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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R.

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

Mr. FALLON introduced the following bill; which was referred to the Committee on _____

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
5 in Government by Budgeting Act” or the “REG Budg-
6 eting Act”.

1 **SEC. 2. REGULATORY BUDGETING.**

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

6 **“SEC. 210. REGULATORY BUDGETING.**

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

10 “(1) ESTABLISHMENT.—

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

14 “(i) a limit on the amount of addi-
15 tional unfunded regulatory costs that may
16 be imposed collectively by the heads of all
17 agencies in the next fiscal year; and

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

23 “(B) ADDITIONAL MATTERS RELATED TO
24 LIMIT.—The Director may require as part of a
25 limit under subparagraph (A), that cumulative
26 unfunded regulatory costs be reduced, including

1 for the purpose of offsetting any additional un-
2 funded regulatory costs that may be imposed by
3 the heads of agencies during the fiscal year for
4 which the limit is established.

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

10 “(2) REPORTS.—

11 “(A) AGENCY-WIDE LIMIT.—Not later than
12 7 days after establishing a limit under para-
13 graph (1)(A)(i), the Director shall—

14 “(i) submit a report that identifies the
15 limit established, and contains a reasoned
16 statement of the basis and purpose of es-
17 tablishing such limit, to the appropriate
18 congressional committees; and

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

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

1 “(i) submit a report that identifies the
2 limit established, and contains a reasoned
3 statement of the basis and purpose of es-
4 tablishing such limit, to—

5 “(I) the appropriate congress-
6 sional committees; and

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

14 “(ii) publish the report on the website
15 designated under subparagraph (D).

16 “(C) PROHIBITION ON PROMULGATING
17 CERTAIN RULES UNTIL SUBMISSION OF REPORT
18 TO APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—

20 “(i) IN GENERAL.—The head of an
21 agency may not finalize a rule that im-
22 poses an additional unfunded regulatory
23 cost until the Director submits to the ap-
24 propriate congressional committees the re-
25 ports required by subparagraph (A)(i) and

1 subparagraph (B)(i) for the fiscal year in
2 which the rule would be finalized.

3 “(ii) EXCEPTION.—The prohibition
4 under clause (i) shall not apply to any rule
5 with respect to which the President issues
6 an Executive Order stating that the rule
7 should take effect because the rule is—

8 “(I) necessary—

9 “(aa) because of an emer-
10 gency, including an imminent
11 threat to health or safety;

12 “(bb) for the enforcement of
13 criminal laws; or

14 “(cc) for national security;
15 or

16 “(II) being issued pursuant to a
17 law implementing an international
18 trade agreement.

19 “(D) DESIGNATION OF WEBSITE.—Not
20 later than 90 days after the date of the enact-
21 ment of this subsection, the Director shall des-
22 ignate a website through which the Director will
23 publish reports in accordance with subpara-
24 graphs (A) and (B).

1 “(b) RULES RESULTING IN LIMIT BEING EXCEED-
2 ED.—

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

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

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

21 “(i) a justification for exceeding such
22 limit as a result of such rule;

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

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

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

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

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

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

22 “(C) submit a written notification to the
23 head of the agency on the determinations made
24 under subparagraphs (A) and (B).

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

17 “(A) the information provided by the head
18 of the agency to the Director under paragraph
19 (2)(A) with respect to such rule; and

20 “(B) a reasoned statement of the basis and
21 purpose of such determination.

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

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

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

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

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

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

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

23 “(E) the determinations made by the Di-
24 rector under subsection (b)(3) with respect to
25 such rule.

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

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

10 “(2) whether the total amount of additional un-
11 funded regulatory costs imposed by the head of each
12 agency in the prior fiscal year met or exceeded the
13 limit established for such costs under clause (ii) of
14 such subsection;

15 “(3) a detailed statement that—

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

19 “(B) includes a justification for exceeding
20 any such limit as a result of finalizing such rule
21 or rules;

22 “(4) a list of each rule with respect to which
23 the Director determined under subsection (b)(3)(B)
24 that the Director agreed with a determination by the
25 head of an agency to finalize the rule notwith-

1 standing a limit established under subsection
2 (a)(1)(A).

3 “(e) DEFINITIONS.—In this section:

4 “(1) ADDITIONAL UNFUNDED REGULATORY
5 COST.—The term ‘additional unfunded regulatory
6 cost’ means an unfunded regulatory cost that had
7 not been required to be incurred by a State, local,
8 or Tribal government, or the private sector, as a re-
9 sult of a Federal mandate in a rule during any pre-
10 ceding fiscal year.

11 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term ‘appropriate congressional com-
13 mittees’ means—

14 “(A) the Committee on Oversight and Ac-
15 countability of the House of Representatives;
16 and

17 “(B) the Committee on Homeland Security
18 and Governmental Affairs of the Senate.

19 “(3) COST.—The term ‘cost’ means—

20 “(A) a direct cost; or

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

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

7 “(5) DIRECTOR.—The term ‘Director’ means
8 the Director of the Office of Management and Budg-
9 et.

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

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

18 (1) in subsection (a)—

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

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

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

24 “(6) an analysis of whether the proposed rule
25 or final rule, as applicable, may or will result in the

1 total amount of additional unfunded regulatory costs
2 (as that term is defined in section 210) imposed by
3 the head of the agency during the fiscal year in
4 which the rule is issued exceeding a limit established
5 under section 210(a)(1)(A)(ii) for the agency.”; and
6 (2) in subsection (c), by striking “subsection
7 (a)” each place such term appears and inserting
8 “paragraphs (1) through (5) of subsection (a)”.

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