

110TH CONGRESS
2D SESSION

H. R. 6964

To amend the Unfunded Mandates Reform Act of 1995 to ensure that actions taken by regulatory agencies are subject to that Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2008

Ms. FOXX (for herself and Mr. CUELLAR) introduced the following bill; which was referred to the Committee on Oversight and Government Reform, and in addition to the Committees on Rules, the Budget, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Unfunded Mandates Reform Act of 1995 to ensure that actions taken by regulatory agencies are subject to that Act, 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 Mandates
5 Information and Transparency Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) before acting on proposed Federal man-
2 dates, Congress should carefully consider their ef-
3 fects on consumers, workers, and small businesses;

4 (2) Congress has often acted without adequate
5 information concerning the costs of Federal man-
6 dates, instead focusing only on their benefits;

7 (3) the implementation of the Unfunded Man-
8 dates Reform Act of 1995 has resulted in increased
9 awareness of intergovernmental mandates without
10 impacting existing environmental, public health, or
11 safety laws or regulations;

12 (4) the implementation of this Act will enhance
13 public awareness of prospective Federal mandates on
14 the private sector, State, local, and tribal govern-
15 ments without adversely affecting the environment,
16 public health, or safety laws or regulations;

17 (5) the costs of private sector mandates are
18 often borne in part by consumers, in the form of
19 higher prices and reduced availability of goods and
20 services;

21 (6) the costs of private sector mandates are
22 often borne in part by workers, in the form of lower
23 wages, reduced benefits, and fewer job opportunities;
24 and

1 (7) the costs of private sector mandates are
2 often borne in part by small businesses, in the form
3 of hiring disincentives and stunted economic growth.

4 **SEC. 3. PURPOSE.**

5 The purpose of this Act is—

6 (1) to improve the quality of Congress’ delibera-
7 tion with respect to proposed mandates on the pri-
8 vate sector, by—

9 (A) providing Congress and the public with
10 more complete information about the effects of
11 such mandates; and

12 (B) ensuring that Congress acts on such
13 mandates only after focused deliberation on
14 their effects; and

15 (2) to enhance the ability of Congress and the
16 public to distinguish between Federal mandates that
17 harm consumers, workers, small businesses, State,
18 local, and tribal governments and mandates that
19 help those groups.

20 **SEC. 4. APPLICATION OF REPORTING REQUIREMENTS TO**
21 **POLICIES INVOLVING CHANGES IN CONDI-**
22 **TIONS OF GRANT AID.**

23 Section 423(c) of the Congressional Budget Act of
24 1974 is amended by striking “and” at the end of para-
25 graph (2), by striking the period and inserting “; and”

1 at the end of paragraph (3), and by adding at the end
2 the following new paragraph:

3 “(4) an assessment of the authorized level of
4 funding to determine if the prospective costs of car-
5 rying out changes to a condition of Federal assist-
6 ance being imposed on participating State, local, or
7 tribal governments, and how these costs compare
8 with the funds being authorized or, for reauthoriza-
9 tions, of the additional costs of changes in those con-
10 ditions and how they compare with the changes in
11 funding being authorized; and in cases where a bill
12 or joint resolution provides such sums as are nec-
13 essary, the assessment shall contain an estimate of
14 that amount.”.

15 **SEC. 5. EXPANDING THE SCOPE OF LEGISLATIVE REPORT-**
16 **ING REQUIREMENTS TO INCLUDE INDIRECT**
17 **COSTS.**

18 (a) **INDIRECT COSTS.**—Section 423(c) of the Con-
19 gressional Budget Act of 1974 (as amended by section 4)
20 is further amended—

21 (1) in its side heading, by inserting “and Other
22 Costs” after “Mandates” ; and

23 (2) by striking “and” at the end of paragraph
24 (3), by striking the period and inserting “; and” at

1 the end of paragraph (4), and by adding at the end
2 the following new paragraph:

3 “(5) an identification and description of any
4 reasonably foreseeable indirect costs to State, local,
5 or tribal governments, or by the private sector, in-
6 curred as a result of implementing the Federal man-
7 date in the bill or joint resolution.”.

8 (b) DEFINITION.—Section 421 of the Congressional
9 Budget Act of 1974 is amended by redesignating para-
10 graphs (10) through (13) as paragraphs (11) through
11 (14), respectively and by adding after paragraph (9) the
12 following new paragraph:

13 “(10) REASONABLY FORESEEABLE INDIRECT
14 COSTS.—The term ‘reasonably foreseeable indirect
15 costs’ means costs to the affected entities resulting
16 from implementation of a Federal mandate other
17 than their own direct costs to carry out any such
18 mandate. Such costs include lost income and sec-
19 ondary monetary costs resulting from the Federal
20 mandate.”.

21 **SEC. 6. EXPANDING THE SCOPE OF REGULATORY REPORT-**
22 **ING REQUIREMENTS TO INCLUDE INDIRECT**
23 **COSTS.**

24 Section 202(a) of the Unfunded Mandates Reform
25 Act of 1995 is amended by striking “the expenditure by”

1 and inserting “direct or reasonably foreseeable indirect
2 costs to”.

3 **SEC. 7. APPLICATION OF REPORTING REQUIREMENTS TO**
4 **INCLUDE REGULATIONS IMPOSED BY INDE-**
5 **PENDENT REGULATORY AGENCIES.**

6 Paragraph (1) of section 421 of the Congressional
7 Budget Act of 1974 is amended by striking “, but does
8 not include independent regulatory agencies”.

9 **SEC. 8. CLARIFICATION TO ENSURE REGULATORY AGENCY**
10 **REPORTING REQUIREMENTS APPLIES TO ALL**
11 **RESPECTIVE REGULATORY ACTIONS.**

12 Section 201 of the Unfunded Mandates Reform Act
13 of 1995 is amended by inserting “expressly” after “other-
14 wise”.

15 **SEC. 9. CLOSE LEGAL LOOPHOLE ALLOWING FOR DIS-**
16 **REGARDING OF REPORTING REQUIREMENTS**
17 **BY REGULATORY AGENCIES.**

18 Section 202(a) of the Unfunded Mandates Reform
19 Act of 1995 is amended by—

20 (1) striking “Unless” and all that follows
21 through “private sector,” the first place it appears
22 and inserting the following: “Unless otherwise ex-
23 pressly prohibited by law, before promulgating any
24 general notice of proposed rulemaking or final rule
25 that includes a Federal mandate that may result in

1 direct or reasonably foreseeable indirect costs to
2 State, local, and tribal governments, in the aggregate,
3 or to the private sector,”; and

4 (2) striking “and before promulgating” and all
5 that follows through “containing—” and inserting
6 the following: “or within six months after promul-
7 gating any final rule that was not preceded by a
8 general notice of proposed rulemaking that includes
9 a Federal mandate that may result in direct or rea-
10 sonably foreseeable indirect costs by State, local, and
11 tribal governments, in the aggregate, or by the pri-
12 vate sector, of such amount or more (adjusted annu-
13 ally for inflation) in any one year; the agency shall
14 prepare a written statement containing—”.

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