

119TH CONGRESS
2D SESSION

S. 4151

To amend the Unfunded Mandates Reform Act of 1995 to provide for regulatory impact analyses for certain rules, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 19, 2026

Mrs. FISCHER (for herself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Unfunded Mandates Reform Act of 1995 to provide for regulatory impact analyses for certain rules, 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 Accountability and Transparency Act of 2026”.

6 **SEC. 2. REGULATORY IMPACT ANALYSES FOR CERTAIN**
7 **RULES.**

8 The Unfunded Mandates Reform Act of 1995 (2
9 U.S.C. 1501 et seq.) is amended—

1 (1) by striking “tribal” each place that term
2 appears and inserting “Tribal”;

3 (2) in section 3 (2 U.S.C. 1502)—

4 (A) in paragraph (1), by striking “and” at
5 the end;

6 (B) in paragraph (2), by striking the pe-
7 riod at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(3) the term ‘major rule’ means a rule, as de-
10 fined in section 551 of title 5, United States Code,
11 that the Administrator of the Office of Information
12 and Regulatory Affairs determines is likely to
13 cause—

14 “(A) an annual effect on the economy of
15 \$100,000,000 or more, adjusted once every 5
16 years to reflect increases in the Consumer Price
17 Index for All Urban Consumers, as published
18 by the Bureau of Labor Statistics of the De-
19 partment of Labor;

20 “(B) a major increase in costs or prices for
21 consumers, individual industries, Federal,
22 State, local, or Tribal government agencies, or
23 geographic regions; or

24 “(C) significant adverse effects on competi-
25 tion, employment, investment, productivity, in-

1 novation, public health and safety, or the ability
 2 of United States-based enterprises to compete
 3 with foreign-based enterprises in domestic and
 4 export markets.”; and
 5 (3) in section 202 (2 U.S.C. 1532)—

6 (A) by striking the section heading and in-
 7 serting “**REGULATORY IMPACT ANALYSES**
 8 **FOR CERTAIN RULES.**”;

9 (B) by redesignating subsections (b) and
 10 (c) as subsections (d) and (e), respectively;

11 (C) by striking subsection (a) and insert-
 12 ing the following:

13 “(a) **DEFINITION OF COST.**—In this section, the term
 14 ‘cost’ means the cost of compliance and any reasonably
 15 foreseeable indirect costs, including revenues lost, as a re-
 16 sult of a major rule of an agency that is subject to this
 17 section.

18 “(b) **REGULATORY IMPACT ANALYSES.**—

19 “(1) **REQUIREMENT.**—Before promulgating any
 20 proposed or final major rule, the agency promul-
 21 gating the major rule shall prepare and publish in
 22 the Federal Register an initial and final regulatory
 23 impact analysis with respect to the major rule.

1 “(2) INITIAL REGULATORY IMPACT ANALYSIS.—

2 An initial regulatory impact analysis required under
3 paragraph (1) shall—

4 “(A) accompany the notice of proposed
5 rulemaking with respect to the major rule that
6 is the subject of the analysis; and

7 “(B) be open to public comment.

8 “(3) FINAL REGULATORY IMPACT ANALYSIS.—

9 A final regulatory impact analysis required under
10 paragraph (1) shall accompany the final major rule
11 that is the subject of the analysis.

12 “(c) CONTENT.—Each initial and final regulatory im-
13 pact analysis prepared and published under subsection (b)
14 shall include, with respect to the major rule that is the
15 subject of the analysis—

16 “(1)(A) an analysis of the anticipated benefits
17 and costs of the major rule, which shall be quan-
18 tified to the extent feasible;

19 “(B) an analysis of the benefits and costs of a
20 reasonable number of regulatory alternatives within
21 the range of the discretion of the agency under the
22 statute authorizing the major rule, including alter-
23 natives that—

24 “(i) use incentives and market-based
25 means to encourage the desired behavior;

1 “(ii) provide information based upon which
2 the public can make choices; or

3 “(iii) employ other flexible regulatory op-
4 tions that permit the greatest flexibility in
5 achieving the objectives of the statute author-
6 izing the major rule; and

7 “(C) an explanation of how the major rule com-
8 plies with the requirements of section 205;

9 “(2) an assessment of the extent to which—

10 “(A) the costs to State, local, and Tribal
11 governments may be paid with Federal financial
12 assistance (or otherwise paid for by the Federal
13 Government); and

14 “(B) Federal resources are available to
15 carry out the major rule;

16 “(3) estimates of—

17 “(A) any disproportionate budgetary ef-
18 fects of the major rule upon any particular—

19 “(i) regions of the United States;

20 “(ii) State, local, or Tribal govern-
21 ments;

22 “(iii) types of communities, including
23 urban or rural communities; or

24 “(iv) segments of the private sector;
25 and

1 “(B) the effect of the major rule on job
2 creation or job loss, which shall be quantified to
3 the extent feasible; and

4 “(4)(A) a description of the extent of the prior
5 consultation of the agency under section 204 with
6 elected representatives of each affected State, local,
7 or Tribal government;

8 “(B) a summary of the comments and concerns
9 that were presented to the agency orally or in writ-
10 ing by State, local, or Tribal governments; and

11 “(C) a summary of the evaluation by the agen-
12 cy of the comments and concerns described in sub-
13 paragraph (B).”;

14 (D) in subsection (d), as so redesignated,
15 by striking “a statement under subsection (a) is
16 required, the agency shall include in the pro-
17 mulgation a summary of the information con-
18 tained in the statement” and inserting “an
19 analysis under subsection (b) is required, the
20 agency promulgating the major rule shall in-
21 clude in the promulgation a summary of the in-
22 formation contained in the analysis”; and

23 (E) in subsection (e), as so redesignated,
24 by striking “any statement required under sub-
25 section (a) in conjunction with or as a part of

1 any other statement or analysis, if the state-
 2 ment or analysis satisfies the provisions of sub-
 3 section (a)” and inserting “any analysis re-
 4 quired under subsection (b) in conjunction with,
 5 or as a part of, any other analysis if the other
 6 analysis satisfies the requirements of sub-
 7 sections (b) and (c)”.

8 **SEC. 3. ENHANCED STAKEHOLDER CONSULTATION.**

9 Section 204 of the Unfunded Mandates Reform Act
 10 of 1995 (2 U.S.C. 1534) is amended—

11 (1) in the section heading, by inserting “**AND**
 12 **PRIVATE SECTOR**” before “**INPUT**”;

13 (2) in subsection (a)—

14 (A) by inserting “, and impacted parties
 15 within the private sector (including small busi-
 16 nesses),” after “on their behalf”; and

17 (B) by striking “Federal intergovernmental
 18 mandates” and inserting “Federal mandates”;
 19 and

20 (3) by amending subsection (c) to read as fol-
 21 lows:

22 “(c) **GUIDELINES.**—For appropriate implementation
 23 of subsections (a) and (b) consistent with applicable laws
 24 and regulations, the following guidelines shall be followed:

1 “(1) Consultations described in those sub-
2 sections shall take place as early as possible, before
3 issuance of a notice of proposed rulemaking, con-
4 tinue through the final rule stage, and be integrated
5 explicitly into the rulemaking process.

6 “(2) Agencies shall consult with a wide variety
7 of State, local, and Tribal officials and impacted
8 parties within the private sector (including small
9 businesses). Geographic, political, and other factors
10 that may differentiate varying points of view should
11 be considered.

12 “(3) Agencies should estimate benefits and
13 costs to assist with the consultations described in
14 those subsections. The scope of the consultation
15 should reflect the cost and significance of the Fed-
16 eral mandate being considered.

17 “(4) Agencies shall, to the extent practicable—

18 “(A) seek out the views of State, local, and
19 Tribal governments, and impacted parties with-
20 in the private sector (including small busi-
21 nesses), on costs, benefits, and risks with re-
22 spect to the applicable regulatory proposal; and

23 “(B) solicit ideas about alternative meth-
24 ods of compliance and potential flexibilities, and
25 input on whether the applicable Federal regula-

1 tion will harmonize with and not duplicate simi-
2 lar laws in other levels of government.

3 “(5) Consultations described in those sub-
4 sections shall address the cumulative impact of regu-
5 lations on the affected entities.

6 “(6) Agencies may accept electronic submis-
7 sions of comments by relevant parties but may not
8 use those comments as the sole method of satisfying
9 the guidelines in this subsection.”.

10 **SEC. 4. MAXIMIZE NET BENEFITS OR PROVIDE EXPLA-**
11 **NATION.**

12 (a) IN GENERAL.—Title II of the Unfunded Man-
13 dates Reform Act of 1995 (2 U.S.C. 1531 et seq.) is
14 amended by striking section 205 (2 U.S.C. 1535) and in-
15 serting the following:

16 **“SEC. 205. MAXIMIZE NET BENEFITS.**

17 “(a) DEFINITION OF COST.—In this section, the term
18 ‘cost’ has the meaning given the term in section 202(a).

19 “(b) REQUIREMENT.—Before promulgating any pro-
20 posed or final major rule for which a regulatory impact
21 analysis is required under section 202, an agency shall,
22 from the alternatives identified and considered under sec-
23 tion 202(c)(1)(B), select the alternative that maximizes
24 net benefits, taking into consideration only the costs and

1 benefits that arise within the scope of the statutory provi-
 2 sion that authorizes the rulemaking.

3 “(c) EXCEPTIONS.—An agency may adopt an alter-
 4 native other than as required under subsection (b) only
 5 if—

6 “(1) the Administrator of the Office of Infor-
 7 mation and Regulatory Affairs approves the adop-
 8 tion by the agency of the alternative; and

9 “(2) the alternative is adopted to—

10 “(A) account for costs or benefits that can-
 11 not be quantified, including costs or benefits re-
 12 lating to constitutional or civil rights, if the
 13 agency identifies all such costs and benefits and
 14 explains why those costs and benefits justify the
 15 adoption of the alternative; or

16 “(B) achieve additional benefits or cost re-
 17 ductions, if the agency—

18 “(i) identifies—

19 “(I) all such additional benefits
 20 and the associated costs of those ben-
 21 efits; and

22 “(II) all such cost reductions and
 23 the associated benefits of those cost
 24 reductions; and

25 “(ii) explains why—

1 “(I) the additional benefits jus-
2 tify the additional costs; or

3 “(II) the additional cost reduc-
4 tions justify any benefits foregone.”.

5 (b) CONFORMING AMENDMENTS.—Section 206 of the
6 Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1536)
7 is amended—

8 (1) by striking “statements” each place the
9 term appears and inserting “analysis”; and

10 (2) in paragraph (2), by striking “statement”
11 and inserting “analysis”.

12 **SEC. 5. NEW AUTHORITIES AND RESPONSIBILITIES FOR OF-**
13 **FICE OF INFORMATION AND REGULATORY**
14 **AFFAIRS.**

15 Section 208 of the Unfunded Mandates Reform Act
16 of 1995 (2 U.S.C. 1538) is amended to read as follows:

17 **“SEC. 208. OFFICE OF INFORMATION AND REGULATORY AF-**
18 **FAIRS RESPONSIBILITIES.**

19 “(a) IN GENERAL.—The Administrator of the Office
20 of Information and Regulatory Affairs (in this section re-
21 ferred to as the ‘Administrator’) shall provide meaningful
22 guidance and oversight so that the major rules of an agen-
23 cy for which a regulatory impact analysis is required under
24 section 202—

1 “(1) is consistent with the principles and re-
2 quirements of this title, as well as other applicable
3 laws; and

4 “(2) does not conflict with the policies or ac-
5 tions of another agency.

6 “(b) NOTIFICATION.—If the Administrator deter-
7 mines that a major rule of an agency for which a regu-
8 latory impact analysis is required under section 202 does
9 not comply with the principles and requirements of this
10 title, is not consistent with other applicable laws, or con-
11 flicts with the policies or actions of another agency, the
12 Administrator shall—

13 “(1) identify areas of noncompliance;

14 “(2) notify the agency; and

15 “(3) request that the agency comply before the
16 agency finalizes the major rule.

17 “(c) ANNUAL STATEMENTS TO CONGRESS ON AGEN-
18 CY COMPLIANCE.—The Administrator shall submit to
19 Congress, including the Committee on Homeland Security
20 and Governmental Affairs of the Senate and the Com-
21 mittee on Oversight and Government Reform of the House
22 of Representatives, an annual written report that, for the
23 1-year period preceding the submission of the report—

24 “(1) details compliance by each agency with the
25 requirements of this title that relate to major rules

1 for which a regulatory impact analysis is required by
 2 section 202, including activities undertaken at the
 3 request of the Administrator to improve compliance;
 4 and

5 “(2) contains an appendix detailing compliance
 6 by each agency with section 204.”.

7 **SEC. 6. INITIATION OF RULEMAKING.**

8 The Unfunded Mandates Reform Act of 1995 (2
 9 U.S.C. 1501 et seq.) is amended—

10 (1) by redesignating section 209 (2 U.S.C.
 11 1531 note) as section 210; and

12 (2) by inserting after section 208 (2 U.S.C.
 13 1538) the following:

14 **“SEC. 209. INITIATION OF RULEMAKING FOR MAJOR RULES.**

15 “When an agency determines to initiate a rulemaking
 16 that may result in a major rule, the agency shall—

17 “(1) establish an electronic docket for that rule-
 18 making, which may have a physical counterpart; and

19 “(2) publish a notice of initiation of rulemaking
 20 in the Federal Register, which shall—

21 “(A) briefly describe the subject and objec-
 22 tives of, and the problem to be solved by, the
 23 major rule;

24 “(B) refer to the legal authority under
 25 which the major rule would be proposed, includ-

1 ing the specific statutory provision that author-
 2 izes the rulemaking;

3 “(C) invite interested persons to propose
 4 alternatives and other ideas regarding how best
 5 to accomplish the objectives of the agency in
 6 the most effective manner;

7 “(D) indicate how interested persons may
 8 submit written material for the docket; and

9 “(E) appear in the Federal Register not
 10 later than 90 days before the date on which the
 11 agency publishes a notice of proposed rule-
 12 making for the major rule.”.

13 **SEC. 7. INCLUSION OF APPLICATION TO INDEPENDENT**
 14 **REGULATORY AGENCIES.**

15 (a) IN GENERAL.—Section 421(1) of the Congres-
 16 sional Budget Act of 1974 (2 U.S.C. 658(1)) is amended
 17 by striking “, but does not include independent regulatory
 18 agencies”.

19 (b) EXEMPTION FOR MONETARY POLICY.—The Un-
 20 funded Mandates Reform Act of 1995 (2 U.S.C. 1501 et
 21 seq.) is amended by inserting after section 5 (2 U.S.C.
 22 1504) the following:

23 **“SEC. 6. EXEMPTION FOR MONETARY POLICY.**

24 “Nothing in title II, III, or IV shall apply to rules
 25 that concern monetary policy proposed or implemented by

1 the Board of Governors of the Federal Reserve System
 2 or the Federal Open Market Committee.”.

3 **SEC. 8. JUDICIAL REVIEW.**

4 Title IV of the Unfunded Mandates Reform Act of
 5 1995 is amended by striking section 401 (2 U.S.C. 1571)
 6 and inserting the following:

7 **“SEC. 401. JUDICIAL REVIEW.**

8 “(a) IN GENERAL.—A person that is aggrieved by
 9 final agency action in adopting a major rule that is subject
 10 to section 202 is entitled to judicial review of whether the
 11 agency complied with section 202(b), 202(c)(1), or 205
 12 with respect to the rule.

13 “(b) SCOPE OF REVIEW.—Chapter 7 of title 5,
 14 United States Code, shall govern the scope of judicial re-
 15 view under subsection (a).

16 “(c) JURISDICTION.—Each court that has jurisdic-
 17 tion to review a rule for compliance with section 553 of
 18 title 5, United States Code, or under any other provision
 19 of law, shall have jurisdiction to review a claim brought
 20 under subsection (a).

21 “(d) RELIEF AVAILABLE.—In granting relief in an
 22 action under this section, a court shall order the agency
 23 that promulgated the major rule that is under review to
 24 take remedial action consistent with chapter 7 of title 5,
 25 United States Code.”.

1 **SEC. 9. APPLYING SUBSTANTIVE POINT OF ORDER TO PRI-**
2 **VATE SECTOR MANDATES.**

3 Section 425(a)(2) of the Congressional Budget Act
4 of 1974 (2 U.S.C. 658d(a)(2)) is amended, in the matter
5 preceding subparagraph (A)—

6 (1) by striking “Federal intergovernmental
7 mandates” and inserting “Federal mandates”; and

8 (2) by striking “section 424(a)(1)” and insert-
9 ing “subsection (a)(1) or (b)(1) of section 424”.

10 **SEC. 10. EFFECTIVE DATE.**

11 Sections 2, 3, 4, and 6 of this Act and the amend-
12 ments made by those sections shall take effect on the date
13 that is 120 days after the date of enactment of this Act.

○