

Sunset for Consent Decrees

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David S. Broder characterized legislation introduced by Sen. Lamar Alexander (R-Tenn.) as a "package of changes" to redress state and local grievances about "unfunded mandates" [op-ed, March 17].

But the Federal Consent Decree Fairness Act has little or nothing to do with unfunded mandates. Sen. Alexander's bill would sunset any federal court judgment to which a state or local government voluntarily agreed as soon as the top elected official who authorized the agreement left office or in four years, whichever period is shorter.

No doubt his bill is aimed at relieving Tennessee's governor of the necessity of persuading a federal district court to modify an outstanding consent decree spelling out Medicaid compliance requirements.

But Medicaid mandates are not unfunded. States receive billions in federal dollars to administer health care for needy children, mothers and nursing home residents. Lawsuits are brought to ensure that states keep their end of the bargain.

Mischief from Mr. Alexander's bill would reach far beyond Medicaid to other federal laws that require partnership with state and local governments. To take one example, in 1998 New Orleans settled a Justice Department Clean Water Act lawsuit by agreeing to modernize an antiquated sewage collection system. This long-term cleanup commitment would be rendered unworkable by the bill's rigid sunset deadline.

Mr. Alexander's bill is aimed at overturning a unanimous 2004 Supreme Court decision that long-term decrees may be modified "if the state establishes reason." If the state cannot provide reason, the court concluded, "The decree should be enforced according to its terms."

Congress should not upend the balance struck by the court. This court-stripping exercise is no answer to the unfunded mandates that concern Mr. Broder.

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