

Union Calendar No. 736

118TH CONGRESS
2^D SESSION

H. R. 7867

[Report No. 118–901, Part I]

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

DECEMBER 18, 2024

Reported from the Committee on Oversight and Accountability with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 18, 2024

Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 5, 2024]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Renewing Efficiency in*
 5 *Government by Budgeting Act of 2024” or the “REG Budg-*
 6 *eting Act of 2024”.*

7 **SEC. 2. REGULATORY BUDGETING.**

8 *(a) REGULATORY BUDGETING.—Title II of the Un-*
 9 *funded Mandates Reform Act of 1995 (Public Law 104–*
 10 *4; 15 U.S.C. 1531 et seq.) is amended by adding at the*
 11 *end the following:*

12 **“SEC. 210. REGULATORY BUDGETING.**

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

16 *“(1) ESTABLISHMENT.—*

17 *“(A) IN GENERAL.—On or before September*
 18 *30 of each fiscal year, the Director shall estab-*
 19 *lish—*

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

24 *“(ii) as part of the limit established*
 25 *under clause (i), a limit on the amount of*

1 *additional unfunded regulatory costs that*
2 *may be imposed individually by the head of*
3 *each agency in the next fiscal year.*

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

12 “(C) *CONGRESSIONAL APPROVAL.—The Di-*
13 *rector may not establish a limit under subpara-*
14 *graph (A) that allows the head of an agency to*
15 *impose an additional unfunded regulatory cost*
16 *unless Congress approves such limit.*

17 “(2) *REPORTS.—*

18 “(A) *AGENCY-WIDE LIMIT.—Not later than*
19 *7 days after establishing a limit under para-*
20 *graph (1)(A)(i), the Director shall—*

21 “(i) *submit a report that identifies the*
22 *limit established, and contains a reasoned*
23 *statement of the basis and purpose of estab-*
24 *lishing such limit, to the appropriate con-*
25 *gressional committees; and*

1 “(ii) publish the report on the website
2 designated under subparagraph (D).

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

7 “(i) submit a report that identifies the
8 limit established, and contains a reasoned
9 statement of the basis and purpose of estab-
10 lishing such limit, to—

11 “(I) the appropriate congressional
12 committees; and

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

20 “(ii) publish the report on the website
21 designated under subparagraph (D).

22 “(C) *PROHIBITION ON PROMULGATING CER-*
23 *TAIN RULES UNTIL SUBMISSION OF REPORT TO*
24 *APPROPRIATE CONGRESSIONAL COMMITTEES.*—

1 “(i) *IN GENERAL.*—*The head of an*
2 *agency may not finalize a rule that imposes*
3 *an additional unfunded regulatory cost*
4 *until the Director submits to the appro-*
5 *priate congressional committees the reports*
6 *required by subparagraph (A)(i) and sub-*
7 *paragraph (B)(i) for the fiscal year in*
8 *which the rule would be finalized.*

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

14 “(I) *necessary—*

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

18 “(bb) *for the enforcement of*
19 *criminal laws; or*

20 “(cc) *for national security; or*

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

24 “(D) *DESIGNATION OF WEBSITE.*—*Not later*
25 *than 90 days after the date of the enactment of*

1 *this subsection, the Director shall designate a*
2 *website through which the Director will publish*
3 *reports in accordance with subparagraphs (A)*
4 *and (B).*

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

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

13 “(2) *NOTIFICATION.—In the case that the head of*
14 *an agency determines that finalizing a rule may re-*
15 *sult in the amount of additional unfunded regulatory*
16 *costs imposed by the head of the agency during that*
17 *fiscal year to exceed a limit established under sub-*
18 *section (a)(1)(A), the head of the agency—*

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

23 “(i) *a justification for exceeding such*
24 *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 amount
8 would have been; and

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

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

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

20 “(B) determine whether the Director agrees
21 with the determination of the head of the agency
22 that such rule should be finalized notwith-
23 standing 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) that
6 the Director agrees with a determination by the head
7 of an agency to finalize a rule that will result in a
8 limit established under subsection (a)(1)(A) being ex-
9 ceeded, not later than 7 days after the Director sub-
10 mits a notification to the head of an agency under
11 paragraph (3)(C) with respect to such determination,
12 the Director shall submit to the appropriate congress-
13 sional committees, each standing committee with ju-
14 risdiction under the rules of the House of Representa-
15 tives or the Senate to report a bill to amend the pro-
16 vision of law under which the rule is to be promul-
17 gated, and the Comptroller General, a notification re-
18 garding such determination by the Director that in-
19 cludes—

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 UNFUNDED*
2 *REGULATORY COSTS.*—*In publishing a general notice of a*
3 *final rule, the head of an agency shall include in such notice*
4 *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 is*
8 *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 exceeded*
16 *as a result of the rule;*

17 “(B) *a justification for exceeding such limit*
18 *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 less*
23 *such amount would have been;*

1 “(D) that the head of the agency submitted
2 a notification to the Director under subsection
3 (b)(2); and

4 “(E) the determinations made by the Direc-
5 tor under subsection (b)(3) with respect to such
6 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 administra-
10 tion 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 the
14 prior fiscal year met or exceeded the limit established
15 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; and

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

9 “(e) DEFINITIONS.—In this section:

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

17 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
18 TEES.—The term ‘appropriate congressional commit-
19 tees’ means—

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

22 “(B) the Committee on Homeland Security
23 and Governmental Affairs of the Senate.

24 “(3) COST.—The term ‘cost’ means—

25 “(A) a direct cost; or

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

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

11 “(5) DIRECTOR.—The term ‘Director’ means the
 12 Director of the Office of Management and Budget.

13 “(6) UNFUNDED REGULATORY COST.—The term
 14 ‘unfunded regulatory cost’ means a cost required to be
 15 incurred by a State, local, or Tribal government, or
 16 by the private sector, as a result of a Federal man-
 17 date included in a rule.”.

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

21 (1) in subsection (a)—

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

24 (B) in paragraph (5), by striking the period
 25 at the end and inserting “; and”; and

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

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

9 (2) in subsection (c), by striking “subsection (a)”
10 each place such term appears and inserting “para-
11 graphs (1) through (5) of subsection (a)”.

12 (c) *EFFECTIVE DATE.*—Notwithstanding section 209
13 of the *Unfunded Mandates Reform Act of 1995 (Public Law*
14 *104–4; 15 U.S.C. 1531 note)*, the amendments made by this
15 Act shall take effect on the date of the enactment of this
16 Act.

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