

111TH CONGRESS
2D SESSION

H. R. 5818

To amend title IV of the Congressional Budget Act of 1974 and the Rules of the House of Representatives to make Federal private sector mandates subject to a point of order, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2010

Mr. GARRETT of New Jersey introduced the following bill; which was referred to the Committee on Rules, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title IV of the Congressional Budget Act of 1974 and the Rules of the House of Representatives to make Federal private sector mandates subject to a point of order, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mandate Prevention
5 Act of 2010”.

1 **SEC. 2. LEGISLATION SUBJECT TO POINT OF ORDER.**

2 (a) IN GENERAL.—Section 425(a) of the Congres-
3 sional Budget Act of 1974 is amended by striking “and”
4 at the end of paragraph (1), by striking the period at the
5 end of paragraph (2) and by inserting “; and”, and by
6 adding at the end the following new paragraph:

7 “(3) Any bill, joint resolution, amendment, mo-
8 tion, or conference report that would increase the di-
9 rect costs of Federal private sector mandates by an
10 amount that causes the thresholds specified in sec-
11 tion 424(b)(1) to be exceeded, unless—

12 “(A) the bill, joint resolution, amendment,
13 motion, or conference report provides new budg-
14 et authority or new entitlement authority in the
15 House of Representatives or direct spending au-
16 thority in the Senate for each fiscal year for
17 such mandates included in the bill, joint resolu-
18 tion, amendment, motion, or conference report
19 in an amount equal to or exceeding the direct
20 costs of such mandate; or

21 “(B) the bill, joint resolution, amendment,
22 motion, or conference report includes an au-
23 thorization for appropriations in an amount
24 equal to or exceeding the direct costs of such
25 mandate, and—

1 “(i) identifies a specific dollar amount
2 of the direct costs of such mandate for
3 each year up to 10 years during which
4 such mandate shall be in effect under the
5 bill, joint resolution, amendment, motion
6 or conference report, and such estimate is
7 consistent with the estimate determined
8 under subsection (e) for each fiscal year;

9 “(ii) identifies any appropriation bill
10 that is expected to provide for Federal
11 funding of the direct cost referred to under
12 clause (i); and

13 “(iii)(I) provides that for any fiscal
14 year the responsible Federal agency shall
15 determine whether there are insufficient
16 appropriations for that fiscal year to pro-
17 vide for the direct costs under clause (i) of
18 such mandate, and shall (no later than 30
19 days after the beginning of the fiscal year)
20 notify the appropriate authorizing commit-
21 tees of Congress of the determination and
22 submit either—

23 “(aa) a statement that the agen-
24 cy has determined, based on a re-esti-
25 mate of the direct costs of such man-

1 date, after consultation with State,
2 local, and tribal governments, that the
3 amount appropriated is sufficient to
4 pay for the direct costs of such man-
5 date; or

6 “(bb) legislative recommenda-
7 tions for either implementing a less
8 costly mandate or making such man-
9 date ineffective for the fiscal year;

10 “(II) provides for expedited proce-
11 dures for the consideration of the state-
12 ment or legislative recommendations re-
13 ferred to in subclause (I) by Congress no
14 later than 30 days after the statement or
15 recommendations are submitted to Con-
16 gress; and

17 “(III) provides that such mandate
18 shall—

19 “(aa) in the case of a statement
20 referred to in subclause (I)(aa), cease
21 to be effective 60 days after the state-
22 ment is submitted unless Congress
23 has approved the agency’s determina-
24 tion by joint resolution during the 60-
25 day period;

1 “(bb) cease to be effective 60
 2 days after the date the legislative rec-
 3 ommendations of the responsible Fed-
 4 eral agency are submitted to Congress
 5 under subclause (I)(bb) unless Con-
 6 gress provides otherwise by law; or

7 “(cc) in the case that such man-
 8 date that has not yet taken effect,
 9 continue not to be effective unless
 10 Congress provides otherwise by law.”.

11 (b) COMMITTEE ON APPROPRIATIONS.—Section
 12 425(c)(1) of the Congressional Budget Act of 1974 is
 13 amended by inserting “or a Federal private sector man-
 14 date” after “Federal intergovernmental mandate” each
 15 place it appears.

16 (c) DETERMINATIONS OF FEDERAL PRIVATE SECTOR
 17 MANDATE LEVELS.—Section 425(e) of the Congressional
 18 Budget Act of 1974 is amended by inserting “and Federal
 19 private sector mandates” after “Federal mandates”.

20 **SEC. 3. UNFUNDED MANDATES POINT OF ORDER IN THE**
 21 **RULES OF THE HOUSE OF REPRESENTA-**
 22 **TIVES.**

23 Clause 11(b) of rule XVIII of the Rules of the House
 24 of Representatives is amended by inserting before the pe-
 25 riod the following: “or a Federal private sector mandate

1 the direct costs of which exceed the threshold otherwise
2 specified for a reported bill or joint resolution in section
3 424(b)(1) of such Act”.

4 **SEC. 4. EQUALIZATION OF THRESHOLD BETWEEN PRIVATE**
5 **SECTOR AND INTERGOVERNMENTAL MAN-**
6 **DATES.**

7 Section 424(b)(1) of the Congressional Budget Act
8 of 1974 is amended by striking “\$100,000,000” and in-
9 serting “\$50,000,000”.

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