

An amendment by Representative SANDERS on laws relating to minimum standards for labor protections;

An amendment by ranking member COLLINS of Illinois to exclude laws relating to airport security;

Amendments by Representative SPRATT to exclude laws relating to Medicare and nuclear regulation; and

An amendment by Representative BARRETT to exclude sentencing guidelines.

It is difficult to see the logic in excluding laws which would seek to transfer the burden for our national defense to the States from the application of the bill, but not exclude laws which are designed to protect all Americans such as those described above. During the course of debate, it was contended the law merely requires an affirmative vote for unfunded mandates, but as the discussion above indicates, unless the law is amended, protections of average Americans, children, seniors, pregnant mothers, and others could be jeopardized.

Extending the bill's provisions to laws of general applicability to the private sector could lead to undesired consequences. The definition of an intergovernmental mandate is so broad that many laws directed at the private sector could be thwarted because of their indirect effect upon the public sector. In addition, in cases which the private sector competes with the public sector in enterprises such as power generation, the private sector enterprises could be placed at a competitive disadvantage.

Some examples of these laws were brought up at the hearing. An increase in the minimum wage law could be defeated by a point of order if funds were not provided to pay for the increased costs for State and local employees, unless the law exempted State and local employees.

Laws designed to protect investors in derivatives could be thwarted if they were made applicable to municipal purchasers if it could be found to be an unfunded mandate.

Laws which establish various protections for workplace safety would either have to fund State or local government costs of compliance or exempt those governments from compliance.

These results seem directly contrary to two principles that have broad support in the Congress. First, the House approved H.R. 1, the Congressional Accountability Act to make a variety of private sector laws applicable to Congress. Why are we now passing a law that would provide one set of protections to private sector workers and fewer protections to public sector workers?

Second, why are we giving public sector enterprises, such as power generators, natural gas pipelines, and waste treatment facilities a competitive advantage over private sector enterprises? If this unequal treatment is not resolved, it is foreseeable that private sector enterprises will over time be converted to public sector enterprises.

Mandates designed to protect States from harmful effects caused by neighboring States should be excluded from this act. An amendment by ranking member COLLINS of Illinois was defeated that would exclude from the application of the bill laws that regulated the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of resi-

dents of other States, local governments, or tribal governments, respectively.

Certain Federal laws that place costs on governments are designed to protect residents of neighboring States. For example, as Representative TAYLOR of Mississippi described during the markup, the people of his district located at the base of the Mississippi River are deeply affected by the ways in which States along the Mississippi treat their sewage. Unless the Federal Government was willing to pay the polluting States for the cost of their waste treatment, the Federal Government could not protect the victims of this pollution in neighboring States.

Why shouldn't the polluter pay? Why should this be the responsibility of the victimized State's residents?

This is not a hypothetical situation. All over the country, there is dumping of raw sewage and hospital wastes. Incinerators are blowing toxic smoke over State lines. Unless the Federal Government can act to protect citizens from the pollution caused by their neighboring States, the health and safety of the American people will be jeopardized.

Why are appropriations acts excluded from the application of the bill? One of the more likely examples of an unfunded mandate is an appropriations bill that fails to fully fund a Federal mandate. Yet the bill excludes appropriations acts from the applicability of the legislation.

It is unclear why we would want to exempt this broad category of laws. To the contrary, Members should receive a full accounting from the Appropriations Committee and the Congressional Budget Office concerning the level to which the appropriations fail to adequately fund mandates on State and local governments.

Why should we create a new Federal bureaucracy to study unfunded mandates? Title I of the bill establishes an entirely new commission with funding of \$1 million to study the costs of unfunded mandates. Americans have expressed an interest in less Government, not more Government, yet the first bill that our committee reports establishes another new Government body.

After an amendment by Representative MEEK to eliminate this new commission was defeated, she offered a second amendment to transfer the functions to the already existing Advisory Committee on Intergovernmental Relations. At the request of Chairman CLINGER, Representative MEEK withdrew this amendment.

The new commission would also establish a troubling precedent. The bill calls for the Speaker and Senate majority leader to each appoint three members of the commission, after consultation with the minority leaders. An amendment offered by Representative WAXMAN to have the Speaker and Senate majority leader each appoint three members, and the minority leaders to each appoint one member, as current laws operate, was defeated.

SUMMARY

As described above, many Democrats favor increased scrutiny of unfunded mandates. Particularly at a time, when the Federal Government is seeking to reduce its deficits, the lure of cost shifting to the States must be resisted.

However, in fashioning a responsible bill on mandates, there are important details that have not been carefully addressed. It must be understood that Americans do not wish to see

many programs that are designed to protect their health and safety dismantled because they have now been labeled an unfunded mandate.

In the end the advisability of passing any law cannot be solely determined by a cost estimate by the Congressional Budget Office. Not only are such estimates difficult to make, as the Director of CBO has pointed out, but the other side of the equation must be addressed: namely, the benefits that the legislation will yield.

We must legislate responsibly, particularly in this field. We, not the Director of CBO, must ultimately take responsibility for our actions. While we should require as much information as possible in making our decisions, legislation on this subject must be carefully drafted to avoid unanticipated consequences.

One of the purposes of H.R. 5 is "to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance." Unfortunately, in their haste to enact provisions of the Contract With America, the majority has precluded the kind of informed and deliberate decisionmaking process it professes to promote.

Mr. CLINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LINDER) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5), 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, had come to no resolution thereon.

ADJOURNMENT TO MONDAY, JANUARY 23, 1995

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 259

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 259, a bill