

## ***In the House of Representatives, U. S.,***

*February 1, 1995.*

*Resolved*, That the bill from the Senate (S. 1) entitled “An Act to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes”, do pass with the following

### **AMENDMENTS:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2       *This Act may be cited as the “Unfunded Mandate Re-*  
3 *form Act of 1995”.*

4 ***SEC. 2. PURPOSES.***

5       *The purposes of this Act are—*

6           *(1) to strengthen the partnership between the*  
7 *Federal Government and States, local governments,*  
8 *and tribal governments;*

1           (2) to end the imposition, in the absence of full  
2           consideration by Congress, of Federal mandates on  
3           States, local governments, and tribal governments in  
4           a manner that may displace other essential State,  
5           local, and tribal governmental priorities;

6           (3) to assist Congress in its consideration of pro-  
7           posed legislation establishing or revising Federal pro-  
8           grams containing Federal mandates affecting States,  
9           local governments, tribal governments, and the pri-  
10          vate sector by—

11                (A) providing for the development of infor-  
12                mation about the nature and size of mandates in  
13                proposed legislation; and

14                (B) establishing a mechanism to bring such  
15                information to the attention of the Senate and  
16                House of Representatives before the Senate and  
17                House of Representatives votes on proposed legis-  
18                lation;

19           (4) to promote informed and deliberate decisions  
20           by Congress on the appropriateness of Federal man-  
21           dates in any particular instance;

22           (5) to establish a point-of-order vote on the con-  
23           sideration in the Senate and House of Representatives  
24           of legislation containing significant Federal man-  
25           dates;

1           (6) to assist Federal agencies in their consider-  
2           ation of proposed regulations affecting States, local  
3           governments, and tribal governments, by—

4                   (A) requiring that Federal agencies develop  
5                   a process to enable the elected and other officials  
6                   of States, local governments, and tribal govern-  
7                   ments to provide input when Federal agencies  
8                   are developing regulations; and

9                   (B) requiring that Federal agencies prepare  
10                  and consider better estimates of the budgetary  
11                  impact of regulations containing Federal man-  
12                  dates upon States, local governments, and tribal  
13                  governments before adopting such regulations,  
14                  and ensuring that small governments are given  
15                  special consideration in that process;

16           (7) to establish the general rule that Congress  
17           shall not impose Federal mandates on States, local  
18           governments, and tribal governments without provid-  
19           ing adequate funding to comply with such mandates;  
20           and

21           (8) to begin consideration of methods to relieve  
22           States, local governments, and tribal governments of  
23           unfunded mandates imposed by Federal court inter-  
24           pretations of Federal statutes and regulations.

1 **SEC. 3. DEFINITIONS.**

2 *For purposes of this Act—*

3 *(1) the terms “agency”, “Federal financial as-*  
4 *sistance”, “Federal private sector mandate”, “Federal*  
5 *mandate” (except as provided by section 108), “local*  
6 *government”, “private sector”, “regulation” or “rule”,*  
7 *and “State” have the meaning given those terms by*  
8 *section 421 of the Congressional Budget Act of 1974;*  
9 *and*

10 *(2) the term “small government” means any*  
11 *small governmental jurisdiction as defined in section*  
12 *601(5) of title 5, United States Code, and any tribal*  
13 *government.*

14 **SEC. 4. LIMITATION ON APPLICATION.**

15 *This Act shall not apply to any provision in a Federal*  
16 *statute or a proposed or final Federal regulation, that—*

17 *(1) enforces constitutional rights of individuals;*

18 *(2) establishes or enforces any statutory rights*  
19 *that prohibit discrimination on the basis of age, race,*  
20 *religion, gender, national origin, or handicapped or*  
21 *disability status;*

22 *(3) requires compliance with accounting and au-*  
23 *ditng procedures with respect to grants or other*  
24 *money or property provided by the Federal Govern-*  
25 *ment;*

1           (4) provides for emergency assistance or relief at  
 2           the request of any State, local government, or tribal  
 3           government or any official of such a government;

4           (5) is necessary for the national security or the  
 5           ratification or implementation of international treaty  
 6           obligations;

7           (6) the President designates as emergency legisla-  
 8           tion and that the Congress so designates in statute; or

9           (7) pertains to Social Security.

10   ***TITLE I—REVIEW OF UNFUNDED FEDERAL***  
 11                           ***MANDATES***

12   ***SEC. 101. REPORT ON UNFUNDED FEDERAL MANDATES BY***  
 13                           ***ADVISORY COMMISSION ON INTERGOVERN-***  
 14                           ***MENTAL RELATIONS.***

15           (a) *IN GENERAL.*—The Advisory Commission shall in  
 16   accordance with this section—

17           (1) investigate and review the role of unfunded  
 18           Federal mandates in intergovernmental relations and  
 19           their impact on State, local, tribal, and Federal Gov-  
 20           ernment objectives and responsibilities, and their im-  
 21           pact on the competitive balance between States, local  
 22           and tribal governments, and the private sector and  
 23           consider views of and the impact on working men and  
 24           women on those same matters;

1           (2) investigate and review the role of unfunded  
2       State mandates imposed on local governments, the  
3       private sector, and individuals;

4           (3) investigate and review the role of unfunded  
5       local mandates imposed on the private sector and in-  
6       dividuals; and

7           (4) make recommendations to the President and  
8       the Congress regarding—

9           (A) allowing flexibility for State, local, and  
10       tribal governments in complying with specific  
11       unfunded Federal mandates for which terms of  
12       compliance are unnecessarily rigid or complex;

13          (B) reconciling any 2 or more unfunded  
14       Federal mandates which impose contradictory or  
15       inconsistent requirements;

16          (C) terminating unfunded Federal man-  
17       dates which are duplicative, obsolete, or lacking  
18       in practical utility;

19          (D) suspending, on a temporary basis, un-  
20       funded Federal mandates which are not vital to  
21       public health and safety and which compound  
22       the fiscal difficulties of State, local, and tribal  
23       governments, including recommendations for  
24       triggering such suspension;

1           (E) consolidating or simplifying unfunded  
2       Federal mandates, or the planning or reporting  
3       requirements of such mandates, in order to re-  
4       duce duplication and facilitate compliance by  
5       State, local, and tribal governments with those  
6       mandates;

7           (F) establishing common Federal definitions  
8       or standards to be used by State, local, and trib-  
9       al governments in complying with unfunded  
10      Federal mandates that use different definitions  
11      or standards for the same terms or principles;  
12      and

13          (G) establishing procedures to ensure that,  
14      in cases in which a Federal private sector man-  
15      date applies to private sector entities which are  
16      competing directly or indirectly with States,  
17      local governments, or tribal governments for the  
18      purpose of providing substantially similar goods  
19      or services to the public, any relief from un-  
20      funded Federal mandates is applied in the same  
21      manner and to the same extent to the private  
22      sector entities as it is to the States, local govern-  
23      ments, and tribal governments with which they  
24      compete, and to ensure that unfunded Federal

1           *mandate relief does not increase private sector*  
 2           *burdens.*

3   *Each recommendation under paragraph (4) shall, to the ex-*  
 4   *tent practicable, identify the specific unfunded Federal*  
 5   *mandates to which the recommendation applies.*

6           *(b) CRITERIA.—*

7           *(1) IN GENERAL.—The Advisory Commission*  
 8   *shall establish criteria for making recommendations*  
 9   *under subsection (a).*

10          *(2) ISSUANCE OF PROPOSED CRITERIA.—The Ad-*  
 11   *visory Commission shall issue proposed criteria under*  
 12   *this subsection not later than 60 days after the date*  
 13   *of the enactment of this Act, and thereafter provide a*  
 14   *period of 30 days for submission by the public of com-*  
 15   *ments on the proposed criteria.*

16          *(3) FINAL CRITERIA.—Not later than 45 days*  
 17   *after the date of issuance of proposed criteria, the Ad-*  
 18   *visory Commission shall—*

19                *(A) consider comments on the proposed cri-*  
 20                *teria received under paragraph (4);*

21                *(B) adopt and incorporate in final criteria*  
 22                *any recommendations submitted in those com-*  
 23                *ments that the Advisory Commission determines*  
 24                *will aid the Advisory Commission in carrying*  
 25                *out its duties under this section; and*



1           (C) issue final criteria under this sub-  
2           section.

3           (c) *PRELIMINARY REPORT.*—

4           (1) *IN GENERAL.*—Not later than 9 months after  
5           the date of the enactment of this Act, the Advisory  
6           Commission shall—

7           (A) prepare and publish a preliminary re-  
8           port on its activities under this title, including  
9           preliminary recommendations pursuant to sub-  
10          section (a);

11          (B) publish in the Federal Register a notice  
12          of availability of the preliminary report; and

13          (C) provide copies of the preliminary report  
14          to the public upon request.

15          (2) *PUBLIC HEARINGS.*—The Advisory Commis-  
16          sion shall hold public hearings on the preliminary  
17          recommendations contained in the preliminary report  
18          of the Advisory Commission under this subsection.

19          (d) *FINAL REPORT.*—Not later than 3 months after the  
20          date of the publication of the preliminary report under sub-  
21          section (c), the Advisory Commission shall submit to the  
22          Congress, including the Committee on Government Reform  
23          and Oversight of the House of Representatives and the Com-  
24          mittee on Governmental Affairs of the Senate, and to the  
25          President a final report on the findings, conclusions, and

1 *recommendations of the Advisory Commission under this*  
 2 *section.*

3       (e) *PRIORITY TO MANDATES THAT ARE SUBJECT OF*  
 4 *JUDICIAL PROCEEDINGS.*—*In carrying out this section, the*  
 5 *Advisory Commission shall give the highest priority to im-*  
 6 *mediately investigating, reviewing, and making rec-*  
 7 *ommendations regarding unfunded Federal mandates that*  
 8 *are the subject of judicial proceedings between the United*  
 9 *States and a State, local, or tribal government.*

10       (f) *STATE MANDATE AND LOCAL MANDATE DE-*  
 11 *FINED.*—*As used in this title:*

12           (1) *STATE MANDATE.*—*The term “State man-*  
 13 *date” means any provision in a State statute or regu-*  
 14 *lation that imposes an enforceable duty on local gov-*  
 15 *ernments, the private sector, or individuals, including*  
 16 *a condition of State assistance or a duty arising from*  
 17 *participation in a voluntary State program.*

18           (2) *LOCAL MANDATE.*—*The term “local man-*  
 19 *date” means any provision in a local ordinance or*  
 20 *regulation that imposes an enforceable duty on the*  
 21 *private sector or individuals, including a condition of*  
 22 *local assistance or a duty arising from participation*  
 23 *in a voluntary local program.*

1 **SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMIS-**  
2 **SION.**

3 (a) *EXPERTS AND CONSULTANTS.*—The Advisory  
4 Commission may procure temporary and intermittent serv-  
5 ices of experts or consultants under section 3109(b) of title  
6 5, United States Code.

7 (b) *STAFF OF FEDERAL AGENCIES.*—Upon request of  
8 the Executive Director of the Advisory Commission, the  
9 head of any Federal department or agency may detail, on  
10 a reimbursable basis, any of the personnel of that depart-  
11 ment or agency to the Advisory Commission to assist it in  
12 carrying out its duties under this title.

13 (c) *ADMINISTRATIVE SUPPORT SERVICES.*—Upon the  
14 request of the Advisory Commission, the Administrator of  
15 General Services shall provide to the Advisory Commission,  
16 on a reimbursable basis, the administrative support services  
17 necessary for the Advisory Commission to carry out its du-  
18 ties under this title.

19 (d) *CONTRACT AUTHORITY.*—The Advisory Commis-  
20 sion may, subject to appropriations, contract with and com-  
21 pensate Government and private agencies or persons for  
22 property and services used to carry out its duties under  
23 this title.

24 **SEC. 103. DEFINITIONS.**

25 *In this title:*

1           (1) *ADVISORY COMMISSION.*—The term “Advisory Commission” means the Advisory Commission on Intergovernmental Relations.

4           (2) *FEDERAL MANDATE.*—The term “Federal mandate” means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

## 11   ***TITLE II—REGULATORY ACCOUNTABILITY*** 12                                   ***AND REFORM***

### 13   ***SEC. 201. REGULATORY PROCESS.***

14           (a) *IN GENERAL.*—Each agency shall, to the extent permitted by subchapter II of chapter 5 of title 5, United States Code—

17           (1) *assess the effects of Federal regulations on States, local governments, tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal mandates in those regulations; and*

24           (2) *seek to minimize those burdens that uniquely or significantly affect such governmental entities or*

1        *the private sector, consistent with achieving statutory*  
2        *and regulatory objectives.*

3        *(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOV-*  
4        *ERNMENT INPUT.—Each agency shall develop an effective*  
5        *process to permit elected officials (or their designated rep-*  
6        *resentatives) of States, local governments, and tribal gov-*  
7        *ernments to provide meaningful and timely input in the*  
8        *development of regulatory proposals containing significant*  
9        *Federal intergovernmental mandates.*

10       *(c) AGENCY PLAN.—Before establishing any regulatory*  
11       *requirements that might significantly or uniquely affect*  
12       *small governments, an agency shall have developed a plan*  
13       *under which the agency shall—*

14                *(1) provide notice of the contemplated require-*  
15                *ments to potentially affected small governments, if*  
16                *any;*

17                *(2) enable officials of affected small governments*  
18                *to provide input pursuant to subsection (b); and*

19                *(3) inform, educate, and advise small govern-*  
20                *ments on compliance with the requirements.*

21        *(d) LEAST BURDENSOME OPTION OR EXPLANATION*  
22        *REQUIRED.—An agency may not issue a rule that contains*  
23        *a Federal mandate if the rulemaking record for the rule*  
24        *indicates that there are 2 or more methods that could be*  
25        *used to accomplish the objective of the rule, unless—*

(1) *the Federal mandate is the least costly method, or has the least burdensome effect, for—*

(A) *States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and*

(B) *the private sector, in the case of a rule containing a Federal private sector mandate; or*

(2) *the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.*

**SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.**

(a) *IN GENERAL.—Before promulgating any final rule that includes any Federal mandate that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, or the private sector of at least \$100,000,000 (adjusted annually for inflation) in any 1 year, and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—*

(1) *estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, tribal governments, and the private sec-*

1 *tor of complying with the Federal mandates, and of*  
2 *the extent to which such costs may be paid with funds*  
3 *provided by the Federal Government or otherwise*  
4 *paid through Federal financial assistance;*

5 *(2) estimates by the agency, if and to the extent*  
6 *that the agency determines that accurate estimates*  
7 *are reasonably feasible; of—*

8 *(A) the future costs of the Federal mandate;*

9 *and*

10 *(B) any disproportionate budgetary effects*  
11 *of the Federal mandates upon any particular re-*  
12 *gions of the country or particular States, local*  
13 *governments, tribal governments, urban or rural*  
14 *or other types of communities, or particular seg-*  
15 *ments of the private sector;*

16 *(3) a qualitative, and if possible, a quantitative*  
17 *assessment of costs and benefits anticipated from the*  
18 *Federal mandates (such as the enhancement of health*  
19 *and safety and the protection of the natural environ-*  
20 *ment);*

21 *(4) the effect of Federal private sector mandates*  
22 *on the national economy, including the effect on pro-*  
23 *ductivity, economic growth, full employment, creation*  
24 *of productive jobs, worker benefits and pensions, and*

1     *international competitiveness of United States goods*  
2     *and services;*

3             (5) *a description of the extent of the agency's*  
4     *prior consultation with elected representatives (or*  
5     *their designated representatives) of the affected States,*  
6     *local governments, and tribal governments, and des-*  
7     *ignated representatives of the private sector;*

8             (6) *a summary of the comments and concerns*  
9     *that were presented by States, local governments, or*  
10    *tribal governments and the private sector either orally*  
11    *or in writing to the agency;*

12            (7) *a summary of the agency's evaluation of*  
13    *those comments and concerns; and*

14            (8) *the agency's position supporting the need to*  
15    *issue the regulation containing the Federal mandates*  
16    *(considering, among other things, the extent to which*  
17    *costs may or may not be paid with funds provided by*  
18    *the Federal Government).*

19            (b) *PROMULGATION.—In promulgating a general no-*  
20    *tice of proposed rulemaking or a final rule for which a*  
21    *statement under subsection (a) is required, the agency shall*  
22    *include in the promulgation a summary of the information*  
23    *contained in the statement.*

24            (c) *PREPARATION IN CONJUNCTION WITH OTHER*  
25    *STATEMENT.—Any agency may prepare any statement re-*



1 *quired by subsection (a) in conjunction with or as part of*  
 2 *any other statement or analysis, if the statement or analysis*  
 3 *satisfies the provisions of subsection (a).*

4 **SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET**  
 5 **OFFICE.**

6 *The Director of the Office of Management and Budget*  
 7 *shall—*

8 *(1) collect from agencies the statements prepared*  
 9 *under section 202; and*

10 *(2) periodically forward copies of them to the*  
 11 *Director of the Congressional Budget Office on a rea-*  
 12 *sonably timely basis after promulgation of the general*  
 13 *notice of proposed rulemaking or of the final rule for*  
 14 *which the statement was prepared.*

15 **SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXI-**  
 16 **BILITY.**

17 *(a) IN GENERAL.—The Director of the Office of Man-*  
 18 *agement and Budget, in consultation with Federal agencies,*  
 19 *shall establish pilot programs in at least 2 agencies to test*  
 20 *innovative and more flexible regulatory approaches that—*

21 *(1) reduce reporting and compliance burdens on*  
 22 *small governments; and*

23 *(2) meet overall statutory goals and objectives.*

1       (b) *PROGRAM FOCUS.*—The pilot programs shall focus  
 2 on rules in effect or proposed rules or on a combination  
 3 thereof.

4       **SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FED-**  
 5                               **ERAL COURT RULINGS.**

6       Not later than 4 months after the date of enactment  
 7 of this Act, and no later than March 15 of each year there-  
 8 after, the Advisory Commission on Intergovernmental Rela-  
 9 tions shall submit to the Congress, including each of the  
 10 Committee on Government Reform and Oversight of the  
 11 House of Representatives and the Committee on Govern-  
 12 mental Affairs of the Senate, and to the President a report  
 13 describing Federal court rulings in the preceding calendar  
 14 year which imposed an enforceable duty on 1 or more  
 15 States, local governments, or tribal governments.

16       **SEC. 206. JUDICIAL REVIEW.**

17       (a) *REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW*  
 18 *UNDER OTHER FEDERAL LAW.*—If an agency action that  
 19 is subject to section 201 or 202 is subject to judicial review  
 20 under any other Federal law (other than chapter 7 of title  
 21 5, United States Code)—

22               (1) any court of the United States having juris-  
 23 diction to review the action under the other law shall  
 24 have jurisdiction to review the action under sections  
 25 201 and 202; and

1           (2) *in any proceeding under paragraph (1), any*  
 2           *issue relating exhaustion of remedies, the time and*  
 3           *manner for seeking review, venue, or the availability*  
 4           *of a stay or preliminary injunctive relief pending re-*  
 5           *view shall be determined under the other law.*

6           (b) *LIMITATION ON PRELIMINARY INJUNCTIVE RE-*  
 7           *LIEF.—The second sentence of section 705 of title 5, United*  
 8           *States Code (relating to preliminary relief pending review),*  
 9           *shall not apply with respect to review under subsection*  
 10          *(a)(1) of an agency action, unless process authorized by that*  
 11          *sentence is not authorized by the other law under which*  
 12          *the action is reviewed.*

13   **SEC. 207. ANNUAL STATEMENTS TO CONGRESS ON AGENCY**  
 14                   **COMPLIANCE WITH REQUIREMENTS OF**  
 15                   **TITLE.**

16          *Not later than one year after the effective date of title*  
 17          *III and annually thereafter, the Director of the Office of*  
 18          *Management and Budget shall submit to Congress, includ-*  
 19          *ing the Committee on Government Reform and Oversight*  
 20          *of the House of Representatives and the Committee on Gov-*  
 21          *ernmental Affairs of the Senate, written statements detail-*  
 22          *ing the compliance with the requirements of sections 201*  
 23          *and 202 by each agency during the period reported on.*

1 ***TITLE III—LEGISLATIVE ACCOUNTABILITY***  
 2 ***AND REFORM***

3 ***SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND***  
 4 ***REFORM.***

5 *Title IV of the Congressional Budget Act of 1974 is*  
 6 *amended by—*

7 *(1) inserting before section 401 the following:*

8 *“PART A—GENERAL PROVISIONS”; and*

9 *(2) adding at the end the following new part:*

10 *“PART B—FEDERAL MANDATES*

11 ***“SEC. 421. DEFINITIONS.***

12 *“For purposes of this part:*

13 *“(1) AGENCY.—The term ‘agency’ has the mean-*  
 14 *ing stated in section 551(1) of title 5, United States*  
 15 *Code, but does not include independent regulatory*  
 16 *agencies, as defined by section 3502(10) of title 44,*  
 17 *United States Code.*

18 *“(2) DIRECTOR.—The term ‘Director’ means the*  
 19 *Director of the Congressional Budget Office.*

20 *“(3) FEDERAL FINANCIAL ASSISTANCE.—The*  
 21 *term ‘Federal financial assistance’ means the amount*  
 22 *of budget authority for any Federal grant assistance*  
 23 *or any Federal program providing loan guarantees or*  
 24 *direct loans.*

1           “(4) *FEDERAL INTERGOVERNMENTAL MAN-*  
2     *DATE.*—The term ‘Federal intergovernmental man-

3     *date’ means—*

4           “(A) *any provision in legislation, statute,*  
5     *or regulation that—*

6           “(i) *would impose an enforceable duty*  
7     *upon States, local governments, or tribal*  
8     *governments, except—*

9           “(I) *a condition of Federal assist-*  
10    *ance; or*

11          “(II) *a duty arising from partici-*  
12    *pation in a voluntary Federal pro-*  
13    *gram, except as provided in subpara-*  
14    *graph (B); or*

15          “(ii) *would reduce or eliminate the*  
16    *amount of authorization of appropriations*  
17    *for Federal financial assistance that would*  
18    *be provided to States, local governments, or*  
19    *tribal governments for the purpose of com-*  
20    *plying with any such previously imposed*  
21    *duty unless such duty is reduced or elimi-*  
22    *nated by a corresponding amount; or*

23          “(B) *any provision in legislation, statute,*  
24    *or regulation that relates to a then-existing Fed-*  
25    *eral program under which \$500,000,000 or more*

1        *is provided annually to States, local govern-*  
2        *ments, and tribal governments under entitlement*  
3        *authority, if—*

4                *“(i)(I) the provision would increase the*  
5                *stringency of conditions of assistance to*  
6                *States, local governments, or tribal govern-*  
7                *ments under the program; or*

8                *“(II) would place caps upon, or other-*  
9                *wise decrease, the Federal Government’s re-*  
10               *sponsibility to provide funding to States,*  
11               *local governments, or tribal governments*  
12               *under the program; and*

13               *“(ii) the States, local governments, or*  
14               *tribal governments that participate in the*  
15               *Federal program lack authority under that*  
16               *program to amend their financial or pro-*  
17               *grammatic responsibilities to continue pro-*  
18               *viding required services that are affected by*  
19               *the legislation, statute, or regulation.*

20               *“(5) FEDERAL PRIVATE SECTOR MANDATE.—The*  
21               *term ‘Federal private sector mandate’ means any pro-*  
22               *vision in legislation, statute, or regulation that—*

23               *“(A) would impose an enforceable duty on*  
24               *the private sector except—*

1                   “(i) a condition of Federal assistance;

2                   or

3                   “(ii) a duty arising from participation

4                   in a voluntary Federal program; or

5                   “(B) would reduce or eliminate the amount

6                   of authorization of appropriations for Federal fi-

7                   nancial assistance that will be provided to the

8                   private sector for the purpose of ensuring compli-

9                   ance with such duty.

10                  “(6) *FEDERAL MANDATE*.—The term ‘Federal

11                  mandate’ means a Federal intergovernmental man-

12                  date or a Federal private sector mandate, as defined

13                  in paragraphs (4) and (5).

14                  “(7) *FEDERAL MANDATE DIRECT COSTS*.—

15                  “(A) *FEDERAL INTERGOVERNMENTAL DI-*

16                  *RECT COSTS*.—In the case of a Federal intergov-

17                  ernmental mandate, the term ‘direct costs’ means

18                  the aggregate estimated amounts that all States,

19                  local governments, and tribal governments would

20                  be required to spend or would be required to

21                  forgo in revenues in order to comply with the

22                  Federal intergovernmental mandate, or, in the

23                  case of a provision referred to in paragraph

24                  (4)(A)(ii), the amount of Federal financial as-

25                  sistance eliminated or reduced.

1           “(B) *PRIVATE SECTOR DIRECT COSTS.*—In  
2           the case of a Federal private sector mandate, the  
3           term ‘direct costs’ means the aggregate estimated  
4           amounts that the private sector would be re-  
5           quired to spend in order to comply with a Fed-  
6           eral private sector mandate.

7           “(C) *EXCLUSION FROM DIRECT COSTS.*—  
8           The term ‘direct costs’ does not include—

9                   “(i) estimated amounts that the States,  
10                  local governments, and tribal governments  
11                  (in the case of a Federal intergovernmental  
12                  mandate), or the private sector (in the case  
13                  of a Federal private sector mandate), would  
14                  spend—

15                   “(I) to comply with or carry out  
16                  all applicable Federal, State, local, and  
17                  tribal laws and regulations in effect at  
18                  the time of the adoption of a Federal  
19                  mandate for the same activity as is af-  
20                  fected by that Federal mandate; or

21                   “(II) to comply with or carry out  
22                  State, local governmental, and tribal  
23                  governmental programs, or private-sec-  
24                  tor business or other activities in effect  
25                  at the time of the adoption of a Fed-



1                    *eral mandate for the same activity as*  
2                    *is affected by that mandate; or*

3                    *“(ii) expenditures to the extent that*  
4                    *they will be offset by any direct savings to*  
5                    *be enjoyed by the States, local governments,*  
6                    *and tribal governments, or by the private*  
7                    *sector, as a result of—*

8                    *“(I) their compliance with the*  
9                    *Federal mandate; or*

10                    *“(II) other changes in Federal law*  
11                    *or regulation that are enacted or*  
12                    *adopted in the same bill or joint reso-*  
13                    *lution or proposed or final Federal reg-*  
14                    *ulation and that govern the same ac-*  
15                    *tivity as is affected by the Federal*  
16                    *mandate.*

17                    *“(D) DETERMINATION OF COSTS.—Direct*  
18                    *costs shall be determined based on the assump-*  
19                    *tion that States, local governments, tribal gov-*  
20                    *ernments, and the private sector will take all*  
21                    *reasonable steps necessary to mitigate the costs*  
22                    *resulting from the Federal mandate, and will*  
23                    *comply with applicable standards of practice*  
24                    *and conduct established by recognized profes-*  
25                    *sional or trade associations. Reasonable steps to*

1           *mitigate the costs shall not include increases in*  
 2           *State, local, or tribal taxes or fees.*

3           “(8) *LOCAL GOVERNMENT.*—*The term ‘local gov-*  
 4           *ernment’ has the same meaning as in section 6501(6)*  
 5           *of title 31, United States Code.*

6           “(9) *PRIVATE SECTOR.*—*The term ‘private sec-*  
 7           *tor’ means individuals, partnerships, associations,*  
 8           *corporations, business trusts, or legal representatives,*  
 9           *organized groups of individuals, and educational and*  
 10          *other nonprofit institutions.*

11          “(10) *REGULATION.*—*The term ‘regulation’ or*  
 12          *‘rule’ has the meaning of ‘rule’ as defined in section*  
 13          *601(2) of title 5, United States Code.*

14          “(11) *STATE.*—*The term ‘State’ has the same*  
 15          *meaning as in section 6501(9) of title 31, United*  
 16          *States Code.*

17          “(12) *SIGNIFICANT EMPLOYMENT IMPACT.*—*The*  
 18          *term ‘significant employment impact’ means an esti-*  
 19          *mated net aggregate loss of 10,000 or more jobs.*

20       **“SEC. 422. LIMITATION ON APPLICATION.**

21           *“This part shall not apply to any provision in a bill,*  
 22           *joint resolution, motion, amendment, or conference report*  
 23           *before Congress that—*

24           *“(1) enforces constitutional rights of individuals;*

1           “(2) establishes or enforces any statutory rights  
2           that prohibit discrimination on the basis of age, race,  
3           religion, gender, national origin, or handicapped or  
4           disability status;

5           “(3) requires compliance with accounting and  
6           auditing procedures with respect to grants or other  
7           money or property provided by the Federal Govern-  
8           ment;

9           “(4) provides for emergency assistance or relief  
10          at the request of any State, local government, or trib-  
11          al government or any official of such a government;

12          “(5) is necessary for the national security or the  
13          ratification or implementation of international treaty  
14          obligations;

15          “(6) the President designates as emergency legis-  
16          lation and that the Congress so designates in statute;  
17          or

18          “(7) pertains to Social Security.

19   **“SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.**

20          “(a) SUBMISSION OF BILLS TO THE DIRECTOR.—  
21          When a committee of authorization of the House of Rep-  
22          resentatives or the Senate orders a bill or joint resolution  
23          of a public character reported, the committee shall promptly  
24          provide the text of the bill or joint resolution to the Director

1 *and shall identify to the Director any Federal mandate con-*  
 2 *tained in the bill or resolution.*

3 *“(b) COMMITTEE REPORT.—*

4 *“(1) INFORMATION REGARDING FEDERAL MAN-*  
 5 *DATES.—When a committee of authorization of the*  
 6 *House of Representatives or the Senate reports a bill*  
 7 *or joint resolution of a public character that includes*  
 8 *any Federal mandate, the report of the committee ac-*  
 9 *companying the bill or joint resolution shall contain*  
 10 *the information required by paragraph (2) and, in*  
 11 *the case of a Federal intergovernmental mandate,*  
 12 *paragraph (3).*

13 *“(2) REPORTS ON FEDERAL MANDATES.—Each*  
 14 *report referred to in paragraph (1) shall contain—*

15 *“(A) an identification and description of*  
 16 *each Federal mandate in the bill or joint resolu-*  
 17 *tion, including the statement, if available, from*  
 18 *the Director pursuant to section 424(a);*

19 *“(B) a qualitative assessment, and if prac-*  
 20 *ticable, a quantitative assessment of costs and*  
 21 *benefits anticipated from the Federal mandate*  
 22 *(including the effects on health and safety and*  
 23 *protection of the natural environment); and*

24 *“(C) a statement of—*

1           “(i) the degree to which the Federal  
2           mandate affects each of the public and pri-  
3           vate sectors, including a description of the  
4           actions, if any, taken by the committee to  
5           avoid any adverse impact on the private  
6           sector or on the competitive balance between  
7           the public sector and the private sector; and

8           “(ii) in the case of a Federal mandate  
9           that is a Federal intergovernmental man-  
10          date, the extent to which limiting or elimi-  
11          nating the Federal intergovernmental man-  
12          date or Federal payment of direct costs of  
13          the Federal intergovernmental mandate (if  
14          applicable) would affect the competitive bal-  
15          ance between States, local governments, or  
16          tribal governments and the private sector.

17          “(3) INTERGOVERNMENTAL MANDATES.—If any  
18          of the Federal mandates in the bill or joint resolution  
19          are Federal intergovernmental mandates, the report  
20          referred to in paragraph (1) shall also contain—

21               “(A)(i) a statement of the amount, if any,  
22               of increase or decrease in authorization of appro-  
23               priations under existing Federal financial assist-  
24               ance programs or for new Federal financial as-  
25               sistance, provided by the bill or joint resolution

1       *and usable for activities of States, local govern-*  
 2       *ments, or tribal governments subject to Federal*  
 3       *intergovernmental mandates; and*

4               “(ii) *a statement of whether the committee*  
 5       *intends that the Federal intergovernmental man-*  
 6       *dates be partly or entirely unfunded, and, if so,*  
 7       *the reasons for that intention; and*

8               “(B) *a statement of any existing sources of*  
 9       *Federal financial assistance in addition to those*  
 10       *identified in subparagraph (A) that may assist*  
 11       *States, local governments, and tribal govern-*  
 12       *ments in paying the direct costs of the Federal*  
 13       *intergovernmental mandates.*

14               “(4) *INFORMATION REGARDING PREEMPTION.—*  
 15       *When a committee of authorization of the House of*  
 16       *Representatives or the Senate reports a bill or joint*  
 17       *resolution of a public character, the committee report*  
 18       *accompanying the bill or joint resolution shall con-*  
 19       *tain, if relevant to the bill or joint resolution, an ex-*  
 20       *PLICIT statement on whether the bill or joint resolu-*  
 21       *tion, in whole or in part, is intended to preempt any*  
 22       *State, local, or tribal law, and if so, an explanation*  
 23       *of the reasons for such intention.*

24               “(c) *PUBLICATION OF STATEMENT FROM THE DIREC-*  
 25       *TOR.—*

1           “(1) *IN GENERAL.*—Upon receiving a statement  
 2           (including any supplemental statement) from the Di-  
 3           rector pursuant to section 424(a), a committee of the  
 4           House of Representatives or the Senate shall publish  
 5           the statement in the committee report accompanying  
 6           the bill or joint resolution to which the statement re-  
 7           lates if the statement is available to be included in the  
 8           printed report.

9           “(2) *OTHER PUBLICATION OF STATEMENT OF DI-*  
 10          *RECTOR.*—If the statement is not published in the re-  
 11          port, or if the bill or joint resolution to which the  
 12          statement relates is expected to be considered by the  
 13          House of Representatives or the Senate before the re-  
 14          port is published, the committee shall cause the state-  
 15          ment, or a summary thereof, to be published in the  
 16          Congressional Record in advance of floor consider-  
 17          ation of the bill or joint resolution.

18   **“SEC. 424. DUTIES OF THE DIRECTOR.**

19          “(a) *STATEMENTS ON BILLS AND JOINT RESOLUTIONS*  
 20          *OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLU-*  
 21          *TIONS.*—

22               “(1) *FEDERAL INTERGOVERNMENTAL MANDATES*  
 23          *IN REPORTED BILLS AND RESOLUTIONS.*—For each  
 24          bill or joint resolution of a public character reported  
 25          by any committee of authorization of the House of

1     *Representatives or the Senate, the Director shall pre-*  
2     *pare and submit to the committee a statement as*  
3     *follows:*

4             *“(A) If the Director estimates that the direct*  
5             *cost of all Federal intergovernmental mandates*  
6             *in the bill or joint resolution will equal or exceed*  
7             *\$50,000,000 (adjusted annually for inflation) in*  
8             *the fiscal year in which such a Federal intergov-*  
9             *ernmental mandate (or in any necessary imple-*  
10            *menting regulation) would first be effective or in*  
11            *any of the 4 fiscal years following such year, the*  
12            *Director shall so state, specify the estimate, and*  
13            *briefly explain the basis of the estimate.*

14            *“(B) The estimate required by subpara-*  
15            *graph (A) shall include estimates (and brief ex-*  
16            *planations of the basis of the estimates) of—*

17                *“(i) the total amount of direct cost of*  
18                *complying with the Federal intergovern-*  
19                *mental mandates in the bill or joint resolu-*  
20                *tion; and*

21                *“(ii) the amount, if any, of increase in*  
22                *authorization of appropriations or budget*  
23                *authority or entitlement authority under ex-*  
24                *isting Federal financial assistance pro-*  
25                *grams, or of authorization of appropria-*



1            *tions for new Federal financial assistance,*  
2            *provided by the bill or joint resolution and*  
3            *usable by States, local governments, or trib-*  
4            *al governments for activities subject to the*  
5            *Federal intergovernmental mandates.*

6            “(2) *FEDERAL PRIVATE SECTOR MANDATES IN*  
7            *REPORTED BILLS AND JOINT RESOLUTIONS.—For*  
8            *each bill or joint resolution of a public character re-*  
9            *ported by any committee of authorization of the*  
10           *House of Representatives or the Senate, the Director*  
11           *shall prepare and submit to the committee a state-*  
12           *ment as follows:*

13                    “(A) *If the Director estimates that the direct*  
14                    *cost of all Federal private sector mandates in the*  
15                    *bill or joint resolution will equal or exceed*  
16                    *\$50,000,000 (adjusted annually for inflation) in*  
17                    *the fiscal year in which any Federal private sec-*  
18                    *tor mandate in the bill or joint resolution (or in*  
19                    *any necessary implementing regulation) would*  
20                    *first be effective or in any of the 4 fiscal years*  
21                    *following such fiscal year, the Director shall so*  
22                    *state, specify the estimate, and briefly explain*  
23                    *the basis of the estimate.*

1           “(B) The estimate required by subpara-  
2           graph (A) shall include estimates (and brief ex-  
3           planations of the basis of the estimates) of—

4                   “(i) the total amount of direct costs of  
5                   complying with the Federal private sector  
6                   mandates in the bill or joint resolution; and

7                   “(ii) the amount, if any, of increase in  
8                   authorization of appropriations under exist-  
9                   ing Federal financial assistance programs,  
10                  or of authorization of appropriations for  
11                  new Federal financial assistance, provided  
12                  by the bill or joint resolution usable by the  
13                  private sector for the activities subject to the  
14                  Federal private sector mandates.

15           “(C) If the Director determines that it is  
16           not feasible to make a reasonable estimate that  
17           would be required under subparagraphs (A) and  
18           (B), the Director shall not make the estimate, but  
19           shall report in the statement that the reasonable  
20           estimate cannot be made and shall include the  
21           reasons for that determination in the statement.

22           “(3) LEGISLATION FALLING BELOW THE DIRECT  
23           COSTS THRESHOLDS.—If the Director estimates that  
24           the direct costs of a Federal mandate will not equal  
25           or exceed the threshold specified in paragraph (1)(A)

1       or (2)(A), the Director shall so state and shall briefly  
2       explain the basis of the estimate.

3               “(4) AMENDED BILLS AND JOINT RESOLUTIONS;  
4       CONFERENCE REPORTS.—If the Director has prepared  
5       the statement pursuant to subsection (a) for a bill or  
6       joint resolution, and if that bill or joint resolution is  
7       reported or passed in an amended form (including if  
8       passed by one House as an amendment in the nature  
9       of a substitute for the text of a bill or joint resolution  
10      from the other House) or is reported by a committee  
11      of conference in an amended form, the committee of  
12      conference shall ensure, to the greatest extent prac-  
13      ticable, that the Director shall prepare a supple-  
14      mental statement for the bill or joint resolution in  
15      that amended form.

16              “(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

17              “(1) IN GENERAL.—At the request of any com-  
18      mittee of the House of Representatives or of the Sen-  
19      ate, the Director shall, to the extent practicable, con-  
20      sult with and assist such committee in analyzing the  
21      budgetary or financial impact of any proposed legis-  
22      lation that may have—

23                      “(A) a significant budgetary impact on  
24                      State, local, or tribal governments;

1           “(B) a significant financial impact on the  
2           private sector; or

3           “(C) significant employment impact on the  
4           private sector.

5           “(2) CONTINUING STUDIES.—The Director shall  
6           conduct continuing studies to enhance comparisons of  
7           budget outlays, credit authority, and tax expendi-  
8           tures.

9           “(3) FEDERAL MANDATE STUDIES.—

10           “(A) At the request of any committee of the  
11           House of Representatives or the Senate, the Di-  
12           rector shall, to the extent practicable, conduct a  
13           study of a legislative proposal containing a Fed-  
14           eral mandate.

15           “(B) In conducting a study under subpara-  
16           graph (A), the Director shall—

17           “(i) solicit and consider information or  
18           comments from elected officials (including  
19           their designated representatives) of States,  
20           local governments, tribal governments, des-  
21           ignated representatives of the private sector,  
22           and such other persons as may provide  
23           helpful information or comments;

24           “(ii) consider establishing advisory  
25           panels of elected officials (including their

1           *designated representatives) of States, local*  
2           *governments, tribal governments, designated*  
3           *representatives of the private sector, and*  
4           *other persons if the Director determines, in*  
5           *the Director's discretion, that such advisory*  
6           *panels would be helpful in performing the*  
7           *Director's responsibilities under this section;*  
8           *and*

9           “(iii) include estimates, if and to the  
10          *extent that the Director determines that ac-*  
11          *curate estimates are reasonably feasible,*  
12          *of—*

13               “(I) the future direct cost of the  
14               *Federal mandates concerned to the ex-*  
15               *tent that they significantly differ from*  
16               *or extend beyond the 5-year period*  
17               *after the mandate is first effective; and*

18               “(II) any disproportionate budg-  
19               *etary effects of the Federal mandates*  
20               *concerned upon particular industries*  
21               *or sectors of the economy, States, re-*  
22               *gions, and urban, or rural or other*  
23               *types of communities, as appropriate.*

24               “(C) In conducting a study on private sec-  
25          *tor mandates under subparagraph (A), the Di-*

1        *rector shall provide estimates, if and to the ex-*  
 2        *tent that the Director determines that such esti-*  
 3        *mates are reasonably feasible, of—*

4                *“(i) future costs of Federal private sec-*  
 5                *tor mandates to the extent that such man-*  
 6                *dates differ significantly from or extend be-*  
 7                *yond the 5-year period referred to in sub-*  
 8                *paragraph (B)(iii)(I);*

9                *“(ii) any disproportionate financial ef-*  
 10                *fects of Federal private sector mandates and*  
 11                *of any Federal financial assistance in the*  
 12                *bill or joint resolution upon any particular*  
 13                *industries or sectors of the economy, States,*  
 14                *regions, and urban or rural or other types*  
 15                *of communities; and*

16                *“(iii) the effect of Federal private sec-*  
 17                *tor mandates in the bill or joint resolution*  
 18                *on the national economy, including the ef-*  
 19                *fect on productivity, economic growth, full*  
 20                *employment, creation of productive jobs,*  
 21                *and international competitiveness of United*  
 22                *States goods and services.*

23        *“(c) VIEWS OF COMMITTEES.—Any committee of the*  
 24        *House of Representatives or the Senate which anticipates*  
 25        *that the committee will consider any proposed legislation*

1 *establishing, amending, or reauthorizing any Federal pro-*  
 2 *gram likely to have a significant budgetary impact on the*  
 3 *States, local governments, or tribal governments, or likely*  
 4 *to have a significant financial impact on the private sector,*  
 5 *including any legislative proposal submitted by the execu-*  
 6 *tive branch likely to have such a budgetary or financial*  
 7 *impact, shall provide its views and estimates on such pro-*  
 8 *posal to the Committee on the Budget of its House.*

9       “(d) *ESTIMATES.*—If the Director determines that it  
 10 *is not feasible to make a reasonable estimate that would*  
 11 *be required for a statement under subsection (a)(1) for a*  
 12 *bill or joint resolution, the Director shall not make such*  
 13 *a statement and shall inform the committees involved that*  
 14 *such an estimate cannot be made and the reasons for that*  
 15 *determination. The bill or joint resolution for which such*  
 16 *statement was to be made shall be subject to a point of order*  
 17 *under section 425(a)(1).*

18       “(e) *AUTHORIZATION OF APPROPRIATIONS.*—There is  
 19 *authorized to be appropriated to the Congressional Budget*  
 20 *Office to carry out this part \$4,500,000 for each of fiscal*  
 21 *years 1996 through 2002.*

22       **“SEC. 425. POINT OF ORDER.**

23       “(a) *IN GENERAL.*—It shall not be in order in the  
 24 *House of Representatives or the Senate to consider—*

1           “(1) any bill or joint resolution that is reported  
2           by a committee unless the committee has published the  
3           statement of the Director pursuant to section 424(a)  
4           prior to such consideration, except that this para-  
5           graph shall not apply to any supplemental statement  
6           prepared by the Director under section 424(a)(4); or

7           “(2) any bill, joint resolution, amendment, mo-  
8           tion, or conference report that contains a Federal  
9           intergovernmental mandate having direct costs that  
10          exceed the threshold specified in section 424(a)(1)(A),  
11          or that would cause the direct costs of any other Fed-  
12          eral intergovernmental mandate to exceed the thresh-  
13          old specified in section 424(a)(1)(A), unless—

14               “(A) the bill, joint resolution, amendment,  
15               motion, or conference report provides new budget  
16               authority or new entitlement authority in the  
17               House of Representatives or direct spending au-  
18               thority in the Senate for each fiscal year for the  
19               Federal intergovernmental mandates included in  
20               the bill, joint resolution, amendment, motion, or  
21               conference report in an amount that equals or  
22               exceeds the estimated direct costs of such man-  
23               date; or

24               “(B) the bill, joint resolution, amendment,  
25               motion, or conference report provides an increase



1       *in receipts or a decrease in new budget authority*  
2       *or new entitlement authority in the House of*  
3       *Representatives or direct spending authority in*  
4       *the Senate and an increase in new budget au-*  
5       *thority or new entitlement authority in the*  
6       *House of Representatives or an increase in direct*  
7       *spending authority for each fiscal year for the*  
8       *Federal intergovernmental mandates included in*  
9       *the bill, joint resolution, amendment, motion, or*  
10       *conference report in an amount that equals or*  
11       *exceeds the estimated direct costs of such man-*  
12       *date; or*

13               *“(C) the bill, joint resolution, amendment,*  
14       *motion, or conference report—*

15                       *“(i) provides that—*

16                               *“(I) such mandate shall be effec-*  
17                               *tive for any fiscal year only if all di-*  
18                               *rect costs of such mandate in the fiscal*  
19                               *year are provided in appropriations*  
20                               *Acts, and*

21                               *“(II) in the case of such a man-*  
22                               *date contained in the bill, joint resolu-*  
23                               *tion, amendment, motion, or conference*  
24                               *report, the mandate is repealed effec-*  
25                               *tive on the first day of any fiscal year*

1           *for which all direct costs of such man-*  
2           *date are not provided in appropria-*  
3           *tions Acts; or*

4           “(ii) requires a Federal agency to re-  
5           *duce programmatic and financial respon-*  
6           *sibilities of State, local, and tribal govern-*  
7           *ments for meeting the objectives of the man-*  
8           *date such that the estimated direct costs of*  
9           *the mandate to such governments do not ex-*  
10          *ceed the amount of Federal funding pro-*  
11          *vided to those governments to carry out the*  
12          *mandate in the form of appropriations or*  
13          *new budget authority or new entitlement*  
14          *authority in the House of Representatives or*  
15          *direct spending authority in the Senate,*  
16          *and establishes criteria and procedures for*  
17          *that reduction.*

18          “(b) *LIMITATION ON APPLICATION TO APPROPRIA-*  
19          *TIONS BILLS.—Subsection (a) shall not apply to a bill that*  
20          *is reported by the Committee on Appropriations or an*  
21          *amendment thereto.*

22          “(c) *DETERMINATION OF DIRECT COSTS BASED ON*  
23          *ESTIMATES BY BUDGET COMMITTEES.—For the purposes*  
24          *of this section, the amount of direct costs of a Federal man-*  
25          *date for a fiscal year shall be determined based on estimates*

1 *made by the Committee on the Budget, in consultation with*  
2 *the Director, of the House of Representatives or the Senate,*  
3 *as the case may be.*

4 “(d) *LIMITATION ON APPLICATION OF SUBSECTION*  
5 *(a)(2).—Subsection (a)(2) shall not apply to any bill, joint*  
6 *resolution, amendment, or conference report that reauthor-*  
7 *izes appropriations for carrying out, or that amends, any*  
8 *statute if enactment of the bill, joint resolution, amendment,*  
9 *or conference report—*

10 “(1) *would not result in a net increase in the ag-*  
11 *gregate amount of direct costs of Federal intergovern-*  
12 *mental mandates; and*

13 “(2)(A) *would not result in a net reduction or*  
14 *elimination of authorizations of appropriations for*  
15 *Federal financial assistance that would be provided to*  
16 *State, local governments, or tribal governments for*  
17 *use to comply with any Federal intergovernmental*  
18 *mandate; or*

19 “(B) *in the case of any net reduction or elimi-*  
20 *nation of authorizations of appropriations for such*  
21 *Federal financial assistance that would result from*  
22 *such enactment, would reduce the duties imposed by*  
23 *the Federal intergovernmental mandate by a cor-*  
24 *responding amount.*

1 **“SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTA-**  
 2 **TIVES.**

3 *“It shall not be in order in the House of Representa-*  
 4 *tives to consider a rule or order that waives the application*  
 5 *of section 425(a).*

6 **“SEC. 427. DISPOSITION OF POINTS OF ORDER.**

7 *“(a) THRESHOLD BURDEN.—In order to be cognizable*  
 8 *by the Chair, a point of order under section 425(a) or 426*  
 9 *must specify the precise language on which it is premised.*

10 *“(b) QUESTION OF CONSIDERATION.—As disposition of*  
 11 *points of order under section 425(a) or 426, the Chair shall*  
 12 *put the question of consideration with respect to the propo-*  
 13 *sition that is the subject of the points of order.*

14 *“(c) DEBATE AND INTERVENING MOTIONS.—A ques-*  
 15 *tion of consideration under this section shall be debatable*  
 16 *for 10 minutes by each Member initiating a point of order*  
 17 *and for 10 minutes by an opponent on each point of order,*  
 18 *but shall otherwise be decided without intervening motion*  
 19 *except one that the House adjourn or that the Committee*  
 20 *of the Whole rise, as the case may be.*

21 *“(d) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL*  
 22 *TEXT.—The disposition of the question of consideration*  
 23 *under this section with respect to a bill or joint resolution*  
 24 *shall be considered also to determine the question of consid-*  
 25 *eration under this section with respect to an amendment*  
 26 *made in order as original text.”.*

1 **SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTA-**  
 2 **TIVES.**

3 (a) *MOTIONS TO STRIKE IN THE COMMITTEE OF THE*  
 4 *WHOLE.*—Clause 5 of rule XXIII of the Rules of the House  
 5 of Representatives is amended by adding at the end the fol-  
 6 lowing:

7 “(c) *In the consideration of any measure for amend-*  
 8 *ment in the Committee of the Whole containing any Federal*  
 9 *mandate the direct costs of which exceed the threshold in*  
 10 *section 424(a)(1)(A) of the Unfunded Mandate Reform Act*  
 11 *of 1995, it shall always be in order, unless specifically*  
 12 *waived by terms of a rule governing consideration of that*  
 13 *measure, to move to strike such Federal mandate from the*  
 14 *portion of the bill then open to amendment.”.*

15 (b) *COMMITTEE ON RULES REPORTS ON WAIVED*  
 16 *POINTS OF ORDER.*—The Committee on Rules shall include  
 17 in the report required by clause 1(d) of rule XI (relating  
 18 to its activities during the Congress) of the Rules of the  
 19 House of Representatives a separate item identifying all  
 20 waivers of points of order relating to Federal mandates,  
 21 listed by bill or joint resolution number and the subject  
 22 matter of that measure.

23 **SEC. 303. EXERCISE OF RULEMAKING POWERS.**

24 *The provisions of this title (except section 305) are en-*  
 25 *acted by Congress—*

1           (1) *as an exercise of the rulemaking powers of*  
 2           *the House of Representatives and the Senate, and as*  
 3           *such they shall be considered as part of the rules of*  
 4           *the House of Representatives and the Senate, respec-*  
 5           *tively, and such rules shall supersede other rules only*  
 6           *to the extent that they are inconsistent therewith; and*

7           (2) *with full recognition of the constitutional*  
 8           *right of the House of Representatives and the Senate*  
 9           *to change such rules at anytime, in the same manner,*  
 10          *and to the same extent as in the case of any other rule*  
 11          *of the House of Representatives or the Senate, respec-*  
 12          *tively.*

13   **SEC. 304. CONFORMING AMENDMENT TO TABLE OF CON-**  
 14                                   **TENTS.**

15          *Section 1(b) of the Congressional Budget and Im-*  
 16          *poundment Control Act of 1974 is amended by inserting*  
 17          *“PART A—GENERAL PROVISIONS” before the item relating*  
 18          *to section 401 and by inserting after the item relating to*  
 19          *section 407 the following:*

*“PART B—FEDERAL MANDATES*

*“Sec. 421. Definitions.*

*“Sec. 422. Limitation on application.*

*“Sec. 423. Duties of congressional committees.*

*“Sec. 424. Duties of the Director.*

*“Sec. 425. Point of order.*

*“Sec. 426. Enforcement in the House of Representatives.”.*

1 **SEC. 305. TECHNICAL AMENDMENTS.**

2 (a) *TECHNICAL AMENDMENT.*—*The State and Local*  
 3 *Government Cost Estimate Act of 1981 (Public Law 97–*  
 4 *108) is repealed.*

5 (b) *TECHNICAL AMENDMENT.*—*Section 403 of the Con-*  
 6 *gressional Budget Act of 1974 is amended to read as follows:*

7 “*ANALYSIS BY CONGRESSIONAL BUDGET OFFICE*

8 “*SEC. 403. The Director of the Congressional Budget*  
 9 *Office shall, to the extent practicable, prepare for each bill*  
 10 *or resolution of a public character reported by any commit-*  
 11 *tee of the House of Representatives or the Senate (except*  
 12 *the Committee on Appropriations of each House), and sub-*  
 13 *mit to such committee—*

14 “*(1) an estimate of the costs which would be in-*  
 15 *curred in carrying out such bill or resolution in the*  
 16 *fiscal year in which it is to become effective and in*  
 17 *each of the 4 fiscal years following such fiscal year,*  
 18 *together with the basis for each such estimate; and*

19 “*(2) a comparison of the estimate of costs de-*  
 20 *scribed in paragraph (1) with any available estimate*  
 21 *of costs made by such committee or by any Federal*  
 22 *agency.*

23 *The estimate and comparison so submitted shall be included*  
 24 *in the report accompanying such bill or resolution if timely*  
 25 *submitted to such committee before such report is filed.”.*

1 ***SEC. 306. EFFECTIVE DATE.***

2 *This title shall take effect on October 1, 1995.*

Amend the title so as to read: “An Act to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes.”.

Attest:

*Clerk.*



104TH CONGRESS  
1ST SESSION

**S. 1**

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**AMENDMENTS**