

**(4) Estimate not feasible**

If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement. If such determination is made by the Director, a point of order under this part shall lie only under section 658d(a)(1) of this title and as if the requirement of section 658d(a)(1) of this title had not been met.

**(b) Federal private sector mandates in reported bills and joint resolutions**

For each bill or joint resolution of a public character reported by any committee of authorization of the Senate or the House of Representatives, the Director of the Congressional Budget Office shall prepare and submit to the committee a statement as follows:

**(1) Contents**

If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed \$100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

**(2) Estimates**

Estimates required under paragraph (1) shall include estimates (and a brief explanation of the basis of the estimates) of—

(A) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

(B) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

**(3) Estimate not feasible**

If the Director determines that it is not feasible to make a reasonable estimate that would be required under paragraphs (1) and (2), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

**(c) Legislation falling below direct costs thresholds**

If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the thresholds specified in subsections (a) and (b), the Director shall so state and shall briefly explain the basis of the estimate.

**(d) Amended bills and joint resolutions; conference reports**

If a bill or joint resolution is passed in an amended form (including if passed by one House

as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in amended form, and the amended form contains a Federal mandate not previously considered by either House or which contains an increase in the direct cost of a previously considered Federal mandate, then the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a statement as provided in this subsection or a supplemental statement for the bill or joint resolution in that amended form.

(Pub. L. 93-344, title IV, § 424, as added Pub. L. 104-4, title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 55; amended Pub. L. 106-141, § 2(b), Dec. 7, 1999, 113 Stat. 1699.)

**Editorial Notes**

## AMENDMENTS

1999—Subsec. (a)(3), (4). Pub. L. 106-141 added par. (3) and redesignated former par. (3) as (4).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE

Section effective Jan. 1, 1996, or on the date 90 days after appropriations are made available as authorized under section 1516 of this title, whichever is earlier, and applicable to legislation considered on and after such date, see section 110 of Pub. L. 104-4, set out as a note under section 1511 of this title.

**§ 658d. Legislation subject to point of order****(a) In general**

It shall not be in order in the Senate or the House of Representatives to consider—

(1) any bill or joint resolution that is reported by a committee unless the committee has published a statement of the Director on the direct costs of Federal mandates in accordance with section 658b(f) of this title before such consideration, except this paragraph shall not apply to any supplemental statement prepared by the Director under section 658c(d) of this title; and

(2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the thresholds specified in section 658c(a)(1) of this title to be exceeded, unless—

(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for such mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount equal to or exceeding the direct costs of such mandate; or

(B) the bill, joint resolution, amendment, motion, or conference report includes an authorization for appropriations in an amount equal to or exceeding the direct costs of such mandate, and—

(i) identifies a specific dollar amount of the direct costs of such mandate for each year up to 10 years during which such

mandate shall be in effect under the bill, joint resolution, amendment, motion or conference report, and such estimate is consistent with the estimate determined under subsection (e) for each fiscal year;

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

(iii)(I) provides that for any fiscal year the responsible Federal agency shall determine whether there are insufficient appropriations for that fiscal year to provide for the direct costs under clause (i) of such mandate, and shall (no later than 30 days after the beginning of the fiscal year) notify the appropriate authorizing committees of Congress of the determination and submit either—

(aa) a statement that the agency has determined, based on a re-estimate of the direct costs of such mandate, after consultation with State, local, and tribal governments, that the amount appropriated is sufficient to pay for the direct costs of such mandate; or

(bb) legislative recommendations for either implementing a less costly mandate or making such mandate ineffective for the fiscal year;

(II) provides for expedited procedures for the consideration of the statement or legislative recommendations referred to in subclause (I) by Congress no later than 30 days after the statement or recommendations are submitted to Congress; and

(III) provides that such mandate shall—

(aa) in the case of a statement referred to in subclause (I)(aa), cease to be effective 60 days after the statement is submitted unless Congress has approved the agency's determination by joint resolution during the 60-day period;

(bb) cease to be effective 60 days after the date the legislative recommendations of the responsible Federal agency are submitted to Congress under subclause (I)(bb) unless Congress provides otherwise by law; or

(cc) in the case that such mandate that has not yet taken effect, continue not to be effective unless Congress provides otherwise by law.

#### **(b) Rule of construction**

The provisions of subsection (a)(2)(B)(iii) shall not be construed to prohibit or otherwise restrict a State, local, or tribal government from voluntarily electing to remain subject to the original Federal intergovernmental mandate, complying with the programmatic or financial responsibilities of the original Federal intergovernmental mandate and providing the funding necessary consistent with the costs of Federal agency assistance, monitoring, and enforcement.

#### **(c) Committee on Appropriations**

##### **(1) Application**

The provisions of subsection (a)—

(A) shall not apply to any bill or resolution reported by the Committee on Appropria-

tions of the Senate or the House of Representatives; except

(B) shall apply to—

(i) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives;

(ii) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendment offered to a bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives;

(iii) any legislative provision increasing direct costs of a Federal intergovernmental mandate in a conference report accompanying a bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives; and

(iv) any legislative provision increasing direct costs of a Federal intergovernmental mandate contained in any amendments in disagreement between the two Houses to any bill or resolution reported by the Committee on Appropriations of the Senate or House of Representatives.

#### **(2) Certain provisions stricken in Senate**

Upon a point of order being made by any Senator against any provision listed in paragraph (1)(B), and the point of order being sustained by the Chair, such specific provision shall be deemed stricken from the bill, resolution, amendment, in disagreement, or conference report and may not be offered as an amendment from the floor.

#### **(d) Determinations of applicability to pending legislation**

For purposes of this section, in the Senate, the presiding officer of the Senate shall consult with the Committee on Governmental Affairs, to the extent practicable, on questions concerning the applicability of this part to a pending bill, joint resolution, amendment, motion, or conference report.

#### **(e) Determinations of Federal mandate levels**

For purposes of this section, in the Senate, the levels of Federal mandates for a fiscal year shall be determined based on the estimates made by the Committee on the Budget.

(Pub. L. 93-344, title IV, §425, as added Pub. L. 104-4, title I, §101(a)(2), Mar. 22, 1995, 109 Stat. 56.)

#### **Statutory Notes and Related Subsidiaries**

##### **CHANGE OF NAME**

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

##### **EFFECTIVE DATE**

Section effective Jan. 1, 1996, or on the date 90 days after appropriations are made available as authorized under section 1516 of this title, whichever is earlier, and

applicable to legislation considered on and after such date, see section 110 of Pub. L. 104-4, set out as a note under section 1511 of this title.

**§ 658e. Provisions relating to House of Representatives**

**(a) Enforcement in House of Representatives**

It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 658d of this title.

**(b) Disposition of points of order**

**(1) Application to House of Representatives**

This subsection shall apply only to the House of Representatives.

**(2) Threshold burden**

In order to be cognizable by the Chair, a point of order under section 658d of this title or subsection (a) of this section must specify the precise language on which it is premised.

**(3) Question of consideration**

As disposition of points of order under section 658d of this title or subsection (a) of this section, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

**(4) Debate and intervening motions**

A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

**(5) Effect on amendment in order as original text**

The disposition of the question of consideration under this subsection with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this subsection with respect to an amendment made in order as original text.

(Pub. L. 93-344, title IV, § 426, as added Pub. L. 104-4, title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 59.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective Jan. 1, 1996, or on the date 90 days after appropriations are made available as authorized under section 1516 of this title, whichever is earlier, and applicable to legislation considered on and after such date, see section 110 of Pub. L. 104-4, set out as a note under section 1511 of this title.

**§ 658f. Requests to Congressional Budget Office from Senators**

At the written request of a Senator, the Director shall, to the extent practicable, prepare an estimate of the direct costs of a Federal intergovernmental mandate contained in an amendment of such Senator.

(Pub. L. 93-344, title IV, § 427, as added Pub. L. 104-4, title I, § 101(a)(2), Mar. 22, 1995, 109 Stat. 59.)

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective Jan. 1, 1996, or on the date 90 days after appropriations are made available as authorized under section 1516 of this title, whichever is earlier, and applicable to legislation considered on and after such date, see section 110 of Pub. L. 104-4, set out as a note under section 1511 of this title.

**§ 658g. Clarification of application**

**(a) In general**

This part applies to any bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out any statute, or that otherwise amends any statute, only if enactment of the bill, joint resolution, amendment, motion, or conference report—

(1) would result in a net reduction in or elimination of authorization of appropriations for Federal financial assistance that would be provided to State, local, or tribal governments for use for the purpose of complying with any Federal intergovernmental mandate, or to the private sector for use to comply with any Federal private sector mandate, and would not eliminate or reduce duties established by the Federal mandate by a corresponding amount; or

(2) would result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates or Federal private sector mandates other than as described in paragraph (1).

**(b) Direct costs**

**(1) In general**

For purposes of this part, the direct cost of the Federal mandates in a bill, joint resolution, amendment, motion, or conference report that reauthorizes appropriations, or that amends existing authorizations of appropriations, to carry out a statute, or that otherwise amends any statute, means the net increase, resulting from enactment of the bill, joint resolution, amendment, motion, or conference report, in the amount described under paragraph (2)(A) over the amount described under paragraph (2)(B).

**(2) Amounts**

The amounts referred to under paragraph (1) are—

(A) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report is enacted; and

(B) the aggregate amount of direct costs of Federal mandates that would result under the statute if the bill, joint resolution, amendment, motion, or conference report were not enacted.

**(3) Extension of authorization of appropriations**

For purposes of this section, in the case of legislation to extend authorization of appropriations, the authorization level that would be provided by the extension shall be com-