

UNFUNDED MANDATES TO CITIES, TRIBES, STATES, AND PRIVATE BUSINESSES

QUICK STATS

- ✗ **CONFERENCE:** Regulation
- ✗ **TEAM:** Government-wide
- **FUMBLE:** Burdensome mandates on governments and private entities
- **HOW TO RECOVER THE BALL:** Create a more transparent process for congressional consideration of legislation and agency rulemaking through the passage of the Unfunded Mandates Information and Transparency Act

It is safe to say that most Americans believe Washington is out of touch. Executive agencies and Congress have become far too comfortable forcing laws and regulations on state, local, and Tribal entities and private businesses without bothering to figure out the costs others will take on to carry out the imposing instructions from Washington. These laws and rules, known as unfunded mandates, not only stealthily conceal the true cost of implementation, but they also place undue burdens on smaller entities that must comply with the law but do not have the pool of financial resources available to the federal government.

Between 1996 and 2014, CBO identified 141 private-sector mandates that will cost more than \$100 million in compliance. During this same time period, Congress enacted 18 new inter-governmental mandates that cost at least \$50 million for compliance of state and local governments.¹⁶⁵ Examples of such costly unfunded mandates include \$13.3 million annually in administrative costs for local schools to comply with federal school lunch regulations and \$1.46 billion for automakers to comply with federal fuel efficiency standards.¹⁶⁶ These expensive mandates inevitably impact American families who have to spend more money on goods and services from the regulated business and pay higher taxes to make up for their local government compliance costs.

The problem of unfunded mandates dictated from Washington, DC, is not new. In fact the Unfunded

Mandates Reform Act (UMRA) of 1995 was passed to provide a tool for Congress to examine the unfunded cost implications of potential legislation prior to passage and to require executive agencies to assess unfunded mandates during the rulemaking process.

However, the law is plagued with loopholes. For example, a large flaw with the UMRA process is that it does not apply to regulations promulgated by independent regulatory agencies like the National Labor Relations Board, which acts independently of presidential authority. It also does not apply to regulations that are published without a general notice of proposed rulemaking. A GAO report found that about half of all final major rules in a two-year span were finalized without an UMRA analysis of these gaps, even though the rules had “impacts on nonfederal parties that those affected might perceive as unfunded mandates.”¹⁶⁷

RECOVERY

The Unfunded Mandates Information and Transparency Act of 2015, introduced earlier this year by Senator Deb Fischer (NE) in the U.S. Senate and Rep. Virginia Foxx (NC) in the House, seeks to build on previous legislation to hold the federal government accountable for the mandates it imposes.¹⁶⁸ Congress should quickly pass this bill to protect American families from the higher costs and taxes as states, counties, cities, Tribes, and businesses enforce the unfunded mandates.

[For more information visit:](#)

[CBO: A Review of CBO's Activities in 2014 Under the Unfunded Mandates Reform Act](#)
[Senators Lankford and Fischer Introduce Bill to Bring Transparency to Unfunded Mandates](#)