

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.

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## 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

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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 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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