

## MANDATES INFORMATION ACT OF 1998

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MAY 7, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. SOLOMON, from the Committee on Rules,  
submitted the following

### REPORT

together with

### DISSENTING VIEWS

[To accompany H.R. 3534]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the bill (H.R. 3534) to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment (stated in terms of the page and line number of the introduced bill) is as follows:

Page 5, line 8, after “mandates” insert “(excluding any direct costs that are attributable to revenue resulting from tax or tariff provisions of any such measure if it does not raise net tax and tariff revenues over the 5-fiscal-year period beginning with the first fiscal year such measure affects such revenues)”.

### PURPOSE OF THE LEGISLATION

The purpose of H.R. 3534, the Mandates Information Act of 1998, is to: (1) improve the quality of the Congress’ deliberation with respect to proposed mandates on the private sector by providing the Congress with more complete information about the effects of such mandates, and ensuring that the Congress acts on such mandates only after focused deliberation on the effects; and (2) enhance the ability of the Congress to distinguish between private sector man-

dates that harm consumers, workers, and small businesses, and mandates that help those groups.

#### SUMMARY OF THE LEGISLATION

H.R. 3534 amends the Congressional Budget Act of 1974 to require a congressional committee report on any bill or joint resolution that includes a federal private sector mandate to include a statement from CBO estimating the impact of such mandates on consumers, workers, and small businesses, including any disproportionate impact in particular regions or industries (CBO is currently required to estimate only the direct costs of all federal private sector mandates that exceed \$100 million and the amount of federal financial assistance, if any, provided by the legislation to assist with compliance costs). It subjects the consideration of such legislation to a point of order if it is not feasible for CBO to prepare such an estimate (currently under UMRA, a point of order may apply only if it is not feasible for CBO to prepare an intergovernmental mandates estimate).

H.R. 3534 prohibits consideration of any bill, joint resolution, amendment, motion or conference report containing private sector mandates whose direct costs exceed \$100 million (the current unfunded mandate point of order applies only to unfunded intergovernmental mandates, the direct cost of which exceeds \$50 million, unless it is paid for with new federal financial assistance).

H.R. 3534 prohibits the Chair from recognizing a Member for one point of order for a committee's failure to comply with the CBO report requirements with respect to private sector mandates, or for private sector mandates contained in any bill, joint resolution, amendment, motion or conference report.

H.R. 3534 amends clause 5(c) of House Rule XXIII to preserve the availability in the Committee of the Whole of a motion to strike an unfunded federal mandate (intergovernmental and private sector), unless the rule is specifically waived by the Rules Committee.

#### COMMITTEE CONSIDERATION

On March 11, 1997, Representatives Gary Condit and Rob Portman introduced H.R. 1010, the Mandates Information Act of 1997, which was referred to the Committee on Rules. On October 30, 1997, the Subcommittee on Rules and Organization of the House and the Subcommittee on Legislative and Budget Process held a joint hearing to review the implementation of UMRA and proposals to expand that act; in particular, H.R. 1010. On March 24, 1998, as a result of concerns raised at the joint subcommittee hearing, Representatives Condit and Portman introduced H.R. 3534, which is a revised version of H.R. 1010 which was also referred to the Committee on Rules.

On March 27, 1998, the Committee on Rules held a hearing on H.R. 3534 and received testimony from the Hon. Gary Condit; the Hon. Rob Portman (R-OH); Ms. Kathie Zuroweste, Owner of the Colony House Restaurant in Newhaven, Missouri; Mr. R. Bruce Josten, Executive Vice President of Government Affairs for U.S. Chamber of Commerce; and Mr. John Nicholson, Owner of Company Flowers in Arlington, Virginia.

On Wednesday, May 6, 1998, the Committee met to mark-up H.R. 3534. The Committee favorably reported H.R. 3534 by voice vote. During the mark-up, one amendment was agreed to, also by voice vote.

#### BACKGROUND ON THE LEGISLATION

On March 22, 1995, President Clinton signed into law the Unfunded Mandates Reform Act, which amended title IV of the Congressional Budget and Impoundment Act of 1974. A key component of the Republican "Contract With America," UMRA was one of the bills enacted by the 104th Congress.

Among other things, the purposes of UMRA are to: strengthen the partnership between the federal government and state and local governments; end the imposition of unfunded federal mandates on state and local governments without full information on the costs and effects of such mandates; promote informed and deliberate decisions by Congress on the appropriateness of all federal mandates affecting state and local governments and the private sector; and establish new points of order in the House and Senate for failure to comply with certain requirements under the act.

A federal mandate is defined as a provision that imposes an enforceable duty upon state, local or tribal governments, or the private sector. An unfunded federal mandate is defined as a mandate whose direct costs exceed \$50 million for state and local governments, and \$100 million for the private sector. Direct costs are defined as the aggregate amount that all levels of government or the private sector are required to spend in order to comply with the mandate or prohibited from raising in revenue.

There are three major components to UMRA. One addresses agency regulatory responsibilities. A second directs the Advisory Council on Intergovernmental Relations (ACIR) to undertake certain studies with respect to existing mandates (ACIR was defunded by Congress in fiscal year 1997). The third contains congressional procedures for the consideration of legislation containing federal mandates.

#### PROCEDURES IN THE HOUSE AND SENATE

UMRA's congressional procedures are found in sections 423 through 426 of Part B of title IV of the Congressional Budget and Impoundment Act of 1974. Sections 423 and 424 outline specific reporting and estimating responsibilities for congressional committees and the Congressional Budget Office (CBO). Section 425 prohibits the consideration of bills, joint resolutions, motions, amendments and conference reports in the House and Senate if such legislation contains unfunded intergovernmental federal mandates, or if a committee, when reporting a bill or joint resolution, fails to include in either the committee report or the Congressional Record a statement from CBO estimating the direct costs of any mandates (intergovernmental or private sector) contained in the legislation.

DISPOSITION OF POINTS OF ORDER IN THE HOUSE OF  
REPRESENTATIVES

Section 426 prohibits the consideration of any order of business resolution in the House of Representatives that waives points of order against the application of Section 425. It also contains procedures for the disposition of points of order in the House of Representatives. Specifically, the chair will not rule on the point of order. Rather, the chair will put to the House or the Committee of the Whole, whichever the case may be, the “question of consideration with respect to the proposition that is the subject of the point of order.” The question of consideration with respect to each point of order is subject to 20 minutes of debate—10 minutes by the Member initiating the point of order and 10 minutes by an opponent. Following debate on the question of consideration, the Members will vote on whether to proceed with consideration of the bill, joint resolution, amendment, motion or conference report.

UMRA also amended clause 5 of House Rule XXIII (which was further modified by H. Res. 5 at the beginning of the 105th Congress). Clause 5(c) of House Rule XXIII preserves the availability in the Committee of the Whole of a motion to strike an unfunded intergovernmental mandate. Neither a rule restricting amendments nor one waiving all points of order is sufficient to preclude a motion to strike an unfunded intergovernmental mandate unless the rule specifically waives clause 5(c) of House Rule XXIII.

ANALYSIS OF THE LEGISLATION

Sec. 1 establishes the short title as the “Mandates Information Act of 1998”.

Sec. 2 establishes a number of congressional findings with respect to the need for additional information on the costs of Federal private sector mandates contained in proposed legislation.

Sec. 3 outlines the purposes of the bill which are to: (1) improve the quality of the congressional deliberation with respect to proposed mandates on the private sector, by providing the Congress with more complete information about the effects of such mandates, and ensuring that the Congress acts on such mandates only after focused deliberation on the effects; and (2) enhance the ability of the Congress to distinguish between private sector mandates that harm consumers, workers, and small businesses, and mandates that help those groups.

Sec. 4(a)(1) amends Sec. 424(b)(2) of the Congressional Budget Act of 1974 to further require CBO to estimate, when applicable, the aggregate impact of proposed Federal private sector mandates on consumers, workers and small businesses, including any disproportionate impact in particular regions or industries. The estimate shall also include an analysis of the effect of proposed Federal private sector mandates on: consumer prices and the actual supply of goods and services in consumer markets; worker wages, worker benefits, and employment opportunities; and the hiring practices, expansion, and profitability of businesses with 100 or fewer employees.

The phrase “when applicable” in Sec. 4(a)(1) qualifies the requirement that CBO provide estimates under Sec. 424(b)(2)(B) of

the Congressional Budget Act of 1974 in two ways. The phrase is not intended to grant CBO broad discretion to forgo preparing an estimate with respect to consumers, workers and small businesses. It is, however, intended to permit CBO to forgo an estimate of the impact of a Federal private sector mandate on consumers, workers and small businesses if CBO determines that the private sector mandate has no impact on that group or whose impact on that group could not be identified. Therefore, if CBO determined there was no impact on workers, CBO would not be required to estimate the impact on workers, or the specific areas related to workers. The qualification is also intended to permit CBO to forgo an analysis of any of the specific information noted for consumers, workers and small businesses when CBO determines that the impacts on that group do not include that specific area. Therefore, if CBO determined that there was an impact on consumers, but the impact would not affect the supply of goods and services in consumer markets, CBO would not be required to provide an analysis of such affects.

Sec. 4(a)(2) amends Sec. 424(b)(3) of the Congressional Budget Act of 1974 to permit a point of order against consideration of any bill or joint resolution that is reported by a committee if it is not feasible for CBO to prepare a Federal private sector mandates estimate for publication before consideration of the bill or joint resolution.

Sec. 4(a)(3) amends Sec. 425(a)(2) of the Congressional Budget Act of 1974 to prohibit the consideration of any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal private sector mandates by \$100 million or more (adjusted annually for inflation) in the fiscal year in which any of the Federal private sector mandate would be effective or in any of the 4 fiscal years following such fiscal year.

An amendment to Sec. 4(a)(3) of H.R. 3534 adopted by the Committee clarifies that, in the case of a bill, joint resolution, amendment, motion or conference report that provides a net reduction in tax or tariff revenue, the measure's tax and tariff provisions would not be considered in determining the direct costs of Federal private sector mandates only for purposes of a point of order under Sec. 425(a)(2) of the Congressional Budget Act of 1974.

For purposes of illustration, consideration of a bill reported by the Committee on Ways and Means that contains tax or tariff provisions which cause the \$100 million threshold for private sector mandates to be exceeded, but result in an overall net reduction of tax or tariff revenue over a five-year period, would not be subject to a Sec. 425(a)(2) point of order, provided that the bill does not include other non-revenue related Federal private sector mandates that exceed the \$100 million threshold. In contrast, if a bill contains tax or tariff provisions which result in a net increase in revenues, a Sec. 425(a)(2) point of order may apply.

Sec. 4(a)(4) amends Sec. 425(c) of the Congressional Budget Act of 1974 to permit a point of order against legislative provisions in appropriations bills that increase the direct costs of a Federal private sector mandate by an amount that causes the \$100 million threshold to be exceeded.

Sec. 4(a)(5) makes two technical changes to Sec. 426(b)(2) of the Congressional Budget Act of 1974 to conform with established practices by: (1) striking the term “section 425 or subsection (a) of this section” and inserting “part B”; and (2) inserting the word “legislative” before the word “language”.

Sec. 4(a)(6) makes a technical change to Sec. 426(b)(3) of the Congressional Budget Act to conform with established practice by striking the term “section 425 or subsection (a) of this section”. Sec. 4(a)(6) further prohibits the Chair from recognizing Members for more than one point of order with respect to the consideration of: (1) any reported bill or joint resolution in which the reporting committee fails to publish a statement for the Director of the CBO on the direct costs of Federal private sector mandates; or (2) any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of a Federal private sector mandate by an amount that causes the \$100 million threshold to be exceeded.

Sec. 4(a)(7) amends Sec. 427 of the Congressional Budget Act of 1974 to require the Director of the CBO, at the written request of a Senator and to the extent practical, to prepare an estimate of the direct costs of a Federal private Sector mandate contained in an amendment of such Senator.

Sec. 4(b) amends clause 5(c) of House Rule XXXIII to preserve the availability in the Committee of the Whole of a motion to strike private sector mandates unless such mandates are expressly prohibited by the terms of a special order.

#### MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

##### COMMITTEE VOTE

Clause 2(1)(2)(B) of House rule XI requires the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, to be printed in the committee report. No rollcall votes were requested during consideration of H.R. 3534.

##### COMMITTEE COST ESTIMATE

Clause 2(1)(3)(B) of rule XI requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974.

## CONGRESSIONAL BUDGET OFFICE ESTIMATES

Clause 2(1)(3)(C) of rule XI requires the report of any committee on a measure which has been approved by the committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. The following is the CBO cost estimate as required:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 7, 1998.*

Hon. GERALD B.H. SOLOMON,  
*Chairman, Committee on Rules,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3534, the Mandates Information Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Elliot Schwartz.

Sincerely,

JAMES J. BLEUN  
(For June E. O'Neill, Director).

Enclosure.

*H.R. 3534—Mandates Information Act of 1998*

The Congressional Budget Office (CBO) estimates that enacting this legislation would result in no significant costs to the federal government. The bill would not affect direct spending or receipts: therefore, pay-as-you-go procedures would not apply. H.R. 3534 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA) and would have no impact on the budgets of state, local, or tribal governments.

H.R. 3534 would amend the Congressional Budget Act to change certain duties of CBO under UMRA. Specifically, the bill would require CBO to provide additional information when it determines that a bill contains a private-sector mandate with costs exceeding the threshold established in UMRA. That information would include the impact of private-sector mandates on consumers, workers, and small businesses (including any disproportionate impact on particular regions or industries.) Further, the bill would make legislation subject to a point of order if it included private-sector mandates with costs exceeding the threshold. Such costs would exclude amounts attributable to tax or tariff provisions, if those provisions did not raise net revenues over the first five fiscal years there were in effect.

Based on the experiences of CBO and the Joint Committee on Taxation (which provides CBO with revenue estimates) in carrying out the provisions of UMRA, CBO estimates that neither agency would incur significant additional costs to implement the changes that would be made by H.R. 3534. The number of bills containing private-sector mandates with costs exceeding the threshold is small, and the additional workload would not be substantial. (Any

increase in costs would be subject to the availability of appropriated funds for CBO and the Joint Committee on Taxation.) In addition, CBO estimates that changes to Congressional procedures would not result in additional costs.

The CBO staff contact is Elliot Schwartz. This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY

Clause 2(l)(4) of rule XI requires each committee report on a bill or joint resolution of a public character to include a statement citing the specific powers granted to the Congress in the Constitution to enact the law proposed by the bill or joint resolution. The Committee cites Article 1, Section 5, which grants each House of Congress the authority to determine the rules of its proceedings.

#### FEDERAL MANDATES

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution that includes any Federal mandate to include specific information about such mandates. The Committee states that H.R. 3534 does not include any Federal mandate.

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 3534 is not intended to preempt any state or local law.

#### OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. The Committee has oversight responsibility for Part B of the Congressional Budget Act of 1974 and finds that, although the Unfunded Mandates Reform Act is working as intended, Congress can benefit from having more complete information about the effects of proposed Federal private sector mandates. The Committee recommends the passage of H.R. 3534 as a means to improve the effectiveness of UMRA.

#### OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted. The Committee on Rules has received no such findings or recommendations from the Committee on Government Reform and Oversight.



## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

## CONGRESSIONAL BUDGET ACT OF 1974

\* \* \* \* \*

## TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

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## PART B—FEDERAL MANDATES

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## SEC. 424. DUTIES OF THE DIRECTOR; STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.

(a) \* \* \*

(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) \* \* \*

(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) when applicable, the impact (including any disproportionate impact in particular regions or industries) on consumers, workers, and small businesses, of the Federal private sector mandates in the bill or joint resolution, including—*

*(i) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on consumer prices and on the actual supply of goods and services in consumer markets;*

*(ii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on worker wages, worker benefits, and employment opportunities; and*

*(iii) an analysis of the effect of the Federal private sector mandates in the bill or joint resolution on the hiring practices, expansion, and profitability of businesses with 100 or fewer employees; and*

**[(B)]** (C) the amount, if any, of increase in authorization of appropriations under existing Federal financial assist-

ance 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. *If such determination is made by the Director, a point of order under this part shall lie only under section 425(a)(1) and as if the requirement of section 425(a)(1) had not been met.*

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**SEC. 425. 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 423(f) before such consideration, except this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(d); **[and]**

(2) *any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal private sector mandates (excluding any direct costs that are attributable to revenue resulting from tax or tariff provisions of any such measure if it does not raise net tax and tariff revenues over the 5-fiscal-year period beginning with the first fiscal year such measure affects such revenues) by an amount that causes the thresholds specified in section 424(b)(1) to be exceeded; and*

**[(2)]** (3) 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 424(a)(1) to be exceeded, unless—

(A) \* \* \*

\* \* \* \* \*

(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 Appropriations 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 re-

ported 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.

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#### SEC. 426. PROVISIONS RELATING TO THE HOUSE OF REPRESENTATIVES.

(a) \* \* \*

(b) DISPOSITION OF POINTS OF ORDER.—

(1) \* \* \*

(2) THRESHOLD BURDEN.—In order to be cognizable by the Chair, a point of order under [section 425 or subsection (a) of this section] *part B* must specify the precise *legislative* language on which it is premised.

(3) QUESTION OF CONSIDERATION.—As disposition of points of order under [section 425 or subsection (a) of this section] *part B*, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order, *except that not more than one point of order shall be recognized by the Chair under section 425(a)(1) or (a)(2).*

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#### SEC. 427. REQUESTS TO THE 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.

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#### CHANGES IN THE RULES OF THE HOUSE OF REPRESENTATIVES MADE BY THE BILL, AS REPORTED

Consistent with clause 4(d) of rule XI which requires that, whenever the Committee on Rules reports a resolution amending or repealing the Rules of the House of Representatives, the accompanying report must contain a comparative print showing the changes in existing rules proposed to be made by the resolution.

Changes in existing Rules of the House of Representatives made by the resolution, as reported, are shown as follows (existing rules proposed to be omitted is enclosed in black brackets, new matter

is printed in italics, existing rules in which no change is proposed is shown in roman):

\* \* \* \* \*

### RULE XXIII

\* \* \* \* \*

#### 5. (a) \* \* \*

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(c)(1) In the Committee of the Whole, an amendment proposing only to strike an unfunded mandate from the portion of the bill then open to amendment, if otherwise in order, may be precluded from consideration only by specific terms of a special order of the House.

(2) In this paragraph, “unfunded mandate” means a Federal **intergovernmental** mandate the direct costs of which exceed the threshold otherwise specified for a reported bill or joint resolution in section 424(a)(1) *or (b)(1)* of the Congressional Budget Act of 1974.

\* \* \* \* \*

### VIEWS OF COMMITTEE MEMBERS

Clause 2(l)(5) of rule XI requires each committee to afford a three day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although neither requirement applies to the Committee, the Committee always makes the maximum effort to provide its members with such an opportunity. The following views were submitted:

## DISSENTING VIEWS

Today, the Rules Committee marked up legislation extending the unfunded mandate point of order to the private sector. We have questions about the Dreier amendment which was added at the last moment to exempt tax revenues.

The Dreier amendment ignores the spirit of this bill, which is to force Congress to think twice before we impose *any* burden on private companies and individuals. The point of order triggers a debate and a vote on a question of consideration; it makes Congress take notice and make an informed decision about whether to proceed.

The Dreier amendment changes the whole landscape. It says we should ignore real costs to private companies and individuals so long as the revenue generated is fully spent in tax or tariff reductions. A tax on coal deserves debate on its own but if its coupled with a tax break for ethanol, the coal tax is suddenly not a burden worthy of Congress's attention. That goes against the fundamental purpose of this bill, which is to make Congress reconsider whether it wants to impose *any* private sector burdens.

The Dreier amendment says we have to know how the revenue is spent before we know whether a tax or tariff is a burden. And the Dreier amendment evaluates how the revenue is spent based on a simple-minded mantra that every tax break is good and every government check is wrong. Consider what this attitude means for excise taxes—like taxes on gas, airports and tobacco—where many believe that the revenue generated should be dedicated only to certain spending programs. If a measure increases gas taxes and requires that the money be spent on highway construction only, the measure would be subject to an unfunded mandates point of order. However, if the exact same gas tax increase is completely offset by a provision to allow billionaires to avoid any federal tax liability, then the point of order does not apply. An aviation tax increase is a burden if the money is spent to improve airports but it is not a burden if the money is used to pay for an unrelated tax cut. Think about a tobacco measure that raises cigarette taxes and spends even a portion of that money on programs to prevent teen-age smoking, on health care costs and health care research, and on aid to tobacco farmers. That bill is subject to a point of order. But under the Dreier amendment, if the tobacco revenue is given away in full through tax breaks to the wealthy, then the point of order will not apply.

JOE MOAKLEY.  
TONY HALL.  
MARTIN FROST.  
LOUIS SLAUGHTER.

