119TH CONGRESS
2D SESSION

S. _____

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

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

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unfunded Mandates Accountability and Transparency Act of 2026''.

SEC. 2. REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.

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

(1) by striking ''tribal'' each place that term appears and inserting ''Tribal'';

(2) in section 3 (2 U.S.C. 1502)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) the term 'major rule' means a rule, as defined in section 551 of title 5, United States Code, that the Administrator of the Office of Information and Regulatory Affairs determines is likely to cause—

''(A) an annual effect on the economy of $100,000,000 or more, adjusted once every 5 years to reflect increases in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the Department of Labor;

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

''(C) significant adverse effects on competition, employment, investment, productivity, in-

novation, public health and safety, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.''; and

(3) in section 202 (2 U.S.C. 1532)—

(A) by striking the section heading and inserting ''**REGULATORY IMPACT ANALYSES FOR CERTAIN RULES.**'';

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

(C) by striking subsection (a) and inserting the following:

''(a) DEFINITION OF COST.—In this section, the term 'cost' means the cost of compliance and any reasonably foreseeable indirect costs, including revenues lost, as a result of a major rule of an agency that is subject to this section.

''(b) REGULATORY IMPACT ANALYSES.—

''(1) REQUIREMENT.—Before promulgating any proposed or final major rule, the agency promulgating the major rule shall prepare and publish in the Federal Register an initial and final regulatory impact analysis with respect to the major rule.

''(2) INITIAL REGULATORY IMPACT ANALYSIS.—An initial regulatory impact analysis required under paragraph (1) shall—

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

''(B) be open to public comment.

''(3) FINAL REGULATORY IMPACT ANALYSIS.—A final regulatory impact analysis required under paragraph (1) shall accompany the final major rule that is the subject of the analysis.

''(c) CONTENT.—Each initial and final regulatory impact analysis prepared and published under subsection (b) shall include, with respect to the major rule that is the subject of the analysis—

''(1)(A) an analysis of the anticipated benefits and costs of the major rule, which shall be quantified to the extent feasible;

''(B) an analysis of the benefits and costs of a reasonable number of regulatory alternatives within the range of the discretion of the agency under the statute authorizing the major rule, including alternatives that—

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

"(ii) provide information based upon which the public can make choices; or

"(iii) employ other flexible regulatory options that permit the greatest flexibility in achieving the objectives of the statute authorizing the major rule; and

"(C) an explanation of how the major rule complies with the requirements of section 205;

"(2) an assessment of the extent to which—

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

"(B) Federal resources are available to carry out the major rule;

"(3) estimates of—

"(A) any disproportionate budgetary effects of the major rule upon any particular—

"(i) regions of the United States;

"(ii) State, local, or Tribal governments;

"(iii) types of communities, including urban or rural communities; or

"(iv) segments of the private sector; and

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

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

"(B) a summary of the comments and concerns that were presented to the agency orally or in writing by State, local, or Tribal governments; and

"(C) a summary of the evaluation by the agency of the comments and concerns described in subparagraph (B).";

(D) in subsection (d), as so redesignated, by striking "a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement" and inserting "an analysis under subsection (b) is required, the agency promulgating the major rule shall include in the promulgation a summary of the information contained in the analysis"; and

(E) in subsection (e), as so redesignated, by striking "any statement required under subsection (a) in conjunction with or as a part of

any other statement or analysis, if the statement or analysis satisfies the provisions of subsection (a)'' and inserting ''any analysis required under subsection (b) in conjunction with, or as a part of, any other analysis if the other analysis satisfies the requirements of subsections (b) and (c)''.

SEC. 3. ENHANCED STAKEHOLDER CONSULTATION.

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

(1) in the section heading, by inserting ''**AND PRIVATE SECTOR**'' before ''**INPUT**'';

(2) in subsection (a)—

(A) by inserting '', and impacted parties within the private sector (including small businesses),'' after ''on their behalf)''; and

(B) by striking ''Federal intergovernmental mandates'' and inserting ''Federal mandates''; and

(3) by amending subsection (c) to read as follows:

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

''(1) Consultations described in those subsections shall take place as early as possible, before issuance of a notice of proposed rulemaking, continue through the final rule stage, and be integrated explicitly into the rulemaking process.

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

''(3) Agencies should estimate benefits and costs to assist with the consultations described in those subsections. The scope of the consultation should reflect the cost and significance of the Federal mandate being considered.

''(4) Agencies shall, to the extent practicable—

''(A) seek out the views of State, local, and Tribal governments, and impacted parties within the private sector (including small businesses), on costs, benefits, and risks with respect to the applicable regulatory proposal; and

''(B) solicit ideas about alternative methods of compliance and potential flexibilities, and input on whether the applicable Federal regula-

tion will harmonize with and not duplicate similar laws in other levels of government.

''(5) Consultations described in those subsections shall address the cumulative impact of regulations on the affected entities.

''(6) Agencies may accept electronic submissions of comments by relevant parties but may not use those comments as the sole method of satisfying the guidelines in this subsection.''.

SEC. 4. MAXIMIZE NET BENEFITS OR PROVIDE EXPLANATION.

(a) IN GENERAL.—Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 et seq.) is amended by striking section 205 (2 U.S.C. 1535) and inserting the following:

''SEC. 205. MAXIMIZE NET BENEFITS.

''(a) DEFINITION OF COST.—In this section, the term 'cost' has the meaning given the term in section 202(a).

''(b) REQUIREMENT.—Before promulgating any proposed or final major rule for which a regulatory impact analysis is required under section 202, an agency shall, from the alternatives identified and considered under section 202(c)(1)(B), select the alternative that maximizes net benefits, taking into consideration only the costs and

benefits that arise within the scope of the statutory provision that authorizes the rulemaking.

''(c) EXCEPTIONS.—An agency may adopt an alternative other than as required under subsection (b) only if—

''(1) the Administrator of the Office of Information and Regulatory Affairs approves the adoption by the agency of the alternative; and

''(2) the alternative is adopted to—

''(A) account for costs or benefits that cannot be quantified, including costs or benefits relating to constitutional or civil rights, if the agency identifies all such costs and benefits and explains why those costs and benefits justify the adoption of the alternative; or

''(B) achieve additional benefits or cost reductions, if the agency—

''(i) identifies—

''(I) all such additional benefits and the associated costs of those benefits; and

''(II) all such cost reductions and the associated benefits of those cost reductions; and

''(ii) explains why—

''(I) the additional benefits justify the additional costs; or

''(II) the additional cost reductions justify any benefits foregone.''.

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

(1) by striking ''statements'' each place the term appears and inserting ''analysis''; and

(2) in paragraph (2), by striking ''statement'' and inserting ''analysis''.

SEC. 5. NEW AUTHORITIES AND RESPONSIBILITIES FOR OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

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

''SEC. 208. OFFICE OF INFORMATION AND REGULATORY AFFAIRS RESPONSIBILITIES.

''(a) IN GENERAL.—The Administrator of the Office of Information and Regulatory Affairs (in this section referred to as the 'Administrator') shall provide meaningful guidance and oversight so that the major rules of an agency for which a regulatory impact analysis is required under section 202—

''(1) is consistent with the principles and requirements of this title, as well as other applicable laws; and

''(2) does not conflict with the policies or actions of another agency.

''(b) NOTIFICATION.—If the Administrator determines that a major rule of an agency for which a regulatory impact analysis is required under section 202 does not comply with the principles and requirements of this title, is not consistent with other applicable laws, or conflicts with the policies or actions of another agency, the Administrator shall—

''(1) identify areas of noncompliance;

''(2) notify the agency; and

''(3) request that the agency comply before the agency finalizes the major rule.

''(c) ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE.—The Administrator shall submit to Congress, including the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives, an annual written report that, for the 1-year period preceding the submission of the report—

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

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

''(2) contains an appendix detailing compliance by each agency with section 204.''.

SEC. 6. INITIATION OF RULEMAKING.

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

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

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

''SEC. 209. INITIATION OF RULEMAKING FOR MAJOR RULES.

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

''(1) establish an electronic docket for that rulemaking, which may have a physical counterpart; and

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

''(A) briefly describe the subject and objectives of, and the problem to be solved by, the major rule;

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

ing the specific statutory provision that authorizes the rulemaking;

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

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

''(E) appear in the Federal Register not later than 90 days before the date on which the agency publishes a notice of proposed rulemaking for the major rule.''.

SEC. 7. INCLUSION OF APPLICATION TO INDEPENDENT REGULATORY AGENCIES.

(a) IN GENERAL.—Section 421(1) of the Congressional Budget Act of 1974 (2 U.S.C. 658(1)) is amended by striking '', but does not include independent regulatory agencies''.

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

''SEC. 6. EXEMPTION FOR MONETARY POLICY.

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

the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.''.

SEC. 8. JUDICIAL REVIEW.

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

''SEC. 401. JUDICIAL REVIEW.

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

''(b) SCOPE OF REVIEW.—Chapter 7 of title 5, United States Code, shall govern the scope of judicial review under subsection (a).

''(c) JURISDICTION.—Each court that has jurisdiction to review a rule for compliance with section 553 of title 5, United States Code, or under any other provision of law, shall have jurisdiction to review a claim brought under subsection (a).

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

SEC. 9. APPLYING SUBSTANTIVE POINT OF ORDER TO PRIVATE SECTOR MANDATES.

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

(1) by striking ''Federal intergovernmental mandates'' and inserting ''Federal mandates''; and

(2) by striking ''section 424(a)(1)'' and inserting ''subsection (a)(1) or (b)(1) of section 424''.

SEC. 10. EFFECTIVE DATE.

Sections 2, 3, 4, and 6 of this Act and the amendments made by those sections shall take effect on the date that is 120 days after the date of enactment of this Act.