

105TH CONGRESS
2D SESSION

H. R. 4422

To enact the requirements and restrictions of Executive Order 12612 and Executive Order 12875, relating to federalism.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mr. MORAN of Virginia (for himself, Mr. CASTLE, Mr. CONDIT, Mr. DAVIS of Virginia, Ms. MCCARTHY of Missouri, Mr. PORTMAN, and Mr. MCINTOSH) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, 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 enact the requirements and restrictions of Executive Order 12612 and Executive Order 12875, relating to federalism.

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 “Federalism Act of
5 1998”.

1 **SEC. 2. COMPLIANCE WITH FORMER EXECUTIVE ORDERS**
2 **RELATING TO FEDERALISM.**

3 (a) COMPLIANCE REQUIREMENT.—The head of each
4 Federal department and each Federal agency shall ensure
5 that each activity of the department or agency, respec-
6 tively, is carried out in accordance with all provisions of
7 Executive Order 12612 (as in effect on October 26, 1987)
8 and Executive Order 12875 (as in effect on October 26,
9 1987) as apply to the activity under the terms of those
10 Executive Orders.

11 (b) LATER ORDER OF NO FORCE OR EFFECT.—Ex-
12 ecutive Order 13083, issued May 14, 1998, shall have no
13 force or effect.

14 **SEC. 3. JUDICIAL REVIEW.**

15 (a) IN GENERAL.—Compliance by a department or
16 agency with a requirement or restriction imposed by this
17 Act shall be subject to judicial review only—

18 (1) in connection with judicial review of final
19 agency action, that is otherwise authorized by law;

20 (2) in accordance with this section; and

21 (3) in accordance with the limitations on tim-
22 ing, venue, and scope of review imposed by the law
23 otherwise authorizing the judicial review.

24 (b) STANDARD OF REVIEW.—Any action or failure to
25 act by a department or agency under any requirement or
26 restriction imposed by this Act shall be set aside by a re-

1 viewing court only upon a showing that the action or fail-
2 ure is arbitrary or capricious.

3 (c) LIMITATION ON REVIEW.—Any action or failure
4 to act by the Director of the Office of Management and
5 Budget pursuant to any requirement or restriction im-
6 posed by this Act shall not be subject to judicial review.

7 (d) RELIEF.—If a department or agency fails to per-
8 form any federalism assessment pursuant to this Act with
9 respect to any rule, a court may, giving due regard to prej-
10 udicial error, remand or invalidate the rule. The adequacy
11 of compliance with the specific requirements and restric-
12 tions imposed by this Act shall not otherwise be grounds
13 for remanding or invalidating a rule under this Act.

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