

Testimony



STATEMENT
on the
MANDATES INFORMATION ACT
before the
SENATE GOVERNMENTAL AFFAIRS COMMITTEE
for the
U.S. CHAMBER OF COMMERCE
By
R. BRUCE JOSTEN
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Chairman Thompson and members of the Committee, I am Bruce Josten, Executive Vice President of the U.S. Chamber of Commerce, the world's largest business federation of more than three million businesses and organizations of every size, sector and region. Over ninety-six percent of Chamber members are small businesses with fewer than 100 employees and 83 percent have fewer than 25 employees.

I am here today representing the vast majority of Chamber members who must deal daily with meeting a payroll and the myriad of confusing federal mandates and the burdens they impose. We commend this Committee's interest in making Congress and the government more responsive and accountable to the needs and problems of small businesses.

With this Committee's support, the Senate overwhelmingly passed in 1995 bipartisan unfunded mandates reform requiring Congress to take into account the cost of programs and other requirements it imposes on state and local governments. With the leadership of Senators Kempthorne (R-ID) and Dorgan (D-ND) and Congressmen Portman (R-OH) and Condit (D-CA), the Unfunded Mandates Reform Act (UMRA) also took the first important step of requiring Congress to measure whether a new mandate would impose a \$100 million or more in annual costs to the private sector and make that information public.

Providing better information and allowing Congress the opportunity to reaffirm its support for new intergovernmental mandates with a separate, recorded vote has resulted in greater awareness and more


careful consideration of the costs of new intergovernmental mandates.

However, state and local governments are not the only ones who are affected by the impact of federal mandates on their bottom lines. American households must contend with making ends meet and small businesses must struggle to generate jobs, make their businesses grow and, sometimes, just stay in business. Congress should be required to consider these factors, too. According to economists ranging from Princeton's Alan Krueger to the Urban Institute's John Holohan, the costs of unfunded mandates on the private sector are mainly borne by small businesses, workers and consumers. The mandates' unintended consequences occur in the form of fewer jobs, reduced worker wages and benefits, higher prices and decreased goods and services.

Taken as a whole, mandates stretch the ability of firms to adjust and offset their costs. For instance, legally mandated benefits such as unemployment insurance are not "free" to workers. A range of studies indicate that, on average, 88 percent of the cost of all employer paid government mandated benefit taxes is shifted to workers in the form of reduced cash compensation.

Small businesses also must comply with scores of other government mandates ranging from the Immigration Reform and Control Act, the Employee Retirement Income Security Act (ERISA) to the Family and Medical Leave Act (FMLA). These statutes are motivated by commendable social concerns, however, the cumulative costs of implementation are often overwhelming for small entities whose proportionate compliance costs are significantly higher than large companies.

Small businesses, just like everyone here today, want a safe and healthy workplace. Small business owners live and raise their families where they work. They care about the environment and the needs of their employees who are also their neighbors. However, small businesses find it frustrating that Congress and the government don't seem to understand that federal mandates not only cost money for compliance but time spent figuring out how to comply. Due to limited staff and resources, many small businesses often find it impossible to devote the enormous time and resources necessary to assimilate the ever-growing body of federal requirements that may apply to them.

Congress should not only carefully consider the benefits of government mandates but their burdens and costs to small businesses and the unintended consequences upon working people and consumers. That is why the U.S. Chamber has endorsed and is leading the business community's efforts in support the Mandates Information Act (S. 389) sponsored by Senator Spencer Abraham (R-MI). To date, 29 Senators have cosponsored this legislation. On May 19th, the House passed its companion bill (H.R. 3534) with a bi-partisan vote of 279  132.

The Mandates Information Act would ensure that Congress has better information about potential mandates. It would require the Congressional Budget Office (CBO) to prepare a "Consumer, Worker and Small Business Impact Statement" for bills reported out of committee. Some may argue that the CBO will not be able to provide the economic analysis on the private sector impacts required by this legislation. If CBO can't handle the crush of paperwork in analyzing the legislation, how are small businesses supposed to cope with the burden? However, CBO has analyzed hundreds of proposed public and private sector mandates over the last two years without hampering its performance or the legislative process. The sponsors of the Mandates Information Act worked extensively with the CBO in drafting the impact statement provisions of the bill to ensure that this responsibility could be

fulfilled. According to Director June O'Neill, CBO can provide the analysis required under this legislation and, in some cases, is already doing so.

Extending to the private sector the point of order currently provided for significant public sector mandates would result in more highly focused deliberation of major mandates that Congress intends to impose. According to CBO, it is precisely the point of order procedure that has compelled Congress to give greater consideration to the impact of intergovernmental mandates.

The Mandates Information Act is not about the merits or demerits of new government mandates. As in the case of the Unfunded Mandates Act, it is about a process by which Congress is provided better information, allowed a separate debate and then made more accountable with the actual floor vote.

Others may argue, as they did when the Unfunded Mandates Act was passed, that this legislation will give rise to dilatory tactics. However, based on UMRA's track record that has not resulted. The point of order has engendered greater awareness of cost impacts and resulted in the committees addressing mandate issues prior to floor consideration. The bill would not ban Congress from adopting private sector mandates just as the Unfunded Mandates Act did not end public sector mandates.

Two new factors have arisen that warrant greater congressional scrutiny of the consequences of new mandates on the private sector before they are imposed.

The spending caps of the Balanced Budget Act of 1997 are likely to place even greater pressure on Congress to shift the costs of federal programs off-budget to the private sector. According to the Center for the Study of American Business, the cost of off-budget mandates is estimated at about \$700 billion annually, or an additional \$7,000 annually per American household. It is now more important than ever for Congress to fully disclose and more carefully scrutinize the cost that unfunded mandates may have on both the public and private sectors.

Second, over the next five years, over three million people will move from welfare to private sector payrolls. Small Business Administration (SBA) statistics indicate that small businesses have created 90 percent of the net gain in jobs over the last ten years. This strong trend of job creation is expected to continue in the future. In fact, small business-dominated sectors of the economy are projected to contribute about 60 percent of new jobs between 1994 and 2005. Small businesses want to participate and help ensure the success of the welfare-to-work program. The imposition of new mandates upon the existing layer of government requirements that small businesses contend with reduces the resources available to create these much needed jobs.

The point of order mechanism coupled with the analysis on small business, consumers and workers under the Mandates Information Act would help make Congress far more responsive to the burdens created by ill-considered mandates.

All we seek in this legislation is full disclosure and accountability -- securing an open and honest debate and allowing the public to communicate with Washington on where their limited resources should be spent. Small businesses have the right to know the costs and potential consequences of the new mandates. Requiring Congress to be better informed on the potential costs and economic impacts of new mandates is simply a matter of good government. Based on Congress' experience with the 1995 Unfunded Mandates Reform Act, the Mandates Information Act would allow more highly

focused deliberation in judging the consequences of legislative decisions and facilitate better informed and effective public policy.

We strongly urge this Committee to lend its support and leadership to ensuring the expeditious adoption of the Mandates Information Act. Mr. Chairman and members of the Committee, thank you for the privilege of allowing me to present the Chamber's views on this important legislation.

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