

103D CONGRESS
1ST SESSION

H. R. 1295

To improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative and regulatory requirements on State and local governments and the economic resources located therein.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 1993

Mr. MORAN (for himself, Mr. GOODLING, Mr. HOLDEN, Mr. CONDIT, Mr. BROWDER, Mr. DEAL, Mr. SISISKY, Mr. PAYNE of Virginia, Mr. WOLF, Ms. MCKINNEY, Mr. PENNY, Mr. WHEAT, Mr. LANCASTER, Mr. PARKER, Mr. GOODLATTE, Mr. MAZZOLI, Mr. BEREUTER, Ms. DANNER, Mr. CANADY, Mr. GREENWOOD, Mr. PICKETT, Mr. KLINK, Mr. COOPER, Mr. GENE GREEN of Texas, Mr. STENHOLM, Mr. TAYLOR of North Carolina, Mr. PETERSON of Minnesota, Mr. TAYLOR of Mississippi, Mr. BILBRAY, Mr. ROGERS, Mr. JOHNSTON of Florida, Mr. CRAMER, Mr. CRAPO, Mr. MURPHY, Mr. TRAFICANT, Mr. THOMAS of Wyoming, Mr. EMERSON, Mr. ORTON, Mr. CLINGER, Mr. MCHALE, Mrs. MEYERS of Kansas, Mr. CAMP, Mr. LEWIS of Florida, Mr. SLATTERY, Mr. LIVINGSTON, Mr. HYDE, Mr. CLEMENT, Mr. BLILEY, Mr. KANJORSKI, Mr. SPRATT, Mr. TANNER, Mr. SARPALIUS, Mr. ROSE, Mr. MCCURDY, Mr. MONTGOMERY, Mr. HOAGLAND, Mr. SWETT, Mr. ROWLAND, Mr. HALL of Texas, Mr. POSHARD, Mr. BURTON of Indiana, Mr. RAHALL, Mr. WILSON, Mr. PETERSON of Florida, Mr. PETRI, Mr. ALLARD, Mr. BUYER, Mr. COLLINS of Georgia, Mr. LAFALCE, Mr. COPPERSMITH, Mr. LIGHTFOOT, Mr. BATEMAN, Mr. ENGLISH of Oklahoma, Mr. SKEEN, and Mr. MYERS of Indiana) introduced the following bill; which was referred jointly to the Committees on Government Operations and Rules

A BILL

To improve Federal decisionmaking by requiring a thorough evaluation of the economic impact of Federal legislative

and regulatory requirements on State and local governments and the economic resources located therein.

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 “Fiscal Accountability
5 and Intergovernmental Reform Act” (“FAIR Act”).

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—The Congress finds and declares:

8 (1) Federal legislation and regulatory require-
9 ments impose burdens on State and local resources
10 to implement federally mandated programs without
11 fully evaluating the costs to State and local govern-
12 ments associated with compliance with those require-
13 ments and often times without provision of adequate
14 Federal financial assistance. These Federal legisla-
15 tive and regulatory initiatives—

16 (A) force State and local governments to
17 utilize scarce public resources to comply with
18 Federal mandates;

19 (B) prevent these resources from being
20 available to meet local needs; and

21 (C) detract from the ability of State and
22 local governments to establish local priorities
23 for use of local public resources.

1 (2) Federal legislation and regulatory programs
2 result in inefficient utilization of economic resources,
3 thereby reducing the pool of resources available—

4 (A) to enhance productivity, and increase
5 the quantity and quality of goods and services
6 produced by the American economy; and

7 (B) to enhance international competitive-
8 ness.

9 (3) In implementing Congressional policy, Fed-
10 eral agencies should, consistent with the require-
11 ments of Federal law, seek to implement statutory
12 requirements, to the maximum extent feasible, in a
13 manner which minimizes—

14 (A) the inefficient allocation of economic
15 resources;

16 (B) the burden such requirements impose
17 on use of local public resources by State and
18 local governments; and

19 (C) the adverse economic effects of such
20 regulations on productivity, economic growth,
21 full employment, creation of productive jobs,
22 and international competitiveness of American
23 goods and services.

24 (b) PURPOSES.—The purposes of this Act are:

1 (1) To assist Congress in consideration of pro-
2 posed legislation establishing or revising Federal
3 programs so as to assure that, to the maximum ex-
4 tent practicable, legislation enacted by Congress
5 will—

6 (A) minimize the burden of such legislation
7 on expenditure of scarce local public resources
8 by State and local governments;

9 (B) minimize inefficient allocation of eco-
10 nomic resources; and

11 (C) reduce the adverse effect of such legis-
12 lation—

13 (i) on the ability of State and local
14 governmental entities to use local public
15 resources to meet local needs and to estab-
16 lish local priorities for local public re-
17 sources; and

18 (ii) on allocation of economic re-
19 sources, productivity, economic growth, full
20 employment, creation of productive jobs,
21 and international competitiveness.

22 (2) To require Federal agencies to exercise dis-
23 cretionary authority and to implement statutory re-
24 quirements in a manner which consistent with fulfill-
25 ment of each agency's mission and with the require-

1 ments of other laws, minimizes the impact regula-
2 tions and other major Federal actions affecting the
3 economy have on—

4 (A) the ability of State and local govern-
5 mental entities to use local public resources to
6 meet local needs; and

7 (B) the allocation of economic resources,
8 productivity, economic growth, full employment,
9 creation of productive jobs, and international
10 competitiveness of American goods and services.

11 TITLE I—LEGISLATIVE REFORM

12 **SEC. 101. REPORTS ON LEGISLATION.**

13 (a) REPORT REQUIRED.—(1) Except as provided in
14 paragraph (2), whenever a committee of either House re-
15 ports a bill or resolution of a public character to its House
16 which mandates unfunded requirements upon State or
17 local governments or the private sector, the report accom-
18 panying that bill or resolution shall contain an analysis,
19 prepared after consultation with the Director of the Con-
20 gressional Budget Office, detailing the effect of the new
21 requirements on—

22 (A) State and local government expenditures
23 necessary to comply with Federal mandates;

1 (B) private businesses, including the economic
2 resources required annually to comply with the legis-
3 lation and implementing regulations; and

4 (C) economic growth and competitiveness.

5 (2) EXCEPTION.—The requirements of paragraph (1)
6 shall not apply to any bill or resolution with respect to
7 which the Director of the Congressional Budget Office cer-
8 tifies in writing to the Chairman of the Committee report-
9 ing the legislation that the estimated costs to State and
10 local governments and the private sector of implementa-
11 tion of such legislation during the first three years will
12 not exceed \$50,000,000 in the aggregate and during the
13 first five years will not exceed \$100,000,000 in the aggre-
14 gate. For this purpose, a year shall be a period of three
15 hundred and sixty five consecutive days.

16 (b) DUTIES AND FUNCTIONS OF CONGRESSIONAL
17 BUDGET OFFICE.—The Director of the Congressional
18 Budget Office shall prepare for each bill or resolution of
19 a public character reported by any committee of the House
20 of Representatives or of the Senate, an economic analysis
21 of the effects of such bill or resolution, satisfying the re-
22 quirements of subsection (a). The analysis prepared by the
23 Director of the Congressional Budget Office shall be in-
24 cluded in the report accompanying such bill or resolution

1 if timely submitted to such committee before such report
2 is filed.

3 (c) LEGISLATION SUBJECT TO POINT OF ORDER.—
4 Any bill or resolution shall be subject to a point of order
5 against consideration of the bill by the House of Rep-
6 resentatives or the Senate (as the case may be) if such
7 bill or resolution is reported for consideration by the
8 House of Representatives or the Senate unaccompanied by
9 the analysis required by this section.

10 **SEC. 102. EXERCISE OF RULEMAKING POWERS.**

11 The provisions of this title are enacted by the Con-
12 gress—

13 (1) as an exercise of the rulemaking power of
14 the House of Representatives and the Senate, re-
15 spectively, and as such they shall be considered as
16 part of the rules of each House, respectively, and
17 such rules shall supersede other rules only to the ex-
18 tent that they are inconsistent therewith; and

19 (2) with full recognition of the constitutional
20 right of either House to change such rules (so far
21 as relating to such House) at any time, in the same
22 manner, and to the same extent as in the case of
23 any other rule of such House.

1 **SEC. 103. EFFECTIVE DATE.**

2 This title shall apply to any bill or resolution ordered
3 reported by any committee of the House of Representa-
4 tives or of the Senate after the date of enactment of this
5 Act.

6 TITLE II—FEDERAL INTERGOVERNMENTAL
7 RELATIONS

8 **SEC. 201. GENERAL REQUIREMENTS.**

9 The Congress authorizes and directs that, to the full-
10 est extent practicable:

11 (1) the policies, regulations, and public laws of
12 the United States shall be interpreted and adminis-
13 tered in accordance with the purposes of this Act;

14 (2) all agencies of the Federal Government
15 shall, consistent with attainment of the requirements
16 of Federal law, minimize—

17 (A) the burden which rules and other
18 major Federal actions affecting the economy
19 impose on State and local governments,

20 (B) the effect of rules and other major
21 Federal actions affecting the economy on alloca-
22 tion of private economic resources, and

23 (C) the adverse effects of rules and other
24 major Federal actions affecting the economy on
25 productivity, economic growth, full employment,
26 creation of productive, and international com-

1 petitiveness of American goods and services;
2 and

3 (3) in promulgating new rules, reviewing exist-
4 ing rules, developing legislative proposals, or initiat-
5 ing any other major Federal action affecting the
6 economy, whenever an agency identifies two or more
7 alternatives which will satisfy the agency's statutory
8 obligations, the agency shall—

9 (A) select the alternative which, on bal-
10 ance—

11 (i) imposes the least burden on ex-
12 penditure of local public resources by State
13 and local governments, and

14 (ii) has the least adverse effect on
15 productivity, economic growth, full employ-
16 ment, creation of productive jobs, and
17 international competitiveness of American
18 goods or services; or

19 (B) provide a written statement—

20 (i) that the agency's failure to select
21 such alternative is precluded by the re-
22 quirements of Federal law; or

23 (ii) that the agency's failure to select
24 such alternative is consistent with the pur-
25 poses of this Act.

1 **SEC. 202. INTERGOVERNMENTAL AND ECONOMIC IMPACT**
2 **ASSESSMENT.**

3 (a) REQUIREMENT.—Whenever an agency publishes
4 a general notice of proposed rulemaking for any proposed
5 rule, and before initiating any other major Federal action
6 affecting the economy, the agency shall prepare and make
7 available for public comment an Intergovernmental and
8 Economic Impact Assessment. Such Assessment shall be
9 published in the Federal Register at the time of the publi-
10 cation of general notice of proposed rulemaking for the
11 rule or prior to implementing such other major agency ac-
12 tion affecting the economy.

13 (b) CONTENT.—Each Intergovernmental and Eco-
14 nomic Impact Assessment required under this section shall
15 contain—

16 (1) a description of the reasons why action by
17 the agency is being considered;

18 (2) a succinct statement of the objective of, and
19 legal basis for, the proposed rule or other action;
20 and

21 (3) a description and an estimate of the effect
22 the proposed rule or other major Federal action will
23 have on—

24 (A) expenditure of State or local public re-
25 sources by State and local governments,

26 (B) allocation of economic resources, and

1 (C) productivity, economic growth, full em-
2 ployment, creation of productive jobs, and inter-
3 national competitiveness of American goods and
4 services.

5 (c) ALTERNATIVES CONSIDERED.—Each Intergov-
6 ernmental and Economic Impact Assessment shall also
7 contain a detailed description of any significant alter-
8 natives to the proposed rule or other major Federal action
9 which would accomplish applicable statutory objectives
10 while reducing—

11 (1) the need for expenditure of State or local
12 public resources by State and local governments; and

13 (2) the potential adverse effects of such pro-
14 posed rule or other major Federal action on produc-
15 tivity, economic growth, full employment, creation of
16 productive jobs, and international competitiveness of
17 American goods and services.

18 **SEC. 203. INTERGOVERNMENTAL AND ECONOMIC IMPACT**
19 **STATEMENT.**

20 (a) REQUIREMENT.—When an agency promulgates a
21 final rule or implements any other major Federal action
22 affecting the economy, the agency shall prepare an Inter-
23 governmental and Economic Impact Statement. Each
24 Intergovernmental and Economic Impact Statement shall
25 contain—

1 (1) a succinct statement of the need for, and
2 the objectives of, such rule or other major Federal
3 action;

4 (2) a summary of the issues raised by the pub-
5 lic comments in response to the publication by the
6 agency of the Economic Impact Assessment, a sum-
7 mary of the agency's evaluation of such issues, and
8 a statement of any changes made in the proposed
9 rule or other proposed action as a result of such
10 comments;

11 (3) a description of each of the significant alter-
12 natives to the rule or other major Federal action af-
13 fecting the economy, considered by the agency,
14 which, consistent with fulfillment of agency statutory
15 obligations, would—

16 (A) lessen the need for expenditure of
17 State or local public resources by State and
18 local governments; or

19 (B) reduce the potential adverse effects of
20 such proposed rule or other major Federal ac-
21 tion on productivity, economic growth, full em-
22 ployment, creation of productive jobs, and inter-
23 national competitiveness of American goods and
24 services,

1 along with a statement of the reasons why each such
2 alternatives was rejected by the agency; and

3 (4) an estimate of the effect the rule or other
4 major Federal action will have on—

5 (A) expenditure of State or local public re-
6 sources by State and local governments; and

7 (B) productivity, economic growth, full em-
8 ployment, creation of productive jobs, and inter-
9 national competitiveness of American goods and
10 services.

11 (b) AVAILABILITY.—The agency shall make copies of
12 each Intergovernmental and Economic Impact Statement
13 available to members of the public and shall publish in
14 the Federal Register at the time of publication of any final
15 rule or at the time of implementing any other major Fed-
16 eral action affecting the economy, a statement describing
17 how the public may obtain copies of such Statement.

18 **SEC. 204. EFFECT ON OTHER LAWS.**

19 The requirements of this title shall not alter in any
20 manner the substantive standards otherwise applicable to
21 the implementation by an agency of statutory require-
22 ments or to the exercise by an agency of authority dele-
23 gated by law.

1 **SEC. 205. EFFECTIVE DATE AND EXEMPTION.**

2 This title shall apply to any rule proposed, any final
3 rule promulgated, and any other major Federal action af-
4 fecting the economy implemented by any agency after the
5 date of the enactment of this Act. This title shall not apply
6 to any agency which is not an agency within the meaning
7 of section 551(1) of title 5, United States Code.

○