

118TH CONGRESS
2D SESSION

H. R. 7867

To amend the Unfunded Mandates Reform Act of 1995 to require the Director of the Office of Management and Budget to establish a limit for the total amount of additional unfunded regulatory costs that may be imposed in a fiscal year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2024

Mr. FALLON (for himself, Mr. COMER, and Ms. FOXX) introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committee on 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 require the Director of the Office of Management and Budget to establish a limit for the total amount of additional unfunded regulatory costs that may be imposed in a fiscal year, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Renewing Efficiency
3 in Government by Budgeting Act” or the “REG Budg-
4 eting Act”.

5 **SEC. 2. REGULATORY BUDGETING.**

6 (a) REGULATORY BUDGETING.—Title II of the Un-
7 funded Mandates Reform Act of 1995 (Public Law 104–
8 4; 15 U.S.C. 1531 et seq.) is amended by adding at the
9 end the following:

10 **“SEC. 210. REGULATORY BUDGETING.**

11 “(a) LIMIT FOR THE AMOUNT OF ADDITIONAL UN-
12 FUNDED REGULATORY COSTS THAT MAY BE IMPOSED
13 EACH FISCAL YEAR.—

14 “(1) ESTABLISHMENT.—

15 “(A) IN GENERAL.—On or before Sep-
16 tember 30 of each fiscal year, the Director shall
17 establish—

18 “(i) a limit on the amount of addi-
19 tional unfunded regulatory costs that may
20 be imposed collectively by the heads of all
21 agencies in the next fiscal year; and

22 “(ii) as part of the limit established
23 under clause (i), a limit on the amount of
24 additional unfunded regulatory costs that
25 may be imposed individually by the head of
26 each agency in the next fiscal year.

1 “(B) ADDITIONAL MATTERS RELATED TO
2 LIMIT.—The Director may require as part of a
3 limit under subparagraph (A), that cumulative
4 unfunded regulatory costs be reduced, including
5 for the purpose of offsetting any additional un-
6 funded regulatory costs that may be imposed by
7 the heads of agencies during the fiscal year for
8 which the limit is established.

9 “(C) CONGRESSIONAL APPROVAL.—The
10 Director may not establish a limit under sub-
11 paragraph (A) that allows the head of an agen-
12 cy to impose an additional unfunded regulatory
13 cost unless Congress approves such limit.

14 “(2) REPORTS.—

15 “(A) AGENCY-WIDE LIMIT.—Not later than
16 7 days after establishing a limit under para-
17 graph (1)(A)(i), the Director shall—

18 “(i) submit a report that identifies the
19 limit established, and contains a reasoned
20 statement of the basis and purpose of es-
21 tablishing such limit, to the appropriate
22 congressional committees; and

23 “(ii) publish the report on the website
24 designated under subparagraph (D).

1 “(B) AGENCY-SPECIFIC LIMIT.—Not later
2 than 7 days after establishing a limit under
3 paragraph (1)(A)(ii) with respect to an agency,
4 the Director shall—

5 “(i) submit a report that identifies the
6 limit established, and contains a reasoned
7 statement of the basis and purpose of es-
8 tablishing such limit, to—

9 “(I) the appropriate congress-
10 sional committees; and

11 “(II) each standing committee
12 with jurisdiction under the rules of
13 the House of Representatives or the
14 Senate to report a bill to amend the
15 provisions of law under which the
16 head of the agency is authorized to
17 promulgate rules; and

18 “(ii) publish the report on the website
19 designated under subparagraph (D).

20 “(C) PROHIBITION ON PROMULGATING
21 CERTAIN RULES UNTIL SUBMISSION OF REPORT
22 TO APPROPRIATE CONGRESSIONAL COMMIT-
23 TEES.—

24 “(i) IN GENERAL.—The head of an
25 agency may not finalize a rule that im-

1 poses an additional unfunded regulatory
2 cost until the Director submits to the ap-
3 propriate congressional committees the re-
4 ports required by subparagraph (A)(i) and
5 subparagraph (B)(i) for the fiscal year in
6 which the rule would be finalized.

7 “(ii) EXCEPTION.—The prohibition
8 under clause (i) shall not apply to any rule
9 with respect to which the President issues
10 an Executive order stating that the rule
11 should take effect because the rule is—

12 “(I) necessary—

13 “(aa) because of an emer-
14 gency, including an imminent
15 threat to health or safety;

16 “(bb) for the enforcement of
17 criminal laws; or

18 “(cc) for national security;
19 or

20 “(II) being issued pursuant to a
21 law implementing an international
22 trade agreement.

23 “(D) DESIGNATION OF WEBSITE.—Not
24 later than 90 days after the date of the enact-
25 ment of this subsection, the Director shall des-

1 ignite a website through which the Director will
2 publish reports in accordance with subpara-
3 graphs (A) and (B).

4 “(b) RULES RESULTING IN LIMIT BEING EXCEED-
5 ED.—

6 “(1) CONGRESSIONAL APPROVAL.—If the pro-
7 mulgation of any individual rule would result in a
8 limit established under subsection (a)(1)(A) being
9 exceeded, the rule may not go into effect during the
10 fiscal year in which the rule is promulgated unless
11 and until Congress approves such rule during such
12 fiscal year.

13 “(2) NOTIFICATION.—In the case that the head
14 of an agency determines that finalizing a rule may
15 result in the amount of additional unfunded regu-
16 latory costs imposed by the head of the agency dur-
17 ing that fiscal year to exceed a limit established
18 under subsection (a)(1)(A), the head of the agen-
19 cy—

20 “(A) shall submit, before promulgating a
21 general notice of a final rule with respect to
22 such rule, a notification to the Director that in-
23 cludes—

24 “(i) a justification for exceeding such
25 limit as a result of such rule;

1 “(ii) by how much the limit will be ex-
2 ceeded as a result of such rule; and

3 “(iii) whether the head of the agency
4 identified or considered any alternatives to
5 such rule that would have imposed a lesser
6 amount of additional unfunded regulatory
7 costs, and if so, how much less such
8 amount would have been; and

9 “(B) may not promulgate such rule until
10 the head of the agency receives from the Direc-
11 tor a notification under paragraph (3)(C) with
12 respect to such rule.

13 “(3) DETERMINATION BY DIRECTOR.—After re-
14 ceiving a notification under paragraph (2), the Di-
15 rector shall—

16 “(A) determine whether finalizing such
17 rule during that fiscal year will result in a limit
18 established under subsection (a)(1)(A) being ex-
19 ceeded;

20 “(B) determine whether the Director
21 agrees with the determination of the head of
22 the agency that such rule should be finalized
23 notwithstanding such limit; and

1 “(C) submit a written notification to the
2 head of the agency on the determinations made
3 under subparagraphs (A) and (B).

4 “(4) REPORT TO CONGRESS.—In the case that
5 the Director determines under paragraph (3)(B)
6 that the Director agrees with a determination by the
7 head of an agency to finalize a rule that will result
8 in a limit established under subsection (a)(1)(A)
9 being exceeded, not later than 7 days after the Di-
10 rector submits a notification to the head of an agen-
11 cy under paragraph (3)(C) with respect to such de-
12 termination, the Director shall submit to the appro-
13 priate congressional committees, each standing com-
14 mittee with jurisdiction under the rules of the House
15 of Representatives or the Senate to report a bill to
16 amend the provision of law under which the rule is
17 to be promulgated, and the Comptroller General, a
18 notification regarding such determination by the Di-
19 rector that includes—

20 “(A) the information provided by the head
21 of the agency to the Director under paragraph
22 (2)(A) with respect to such rule; and

23 “(B) a reasoned statement of the basis and
24 purpose of such determination.

1 “(c) STATEMENT REGARDING ADDITIONAL UN-
2 FUNDED REGULATORY COSTS.—In publishing a general
3 notice of a final rule, the head of an agency shall include
4 in such notice a statement that includes—

5 “(1) whether the rule will result in the amount
6 of additional unfunded regulatory costs imposed by
7 the agency during the fiscal year in which the rule
8 is finalized to exceed a limit established under sub-
9 section (a)(1)(A); and

10 “(2) in the case that the rule will result in the
11 amount of additional unfunded regulatory costs im-
12 posed by the agency during the fiscal year in which
13 the rule is finalized to exceed a limit established
14 under subsection (a)(1)(A)—

15 “(A) by how much the limit will be exceed-
16 ed as a result of the rule;

17 “(B) a justification for exceeding such
18 limit as a result of the rule;

19 “(C) whether the agency identified or con-
20 sidered any alternatives to the rule that would
21 have imposed a lesser amount of additional un-
22 funded regulatory costs, and if so, how much
23 less such amount would have been;

1 “(D) that the head of the agency sub-
2 mitted a notification to the Director under sub-
3 section (b)(2); and

4 “(E) the determinations made by the Di-
5 rector under subsection (b)(3) with respect to
6 such rule.

7 “(d) ANNUAL REPORT.—On or before October 30 of
8 each fiscal year, the Director shall submit to the appro-
9 priate congressional committees a report on the adminis-
10 tration by the Director of the limits established under sub-
11 section (a)(1)(A) for the prior fiscal year, including—

12 “(1) whether the total amount of additional un-
13 funded regulatory costs imposed by all agencies in
14 the prior fiscal year met or exceeded the limit estab-
15 lished under clause (i) of such subsection;

16 “(2) whether the total amount of additional un-
17 funded regulatory costs imposed by the head of each
18 agency in the prior fiscal year met or exceeded the
19 limit established for such costs under clause (ii) of
20 such subsection;

21 “(3) a detailed statement that—

22 “(A) identifies by how much, and as a re-
23 sult of finalizing which rule or rules, any such
24 limit was exceeded; and

1 “(B) includes a justification for exceeding
2 any such limit as a result of finalizing such rule
3 or rules;

4 “(4) a list of each rule with respect to which
5 the Director determined under subsection (b)(3)(B)
6 that the Director agreed with a determination by the
7 head of an agency to finalize the rule notwith-
8 standing a limit established under subsection
9 (a)(1)(A).

10 “(e) DEFINITIONS.—In this section:

11 “(1) ADDITIONAL UNFUNDED REGULATORY
12 COST.—The term ‘additional unfunded regulatory
13 cost’ means an unfunded regulatory cost that had
14 not been required to be incurred by a State, local,
15 or Tribal government, or the private sector, as a re-
16 sult of a Federal mandate in a rule during any pre-
17 ceding fiscal year.

18 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—The term ‘appropriate congressional com-
20 mittees’ means—

21 “(A) the Committee on Oversight and Ac-
22 countability of the House of Representatives;
23 and

24 “(B) the Committee on Homeland Security
25 and Governmental Affairs of the Senate.

1 “(3) COST.—The term ‘cost’ means—

2 “(A) a direct cost; or

3 “(B) a quantifiable cost that can be esti-
4 mated using the methods and concepts de-
5 scribed in Office of Management and Budget
6 Circular A–4 issued on September 17, 2003.

7 “(4) CUMULATIVE UNFUNDED REGULATORY
8 COSTS.—The term ‘cumulative unfunded regulatory
9 costs’ means all costs required to be incurred by a
10 State, local, or Tribal government, or by the private
11 sector as a result of all Federal mandates included
12 in rules during all preceding fiscal years.

13 “(5) DIRECTOR.—The term ‘Director’ means
14 the Director of the Office of Management and Budg-
15 et.

16 “(6) UNFUNDED REGULATORY COST.—The
17 term ‘unfunded regulatory cost’ means a cost re-
18 quired to be incurred by a State, local, or Tribal
19 government, or by the private sector, as a result of
20 a Federal mandate included in a rule.”.

21 (b) ANALYSIS OF WHETHER RULE EXCEEDS BUDG-
22 ET.—Section 202 of the Unfunded Mandates Reform Act
23 of 1995 (Public Law 104–4; 2 U.S.C. 1532) is amended—

24 (1) in subsection (a)—

1 (A) in paragraph (4), by striking “; and”
2 inserting a semicolon;

3 (B) in paragraph (5), by striking the pe-
4 riod at the end and inserting “; and”; and

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

6 “(6) an analysis of whether the proposed rule
7 or final rule, as applicable, may or will result in the
8 total amount of additional unfunded regulatory costs
9 (as that term is defined in section 210) imposed by
10 the head of the agency during the fiscal year in
11 which the rule is issued exceeding a limit established
12 under section 210(a)(1)(A)(ii) for the agency.”; and

13 (2) in subsection (c), by striking “subsection
14 (a)” each place such term appears and inserting
15 “paragraphs (1) through (5) of subsection (a)”.

16 (c) EFFECTIVE DATE.—Notwithstanding section 209
17 of the Unfunded Mandates Reform Act of 1995 (Public
18 Law 104–4; 15 U.S.C. 1531 note), the amendments made
19 by this Act shall take effect on the date of the enactment
20 of this Act.

○