generations of Americans. Entitlements are not rights. Assistance, if needed, must be temporary—2 years and you're out. We need workfare now. If you can work—but won't—don't ask the taxpayer for help. We can no longer afford a government which subsidizes single mothers who continue to have more children. Unwed mothers must identify the fathers of their children and we must rein in deadbeat dads who refuse to support their families.

Mr. Speaker, time is running out, we must act quickly and forcefully to end the liberal welfare state. For the sake of every American, it really is past time to end welfare as we know it.

CONGRESS SHOULD QUIT BICKERING AND GO TO WORK

(Mr. BALLENGER asked and was given permission to address the House for 1 minute.)

Mr. BALLENGER. Mr. Speaker, yesterday I received a call from a very angry constituent who had the unfortunate experience of watching yesterday's House proceedings. His message to me was simply: ''Quit your bickering and get on with it.''

Mr. Speaker, my constituent is right on the money. We do need to get on with it and that is why the renewed conviction I call on my fellow Members to join me in passing a balanced budget amendment.

Because Congress has for years proven incapable of fiscal discipline, only a strong tax limitation balanced budget amendment will force Congress to kick the habit of reckless spending.

I do recognize that Congress has tried in the past to restrain its voracious spending, but somehow these efforts always prove to be in vain. This must not and cannot continue.

The American people have spoken. They want a leaner and less intrusive government. They want us to put our financial house in order. And, finally, they want us to end politics as usual that leads to partisan bickering and gridlock.

NOT ALL MANDATES ARE CREATED EQUAL

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, unfunded mandates have gotten out of control. State and local governments have every reason to be frustrated. They do need relief. But we were elected and have a responsibility to do this right. Too much is at stake to just pass a bill without adequate hearings, without really listening to the people and say it is the answer and just ignore the consequences.

Not every mandate is the same, but this bill paints them all with the same brush. Under this bill, a mandate to prevent communities from dumping toxic chemicals into rivers that then destroy bodies of water like Long Island Sound and an absurd requirement that New York City has to wash its jail cells three times a day are treated alike. Likewise, the authors of this bill make no distinction between mandates to protect our children from abuse and requirements on the format of government reports.

Not all mandates are created equal, and this bill should not treat them the same. Over the next few days, we are going to discuss this issue.

ME TOO, BUT

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, there are some strange new creatures roaming the Halls of Congress these days. I am going to call them Metoobuts because of the peculiar sound they make. We just heard one.

Let me tell you how to spot a Metoobut. Their habitat is on the minority side of the aisle. To flush them out, just make a statement of Republican principle, for instance, ''We want to end unfunded mandates.'' The Democrats, who have never met a mandate they didn't like, will say, ''Me too, but * * *.''

Or say that we Republicans want to balance the budget. The Democrats, who approved all the spending that led to the mess we are in, will say, ''Me too, but * * *.''

We want to shrink the size of Government. ''Me too, but * * *.''

We want a middle-class tax cut. ''Me too, but * * *.''

It is not just a case of the tiger changing his stripes, it is more like the tiger has become a vegetarian.

Mr. Speaker, the American people won't buy this phony conservative conversion by the Democrats and after the American people witness the extraordinary effort we are making to change the Congress and keep our promises, I think the Metoobuts may become an endangered species around here.

NO MEMBER IS ABOVE CRITICISM

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, this morning I awakened to a national news report that a Republican chairman of a major committee has threatened the President of the United States of America. That chairman, Chairman LEACH, threatened that Republicans will withdraw their support for the bipartisan provision to bail out the peso in Mexico if Democratic Members do not stop criticizing the Speaker.

No Member is beyond criticism. No Member should be placed in a special position where we cannot unveil to the American public what we think is going on. The truth must be unveiled. Instead of threatening us, we need an independent investigation.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore (Mr. MCINNIS). Pursuant to House Resolution 38 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1027

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of 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, with Mr. EMERSON in the chair.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, January 19, 1995, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in House Report 104–2 is considered by titles as an original bill for the purpose of amendment. Each of the first four sections and each title are considered as read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Unfunded Mandate Reform Act of 1995''.

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate

and House of Representatives before the Senate and House of Representatives votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates;

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process;

(7) to establish the general rule that Congress shall not impose Federal mandates on States, local governments, and tribal governments without providing adequate funding to comply with such mandates; and

(8) to being consideration of methods to relieve States, local governments, and tribal governments of unfunded mandates imposed by Federal court interpretations of Federal statutes and regulations.

The CHAIRMAN. Are there any amendments to section 2?

□ 1030

Mr. FATTAH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we are right now working on an arrangement under which my amendment would be withdrawn to this section. I ask unanimous consent to take my amendment out of order at a later time.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CLINGER. Mr. Chairman, reserving the right to object, I did not quite hear the gentleman's unanimous-consent request.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. FATTAH] asked that his right to offer his amendment be protected. He is not quite ready for section 2 and wishes to preserve his right to offer his amendment.

Mr. CLINGER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Are there amendments to section 2?

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LOFGREN: In section 2(7), before this semicolon insert the following: '', and that congress shall not impose any Federal mandate on a State (including a requirement to pay matching amounts) unless the State is prohibited under Federal law from requiring, without consent of a local government, that the local government perform the activities that constitute compliance with the mandate''.

Mr. CLINGER. Mr. Chairman, I reserve a point of order against the amendment.

Ms. LOFGREN. Mr. Chairman, I have three amendments that are really very similar in three different sections of the bill. For efficiency's sake only, I ask unanimous consent to consider all three at one time, en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

Mr. CLINGER. Mr. Chairman, reserving the right to object, I do so to find out which amendments the gentlewoman proposes to offer en bloc.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentlewoman from California.

Ms. LOFGREN. The three amendments were printed in the RECORD. It is an amendment to section 2(7) to give rights to local government vis-a-vis State governments on Federal matching programs, an amendment to section 102(a)(1) that does the same thing for the Commission study, and an amendment in section 301 that provides for the same rights of local governments.

Mr. CLINGER. Mr. Chairman, I think I would really prefer that they be offered separately because we are dealing there with three different sections, and one of them actually, I understand, was to title III, and we are presently dealing with section 2.

The CHAIRMAN. Objection is heard.

Ms. LOFGREN. Mr. Chairman, I have been a Member of this body for 16 days, but I served in local government for 14 years and understand from that experience the real problems posed by unfunded mandates.

One of the things I hoped to do as a Member of this body was to support some relief from unfunded mandates. I hoped to be able to vote for a well-crafted bill that would, in a thoughtful and targeted manner, provide relief. Unfortunately, the bill before us today needs further work. The definitions of what is covered as a mandate and who is protected needs clarification. It is my hope that after considering various proposed amendments that will be offered to this bill I will be in a position to enthusiastically support it. The amendments which I am offering are part of the effort to improve this bill.

In all honesty, while Federal mandates that were unfunded did sometimes create problems for the local government in which I served, even greater problems were caused by unfunded mandates imposed by the State of California upon county government. The phenomena is the same as that which has sparked the movement to curtail unfunded mandates at the Federal level.

It is easy to posture and look good if you don't have to assume the responsibility for actually paying for what you do.

While we may all condemn Governors and State legislators who engage in such behavior, for State programs this behavior is beyond the jurisdiction of the Congress to curtail.

However, our jurisdiction is clear when the programs being off-loaded to local governments are Federal programs.

Take for example the AFDC program. Much has been said about a Federal-State partnership on welfare. but in California it is counties who administer the AFDC program, hamstrung as they are by State and Federal bureaucratic rules. The non-Federal share of AFDC is not entirely paid for by State government but is instead shifted to county government as an unfunded mandate. Over the years, the county share has increased without additional revenues provided by State government. The State is now discussing shifting the entire non-Federal share to county government. Mr. Chairman, this is exactly the type of action we seek to avoid in this bill.

Let me share some examples of the magnitude of the existing problem. In Santa Clara County, California's fourth largest, less than 5 percent of the county budget is available for local priorities. In Erie County, NY, of comparable size, only 27 cents of every tax dollar raised locally is available for local priorities.

Counties and cities are at the bottom of the political food chain. Under the unfunded mandates bill before us, States could agree to enter into large Federal matching funds in the future by allowing the non-Federal shares to be foisted off on local governments. When this occurs the problems of unfunded Federal mandates will remain unresolved. And, frankly, given the magnitude of change and potential budget cuts looming in our future, it is reasonable to assume that this problem for local governments will get much worse.

The amendment I am proposing would give some protection to local governments from unfunded Federal mandates. It would allow local governments the same rights in dealing with State government as the bill before us give States in dealing with the Federal Government when Federal matching programs are at issue.

All of the polling data I have reviewed indicate that the most popular level of government is local government. There is a reason for this. The average citizen cannot saunter down to the State House or the House of Representatives. They can easily go down to the city council or board of supervisors and be heard. Action can be immediate. There is another reason why the American people have more confidence in the government that is closest to them.

If we are to ameliorate the terrible problems that face our country, we will need to engage the creativity and energy of communities across this great Nation. This cannot be done from Washington and it cannot be done from a State capital. It has to happen right in a community with local leadership. The American people understand this and so should we.

If we allow Federal mandates to travel down the political food chain to local governments we will help to insure that the local creativity we need to deal with problems never has a chance to get moving. We cannot allow local governments to be saddled with the cost and bureaucracy of federally mandated programs that miss the mark when we need them to be creatively and effectively innovating change.

The committee report says that H.R. 5's purpose is to ''strengthen the partnership between the Federal Government and State and local governments.'' Unless we adopt the amendment which I have proposed, we will fail in this mission. There will be no effective partnership with local government created by H.R. 5. That would be a sad mistake and a disappointing missed opportunity. For true partnership, all parties need both responsibilities and rights. This amendment would give rights along with responsibilities to local governments when Federal matching-fund programs are at issue. I urge passage of the amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] insist on his point of order?

Mr. CLINGER. Mr. Chairman, I do not. I withdraw my point of order.

The CHAIRMAN. The gentleman withdraws his point or order.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, just briefly I would say I certainly am sympathetic with what the gentlewoman is trying to do. I think we have all been frustrated with the fact that the Federal Government has sort of willy-nilly imposed requirements, mandates on States who in turn pass them through to State and local governments. But I do think that this is in effect giving the States a veto power in effect over what we can do here. I think we have extended the reach of what we are trying to do in this legislation much further than I think the intent is, which is not certainly to give the States veto powers in this instance.

So for that reason I would have to oppose the amendment.

Mr. DAVIS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, one of my concerns is in dealing with the coalitions that put this together, including State governments and local governments together, and this of course cuts right through that coalition and breaks it up. There is a huge problem with States mandating on localities, and a number of States in fact have moved to rectify this over the last years, the State of Florida being one, where by referendum the citizens there have stopped the unfunded mandate flow to local governments.

□ 1040

The commission is going to be able to look at this under this legislation, come back and report to Congress, and at that point, I think we will have a basis on which to operate.

I think although the purpose is good here, this is probably premature at this point, and for that reason I think it should be defeated.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Again, Mr. Chairman, I think all of us are very sympathetic to this purpose in the amendment.

I would point out, however, to the gentlewoman from California that this is in the purposes clause, and I think if we were to accept it it would be, in a sense, misleading in the sense this legislation, of course, H.R. 5, does not, indeed, do what this amendment would state. It does not insure that the States do not pass along those costs to the local government.

So I would think that it would be inappropriate to make such a misleading statement in the purposes clause.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentlewoman from California.

Ms. LOFGREN. My intent in offering it in the purposes clause has to do with making later amendments germane and, secondarily, in the entire committee report and hearings we talked about creating partnerships between States, local governments, and the Federal Government, and my point is, and I understand this is a new proposal, and I was not here to work on the old bill, but unless we give some rights to local government on Federal matching fund programs, we will not create a true partnership.

I think it would be a terrible mistake.

Mr. PORTMAN. Reclaiming my time, again, I think those purposes are noble, and I think some of the gentlewoman's concerns will be addressed in a later amendment that she may well offer with regard to the commission in looking at this issue.

I would say again the purposes of this legislation are to deal with unfunded Federal mandates at every level including at the local level, of course, and I think it would be unwise for us to put into the purposes clause that this legislation insures that States cannot do what is within their purview and not within the purview of Congress which is their dealings, their own partnership, as it were, with the local governments.

I would say this would not be the appropriate place to deal with it. I do plan to support the amendment later, I believe, later that the gentlewoman may offer with regard to having the commission look at this issue.

Mr. DREIER. Mr. Chairman, I move to strike the requisite number of words.

I, too, am very sympathetic with the statements made by my new local elected official background colleague from California. But I, too, am concerned, as my friends have said, that this could actually be perceived as the Federal Government imposing a mandate, and it strikes me that as we look at the mandates which have been imposed from the State level into local governments, it is true that they have been very onerous, and it is obvious that local elected officials want to do everything they possibly can to dramatically reduce the imposition of those constraints on local governments.

But it seems to me that for Washington to actually dictate that in any way to the State level would be a mistake. While I am sympathetic with the goal, I do not believe that relying on the Federal Government is the proper place to do that.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. I would just answer to my colleague from California that I think there is a legitimate Federal issue here. The proposed amendment would deal only with Federal programs where a matching requirement is in place.

Under the bill, mandates that are matching are really not covered as mandates, and so we can see a phenomenon in the future such as occurred in the past in California and other States where a State will agree to enter into a program; there is a Federal purpose which is why we are discussing it here today, and agree to assume a share of the cost, because it is a helpful program. That is all well and good so long as that State accepts the responsibility for actually paying their share.

If, however, State government is allowed to essentially dump that burden off to local governments, then really the intent of H.R. 5, which is to have the people who are making decisions be accountable, responsible for what they do will be frustrated. We will not achieve the goal which we seek, and that is why the amendment is limited only to Federal matching programs.

Mr. DREIER. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from California.

Mr. DREIER. I thank the gentlewoman for yielding.

I will simply say that I do have concerns about what would be still interpreted as the Federal Government being involved, even though these are Federal programs imposing what would

be interpreted as a mandate at the State level, and it is for that reason that I am inclined to oppose the amendment, although, as I said, I am very sympathetic with it.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I just want to thank the gentlewoman for yielding.

I rise in support of this. I think this amendment really highlights one of the concerns that we have, and that is to some extent some of the duplicity of the Governors who have come here and talked about unfunded mandates and the burdens that the Federal Government pushes on to the Governors, even if it is for a local purpose and a Federal purpose, and then those very same Governors turn around, do the same to local government in their States. They accept responsibility. Then they decide they cannot handle the financial aspects of it, they turn around to the counties.

In our own State of California, in this last year, we have watched the Governor come and scoop up local revenues, take them to the State level, and then tell the counties that they had an additional burden for mental health and health care of individuals and for probation and all these other programs. They said you have to take care of it, but the money has now gone to the State. That historically has happened in State after State after State. Yet these Governors come to the Federal legislature somehow wanting us to believe that they have clean hands when they come before us and suggest they would never think of such a thing as an unfunded mandate. Yet everybody here who has worked in local government knows it happens to you each and every day.

In California they are so brazen, when the legislature passes an unfunded mandate, they pass boilerplate language that says, ''Under S.B. 90, this is not an unfunded mandate, and do it anyway.'' And that is the situation that the gentlewoman from California is trying to get at is that it is not good enough, if you believe in this arrangement that you are talking about in this legislation.

All you have really done now is made things more difficult for the most local forms of government as they continue to receive these State unfunded mandates, if you will, as the States continue to agree with the Federal Government about the purposes of these programs.

Mrs. COLLINS of Illinois. I would urge all of my colleagues to support this amendment, because if we are really writing this bill to lower the costs of mandates for localities, we just have to recognize that much of these costs are really State mandates, and when States mandate that localities do certain kinds of services without providing those kinds of funds, you do have the passthrough effect that just simply does not make a lot of good sense.

If we are serious about having mandates not imposed on people that are unfunded, then support the gentlewoman's amendment.

Mr. PORTMAN. Mr. Chairman, I move to strike the last word.

POINT OF ORDER

Mr. VOLKMER. Mr. Chairman, point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. VOLKMER. Mr. Chairman, has the gentleman previously spoken on the amendment?

The CHAIRMAN. The gentleman is correct.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition, and I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just one additional point with regard to the comments of the gentlewoman from California.

I think the logical extension of this amendment would then be to say to the counties, for example, that the counties cannot, under Federal law, pass along any mandate to the townships, as an example, and so forth.

I think this gets into an area that is well beyond the scope of the legislation in the sense it is the Federal Government, Congress, mandating what the States do and mandating what the counties do and mandating what the townships do and so on.

I would also say the gentlewoman's amendment would go well beyond this legislation, perhaps beyond at least the way it was described by the sponsor of the legislation, by the sponsor of the amendment, in the sense it prohibits, as I read it, any mandate being imposed on a State. It is a flat prohibition.

As will be discussed later at length in this legislation, this legislation is not a flat ban on all mandates. This legislation sets up a process and provides for a thoughtful debate and then accountability and a majority vote on a waiver of a point of order on a mandate. In other words, there is discussion and informed debate. That is the purpose of the legislation.

Again, I think this amendment in the purposes clause would be misleading at the least, probably more so it would be inconsistent with the rest of the legislation as I read it.

Mr. GOSS. Reclaiming my time, I yield to the distinguished colleague, the gentlewoman from California.

Ms. LOFGREN. I would just say that I think local governments throughout our country place their hopes on us to stand up for them today.

I will offer later today an amendment to ask the commission that is proposed to review this, and I am hopeful there will be support for that and ultimately there will be relief for the cities and counties of America.

□ 1050

But I would argue as well that in the interim we do need to take steps, especially considering the cuts that are likely to occur in this Congress and the very high probability that the budget of those cuts will be shifted to local government and not assumed by the State government and the citizens themselves will be distressed. We will fail in our mission to provide mandates, really which I am very much in favor of after my 14 years on the board of supervisors in Santa Clara County.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GOSS. Reclaiming my time, Mr. Chairman, I yield to the gentleman.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Florida, my friend, for yielding.

Mr. Chairman, I would just point out I think this is one of the pitfalls with the legislation that we have before us. It sort of is the blame game in terms of one unit of government, local, the county governments, and States blaming the other for the challenges and unpleasantness and dilemmas that they face. I think that is one of the problems inherent in this legislation that we have before us with regard to mandates.

I was listening to a debate on public television which my colleague from California was involved in, Mr. MILLER, with the Governor of Ohio, and all of the problems of taxation issues in that State were basically left at the doorstep of the Federal Government, the U.S. Congress. Inherent in this is some of that same aspect. I think, clearly as we deal with Federal law, as States deal with State law, as ordinances in counties deal with the various laws that they have, the issue is there has to be a consideration of the requirements, the expectations that we have, realistically at all of these levels. Quite candidly, as I had stated yesterday on the floor, I think too often the representation is one of confrontation rather than cooperation.

Inherent in our basic documents in the form of Government that we have is the understanding that there is cooperation between the States, between the Federal Government, between the various counties and local governments that make up the response and service to the people that we represent. Unfortunately, I think that this legislation does not, as it is now drafted, come to grips with that. I think it puts in place unrealistic expectations and requirements that simply add layer after layer of bureaucracy. It is as if we are now going to have, instead of working through the local police and State police powers, we are going to have Federal marshals reoccur in these instances. I think it offers real problems.

I think this amendment in the purposes clause is coherent and appropriate. I am surprised the major sponsors of this are reluctant to accept this as one of the purposes, because one of

the purposes is, obviously, to try to develop this cooperative attitude, to have a two-way street with regard to the type of responsibilities and roles of local governments as they relate to the States.

We all understand in our Constitution the unique difference between powers reserved to the States, solely reserved to the States, and the local governments really are not even recognized in that. They are an artifice, in fact, of the States themselves. And, of course, they differ from State to State.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GOSS] has expired.

(On request of Mr. VENTO and by unanimous consent, the gentleman from Florida [Mr. GOSS] was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman may proceed.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I will yield briefly to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding further.

Mr. Chairman, I wanted to summarize by saying that I think that accepting this as a purpose in terms of recognition and really the complaint and the growth of this has been from the grassroots. It has not—the States are late to this particular process, and I think, in most instances, wrong when we are talking about grants in aid, talking about entitlements, the sort of extraordinary basis. Most of those programs are, in essence, voluntary.

In any case, I think this points up the nature of the problem. I am, you, know stunned that there is no recognition or acceptance, at least in the purposes of this, as a problem, and I think the gentlewoman has a good point here, and I hope the Members would agree.

Mr. CLINGER. Mr. Chairman, will the gentleman from Florida yield?

Mr. GOSS. I am very happy to yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Just briefly to say that the objection here is not the intent of what the gentlewoman is trying to accomplish. It is beyond what we have in this bill, which is a point of order would lie against this. This is an absolute veto over the power of us to do anything in this regard. So it is an extension.

Let me assure the gentlewoman, though, that in the proposal I think she is going to offer later in the day relating to the same issue, I think we could be very helpful in that regard, and I think that makes better sense than what we are dealing with here.

Mr. GOSS. Reclaiming my time, I think the chairman has laid it out well. I, too, am a mayor and former county chairman, and I understand the problem of these mandates. I think we have crafted a way here, and we are going in the right direction to get the desired result.

I am particularly mindful of the two very great benefits we are going to get out of this legislation when we are through with it after this very open debate that we are having, is we are going to start having price tags and start having accountability. Both of those are tremendous pluses. We are also going to have trouble with what are the priorities and how much are we going to spend? I think that is the essence of democracy. I think we set up a pretty good system.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, 2 weeks ago I was elected to represent the Committee on Economic and Educational Opportunities with the Republican Governors on welfare reform. The No. 1 issue among the Governors, Republicans and Democrats, was unfunded mandates.

They went through—there are 366 welfare programs, and under the programs—AFDC, of course, is covered by Ways and Means, then food stamps by the Committee on Agriculture, and work programs and so on by the Economic and Educational Opportunity Committee.

Each one of those organizations has got mandates which go down, and we are trying to block grant those. I understand what the gentlewoman is trying to do. The Governors would have us just give them the money without any accountability or responsibility for what the money is used for. That is why I sympathize, but we do it in a little better direction. We do have to hold them accountable for certain areas. We do have to have accounting for the dollars.

But what the problem is, when we give the State unfunded mandates, we blame the States because they are giving unfunded mandates, they have to literally give State mandates because of our mandate. I mean it is a vicious circle. That is what the Governors, Republicans and Democrats, vowed to eliminate because they can be much more efficient in this process.

We look at well-meaning mandates, that we have given, say, for our States, for California, I say to the gentlewoman from California: The Brady bill, the motor-voter bill, endangered species, clean air, clean water, and, yes, even illegal immigration mandates that we fight. We have got to kill these intrusive mandates and focus. For example, in education we only get 23 cents out of every dollar to the classroom. Why? Because of bureaucracy and the burdensome mandates.

I appreciate what the gentlewoman is trying to do, but I have to oppose the amendment because I think there is a better way to do it and we will come up with the amendment. I will support the gentlewoman's further amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. LOFGREN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Ms. LOFGREN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. So many as are in favor of taking this vote by recorded vote will stand and be counted.

Mr. WISE. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WISE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Does the gentleman from West Virginia [Mr. WISE] insist on his point of order?

Mr. WISE. Mr. Chairman, I withdraw the point of order.

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute maximum vote.

The vote was taken by electronic device, and there were—ayes 157, noes 267, not voting 10, as follows:

[Roll No. 22]

AYES—157

Abercrombie	Green	Pallone
Ackerman	Gutierrez	Pastor
Baesler	Hall (OH)	Payne (NJ)
Baldacci	Hastings (FL)	Payne (VA)
Barrett (WI)	Hefner	Pelosi
Becerra	Hilliard	Pickett
Beilenson	Hinchey	Pomeroy
Bentsen	Holden	Poshard
Berman	Hoyer	Rahall
Bishop	Jackson-Lee	Rangel
Bonior	Jacobs	Reed
Borski	Jefferson	Richardson
Boucher	Johnson, E. B.	Rose
Brown (CA)	Johnston	Roybal-Allard
Brown (FL)	Kanjorski	Rush
Brown (OH)	Kaptur	Sanders
Bryant (TX)	Kennedy (MA)	Schroeder
Clay	Kennedy (RI)	Schumer
Clayton	Kennelly	Scott
Clyburn	Kildee	Serrano
Collins (IL)	Kleczka	Sisisky
Collins (MI)	Lantos	Skaggs
Conyers	Lewis (GA)	Slaughter
Costello	Lipinski	Spratt
Coyne	Lofgren	Stark
Danner	Lowey	Stokes
de la Garza	Maloney	Studds
DeFazio	Manton	Stupak
DeLauro	Markey	Tejeda
Dellums	Martinez	Thompson
Deutsch	Mascara	Thornton
Dicks	Matsui	Thurman
Dingell	McCarthy	Torres
Dixon	McDermott	Torricelli
Doggett	McHale	Towns
Doyle	McKinney	Traficant
Durbin	McNulty	Tucker
Engel	Meek	Velazquez
Eshoo	Menendez	Vento
Evans	Mfume	Visclosky
Farr	Miller (CA)	Volkmer
Fattah	Mineta	Ward
Fazio	Mink	Waters
Fields (LA)	Moakley	Watt (NC)
Filner	Mollohan	Waxman
Foglietta	Montgomery	Williams
Ford	Nadler	Wilson
Frank (MA)	Neal	Wise
Frost	Oberstar	Woolsey
Gejdenson	Obey	Wyden
Gephardt	Olver	Wynn
Gonzalez	Ortiz	
Gordon	Owens	

NOES—267

Allard	Bachus	Ballenger
Andrews	Baker (CA)	Barcia
Armey	Baker (LA)	Barr

Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Archer
Ehrlich
Flake
Gibbons
Levin
Lincoln
Reynolds
Smith (MI)
Smith (NJ)
Yates

□ 1117

The Clerk announced the following pair:

On this vote:

Mr. Levin for, with Mr. Ehrlich against.

Messrs. SALMON, COLEMAN, LIGHTFOOT, KLINK, MCINTOSH, and PETERSON of Florida changed their vote from ''aye'' to ''no.''

Mr. THOMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. VISCLOSKY, MCHALE, and TEJEDA changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1120

Mr. FATTAH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the gentleman from Virginia [Mr. DAVIS] and the gentleman from Pennsylvania [Mr. CLINGER] and also the ranking member from the minority party, the gentlewoman from Illinois. We have come to an arrangement whereby I will be withdrawing amendment No. 12. I would like to then move amendment No. 13. That amendment has been agreed to by all sides.

AMENDMENT OFFERED BY MR. FATTAH

Mr. FATTAH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FATTAH: In section 102(a), after paragraph (1) insert the following new paragraphs (and redesignate the subsequent paragraphs accordingly):

(2) investigate and review the role of unfunded State mandates imposed on local governments, the private sector, and individuals;

(3) investigate and review the role of unfunded local mandates imposed on the private sector and individuals;

At the end of section 102, add the following new subsection:

(e) STATE MANDATE AND LOCAL MANDATE DEFINED.—As used in this title:

(1) STATE MANDATE.—The term ''State mandate'' means any provision in a State statute or regulation that imposes an enforceable duty on local governments, the private sector, or individuals, including a condition of State assistance or a duty arising from participation in a voluntary State program.

(2) LOCAL MANDATE.—The term ''local mandate'' means any provision in a local ordinance or regulation that imposes an enforceable duty on the private sector or individuals, including a condition of local assistance or a duty arising from participation in a voluntary local program.

Mr. FATTAH. Mr. Chairman, we have a lot of work in front of us so I will not debate this.

I would like to thank the parties on both sides of the aisle for this amendment being agreed to and would ask for its favorable consideration.

Mr. DAVIS. Mr. Chairman, I move to strike the last word.

Let me thank the gentleman from Pennsylvania [Mr. FATTAH] for offering this. Mr. Chairman, we accept this amendment.

This amendment will allow the Commission that is overseeing to make a report to the Congress within 1 year, to come back and look not only at the effect of Federal mandates on State and local governments but also be able to look at the mandates that States can put on local governments and local governments put on individuals. That would be part of their overall report, as they come back to us.

This will allow that Commission the opportunity to address those issues, which I think is very important.

Mandates that are crippling localities today do not all emanate from the Federal Government. A lot of this is trickled down from the States to local governments as well. This amendment really will allow the Commission to report and give us a data base where we can proceed accordingly.

Mr. FATTAH. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. FATTAH. Mr. Chairman, I do think it is important that we not be opposed to the tyrant but that we be opposed to the tyranny and that if we want to look at this issue that we have, we do it in a broad brush.

I thank the gentleman for his cooperation.

Mr. DAVIS. Mr. Chairman, this addresses many of the concerns of the gentlewoman from California that she had raised on the first amendment. But instead of putting these into the purpose clause, where I do not believe it belongs, it puts it where the Commission can look at that and study these matters and report back to us.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

I seek recognition to speak on behalf of the comments that were made from the gentleman from Virginia.

I do think it is terribly important to set up a structure where we do have constant communication with States and localities. There will be an amendment coming up subsequently where we will ask the Advisory Commission on Intergovernmental Relations to set up that structure.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Virginia, if he sees this as consistent with the points that he was just making.

Mr. DAVIS. Mr. Chairman, I think it is consistent with the points.

Mr. MORAN. Mr. Chairman, I certainly support that. I think it is terribly important, with all of these issues that come before us, that we not operate in a vacuum, that we in fact be guided by State and local leaders to tell us what is working and what is not and how we might make some of these programs work better.

The real motivating force behind this whole unfunded mandate legislation is existing law and existing regulations. So we could accomplish the most by communicating with the people who are most adversely impacted, working with the executive branch to figure out how to most efficiently carry out the original intent of the legislation, not

to apply a cookie-cutter approach, not to be unreasonable, not to be unilateral in our decisionmaking up here in Washington without communicating to States and localities.

If we can do that, and I think the Advisory Commission on Intergovernmental Relations is the ideal group to do that because it is bipartisan, it is fully representative of States and localities, then I think we will have accomplished the principal objective of this legislation, which is that kind of communication within the context of federalism.

□ 1130

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I am pleased to yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I would state that I am very sympathetic to the gentleman's concern about the Commission and the ACIR as being the proper receptacle. There will be an amendment offered in this regard. The Senate has already made that change. I think this will be an addition to the bill which will be very helpful.

Mr. MORAN. Mr. Chairman, I am pleased to hear that.

Mr. Chairman, let me just respond to the chairman of the committee, the gentleman from Pennsylvania. When title I of this bill comes up, Mr. Chairman, I plan to, and in fact I think the gentleman from New Mexico [Mr. SCHIFF], the gentleman from Virginia [Mr. DAVIS], and several others, I am one of the sponsors as well of an amendment that will clarify that ACIR would carry out that function.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I want to take the time very briefly to commend the gentleman from Virginia [Mr. MORAN] for his input into this type of legislation for these good many past years. The gentleman is recognized as a former mayor of Alexandria, who did an outstanding job while mayor of Alexandria, and has through the years worked with these kinds of problems and is very knowledgeable and to the impact that Federal mandates, State mandates, and others have on local government.

Mr. Chairman, I want to commend the gentleman from Virginia for all the work that he has done on this type of legislation.

Mr. MORAN. Mr. Chairman, that is very nice of the gentleman from Missouri, and I appreciate it.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding for a brief minute.

Mr. Chairman, as we try to sort out the federalism, the different functions of the State, the Federal Government, and the local governments, I believe that the Advisory Council on Intergovernmental Relations will play a more crucial role as a result of this amendment offered today. I think this goes for all of us in government working together.

In that regard I think we are prepared to accept the amendment.

Mr. MORAN. Mr. Chairman, I thank the gentleman, and agree with his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. FATTAH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms ''agency'', ''Federal financial assistance'', ''Federal private sector mandate'', ''Federal mandate'' (except as provided by section 108), ''local government'', ''private sector'', ''regulation'' or ''rule'', and ''State'' have the meaning given those terms by section 421 of the Congressional Budget Act of 1974; and

(2) the term ''small government'' means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

The CHAIRMAN. Are there any amendments to section 3?

If there are no amendments to section 3, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. LIMITATION ON APPLICATION.

This Act shall not apply to any provision in a Federal statute or a proposed or final Federal regulation, that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) pertains to Social Security.

The CHAIRMAN. Are there any amendments to section 4?

AMENDMENTS OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer amendments 131 and 132, and ask unanimous consent that they be considered en bloc. Mr. Chairman, I understand Nos. 41 and 42 have been changed to 131 and 132 since last night.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. TAYLOR of Mississippi: In section 4, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert '', or'', and after paragraph (7) add the following new paragraph:

(8) provides for protection of public health through effluent limitations (as that term is defined in section 502(11) of the Federal Water Pollution Control Act (33 U.S.C. 1362(11)).

In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert ''; or,'', and after paragraph (7) add the following new paragraph:

(8) provides for protection of public health through effluent limitations (as that term is defined in section 502(11) of the Federal Water Pollution Control Act (33 U.S.C. 1362(11)).

Mr. TAYLOR of Mississippi. Mr. Chairman, let me begin by thanking the Committee on Rules and the chairman, the gentleman from Pennsylvania [Mr. CLINGER], for bringing this bill to the floor under an open rule so all points of view could be heard as we try to perfect this legislation. I think that is the key word, is that we are trying to perfect this legislation, not to defeat it, because it is a good bill.

We are here today discussing unfunded mandates because in previous years Congress has hastily passed laws without regard to their effect on State and local governments. Laws that we thought would help people actually hurt them, because we did not take the time to see them through. We appear to be doing that again today.

I offer an amendment to H.R. 5, the Unfunded Mandate Reform Act of 1995, to help prevent this mistake from recurring. This amendment will provide for the protection of public health by including sewage treatment regulation in the language of the bill.

Our citizens pay taxes and they want to see positive results. They receive instant gratification when local governments pave the streets, improve the quality of the drinking water, or increase police protection to provide a highly visible deterrent to crime.

Mr. Chairman, wastewater is a different matter. While sinks, showers, and commodes are draining properly, people do not care where it goes as long as it goes away. Therein lies the problem. It does not go away. It is discarded into streams, lakes, rivers, and oceans that carry the stench, the germs, the filth, to some other community downstream.

The Mississippi River drainage basin services 41 percent of the mainland United States. This includes 31 States as well as two Canadian Provinces, an area of 1.5 million square miles. It is the largest drainage basin of the country and is inhabited by 80 million

Americans and over 2 million Canadians. This means that any untreated waste, waterborne disease or filth which enters any body of water in dozens of States will eventually flow past my State and many of your States.

Mr. Chairman, surface filth flows past cruise ships and waterfront recreational areas in towns like Natchez and Vicksburg. Waterborne diseases end up in the drinking water of hundreds of cities who rely on the Mississippi River for their water supply. Small towns, cities, and even large metropolitan areas like New Orleans rely on the Mississippi River for their drinking water.

However, closer to home, those of us who live in Alexandria, VA, should be aware that our drinking water is one tidal cycle away from the wastewater discharge of the city of Washington, DC. If Washington, DC, chooses not to treat its sewage because the mandates have been lifted, it is going in our drinking water tomorrow.

It does not stop there, Mr. Chairman. The most productive commercial shrimping, fishing, and oystering industries in the world are found in the Mississippi River basin. Oysters, for examples, are filter feeders. They pump gallons of water through their bodies every day, and they retain any pollutants in that water. The crabs and shrimp and oysters that are harvested in front of my home town in Bay St. Louis, MS, live in those waters, but they end up on your dinner plates.

As Members can see, there are some things that originate locally but affect us nationally. Just as our Nation should never force its unfunded and unsolved problems on the local communities, nor should the local communities pass their unsolved problems on to communities downstream, and in turn, back to our Nation.

□ 1140

I agree that we have to get a handle on Federal mandates, but to throw them all out makes no sense at all. After all, we could have chosen to be city councilmen, we could have chosen to be State senators, but we chose to be national lawmakers because there is a time and a place for this Nation to make laws to help all of us, to see to it that some of us do not hurt all of us.

The unfunded mandates bill is wise in that we should always know the cost of these laws, but there is a time and a place. After all, when you think about it, the Ten Commandments is an unfunded mandate.

My concern is that since there were no hearings on the bill, clear and concise language needs to be included to ensure that we are not undoing present laws.

These laws exist for a good reason. I was a city councilman when Federal revenue sharing funds were cut back.

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. TAYLOR] has expired.

(By unanimous consent, Mr. TAYLOR of Mississippi was allowed to proceed for 3 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, I was a city councilman when Federal revenue sharing funds were cut out. The biggest issue we faced back then was upgrading the Bay St. Louis sewage treatment plant. Had it not been for Federal mandate, that all-Democratic board would never have voted to clean up our city's wastewater treatment. It is just that simple. The citizens do not see the reward. The problem is passed downstream.

It is just not fair that my city should poison any other city's drinking water, and it is just not fair that some other city like New York should poison New Jersey and that Connecticut should poison the folks downstream from them.

Chicago's drinking water ends up in the Mississippi River. It goes to Natchez, it goes to New Orleans, and when the spillway is open, it flows in front of my house.

I have made what I think is a reasonable request of the chairman of this committee, to see to it that when the Clean Water Act is finally reauthorized, because it has not been reauthorized, that this somehow does not be considered a new mandate, and because Federal funds are going to be cut, and they will be cut when we pass the balanced budget amendment, that the provisions of the bill that say when we cut back on Federal fundings, that the locals no longer have to abide by the law, do not apply to this law, because this is the kind of law that we need to keep on the books.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

I do so reluctantly, because the gentleman from Mississippi and I have had discussion about this problem that he faces, and it is a real one, but I think that the point needs to be made here that on many of the items we are going to be dealing with this morning and this afternoon asking for exemptions for various statutes from the provisions of this legislation are all well-intentioned. In fact, many of these are programs that clearly are very valuable programs, ones that provide for the health, safety, and environment of the country. But what we are saying here is we are not saying they should be exempt from consideration as to the cost.

What is the cost of imposing a mandate, implementing this legislation, and that is what we are asking for, an analysis of the cost.

To exempt out an entire program, meritorious as it may be, should not exempt it from a fair consideration of the cost involved in a mandate involved in connection with that legislation. That I think has to be stressed.

This is not a bill that is retroactive. It is not going to in any way abrogate any of the provisions of the Clean Water Act.

The gentleman does point out the Clean Water Act is in limbo. It has not been reauthorized. It is going to be reauthorized. The chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], has indicated that that is an early subject for reauthorization.

In an attempt to respond to the gentleman from Mississippi's concern, we did adopt an amendment to the bill which we think does address the concerns that he had, and is concern was that where you have legislation where the authorization has expired, that there be recognition that any mandates included in that legislation when it is reauthorized, if there is a gap between the time it expires and the time it is reauthorized, that any mandates included in that would not be affected by the reauthorization, would not, in other words, be treated as new mandates. They would be considered as a carryover from the existing legislation.

Our intent there was to make it very clear that we are in no way trying to look back and eliminate mandates that were imposed in previous legislation. That was not the intent, and we hope that the language in 425(e) which does represent that adjustment would address the concern.

We think the gentleman's concerns are well-founded, but we do think that this language addressed those concerns and says the Clean Water Act and the mandate that are imposed under the Clean Water Act and will be imposed again when the Clean Water is reauthorized in the next month or so would continue, and the same restrictions that exist on upstream communities now will continue and not be affected.

For that reason, Mr. Chairman, I must reluctantly oppose the gentleman's amendment. And I must indicate that I am going to probably oppose most of these statute-specific amendments to this bill because again I would say most of them are very valuable pieces of legislation, but they should not just because of that, because they are so meritorious, be totally exempt from consideration as to the costs that they impose on local governments. I must oppose the amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. If I have time, I would be happy to yield.

Mr. TAYLOR of Mississippi. Mr. Chairman, again I want to thank the gentleman from Pennsylvania [Mr. CLINGER] for bringing this bill to the floor under an open rule. That in itself is certainly a step in the right direction.

We have had this discussion both in publicly and privately. I remain unconvinced that the language that you inserted is clear enough to keep a high-priced lawyer from going to the different cities and different States and saying, "If you fix your sewage treatment plant, you're going to spend millions of dollars. Why don't you put me

on a retainer for $10,000 and I'll keep this tied up in court for so long that it will be past your administration. It will be someone else's problem until you get it fixed.''

But we all know it is not someone else's problem. It is someone downstream's problem.

I ask the gentleman from Pennsylvania [Mr. CLINGER] for the sake of the people in this room to read the language that he thinks addresses the problem. Because I think they are going to find it as ambiguous as I did.

Mr. CLINGER. Reclaiming my time, the language that we refer to and which was adopted specifically as a result of your concerns is 425(e), which says that ''Subsection (a)2 shall not apply,'' that is, the unfunded mandate, shall not apply to any bill, joint resolution—I mean the point of order would not lie against ''any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out''——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER], has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 1 additional minute.)

Mr. CLINGER. ''That reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

''(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

''(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

''(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernment mandate by a corresponding amount.''

I think our intent here was clearly to make it as crystal clear as we can that we are not intending in this way to abrogate or undercut existing mandates in the legislation whether or not it was reauthorized or not.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I am not questioning your intent. We are a nation of law. It is not our intentions that count.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has again expired.

(At the request of Mr. TAYLOR of Mississippi and by unanimous consent, Mr. CLINGER was allowed to proceed for 5 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman continue to yield?

Mr. CLINGER. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, I am not questioning the intent of the gentleman form Pennsylvania [Mr. CLINGER] because I know his intent is correct. But we are a nation of law and it is what is in the law books that count. That language is ambiguous, and there will be reductions in Federal funding in the future just as there have been in the past.

In 1980 approximately, the Federal Government was paying 90 percent of the cost of upgrading wastewater treatment plants locally. Today it is 55 percent where and when those communities are lucky enough to get it.

We are going to pass a balanced budget amendment, I will vote for it, and we will then have to reduce the amount of money we give to the States and cities. It is going to happen.

I think it is very important that since you have a provision in there that says this does not count, if funds are reduced, well, then, we know right off the bat that within a short period of time, funds will be reduced, it will not count, and I think it is important that we have clear and concise language on this one issue.

□ 1150

Mr. CLINGER. Reclaiming my time, the problem is there are many Members who want exemptions from this legislation for a variety of reasons and they are all concerned about the implication of this act on it. But if we exempt everybody's concerns, we will have basically exempted the entire, all of the legislation from the impact of this legislation.

I think none of these programs should be exempt from a consideration of what are the costs that are being imposed. It may well be that the concerns that the gentleman has raised rise to a level where the mandates should indeed be passed throughout the funding, because it is of such overwhelming concern. But I do not think we should exempt anybody from a honest analysis of what are the costs involved.

We are not saying we are going to prohibit this; we are just saying it needs to be considered.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

The problem is not only what the gentleman from Mississippi has raised that there really will be no more money for any new activity at the Federal level with the balanced budget amendment, pay as you go, et cetera, but that the Clean Water Act, which will shortly be reauthorized, will in fact include new activities. So it will fall under this unfunded mandate legislation.

So the provision that says that if it is simply a reauthorization, that will not apply, and in fact I do now know of any reauthorization that has been a strict, pure reauthorization of the existing activity. So the likelihood is all of these new environmental laws will in fact be applicable to unfunded mandates.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I guess we need to make clear in this debate that what we are talking about is a point of order that could be raised against a new mandate, a new mandate in a reauthorization bill. This legislation does not apply retroactively, it only applies prospectively.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. Reclaiming my time, I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, first of all I come from a city, Albuquerque, NM, in which the Rio Grande runs right through the middle of our city, so I understand the issues that are raised by the gentleman from Mississippi.

But I think this amendment should be the place that we emphasize as strongly as possible that the gentleman from Mississippi's statement that we should not do away with all unfunded mandates is in fact not what we do in this bill.

What we do is to allow for a point of order to be raised so that Members of Congress can be made responsible to identify the cost, and to vote on the record with respect to imposing any unfunded mandate on the States, whether it is with regard to effluent into rivers or any other subject. So there simply is nothing in this bill that prohibits the Congress from imposing an unfunded mandate. So all of the references to certain health protections will not take place because there is no money to fund them and so forth, simply does not ring true. We are just saying in this bill that Congress should justify up front and on the record the actions that it is taking.

Mr. CLINGER. Mr. Chairman, reclaiming my time, let me just say it is my view that the substitute language that we put in here basically protects the concern the gentleman has. It will not be subject to a consideration of the cost, and this is my view. But if that is not the case, it still is not true that the concerns the gentleman had would come to pass because we would then consider the cost as against the benefit, and it very well could be that given the high degree of importance of this legislation that we would not pass it through.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has again expired.

(On request of Mr. WAXMAN, and by unanimous consent, Mr. CLINGER was allowed to proceed for 2 more minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield on this very point?

Mr. CLINGER. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, what the gentleman is arguing is prospective legislation could have provisions in it that would deal with this problem. But I do want to point out that the existing legislation before us today says that under existing laws if EPA adopts a regulation to enforce the law that regulation has to be pursuant to an analysis as well, and then the agency would go forward with the regulation, and that can be tied up in court.

So what the gentleman has argued and the gentleman from New Mexico [Mr. SCHIFF] has argued ideally does not apply to that kind of circumstance. Under the existing clean water law, under the existing Clean Water Act, Safe Drinking Water Act, whenever we have an interstate problem, whenever we have a regulation that is promulgated to enforce that law that is already on the books, that could be tied up in courts by the polluter, who would then not want the regulations to go into effect, and they would tie it up on the basis of perhaps the analysis was not done as thoroughly as it may otherwise have been done. They do not even have to have a lot of merit on their side to tie something up in court for a long time, during which a great deal of damage would be done.

Mr. CLINGER. I hear the gentleman's concerns, but what we are talking about is no title II regulatory concern. New regulations would indeed be subject to that provision, but looking back at existing regulations promulgated to carry out the intent of the Clean Water Act.

Mr. WAXMAN. New regulations would not come back to this institution on a point of order. New regulations to be issued by an agency would follow an analysis by the budget people as to the cost, and of course that analysis is only one sided, it is only the cost, not the benefits.

Mr. CLINGER. Regulations that have an impact of over $100 million.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have gotten into the guts of our greatest concern over this legislation, so I would like to pursue this a bit.

I think the gentleman from Mississippi [Mr. TAYLOR] may have the most extreme case. Being at the bottom of the Mississippi Delta and having every other State's sludge flow into his district is of understandable concern.

We know how responsible our Representatives are from Missouri and Ohio, for example, but it is entirely conceivable, given the fiscal priorities, that they may not attach as much concern to cleaning waste water and storm water upstream as Mississippi would.

So we can understand the disparity in responsibility. But I would like to use as an example another one that my friend from Mississippi used of the Potomac River, because we almost all of us cross the Potomac twice a day. Many of us drink, in fact I think everybody in the entire Capitol Hill complex drinks water from the Potomac River.

That water is purified at the Dalecarlia plant. We would like to privatize that plant. This legislation will preclude us from being able to do that, because where there will be an option whether or not to abide by Federal regulations for States and localities, in other words the public sector, all those laws and regulations will apply to the private sector, so it precludes our ability to privatize out that function to a private utility.

But even more importantly, let us consider the Potomac River. I see the gentleman from Fairfax County, VA [Mr. DAVIS], who I know realizes that 10 years ago if one fell into the Potomac River they had to get an immediate tetanus shot and probably resign themselves to some disastrous illness, but that is no longer the case. This is an example where clean water, Federal law and regulation worked. In fact they have beavers; you can fish for bass there. It is relatively clean water. I would not suggest we drink from it without it going through the water filtration plant.

□ 1200

But the fact is that fish and animals can live in the Potomac River. That is a result of Federal law, Federal regulation, and an interstate compact.

Now, under this legislation, since the Clean Water Act will authorize new activities, there will not be enough money under any circumstances to fully fund the cost of implementation of the Clean Water Act. It will become optional to localities.

Now, I will address the point of the gentleman from Ohio [Mr. PORTMAN] and the point of the gentleman from New Mexico [Mr. SCHIFF] in a moment.

But assuming that we abide by the intent of this legislation and we do not impose that unfunded mandate on States and localities, then West Virginia, and we all know how clean the water is from that, and the senior Senator from West Virginia would be the first to tell us that, the fact is it would not have worked if West Virginia had not fully participated, but West Virginia had very little incentive. It was extremely expensive for them.

It would not work for the District of Columbia unless Virginia contributed an enormous amount of money, likewise with Maryland. It only works if there is a Federal requirement that every jurisdiction contribute equally according to their respective responsibility.

Now, what you are going to tell me is that do not worry about this, that in fact knowing this, the logic, the compelling arguments will be strong enough that we reauthorize the Clean Water Act regardless of the fact that it is an unfunded mandate, that we, in fact, do not trigger this option. Jurisdictions can decide whether or not they want to abide by it.

Quite frankly, I think it is entirely likely that there will be an effort on the part of States and localities to get Members of this body to commit that when there is a point of order raised on an unfunded mandate that we will vote against imposing unfunded mandates on States and localities regardless of the issue, and we are going to get a large number of the proportion of this body committed to do that.

We do not want to restrict ourselves in that way.

I think it is entirely appropriate, in fact, it is the only responsible thing to do, to know what the cost is we are imposing on States and localities as well as the private sector. We should do it for the private sector, too.

But we should give ourselves the option of exercising the judgment we were elected to do.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words in opposition.

Briefly addressing the concerns of my friend, the gentleman from Virginia, first of all, the gentleman from Mississippi who offered this amendment has been an ally generally in the unfunded mandate debate, and I think he would understand that to begin to exempt major pieces of legislation from this bill would, in fact, gut its purpose.

Let me be very clear as to what this bill does. With regard to reauthorizations, existing mandates would continue to be exempt from the bill. Only new mandates, and by that, I mean new mandates in a reauthorization context, where there is not funding available.

Let me give you an example. The gentleman from Virginia [Mr. MORAN] has spoken about the possibility of reauthorization of clean air and inappropriate funding. You get credit for any existing funds that are in the system. In other words, you may have a situation where there is a 50-percent cut in funding for a specific mandate. That mandate will only be reduced commensurate to that funding.

Let me be very clear as to what this does. More importantly, all we are saying is that the Clean Water Act, just like every other piece of legislation, should be subject to this same discipline of getting that cost information, getting an informed debate, then Congress can work its will.

The Clean Water Act is not perfect. I happen to represent 100 miles of the Ohio River, so I am very sympathetic to the concerns described by the gentleman from Mississippi and the gentleman from Virginia.

I see in this morning's paper, it talks about mandate overboard. Rockville, MD, in particular, is complaining about lack of flexibility in the Clean

Water Act and some regulations that simply do not apply appropriately to their situation and have resulted in increased costs which are all passed along to the State and local taxpayer.

The Clean Water Act is not perfect, nor is the Clean Air Act, nor are other pieces of legislation.

Why not subject them all prospectively, and remember, this is all prospective, to this same discipline? It seems to me again if we are to open up this bill to all kinds of exemptions, Clean Water Act, wastewater treatment, and so on, we have gutted the whole purpose of this bill.

This is an informational bill and it is an accountability bill.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Virginia.

Mr. MORAN. Using this example, some bodies of water we have cleaned up. The commitment has been made by the Federal Government, the State, and to some extent local and regional governments. Those bodies of water were cleaned up.

You are saying it only applies to additional efforts. But we are talking about other bodies of water that are not cleaned up.

So, in other words, there are different levels of effort being expended by different jurisdictions.

The Clean Water Act is going to not apply to the Potomac River in the way that the original authorization did, but it will apply to a whole lot of other bodies of water I am not familiar with, but where there will have to be increased levels of effort, expenditures, on the part of States and localities to accomplish what we did for the Potomac River, and all of that will fall under unfunded mandate legislation.

If there is not adequate funding, you do have that provision that the executive branch can then determine what it wants to implement, but we are giving over that power to decide what part of this legislation should be implemented, giving it to another branch of government to choose which priorities, which are not necessarily State and locality priorities.

Mr. PORTMAN. Reclaiming my time briefly, this will be done, of course, at the direction of the committees. That is another issue perhaps for another title.

But the point is well taken. I know the gentleman is concerned about unfunded mandates. This a classic example of where we ought to have these mandates looked at carefully. We ought to have a cost-benefit analysis done. We ought to have an informed debate on the floor of the House, and, yes, we ought to have accountability. We ought to have a vote up or down. That is all we are saying.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from Ohio.

Mr. KASICH. I wanted to take a second here this morning, or this afternoon now, and point out to the House and point out to the American people that this work that has been done on this issue, the first substantive and real substantive and meaningful effort to stop unfunded mandates, constructed by the great gentleman from Pennsylvania [Mr. CLINGER], my colleague from Ohio [Mr. PORTMAN], the gentleman from California [Mr. CONDIT], who has worked tirelessly, a Democrat; I know there are more involved on both sides of the aisle. I mean, you think about that today we are going to pass unfunded mandates legislation that gives that committee and the Committee on the Budget the ability to come to this floor and stop the passing of unfunded mandates onto State and local governments.

It is not about talk anymore. It is about doing, and we are doing it with Republicans and Democrats.

They would be the first ones to tell you that this is a big step. We may do more things. We may have to fix this.

But, you know what the bottom line is? We are keeping our word, and we are delivering exactly what our Governors and mayors and the people across the country have been calling for.

Without CLINGER and PORTMAN and CONDIT and DAVIS and JIM MORAN, it would not have gotten done.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Chairman, just trying to reflect on my own experience of having served 8 years in local government, including one term as mayor of a city where we grew that city from 400,000 in population to 560,000 in a 4-year period, as well as having had the privilege of serving as chair of the Committee on Public Works and Transportation in the 103d Congress, let me at this point rise in support of the amendment offered by our very fine colleague, the gentleman from Mississippi [Mr. TAYLOR].

As the gentleman from Mississippi has already illustrated very effectively, the impacts of water pollution know no political boundaries, nor should the solutions to continued water pollution in this country be limited by partisan boundaries.

We are all well aware of various situations where Members have already talked, where sewage that is discharged into a river, lake, or a stream adversely impacts citizens of downstream or adjacent localities and States. For example, New York and New Jersey have received national attention surrounding New York's sewage that shows up on New Jersey's shores; sewage discharges from Detroit, MI, into the Detroit River have impacted Lake Erie and residents in adjacent New York, Pennsylvania, and Ohio, and discharges of sewage from combined sewer overflows in the District of Columbia impact the Anacostia and Potomac Rivers and citizens of Maryland and Virginia.

But these are not isolated problems. Half the people in this great country get their drinking water from surface waters, meaning rivers and lakes. For most communities who draw their drinking water from rivers and lakes, there are other communities upstream discharging their sewage into that same water.

How much one community treats their sewage has a very direct impact on many other communities.

The American people want water that is safe to drink, water that is safe to fish in, and water that is safe to swim in, and water that will not make them sick when the tide comes in.

The American people whose jobs depend on water want that water to be of a quality that will continue to support their jobs. H.R. 5, without the Taylor amendment, would limit the Government's ability to continue protecting public health through ensuring adequate wastewater treatment.

□ 1210

For example, even though H.R. 5 is not intended to apply to current laws, by all accounts it would apply to new requirements. So, for example, it would apply to new requirements on municipal discharges that are necessary to protect downstream residents against significant health impact.

If we have a new outbreak of problems such as the cryptosporidium in Milwaukee, which caused over 100 deaths, we would find it more difficult to respond and to respond quickly.

Now, the Taylor amendment would help preserve the benefits that the American public has realized under the Clean Water Act as a result of more than 20 years of hard work and commitment to improving the quality of our lives through cleaning up the Nation's waters and would allow the country to continue to move forward.

This amendment also points out a fundamental flaw in the reasoning behind this bill. This bill is based on the idea that all so-called mandates, including provisions that impose minimum national standards to protect public health, are bad things for State and local governments. Notwithstanding the lengthy new analyses required by this bill, title III does not provide that the benefits to local governments from mandates should be considered.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 1 additional minute).

The CHAIRMAN. Without objection, the gentleman is recognized for an additional minute.

Mr. MINETA. Many Members on the other side have to talk in other contexts about how we should always fully

consider the cost versus the benefits before we proceed. But in this bill they would require an analysis of everything except the benefits.

Now, Mr. TAYLOR's amendment is a case in point on how mandates often create enormous benefits for local government. A requirement that my city threat its sewage may be a burden, but the fact that the 400 cities upstream also have to treat their sewage is an enormous benefit to my city and to my citizens, and their bill ignores that benefit.

So from my perspective, I have to protect both our cities and our citizens from those who would discharge sewage upstream. I urge all of my colleagues to vote for the Taylor amendment.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. DAVIS. I thank the Chairman.

Mr. Chairman, clean water is a noble purpose, and the current act and its current regulations are grandfathered under this bill. The reauthorization will be grandfathered.

To the extent that the level of funding in the reauthorization or new mandates come in that exceed $50,000,000, they would be subject to the provisions of this act.

Now should that be covered, though, I want to remind my colleagues we still have the flexibility to pass that legislation. We have the flexibility to pass those unfunded mandates.

Nobody is taking away that authority from this Congress. However, we would do this, first, knowing what the costs are going to be, and, second, taking responsibility for sending those costs back down to the States and localities. That is what this act does. But we do not lose the flexibility, the right to do that at all. It is just simply going to be costed out.

It seems to me we will still have the authority to pass the legislation that the gentleman from Mississippi spoke about, but we will know the costs first. More importantly, the cities and the towns in the gentleman's district, my district and other Members' districts are also going to have a preview of what these costs are going to be on them.

Before we shift the burden of paying for these mandates from the Federal Government to local property taxes, we need to understand what those costs are.

What is wrong with making the State and local governments part of the dialogue as we move through this; that is, they look at their respective costs as well?

That is what this does. We do not lose any flexibility to move ahead.

We pass the bill traditionally, and then we pass the buck. There is nothing wrong with any one or two of these mandates taking effect, but what has happened, as the Vice President's National Performance Review showed, in 1992 over 172 unfunded mandates have been taken down to the States and localities.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, as I understand the unfunded mandates proposal, the existing Clean Water Act to protect the public will not be diminished in any way, and the fact that this bill is only prospective in nature, if we come back to have any more expenses in this Congress, whether it is clean water or other items that we come back here, this would not diminish in any way the existing strong laws that we have.

Mr. DAVIS. The gentleman is correct.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Mr. Chairman, would either of the gentlemen be willing to pay the cost incurred to the Federal Government out of their pocket, should this be brought to the court by some city that does not want to fulfill its obligation to clean up its own mess? Do the gentlemen feel that strongly about the bill? Will the gentlemen tell the American public right now that they personally will incur those costs rather than the taxpayers of the United States? If the gentlemen feel that confident about it, I will not offer my amendment, but I do not feel that the gentlemen feel that confident about it. I certainly do not feel that confident about it.

I am trying to protect the people of this country from facing enormous legal expenses that the loopholes in this bill will create.

Mr. FOX of Pennsylvania. Mr. Chairman, can we retake the time?

The CHAIRMAN. The gentleman from Virginia [Mr. DAVIS] controls the time.

Mr. FOX of Pennsylvania. Mr. Chairman, may we——

The CHAIRMAN. The gentleman from Virginia controls the time.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. I thank the gentleman for yielding.

The fact of the matter is every Member of this Congress, Mr. Chairman, wants to make sure we have clean drinking water, and the fact is we have strong clean drinking water laws in the United States that all of us want to see protected. The fact also is that the American citizens do not want us to continue putting onto the States and local governments mandates of great things that we want to do without paying for it. All we are saying, under this new law that is being proposed, is if we are going to have stronger drinking laws that require funding, and some of them do not, we want to make sure that we come back to the Congress and vote on them so the States and localities will not have it passed on to their backs.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from California.

Mr. CONDIT. I thank the gentleman for yielding in order to clarify a point one of my colleagues from California made, trying to be presumptuous enough to tell us what the bill does, that this bill eliminates all unfunded mandates.

Let me assure you this bill does not eliminate all unfunded mandates.

What this bill does is it requires us to have some accountability, for us to have the courage to come to the floor and to waive a point of order if we think it is important enough to do. It also requires us to attach a cost to this stuff.

So you could have an unfunded mandate, you have just got to take some accountability for it. When EPA says something, you have to take the responsibility back home that you passed it. That is what this bill does.

You can have some unfunded mandates if we think it is a national priority, and we probably should. But for someone to tell us that this absolutely says that all unfunded mandates are bad is incorrect and it is a betrayal of this bill.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. DAVIS] has expired.

(By unanimous consent Mr. DAVIS was allowed to proceed for an additional 30 seconds.)

The CHAIRMAN. The gentleman is recognized for an additional 30 seconds.

Mr. DAVIS. I thank the Chairman.

Mr. Chairman, the gentleman from California [Mr. CONDIT] is correct, this does not eliminate, in fact, one unfunded mandate. In point of fact, we are simply getting the costs before us. We are once again starting a dialog with the people, the State and local governments, the local taxpayers who are paying for these through local property taxes, which are much more regressive than the Federal income tax when it comes to paying this. We will have that in mind, we will have that on the record before we proceed.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. DAVIS] has expired.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. I thank the Chairman.

Mr. Chairman, I rise in strong support of this amendment offered by the

gentleman from Mississippi [Mr. TAYLOR]. Mr. TAYLOR is a fine member of the Committee on Government Reform and Oversight, and he has given considerable investigation to this matter. He has looked into it, he has done studies that reach all across this Nation. As a matter of fact, he has discovered, as we all have, that wastewater treatment is fast becoming one of the most important issues facing every State in this country.

In its most recent survey, EPA estimated that the needs of States for wastewater treatment funding have increased from $83.4 billion in 1990 to $137.1 billion in 1992.

□ 1220

This is an increase of $53 billion over just a 2-year period. This increase is due to population changes, deterioration of old sewers, and better water-quality standards.

I ask my colleagues, ''Do any of you realistically believe that, with a balanced-budget amendment looming over us, that Congress will be able to continue funding for wastewater treatment at this current level?'' The answer is absolutely no. Unfortunately the States are going to have to pick up an increasing share of these very expensive costs.

H.R. 5 in its current form will mean that Congress will be unable to require States to absorb almost any part of this increasing cost for wastewater treatment. We do not have to be rocket scientists, or any of us, to figure out what this means. It means that people at every district will be helpless to do anything at all about wastewater that is generated by these States.

This bill effectively ties the hands of Congress to do anything about this very, very serious problem. The polluting States will have no incentive to improve the wastewater treatment because Congress will not be able to mandate improvements in wastewater treatment without full funding. This is an absolute outrage.

The amendment of the gentleman from Mississippi [Mr. TAYLOR] will solve this problem by exempting wastewater treatment and other limitations on this bill. I say to my colleagues, ''If we can't clean up our watewater, why are we here?''

I think that everybody ought to support the amendment of the gentleman from Mississippi [Mr. TAYLOR].

Mr. MORAN. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, to give a specific example, and the gentleman from Virginia [Mr. DAVIS] is the last to raise the point, so let me direct it at him, and he is particularly familiar with the situation that affects all of us in this body because he represented a lot of constituents last year when we had a boiled-water alert. We could not use the drinking water in this area. The Members of Congress that were here last year remember we had to get bottled water. Well, that is because we had excess turbidity in the water.

That problem was not adequately covered by the existing Clean Water Act. It has to be covered by the new authorization. It was due to a runoff upstream, not in the District of Columbia that was affected, not in Fairfax County, who had to drink the water, and it was the District of Columbia and Fairfax and Arlington who had to drink the water, but the problem was in another jurisdiction that really has no particular vested interest in spending the money to prevent that runoff. But that runoff meant that we could not use drinking water in this jurisdiction.

That is the problem, and it was not adequately addressed by the Clean Water Act. It has to fall under the new unfunded-mandates legislation because it is new activity, and we do not have the money to fully fund it. That is what we are trying to get at.

I do not argue with the need for unfunded mandates, and the one argument that we keep hearing is, ''Don't worry. When you have a situation like this, the Congress is going to do the responsible thing. We're going to ignore this legislation. There will be a point of order, but don't worry. We'll all vote against the point of order because you can trust us.''

We do not want to set up a situation where the American people have to accept that. Trust us. Let us pass this legislation, and then we will ignore it when it is important, when the legislation applies to important things that are in our best interests. We are trying to avoid that situation.

Mr. DAVIS. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, let me just say to the gentleman from Virginia [Mr. MORAN], my friend and colleague, that there is nothing in this that will prohibit us from going ahead, going ahead with the authorization just discussed, but we are going to know those costs ahead of time, and there is nothing wrong with that. The local match on that, we will know what that is ahead of time. There is nothing wrong. I think that really is basically adding some truth and some sunlight to the way we do business before the people who pay these bills down the stream get sent the bill, which we so often do.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

Mr. SHUSTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], my good friend.

This amendment would create a huge loophole in the bill's protections against unfunded mandates.

I support the Clean Water Act. As chairman of the authorizing committee I can tell my colleagues it has been a very successful Federal environmental program. But we should not exempt the Clean Water Act from this important legislation. In fact, the Clean Water Act is one of the prime examples of unfunded Federal mandates.

The Conference of Mayors tells us that the mandates in place will cost over $29 billion over the next several years, and the Association of Counties says another $6.5 billion will be levied upon them.

Let me make it very clear that the Committee on Transportation and Infrastructure is moving a clean water authorization bill in the coming months. We will have that bill on the floor. That will be the place to have this kind of a debate, and it is very important to emphasize that we may well decide in our deliberations in the committee that there are additional mandates required, and we may well bring those additional mandates to this floor.

But what this legislation today will do for us is it will say that we have got to have a vote. We simply cannot impose upon the American people other unfunded mandates without a vote, and so if in the committee we decide that something is so important that we need an additional mandate, it will be our responsibility to come to this floor and to make that case, and, if we can make that case, then there will be an unfunded mandate, and, if we cannot make that case, we deservedly will be defeated.

So, it is very important that we defeat this amendment, and it is also very important to emphasize that we are only talking in this legislation before us today about future mandates. We are not reaching back and dealing with the mandates that are already on the book. Now some of us think maybe we should be doing that, too, but we are not, and it is very clear to emphasize that we are only talking about future mandates, and indeed there can be future mandates, but only if this House votes in favor of them.

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, I say to the gentleman, ''Mr. SHUSTER, you are a gentleman, and I know that you would in no way ever intentionally mislead anyone. The amendment that I offered does not use the words 'Clean Water Act' because I also am not totally in favor of everything that's in the Clean Water Act. That's why I didn't use the words. I used the words 'effluent limitation.' I made it very specific because there are some things in the Clean Water Act that I would love to see taken out. So when you say''——

Mr. SHUSTER. Reclaiming my time, Mr. Chairman, I would say to my good friend that——

Mr. TAYLOR of Mississippi. I hope you would stand corrected on this.

Mr. SHUSTER. I would say to my good friend, ''That is that the effluent limitation; those terms are terms that are established under the Clean Water Act. Therefore, while you may not use the words 'Clean Water Act' in your amendment, by the very definition of effluent terms this will bring the Clean Water Act under this.''

That is what the experts tell me, and, therefore, we should be very careful that we do not put this further unfunded mandate on the American people without a vote of this House at the time we bring clean-water legislation to the Congress.

□ 1230

Mr. TAYLOR of Mississippi. That is not correct, I will say to the gentleman from Pennsylvania.

Mr. SHUSTER. I would tell my good friend that we then have a disagreement here.

Mr. TAYLOR of Mississippi. No. As a matter of fact, with the amendment——

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] controls the time. Does the gentleman yield to the gentleman from Mississippi?

Mr. SHUSTER. Mr. Chairman, I will say further that my staff on the floor here is indicating that—and these are the experts on clean water, this is the staff that advised us when we wrote the clean water legislation—these experts are confirming to me right now that if this amendment were to pass, then the clean water bill would indeed come under it, and for that reason we should defeat this well-intentioned amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. SHUSTER] has expired.

(On request of Mr. TAYLOR of Mississippi, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, let me make this perfectly clear. I do not want this done in a confrontational manner. You are a gentleman. But I do believe some of the things you said would mislead the Members of this body, and I know you would never intentionally do it. So I would like to point out to the body that as very clearly stated in the amendment, we refer to the Federal Water Pollution Control Act, and this is only a very narrow portion of that, which was also sent to every Member's office, so that no one could be misled into thinking that this is the entire Clean Water Act.

Mr. SHUSTER. Mr. Chairman, reclaiming my time, I would say to the gentleman that I thank him for the respect he gives me, and I give him that same respect. He certainly would not intentionally want to mislead anybody either.

I can only report that the experts on our staff, the ones who have advised us as we have written this legislation, because it is the legislation that came from our committee, have advised us that the Clean Water Act would come under this amendment. So I must rely on the advice from those experts, and I very much respect my friend, the gentleman from Mississippi. We simply have a disagreement here.

Mr. TAYLOR of Mississippi. We have a disagreement, and I think those experts also would not accept any challenge, too, where they would personally incur the costs from the flood of lawsuits that the lack of this language would cause.

Mr. SHUSTER. Mr. Chairman, reclaiming my time, my staff points out to me that the Federal Water Pollution Control Act, which the gentleman referred to, is the Clean Water Act.

Mr. KANJORSKI. Mr. Chairman, I move to strike the commensurate number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

One of the reasons I think we are having this debate on the floor today is the haste with which this legislation was written. Although Mr. KASICH came to the floor and indicated this bill would not be here except for the movement of this committee, I do not know, but I think the gentleman from California [Mr. CONDIT], the gentleman from Mississippi [Mr. TAYLOR], and the gentleman from Virginia [Mr. MORAN] in previous Congresses have worked to provide for some coverage of unfunded mandates. I think most of the membership on the minority side of the aisle agree that we should do something on unfunded mandates.

What I think is happening here is because of the drafting of this bill, we in the minority are trying to call the majority's attention to the fact that the loose drafting of this could work havoc on existing and future legislation that is unrealized or unrealizable at this time. One of the elements we are all talking about—and this is why it is important—first of all, let me say that this is not a bill that just hands out a procedural rule of the House here to make a point of order. If that is what we are doing, we could have amended the rules to accomplish that.

We are passing a statute into the laws of the United States, one of which affects regulatory accountability and reform, as contained on page 16 of the bill. That provides certain mechanisms that can be undertaken by the public sector and the private sector if they feel the standards we are requiring in this bill have not been met by the Federal regulatory agencies. If we are dealing with the EPA or the Clean Water Act, any individual or any governmental entity can hire an attorney and ask for a Federal injunction and argue the case that they have not met the standards required under the statements that have to be laid out in the promulgation of rules and regulations which affect all types of legislation from clean water to clean air.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. Yes, in one moment I will yield to the gentleman when I have finished.

We tried in committee to strike out the idea that we would not have judicial review. We have an amendment coming up on that. If we knew that we were going to have a denial of judicial review here and we were not going to make it the Lawyers' Relief Act of 1995, we would be a lot saner and satisfied on this side because we were not going to work havoc on the American regulatory system. Unfortunately, we do not have that assurance that that amendment will pass. We have not had the cooperation with the majority that they will address judicial review, and as I understand it from a simple reading of this statute, if there is a regulatory agency involved charged under this law to put out statements as to the cost factor, regardless of whether they are absolutely and meticulously correct in meeting that standard, anyone can go to court and ask for injunctive relief dealing with that issue.

Mr. PORTMAN. Mr. Chairman will the gentleman yield?

Mr. KANJORSKI. I certainly will yield.

Mr. PORTMAN. Personally, I would say that speaking for the majority I am absolutely sure we are going to address that issue, and I am confident that when we get to title II, the gentleman and others will raise that issue, and we look forward to that debate on judicial review. This is probably not the time for it. But let me say also, to make it very clear, that judicial review is of the agency requirement here. It is a very limited requirement. It is for regulations after enactment of the legislation, over $100 million, and it asks for a written statement on costs and benefits.

Mr. KANJORSKI. Mr. Chairman, reclaiming my time, if the city of Philadelphia is mandated to put in a waterworks or cleaning system under existing law and in the future a law is passed that would require the standards to be used by the regulatory agency in the enforcement of that order, and it did or did not comply with the standard, it would allow any corporation or any municipality affected by more than $100 million to move into the Federal court system to bring an injunction. We are faced with the problem over here of trying to find out how large an effect this would have and what the ramifications are.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. VENTO. Mr. Chairman, will the gentleman yield? I asked the gentleman to yield earlier.

Mr. KANJORSKI. I will take a very quick question, because I promised the gentleman from Minnesota [Mr. VENTO] I would yield to him.

Mr. PORTMAN. Mr. Chairman, does the gentleman agree that the cost-benefit analysis is a good idea for the agency?

Mr. KANJORSKI. Absolutely. There is no question about it.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield for a further question?

Mr. KANJORSKI. Yes, I yield to the gentleman.

Mr. PORTMAN. Mr. Chairman, is the gentleman aware of the fact that the current executive order issued by President Clinton would require even more agency information to be provided and that information is not regularly provided?

Mr. KANJORSKI. We have no problem with forming intelligence and factual information to be good legislators or good regulators. Our problem is that we do not want to establish the Lawyers' Relief Act of 1995 by giving any American an opportunity to go to this section of the statute and then go and apply it to environmental law or any other law that would require the application of the statute.

Mr. VENTO. Mr. Chairman, will the gentleman yield now?

Mr. KANJORSKI. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think the gentleman from Pennsylvania makes a very good point with respect to the existing laws as opposed to the prospective application of this particular amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired.

(By unanimous consent, Mr. KANJORSKI was allowed to proceed for 2 additional minutes.)

Mr. VENTO. Mr. Chairman, if the gentleman will yield, I think he makes a very good point about what happens to existing law. It is one thing for the executive to revise the rules and regulations process. It is another thing to put this into the law. That is exactly what is being proposed here, 11 or 12. or 13 separate steps in terms of intergovernmental mandates and some 13 or 14 steps with regard to the private sector.

I might say that I do not see dollar limits with regard to the intergovernmental mandates that are in this section that my colleague, the gentleman from Pennsylvania, is pointing out. So these rules and regulations as they apply to the Clean Water Act or the other title that my friend, the gentleman from Mississippi, points out are that we are constantly modifying those. Microcryptosporidium may not have been a problem at one point, but regulations are constantly evolving. In fact, of course, the regulations are the very basis on which the executive implements the laws. Without them, you cannot implement the laws. That is the charge of the administration and the executive branch. As a matter of fact, of course, we are constantly modifying laws.

To suggest that existing laws and existing precepts will be held in place is, I think, either a misunderstanding or misleading to what the effect of what this law and what the effect of this new process is that you are setting up. If this were merely a study—the gentleman has to continue to stand, and I appreciate his yielding—if you were just dealing with existing law and it was static, that would be one thing, but they are constantly evolving, because we do not have perfect knowledge. I think most of us who have worked on this bill have noted that we do not have perfect knowledge.

So in effect you are really setting in place a new framework, and I might say we do not know how it will work. I do not know how CBO is going to fulfill this particular requirement. I think it is extended. I think it needs to be revised, but I do not think it is at all clear that the system you are putting in place is going to develop the type of information effectively.

Mr. Chairman, I thank the gentleman for yielding.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when we have an interstate pollution problem, it is a uniquely Federal responsibility. You cannot ask a government-owned water system, a government-owned incinerator system, or a government-owned powerplant to want to impose more costs on themselves if the pollution is not going to affect them that affects somebody in another State.

□ 1240

They are not going to want to spend that money. Therefore, as a National Government we have to establish the rules. We establish that through legislation, and if legislation places this burden to install pollution control devices of one sort or another, or take measures to reduce pollution, that will require the expenditure to do so. And if it is government-owned, then they have to spend the money and it is called an unfunded mandate, because this legislation deals with government-owned enterprises.

Well, what does that mean in terms of legislation? We have had a lot of discussion about that. CBO will have to go through an evaluation of the costs. That evaluation, by the way, is all one-sided. It is an evaluation of the costs, but not the benefits. They will have to look at anticipated costs to the States, the effect on the national economy, the effect on productivity, the effect on economic growth, the effect on full employment, the effect on creation of productive jobs, the effect on international competitiveness of the United States, future costs of the Federal mandate, disproportionate budgetary effects on particular regions of the country, disproportionate budgetary effects on urban or rural or other types of communities, and disproportionate budgetary effects on particular segments of the private sector.

That is a hell of an analysis. That is an extensive obligation by CBO, which the head of CBO has already indicated to us they do not think they can accomplish.

Well, they will do the best they can. And if it is legislation, someone can make a point of order, and the argument has been well, we can always overturn that point of order by a majority vote. The reality is it is going to require spending money or overturn it by a majority vote, and a lot of people are not going to want to vote for any overturning of the points of order to impose an unfunded mandate, even though it is a clear Federal responsibility because we have an interstate pollution problem.

This same analysis has to be done if it is a regulation to enforce the law. Agencies have to do this instead of CBO. Agencies will not be able to do this adequately. In some way or other they are going to do something improper, or somebody can claim it is improper. And if it is an entity that does not want to control the pollution because they do not want to spend the money, they will hire a lawyer to go into court, and they will say this agency regulation, even though they have done this analysis, is pursuant to an analysis that is not rigorous enough, extensive enough.

The gentleman from Pennsylvania [Mr. KANJORSKI] made an excellent point, if you allow judicial review to question the analysis of the agency, they can be tied up for years, maybe to the point where all the pollution will continue across interstate boundaries.

My point is, whether it is through legislation or through a regulation of existing law, to require that what is an interstate pollution problem be covered by this bill does not make sense. The proposal before us deals with the Water Act alone, and that would exclude anything in terms of effluents affecting one State versus another. That ought to be exempted from both the requirement that it be considered an unfunded mandate if it is new legislation, or through regulation, especially if we are going to have this ability of regulations to be tied up in court.

At least if it is legislation you can argue, I think a weak one, but an argument, that the House can overturn it by a majority vote. If a regulation is adopted by an agency, there is no majority vote anywhere. That is going to be up to the courts, where we are inviting litigation on any agency regulation as long as there is judicial review.

The best way to deal with these problems, which are uniquely Federal responsibilities because we have interstate pollution problems, is to exclude it. Exclude it from being considered an unfunded mandate.

I think it was an interesting argument that we heard a while ago from

the gentleman from Virginia. Many people would argue why should Government agencies and entities be running powerplants? Why should they be running drinking water systems? Let that be privatized.

There is not going to be an incentive to privatize them if the rules are going to be if it is a government-run enterprise the government will have to pay for the costs for that enterprise to reduce pollution.

So I urge support of this amendment. And to keep this in perspective, this should not be covered the way that we would look at other unfunded mandates.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, either this bill is not on the level, or we desperately need the amendment of the gentleman from Mississippi [Mr. TAYLOR]. Because the suggestion is, somehow, when we bump up against the hard question of whether or not we are going to regulate and bring in as a matter of national policy, that effluent be cleaned up from our rivers and our waterways, we will simply overrule the point of order and go on with a majority vote and we will go on about our way, because we recognize national important issues when we see them.

Well, then you cannot have all of the rhetoric about stopping unfunded mandates. Because, in fact, the process that we go through today, the way that we arrived at the Clean Water Act and the 10 years we spent in the reauthorization of the Clean Air Act, is exactly that process. We went through 10 years of hearings, 10 years of combat, 10 years of acrimony, 10 years of scientific studies by the National League of Cities, by the great city mayors, by rural America, by the League of Counties or Organization of Counties. All of these organizations came in and said this is what it is going to cost, you are only paying a part of this, not all of this, back and forth.

But we also knew something else: None of those cities could do it by themselves, and none of them were willing to do it without Federal money. And they also wanted protection from being sued by their neighbor if they could not do it immediately.

So when you look at the Sacramento River or look at San Francisco Bay or the immense problems of the Mississippi, it would make little difference if my hometown of Martinez decided to clean up its sewage before it discharged it into the bay, if the city of Sacramento was not doing that or a huge city like San Francisco was not doing it.

So we wanted to know that if we made this effort, we would benefit from the effort, we would end up with a cleaner bay, as opposed to a cleaner effluent into the bay.

That is why we have national laws that bind us together for this obligation. But we knew and the mayors knew and the county people and the State knew that this was never about the Federal Government paying 100 percent. This was about the Federal Government collecting the taxpayers' money to help these cities meet what was a political problem, an environmental problem in their localities, to clean up the rivers and waterways. And had not the Federal Government provided both the catalyst in terms of the mandate and the catalyst in terms of grants for wastewater cleanup or development block grants that provided additional money or the earmarks in Federal legislation, the rivers and the waterways of this country simply would not have been cleaned up because they were not prepared to go to their local taxpayer and say ''We will pick up 100 percent of the cost.''

What they were prepared to say to the taxpayer was if you will put up some money, we got a way to get some Federal money. You used to call it free, free Federal dollars for wastewater. What we found out is, they are not free. They are coming out of the same taxpayer's pocket. But let us not suggest there is some attempt here to erase history. This is the process. This is the legislative agenda. This is how it works.

We weighed these competing interests, we balanced them out, and in the case of clean air, in the case of clean water, we determined that it was in the national interest to embark upon a program over several decades to clean up our waterways, to keep them clean, and to be able to respond to advantages in technology and knowledge and threats to the safety of our air supply and our water supply.

Now, under this legislation, the suggestion is you could not really do that by regulation, that that would be an unfunded mandate or certainly be challenged such that you would be back in court. The overruling of the point of order only helps you with respect to the legislation. But that is the process.

What you are telling us is you are going to go through that same process, because you are going to weigh that, have the competing studies, have the reports from the agencies, we will put it all on the table, and we will still make a determination.

So the legislation, what the legislation does is dramatically drag out the process and make it far more complicated rather than stopping unfunded mandates.

Now, the other possible thing to do is simply return it all, add up what we spent, the $60 or $70 billion, give it back to the taxpayers over the next 10 years, and let the mayors and city governments make their own decisions about whether or not they think they should do it. But that is obviously unacceptable to them, and it is unacceptable to the Nation as a matter of national policy.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

□ 1250

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I just wanted to point out that 30 years ago or so, when the Federal Government came to this issue of dealing with clean water and clean air and some of the other issues, we had had 200 years of history of States not coming together as compacts in terms of dealing with these issues. Not just that they needed the Federal Government to tell them what to do, but they need us as a framework around which to build the solutions to these particular problems.

As I said yesterday, so often, and again today, so often this is referred to as confrontation as opposed to cooperation. It very much is that. If there was another way to solve this, we are not looking out here, and I do not think this Congress, in the past, has looked for problems that do not exist. They are there. The river, the lake area was on fire. There are problems with the Mississippi River, I know, at the headwaters of it. Even there, there are problems that needed to be dealt with and built around this Federal framework.

What you are doing in this particular legislation is putting special impediments in place. I would further point out that there are numerous exceptions already in this legislation that you find necessary for national security, for accounting purposes. There are seven of them in there, some sort of exclusion for Social Security, whatever that means.

But the fact is, actually presenting this when there is a real history of problems here I think is consistent. I certainly would support the Taylor amendment and thank my friend for his statement and for yielding.

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the problem with the supposition on behalf of the Taylor amendment is that it is a supposition that the subject matter is reducing effluent into rivers and streams; therefore, it is automatically good legislation and good policy and not subject to any kind of practical, including financial, review.

As I have indicated, the Rio Grande runs through the middle of Albuquerque. I am entirely sympathetic to what the gentleman from Mississippi is raising, but there have even been other experiences with our location.

Several years ago the Congress of the United States gave native American tribes in pueblos the power essentially

to enact the water standards for water that passes along their shores to be enforced by the Federal Environmental Protection Agency. A pueblo just south of Albuquerque said the standard they wanted for the Rio Grande was drinking water standards that you ought to be able to drink the water right out of the Rio Grande, and it ought to be healthy and safe.

According to experts I have talked to, the water in the Rio Grande has never been up to that standard, even before any kind of industrialization or buildup in the area occurred, there would be natural contaminants in the river that would make it unsafe, unsafe to drink raw right out of the river. Nevertheless, the Federal Environmental Protection Agency, based upon its understanding of the law that Congress passed, was prepared to enforce that kind of standard on everybody upstream from the pueblo.

What this comes down to is that this is not a subject, because it is an important issue still does not make it a subject that ought to be beyond the scrutiny of Congress, what is being proposed here, what will be gained and what will the cost be.

If the Congress determines in the area of reducing effluents into rivers, a very important subject, that the Congress ought to move here, it is still free to do so, but only after Congress has been made properly responsible and accountable on the issue.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment of the gentleman from Mississippi [Mr. TAYLOR] today, and I do share his concerns about the effects on the sewage-flow laws.

While he talks about the one-third of the continental United States flowing through the home State of the gentleman from Mississippi [Mr. TAYLOR], by way of the Mississippi River, I have to tell you, my home State of Florida is the southernmost State in the continental United States. So like Mississippi, we depend heavily on its natural resources to support our tourism, which is our State's No. 1 industry.

Let me give my colleagues an example of some concerns that I have that potentially has an effect on us in this area. In the Big Bend region, the Suwannee River, which flows south into Florida, is the life source for this region's fish nurseries and any kind of degradation would result in the loss of some of Florida's most important areas of salt water fishing, oysters, which many of us enjoy and like, and are known for, as well as, I might add, our water supply. In fact, some of the counties to the south of me are now even looking at the Suwannee River as a source for their water supply.

I would like to just suggest to my colleagues that I think this debate has been a very good debate, and I think we all realize that this is an issue that the Federal Government needs to make sure that we protect ourselves and our citizens. Even though I still would like to reiterate my support for ending unfunded Federal mandates on our State and local governments, but I am acutely aware of what this does, but there are just some responsibilities that we all must share.

There are some mandates that each State should follow to protect every citizen. And by passing this amendment, we will provide an important safeguard for our American citizens.

Mr. Chairman, I yield to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Chairman, I thank my colleague for yielding to me. I, too, stand in strong support of the Taylor amendment. I think this is logic. This is the real world.

Virtually every community in the United States is downstream from somebody. And we in Florida are downstream from virtually everybody. And it has cost the State of Florida a great deal. In fact, we have funded for many years, through the Subcommittee on Energy and Water of the Committee on Appropriations, a very special project called the Tri Rivers project, in which we are trying to accommodate the problems that exist within three States, Georgia, Alabama, and Florida, as it applies to three major rivers that ultimately end in Florida, into a very pristine ecosystem that would in fact destroy a large part of north Florida in this case, if we do not find some solutions to this.

The problem is thus, the city of Atlanta is essentially wishing to draw off more water off the Apalachicola River than will allow the sustaining of that ecosystem. So we have to look at this from the standpoint of making sure that we do not end up with a huge judicial problem with the courts loaded up with problems between the various states fighting out who is in charge.

I think this amendment takes us into a solution to that, and we have got to spend some time in making sure that this is heard, that all the questions are answered and that we do not end with something that we cannot change ultimately.

I want to make a point though. This is the problem with a lot of water questions. These are not systems that are being worked on without Federal money. A great deal of Federal money is being used to correct the problems we have in the water problems of the United States in general. In fact, what it takes us to is the pertinent setup of partnerships, local, State, and Federal Government working together to solve a national problem. That is what my friend from Mississippi is really focusing on.

We have to, I think, in the process of being Representatives of the United States, to look after the needs and the welfare of the entire United States and not just one small constituency.

So I say to the gentleman from Mississippi [Mr. TAYLOR], I applaud the gentleman for spending his time on this, and I thank the gentlewoman for yielding to me.

The CHAIRMAN. The time of the gentlewoman from Florida [Mrs. THURMAN] has expired.

Mr. PETERSON of Florida. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, let me begin by complementing our chairman pro tempore on his extremely judicious use of his authority today. It really was refreshing to have a bill come to the floor under an open rule and let Members talk about it. I am saying that as a Democrat.

I am asking my colleagues to judiciously use their authority. This is not an attempt to kill the bill. I am going to vote for the bill. This is an attempt to perfect it, an attempt to perfect it that I made in committee, an attempt to perfect it that I have made privately with the gentleman from Pennsylvania [Mr. CLINGER], an attempt to perfect it in conversations I had with the gentleman from Ohio [Mr. PORTMAN], and in conversations with the gentleman from California [Mr. CONDIT].

□ 1300

It is important, Mr. Chairman, that no one community poisons another community. That is the only point we are trying to make.

The point is that the Clean Water Act was not reauthorized. Because it was not reauthorized, it will have to be reauthorized. When it does, it becomes new language. It there creates, in my mind and in a lot of people's minds, the question: Does that mean the wastewater effluent standards for our Nation go out the window, a very fair question to ask.

All we want to do is put language in the bill that says, ''Yes, they will still apply, and all you lawyers out there who would love to sue the Federal Government and get into the taxpayers' pockets by suing them and holding us up in court forever, do not even apply for the funds, because we have made a statement of intent that as far as wastewater is concerned, we will continue to live by the same standards that we have had for about a decade now,'' a very good standard, a standard that has cleaned up the water in front of my home, in front of the home of the gentleman from Florida [Mr. PETERSON], and in front of homes all across the country.

Wastewater is something that starts locally but affects us nationally, and therefore it is a national issue. It is something that we need to point out. I have brought to the attention of reasonable people a problem that reasonable people should solve before it costs us a heck of a lot of money.

Mr. Chairman, I am asking that the chairman will accept this amendment. I hope he will. Should he not do so, I will ask for a recorded vote.

Mr. PETERSON of Florida. Mr. Chairman, the point being made by the gentleman from Mississippi [Mr. TAYLOR] is that reasonable people must sit down and find reasonable solutions, but we must also be very clear in answering all the questions associated with this. I am very concerned with the rapidity with which we are trying to move something as important as this bill through this body. I do not think we are giving this the due process which the American people desire and deserve.

Mr. CASTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will speak briefly, and then I will yield to the distinguished gentleman from Pennsylvania [Mr. CLINGER], hopefully to close out this argument.

Mr. Chairman, I would like to congratulate the gentleman from Mississippi [Mr. TAYLOR]. His amendment is a good one, one which should not be accepted, but I congratulate him for initiating one of the greatest arguments on federalism I have heard on the floor in the time I have been here or seen anyplace.

Mr. Chairman, there is a basic fairness doctrine and issue that I think we have to address as we look at this particular amendment, and as we look at a succession of amendments which are going to deal with the environment, which are going to deal with health care, which are going to deal with a variety of issues which people are going to try to exempt from an unfunded mandate statute and say this should not have gone through it because of the importance of the subject, because it is interstate, or whatever it may be.

The bottom line is that this Congress for many, many years, particularly in the last 25 or 30 years, has used the methodology of unfunded mandates to hand back to the State governments in particular, sometimes other governments, certain responsibilities without sharing the burden of paying for them or only sharing it in part. The local governments have said, A, we cannot afford it, and B, in some instances it does not apply where we are.

State governments are responsible, too. They have handed it back to the counties and municipalities as well, and they also have to deal with this particular issue.

The bottom line is this has been going on for far too long. We could argue the exception of any one of these issues if we wished, but we really need to start addressing it in this particular piece of legislation, which essentially is information and accounting which will put before us and the public, and particularly the Governors and the county executives and mayors and those who are concerned about it, what the costs are and what the issues are. Then we can decide do we move forward in that direction or do we come back and say perhaps we cannot afford to fund this, and it is an unfunded mandate, and we should not go forward, and the public would be better served if we did not.

It makes it a fair argument. It is basically fairness and soundness in government. That is what it is all about.

Unfortunately, an amendment like this, which is extremely well intended, which has some good functions, cannot fall any differently than any other aspects of this. Everything should fall into the same category of being examined.

Therefore, no matter how beneficial the arguments are, no matter how strong and compelling the so-called logic may be, we really need to address unfunded mandates in the Congress of the United States. It is my hope that this amendment would be defeated, and any subsequent amendments would as well.

Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Mississippi [Mr. TAYLOR] indicated he hoped I would accept this amendment. Unfortunately, I am unable to do so. This, I think, is a serious gutting, frankly, of what we are trying to do here.

It has already been indicated if this amendment were to pass we would then move on to consider all pollution, all interstate pollution. It would open a floodgate that I think we would be very wrong to do. This is a prospective only bill. It will not affect anything on the books now.

Second, we dealt with the reauthorization problem. We may disagree on whether that answers the gentleman's problem. I think it does.

Third, this act in no way is going to prevent important national laws from being enacted. They will be enacted. We may well pass on some of the mandates without funding, but there will be an analysis of the cost and the benefits that are involved in that.

Finally, I would just say our partners in this effort, the big seven, the National Governors Association, the Conference of Mayors, the National League of Cities, all of these agencies strongly would oppose this amendment, so I must urge a ''no'' vote on this amendment.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Chairman, I yield to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, to inquire about the schedule for next week.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, we will try to rise today at 3 o'clock. I know Members are anxious to get home to their districts.

On Monday the House will meet at 12:30 for morning hour. Business will begin at 2 o'clock. Any votes ordered on Monday will be postponed until 5 o'clock.

At 5 o'clock the House will resume consideration of amendments to H.R. 5, unfunded mandates legislation. Members should be aware that the House will work late into the night on Monday night.

On Tuesday the House will meet at 9:30 a.m. for morning hour. At 11 a.m. the House will resume consideration of amendments to H.R. 5, and will hopefully complete consideration of the legislation. We will recess at 6 o'clock on Tuesday and reconvene at 9 o'clock for the President's State of the Union Message.

On Wednesday the House will convene at 11 o'clock and we will begin consideration of House Joint Resolution 1, the balanced budget amendment, subject to a rule being adopted.

Mr. Chairman, on Thursday and Friday, if necessary, the House will meet at 10 o'clock in the morning to continue consideration of the balanced budget amendment.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I would first ask whether or not the gentleman believes there will be votes on Friday. I heard the gentleman say that the balanced budget consideration would go into Friday. If it does not go into Friday, if we are able to finish on Thursday, would there be other legislation that would be brought up on Friday?

Mr. ARMEY. If the gentleman will continue to yield, if we finish the BBA on Thursday, we would expect to go pro forma on Friday, with the possible exception of what is currently unexpected emergency legislation that could come up. I think we need to hold that possibility out. However, at this point we would expect that if we complete on Thursday, we would be pro forma on Friday.

Mr. GEPHARDT. Another question, Mr. Chairman, to the gentleman with regard to the loan guaranty on Mexico.

Mr. Chairman, would the gentleman tell me if that is scheduled for next week, or if not, when it might be scheduled? Is there any general idea?

Mr. ARMEY. If the gentleman will continue to yield, Mr. Chairman, as the gentleman knows, this is a very sensitive legislative issue. There are ongoing negotiations where we are trying to arrive at the language that would make it possible for us to act on that. We have not brought these to the point where we can make an announcement at this time. We will, of course, let Members know as soon as we know something.

Mr. GEPHARDT. Mr. Chairman, two additional questions on the balanced budget amendment.

On the balanced budget amendment, could the gentleman let us know the majority's intention with regard to

making amendments in order on the balanced budget amendment?

Mr. ARMEY. Mr. Chairman, if the gentleman will yield further, again, as the gentleman knows, tonight is the deadline for filing. The Committee on Rules intends to meet Monday morning, I believe, and draft a rule. It is our intention, certainly, to grant a rule that is more open and fair than any we have seen on this subject for a long time, but the details of the rule, of course, could not be completed until the Committee on Rules has every request to consider on Monday.

Mr. GEPHARDT. Finally, Mr. Chairman, on the last couple of days the 1-minute speeches have been limited at the beginning of the day. Does the gentleman expect this to continue, or can he tell us if there is a policy?

Mr. ARMEY. Mr. Chairman, if the gentleman will continue to yield, that is, of course, something important to the Members. It is something we are reluctant to do. Our only interest in ever limiting them is only in the interest of getting us quickly to the legislative schedule for the day's work, in the interest of getting Members out as soon as possible. So only when we think it is necessary to facilitate the movement of the day's work for the Members' convenience would we make such a limitation.

Mr. GEPHARDT. I thank the gentleman.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, it was not clear from the statement of the majority leader concerning whether we would be taking amendments on H.R. 5 starting at 2 or shortly thereafter. I think he spoke and said 5 p.m. that he was going to take amendments on H.R. 2. We are not clear on that. I would like clarification. I thank the Democratic leader for yielding to me.

□ 1310

Mr. ARMEY. As the gentleman knows, you cannot postpone or delay votes when you are in Committee of the Whole. If in fact we can work out some understanding regarding the acceptability of amendments that might be offered between 2 p.m. and 5 p.m., we could proceed with that work.

But in the interest of our Members who will be traveling on Monday, we cannot take under consideration an amendment that would require a vote before 5 p.m.

Mr. GEPHARDT. One additional question. Could the gentleman make a prediction on whether or not there might be late votes on Wednesday and Thursday into the evening, or do you know that at this point?

Mr. ARMEY. We will expect to adjourn at a normal hour. I understand there are important time conflicts. I see no reason for us to have any expectation other than a normal adjournment at around 6 p.m. on both those evenings.

Mr. CLINGER. Mr. Chairman, will the minority leader yield?

Mr. GEPHARDT. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. If I may address a question to the majority leader, you indicated that you anticipate that we would be in pro forma session on Friday. In the hopefully unlikely event that we have not concluded action on H.R. 5, would there be any possibility that we would return to H.R. 5 on Friday?

Mr. ARMEY. It is our intention to conclude H.R. 5 before we go to BBA. As we see, there are a great many amendments offered. There are enormous amounts of time being used on each amendment. We stretch out the hours of the working day wherever we can to try to accommodate that.

With the cooperation of the Members, though, it is still our hope and our belief that we can get this matter concluded in a timely fashion, so that it will not postpone our days for consideration of House Joint Resolution 1.

Mr. SOLOMON. Mr. Chairman, will the minority leader yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

I would just like to point out to the membership that the Committee on Rules will be starting the hearing on the balanced budget amendment at 1 p.m. on Monday. I will just point out that already there are more than two dozen substitutes that have been prefiled with the Clerk. That means the hearings are going to last for quite some time. We intend to finish the hearing on the balance budget amendment on Monday, even if we go until midnight.

I would just forewarn the Members about that, because we intend to take up the rule on the balanced budget amendment on Tuesday.

Mr. GEPHARDT. Does the distinguished chairman of the Committee on Rules have any idea at this point of how the rule will be structured, or is that left to the committee?

Mr. SOLOMON. As the Speaker has, I think, confided to you, we want to be as open and as fair as we possibly can. There are almost, I think, two dozen Democrat substitutes. There are six or seven Republican, I believe, and certainly we would like to take you into consultation and determine what would be a fair rule for the House. We would expect cooperation on both sides.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Taylor amendment.

I was listening very closely to my colleague from Pennsylvania. He has not assured me of the concerns that I have on some very important environmental issues affecting my State.

One issue that has been particularly important to the people of this region has been the work that we have done in trying to reclaim the Chesapeake Bay. The Chesapeake Bay has been the work of many States. The State of Pennsylvania, the State of Virginia, the State of Maryland, and the District of Columbia have all been involved in efforts to try to reclaim the water quality of the Chesapeake Bay. It has involved local governments, it has involved the private sector. There is a lot of cooperation.

But with this legislation, we run the risk of stepping backwards in our efforts to reclaim the bay and all of the work that we have done.

Let me just give an example. The nutrient level in the bay is one of our major problems. Water treatment facility plants directly affect the nutrient level in the bay. The Susquehanna River is a major tributary to the Chesapeake Bay.

Unless we have controls on water treatment that affect the Susquehanna, the work that is done by Maryland could be negated. It is only reasonable that we have certain national standards as it relates to multiple jurisdictional waters, such as the bay.

The bay is absolutely critical to the economic life of my State of Maryland, and it is extremely important to the quality of life of the people who live in this region.

I would hope that my colleagues would not want to do anything that would jeopardize the progress that we have made through sacrificing on land use, on fishing in the bay in order to try and bring back the quality of the bay.

Let us not make a mistake. Let us support the Taylor amendment.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support and emphasize as a representative from the State of Texas the value of some very serious efforts that we have made in our community in Houston, TX, dealing with the broader viewpoint of safe water as well as the ability to maintain a healthy condition as relates to wastewater and sewage.

It is not a popular effort for local government to engage in the monumental task of dealing with the repair and rebuilding and the correcting of sewage or sewer problems. It is not something that our constituents care to hear about. But it impacts greatly the broad view of public health and public safety.

We in the broader community of Houston-Harris County have faced the constant need to clean our water and to provide a kind of system that allows for the treatment of sewage and to provide the adequate wastewater system.

I support an effort to avoid unfunded mandates. I have seen firsthand the burdens on towns and cities and county government. But each time that I have spoken to constituents as it relates to

the question of public safety and the wastewater efforts that have been made on behalf of citizens, it is one that they support and advocate, for it clearly is an investment in the long-range improvement of local government and that physical structure.

I would ask the support of excluding those particular needs relating to wastewater, relating to sewage treatment which tend to go unattended to, not because local governments do not care about it because of the multitude of burdens that we have to face, but yet can have long-range negative impact if you have a situation of a violent overrun of sewage in a very poor and improper wastewater system.

Mr. Chairman, let me ask my colleagues to recognize that what we do in this House is long lasting. It remains in place. Let us support being responsive to the issue of unfunded mandates. Let us recognize that there are clear issues that need our special interest and concern.

Mr. BORSKI. Mr. Chairman, I wish to express my strong support for the amendment offered by the gentleman from Mississippi.

This amendment is badly needed and will make this bill work much better.

It is absolutely essential that we give consideration to the damage that can be caused by pollution of the Nation's waters.

The amendment offered by the gentleman from Mississippi would make sure that the health of our Nation's citizens is protected from water pollution.

The health of our citizens is not an issue that should be snarled in legislative wrangling and parliamentary debates.

Instead of subjecting water pollution laws to additional points of order, we should be directing our efforts to make sure that the health of all of our citizens is protected to the greatest extent possible.

Protection from pollution is a basic function of government—all levels of government.

The gentleman from Mississippi deserves congratulations for moving to protect our Nation's citizens from health problems associated with water pollution.

This is an important amendment that has a widespread national impact.

If we fail to adopt this amendment, we will have restricted the ability of Congress—our national legislature—to take action on water pollution. I do not believe the American people want less protection from water pollution.

The Clean Water Act has successfully controlled pollution and cleaned up many of our waterways during the past two decades. We should not be attempting to roll back the clock to the days when many of our Nation's major waterways were dying from pollution.

This amendment means we won't be reducing the protection that has been given to the health of the American people.

Mr. Chairman, I urge support of the amendment of the gentleman from Mississippi.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Mississippi [Mr. TAYLOR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TOWNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a strict 17-minute vote.

The vote was taken by electronic device, and there were—ayes 173, noes 249, not voting 12, as follows:

[Roll No. 23]

AYES—173

Abercrombie
Ackerman
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—249

Allard
Andrews
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Archer
Callahan
de la Garza
Dicks
Johnston
Lincoln
Livingston
McCollum
Reynolds
Stokes
Walsh
Yates

☐ 1334

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. McCollum against.

Mr. BARCIA and Mr. BALDACCI changed their vote from ''aye'' to ''no.''

Mr. LAFALCE changed his vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1340

AMENDMENTS OFFERED BY MR. TOWNS

Mr. TOWNS. Mr. Chairman, I offer two amendments, Nos. 133 and 134, as printed in the RECORD, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. TOWNS: In section 4, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert ''; or'', and after paragraph (7) add the following new paragraph:

(8) regulates the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of residents of other States, local governments, or tribal governments, respectively.

In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert ''; or'', and after paragraph (7) add the following new paragraph:

(8) regulates the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of residents of other States, local governments, or tribal governments, respectively.

The CHAIRMAN. Is there objection to the request of the gentleman from New York that the amendments be considered en bloc?

There was no objection.

Mr. TOWNS. I thank the Chairman.

Mr. Chairman, let me begin by first commending Chairman CLINGER, the ranking member, the gentlewoman from Illinois [Mrs. COLLINS] and all of those who have been involved in this issue. And of course we were involved in this issue last year. But I would like to first point out that what we are doing this time is very different than what we did last year. So what I would like to do is to offer the amendments that I think strengthen the bill because I am trying to find a way to support the bill.

This en bloc amendment is designed to remedy a serious flaw. It would exempt from the coverage of this bill any Federal law or regulation that regulates States and local governments regarding interstate matters that significantly impact the health or safety of the residents of other States or local governments.

The problem is very simple. Suppose one State is dumping raw sewage from a treatment plant into a water supply that is endangering the health of the residents of an adjoining State. Under this bill, if the Federal Government ordered the polluting State to stop dumping the sewage into the water and orders the polluting State to clean up the mess it created, if the cost of the cleanup was a billion dollars, the polluting State would not have to fully clean up the water unless Congress gave them a billion dollars. This is outrageous.

This is not the kind of law that we should be identified with or sending out to other States or municipalities. If the State is deliberately endangering the health of the residents of another State, why should the Federal Government have to pay for that? Why should not it be the responsibility of the polluting State to pay for the mess it created?

As currently written, this bill contains a perverse incentive for the polluting State not to pay for the pollution and health and safety hazards it creates.

It is a disincentive. I think that is the last thing that we should try to create. We highlighted this problem last year. It is not a hypothetical situation. It is real. Interstate health and safety problems exist now, today, all over this country.

In fact, in Oklahoma they had to get a Supreme Court ruling to protect its water standards against downstream pollution from Arkansas.

Just a few years ago, New Jersey residents rightfully expressed concern about New York's hospital wastes washing up on New Jersey's shores. There is also a problem with incinerators blowing toxic smoke across State lines and adversely affecting the health of citizens in adjoining jurisdictions. States like New Hampshire, Massachusetts, Connecticut, and Rhode Island are constantly complaining that their air quality is negatively affected by air pollutants from New York and Philadelphia.

In conclusion, the State that should be held accountable for the creation of the burden is relieved of their responsibilities. They should have the responsibility and should not be allowed to walk away from it. We should not reward States for wrongdoing.

This amendment would prevent an interstate catastrophe. I would urge its adoption.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Chairman, I rise in reluctant opposition to the amendment.

First of all, I would indicate to the gentleman from New York [Mr. TOWNS] that we have discussed this amendment, we are very cognizant of the problems the gentleman is raising.

Mr. Chairman, we come back to what we were discussing on the previous amendment. That is that this would represent an exception, a broader exception, frankly, than the one we were discussing in the last amendment, because this basically, as I understand it, would apply to any legislation, any existing statute or any new statute that affected the public health and safety. That is a broader exemption than would have been contained in the previous Taylor amendment.

I just would make the same points again.

This does not represent in any way an invasion or abrogation or undercutting of existing legislation having to do with public health, safety, environment, or anything else. It is strictly prospective in application.

Second, it is clear that the sort of unique situations that the gentleman from New York talks about could well be the justification for an exception when the matter is debated.

I would come back to what the core of this is; the core of this is to try to establish a new relationship, a new partnership, if you will, between Federal, State, and local governments. There is no intent here in any way to undermine existing health or environmental or safety legislation. There is a provision where a point of order lies against a mandate that does not provide funding. That does not preclude Congress from passing that mandate through to the local governments, but it would require a debate on that, something we never have had before.

In the earlier debate, this does not take into account any of the benefits that might be derived from the mandate. I suggest at this point the only thing we do take into consideration at this point, what the benefits might be; we do not take into account what the costs on local and State governments have been. What this will do is require the costs to be a part of that mixture.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER. I thank the gentleman for yielding to me.

I would simply like to associate myself with the remarks of the distinguished chairman of the Government Reform and Oversight Committee and say what we are creating here in fact is accountability. In the past we have seen the Congress regularly slip provisions into all kinds of legislation, which has imposed a very detrimental—had a very detrimental impact on State and local governments; we in the Congress have no longer been accountable.

As the gentleman says, it is quite possible that this could happen again, but the difference is that we have to say whether we are for it or against it, we have to go on record so that we as an institution and as individuals are accountable to the American people.

I thank my friend for yielding, and I am very supportive of his remarks.

Mr. CLINGER. I thank the gentleman for his contribution.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, I just heard a statement that when one State dumps pollution into another State, the polluting State would not have to clean up unless Congress gave them a billion dollars. That is not accurate, is it, under this legislation?

Mr. CLINGER. That would clearly be an overstatement of what might happen.

Mr. DAVIS. It could happen.

Mr. CLINGER. It could.

Mr. DAVIS. That could happen now, could it not?

Mr. CLINGER. Indeed.

Mr. DAVIS. Even without this act.

Mr. CLINGER. Exactly.

Mr. DAVIS. All we are doing here is accounting and that the individuals,

whether they be States or localities, would have to pay and we would know what the costs are.

Mr. CLINGER. Yes; that does not come into the equation now. We do not have any requirement under existing law to enter into—to have any consideration of the costs. I would stress this is not about the merits or demerits of any program that we are talking about. The programs that the gentleman is addressing on this matter are all meritorious programs.

□ 1350

All we are saying is they should not be exempt from, or excluded from, a consideration of what the cost is, and that may well be that the benefits will be so persuasively presented by those that are promoting it that we would, in fact, pass the mandate through without the funding, but it would require us to be—in a judicious way to look at these proposals and make a determination up or down.

Mr. TOWNS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from New York.

Mr. TOWNS. I ask, ''Didn't this bill say that full funding, in terms of from Congress, in terms of the mandate, is supposed to be full funding? So, if it's full funding, then a State could very easily say, 'I will not move to clean this up unless the Federal Government gives me the money.'''

I think that is what the bill actually says, so my amendment would help to correct that, to say, ''If you are killing people in another State, then it becomes the responsibility of you to stop doing that,'' and I think that is what we are talking about.

There are a lot of situations out there like that, so it is not just one isolated situation. We are talking about situations all over this Nation where this exists, and this bill would prevent that from being dealt with.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER] has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Chairman, first let me say to the gentleman from New York I appreciate all the input he has made to this issue. We would not be here today on the floor if it was not for the gentleman from New York [Mr. TOWNS]. Chairman TOWNS last year in his subcommittee held three hearings on this subject, two field hearings, one in Pennsylvania, one in Florida, and a hearing here in Washington, and in those hearings we flushed out a lot of the issues we are now discussing.

Just addressing quickly the notion of full funding. It is true that if there is not full funding, it is subject to a point of order on the floor. Congress can always waive that point of order by a majority vote, and Congress can work its will in that way and give partial funding, or even no funding, to an important national priority.

Mr. TOWNS. Mr. Chairman, will the gentleman yield one more time?

Mr. CLINGER. I yield to the gentleman from New York.

Mr. TOWNS. I say to my colleague, ''You know, what you're saying, and I think that we are talking about a health issue here, and I think that's the reason why I become very sensitive; you are saying, 'Trust us.' But you know I don't think we can go totally on 'Trust us,' because if you have a State that's doing harm to people that reside in another State, you know there is no real incentive for them to do anything about it.''

So, I think that is the situation we are talking about. So, yes, we would like to trust, but we are talking about people dying, and that is what this issue is all about.

So I would like for the gentleman to think very seriously about adding this amendment because I think it strengthens the bill. I would like to vote for this, but I cannot vote for it knowing that we have this issue out there that could affect a lot of lives if we do not correct it here now.

Mr. CLINGER. I thank the gentleman. I would say to the gentleman that, as the gentleman from Ohio indicated, there is flexibility in the application of this point of order. And I think that the sorts of situations the gentleman talks about could very well be unique situations that would require us to make the kind of decision at the Federal level that he indicates. But at least it would require us, as we are not required to do now, to really look at what we are doing, what the costs are going to be.

That is all we are saying. This is an information vehicle more than anything else.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words

Mr. Chairman, the Constitution assigns to Congress a unique responsibility for regulating affairs among the States. The Founding Fathers correctly anticipated that without a singular Federal power to regulate commerce, travel, and other interstate affairs, this country could not exist as a united nation.

That rational was the genesis of the commerce clause and the supremacy clause in the Constitution. It is also the underpinnings of this amendment. Once Congress abandons its responsibility to protect the health and safety our residents the integrity of our Federal system is jeopardized.

This is why I vigorously support the amendment of the gentleman from New York [Mr. TOWNS]. Under this bill a point of order can be raised against intergovernmental mandates that are not fully paid for by Congress. Thus, a premise behind H.R. 5 is that it is the Federal Government's responsibility to pay States not to pollute.

Under this bill, no State would pay for new requirements mandating it to clean up the air, the water or the environment unless Federal taxpayers foot the entire cost of the cleanup. This turns federalism on its head.

Let me give you a personal observation: The health of my constituents in the seventh district in Chicago was severely effected recently because the city of Hammond, IN, was polluting Lake Michigan, and that polluted water was filtering into the Chicago water supply. If this bill were law, the city of Hammond and the State of Indiana would have no incentive to assist in cleaning up Lake Michigan because sooner or later the Federal Government would mandate a cleanup, requiring full Federal funding.

I for one will not go back to my constituents in Chicago and tell them that I voted to remove my ability to protect them against the polluted water in Lake Michigan.

The supporters of this bill are fond of saying that there is no need to worry about health, safety, and environmental issues since existing mandates on State and local government will not be covered by this bill, but that is only, partially, true. If Congress decides to change essential parts of say our Superfund law to make environmental cleanup more effective, my reading of this bill is that these changes could trigger the bills coverage. The States could then refuse to comply with these changes until Congress pays them to do so.

Let us look at another matter of grave concern in our society. The breast cancer rates in certain cities and areas around the Long Island Sound are some of the highest in the Nation. Studies are now underway to determine the cause. If it turns out, as many believe, that these increases in breast cancer are caused by the deliberate dumping of toxic waste by municipal governments, this bill will severely limit our ability to provide a meaningful remedy. How can we tell women that our hands are tied and cannot help because the Federal Government cannot foot the entire cost of the cleanup. How do we tell pregnant women, like those living at Love Canal, who are still concerned that their unborn children may have birth defects caused by the intentional dumping of toxic waste, that we have legislated away our ability to remedy their problem?

H.R. 5 says that this bill will not apply to laws that are necessary for the ratification of international treaties. Implicitly, this bill says that interstate pollution is less important than treaty ratification. I defy anyone in this House to argue that the ratification of international treaties is more important to the American people than laws designed to protect them from the deliberate dumping of toxic waste from neighboring States.

H.R. 5 exempts from this bill laws that require compliance with accounting and auditing procedures with respect to grants or other money or property. What insane values are we imparting to our children when we say that auditing standards are more important to us than the health or safety of our constituents?

For those of my colleagues who are trying to decide whether to support this amendment, ask yourself this simple question: ''Would your constituents want Congress to stop a neighborhood State from deliberately endangering their health?'' If the answer is yes, then they should support this amendment.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have heard a number of scary stories told here that really do not apply to this legislation, if my colleagues take a look at what we are asking here. First of all, what this legislation is about is it forces Congress to finally be honest with the American people about the programs and the regulations it creates. Taxpayers deserve to know the price of a program or a regulation before they are forced to buy into it. This bill for the first time ever will force us to honestly determine the cost of mandates before we push them off onto local taxpayers.

Also this bill is about accountability. What are we afraid of here? Are we afraid to cost out what these new mandates are going to cost our State and local governments? Are we afraid of being accountable for the costs that then go on in terms of local taxes, raises in property taxes that we end up mandating? This bill for the first time is going to hold us accountable for the decisions we make, but we still have the flexibility, and I think we will exercise it in many of the cases proscribed by the other side of the aisle in terms of these interstate problems that are going to need some kind of Federal direction, some kind of Federal mandate, but at that point we will have the costs in front of us. The individuals are going to be able to pay for this downstream, are going to be aware of this and be part of the dialog. This is really true federalism.

Finally, this bill is about accountability and making Members of Congress stand up and cast recorded votes on substantial mandates with the full mileage of their costs by requiring extensive, extensive information on the costs of these mandates. This legislation is going to make us accountable for what we are too often explained as unintended consequences downstream of these actions.

Taxpayers in my jurisdiction are sick and tired of routinely paying for unintended consequences that should easily be foreseeable by Federal lawmakers. These will put this up front, and we will have the flexibility then to make the right decisions in a more cost-accountant manner.

□ 1400

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, this is a part of a pattern which is rapidly becoming clear to all. We are hearing now on the floor legislation which has not been properly considered in the committees, because of an extraordinary level of haste on the part of all who are together in bringing these matters to the floor.

The amendment offered by the distinguished gentleman from New York [Mr. TOWNS] deserves support. The bill as it is drawn, again upon which no hearings have been held, would simply require that the Federal Government would pay States and municipal units of government for cleaning up their pollution which flowed across the boundary lines of States or municipalities into other States.

For example, California. California would be paid under this for cleaning up its pollution which affects people in Arizona, New Mexico, in Oregon, and other adjacent States.

In New York, New York has been complaining for a long time about the fact that they are affected by acid rain and sulfur emissions from States in the Midwest.

Pennsylvania, from which enormous amounts of pollutants flow into the State of New Jersey, would be paid under this because of Federal requirements compelling it to clean up.

The amendment which we have here simply recognizes a number of important facts. The first is that the Governors of the several States over the years have suggested and insisted to the Congress that this be the practice under which we handled our environmental laws, that we set up Federal standards, and then allow and require the States to apply those standards. Nothing is wrong with that. And indeed all we are compelling is the States and the local units of government to do that which the ordinary duties of citizenship require.

We have prevented the bidding of one State against another for industry and jobs and opportunity by cutting corners on environment, by establishing Federal standards.

This amendment says that you do not have to have the Federal Government pay a State for doing that which it should. I have a letter which I will insert later into my remarks from the Governor of Wisconsin pointing out this same problem. I would remind my colleagues that the problem continues to exist today, that the western part of Michigan, a clean air area, is afflicted by the pollution which is coming from Gary and Chicago and from Wisconsin, from States just across the lake.

This amendment says that the Federal Government may protect the afflicted, may address the problems of the transfer across State borders of pollutants to water, groundwater, to air, or to the environment from one State to another.

I believe that is good policy. Failure to adopt this amendment assures that we will have to readdress this amendment again under the same kinds of irresponsible pressure that we confront today; that we will have to try to undo something which has totally rent the fabric of cooperation which we have built since the 1950's on clean air and clean water; and the protections we have had for the environmental protections of the people of this country.

It is not too much to expect that States will clean up their mess without being paid by the Federal Government. We do not require that the Federal Government compensate industry for that kind of action. Why is it that we would then say a State may set up a municipal waste dump, a hazardous waste dump, an electrical utility generating system, or a nuclear facility, without requiring the Federal Government to pay for them to take the steps that they should take simply as good citizens, and as we would impose on any ordinary person, or as we would impose upon any corporation?

I see over there on that side of the aisle many who were supporters of the Clean Air Act in times past. They would come to me and say ''DINGEL, why don't you support a stronger piece of legislation in the Committee on Energy and Commerce?'' I said because I want to be careful about how we proceed. I want to be sure as we go through this legislation, that we are not going to impose excessive or unwise burdens that are going to impair the competitiveness or the well-being of this country or its industries. But to take the opposite step and say now we are going to compel the Federal Government to pay for this kind of irresponsible conduct on cleanup, is unwise, unnecessary, and establishes a dangerous precedent.

GOVERNOR TOMMY G. THOMPSON,
STATE OF WISCONSIN,
December 15, 1989.

Hon. JOHN DINGELL,
Chair, House Energy and Commerce Committee, Washington, DC.

DEAR CONGRESSMAN DINGELL: I strongly support Congress' efforts to pass Amendments to the Clean Air Act which will improve air quality throughout the nation. However, I have some concerns about the impact of some of the proposed Clean Air Act provisions currently before Congress on Wisconsin.

Achieving equity and fair treatment for Wisconsin is my primary concern. This underlies many of the concerns I have with H.R. 3030. For example:

1. Proposals regarding measures to attain ambient air standards do not take into account ozone and volatile organic compound transported into Wisconsin from out of state;

2. Toxic substances provisions would, in effect, ''penalize'' our state for moving ahead with state-mandated control strategies; and

3. Acid rain reduction proposals do not consider Wisconsin's early, independent and substantial acid rain controls.

In addition, I have enclosed a report prepared by the Wisconsin Inter-Agency Clean Air Act Working Group which more fully describes my concerns, the potential impacts of these provisions on Wisconsin, and recommendations for changes. They are as follows:

I. ATTAINMENT OF AMBIENT AIR STANDARDS

1. Congress should formally establish a Lake Michigan Airshed Interstate Transport Commission and require EPA to abide by strategies unanimously agreed by Interstate Transport Commissions.

2. Congress should make EPA promulgation of Federal Implementation Plans mandatory when a state fails in its state plan development and delete the provisions from HR 3030 which would render all previous Federal Implementation Plan agreements moot.

3. Congress should make allowances in mandated ozone reduction requirements for downwind nonattainment areas, such as Southeastern Wisconsin, which are being impacted by transport from more severe upwind areas, such as Illinois.

4. Congress should adopt the Senate version of the volatile organic compound reduction requirements through the year 2001. Congress should also discontinue the annual percent reduction requirements after the year 2001. Instead, based on specific area needs, they should establish emission reduction requirements through the state implementation process.

5. Congress should adopt the Waxman/Dingell compromise language which sets up a two phase tailpipe standard and provides for a 2003 revision based on technical and economic reasonableness. Congress should also adopt provisions for full useful-life emissions control equipment warranties and strengthened new vehicle certification test procedures for evaporative emissions.

II. TOXICS PROVISIONS

1. HR 3030 should be amended to expand the access to alternate emission limits to sources previously required to reduce hazardous emissions under state or local mandate as well as those who voluntarily reduce emissions.

2. HR 3030 should be consistent with the Council of Great Lakes governors Substances Control Agreement. In particular, the listing criteria should be expanded to include the impacts of pollutants on plant and animal life, in addition to human health impacts.

III. ACID RAIN PROVISIONS

1. Congress should not adopt provisions which would require cost-sharing or emission taxes by all states to finance clean up in some states.

2. HR 3030 needs to recognize and make allowances for those utilities which had reduced SO_2 emissions far below 1.2 pounds SO_2 per MMBTU (British Thermal Unit) by 1985. The White House has indicated they are considering changes to address this issue, while maintaining a permanent emissions cap.

3. Provisions on repowering should be broadened to include non-pulverized coal boilers (e.g., cyclone boilers). The White House has indicated they will seek to correct this error before enactment.

4. Language should be added to HR 3030 to provide incentives, including emission allowances, or use of alternate fuels (such as wood), energy conservation, and renewable energy sources as methods to reduce sulfur dioxide and other air emissions, as long as they do not result in a permanent increase in allowable emissions.

5. HR 3030 should clearly delineate the extent to which industrial sources, independent power producers and co-generators are included. Emission restrictions for non-utility sources (if any) should only be considered if cost-effective as compared to other reduction alternatives.

If you have any questions or would like additional information, please contact any of the state agency personnel listed in the enclosed report or fee free to contact Mary Sheehy in my Washington office at 202/624–5870.

Thank you for your consideration of this matter.

Sincerely,

TOMMY G. THOMPSON,
Governor.

Mr. DREIER. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I wanted to applaud the gentleman from Pennsylvania, Chairman CLINGER, and the members of the committee for the great work they have done in bringing this important bill to the floor. And I want to pay special tribute to a couple of Ohioans who have played a critical role in bringing the issue of unfunded mandates to the attention of the American people, our great Governor, George Voinovich, and my colleague and very good friend, the gentleman from Cincinnati, Mr. PORTMAN. With his usual skill, insight and diligence, ROB PORTMAN has made this crucial reform possible.

As a former city councilman and county commissioner, I can tell you that for far too long the Federal Government has imposed its regulatory whims on the State and local governments. Like it or not, fiscally battered or not, our State and local governments have been forced to comply.

Let us be frank: Federal politicians have loved unfunded mandates because they are a way of putting huge new regulatory programs in place while secretly passing the tab along to the States and local governments. They have been taxing and spending while keeping the taxing part hidden.

Local officials know the story all too well. Too often they find that they must reprioritize local spending needs because Washington has given them another mandate that they just cannot afford.

Mr. Chairman, with H.R. 5, the party is over. Congress finally takes a giant step in the right direction. Congress finally takes responsibility for its actions and begins to treat State and local governments like partners, not like subordinates.

If we are going to impose new costs, we ought to at least be honest about it, and we ought to be on the record, and usually we ought not to do it at all.

I urge adoption of the legislation.

Mr. DREIER. Mr. Chairman, I would like to congratulate my friend from Cincinnati for his excellent remarks and to say as we listen to a number of people talk about the Clean Air Act, there is a sense that we are going to be doing absolutely nothing here. That is baloney. Between now and 1988 we are going to be spending $3.6 billion dealing with this, and this level of spending is obviously going to be proceeding. So the sense we are ignoring it is way off base. What we are trying to do is increase the level of accountability.

Ms. DELAURO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Towns amendment, which I believe will preserve the proper Federal role in regulating actions by one State that harm another State. Like so many of my colleagues, I strongly believe that the Federal Government should not impose unnecessary mandates or burdens on State and local governments without clear benefits, but the Federal Government should set standards in areas such as health and in safety and environmental protection that prevent one State from doing harm to another State. Without some national standards we would be helpless to prevent powerplants from dirtying the air of States downstream or to prevent polluters in upstream States from contaminating downstream waters.

I know the critical role that the Federal Government plays in meeting interstate environmental challenges from my work to protect the Long Island Sound. For years so many communities along the sound could not afford the modern sewage treatment plants that they needed to stop polluting the sound. With the Clean Water Act, and especially the National Estuaries Program, the Federal Government shared the cost for cleanup efforts with local communities, and we began to get the job done. That is a partnership, that is not a mandate.

But under this bill there is no room for partnership. Either the Federal Government picks up the whole tab, or the Federal Government stays out and lets local communities fend for themselves, even if it means that they keep polluting the air and water, they cannot afford to clean up alone.

□ 1410

Under this bill, the communities along the Long Island Sound would still be waiting to build the sewer plants that they needed. We ought to be expanding opportunities for partnership, as the gentlewoman from New York [Mrs. LOWEY] and I have tried to do with our wastewater protection program. As we learned, these partnerships do much more than help to protect our environment and our quality of life. It is not only the environment. They also help communities to expand local economies, to create jobs. That is an investment and not a mandate.

Yes, we need to reduce unnecessary Federal burdens, but we also need to expand the opportunities for Federal, State, and local partnerships and investment.

The Towns amendment will do just that. I urge a ''yes'' vote.

Mr. BILBRAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I happen to represent an area of the world that has been impacted by pollution for over 14 years. My constituents have lived with the impact of pollution from foreign countries. I do have a problem with the position that somehow the Federal Government has protected the citizens of this country from pollution. It exists today and continues to exist with the oversight of the Federal Government.

I oppose the amendment and support the chairman's position for a lot of reasons. One reason, Mr. Chairman, is because I have served as a member of the State Air Resources Board for the State of California, a small intimate group of 32 million people, and have also served as a member supervising the environmental laws pertaining to hazardous waste for 2.5 million people.

Let me tell you, the biggest problem in protecting the public's health out in the real world, out there in America, is not the fact that we do not have enough Federal mandates but the mandates that are placed down are not based on protecting the public health. Many times the mandates care more about the procedure than the protection.

If my colleagues who have raised this issue that the Clean Water Act has done such great things, frankly, if they think the Clean Water Act is a perfect document, I would debate that to the end. We today have pollution that is flowing, that is federally allowed. I think that one of the things I would ask you to look at is that all we are asking for is we look at the cost-effectiveness, we look at the benefits the public is either getting or not getting and that the well-intentioned and misguided strategies of the past need to be put under the light, the light of reason, to be able to see if they really did do what you mean them to do. Did they accomplish the protection and would the dollars being spent on these programs be better spent on programs that could truly help the public and protect the public health?

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

(Mr. BORSKI asked and was given permission to revise and extend his remarks.)

Mr. BORSKI. Mr. Chairman, I wish to express my strong support for the important amendment offered by the gentleman from New York.

I compliment the gentleman from New York for recognizing the serious problems that could result if we restrict the Federal Government's ability to take action on pollution that crosses interstate lines.

This issue goes to the very heart of what a national government should stand for.

The Federal Government must have the ability to take positive action to prevent the residents of one State from being devastated by the pollution from another State.

There are numerous and repeated examples of disputes between States about the discharge of pollutants into the water and into the air.

If the Federal Government is stripped of the ability to step into the fray, the result will be total chaos.

Without adoption of the Towns amendment, there will be a strong incentive for upstream States to take every action they can to avoid reducing pollution.

They can save their money on pollution control that does not affect their own residents but hits directly at the residents of downstream States.

My own State of Pennsylvania has been a leader in reducing the nonpoint run-off that has degraded the Chesapeake Bay.

Without passage of the Towns amendment, there is absolutely no incentive for the other bordering States to join us in this effort.

In another well-known case, it was only through the continued enforcement of Federal environmental laws that the beaches of New Jersey were protected from sewage discharged in New York.

These are well-known examples but these problems exist throughout the country—in the Mississippi Valley, in the South, in the West.

If we fail to adopt the Towns amendment, we will be setting State against State. We will be inviting chaos and conflict.

Worst of all, we will be sacrificing the need to protect our environment and all of our citizens from the ravages of pollution.

Mr. Chairman. I urge a ''yes'' vote on the Towns amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in passionate support of the Towns amendment. I think everybody ought to be for this amendment, if they believe that water flows and wind blows.

Now, no one has proved to me that water does not flow and wind does not blow. And I do not know anywhere where it honors State boundaries. And I must say, for Members saying, oh, wow, but we would not want the big heavy Federal Government to come in and tell States and localities what to do, let us just think about that in another context.

States and localities are all citizens together under this great republic. That flag behind me has a star for each of those States. And I hope that star means each State is trying to be a good citizen.

Now, if we turned it and put it into a family context and we said, this country is also made up of many families and some families do not want to take care of their families, we would not want to have a Federal mandate to do that. What are we talking about? Everybody is supposed to be a good citizen. And this bill is saying, look, we are not going to give excuses to States and localities to pollute.

And then what happens is, someone says, well it just costs too much to clean it all up. You throw up your hands. It would be like child support enforcement. We tell people they ought to pay their child support, but if they do not, we will pay it, the Federal Government will pay it, because we would not want to have an unfunded mandate on a runaway. Oh, no. Why? What do you mean? This is their responsibility. The responsibility of the States and local governments represented by the stars on that flag are that they be good citizens. That is what this whole republic is built on.

I think we all have horror story after horror story. The only Members I can see that vote against this amendment are Members who are at headwaters so they can pollute everybody else and then just say, hey, this is great, have a nice day. Or Members whose wind, they are at the top. They never are downwind. Anybody who is ever downwind of anyone else or downstream of anyone else is crazy not to insist that all of the States sharing either the air or the water behave themselves.

Mr. Chairman, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, the gentlewoman makes a very important point. We are now the recipients of a vast amount of knowledge that is imparted to use because of the advances in photography and in the satellite monitoring. And obviously what we see and what we show our schoolchildren and our families and others and the citizens of this country is the ramifications of local actions that spread far beyond the borders. The areas of Arizona and Colorado and New Mexico receive most of their pollution out of the southern California air basin. The people who travel and spend their hard-earned money to go visit the Grand Canyon cannot see across the rim not because of what happened in Arizona or in the Grand Canyon but what happened hundreds of miles away in southern California.

If you look at the satellite photos and you see the pollution that comes out of Alabama, out of Georgia, moves down to the Florida Bay, moves around into the Florida Keys, and up the other side of Florida, and if it is not treated. And what this legislation says, if those same mayors and those same Governors that do not like unfunded mandates, do not like the cost, do not like timetables and do not like standards prevail, then everybody goes their own way. You put in the pollution at the top of the Ohio River or you put it in in the Mississippi River and then other people who want to try to clean up their water, either because they want to use it or they are responsible in putting it back into the river, find that it is far more expensive for them to do that.

That simply is unacceptable. That is not a nation. That is not a united nation. That is not about citizenship. That is about making individual, little decisions about how you can push it off onto somebody else. Because as we advance, as we find out more about air pollution and water pollution, then if we do not, as a Federal Government, agree to pay that and they can prevail on the point of order, and we do not waive that, I understand the mechanism here.

I also understand this is a democracy. If they prevail on the point of order, then we simply lose the ability to put that technology out there for the benefit.

□ 1420

Let us look at what we have achieved in this country. Under this great burden we have achieved the highest standard of living in the world. We have achieved the cleanest air and the cleanest water in the world.

The point is that those are the ramifications of when 220 million people try to live together. We can look everywhere else in the world and see the ramifications.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, just as we do not allow families or members of families to be dysfunctional, we cannot allow cities, States and counties to choose not to do what is socially responsible for the good of the people of this Nation. We have had these basic fights.

We have had the people of New England fight against the people in the Ohio Valley about scrubbers on coal plants and obligations and fuels to be burned. We have had the struggles between the automobile companies and the manufacturers of gasoline in cities, and in the city of Denver the gentlewoman has been through this.

Why do we do this? Because it is our social responsibility. I thank the gentlewoman for raising this point.

Mrs. SCHROEDER. I thank the gentleman from California for pointing this out, because this amendment is about good citizenship. I think what we should be doing here is encouraging good citizenship in this Republic. This goes right to the core of this; not ''Ha, ha, we are upwind, we can do this to you,'' or ''We are upstream, we can do this to you.''

There is nothing that makes us angrier in my State of Colorado, where we think we are the lungs of the Nation, to get off the plane and be coughing frantically because stuff is blown in from another State that we cannot do anything about. Now that we know environmentally how interconnected we are, we all must work together through our local governments and through the Federal Government to figure out how to do it. No one can pay for all of it.

We all have to do our fair part. There is blame that goes everywhere for having gotten where we are, but there is also some blame-sharing and some payment-sharing we are going to have to do, because we just do not have the money to clean it up.

Just to say to the American public ''So go buy bottled water, so go get an air mask,'' that is not a good excuse.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, I appreciate the gentleman from California [Mr. MILLER] altering his statement regarding the point of order.

I think the point needs to be made, because there were some misleading statements earlier, both by the gentleman from Michigan [Mr. DINGELL], the former chairman of the Committee on Energy and Commerce, the gentlewoman from Colorado [Mrs. SCHROEDER], and the gentleman from California [Mr. MILLER] that somehow we could never have national standards again after this bill was passed.

As we know, it does not apply retroactively, only prospectively. Then it simply requires that Congress, through a considered judgment, with information we do not currently have, make a judgment with a 51 percent vote, a constitutional majority. The gentleman talked about——

Mr. Miller of California. That is the current law.

Mrs. SCHROEDER. That is the current law.

Mr. PORTMAN. That is not the current law.

Mrs. SCHROEDER. Reclaiming my time, Mr. Chairman, coming from a small State, we know how rapidly one could get rolled in this body. If the Members remember, we assign each State the number of Representatives by their population. When we get dirty water from larger States or when we have people taking stuff away from us, or they are blowing air in on us, they could have many more numbers and say ''We do not want to spend the money to clean it up, thank you very much.''

What I am saying, Mr. Chairman, is the gentleman is putting another barrier in and really not encouraging good citizenship.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just say again, to reiterate the point that has been made several times in these debates over potential exemptions to this legislation, this is not a debate about the merits of individual mandates. This is a debate about whether we have the cost information that we do not currently have.

I would disagree with my colleague from California as to the costs of legislation. This forces CBO, the Congressional Budget Office, to do a detailed accounting of what the costs are.

The committees, incidentally, also have to do a detailed analysis of costs and benefits of the legislation. That legislation then comes to the floor.

We have something in this legislation that is not currently guaranteed, which is a debate, an informed debate on the issue. Can the Members imagine that, in the U.S. Congress actually debating the unfunded mandate issue, and then someone can raise a point of order and that point of order can be waived by a majority vote.

The gentlewomen from Colorado [Mrs. SCHROEDER] may some day be in the other body, and in that case the smaller State would be more represented, but in our current situation, of course, we each represent the same number of constituents, and by majority we constantly enact legislation.

We enacted the Clean Air Act. The Clean Air Act could be enacted again, or similar legislation. All we are asking is that that be an informed decision. That information is not currently available.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would like to compliment the gentleman on his statement, and then just underscore, my friend, the gentleman from Martinez, CA [Mr. MILLER], talked about the great advances that we have been through environmental legislation which has emanated from this institution.

However, what we are saying is, ''Hey, he may be right in some areas, but let us be accountable, and let us make sure that we know exactly what the cost will be to those items as we look toward improving environmental standards and a wide range of other areas,'' rather than having these things surreptitiously stuck into legislation and then as amazing cost burden passed on to State and local governments.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, one of the problems, again, coming from a smaller State where we have often received the dregs of what other States did not want, one of the groups that I can think of that would be against this amendment would be a group like Mutants for Radioactive Waste, because if you look at Nevada and Colorado and New Mexico, that is

where everybody wants to dump radioactive waste. That is where everybody is perfectly willing to dump dirty water or salt water. We have trouble with salinization of water.

Mr. Chairman, let me say that if we take the State of California and the State of Nevada, how much money do Members think the State of California is going to be willing to spend to clean up air for the State of Nevada.

Mr. PORTMAN. Reclaiming my time, Mr. Chairman, I would just say to the gentlewoman that the situation has not changed from the current situation. We passed a Clean Air Act. It affected some States more than others. We did it by constitutional majority. We could do the same thing with regard to the unfunded mandate legislation.

Mr. Chairman, this legislation does not change that. That is a reality in this body, and should be a reality in this body. I would say also that it was interesting listening to the analogies made earlier. Our State and local government partners were being termed to be part of our family, but they were the children. And somehow we had to tell our children what to do and what not to do.

I think we should view them as our true partners. That is the whole idea of this. Let us give them the benefit of having an informed debate on the costs and the benefits of legislation, and the costs and benefits of whether a mandate makes sense. That is all this legislation asks for. It is a very reasonable, balanced approach.

Many people had talked last year and many people had cosponsored legislation that would have banned all unfunded mandates. That is not what this legislation is about. That point has been made several times during the debate over the last 3 or 4 hours. Basically, we have had the same debate.

It needs to be made clear to the people who are watching and other Members of this body, this is about providing cost information. It is about having a debate on the issue and then, yes, accountability, having a vote up-or-down on the issue of the unfunded Federal mandate.

Mrs. SCHROEDER. Will the gentleman continue to yield?

Mr. PORTMAN. Mr. Chairman, I do not have much time, but I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in my part of the country, partners pay their fair share. They cannot say, ''Let us be partners, and then you pay.'' That is not a partnership. Actually what we are talking about, if we do not pass this amendment, is denying that equal partnership where we all sit down and all have the same star in the flag, carrying our same load.

Mr. PORTMAN. Reclaiming my time, Mr. Chairman, I would say that is a debatable point. I would say our partners in local and State government feel they are paying far more than their share.

I would say that the citizens of the United States who are paying hidden taxes, where we take the credit for imposing mandates on State and local government, they pay the taxes, whether it is property taxes at the local level, State income taxes, or State sales taxes, that is not a fair system. That is the current system. I think more than their fair share is being paid at that level.

We need to have an informed debate on the issue. That is all this legislation does. Whether it is health and safety, whether it is environmental issues, we are just asking for the information and a debate on the issue.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been supportive of this type of legislation. I have voted for it when I was in the State legislature. I have been supportive since I have been in Congress.

What is in front of us right now, though, is specifically the Towns amendment, and what it deals with in terms of interstate pollution.

Mr. Chairman, as has been pointed out previously, for Members here who are from upwind States or upriver States, it is not quite the same type of intensity that it has in States like Florida. Florida in many ways is the ultimate downriver state. As far as I am aware, we have no rivers that flow into other States. We are the repository of downstream pollution from other States, whether it be Georgia or Alabama or Mississippi.

In a State like Florida, and in a district like my own, which is the downstream end of the downstream State representing the south end, the tip of the State, Florida Bay and the Everglades area, where it is the downstream end of the downstream State, we have very little control over what occurs upstream.

Specifically, again, Mr. Chairman, if we focus on what this amendment is about, in parts of this country like Florida, without this amendment passing a very well-intentioned bill and a very good bill will have some exceptionally bad results.

Just as we see progress being made, particularly again, in my State, in my district in Florida Bay, some of that progress, and the law is changing on it, and the regulations are changing on a yearly basis, some of that progress will clearly be a detriment.

There are other areas in the country that have similar concerns.

□ 1430

There are other areas in the country that have similar concerns, and what I would hope is that Members on the other side of the aisle who are in communities and in districts and in States that have these unique type problems focus on their district concerns more than their leadership concerns in the vote when it comes up this afternoon.

Mr. ALLARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that our debate has been moving along and we are trying to get to a vote before our time runs out, but I want to make a point. In listening to the debate from those who are opposing this piece of legislation, I do not believe that disclosure is against the public interest. That is what this bill is all about. It is about disclosure. When we bring this information forward so Members understand what they are voting for, the cost, how much it is going to cost and how that is going to be allocated among the States, I do not think it is bad. In fact, I think it benefits the public interest.

I come from a State legislature where, when legislation came before us, we understood what that piece of legislation was going to cost because we had some estimates before us. We not only understood how it was going to affect our State general fund, but we understood how it was going to impact potentially the special districts that were within the State, to understand what it was going to cost the cities and the school districts. When we became better informed, we began to understand how best to apply the piece of legislation.

In some instances where it may have become too expensive for small communities, then we would provide an exemption. When we looked at what the benefits were to be accrued and what it was going to cost a small community, then we could begin to apply the knowledge to come up with a better piece of legislation.

I am standing here today to support this piece of legislation because I happen to believe that disclosure benefits the public interest. That is what this bill is all about.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Towns amendment. The flaw in this legislation which he is attempting to correct is at the heart of our Federal system of government. There are responsibilities that clearly must be directed by the Federal Government and which, to be effective, must be complied with by State and local governments as well as the private sector.

We should not forget that our Constitution, including the interstate commerce clause, was written in the context of the shortcomings of the Articles of Confederation. Turning to the words of Alexander Hamilton in the Federalist Papers:

> Not to confer in each case a degree of power, commensurate to the end, would be to violate the most obvious rules of prudence and propriety, an improvidently to trust the great interests of the Nation to hands, which are disabled from managing them with vigor and success.

We should not create today, more than 200 years later, the same disability to effectively address compelling interstate problems that the framers of the Constitution intentionally worked to avoid.

In discussing this point, Madison referred to the case of one State disrupting the shipment of goods destined for another State and rightly pointed to the need for the Federal Government to have authority over such matters. Today, the same need exists in many instances where the actions of one State or locality impact on residents of another State. We can all think of instances in our own communities where it only makes sense that Federal policy must be implemented to protect the citizens of our own State against the harmful acts outside our own State's borders.

I have talked before during this debate about the problems confronting the Long Island Sound. The deterioration of that body of water has had a clear harmful effect on the people of New York. The degradation has hurt our economy, costing jobs. It has destroyed a valuable recreational resource. It has undermined property values. And that deterioration has been caused not only by New York, but by activities in Connecticut, Massachusetts and beyond.

If this Congress does not have the authority to require State and local governments in all of those States to bear shared responsibility to address this problem, we will have no choice but to abdicate our constitutional responsibility to achieve a remedy. This is certainly not the answer those I represent would want.

Some of my colleagues might say that this legislation will not stop us from addressing such problems, but will simply require the Federal Government to cover the costs of our mandated policies. But I ask my colleagues, does that indeed make sense? A simplistic answer might be yes, but on reflection we can all see that clean water requirements not only have interstate benefits but also have important and valuable local benefits. In light of that, while Federal help is totally appropriate, a local contribution is justified as well.

As this amendment is considered, I urge my colleagues to reflect on the words of our Founding Fathers about the shortcomings of the Articles of Confederation and to think about problems facing their own constituents. As we work to address legitimate concerns about intergovernmental relationships, the experiences of our Nation's early experience with the Articles of Confederation should not be ignored.

As I have said before, Mr. Chairman, reforms are needed to bring about an end to the senseless unfunded mandates which we all know exist and which can be cleared away. But we should not destroy our Government's ability to effectively fulfill its responsibilities to protect the citizens of one State from harm caused by unwise policies in another State.

As the Articles of Confederation prove, these interstate issues can only be sensible, effectively and fairly resolved at the Federal level.

I urge my colleagues to support the Towns amendment.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is one of those ''I had not intended on making a speech'' speech. But it seems to me as I listened to the debate between the gentleman from Ohio [Mr. PORTMAN], the gentlewoman from Colorado, and the gentleman from California in regard to this partnership effort that we have in trying to establish safeguards for clean water and clean air and all of the things that we must do to ensure our country have the cleanup and the safety of every consumer and every citizen.

I think the remark was made about a partnership effort in children as being part of the family. The gentleman from Ohio [Mr. PORTMAN] touched on this just for a moment, but I think it bears some amplification, more especially as it applies to this amendment.

An example I would like to bring is that of a small community in Kansas in my district by the name of Pretty Prairie. Now, Pretty Prairie has under 1,000 people. It has been in a growing dispute with the EPA for the last 4 or 5 years.

The EPA in their infinite wisdom has reduced the level of nitrates in regard to what is safe and not safe from 20 parts per million to 10. And all of a sudden the EPA through the State agency informed this small community that they were out of compliance.

Some 600 to 800 people were forced to try to come up with some kind of a plan to address the EPA dictate, or the mandate. We are talking nearly a million bucks. A million bucks to develop a new waterworks or face all sorts of fines and problems.

This community asked the EPA whether or not bottled water would substitute. Now, why do we have a change in the nitrate level moving from 20 parts per million to 10? That is to prevent the blue baby syndrome. Except there is one problem here that nobody seems to understand from the EPA. Nobody was sick. No child was sick. There has never been a case in Kansas in regard to the blue baby syndrome.

But all of a sudden here is Pretty Prairie having to come up with a million bucks to change their entire waterworks.

□ 1440

So the community said, fine, we will use bottled water, but that does not suit the EPA. We are still in discussion after 4 or 5 years with this mandate that is about to put this town out of business.

That is the kind of parent-child relationship it seems to me is what is wrong about this. This has happened all over my district. I can give case after case after case where there is a growing rebellion in regard to the partnership effort that should be established with all of the alphabet soup agencies that come down with these mandates. In Kansas today in 105 counties, all of the county commissioners have to spend at least half of the budget on these mandates, and in many cases they are counterproductive, they do not apply and they are just downright silly.

Let me give one other example I am worried about in regard to the Towns amendment. I have great admiration of the gentleman. But in St. Francis, KS many senior citizens came to me and signed a petition and said why are you increasing our trash fee three or four times as much as the current fee. These are senior citizens who are now living on fixed income. And the EPA there, through the landfill regulations and through the State agency, said from date certain last October you are going to have to have all of your trash hauled to a regional landfill. There are two problems. One, there was no regional landfill, and there were not any trucks to haul the trash.

There was a suggestion made that we would go to Denver, but Denver did not want it. That would simply go across the State line. The Towns amendment obviously would simply prevent us from really trying to focus on that kind of a mandate.

So here are the senior citizens on fixed income in St. Francis, KS saying to the gentleman from New York [Mr. TOWNS], the gentlewoman from Colorado [Mrs. SCHROEDER], and the gentleman from California [Mr. MILLER], why are we paying for this mandate. I will tell my colleagues what will happen. Every senior citizen there will get the neighbor boy to come and take the trash and put it in a pickup truck and they will dump it in a ditch, and we will have trash blowing all over the Great Plains as a result of this damn fool mandate, and it is interstate.

Let me give one other example if I might. Some time ago the EPA proposed 65 mandates to help clean up all of rural and small-town America.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

(Mr. ROBERTS asked and was given permission to proceed for 2 additional minutes.)

Mr. ROBERTS. Mr. Chairman, I was very interested in number 16 or 17 in that list. It was an effort by the EPA to control something called rural fugitive dust, rural fugitive dust. So we called down to the EPA and said what on Earth are we talking about and we could not get an answer. It was one of those things where you call one person after another person after another person. Obviously, with the interstate amendment that the gentleman has proposed, rural fugitive dust would go from one State to another.

We finally reached somebody who was able to explain it to me, and I said what is the problem. She indicated to me, ''Well, Congressman, you've got a lot of rural dust out there and it is dangerous to your health.'' I said, ''You're telling me that and I am from western Kansas.'' She said, ''Yes, sir.'' I said, ''Well, what do you plan on doing about it?'' ''Well, we can simply mandate that water trucks go out in the morning and afternoon and spray the country roads, and then you won't have the rural fugitive dust.''

This person was serious. If Members do not think that that mandate was a little specious or a little silly, we have mandates like that. What on Earth would the Towns amendment do in regards to preventing us from exposing this kind of ridiculous mandate to force many of our communities to get in water trucks and spray every rural road in Kansas? That is ridiculous.

If in fact this whole entire effort is vague according to the other side who is opposed to this, my word, the gentleman's amendment is as vague and as wide as a barn door.

I urge the defeat of the gentleman's amendment. We should proceed. We should not pass this exemption. This is a killer amendment, and in case if in fact there is any State that is worried about a very pristine and marvelous lake or area or whatever we are trying to protect, all we have to do is come to the floor like we are doing today, debate the issue, waive the point of order, and protect it. All we are asking for is a debate.

So, in that regard I respect the gentleman. I think his amendment should be defeated, and I think we should proceed, especially at this late hour.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

(Mr. MINETA asked and was given permission to revise and extend his remarks.)

Mr. MINETA. Mr. Chairman, I rise in strong support of Mr. TOWNS' amendment.

I believe that this amendment addresses a glaring flaw in H.R. 5 as it is now written. The flaw is that the bill, without the Towns amendment, could deprive our constituents of the protection they may need against significant impacts on their health and safety which emanates beyond their borders, and therefore is beyond the control of their State and local governments.

H.R. 5 could strip from our constituents these basic protections, by making it more difficult for the Federal Government to perform its fundamental function of protecting the health and safety of our citizens.

While there is room for legitimate difference of opinion as to the appropriate functions of the Federal, State, and local governments in many arenas, I believe that with respect to at least one matter this issue is well settled:

That the Federal Government does have a role in protecting citizens downstream States from serious health impacts caused by pollution from upstream States and localities.

Water pollution knows no political boundaries.

Without the provisions of the Clean Water Act that place obligations on States and local governments, many downstream States would never have the possibility of clean water.

We have all heard of situations where pollution from one State or locality adversely impacts citizens in downstream or adjacent States.

Many of these examples involve discharges of sewage by municipal governments. For example:

Residents of New York and Connecticut are familiar with interstate pollution of the Long Island Sound caused by discharges of sewage.

Residents of Mississippi and Louisiana have seen the effects of being downstream from dischargers of inadequately treated sewage.

The conditions that gave rise to the boil water advisory in the District of Columbia a little over a year ago were in part the result of conditions in upstream States.

Lakes in upstate New York such as Lake Champlain are being impacted by pollution from Vermont as well as New York.

Even though H.R. 5 is not intended to apply to current laws, it still would make it more difficult and more cumbersome for the Federal Government to fulfill its duty to protect the citizenry from significant health and safety consequences of transborder pollution.

It could do so by limiting the Government's ability to add new requirements where necessary to protect human health, and reducing or excusing those requirements where Federal funding is reduced.

I noted earlier that we should call H.R. 5 The Law of Unintended Consequences. The Towns amendment provides a perfect example of what I can only assume was an unintended consequence of H.R. 5—that the bill restricts the Federal Government's ability to protect downstream citizens from significant health and safety impacts that their State and local governments may be powerless to prevent.

A vote against the Towns amendment is a vote to make it harder to protect the citizens of your State against significant health and safety impacts from upstream State and municipal sources.

I urge my colleagues to support the Towns amendment.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I am pleased to yield to my colleague, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, what I understand from all this debate and the Towns amendment and also the one that preceded it by the gentleman from Mississippi especially is that it appears to me that this legislation, although well-intended, and having a good goal and a good purpose, still has, like the gentleman says, unintended consequences potentially within it. That concerns me, that there has not been really sufficient development in this legislation.

What I mean by development is I would like to ask the gentleman what various agencies of the Federal Government or of any State government came and testified on this legislation.

□ 1450

Mr. MINETA. On this legislation specifically, as a member of the Committee on Public Works and Transportation, and now the Committee on Transportation and Infrastructure, we have held no hearings on this issue.

Mr. VOLKMER. There have been none whatsoever. And, therefore, we do not have any idea of the possible impact except for those who are proponents of the legislation, what it may actually do.

Mr. MINETA. My good friend from Missouri is correct.

Mr. VOLKMER. But as far as those people who are working with it day in and day out and have done so for years, there has been no input whatsoever?

Mr. MINETA. My good friend from Missouri is correct.

Mr. VOLKMER. I have one other question I would like to ask to me that is something I have thought about ever since this legislation. I am one of those again who believes in States' rights. I do not believe in unfunded mandates necessarily.

But I see consequences of what this legislation may do.

Let us assume that instead of this Congress having this legislation, that 30 years ago another Congress had passed this legislation, what would we have today with our streams and our cities as far as pollution and water and all of these other type of things?

I can remember back when, and I am sure there are other Members in this body who can remember back before we had wastewater treatment facilities and a lot of raw sewage was going right into the streams. Now, if the Federal Government had been required to go out and pay the total amount for all of those and not have the present law, but we had to pay for the total amount of all of those, I question whether that would have been done. The same thing with all of the antipollution that went on.

But was it the Federal Government that caused the pollution? Was it the Federal Government that was causing all of the raw sewage to go into the streams, was causing the chemicals to go into the streams, was it the Federal Government that was causing all of the pollution to go into the air? I do not believe so. I do not believe so, that the Federal Government——

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. MINETA was

allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. So what we are saying is that the Federal Government should pay for what other people, whether it is private industry, whether it is communities, should pay to do what they should have done anyway, what they should have done on their own without the Federal Government telling them what to do, unless proponents of this bill really believe that we should not do anything on safety, health, as far as pollution itself, and that we should just let the local communities do what they want to do, and if they or the industries, they want to pollute, they can go ahead and pollute, and it is only when the Federal Government says, ''We will pay for what you should not do anyway,'' that it is going to be cleaned up.

So I think this legislation needs a heck of a lot more time than it is getting.

Ms. NORTON. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. I thank the gentleman for yielding.

I appreciate that you raised the incident affecting every Member, the water crisis here in the District of Columbia as an example of interstate problems created by this bill.

The Towns amendment, in a real sense, gives us the best case for an exception, because it cures a federalist defect in this bill, and that is interstate wrongdoing.

In a real sense, it is why we created the Federal Government in the first place. The Articles of Confederation left us with no way to deal in an equitable fashion among the States, and we created this federalist system.

I want to say a word about motivation here, because all day we have heard that the point of this bill is information only. Well, let me remind my colleagues that we have had to fix this bill so that there was more than a point of order, so that there will be a point of order vote.

I really wonder why that was not in the bill to begin with, if the point was to provide Members with information before they voted—when you did not even provide a way to vote in the first place. If it was for information only, then why is it not the case that the information would come out in debate, my colleagues?

Are people so afraid of mandates, which they should be, then the kind of debate we are having here today would surely have been enough to deter Members from voting to put mandates on their own people in the States and cities.

I will tell you that you are disguising, and not very well, the real motivation of this bill. You want to now force to have a vote, to have an isolated vote, on costs, because you know that that is the heart of——

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has again expired.

(At the request of Ms. NORTON and by unanimous consent, Mr. MINETA was allowed to proceed for 2 additional minutes.)

Ms. NORTON. Because you know that that is the most difficult vote; having been forced now to vote, you want to have an isolated cost vote, a vote that will force debate on cost alone when we could have had the kind of debate we had here anyway highlighting cost and getting the same result, if that is all you want.

Moreover, the fact is that you are forcing a vote on full funding. You have got a full funding standard in this bill. The fact is that in the federalist system, we have always been about shared funding. We always think that if there is dirty water or dirty air that the State or the city ought to take some part of that cost.

Why have you not put a provision for shared funding in the bill, if that is, in fact, what you mean? You put full funding in the bill, because, again, you want to make it almost impossible to support new bills, and some of you have said as much, have said you want these bills repealed.

This is an interstate compact, my friends. By ignoring or opposing the Towns amendments, you are giving a direct incentive for the States to commit wrongdoing, one against the other. You are creating disputes among the States that will carry them into the courts. You are wiping out a central feature of federalism.

You ought to own up to it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York [Mr. TOWNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. TOWNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 252, not voting 29, as follows:

[Roll No. 24]

AYES—153

Abercrombie
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Furse
Gejdenson
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Nadler
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—252

Ackerman
Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays

Shuster	Stump	Walker
Sisisky	Talent	Wamp
Skeen	Tanner	Watts (OK)
Skelton	Tate	Weldon (FL)
Smith (MI)	Taylor (NC)	Weldon (PA)
Smith (NJ)	Thomas	Weller
Smith (TX)	Thornberry	White
Smith (WA)	Thornton	Whitfield
Solomon	Tiahrt	Wicker
Souder	Torkildsen	Wolf
Spence	Traficant	Young (AK)
Stearns	Upton	Young (FL)
Stenholm	Vucanovich	Zeliff
Stockman	Waldholtz	Zimmer

NOT VOTING—29

Archer	Gephardt	Ortiz
Barton	Houghton	Quillen
Bliley	Johnston	Reynolds
Burton	Lincoln	Seastrand
Collins (MI)	McCollum	Tauzin
de la Garza	McCrery	Velazquez
Diaz-Balart	McNulty	Visclosky
Dicks	Menendez	Walsh
Fowler	Metcalf	Yates
Frost	Neal	

☐ 1511

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Quillen against.

Mr. FOGLIETTA changed his vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this bill is about unfunded mandates, and one of the mandates that we have in our country is to educate all of our children who wish to attend public schools. This mandate includes the children of military personnel living on military bases all around our country. Their children, like all other children, are entitled to attend local public schools.

The difficulty is that their parents pay no taxes to support those schools, and we have had since 1950 in our law provisions under a program called Impact Aid that provides direct Federal payment in support of local schools that provide and meet the educational mandate for children on military bases. This is a mandate, Mr. Chairman, that has been vastly underfunded. This, to me, is an obligation of the Federal Government, very much like a contractual obligation that the Federal Government must pay to insure that it is paying a fair share of the costs of educating these children.

Mr. Chairman, we have people in my own party who are suggesting that Impact Aid be zeroed out, and I might say, Mr. Chairman, that if Impact Aid were zeroed out, it would create a huge unfunded mandate, and it seems to me that would be totally inconsistent with our policy of not putting unfunded mandates on State and local government. The cost of this unfunded mandate would approach a billion dollars, and I can say to my colleagues in the House that even today, under the Impact Aid program that we have, there are schools in the United States, and those in my own district, that are going bankrupt because we do not provide sufficient support for the education of children of military families. Outside of the Great Lakes Naval Training Facility in north Chicago, IL, in the 10th Congressional District, School District 187 struggles to provide education to children there. Forty-five percent of them come from families at Great Lakes, and the Federal Government provides only 27 percent of the cost of educating each of those children, leaving 73 percent for the local tax base. The difficulty is the local tax assessment base cannot support that mandate.

☐ 1520

So we already have an underfunded mandate, not only in that school, but in schools like it all around the country. I can assure my colleagues that if we were to zero out Impact Aid and have the Federal Government walk away from its obligation to help at least to pay for those children, we would be having school districts going bankrupt everywhere in this country. We would have lawsuits filed against the Federal Government everywhere in this country.

My school district went bankrupt last year, and luckily the State of Illinois came through with funds to help. But if this happens, if we stop funding Impact Aid or reduce our support for Impact Aid, we will have created the greatest unfunded mandate around, and it will lead to chaos in our public education systems in cities and towns all around this country.

Mr. Chairman, I would ask that people understand that there are programs that are ongoing, that there are mandates that already exist, which if they are not fully and responsibly funded, will create the greatest unfunded mandates you have ever seen.

Mr. CONYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to congratulate the new chairman of the committee that I chaired and served on so well, the gentleman from Pennsylvania [Mr. CLINGER], and to also congratulate the ranking minority member, the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Chairman, the so-called unfunded mandates legislation before us today offers no real protection to the States or local units of government in the event a balanced budget constitutional amendment is adopted. Evidently, this is why the Republican leadership has resisted the efforts by Democrats on the Judiciary Committee and throughout the House to provide an explicit statement about unfunded mandates in the text of any proposed constitutional amendment to balance the budget. By keeping the constitutional amendment and the unfunded mandates statute on separate tracks, we have reached the height of obfuscation of true intent very early, indeed, in the new Congress.

The balanced budget amendment approved by the Judiciary Committee last week places State and local taxpayers at severe risk by allowing State and local governments to bear the brunt of the costs of balancing the Nation's budget through increases in unfunded mandates. Further Congresses would find it much easier to simply override the legislation being considered today and increase unfunded mandates rather than to make painful cuts or increase taxes, the latter of which would require a three-fifths vote of Congress.

It is because of these concerns that the National League of Cities testified in opposition to the balanced budget amendment at hearings last week. Mayor Jeffrey N. Wennberg of Rutland, VT, testified that ''any balanced budget amendment would almost certainly increased unfunded mandates on cities and towns as well as decrease what little Federal assistance currently remains to fund existing mandates.'' He also noted that the ''pressure to order State and local spending will grow geometrically under a balanced budget amendment unless an equally powerful restriction on [unfunded] mandates is enacted [in the Constitution].'' Mayor Wennberg's concerns have been echoed by representative KAREN MCCARTHY, past president of the National Conference of State Legislatures, and Vermont Governor Howard Dean, chairman of the National Governor's Association.

The projected impact of the balanced budget amendment on the States would indeed be staggering. A recent Treasury Department study concludes that in order to balance the budget by the year 2002, ''Federal grants to States would be cut by a total of $97.8 billion in fiscal 2002.'' Other Federal spending that directly benefits State residents would be cut by $242.2 billion in fiscal year 2002. My own State of Michigan would face a loss of $2.5 billion in Federal funding, which would require more than a 13-percent increase in State taxes.

The only way to protect the State and local governments from the threat of increased unfunded mandates would have been to include a constitutional prohibition in the text of House Joint Resolution 1. Representative FRANK sought to do precisely this at the committee markup, but his amendment was defeated by the Republicans in a 15 to 20 party-line vote.

The Governors, the mayors, the police and other local officials should not be misled. Unfunded mandates legislation will not protect them when the Federal Government is forced to make draconian budget cuts to balance the budget. The only real safeguard would be to include such a prohibition in a constitutional amendment to balance the budget, because then, the States would have such a promise before them in determining whether to ratify such an amendment. But so far, that option has been blocked by the new Republican majority. While a clever ploy, that sleight-of-hand has already been seen for what it really is: A failure of resolve to descend from soaring rhetoric to making a real promise to the States and the American people.

Mr. DINGELL. Mr. Chairman, since late in 1993, State and local government officials have trumpeted a call for Congress to enact legislation to curb the imposition of so-called unfunded mandates on State and local governments, and to ensure that Federal taxpayer funds pay the costs of complying with such mandates, both large and small.

It is worth reviewing some history and some examples.

In the 1970's, there was a considerable public outcry by buyers of used motor vehicles that odometer readings, which consumers use

as an index of the condition and value of the car, did not reflect the true mileage. Unscrupulous sellers often turned the odometer back by thousands of miles and States did not uniformly police this fraud. Under the commerce clause of the Constitution, the Congress enacted odometer fraud legislation that imposed duties on the States in the transfer of vehicle titles. Most States complied immediately, though California only recently complied. But all recognized that there was a national need the States were not filing.

Similarly, in the late sixties and early seventies, the public was outraged by oil spills in the Gulf of Mexico and Santa Barbara, CA, and by the pollution of our great and small waterways, such as the Great Lakes, the Hudson, the Potomac, the Mississippi, and many more. One waterway in Ohio caught fire from pollution. Again, it was recognized that this was an interstate problem. National standards were needed so as not to create pollution havens in some States, to the detriment of others. Congress enacted the Federal Water Pollution Control Act, which included mandates on State and local governments, some of which were unfunded. The result has been positive, and clearly the public is now enjoying cleaner waterways.

Last year, as part of the crime bill, Congress heard the concerns of women who were being stalked because of easy access to motor vehicle records that reveal the addresses of threatened women. To address this problem, Congress enacted the Drivers Privacy Protection Act of 1994, patterned after the odometer law with duties imposed on the States. It too is an unfunded mandate. It was needed because all the States were not adequately addressing this serious threat to women.

Another law cited as an unfunded Federal mandate is the Clean Air Act Amendments of 1990.

Congress passed that law in October 1990, by a vote of 401–25 with the support of such prominent Republicans as the Speaker, the Rules Committee chairman, the Appropriations Committee chairman, and many others.

The 1990 amendments culminated a struggle started in 1981 by the Reagan administration. Many of the provisions were recommended by the State and local air administrators with the support of the National Governors Association, mayors, and other local officials. In fact, on December 15, 1989, the Governor of Wisconsin, Tommy G. Thompson, wrote to me saying:

> I strongly support Congress' efforts to pass Amendments to the Clean Air Act which will improve air quality throughout the Nation.

Governor Thompson made several recommendations for change, but he never mentioned a concern about the bill's mandate. In fact, he said:

> Congress should make EPA promulgation of Federal Implementation Plans mandatory when a State fails in its State plan development and delete the provisions from H.R. 3030 which would render all previous Federal Implementation Plan agreements moot.

The Governor noted that Wisconsin had turned to the courts to force a cleanup in Illinois and Indiana and feared that without this authority, these States would shirk their duty.

Congressman KIM has introduced H.R. 304, along with Congressman DREIER, to prohibit EPA from promulgating a Federal implementation plan in California. In 1989, it was good Republican policy, according to President Bush and Governor Thompson, to impose Federal mandates on State and local governments and on the business sector.

Today, the Republican policy is to reverse the Bush-Thompson policy of 1989 for State and local governments, but not the private sector. Today, they want to curb Federal mandates for State and local officials, so, as reported a few days ago, by the Washington Post, the Governors, like Governor Wilson of California, can give tax breaks to their citizens.

However, in the case of private business, which generates jobs for taxpayers, they merely want to provide information on the cost of Federal mandates on the private sector.

In 1989, the Republican Governors did not want to offend environmentalists. They supported all kinds of mandates, whether funded or not. They wanted to be green and closed their eyes to the costs. Today, they think the public is no longer on the green side. They champion reduced costs and tax reductions, not environmental quality. However, their concern does not extend equally to the private sector. Nor do they explain how environmental quality will be improved—or even just maintained—if mandates only extend to the business community.

H.R. 5 is hastily conceived and unfair. It is a political document, not sound public policy. Sure, we must cut costs. Sure, there are mandates that may not be wise, but they affect the private sector as well as State and local governments. We should take more time, hold hearings, fashion a more equitable and sounder bill. Remember, in the case of clean air, State and local governments operate—directly or indirectly—landfills, tunnels, powerplants, airports, vehicles, incinerators, and many other activities that pollute. If they are freed of mandates, who will pick up their slack? Competing private businesses, of course.

Now, H.R. 5 ignores these important considerations. Mr. Speaker, its only focus is on costs to State and local governments. It sets up a legislative hurdle to navigate around if future Congresses are to address the national problems I described, without even considering the reasons for a mandate or its need to be implemented. It is, in essence, designed to give States and local governments veto power over congressional action in either House. The only criterion is costs to these governments. The needs of the consumer or general taxpayer, and the benefits to society, are subsumed.

Those who favor H.R. 5 are apparently oblivious to the very negative consequences of trying this important legislation to a partisan document. Congress owes every government, every business, and every taxpayer a better piece of legislation than a political plank which cannot easily, or quickly, be translated into the public interest.

Mr. RADANOVICH. Mr. Chairman, this is a day for which we have long waited. Those of us who have served at the local level of government have held out hope that one day Congress would awaken to the damage done by unfunded mandates. That day is today.

When I first began public service as a member of a county planning commission, I carried into office what turned out to be a naive notion. I thought that our community's elected officials were free to do what they best believed served the citizenry.

In some respect, that was—and is—the case. However, what I failed to factor was Uncle Sam's ability to determine what's best and to make us pay for it—like it or not. Imposing obligations on local government from distant beltway bureaucracies, but without Federal dollars to pay for them is wrong, wrong, wrong. H.R. 5 will right it.

Mr. Chairman, I have been a county supervisor. My chief of staff here on the Hill, John McCamman, has been the chief administrative officer of two California counties. My constituents and former county government colleagues urge us on every day to end the mandate madness.

Here is what my friend, Garry Parker, chairman of the Board of supervisors of Mariposa County, CA, says:

> One of our most pressing needs in getting to the point that our government structure makes sense to the public is in the area of unfunded mandates. It is very difficult to explain and justify to our constituents that the County cannot afford a service for which there is a well established local need, because we are obliged instead to provide funding for a much lower local priority, simply because it is a federal or state unfunded mandate. We view ourselves as partners with our state and federal counterparts and we need to operate on a much more equal footing. We need to establish sufficient trust between us that some of the more egregious oversight and overkill is eliminated, so that we can move more collaboratively ahead on our common agendas.

I am grateful to another friend, Mike Coffield, county administrative officer of my home and native county of Mariposa for providing my office with Chairman Parker's expression.

From the California State Association of Counties, Steve Keil, its legislative representative, writes from Sacramento:

> It is vital that this legislation pass at once. As you know, the increasing costs of unfunded Federal mandates have imposed an enormous drain on our limited resources. If relief is not granted soon by enacting strong legislation, we fear at some point we will not be able to provide adequate vital services such as fighting crime and illegal drugs, education, jails and corrections, health care and social services for children and the elderly.

In 1993, Price Waterhouse conducted a survey of unfunded mandates affecting county governments. Based upon that study, 1993 costs for counties for just 12 mandates are $4.8 billion. For the 5-year period 1994–98, $33.7 billion of county costs for unfunded Federal mandates will be incurred. Just the 12 surveyed mandates consume an average of 12.3 percent of locally raised revenues.

Unfunded mandates are, in reality, a hidden burden on taxpayers. Whether it is water testing, architectural accommodation, sewage treatment, soil contamination, wetlands regulation, petroleum problems, or farm chemicals, when the Federal Government reaches out, it doesn't touch—it tyrannizes.

Lest we forget, the Founders fought to rid themselves of royal agents who would tax them while denying them any electoral say as to the who and where of that levy.

Today we are considering a reform of the Federalist system itself; a return to a relationship between the Federal Government, and the various State and local governments that reflects a partnership in the activity of governing. A relief from additional Federal mandates

on State and local government will take a long stride toward correcting the imbalance of this relationship and conform our system of governance to the system outlined in the Federalist Papers and in the Constitution itself.

It becomes again our opportunity to continue the reform begun when this 104th Congress convened. Our opening day showed the way as we changed rule after rule improving the way the House does business. Now, by lifting the burden of unfunded mandates, we are changing the business Congress does.

The Contract With America continues to be performed, as we keep faith with the 10th amendment in the Constitution's Bill of Rights, reserving to the States and the people all those public powers except those delegated to the Federal Government.

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 5, the Unfunded Mandates Reform Act. I am proud to be a member of the Congressional Caucus on Unfunded Mandates, and thank the gentleman from California [Mr. CONDIT] for his leadership.

My legislative background prior to coming to Congress was 4 years of service in the Illinois State Senate. Before that, I was the administrator for educational programs across a multicounty area in southern and central Illinois. I think I have a pretty good idea of why it's necessary to have standards and regulations which govern the use of our tax dollars. But I also have first-hand experience with being told to do something but not being given the resources to follow through.

That is what we seek to correct through this legislation. We recognize that there are legitimate reasons for making States and local governments carry out certain obligations. And, in turn, we say that if it's a program of priority nature, then we have to come up with the way to pay for it.

I represent a large, mostly rural district, dotted by small villages and communities of a couple hundred people each. Their ability to raise funds on a local level to comply with the growing number of regulations which are being imposed is severely limited. This bill will help ease those burdens.

I have letters in my files from Decatur, Herrin, Flora, Coles County, Shelby County, and units of government across my district in support of this effort. This is a bipartisan effort which I strongly support.

Mrs. FOWLER. Mr. Chairman, as a member of the Jacksonville City Council for 7 years, I saw first hand the impact of unfunded Federal mandates and regulations. There are many here today in Congress who bring similar past experiences to the floor. The House membership contains former mayors, county supervisors, State senators and representatives, and other elected officials in both county and State government. In those roles, we all saw first hand the impact of unfunded Federal mandates on the State and local governments.

One of the underlying premises of the Contract With America is that less Federal Government is better. In carrying out that premise, it is necessary to reduce the burden of unfunded Federal mandates on the States and localities. We simply cannot expect our hometown and State officials to bear the burden of Federal laws and regulations without providing the necessary funding to implement them. The legislation we are considering here today, H.R. 5 enforces that view.

One of the worst examples I know of an unfunded mandate occurred in the town of Neptune Beach in my district. Neptune Beach is a small town with a population of 6,500 people. This small town had saved and scrimped to put together the funds necessary to make corrections to their water system. Unfortunately, an EPA safe drinking water fine was handed down and has cost the city $100,000.

The gist of this problem is that the city still has the need for improvements to the water system but cannot afford the cost due to the Federal fine penalizing them for not fixing the problem. This simply makes no sense. Instead of fixing the problem and providing the necessary cure, the Federal Government is actually exacerbating the problem.

Mr. Chairman, as Federal legislators, we can do a lot of good. Unfortunately, as a former local official, I know that the enactment of unfunded Federal mandates can do more harm than good. We cannot continue to pass laws and mandates on to the people back home and refuse to back them up with the necessary resources to get the job done. I strongly support this bill and the beneficial effects it will have on our constituents back home.

Mrs. COLLINS of Illinois. Mr. Chairman, many Democrats favor the concept of treading carefully in placing additional responsibilities on States and localities without providing full funding. In fact, in the 103d Congress, the Committee on Government Operations reported a bill on unfunded mandates by a vote of 35 to 4. It was developed in a bipartisan fashion with the support of both the chairman and ranking member of that committee, and every major organization representing State and local government.

The process by which the bill was considered in this Congress was the antithesis of last year's efforts. There were no public hearings on the bill. The bill was drafted in secret with no consultation with the minority. It was introduced on Wednesday, January 4, and available in print on Friday, January 6. The markup was held 4 days later.

The haste in which this bill was considered left a number of substantive issues unaddressed, which even the authors conceded at markup that they would like to address on the floor. The minority views contained in the report on H.R. 5 detail the procedural faults that took place during the markup, and I encourage all Members to read these views before the bill is on the floor later this week.

Before detailing the substantive issues raised at the markup, we want to establish a few points about unfunded mandates. First, we are keenly sensitive to the issue of unfunded mandates. Governors and mayors are rightfully concerned that efforts such as a balanced budget amendment and other more immediate efforts to reduce Government spending not be a disguised effort to shift the costs of Government programs to States and localities. We concur.

At the same time, we do not necessarily agree that many previously enacted laws that may be characterized as unfunded mandates are necessarily wrong. Indeed, the authors of the bill insist their legislation is intended to be prospective only—although we have concerns that the objective has not been achieved by the statutory language.

Many previously enacted statutes that do impose costs on States and localities were passed only after years of consideration with the broad support of those governmental bodies. Support was based on several concepts. First, many States wanted to do their share, but needed the Federal Government to insure that their neighbors did theirs. Environmental laws dealing with air, water, and sewage, for example, were designed to protect States from potential damage caused by their neighbors.

Second, States were often prepared to assist in solving problems such as developing national databases of child molesters or doing background checks on child care center operators. The benefits from these programs far outweighed any burdens.

Third, in return for certain unfunded mandates, States also received large financial benefits. Cleanups of harbors, construction of bridges, roads, and sewage treatment facilities were largely funded with Federal dollars and greatly improved the lives of American citizens.

Fourth, many of the unfunded mandates placed on localities and the private sector were enacted by State governments. Localities have also imposed unfunded mandates on the private sector. Like Congress, both States and localities have found mandates a convenient way to achieve important goals with limited funds. Thus, resolution of the unfunded mandated dilemma can only be achieved with the cooperation of State and local governments.

While Congress should carefully scrutinize any unfunded mandate, and must be required to evaluate both the costs and benefits of such laws, we must not totally hamstring our ability to pass laws that need to be passed. Unfortunately, the bill as drafted may do just that.

Why shouldn't the bill be made effective upon date of enactment? The bill's effective date is October 1, 1995. Over the coming months, the Congress is likely to consider numerous bills which could drastically cut funds available to States and localities to pay for various Federal programs. These bills, which could likely be considered unfunded mandates, could have exactly the consequences that the bill's authors are attempting to avoid. We can find no explanation for the delay in the effective date.

Why did the sponsors exclude certain mandates, such as national security, but not others? Section 4 of the bill, and the new section 422, of the Budget Act of 1974 list certain mandates, such as those necessary for the national security, as excluded from the application from the bill. Yet during the course of consideration of the bill, only an amendment to exclude Social Security was adopted. Among the amendments that were not adopted were:

An amendment by Representative MALONEY to exclude laws protecting the health of infants, children, pregnant women, and the elderly;

Amendments by Representative KANJORSKI to exclude laws relating to securities regulations, such as the sale of derivatives, and laws establishing data bases that identify child molesters, child abusers, persons convicted of sex crimes, persons under restraining orders, or persons who fail to pay child support;

An amendment by Representative TAYLOR to exclude laws relating to sewage treatment;

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 residents 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