

112TH CONGRESS  
1ST SESSION

# H. R. 373

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.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2011

Ms. FOXX (for herself, Mr. CUELLAR, and Mr. KISSELL) 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

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## 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 2011”.

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 Federal mandates without impacting  
10          existing environmental, public health, or safety laws  
11          or regulations;

12          (4) this Act builds on the success of the Un-  
13          funded Mandates Reform Act of 1995 by further en-  
14          hancing public awareness of prospective Federal  
15          mandates on the private sector, State, local, and  
16          tribal governments without adversely affecting the  
17          environment, public health, or safety laws or regula-  
18          tions;

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

23          (6) the costs of private sector mandates are  
24          often borne in part by workers, in the form of lower

1 wages, reduced benefits, and fewer job opportunities;  
2 and

3 (7) the costs of private sector mandates are  
4 often borne in part by employers and small busi-  
5 nesses, in the form of hiring disincentives and stunt-  
6 ed economic growth.

7 **SEC. 3. PURPOSE.**

8 The purpose of this Act is—

9 (1) to improve the quality of Congress’ delibera-  
10 tion with respect to proposed Federal mandates,  
11 by—

12 (A) providing Congress and the public with  
13 more complete information about the effects of  
14 such mandates; and

15 (B) ensuring that Congress acts on such  
16 mandates only after focused deliberation on  
17 their effects; and

18 (2) to enhance the ability of Congress and the  
19 public to identify Federal mandates that may impose  
20 undue harm on consumers, workers, employers,  
21 small businesses, State, local, and tribal govern-  
22 ments.

1 **SEC. 4. APPLICATION OF REPORTING REQUIREMENTS TO**  
2 **POLICIES INVOLVING CHANGES IN CONDI-**  
3 **TIONS OF GRANT AID.**

4 Section 423(c) of the Congressional Budget Act of  
5 1974 is amended by striking “and” at the end of para-  
6 graph (2), by striking the period and inserting “; and”  
7 at the end of paragraph (3), and by adding at the end  
8 the following new paragraph:

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

21 **SEC. 5. EXPANDING THE SCOPE OF LEGISLATIVE REPORT-**  
22 **ING REQUIREMENTS TO INCLUDE INDIRECT**  
23 **COSTS.**

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

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

3           (2) by striking “and” at the end of paragraph  
4       (3), by striking the period and inserting “; and” at  
5       the end of paragraph (4), and by adding at the end  
6       the following new paragraph:

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

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

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

1 **SEC. 6. EXPANDING THE SCOPE OF REGULATORY REPORT-**  
2 **ING REQUIREMENTS TO INCLUDE INDIRECT**  
3 **COSTS.**

4 Section 202(a) of the Unfunded Mandates Reform  
5 Act of 1995 is amended by striking “the expenditure by”  
6 and inserting “direct or reasonably foreseeable indirect  
7 costs to”.

8 **SEC. 7. APPLICATION OF REPORTING REQUIREMENTS TO**  
9 **INCLUDE REGULATIONS IMPOSED BY INDE-**  
10 **PENDENT REGULATORY AGENCIES.**

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

14 **SEC. 8. CLARIFICATION TO ENSURE REGULATORY AGENCY**  
15 **REPORTING REQUIREMENTS APPLIES TO ALL**  
16 **RESPECTIVE REGULATORY ACTIONS.**

17 Section 201 of the Unfunded Mandates Reform Act  
18 of 1995 is amended by inserting “expressly” after “other-  
19 wise”.

20 **SEC. 9. CLOSE LEGAL LOOPHOLE ALLOWING FOR DIS-**  
21 **REGARDING OF REPORTING REQUIREMENTS**  
22 **BY REGULATORY AGENCIES.**

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

25 (1) striking “Unless” and all that follows  
26 through “private sector,” the first place it appears

1 and inserting the following: “Unless otherwise ex-  
2 pressly prohibited by law, before promulgating any  
3 general notice of proposed rulemaking or final rule  
4 that includes a Federal mandate that may result in  
5 direct or reasonably foreseeable indirect costs to  
6 State, local, and tribal governments, in the aggre-  
7 gate, or to the private sector,”; and

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

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