joint reso-  
21 lution or proposed or final Federal  
22 regulation and that govern the same  
23 activity as is affected by the Federal  
24 mandate; and

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

11          “(15) The term ‘amount’ means the amount of  
12          budget authority for any Federal grant assistance  
13          program or any Federal program providing loan  
14          guarantees or direct loans.

15          “(16) The term ‘private sector’ means individ-  
16          uals, partnerships, associations, corporations, busi-  
17          ness trusts, or legal representatives, organized  
18          groups of individuals, and educational and other  
19          nonprofit institutions.

20          “(17) The term ‘local government’ has the same  
21          meaning as in section 6501(6) of title 31, United  
22          States Code.

23          “(18) The term ‘tribal government’ means any  
24          Indian tribe, band, nation, or other organized group  
25          or community, including any Alaska Native village

1 or regional or village corporation as defined in or es-  
2 tablished pursuant to the Alaska Native Claims Set-  
3 tlement Act (83 Stat. 688; 43 U.S.C. 1601 et seq.)  
4 which is recognized as eligible for the special pro-  
5 grams and services provided by the United States to  
6 Indians because of their special status as Indians.

7 “(19) The term ‘small government’ means any  
8 small governmental jurisdictions defined in section  
9 601(5) of title 5, United States Code, and any tribal  
10 government.

11 “(20) The term ‘State’ has the same meaning  
12 as in section 6501(9) of title 31, United State  
13 Code.”

14 “(21) The term ‘agency’ has the meaning as de-  
15 fined in section 551(1) of title 5, United States  
16 Code, but does not include independent regulatory  
17 agencies, as defined in section 3502(10) of title 44,  
18 United States Code.

19 “(22) The term ‘regulation’ or ‘rule’ has the  
20 meaning of ‘rule’ as defined in section 601(2) of title  
21 5, United States Code.”.

22 **SEC. 4. EXCLUSIONS.**

23 The provisions of this Act and the amendments made  
24 by this Act shall not apply to any provision in a bill or

1 joint resolution before Congress and any provision in a  
2 proposed or final Federal regulation that—

3 (1) enforces constitutional rights of individuals;

4 (2) establishes or enforces any statutory rights  
5 that prohibit discrimination on the basis of race, re-  
6 ligious, gender, national origin, or handicapped or  
7 disability status;

8 (3) requires compliance with accounting and  
9 auditing procedures with respect to grants or other  
10 money or property provided by the United States  
11 Government;

12 (4) provides for emergency assistance or relief  
13 at the request of any State, local, or tribal govern-  
14 ment or any official of a State, local, or tribal gov-  
15 ernment;

16 (5) is necessary for the national security or the  
17 ratification or implementation of international treaty  
18 obligations; or

19 (6) the President designates as emergency legis-  
20 lation and that the Congress so designates in stat-  
21 ute.

22 **SEC. 5. AGENCY ASSISTANCE.**

23 Each agency shall provide to the Director of the Con-  
24 gressional Budget Office such information and assistance

1 as the Director may reasonably request to assist the Direc-  
2 tor in carrying out this Act.

3 **TITLE I—LEGISLATIVE**  
4 **ACCOUNTABILITY AND REFORM**

5 **SEC. 101. LEGISLATIVE MANDATE ACCOUNTABILITY AND**  
6 **REFORM .**

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

10 **“SEC. 408. LEGISLATIVE MANDATE ACCOUNTABILITY AND**  
11 **REFORM .**

12 “(a) DUTIES OF CONGRESSIONAL COMMITTEES.—

13 “(1) IN GENERAL.—When a committee of au-  
14 thorization of the Senate or the House of Represent-  
15 atives reports a bill or joint resolution of public  
16 character that includes any Federal mandate, the re-  
17 port of the committee accompanying the bill or joint  
18 resolution shall contain the information required by  
19 paragraphs (3) and (4).

20 “(2) SUBMISSION OF BILLS TO THE DIREC-  
21 TOR.—When a committee of authorization of the  
22 Senate or the House of Representatives orders re-  
23 ported a bill or joint resolution of a public character,  
24 the committee shall promptly provide the bill or joint  
25 resolution to the Director of the Congressional

1 Budget Office and shall identify to the Director any  
2 Federal mandates contained in the bill or resolution.

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

6 “(A) an identification and description of  
7 any Federal mandates in the bill or joint resolu-  
8 tion, including the expected direct costs to  
9 State, local, and tribal governments, and to the  
10 private sector, required to comply with the Fed-  
11 eral mandates;

12 “(B) a qualitative, and if practicable, a  
13 quantitative assessment of costs and benefits  
14 anticipated from the Federal mandates (includ-  
15 ing the effects on health and safety and the  
16 protection of the natural environment); and

17 “(C) a statement of the degree to which a  
18 Federal mandate affects both the public and  
19 private sectors and the extent to which Federal  
20 payment of public sector costs would affect the  
21 competitive balance between State, local, or  
22 tribal governments and privately owned busi-  
23 nesses.

24 “(4) INTERGOVERNMENTAL MANDATES.—If any  
25 of the Federal mandates in the bill or joint resolu-

1 tion are Federal intergovernmental mandates, the  
2 report required under paragraph (1) shall also con-  
3 tain—

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

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

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

22 “(5) PREEMPTION CLARIFICATION AND INFOR-  
23 MATION.—When a committee of authorization of the  
24 Senate or the House of Representatives reports a  
25 bill or joint resolution of public character, the com-

1       committee report accompanying the bill or joint resolu-  
2       tion shall contain, if relevant to the bill or joint reso-  
3       lution, an explicit statement on the extent to which  
4       the bill or joint resolution preempts any State, local,  
5       or tribal law, and, if so, an explanation of the rea-  
6       sons for such preemption.

7               “(6) PUBLICATION OF STATEMENT FROM THE  
8       DIRECTOR.—

9               “(A) Upon receiving a statement (includ-  
10       ing any supplemental statement) from the Di-  
11       rector under subsection (b)(1), a committee of  
12       the Senate or the House of Representatives  
13       shall publish the statement in the committee re-  
14       port accompanying the bill or joint resolution to  
15       which the statement relates if the statement is  
16       available at the time the report is printed.

17              “(B) If the statement is not published in  
18       the report, or if the bill or joint resolution to  
19       which the statement relates is expected to be  
20       considered by the Senate or the House of Rep-  
21       resentatives before the report is published, the  
22       committee shall cause the statement, or a sum-  
23       mary thereof, to be published in the Congres-  
24       sional Record in advance of floor consideration  
25       of the bill or joint resolution.

1 “(b) DUTIES OF THE DIRECTOR.—

2 “(1) STATEMENTS ON BILLS AND JOINT RESO-  
3 LUTIONS OTHER THAN APPROPRIATIONS BILLS AND  
4 JOINT RESOLUTIONS.—

5 “(A) FEDERAL INTERGOVERNMENTAL  
6 MANDATES IN REPORTED BILLS AND RESOLU-  
7 TIONS.—For each bill or joint resolution of a  
8 public character reported by any committee of  
9 authorization of the Senate or the House of  
10 Representatives, the Director of the Congres-  
11 sional Budget Office shall prepare and submit  
12 to the committee a statement as follows:

13 “(i) If the Director estimates that the  
14 direct cost of all Federal intergovernmental  
15 mandates in the bill or joint resolution will  
16 equal or exceed \$50,000,000 (adjusted an-  
17 nually for inflation) in the fiscal year in  
18 which any Federal intergovernmental man-  
19 date in the bill or joint resolution (or in  
20 any necessary implementing regulation)  
21 would first be effective or in any of the 4  
22 fiscal years following such fiscal year, the  
23 Director shall so state, specify the esti-  
24 mate, and briefly explain the basis of the  
25 estimate.

1           “(ii) The estimate required under  
2           clause (i) shall include estimates (and brief  
3           explanations of the basis of the estimates)  
4           of—

5                   “(I) the total amount of direct  
6                   cost of complying with the Federal  
7                   intergovernmental mandates in the  
8                   bill or joint resolution; and

9                   “(II) the amount, if any, of in-  
10                  crease in authorization of appropria-  
11                  tions under existing Federal financial  
12                  assistance programs, or of authoriza-  
13                  tion of appropriations for new Federal  
14                  financial assistance, provided by the  
15                  bill or joint resolution and usable by  
16                  State, local, or tribal governments for  
17                  activities subject to the Federal inter-  
18                  governmental mandates.

19                  “(B) FEDERAL PRIVATE SECTOR MAN-  
20                  DATES IN REPORTED BILLS AND JOINT RESO-  
21                  LUTIONS.—For each bill or joint resolution of a  
22                  public character reported by any committees of  
23                  authorization of the Senate or the House of  
24                  Representatives, the Director of the Congres-

1           sional Budget Office shall prepare and submit  
2           to the committee a statement as follows:

3                   “(i) If the Director estimates that the  
4                   direct cost of all Federal private sector  
5                   mandates in the bill or joint resolution will  
6                   equal or exceed \$200,000,000 (adjusted  
7                   annually for inflation) in the fiscal year in  
8                   which any Federal private sector mandate  
9                   in the bill or joint resolution (or in any  
10                  necessary implementing regulation) would  
11                  first be effective or in any of the 4 fiscal  
12                  years following such fiscal year, the Direc-  
13                  tor shall so state, specify the estimate, and  
14                  briefly explain the basis of the estimate.

15                  “(ii) Estimates required under this  
16                  subparagraph shall include estimates (and  
17                  a brief explanation of the basis of the esti-  
18                  mates) of—

19                          “(I) the total amount of direct  
20                          costs of complying with the Federal  
21                          private sector mandates in the bill or  
22                          joint resolution; and

23                          “(II) the amount, if any, of in-  
24                          crease in authorization of appropria-  
25                          tions under existing Federal financial

1 assistance programs, or of authoriza-  
2 tion of appropriations for new Federal  
3 financial assistance, provided by the  
4 bill or joint resolution usable by the  
5 private sector for the activities subject  
6 to the Federal private sector man-  
7 dates.

8 “(iii) If the Director determines that  
9 it is not feasible to make a reasonable esti-  
10 mate that would be required under clauses  
11 (i) and (ii), the Director shall not make  
12 the estimate, but shall report in the state-  
13 ment that the reasonable estimate cannot  
14 be made and shall include the reasons for  
15 that determination in the statement.

16 “(C) LEGISLATION FALLING BELOW THE  
17 DIRECT COSTS THRESHOLDS.—If the Director  
18 estimates that the direct costs of a Federal  
19 mandate will not equal or exceed the thresholds  
20 specified in paragraphs (A) and (B), the Direc-  
21 tor shall so state and shall briefly explain the  
22 basis of the estimate.

23 “(c) LEGISLATION SUBJECT TO POINT OF ORDER IN  
24 THE SENATE.—

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

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

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

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

24           “(ii) the bill, joint resolution, amend-  
25 ment, motion, or conference report pro-

1           vides an increase in receipts and an in-  
2           crease in direct spending authority for  
3           each fiscal year for the Federal intergov-  
4           ernmental mandates included in the bill,  
5           joint resolution, amendment, motion, or  
6           conference report in an amount equal to  
7           the estimated direct costs of such mandate;  
8           or

9           “(iii) the bill, joint resolution, amend-  
10          ment, motion, or conference report in-  
11          cludes an authorization for appropriations  
12          in an amount equal to the estimated direct  
13          costs of such mandate, and—

14                 “(I) identifies a specific dollar  
15                 amount estimate of the full direct  
16                 costs of the mandate for each year or  
17                 other period during which the man-  
18                 date shall be in effect under the bill,  
19                 joint resolution, amendment, motion  
20                 or conference report, and such esti-  
21                 mate is consistent with the estimate  
22                 determined under paragraph (3) for  
23                 each fiscal year;

24                 “(II) identifies any appropriation  
25                 bill that is expected to provide for

1 Federal funding of the direct cost re-  
2 ferred to under subclause (IV)(aa);

3 “(III) identifies the minimum  
4 amount that must be appropriated in  
5 each appropriations bill referred to in  
6 subclause (II), in order to provide for  
7 full Federal funding of the direct  
8 costs referred to in subclause (I); and

9 “(IV)(aa) designates a respon-  
10 sible Federal agency and establishes  
11 criteria and procedures under which  
12 such agency shall implement less cost-  
13 ly programmatic and financial respon-  
14 sibilities of State, local, and tribal  
15 governments in meeting the objectives  
16 of the mandate, to the extent that an  
17 appropriation Act does not provide for  
18 the estimated direct costs of such  
19 mandate as set forth under subclause  
20 (III); or

21 “(bb) designates a responsible  
22 Federal agency and establishes cri-  
23 teria and procedures to direct that, if  
24 an appropriation Act does not provide  
25 for the estimated direct costs of such

1 mandate as set forth under subclause  
2 (III), such agency shall declare such  
3 mandate to be ineffective as of Octo-  
4 ber 1 of the fiscal year for which the  
5 appropriation is not at least equal to  
6 the direct costs of the mandate.

7 “(2) RULE OF CONSTRUCTION.—The provisions  
8 of paragraph (1)(B)(iii)(IV)(aa) shall not be con-  
9 strued to prohibit or otherwise restrict a State, local,  
10 or tribal government from voluntarily electing to re-  
11 main subject to the original Federal intergovern-  
12 mental mandate, complying with the programmatic  
13 or financial responsibilities of the original Federal  
14 intergovernmental mandate and providing the fund-  
15 ing necessary consistent with the costs of Federal  
16 agency assistance, monitoring, and enforcement.

17 “(3) COMMITTEE ON APPROPRIATIONS.—Para-  
18 graph (1) shall not apply to matters that are within  
19 the jurisdiction of the Committee on Appropriations  
20 of the Senate or the House of Representatives.

21 “(4) DETERMINATION OF APPLICABILITY TO  
22 PENDING LEGISLATION.—For purposes of this sub-  
23 section, on questions regarding the applicability of  
24 this Act to a pending bill, joint resolution, amend-  
25 ment, motion, or conference report, the Committee

1 on Governmental Affairs of the Senate, or the Com-  
 2 mittee on Government Reform and Oversight of the  
 3 House of Representatives, as applicable, shall have  
 4 the authority to make the final determination.

5 “(5) DETERMINATIONS OF FEDERAL MANDATE  
 6 LEVELS.—For the purposes of this subsection, the  
 7 levels of Federal mandates for a fiscal year shall be  
 8 determined based on the estimates made by the  
 9 Committee on the Budget of the Senate or the  
 10 House of Representatives, as the case may be.

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

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

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

21 **SEC. 102. ENFORCEMENT IN THE HOUSE OF REPRESENTA-**  
 22 **TIVES.**

23 (a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE  
 24 WHOLE.—Clause 5 of rule XXIII of the Rules of the

1 House of Representatives is amended by adding at the end  
2 the following:

3       “(c) In the consideration of any measure for amend-  
4 ment in the Committee of the Whole containing any Fed-  
5 eral mandate the direct costs of which exceed the threshold  
6 in section 408(c) of the Unfunded Mandate Reform Act  
7 of 1995, it shall always be in order, unless specifically  
8 waived by terms of a rule governing consideration of that  
9 measure, to move to strike such Federal mandate from  
10 the portion of the bill then open to amendment.”.

11       (b) COMMITTEE ON RULES REPORTS ON WAIVED  
12 POINTS OF ORDER.—The Committee on Rules shall in-  
13 clude in the report required by clause 1(d) of rule XI (re-  
14 lating to its activities during the Congress) of the Rules  
15 of the House of Representatives a separate item identify-  
16 ing all waivers of points of order relating to Federal man-  
17 dates, listed by bill or joint resolution number and the sub-  
18 ject matter of that measure.

19 **SEC. 103. ASSISTANCE TO COMMITTEES AND STUDIES.**

20       The Congressional Budget and Impoundment Control  
21 Act of 1974 is amended—

22               (1) in section 202—

23                       (A) in subsection (c)—

24                               (i) by redesignating paragraph (2) as  
25                               paragraph (3); and

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

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

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

11 “(B) a significant financial impact on the  
12 private sector.”;

13 (B) by amending subsection (h) to read as  
14 follows:

15 “(h) STUDIES.—

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

20 “(2) FEDERAL MANDATE STUDIES.—

21 “(A) At the request of any Chairman or  
22 ranking member of the minority of a Committee  
23 of the Senate or the House of Representatives,  
24 the Director shall, to the extent practicable,

1           conduct a study of a Federal mandate legisla-  
2           tive proposal.

3           “(B) In conducting a study on intergovern-  
4           mental mandates under subparagraph (A), the  
5           Director shall—

6                   “(i) solicit and consider information  
7                   or comments from elected officials (includ-  
8                   ing their designated representatives) of  
9                   State, local, or tribal governments as may  
10                  provide helpful information or comments;

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

18                  “(iii) if, and to the extent that the Di-  
19                  rector determines that accurate estimates  
20                  are reasonably feasible, include estimates  
21                  of—

22                          “(I) the future direct cost of the  
23                          Federal mandate to the extent that  
24                          such costs significantly differ from or

1 extend beyond the 5-year period after  
2 the mandate is first effective; and

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

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

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

19 “(ii) any disproportionate financial ef-  
20 fects of Federal private sector mandates  
21 and of any Federal financial assistance in  
22 the bill or joint resolution upon any par-  
23 ticular industries or sectors of the econ-  
24 omy, States, regions, and urban or rural or  
25 other types of communities; and

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

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

22 **SEC. 104. AUTHORIZATION OF APPROPRIATIONS.**

23          There are authorized to be appropriated to the Con-  
24          gressional Budget Office \$4,500,000 for each of the fiscal

1 years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 to  
2 carry out the provisions of this Act.

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

4 The provisions of sections 101, 102, 103, 104, and  
5 107 are enacted by Congress—

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

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

17 **SEC. 106. REPEAL OF CERTAIN ANALYSIS BY CONGRES-**  
18 **SIONAL BUDGET OFFICE.**

19 (a) IN GENERAL.—Section 403 of the Congressional  
20 Budget Act of 1974 (2 U.S.C. 653) is repealed.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
22 The table of contents in section 1(b) of the Congressional  
23 Budget and Impoundment Control Act of 1974 is amend-  
24 ed by striking out the item relating to section 403.

1 **SEC. 107. EFFECTIVE DATE.**

2 This title shall take effect on January 1, 1996 and  
3 shall apply only to legislation introduced on and after such  
4 date.

5 **TITLE II—REGULATORY**  
6 **ACCOUNTABILITY AND REFORM**

7 **SEC. 201. REGULATORY PROCESS.**

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

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

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

21 (b) STATE, LOCAL, AND TRIBAL GOVERNMENT  
22 INPUT.—Each agency shall, to the extent permitted in  
23 law, develop an effective process to permit elected officials  
24 (or their designated representatives) of State, local, and  
25 tribal governments to provide meaningful and timely input  
26 in the development of regulatory proposals containing sig-

1 nificant Federal intergovernmental mandates. Such a  
2 process shall be consistent with all applicable laws.

3 (c) AGENCY PLAN.—

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

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

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

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

17 (2) AUTHORIZATION OF APPROPRIATIONS.—

18 There are authorized to be appropriated to each  
19 agency to carry out the provisions of this section,  
20 and for no other purpose, such sums as are nec-  
21 essary.

22 **SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REG-**  
23 **ULATORY ACTIONS.**

24 (a) IN GENERAL.—Before promulgating any final  
25 rule that includes any Federal intergovernmental mandate

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

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

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

19 (A) the future costs of the Federal inter-  
20 governmental mandate; and

21 (B) any disproportionate budgetary effects  
22 of the Federal intergovernmental mandate upon  
23 any particular regions of the Nation or particu-  
24 lar State, local, or tribal governments, urban or  
25 rural or other types of communities;

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

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

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

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

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

20           (D) the agency's position supporting the need  
21 to issue the regulation containing the Federal inter-  
22 governmental mandates (considering, among other  
23 things, the extent to which costs may or may not be  
24 paid with funds provided by the Federal Govern-  
25 ment).

1 (b) PROMULGATION.—In promulgating a general no-  
2 tice of proposed rulemaking or a final rule for which a  
3 statement under subsection (a) is required, the agency  
4 shall include in the promulgation a summary of the infor-  
5 mation contained in the statement.

6 (c) PREPARATION IN CONJUNCTION WITH OTHER  
7 STATEMENT.—Any agency may prepare any statement re-  
8 quired under subsection (a) in conjunction with or as a  
9 part of any other statement or analysis, provided that the  
10 statement or analysis satisfies the provisions of subsection  
11 (a).

12 **SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET**  
13 **OFFICE.**

14 The Director of the Office of Management and  
15 Budget shall—

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

18 (2) periodically forward copies of such state-  
19 ments to the Director of the Congressional Budget  
20 Office on a reasonably timely basis after promulga-  
21 tion of the general notice of proposed rulemaking or  
22 of the final rule for which the statement was pre-  
23 pared.

1 **SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXI-**  
 2 **BILITY.**

3 (a) IN GENERAL.—The Director of the Office of  
 4 Management and Budget, in consultation with Federal  
 5 agencies, shall establish pilot programs in at least 2 agen-  
 6 cies to test innovative, and more flexible regulatory ap-  
 7 proaches that—

8 (1) reduce reporting and compliance burdens on  
 9 small governments; and

10 (2) meet overall statutory goals and objectives.

11 (b) PROGRAM FOCUS.—The pilot programs shall  
 12 focus on rules in effect or proposed rules, or a combination  
 13 thereof.

14 **TITLE III—REVIEW OF UN-**  
 15 **FUNDED FEDERAL MAN-**  
 16 **DATES**

17 **SEC. 301. ESTABLISHMENT.**

18 There is established a commission which shall be  
 19 known as the “Commission on Unfunded Federal Man-  
 20 dates” (in this title referred to as the “Commission”).

21 **SEC. 302. REPORT ON UNFUNDED FEDERAL MANDATES BY**  
 22 **THE COMMISSION.**

23 (a) IN GENERAL.—The Commission shall in accord-  
 24 ance with this section—

25 (1) investigate and review the role of unfunded  
 26 Federal mandates in intergovernmental relations and

1 their impact on local, State, and Federal government  
2 objectives and responsibilities; and

3 (2) make recommendations to the President  
4 and the Congress regarding—

5 (A) allowing flexibility for States, local,  
6 and tribal governments in complying with spe-  
7 cific unfunded Federal mandates for which  
8 terms of compliance are unnecessarily rigid or  
9 complex;

10 (B) reconciling any 2 or more unfunded  
11 Federal mandates which impose contradictory  
12 or inconsistent requirements;

13 (C) terminating unfunded Federal man-  
14 dates which are duplicative, obsolete, or lacking  
15 in practical utility;

16 (D) suspending, on a temporary basis, un-  
17 funded Federal mandates which are not vital to  
18 public health and safety and which compound  
19 the fiscal difficulties of States, local, and tribal  
20 governments, including recommendations for  
21 triggering such suspension;

22 (E) consolidating or simplifying unfunded  
23 Federal mandates, or the planning or reporting  
24 requirements of such mandates, in order to re-  
25 duce duplication and facilitate compliance by

1 States, local, and tribal governments with those  
2 mandates; and

3 (F) establishing common Federal defini-  
4 tions or standards to be used by States, local,  
5 and tribal governments in complying with un-  
6 funded Federal mandates that use different  
7 definitions or standards for the same terms or  
8 principles.

9 (3) IDENTIFICATION OF RELEVANT UNFUNDED  
10 FEDERAL MANDATES.—Each recommendation under  
11 paragraph (2) shall, to the extent practicable, iden-  
12 tify the specific unfunded Federal mandates to  
13 which the recommendation applies.

14 (b) CRITERIA.—

15 (1) IN GENERAL.—The Commission shall estab-  
16 lish criteria for making recommendations under sub-  
17 section (a).

18 (2) ISSUANCE OF PROPOSED CRITERIA.—The  
19 Commission shall issue proposed criteria under this  
20 subsection not later than 60 days after the date of  
21 the enactment of this Act, and thereafter provide a  
22 period of 30 days for submission by the public of  
23 comments on the proposed criteria.

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

4           (A) consider comments on the proposed  
5 criteria received under paragraph (2);

6           (B) adopt and incorporate in final criteria  
7 any recommendations submitted in those com-  
8 ments that the Commission determines will aid  
9 the Commission in carrying out its duties under  
10 this section; and

11           (C) issue final criteria under this sub-  
12 section.

13 (c) PRELIMINARY REPORT.—

14           (1) IN GENERAL.—Not later than 9 months  
15 after the date of the enactment of this Act, the  
16 Commission shall—

17           (A) prepare and publish a preliminary re-  
18 port on its activities under this subtitle, includ-  
19 ing preliminary recommendations pursuant to  
20 subsection (a);

21           (B) publish in the Federal Register a no-  
22 tice of availability of the preliminary report;  
23 and

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

1           (2) PUBLIC HEARINGS.—The Commission shall  
2 hold public hearings on the preliminary rec-  
3 ommendations contained in the preliminary report of  
4 the Commission under this subsection.

5           (d) FINAL REPORT.—Not later than 3 months after  
6 the date of the publication of the preliminary report under  
7 subsection (c), the Commission shall submit to the Con-  
8 gress, including the Committee on Government Reform  
9 and Oversight of the House of Representatives and the  
10 Committee on Governmental Affairs of the Senate, and  
11 to the President a final report on the findings, conclusions,  
12 and recommendations of the Commission under this sec-  
13 tion.

14 **SEC. 303. MEMBERSHIP.**

15           (a) NUMBER AND APPOINTMENT.—

16           (1) IN GENERAL.—The Commission shall be  
17 composed of 9 members appointed from individuals  
18 who possess extensive leadership experience in and  
19 knowledge of States, local, and tribal governments  
20 and intergovernmental relations, including State and  
21 local elected officials, as follows:

22                   (A) 3 members appointed by the Speaker  
23 of the House of Representatives, in consultation  
24 with the minority leader of the House of Rep-  
25 resentatives.

1 (B) 3 members appointed by the majority  
2 leader of the Senate, in consultation with the  
3 minority leader of the Senate.

4 (C) 3 members appointed by the President.

5 (2) LIMITATION.—An individual who is a Mem-  
6 ber or employee of the Congress may not be ap-  
7 pointed or serve as a member of the Commission.

8 (b) WAIVER OF LIMITATION ON EXECUTIVE SCHED-  
9 ULE POSITIONS.—Appointments may be made under this  
10 section without regard to section 5311(b) of title 5, United  
11 States Code.

12 (c) TERMS.—

13 (1) IN GENERAL.—Each member of the Com-  
14 mission shall be appointed for the life of the Com-  
15 mission.

16 (2) VACANCIES.—A vacancy in the Commission  
17 shall be filled in the manner in which the original  
18 appointment was made.

19 (d) BASIC PAY.—

20 (1) RATES OF PAY.—Members of the Commis-  
21 sion shall serve without pay.

22 (2) PROHIBITION OF COMPENSATION OF FED-  
23 ERAL EMPLOYEES.—Members of the Commission  
24 who are full-time officers or employees of the United  
25 States may not receive additional pay, allowances, or

1 benefits by reason of their service on the Commis-  
2 sion.

3 (e) TRAVEL EXPENSES.—Each member of the Com-  
4 mission shall receive travel expenses, including per diem  
5 in lieu of subsistence, in accordance with sections 5702  
6 and 5703 of title 5, United States Code.

7 (f) CHAIRPERSON.—The President shall designate a  
8 member of the Commission as Chairperson at the time of  
9 the appointment of that member.

10 (g) MEETINGS.—

11 (1) IN GENERAL.—Subject to paragraph (2),  
12 the Commission shall meet at the call of the Chair-  
13 person or a majority of its members.

14 (2) FIRST MEETING.—The Commission shall  
15 convene its first meeting by not later than 45 days  
16 after the date of the completion of appointment of  
17 the members of the Commission.

18 (3) QUORUM.—A majority of members of the  
19 Commission shall constitute a quorum but a lesser  
20 number may hold hearings.

21 **SEC. 304. DIRECTOR AND STAFF OF COMMISSION; EXPERTS**  
22 **AND CONSULTANTS.**

23 (a) DIRECTOR.—The Commission shall, without re-  
24 gard to section 5311(b) of title 5, United States Code,  
25 have a Director who shall be appointed by the Commis-

1 sion. The Director shall be paid at the rate of basic pay  
2 payable for level IV of the Executive Schedule.

3 (b) STAFF.—With the approval of the Commission,  
4 and without regard to section 5311(b) of title 5, United  
5 States Code, the Director may appoint and fix the pay  
6 of such staff as is sufficient to enable the Commission to  
7 carry out its duties.

8 (c) APPLICABILITY OF CERTAIN CIVIL SERVICE  
9 LAWS.—The Director and staff of the Commission may  
10 be appointed without regard to the provisions of title 5,  
11 United States Code, governing appointments in the com-  
12 petitive service, and may be paid without regard to the  
13 provisions of chapter 51 and subchapter III of chapter 53  
14 of that title relating to classification and General Schedule  
15 pay rates, except that an individual so appointed may not  
16 receive pay in excess of the annual rate payable under  
17 section 5376 of title 5, United States Code.

18 (d) EXPERTS AND CONSULTANTS.—The Commission  
19 may procure temporary and intermittent services of ex-  
20 perts or consultants under section 3109(b) of title 5,  
21 United States Code.

22 (e) STAFF OF FEDERAL AGENCIES.—Upon request  
23 of the Director, the head of any Federal department or  
24 agency may detail, on a reimbursable basis, any of the

1 personnel of that department or agency to the Commission  
2 to assist it in carrying out its duties under this title.

3 **SEC. 305. POWERS OF COMMISSION.**

4 (a) HEARINGS AND SESSIONS.—The Commission  
5 may, for the purpose of carrying out this title, hold hear-  
6 ings, sit and act at times and places, take testimony, and  
7 receive evidence as the Commission considers appropriate.

8 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-  
9 ber or agent of the Commission may, if authorized by the  
10 Commission, take any action which the Commission is  
11 authorized to take by this section.

12 (c) OBTAINING OFFICIAL DATA.—The Commission  
13 may secure directly from any department or agency of the  
14 United States information necessary to enable it to carry  
15 out this title, except information—

16 (1) which is specifically exempted from disclo-  
17 sure by law; or

18 (2) which that department or agency deter-  
19 mines will disclose—

20 (A) matters necessary to be kept secret in  
21 the interests of national defense or the con-  
22 fidential conduct of the foreign relations of the  
23 United States;

24 (B) information relating to trade secrets or  
25 financial or commercial information pertaining

1 specifically to a given person if the information  
2 has been obtained by the Government on a con-  
3 fidential basis, other than through an applica-  
4 tion by such person for a specific financial or  
5 other benefit, and is required to be kept secret  
6 in order to prevent undue injury to the competi-  
7 tive position of such person; or

8 (C) personnel or medical data or similar  
9 data the disclosure of which would constitute a  
10 clearly unwarranted invasion of personal pri-  
11 vacy;

12 unless the portions containing such matters, infor-  
13 mation, or data have been excised.

14 Upon request of the Chairperson of the Commission, the  
15 head of that department or agency shall furnish that infor-  
16 mation to the Commission.

17 (d) **MAILS.**—The Commission may use the United  
18 States mails in the same manner and under the same con-  
19 ditions as other departments and agencies of the United  
20 States.

21 (e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon  
22 the request of the Commission, the Administrator of Gen-  
23 eral Services shall provide to the Commission, on a reim-  
24 bursable basis, the administrative support services nec-

1 essary for the Commission to carry out its duties under  
2 this title.

3 (f) **CONTRACT AUTHORITY.**—The Commission may,  
4 subject to appropriations, contract with and compensate  
5 government and private agencies or persons for property  
6 and services used to carry out its duties under this title.

7 **SEC. 306. TERMINATION.**

8 The Commission shall terminate 90 days after sub-  
9 mitting its final report pursuant to section 302(d).

10 **SEC. 307. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated to the Com-  
12 mission \$1,000,000 to carry out this title.

13 **SEC. 308. DEFINITION.**

14 As used in this title, the term “unfunded Federal  
15 mandate” means—

16 (1) any provision in statute or regulation that  
17 imposes an enforceable duty upon States, local gov-  
18 ernments, or tribal governments including a condi-  
19 tion of Federal assistance or a duty arising from  
20 participation in a voluntary Federal program;

21 (2) relates to a Federal program under which  
22 Federal financial assistance is provided to States,  
23 local governments, or tribal governments under enti-  
24 tlement authority; or

1           (3) that imposes any other unfunded obligation  
2           on States, local governments, or tribal governments.

3 **SEC. 309. EFFECTIVE DATE.**

4           This title shall take effect 60 days after the date of  
5 the enactment of this Act.

6           **TITLE IV—JUDICIAL REVIEW**

7 **SEC. 401. JUDICIAL REVIEW.**

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

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

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S 1 RIS—2

S 1 RIS—3

S 1 RIS—4