

104TH CONGRESS
1ST 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.

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

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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