afternoon. It is the one amendment that has strong support in the Senate.

□ 1620

Senate Joint Resolution 1, the Senate companion to Stenholm-Schaefer, was introduced by Majority Leader DOLE and is cosponsored by 40 Senators. Of the amendments we will debate later this week, Stenholm-Schaefer clearly stands the best chance of becoming the law of the land.

Would it be better for the President and Congress to come together and agree to a balanced budget amendment without a constitutional mandate? Of course it would, but experience teaches us that this is not likely to happen.

Even since last year, last March, when the Stenholm-Schaefer amendment failed very narrowly to pass in this House, we have added more than $150 billion to the national debt, and there is no end in sight to the red ink coming out of Washington. The American people are tired of waiting. We are all tired of waiting, and we need to support a balanced budget amendment to put us on a downward glide path to balance this budget in the year 2002.

Is the balanced budget amendment a substitute for decisive action to reduce the deficit? Of course it is not.

Congress, 2 years ago, did approve a 5-year, $500 billion, tough deficit reduction plan, and the House and Senate approved a 5-year freeze on discretionary spending starting in 1993, at levels using no inflation. Largely because of that legislation, our deficit has come down and the Nation has enjoyed 3 straight years of deficit reduction, the first time that has happened since Harry Truman was our President.

I supported that plan last year. It was a tough vote, but like many of my colleagues, I knew it was not an end to our deficit reduction efforts, but only one part of a larger effort to balance our budget and to restore fiscal responsibility to this Capitol.

The same is true of this balanced budget amendment. We will vote on this this week, on Thursday or Friday. We will have a vote in the Senate, and I believe that the amendment will then go to the States for ratification.

But nothing in the process changes our basic responsibility here in Congress to go back to our committees and to our subcommittees next week and to continue to achieve real savings and spending reduction. This is our responsibility.

Mr. Speaker, one of my congressional district's most famous citizens, Thomas Jefferson, once said ''To preserve our independence, we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty or profusion and servitude.'' Although we are almost 200 years late, Congress and the States have the opportunity to affirm the truth of Jefferson's observation by adopting the balanced budget amendment to the Constitution.

It is an opportunity that we should seize, and I urge my colleagues to support House Joint Resolution 28, the Stenholm-Schaefer balanced budget amendment to the Constitution. We must work together in a bipartisan fashion to pass this important amendment for our country and for our future. We cannot wait any longer.

RECESS

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to clause 12 of rule I, the Chair declares the House in recess until 4:45 p.m. today.

Accordingly (at 4 o'clock and 24 minutes p.m.), the House stood in recess until 4:45 p.m.

□ 1652

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COMBEST] at 4 o'clock and 52 minutes p.m.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore (Mr. COMBEST). 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.

□ 1652

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 Friday, January 20, 1995, the amendment offered by the gentleman from New York [Mr. TOWNS] had been disposed of, and section 4 was open for amendment at any point.

Are there further amendments to section 4?

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

As we continue debate on H.R. 5, I want to address some concerns I have about where we are going and how we are going to get there.

Mr. Chairman, last Friday we spent almost 5 hours debating just four amendments to this legislation. We have presently at least, at last count, about 160 amendments pending, and this is under an open rule, and it is an open rule that I think is well merited in this instance. But I think, Mr. Chairman, if we proceed as we have been going at the very, very slow pace we have been going, we could be here for months on this particular piece of legislation.

I think that perhaps one of the reasons we have seen so many amendments offered is because there is a fair amount of misrepresentation and misinformation circulating about the bill which may account for some of these amendments. I do not question the motives of anybody who has introduced any amendment, although I know that there are some who in very good faith believe that this bill represents a very, very dramatic step back from where we are in terms of regulatory control.

Nevertheless, we do have these amendments, and I think there is misinformation and perhaps it might be helpful to reemphasize just some basic facts about this bill. This bill has very strong support.

The bill has very strong support, I would point out again, not only from the seven major public interest groups, but also the major groups representing the private sector, and among others the legislation is strongly endorsed by the National Governors' Association, the National Conference of Mayors, the National Conference of State Legislatures, National Association of Counties. This legislation is also endorsed by the U.S. Chamber of Commerce, the National Federation of Independent Business, the National Association of Realtors, the National Association of Homebuilders, among others.

So, Mr. Chairman, the list really does go on and on. This has very broad-based support.

The bill also, I would point out, did not arrive just sort of out of the blue. It represents many, many years of hard work by Members on both sides of the aisle, and passed by the Committee on Government Reform and Oversight by a voice vote. I know there were serious concerns about the process that got us to this point, one reason that I supported the open rule, so that we would have a full and open debate on many of the issues that have concerned some Members.

But given the fact that we have this very broad support, I guess the question is: Why would there be this kind of resistance?

The problem is that there seems to be, as I say, misinformation about what the bill does and does not do. This bill does not, I would stress again, and as will be stressed throughout this whole debate, undo environmental and social legislation that is already on the books. The bill does not stop future environmental and social legislation from being passed or costs imposed on State and local governments.

This bill does not stop future reauthorizations or, indeed, it would not convert existing unfunded mandates into mandates subject to a point of

order through the reauthorization process.

What this bill does do is provide a lot of much-needed information about the costs of future legislation, about what we are doing to State and local governments, and what we have done over the years. We in Congress will become accountable and be forced to make informed choices about how legislation impacts State and local governments and ultimately the American taxpayer. That is really it in a nutshell.

We find ourselves at this juncture with over 50 amendments that would exempt all types of programs from this bill. I would say to the chairman if I were to accept all of these amendments they would literally gut the heart of the legislation and render it totally useless.

It is not that we do not, all of us, support these programs. I think many of them are very meritorious and obviously have won and deserve the support of the American people. So it is not we do not support these programs. It is just that we believe Congress and the American people have a right to be, and need to be, informed about what the costs of these programs are and what they are doing to State and local governments.

It does not preclude us from imposing the requirement on State and local governments. It just says we are going to know what we are requiring them to spend to do them.

Mr. Chairman, for these reasons, I must say, and I hope the majority of my colleagues will continue to oppose all amendments, all amendments seeking exemption under section 4 with the exception of ones that may clarify what is already contained in the legislation. These amendments are unnecessary to protect future and existing mandates and would simply preclude analysis of future mandates to State and local governments.

So I will still resist all of the amendments to section 4 except those that I think clarify what we intended to have in there. We do have, I think you know, we have a number of amendments that are going to be offered to other sections of the bill. These are going to deal with very substantive, very important issues that need to be fully debated on judicial review, on the impact on private and public-sector mandates, the effective date of the legislation, the threshold below which or above which we should impose a mandate. There are a number of very substantive issues.

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

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

Mr. CLINGER. Mr. Chairman, we have had a thorough debate on two of the proposed exemptions, both of which were rejected by substantial votes. So I think we have made it pretty clear we do not intend to accept these.

Hopefully some of these would be withdrawn or not offered so we can move on to consider some of the other very important issues that need to be debated.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate the chairman of my committee, the gentleman from Pennsylvania [Mr. CLINGER], expressing his concern about the reason there are a number of amendments, and I would not use the term misinformation as much as considering our committee had one weekend to look at this bill and never even had a public hearing during this session of Congress. So what we are doing during this floor debate is actually developing legislative intent.

A lot of these amendments that we are talking about in the debate that you are going to hear and we heard last week and this week was to establish legislative intent on this bill, because we did not have the time in the committee.

Now, I understand our chairman was told he had to move the bill. But that does not mean that we should short-circuit the legislative process, and so when we do that in our committees, and maybe we can learn for our other committees, that by doing that in our committee process, we are going to make it longer on the floor. Instead of just our committee members dealing with it, now we have 435 Members who want to have questions and answers to this bill.

□ 1700

So we are establishing legislative intent.

Let me talk a little bit about—just today in the Houston paper, and I was going to say the Post, but it was not the Washington Post, it was the Houston Post, so we will not get confused with inside the beltway or outside the beltway. They had an editorial about the unfunded mandate bill that says, ''No easy answers.'' This is daily newspaper. It talks about—again, it is not inside the beltway—it says, ''Unfunded mandates is a term that is overly used and often misunderstood when we talk about misinformation.'' And it is part of the Contract with America or on America or for America or whatever.

But State and local officials across the country complain about Washington being too quick to tell them what to do, whether it is clean air, fair labor standards, family leave. But is it fair, and let us go back and use their analogy, again from the Houston Post. It says,

> An analogy of a teenager in his car. Clearly, it is wrong for his parents to force him to use his money to pay for gas to run errands. But what if they simply order him to repair his transmission so it does not leak in the driveway? Instead of saying, ''We want you to clean up your driveway, son or daughter, and that is what we are talking about.'' That is a mandate that parents give to their child, they are not telling him to use his money to pay for gas to go run errands, they are just saying, ''Well, if you want to keep that car in the driveway, we want the transmission not to leak on it, at least.'' So we are unfunding that mandate for you to clean up your transmission.

It is easy to talk about unfunded mandates, and I agree that the bill needs to be passed, but I also think we would be doing a disservice to our constituents and to the people of this country if we do not recognize what we are doing by taking as much time as we need, if not in committee then on this floor for the whole world to see, about the unfunded mandate issue.

We are 1 country, but we are 50 States. What we come together on as a country is important to us. It may be called an unfunded mandate, it may be a national issue instead of a local issue. But I still think it deserves the time on this floor of this body to consider it judiciously. I think that is what we are doing.

AMENDMENTS OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer amendments numbered 112 and 115 and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments, numbered 112 and 115, is as follows:

> Amendments offered by Mr. SKAGGS: Section 4 is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; or'' and by adding after paragraph (7) the following new paragraph:
>
> (8) pertains to air pollution abatement or control.
>
> The proposed section 422 of the Congressional Budget Act of 1974 is amended by striking ''or'' at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; or'' and by adding after paragraph (7) the following new paragraph:
>
> ''(8) pertains to air pollution abatement or control.

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

There was no objection.

Mr. SKAGGS. Mr. Chairman, stated very simply, this amendment would exempt clean air laws and regulations from this bill. Without this exemption, the bill, I think, will hurt the environment and actually unwittingly promote a kind of socialism in this country, a fact that may come as a surprise to my colleagues.

I am utterly astonished at this, I assume, unintended consequence of the bill. But it would certainly be one of its effects, which I will explain in a moment.

Clean air laws can be an unfunded mandate, primarily when local or State governments own and operate major sources of pollution. Just like other entities and persons, they run power plants, they drive vehicles, and operate other sources of pollution. State and

local governments own almost 600 electric utilities, which generate something like 4 million tons of air pollutants a year. They operate untold thousands of motor vehicles. In my area in Denver, for instance, the regional transportation system has over 800 buses, and no one should doubt that they can be a source of air pollution.

When Congress or the EPA adopts a nationwide air pollution standard, it applies to all power plants or landfills or all vehicles. Such a standard would be considered an unfunded mandate on States and local governments under the bill that is now before us.

If it were to pass in its current form, Congress would have three basic choices of how to deal with a future clean air bill. The first choice would be simply to exempt State and local governments from any new clean air mandates. We could just let them off the hook and not require them to comply to the extent that others in our society would have to follow the same rules.

If we make that choice, then we would have condemned American citizens to breathe dirtier, more unhealthful air. And—and this gets to the socialism question—and we would have given State and local governments a great competitive advantage. A power plant that happened to be owned by a public utility, a publicly owned utility, would not have to make the same pollution control expenditures that power plants owned by the private sector would have to. That is certainly unfair to the private sector. In the highly competitive power industry, avoiding the full costs of clean air compliance would give publicly owned plants a great advantage.

So, without this amendment, this bill would create a kind of perverse incentive to socialize the utility industry. This is the type of ironic and amazing result of trying to push a bill like this through without taking the time, or holding any hearings, to think it through.

Letting State and local governments off the hook wouldn't be our only choice. The second option would be for the Federal Government to pick up the tab, making them funded mandates. Then it would be the Federal taxpayers, however, who would be paying for the pollution of publicly owned utilities, transportation districts, or whatever. This second option is also absurd. Why should all the taxpayers in the country pay for pollution cleanup at a power plant that happens to be municipally owned? It has always been the rule that the polluter should pay for his pollution.

If taxpayer dollars are spent this way, then State and local governments would still have an economic advantage over their competitors in the private sector, and, again, we would be headed down the road to socialism.

The only other option we have, the third choice, would be to vote to overrule the point of order that this bill would create as an obstacle to passing any new clean air legislation.

That, I gather, is what those who wrote this bill and who are managing it on the floor today claim it will do. Fine, if that is what we are going to do, let us do it now. If everybody is in agreement that we do not really want to make it impossible or much more difficult to pass future clean air legislation, then let us go ahead and vote that way today by putting this exemption in the bill.

Let us remember it is already plenty difficult to pass a clean air bill. Last time we did it, it took over a decade to work out the details.

Let us remember the American people want us to do more, not less, to clean up the air they breathe. Why should we make it harder to pass a clean air bill? I do not think we should.

So, I urge this House to make the decision now that we are not going to create a new procedural obstacle to clean air bills. I urge adoption of the amendment.

Mr. Chairman, I have an amendment at the desk, No. 112. I ask for its immediate consideration.

I ask unanimous consent to have amendments No. 112 and No. 115 be considered en bloc.

Stated simply, this amendment would exempt clean air laws and regulations from this bill. Without this exemption, the bill will hurt the environment, and it will unwittingly promote socialism.

It may not be surprising that this second bill brought forward by the new majority would hurt the environment, by making it more difficult to pass laws and adopt regulations to clean up the air and otherwise protect the environment.

But I'm utterly astonished the new majority party would support a measure that would actually promote socialism. I trust this is not an intended consequence of the bill, but it certainly would be its effect. And if the people who wrote the bill don't want to do that, then, I hope they'll support the change which this amendment would make.

Let me explain.

Clean air laws can be an unfunded mandate primarily because State and local governments own and operate major sources of pollution, just like any entity or person who runs a powerplant, drives a car or bus, or operates any other source of air pollution.

State and local governments own 590 electric utilities, which operate powerplants that put out nearly 4 million tons of air pollution a year.

State and local governments also operate untold thousands of motor vehicles. In the Denver metropolitan area, for example, the regional transportation district operates 825 buses. And anybody who has been stuck in traffic behind a bus knows that buses pollute.

When Congress or the Environmental Protection Agency adopts a nationwide air pollution standard that applies to all powerplants, or all landfills, or all buses in this country, that standard would be considered an unfunded mandate on State and local governments, under the bill as is now written.

If the bill were to pass in its current form, Congress would have three basic choices when considering a future clean air bill.

The first choice would be simply to exempt State and local governments from any new clean air mandates. We could just let them off the hook, by not requiring them to clean up these sources of pollution to the extent others in our society would be required to clean up identical powerplants, cars, and trucks. The 590 powerplants owned by State and local governments could be allowed to pollute freely at higher levels than everyone else, without any regard to the effect on public health, acid rain, or anything else. The 20 million tons of emissions from some 2,500 municipal landfills would not be subject to the same constraints that apply to BFI or waste management. In Colorado, the regional transportation district could be allowed to buy and operate buses that didn't meet the emission standards that apply to a private charter company.

If we make that choice, then we would have condemned American citizens to breathe dirtier, more unhealthful air.

And we would have given State and local governments a great competitive advantage. A powerplant that happen to be owned by a public utility wouldn't have to make pollution-control expenditures that powerplants owned by the private sector would have to. That's certainly unfair to the private sector. In the highly competitive power industry, avoiding the full costs of clean air compliance would give publicly owned plants a great advantage and ability to expand.

So, without my amendment, this bill would create a perverse incentive to socialize the utility industry. The new majority, according to their words, wants to privatize government operations, not have the government take over private sector operations. But this is the type of ironic and amazing result of trying to rush a bill through, without taking the time or holding any hearings to think it through.

Letting State and local governments off the hook by exempting them wouldn't be our only choice. A second option would be to mandate cleanup State and local governments, but have Federal taxpayers pick up the tab. This would make them funded mandates. Then, it would be the Federal taxpayers would pay for pollution controls on publicly owned powerplants. And it would be the Federal taxpayers who would pay for the costs of the pollution controls on the buses the regional transportation district buys, and for the maintenance of the buses so they meet clean air standards.

This second option is also absurd. Why should all the taxpayers in the country pay for pollution cleanup at a powerplant? Why should all taxpayers in the country pay for emission controls on RTD buses? It's always before been the polluter who pays in this country.

And if taxpayer dollars are spent this way, then State and local governments would still have an economic advantage over their competitors in the private sector, and again we'd be headed down the road to socialism.

The only other option we'd have, the third option, would be to vote to overrule the point of order that this bill would create as an obstacle to passage of a new clean air bill. That, I gather, is what those who have written this bill and who are managing it on the floor today claim is what we will do.

Fine, I say. Let's just do it now. If everybody is in agreement that we don't really want to

make it impossible, or even more difficult, to pass a new clean air bill, then let's go ahead and vote that way now.

One way an automatic point of order would jeopardize the next clean air bill is to thwart the need to respond to science as it finds that pollution is increasing. This seems to be true for ozone and particulates in particular. Current science is indicating that these problems may be getting worse, not better. As a result, we may need to respond by tightening the national standards for these pollutants to protect the health of our constituents. The automatic point of order in H.R. 5 would pose an enormous obstacle to doing the right thing.

Let's remember that it's already plenty difficult to pass clean air legislation. The last time we did so, it took a full decade of strenuous debate and negotiation.

And let's remember that the American people want us to do more, not less, to clean up the air they breathe. Whey should we make it harder to pass a clean air bill?

I don't think we should, and so I urge this House to make the decision now that we are not going to create a new procedural obstacle to clean air bills.

The Clean Air Act also includes unfunded mandates on State governments as governmental bodies, as opposed to those they face as the owners and operators of sources of pollution. For example, States are required under the act to prepare State implementation plans to meet the national air quality standards. But in the absence of the national framework for cleaning up the air that the Clean Air Act represents, each State would still have its own air pollution cleanup program, anyway. In any event, ti's worth remembering what State and local leaders said about this mandatory national framework when Congress last reauthorized the Clean Air Act, including:

> The Governors * * * have unanimously agreed that the Congress must take tough measures.—The National Governors Association.
>
> Reauthorization of the Clean Air Act is one of the National League of Cities' top priorities.—The National League of Cities.

Let's not kid ourselves. Without this amendment, we will put at some serious risk continued progress in cleaning the air our fellow Americans breathe. There's no reason to take that risk. I urge my colleagues to adopt the amendment.

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

I do so reluctantly because the gentleman from Colorado is one of the more thoughtful Members and contributes a great deal to our debate.

But I think it is fair to say we all want clean air. There is no disagreement about the fact that we are all interested in preserving the quality of air throughout out Nation. That is certainly not the question.

H.R. 5 in no way is going to abrogate that. It is about having information on the costs of clean air programs.

Among others, they will work with Federal, State, and local governments to provide solutions that will work for everyone, as opposed to the current pattern of Federal dictates. So a majority is needed to pass the Clean Air Act, that is not going to change under H.R. 5. What will change is that Congress will have adequate cost information and debate on the unfunded mandates issues. The alternative is to legislate as we have been doing, which is with a blind eye toward the impact of these mandates on States and localities. It is no exaggeration to say that some communities will vote for putting policemen on the streets and improving all other services in order to afford compliance with the environmental mandate. They will have to make very tough decisions, faced with the mandates imposed by the Federal Government and the needs they have in their local communities.

Counties are going to spend over $2.6 billion to comply with the Clean Air Act in fiscal 1994 through 1998. This is money that could be used for other purposes: For education, for housing, and other community priorities.

So I must oppose the gentleman's amendment.

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

Mr. CLINGER. I am happy to yield to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I thank the gentleman for yielding.

Mr. Chairman, do I understand your position correctly—and I have great regard for the gentleman from Pennsylvania—that he believes that we should have essentially a presumption here that a municipal-owned power plant or a municipal bus company or a county-owned landfill should not be held to the same clean air standards as their private sector counterparts.

□ 1710

Mr. CLINGER. The debate on private/public sector issue, and there is an issue there that I think will be debated, is going to go forward. I do think—we are not suggesting that this is in any way going to undermine, or impede, or undercut existing mandates imposed on the very entities—and indeed on the private sector as well—

Mr. SKAGGS. But if the gentleman would yield further, we can assume, given the evolution of the science of air quality and air pollution, that at some point this Congress will consider in the future tightened standards, and that is really what we are speaking to, and I am talking prospectively. At that time in the future is the gentleman standing for the proposition that publicly owned utilities, vehicles, landfills, should have to adhere to a lesser standard than everyone else?

Mr. CLINGER. Certainly not——

Mr. SKAGGS. Then why do we not go ahead and write that into the bill today?

Mr. CLINGER. What I am suggesting is that there is language in the bill now that will require an analysis of what, in fact, the impact would be and what the—that this equilibrium that might be developed by a private/public sector——

Mr. SKAGGS. If the gentleman would continue to yield, I have no problem with the informational requirement. It is the point of order that would have to be overcome by a majority vote in the body that stands as a real impediment to again holding publicly owned polluters to the same standard as privately owned polluters, and why do we not go ahead, and clear that up, and get rid of that problem now?

Mr. CLINGER. This is an issue that I think deserves to be debated, but I do not think it needs to be debated at this point. What we are talking about here are exemptions, total exemptions, from the existing law. We are going to have, I am sure, a very spirited debate about the implications as to private and public sector. At this point, this is asking for a total exemption from the application of the point of order to an entire statute, and I just cannot accept that.

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

Mr. Chairman, I do not think it is inappropriate to discuss these issues and discuss them right now. What has been inappropriate, in my estimation, is the way this bill has been steamrolled through this Congress without even hearings in committee.

We pass legislation with all sorts of consequences; a lot of them are unintended consequences and the best way to avoid negative, unintended consequences is to know what we are doing to the best extent possible.

It is ironic that the legislation, which claims to give the Congress more tools through all the analysis of what may be an unfunded mandate to what extent it will put a burden on the taxpayers of local and state governments; information that would be useful is being pushed through so that we will not have the full information available to us in understanding what this legislation would in fact do.

Now the best—one of the best examples of what are clearly unintended consequences is to look at the environmental area. The legislation before us would say that, if there is a mandate on local governments, it has to be paid for by the Federal Government. But there are environmental laws that apply across the board, whether the polluter is a government owned polluter or a privately owned polluter. first of all, people's lungs do not know the difference, if it is a toxic pollutant coming from a municipal owned incinerator or a privately owned incinerator. The laws should be the same if we are going to require pollution reductions, whoever may own that particular facility. But this legislation would deem the costs for a publicly owned polluting source, incinerator, power plant, whatever, to be an unfunded mandate.

What are the consequences of that? The government would have to pay the costs that would be borne by the publicly owned entity or say that they are not obligated. Well, we would have the privately owned polluting source regulated, but the publicly owned one not

regulated. That makes no sense because pollution is pollution, and, second, it puts a disadvantage to the privately owned enterprise when it is in competition to that which is publicly owned. That, seems to me, makes no sense.

We have interstate air pollution and environmental problems, and because of that reason we have to look to the Federal Government to set the standards, and for that reason we ought not to consider these unfunded mandates. Why would any local government want to spend the money to reduce pollution that affects somebody else? And there are a lot of examples of this:

Probably the best is what we fought over for so many years dealing with the acid rain problem. We have power plants in the Midwest, some of which are publicly owned power plants that emit SO_2 pollution that is carried long distances into the northeastern part of the United States and comes down in that area in the form of acid precipitation. Well, we adopted legislation to use market forces to reduce that pollution. Some of those existing laws are going to be affected by this legislation. We have heard over and over that is not the case because this is only prospective, but it is going to be retroactive to existing laws like the Clean Air Act because a lot of those laws have not yet been implemented through regulations. When regulations are adopted in the future to enforce these existing laws like the Clean Air Act, the Safe Drinking Water Act, the Clean Water Act, then there is going to be this unfunded mandate obligation that will be triggered, and those regulations can be tied up in court for years, an issue we are going to discuss sometime down the road as we look at this bill. But we have acid rain coming from States like the Midwest, Ohio, and Pennsylvania. New York in the Northeast will be affected.

The Long Island Sound is another good example. In Long Island there is pollution from sewage discharges from New York City. Under this bill the Clean Water Act provisions controlling these discharges by New York City would be considered unfunded mandates. So, if we do not pay New York City to stop polluting, the people in Connecticut are going to suffer, and, when we have these competitions between the privately owned and the publicly owned polluting sources, we should have a level playing field. These are things that one would not ordinarily think about when they hear about a bill called unfunded mandates, but in fact that is what is going to occur, and that is why I think the gentleman from——

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

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

Mr. WAXMAN. That is why the amendment that is being offered today that would say, ''Let's look at environmental issues as one where we are not going to consider it an unfunded mandate in order to make sure that we don't put private enterprise at a disadvantage to publicly owned enterprise; secondly, that we can deal with interstate problems; and, thirdly, so we can protect the public from environmental hazards which can be great indeed when these environmental hazards can cause lung problems, can cause cancer, can cause very serious diseases that we hope can be prevented through wise policies.''

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

Mr. Chairman, let me just quickly correct a couple of statements that my colleague, the gentleman from California, made with regard to this legislation to make clear what we are doing here this evening. He said that the options would be, No. 1, to pay the public utilities; or, 2, to not have the mandate take effect as the chairman of the committee has noted. This evening, and many times in the debate on Friday, that is in fact not the sole option before this Congress under this legislation.

Let me be very clear. This forces a cost accounting which is not currently available. It then forces a debate on the floor as to the new unfunded mandate and finally forces a vote. It is a majority vote. So by a majority Congress could continue to exercise its judgment and continue to have the mandate take effect with or without funding.

Another correction needs to be made, and that is with regards to existing laws where regulations are not yet promulgated. The gentleman from California said that the unfunded mandate process would be triggered by that. That is not correct. Existing laws are not covered by this legislation in terms of the point of order being raised against unfunded mandates. New regulations, which would be promulgated pursuant to existing statutes, would not be covered by the point of order on the floor of the House that we have talked about many times now. There are certain requirements on the Federal agencies. They are reporting requirements as to the costs, again of the new regulations being promulgated, if they are above a threshold of $100 million.

□ 1720

I think it is important, Mr. Chairman, to continue to emphasize that this bill is not the broad-based bill that the opponents to the legislation or the proponents of this amendment and other amendments which exempt whole areas of the law would have us believe. This is a carefully crafted measure. This is a measured response. This is something that gives us information and accountability.

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

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

Mr. MANZULLO. Mr. Chairman, I rise in opposition to any amendment that would exempt the Clean Air Act and other environmental laws from the unfunded mandates. Mr. Chairman, I represent the 16th District of Illinois. One of our counties is McHenry County, part of the Chicago metropolitan statistical area. That area has been denominated as a severe ozone nonattainment area, which means that any company which has in excess of 100 employees is forced to carpool. It is called employee commute option. This is a mandate from the U.S. Congress through the amendments in 1990 to the Clean Air Act.

The CRS has put out a report showing a cost-benefit analysis. The EPA administrator herself, Carol Browner, stated in a meeting this past week here on Capitol Hill that as far as she is concerned and as far as Mary Nichols is concerned, and Mary Nichols is the assistant EPA Administrator, that car pooling simply does not work under any circumstances. It is not proved to be cost efficient. But we are stuck with it. It is in the law.

To exempt the Clean Air Act from the unfunded mandates bill simply is saying we are going to take a bill, a provision of a law, that does not work, but because it relates to environmental quality, therefore, it should not be looked at with the scrutiny of an unfunded mandate.

The Chicago Tribune this past Saturday headlined, ''U.S. Car Pool? Never Mind.'' This is the EPA administrator urging Members of Congress to ignore an existing statute. The only think we can do at this point, aside from opening up the Clean Air Act, is to ask that the Clean Air Act, along with other statutory enactments, be looked at by the Unfunded Mandates Commission for the purpose of saying this simply does not work, we should do away with it, and allow people the ability to drive to work as opposed to being forced to carpool.

Mr. PORTMAN. Mr. Chairman, reclaiming my time, let me be very clear: This new legislation does not apply to the Clean Air Act, it does not apply retroactively, it applies prospectively only. The discussion here on this amendment is as to new mandates that might arise under clean air and other environmental status.

Again, to emphasize the point, the Clean Air Act which was passed by this Congress by a majority vote would not be covered under the provisions of the point of order that we discussed earlier.

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

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

Mr. WAXMAN. Mr. Chairman, the reason why I disagree with the gentleman is not because we are going to have the Clean Air Act on the floor. If we were to have it on the floor and

made some changes, it might be affected by prospective consideration of unfunded mandates.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. PORTMAN] has expired.

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

Mr. PORTMAN. Mr. Chairman, I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, whenever EPA wants to revise their regulations to meet problems that were not otherwise foreseen which are consistent with existing law, those regulations would have to undergo the analysis as to whether they constitute an unfunded mandate.

Now, I have no problem with the analysis. What I find difficult is the fact that those regulations can be held up ad infinitum because of the judicial review that anybody who disagrees with the regulation could use to say that they did not want it go into effect, the analysis was not good enough. That seems to me to allow a situation that we would not tolerate if it were a prospective piece of legislation, because we would reserve to ourself a point of order which can be voted on by a point of order overturned, but could not be overturned except through lengthy court legislation. I think that makes no sense.

Mr. PORTMAN. Mr. Chairman, reclaiming my time, to reclarify again, because we are beginning to fuzz the lines between the point of order and the regulatory requirement. The regulatory requirement is simply a requirement that before new regulations are promulgated, there be an assessment of the costs. Those costs will go into a written report which will be provided to the OMB and the Congress.

It seems to me that is a very sensible approach. It is actually not even as general and broad as the current Executive order that President Clinton has issued to the Federal agencies in these sorts of situations. All we are asking is there be judicial review of those assessments of cost. Let us be very clear on that. I understand now the gentleman's point, which you had not made previously, which is it really is the judicial review section that troubles you. That, of course, will be subject to considerable debate, I believe, later this evening or perhaps tomorrow. But with regard to judicial review, it is only as to the agency action, and, again, the agency action is information on an assessment of the costs and benefits.

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

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, there are two ways we are going to have an unfunded mandate provision apply. One is if it is legislation to be brought up, not existing legislation but new legislation, and if it is brought up in the Congress, it will have the cost analysis of an unfunded mandate and we will permit a point of order if there is an unfunded mandate above a certain amount of money, but we reserve the right of the Congress by majority vote to allow that legislation to go into effect anyway and to impose the unfunded mandate anyway.

That is the congressional route. But there is another separate route where unfunded mandates can stop prospective actions, and that is in terms of regulations enforcing existing laws. So I take issue with the statement that existing laws are not going to be impacted. They are definitely going to be impacted.

For example, if the Environmental Protection Agency wanted to adopt a regulation dealing with toxic emissions, emissions that are hazardous, that can cause cancer, can cause birth defects, if they want to under the existing Clean Air Act adopt regulations dealing with these toxic emissions, and if the source of the toxic emissions is a publicly owned facility, then the EPA has to do this long analysis about how much it is going to cost the publicly owned polluter.

Now, I have no problem with that requirement. But let us understand what will be imposed upon the EPA to do this. They are going to have to look at the anticipated cost to the States, what impact it is going to have on the national economy, on our national productivity, on economic growth, on full employment, on productive job creation, international competitiveness, all of these things, which I do not think the Environmental Protection Agency is equipped to do. But they will do it, because we want to have them know, and the Office of Management and Budget and others involved in the administration, know the full cost impact.

But after they have done that, it is not enough, because there is no point of order that can be made, there is no majority vote that will say it is in the best interests of the country to have the regulation go forward. What happens then is they issue the regulation because they think it is appropriate, but the judicial review that can be then used to second-guess whether they did this analysis adequately can lend itself to anybody who disagrees with the regulation, and by anybody I mean a polluter, a corporate polluter, an industry that does not want to be regulated, can go into court and say they really did not look adequately at the international competitiveness of the United States if this particular hazardous pollution emitter is going to have an unfunded mandate that is going to be a burden upon them.

There are facts that are going to have to be determined under this legislation by the Environmental Protection Agency, as an example, that are going to be rigorous, and so rigorous that one may not be adequately done and, because it cannot be done adequately, becomes a loophole for the polluting source to tie it up.

Then we have to recognize, as the gentleman from Colorado so well pointed out, we are talking only about a polluting source that is publicly owned. We will have to say at that point that the regulations will not go into effect for that polluting source because it is publicly owned, but the privately owned polluting source would be regulated. It is unfair competition between the two, and it strikes me as peculiar for Republicans particularly, who argue they want more private initiative, to tilt things in favor of the publicly owned polluting source.

So I think that it makes good sense to exclude these environmental issues from the requirement of an unfunded mandate. They should not be considered unfunded mandates, especially since it is going to be such a burden to allow a regulation in the national interest, in the interests of protecting the public health, of protecting the environment, from being put into effect prospectively.

□ 1730

I take issue with the idea that this bill only applies to future law. It will apply to existing law because of this provision that applies to regulations. I stand in support of the amendment offered by the gentleman from Colorado.

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

Mr. Chairman, I have just a couple of questions I wanted to ask, if I could, the chairman of the committee.

As I have heard the discussion, first, the bill does require, does it not, for the first time that the public and private sector competition issue be considered by Congress before it enacts such legislation?

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

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

Mr. CLINGER. The gentleman is correct. This is really the first time that we have that provision in here. Heretofore there has been no such requirement or no such mandate to in fact make that determination or to study the impact of it on the private-public sector dichotomy.

Mr. DAVIS. In point of fact, does not this legislation specifically require the committee reports to include an analysis of how funding a mandate would affect the competitive balance between the public and the private sector?

Mr. CLINGER. Mr. Chairman, if the gentleman will continue to yield, the gentleman is absolutely correct.

Mr. DAVIS. Also it is my recollection that the U.S. Chamber of Commerce, the NFIB, the National Association of Home Builders and Browning-Ferris, all private sector entities that could be adversely affected through this public-

private competition, that the gentlemen on the other side of aisle are concerned about, are all endorsing this legislation in its present form?

Mr. CLINGER. That is correct. In fact, the language really was done in consultation with private sector interests to ensure that they would not be disadvantaged by the language of the statute.

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

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

Mr. Chairman, I rise in opposition to this amendment. I, like the gentleman from California [Mr. WAXMAN], represent the Los Angeles Basin and was a strong supporter of the Clean Air Act, as he knows. In fact, several years ago, while I never had the privilege of serving on the powerful Committee on Energy and Commerce, I did spend time with the gentleman from California [Mr. WAXMAN] and other members of the Committee on Energy and Commerce dealing with this very important issue.

In fact, the area which I represent in southern California happens to have the highest number of first stage smog alerts in the entire country. It is the Inland Empire area, the eastern suburbs of Los Angeles. I say that simply to underscore my strong commitment to improving air quality.

But in looking at that, we have to realize that the Clean Air Act over a five-year period, which began last year, is imposing a cost on cities throughout this country of $3.6 billion. Our city of Los Angeles alone is shouldering a burden of $787 million.

I had breakfast this morning with Mayor Richard Riordan, mayor of Los Angeles. We were talking about this. Mayor Riordan and I and others of the area are strongly, strongly committed to improving air quality. But the fact of the matter is, this cost burden is overwhelming, extraordinarily onerous, and I have to rhetorically ask the question, at what level of spending will we possibly be able to attain a level of satisfaction for every Member of this House?

It seems to me, from my perspective, we have reached that point.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Skaggs amendment. Let me say, my colleague from Illinois who was here earlier and talked about his frustration with the trip reduction, I was in that meeting with him last week with the EPA because we were concerned about emissions tests in Texas, the system that the State of Texas had set up.

But one of the problems he may recognize though is that that was a state plan that was established. And it was a state plan that put so much weight on emissions, so much weight on industry, and also the trip reduction, although EPA did come in and give him some flexibility on trip reduction just like I think they are doing with us on our emissions testing in Texas. But it was a state plan.

In 1990, the Clean Air Act was passed here with bipartisan support and signed by a Republican President, and I am sure it had a vote somewhere on it on the floor that said, this gives the flexibility of the States. It may be a mandate on the States to reduce your pollution, but it is giving the States the ability to make that decision on their own.

Pollution knows no boundaries. We are just fortunate in the State of Texas that if we pollute in Houston it is all within our boundaries most of the time. We do not have that in other parts of the country, whether it be the Midwest or the Northeast or California to the mountain States.

So that is why I think it is important that we prioritize and say we are against unfunded mandates. We recognize that it is wrong. But there are also things that bring us together as a country. Pollution does not know state lines or county lines or city lines. And that is why oftentimes in Congress we have to address it, and the Clean Air Act is one of those examples. But they can be fine tuned by our States to recognize whether it is emissions or by the trip reduction, and my colleague from Illinois has had so much trouble with it. They have responded in there and they are working on it here in Washington.

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

Mr. GENE GREEN of Texas. I yield to the gentleman from California.

Mr. WAXMAN. I think he makes an excellent point. We do give the States the flexibility in that responsibility that they take to devise their own plans for reducing emissions so that the health of the public will be protected. But I would suggest that when we hear about all these private enterprises like the chamber of commerce, thinking that they are not going to be at a competitive disadvantage, I suspect that some of these private industries think, well, if it is going to be an unfunded mandate the government-owned polluter, perhaps we will not put any regulations on either of them.

I suspect that that is what a lot of them would like. They do not see themselves ever being at a competitive disadvantage. They think that none of the polluters will have regulations placed upon them.

I think that would be a disservice to the people whose lungs are going to have to breathe in pollution when we deal with these air pollution problems.

Mr. GENE GREEN of Texas. Reclaiming my time, Mr. Chairman, the people who breathe that do not know whether it comes from a municipal waste incinerator or a commercial weight incinerator. And so if we are going to, by this bill, create disparity in the regulations, that is the concern that we need to recognize.

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

Mr. Chairman, as somebody who was involved with the Clean Air Act, I rise in strong support of the Skaggs clean air amendment. I think what the gentleman from California [Mr. WAXMAN] has done is pointed out the tremendous potential for us, if we pass this legislation, to seriously usurp the Clean Air Act. If we move ahead with this bill, what is going to happen with the various states and some of the standards? 50 different clean air standards? No uniform protections from automobile factory manufacturing emissions?

And unless we pass this amendment, I think this whole issue is going to be unclear. We need to make sure that we are exempting clean air regulations from this unfunded mandates legislation. Otherwise, we are going to have a lot of angry people, angry communities and you are going to have a public asking us immediately to revoke this ill-timed legislation.

Many of us were here in 1990, when the House passed the Clean Air Act by 401 to 25. The vote was clearly representative of the American people's public desire for effective responsible federal regulations. But that is not what other advocates of the unfunded mandates legislation are telling us. They must think that the American public does not care about the quality of air that we breathe. And they must think that a double standard is okay.

As currently written, the unfunded mandates legislation exempts only state and local governments. That is right. Despite all the rhetoric about relief from regulation for the American people, the bill would continue to subject individuals and businesses to any new laws. I do not know what that means, but I can only guess that the backers of the bill think that states and local governments should be given unfettered power to do whatever they want to public health and safety standards for clean air.

And yes, mayors and county commissioners are powerful and they are elected, but we should not give them the green light to do whatever they want. That is not right. The American people want protection. They want responsible action, not legal loopholes and weekend federal standards.

□ 1740

In survey after survey the public has said they overwhelmingly support strong, effective environmental regulations, the last one being in December of 1994: ''Sixty-two percent of the American people feel that environmental laws and regulations do not go far enough or strike the right balance for protection for public health and safety.''

When we passed the Clean Air Act amendments in 1990, we culminated a decades-long struggle to pass meaningful legislation to protect our air. The new requirements we overwhelmingly

endorsed were supported by everybody, elected officials included.

In fact, in 1989 the National Governors' Association wrote to Congress that they ''unanimously agreed that the Congress needed and did take tough measures.'' In the same year the National League of Cities told Congress that ''As a national municipal policy, reducing air pollution to safe levels is equal in importance with employment, housing, and economic development, and revitalizing and conserving cities.''

According to the Clean Air Network, ''Despite the tremendous progress we have already made towards cleaner air, nearly 100 million Americans live in areas that still have unhealthy levels of one or more of the six major pollutants.''

So how many more of our constituents are we going to put at risk if we pass this legislation without proper safeguards and proper and extended debate?

Mr. Chairman, we just passed laws mandating that Congress live under the same laws as the rest of the country. We all voted for it. That is a good idea. However, I find it ironic that while we increased the application of the laws to ourselves, we are reducing the application of public health protections that the American public holds dear.

We keep hearing that the 1994 elections delivered a message of change for the American people. That American people have spoken loudly and clearly. What is important to them? Are we going to have legislation that comes at the expense of their health and their air? Will we ignore this message again?

If this amendment is so bad, and I have heard some of my colleagues on the other side say that we are not exempting the clean air legislation, why do we not pass the Skaggs amendment to make sure it is correct? We are giving the green light to courts and other arbitrative bodies around the country to say ''Well, you passed the unfunded mandates legislation, so City of San Diego, of Albuquerque, and others, you do not have to meet clean air standards. You can let the pollution come in, as long as it is going to bring jobs.''

Mr. Speaker, this is a good amendment. Let us not rush too fast. Let us make sure that we are doing the right thing. Let us pass this very good amendment and move on to ensure that the public is protected.

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

Mr. Chairman, I rise today to support the Skaggs amendment, which I believe is a necessary improvement to H.R. 5. While I am sensitive to the burdens that Federal legislation may impose on State and local governments, I believe that the responsibility which is borne by all levels of government to protect the environment, defend worker safety, prevent worker discrimination, and secure basic rights for all citizens is paramount and must be met by our government.

As I listened to our colleagues debate this legislation and the various amendments to it, it sounds as if what some people would like to see is unmandated funding, rather than unfunded mandates, so I think we have to have more balance than H.R. 5 presents.

I commend the gentleman from Colorado [Mr. SKAGGS] for bringing this important issue to the floor, which would restrict the scope of H.R. 5 in terms of the Clean Air Act. Last week, sadly, this body rejected amendments from the gentleman from Mississippi [Mr. TAYLOR] and the gentleman from New York [Mr. TOWNS] which would have restricted the scope of H.R. 5 in terms of the interstate ramifications for the public health and safety of residents in other States.

I think this was unfortunate, because those amendments, like those of the gentleman from Colorado [Mr. SKAGGS] today I think were necessary improvements to the legislation. In our clamor to get Government off our backs, we risk a great loss, the loss of environmental protection that we have struggled for decades to ensure.

We hailed the industrial revolution and later the arrival of dramatic new technology as great advances in our civilization. However, with this progress came the realization we were risking massive depletion of the resources responsible for our success.

In reaction to this, the Federal Government sought to strengthen our environmental laws, so that future generations would not inherit a crippling environmental debt that threatened their security and their lives. Today in our 100-day stampede we are putting at risk the fundamental environmental protection laws we struggled, as I mentioned before, for decades to bring about.

The Federal Government, in its direction to the States, has provided the continuity necessary for our environmental laws. A national problem deserves a national plan. Our States do not exist autonomously. They are State united by common, often overlapping, problems and national solutions. Many of my colleagues, and most recently the gentleman from Texas [Mr. GENE GREEN] pointed out that pollution, et cetera, knows no geographic boundary.

On December 21 the results of a national poll and voter attitudes towards environmental protection were released. They showed that by over 2 to 1 the American public believed the current environmental protection laws do not go far enough, as opposed to 18 percent who believe that the laws go too far. Even the voters who voted for Republican congressional candidates indicated that they do not want environmental laws rolled back.

In explaining this poll, the National Wildlife Federation stated ''The poll demonstrates that when the American people voted for change in the congressional leadership in last month's election, they did not endorse an attack on 25 years of environmental protection.''

I heard my colleagues talk earlier about many ideas which I associate myself with, which I have concerns about in H.R. 5. The gentleman from California [Mr. WAXMAN] talked about the judicial review, and I know we will be getting around to that later, but I also want to associate myself with his remarks in that regard.

Others of our colleagues have talked about measuring the amount of money, assessing the amount of money that this legislation, the amendment of the gentleman from Colorado [Mr. SKAGGS], would cost. It is impossible for us to talk about money and the environment without understanding how costly it will be for us not to protect the environment.

The need to clean up pollution and mitigate other environmental problems should translate into a backlash against the pollution, not against the programs implemented to clean them up. The direct costs of mitigating pollution reflect only part of the price society must pay for environmental degradation.

Environemntal problems impose significant costs on society: disease and death, lower fishing yields, reduced recreational activities, loss of jobs, and the list goes on. Toxics and pollution pose a major threat to human health. Pollution has been linked to chronic respiratory problems, cancer, and even birth defects. In addition, numerous studies have shown that environmental damage can significantly harm the Nation's economic performance.

The debate today is not about relieving States of an unnecessary burden. It is about dismantling environmental laws that protect the health of our Nation's citizens.

Federal mandates serve an important purpose in motivating States to perform responsibly, as parts of the whole, and with the same requirements we have for the private sector. Without these mandates to ensure environmental protection, the health and lives of our future generations of Americans will be at risk.

Once again, I urge my colleagues to support the Skaggs amendment, at least all of our colleagues who would like to breathe clean air.

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

Mr. Chairman, it is indeed heartwarming to have heard the impassioned pleas on behalf of private industry from the other side of the aisle. They have suggested that if we pass this act as is, private industry will be at a competitive disadvantage with publicly owned, say, utilities, for example, because the utilities will be in some way exempt from a mandate and private enterprise will not be exempt.

Mr. Chairman, I would point out that one solution to that would be to pass a

similar piece of legislation, exactly applying the unfunded mandate of this legislation to private enterprise, just as we are now proposing to do so with State and local government, and that would level the playing field. I submit, however, that that would make sense both ways.

Such legislation would actually make sense for both State and local government and for private enterprise because, once again, we are proposing a point of order with respect to new and future legislation that would raise the cost. It does not prevent the Congress from in fact proceeding to enact such legislation.

Second of all, addressing in particular the Clean Air Act, there is, again, a supposition that if a Government action with respect to clean air is proposed, it must be good, it must be beneficial, and there is no reason to examine it, either at the legislative or at the rulemaking level.

Mr. Chairman, I submit that is not the case. This is the same debate we had about clean water last week. With respect to clean water, and we all want clean water, the Environmental Protection Agency was prepared to back up a proposed rule that would have required the city of Albuquerque to make the Rio Grande, which passes through the city of Albuquerque, up to drinking water standards. The Rio Grande has never been up to drinking water standards, and it is an impossibility to place a requirement on a municipal government or anyone else to achieve something which has never been achieved, but the Environmental Protection Agency was prepared to do it in the name of clean water.

Similarly, I can turn to the city of Albuquerque again as an example.

□ 1750

We have achieved Federal clean air standards for the last several years. Assuming legitimacy of placing Federal clean air standards across the country, the city of Albuquerque is still under the belief that they may have to upgrade at cost the way they do vehicle emissions to further please the Federal Environmental Protection Agency.

If in fact the city of Albuquerque has attained clean air standards, why should there be further compulsion on the city of Albuquerque to take further actions? It does not make any sense.

It is for those reasons that there is nothing about clean air and clean water regulation or legislation that should put it above analyzing the cost of what is being required versus the benefits.

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

Mr. Chairman, our Constitution contains an interstate commerce clause. It does so because our Founding Fathers recognized that this Government in Washington, DC had in fact an obligation to make laws and to set order in the operations of the various States of the Nation which may from time to time come in conflict with one another.

I rise in opposition to the amendment offered today to the unfunded mandates bill. I do so because, most importantly, this amendment raises the question of the entire debate of unfunded mandates I think as clearly as any other amendment might raise it.

Yes, this Government has a responsibility to write clean air laws. It has a responsibility to write clean water laws. It has a responsibility to protect wetlands. It has a responsibility to protect endangered species. In short, it has a responsibility to do good environmental things for this country which may not be able to be done by the various States because they are sometimes in conflict.

The issue here is not whether we ought to do those things. The issue is here whether we believe them enough to pay for them or whether we want to do those good things and leave it to somebody else to pay for them. Who else? Somebody at home.

Whether we as politicians who get elected and come serve in this Congress should set the rules for these good environmental causes and then ask somebody else to bear the burden. That is it in a nutshell.

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

Mr. TAUZIN. I will yield when I finish the entire thought. If I do not have time, I will ask for more time to yield to the gentleman from Colorado [Mr. SKAGGS].

Mr. Chairman, the issue here is not whether we should have good environmental law for the country. The issue is when we decide to have a general environmental policy for the country whether we believe in it enough to pay for it here. Or whether we ask some other taxpayers to bear that burden, or worse yet, some other citizen to bear that burden who may be a private property owner, may be a private business person in this country. That is the only issue here.

So this bill prospectively by the way, not retroactively, not affecting the old Clean Air Act, only affecting what reauthorizations we might pass for it, says to all of us, ''Be careful. Before you pass a law that leads to a regulation that compels someone to do something that you think is good, you had better be ready to raise the money and to spend it here in Washington, not make someone else spend it at home in your various States.''

Yes, indeed clean air is a good and worthy goal. I supported the last Clean Air Act. But let me tell you something: If you don't have to pay for what you do, what restrains you from being excessive? What restrains the regulators here in Washington from being extraordinarily excessive, demanding much more than is required in cleanup if they never have to put up the money to pay the bills, if somebody else has to put up the money? What restrains the agencies of Government, for example, from declaring that 60 percent of the State of California is a wetland, and they almost did in 1989, or that 80 percent of the State of Louisiana is a wetlands, and they almost did in 1989, if they don't have to worry about the cost of that decision?

You see, if we in Washington really believe in a clean air law or a wetlands policy or an endangered species policy, and we should, if we really believe it, we ought to be ready and willing to raise the resources and to spend those moneys to carry out these interstate, these national programs as we see fit. And when we do not believe in them enough to do that, we ought to leave it to the States and the communities to write their laws affecting their local environments, their local policies, as they see fit as they can afford them.

That is what this bill is all about. If you go around excepting this particular area of environmental law, if you want to except this one and except the next one and except the next one, you have got no unfunded mandates bill. You have blown the principle. If you believe in the principle that when we make a mandate, and very often we need to, we have to believe in it enough to pay for it here in Washington, DC, then you will reject the Skaggs amendment as you will reject similar amendments trying to gut this bill, and you will live as we should live in the future by the principle that when we believe enough in an environmental law, we raise the money and we pay for it here in Washington. If we do not believe in it enough to pay for it, then we should leave it to the States and the local communities to make their own decisions about just what they want to do with their own environments.

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

Mr. TAUZIN. I will be happy to yield to my friend the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. I appreciate the gentleman yielding. Let me just engage you for a moment if I may on this proposition because it seems to me what you are saying is, and I want to make sure I understand you——

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has expired.

(At the request of Mr. SKAGGS and by unanimous consent, Mr. TAUZIN was allowed to proceed for 2 additional minutes.)

Mr. SKAGGS. When the gentleman from California pointed out accurately a few minutes ago that there are publicly owned powerplants in the Midwest putting out what may be found to be excessive quantities of SO_2 that are affecting the quality of life in New England, why should my constituents in Colorado or yours in Louisiana be forced to help that local government comply with a national clean air standard on its public powerplant when their public powerplants are in compliance?

Mr. TAUZIN. And here is the answer. The answer is that if we want to protect one State from doing damage to another State as the interstate commerce clause predicted we would have to be doing when it came to commerce among the States, then we need a national law that mandates a standard that we all live by. And when we need one of those national laws that mandates a national standard so one State cannot hurt a neighbor, we, in Washington, have to have the courage and the will and the commitment to that national standard to raise the money and pay for it. So that all taxpayers, those who live in the State where the pollution may be originating and those who will receive the benefit of the program we pass here in Washington, all taxpayers share in the public duty to pay for that cleanup.

Mr. SKAGGS. Mr. Chairman, will the gentleman yield further?

Mr. TAUZIN. I yield to the gentleman from Colorado.

Mr. SKAGGS. Then you fundamentally disagree with the proposition that the polluter should pay?

Mr. TAUZIN. Oh, no.

Mr. SKAGGS. Why should that publicly owned powerplant not pay for cleaning up its own pollution?

Mr. TAUZIN. I do not fundamentally disagree with the proposition.

Mr. SKAGGS. That is what you just said, that they should not have to pay.

Mr. TAUZIN. No; I do however believe that when pollution runs across State boundaries that you need a national law to regulate that situation and in those cases the people of the Nation benefit collectively as we all do when we clean the air of the Nation and we ought to be willing to pay for that here in Washington by raising sufficient sums to pay for the mandates.

Mr. SKAGGS. Why does it not make sense for the owners of that dirty powerplant to pay the cost of controlling emissions?

Mr. TAUZIN. If the gentleman will let me complete the answer. If on the other hand something is occurring in Louisiana that does not go across State lines and Louisiana wants to regulate——

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

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

Mr. TAUZIN. And Louisiana wants to regulate it a different way than when the National Government regulates it, let us say for example oilfield waste which is a pretty common problem in the Southwest, in Louisiana, in Arkansas, Oklahoma, New Mexico, and Texas, particularly a problem in our area, not a big problem nationally, a big problem regionally.

We have got laws now in Louisiana dealing with oilfield waste, we have a standard right now, a regime for regulating that that is a model for other States. We developed it at home and we pay for it at home and we make the polluters at home pay for it. We set that standard up in our own State.

But if on the other hand we had a problem that affected the air of the United States, and that required a mandate here in Washington for us to require that all polluters, all persons affecting the air of the United States be part of a program, what this bill says is that in the future we should have the courage of our convictions and say that this is something good for all Americans, it affects the air that we all breathe, we are going to set down a mandate to clean it up and we will raise the money and pay for it in Washington.

That is what this unfunded mandates bill is all about. The day you make an exception because you happen to like one set of mandates instead of another is the day you begin to unravel the principle of unfunded mandates which ought to be something we all agree upon here in Washington.

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

Mr. TAUZIN. I yield to the gentleman from Colorado.

Mr. SKAGGS. I would assume then that the gentleman would make no distinction between the publicly owned and the privately owned powerplant that pollutes in the Midwest?

Mr. TAUZIN. If this gentleman had written the law, I promise I would have applied it to private mandates as well as public mandates. I think we should. I like the part of the law that says we are going to evaluate the effects on private individuals and businesses. I think we probably ought to someday decide here in Washington that we are not going to create mandates out there for the good of the public at large that we make anyone individually pay for by themselves.

□ 1800

For example, I am fighting, as Members know, a battle to make sure private property owners do not have to bear the burden of wetland protection or endangered species protection.

The CHAIRMAN. The time of the gentleman from Louisiana has again expired.

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

Mr. TAUZIN. If you really want to use my property, if you really need my property to accomplish this national goal of wetlands protection or endangered species protection, my position is you as a people, all of us as a people ought to be willing to compensate me for that property taken from me. I ought not to have to bear that cost as a little landowner in my own State.

So when a national policy is designed to protect something we all need protected cross State lines, this law, as it is now proposed, and as we should pass it, should simply say if we want to do that, we can and we should. We simply ought to put the money up to accomplish those purposes.

Mr. SKAGGS. I appreciate the forthcomingness of the gentleman, who makes it very clear that he fundamentally disagrees with the proposition that those who cause pollution should pay to clean it up, and he holds to his position consistently and I think would carry it through consistently.

Mr. TAUZIN. If I can reclaim my time, the gentleman is not going to get away with characterizing my words or my philosophy. I do not and have not said that polluters should not be responsible.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. TAUZIN] has again expired.

(By unanimous consent, Mr. TAUZIN was allowed to proceed for 30 additional seconds.)

Mr. TAUZIN. What I have said, Mr. Chairman, is when we make a standard that is good for all of the people of country and that requires us to pass a law affecting all of the States, we ought to have the courage to put up the money to carry it out, as we do in Louisiana. When we set a policy protecting something in Louisiana, we very carefully make sure the persons responsible for polluting actually pay for it.

I do not consider taking my land away to protect a wetland, by the way, an instance of pollution. I consider that an instance of good public policy that ought to be compensated for.

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

Mr. Chairman, I rise in opposition to the amendment, and I would like to say first of all on unfunded mandates, most of us have been fighting the battle for the last few years. It is not only a question of costs, but it is a question of States rights.

I look at an unfunded mandate and I look at the document we have here on those that want to exempt hundreds and hundreds of different organizations and groups from unfunded mandates. That is what the problem is. Governor Pete Wilson from California has stated that it is breaking his State.

Illegal immigration is a classic one of an unfunded mandate that the Government has refused to fund or have a current policy to change.

We take a look at States rights, and I know even AL GORE, our Vice President, made a statement, ''Let us get government off our backs and walk beside the American people.'' But for too long Government has been using a bullwhip on the backs of those American people.

I look at the costs. The problem most of us have on this side of the aisle is Members on the other side of the aisle have supported continuously extremist views, and those extremist views, that is a weapon. I look at the California clean water problems we have. We have a sewage problem like a lot of other areas in the United States. The Scripps

Oceanographic Institute has made statements time and time again that secondary treatment is not necessary; the law was written for sewage effluents going into rivers and lakes. We have it going into the ocean, but it is the other side, and clean water and EPA have been unreasonable enforcing that which would cost just the city of San Diego over $3 billion.

If they do that, if they are forced for those $3 billion, then you will hear arguments of we need more money for education and law enforcement. But when you do not have the money, there is only one thing you can do to obtain it and that is raise taxes to pay for it.

What we are saying is take a reasonable look at unfunded mandates. Look at the costs of the motor-voter in the State of California. The people who blew up the World Trade Center could vote under motor-voter. It is an unfunded mandate. In the State of California there were hundreds of documented cases in the last November 8 election, but yet there is no funding there to take care of the oversight of the motor-voter.

I look at the California desert bill that we passed last year. Property rights. There was even on the other side of the aisle arguments against the protection of someone receiving a fair price for their property. They did not want the Government to have to pay a higher price or estimated value.

I look at the environment, the Endangered Species Act, and wetlands. We have wetlands at 12,000 feet that are frozen, and we take a look, we cannot change that or even define under a lot of people's views, wetlands. We need reasonable laws and reasonable ascertations to help the planet.

We take a look at the same thing with the wetlands. We had a pig farmer in Arkansas, the President's own State, that over the last decade has raised thousands of pigs. They hollowed out an area; it was wet. They wanted to build on it; no, he could not, because that area had become a wetlands.

It is not only property rights and States rights but America's rights, and I think Americans need to have a cost assessment tied in with every unfunded mandate that is forced on them by this Government.

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

There is a very practical consideration on why every bill should not end up at the Federal desk, even though it may make good sense as national policy, and I will give two examples.

I grew up in Connecticut, and one of the great advantages of being an old State in a nation is that we have very small geography, but we are broken up into hundreds of political subdivisions. We have 169 towns in an area less than the size of El Paso County, and when board of education members make decisions on whether or not to educate kids with special needs, the long-term benefits of educating those kids that face the challenges really does not come back to the community necessarily, because that child may grow up and get a college education and get to be a productive member of society, but moves on to the next community. The same thing happens if that child does not turn out so well. If that child does not get an education and goes on to jail, those dollars come from the State treasury.

So what we do is we try to set a standard. An example would be curb cuts. If we wanted to make something accessible not just for the handicapped but it also benefits parents with strollers and what have you, and we set that standard nationally, it makes sense. We ought to have that same standard across the country. A person with a handicap, with a challenge that needs a wheelchair or a parent with a child in a stroller should not be limited to selected States.

But if we sent the bill back to the Federal Government, it would be a far more expensive process. As a local responsibility, they find the most efficient way to pay for it, the most inexpensive way to provide that service and that opportunity.

So the danger of what we are doing here is, we will either break down into a country with not just 50 standards for our citizens, but thousands of standards. As the same kind of attitude rolls back to the States, the towns will then say to the State that the State should not tell us what to do unless they are willing to pay for every standard and protection.

In Connecticut the Connecticut River and the Thames River, both of which run through my district, are cleaner today because of Federal mandates and they did not necessarily provide every dollar, although they helped immensely in the cleanup of water that came from Massachusetts and other northern States.

We have a responsibility as a Nation not to mandate things that do not make sense, to make sure that we do not place burdens on people simply for the sake of passing laws. But if it is the right thing to do, we need to make sure that this legislative body that represents all of the citizens of the country comes here and passes the legislation.

Oftentimes we do pay for it. Most communities, when they add up the dollars that come from the Federal Government, find they get much more from the Federal Government than they send here, especially for the kind of things that help people with special needs.

We need to make sure that this country does not turn back to creating obstacles for people in wheelchairs or people with educational needs. Federal mandates have cleaned up the air and the water in this country. We have given people more opportunity. Simply a closed mind to passing reasonable legislation that is voted on by a majority of the elected representatives, because it fits into this newly created category of mandates does not make any sense. The laws that pass here, pass here because we do represent the people of the country, we listen to their voices and we bring their challenges here, and they should not be rejected wholesale, because it seems to me what happens here is you cannot argue these on their merits, so you are trying to lump them into one big category. On the merits, they have passed the House, they have passed the Senate, they have been signed into law by Presidents, Republicans and Democrats. The same goes for the future and it is that categorization where Members try to undercut national support for things that make sense and have been good for the country.

□ 1810

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

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

Mr. VOLKMER. Mr. Chairman, I would like to follow on with the words of the gentleman from Connecticut, because as I have listened to this debate last week and today, it becomes very apparent to me that this legislation, although attempting to do well, really has put the apples and the oranges and the bananas and the kiwi fruit and everything else all together in one box and says it is all the same.

Ladies and gentlemen, that is not true. All Federal mandates are not the same thing.

I just listened to the gentleman from California, from San Diego. He talked about the various ones, the different ones that applied to California and how they applied differently. There is no question that we should recognize that, but this legislation does not recognize that. This legislation applies to all mandates. It applies to local governments and State governments the same. It makes no distinction about the purpose of that mandate. It makes no distinction about why that mandate originally first came about.

That brings me right to where we are with this amendment. Because I, as one, can reflect back to this country, at least my community, my Mississippi River, not mine, but our Mississippi River, the Missouri River, the Ohio, all the major streams of this Nation, the Rio Grande, and all where they were 40 and 50 years ago and where they were going, and without the legislation that we have today, I dare say, I mean, without the legislation that is on the books, clean water acts, those things, I dare to say you would not be drinking the water even though it is well treated from any of those streams.

Because what was happening, and the gentleman in the chair may happen, I do not know if they did in Cape Girardeau, but I know along the Mississippi River in my area and in my

hometown years ago every bit of the waste was dumped right into that river, and then we built a treatment plant. It did not work. Sometimes the water, when it flooded, et cetera, went right into the river, too, and it was later on through the EPA funds that we built a brandnew one. It cost us 10 percent of the funds, if I remember right.

But we now have a real good wastewater treatment plant, and we do not put any effluent into that Mississippi River. You can go to other towns along the Mississippi like Louisiana, MO; Quincy, IL; Clarksville, MO; and I can go on and on all the way along up to Iowa, up to Minnesota, all the way down to New Orleans, none of that is taking place anymore, and that is all over the United States.

That is a little bit different than motor-voter, but this bill makes no difference, no distinction.

I can well remember when I was back in the 1950's when I was going to school at Saint Louis University down in Saint Louis, I was working my way through and would have to go out of the dormitory to go to work downtown, and taking a bus to get there, waiting on the street corner for the bus, and my hair would get sooty. That is right, folks, my brow would get sooty. What was that from? That was from pollution, folks. That was from pollution in the city of Saint Louis.

So there are times you could not hardly see the Sun in daylight even, in the summer, just not in the winter, because industry and others used it.

Now, the question is now, would all of these changes that have taken place in this country that are beneficial to all of us have taken place if we would have had this legislation on the books 30 or 40 years ago and the Federal Government would have been prohibited from passing this legislation that has been passed except if we funded it all, we had to fund every bit of it?

That leads me to my last argument as to why this bill has serious defects, and it should have been taken more time with in committee.

What incentive would there have been and will there be if this bill becomes law for any community in the future to do anything on their own, to improve either the air, water, or other polluting areas? What incentive? None. In fact, the incentive is all the other way under this bill. As long as you do not do anything, the Federal Government is not going to require you to do it unless the Federal Government pays for it.

So there would be no incentive, none whatsoever. The incentive is the other way.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

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

Mr. VOLKMER. Mr. Chairman, this bill builds in for States and local governments not to do anything, to let the Federal Government come in and tell you to do it, and then they are going to give you all the money. So why should you? The cities, local governments, the States are all strapped just like we are strapped. They will not do anything just like they did not do it before.

As the gentleman from Louisiana earlier spoke, he said, ''Well, we should make all of this apply to private as well as public.'' I dare say that if you did do that, then why should the chemical companies anymore have to put pollution devices on? Because the Federal Government is gong to pay for it, not the private companies. They are not going to worry about generating power and dumping it all in the rivers and streams. Why should they worry about it? Because if they have to correct it, the Federal Government is going to pay for it. They should not have to pay for it. Their stockholders will not have to pay for it. So what we have here is a box full of all kinds of fruits and vegetables, all mixed in.

And I have the sponsors tell me they are all the same. Well, to me it is a fruit salad, and it is not one apple or a whole bunch of apples in the box. You have got a fruit salad, and it is all messed up.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Colorado [Mr. SKAGGS].

The amendments were rejected.

The CHAIRMAN. Are there further amendments to section 4?

AMENDMENTS OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer two amendments. They are amendments Nos. 69 and 70.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments, numbered 69 and 70, is as follows:

Amendments offered by Mrs. COLLINS of Illinois: 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 aviation security or airport security.

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 aviation security or airport security.

Mrs. COLLINS of Illinois. Mr. Chairman, I ask unanimous consent that the amendments numbered 69 and 70 be considered en bloc.

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

There was no objection.

Mrs. COLLINS of Illinois. Mr. Chairman airport security is one of the most important concerns in the public's mind. Nearly a decade ago, there were a number of incidents involving airport and aviation security, including hijackings, the carrying of weapons on board aircraft, and other lapses that give cause for great concern to those of us who fly. Several years ago when I was chair of the Government Operations Subcommittee on Transportation, we held numerous hearings on lax security procedures at our Nation's airports.

During those investigations, we found that doors to ramps leading to airplanes were often not locked. That unauthorized person had easy access to the tarmac. We found that it was extraordinarily easy for weapons to be smuggled onto aircraft because security personnel were often lax, inadequately trained and/or supervised.

We brought these facts to light, and as a result there is much better security at our Nation's airports today. What would happen if we couldn't require local communities to improve their airport security unless the Federal Government paid all of the tab? Perhaps many, or most, of them would simply ignore sound security measures. Isn't this an issue that is comparable to national security? I believe it is.

This is not an issue which pertains just to Chicago, where I am from, and its O'Hare Airport. Airport and aviation safety is an issue for all of us who fly any place. We, the flying public, has a right to feel secure when they enter an airport or when they fly on any type of aircraft. The security standards are imposed by the Federal Government. They are not and should never be allowed to become discretionary on the part of local governments who happen to run their municipal airports.

Mr. Chairman, aviation safety is on everyone's minds lately and the Federal Aviation Administration has been extremely responsive to those concerns. Last year's crashes of commuter prop planes due to icing on their wings was tackled by the FAA through tough restrictions on flights until more tests could prove conclusive of the causes of those disasters.

We cannot and must not let this type of authority by the FAA to be taken away. If that were to happen, airline safety would become merely a matter of convenience, not a requirement. The public would lose all confidence in the Nation's aviation system and people's lives would be needlessly endangered.

Under this legislation, the ability of Congress to authorize an agency like the FAA to impose standards for aviation safety are placed in great jeopardy. I do not believe any of my colleagues would like for this sensible responsibility to be taken away.

Therefore, Mr. Chairman, I urge Members to support my amendment so that aviation and airport security does not become a victim of this legislation.

□ 1820

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

Mr. Chairman, for several years I served as ranking member on the Aviation Subcommittee, serving under Mr. OBERSTAR's chairmanship. Like him, I would indicate I stand second to no one in my desire to ensure the safety of the traveling public. But I would say again that this amendment is based upon a fundamental misunderstanding of what the bill does. The bill does not prevent Congress from passing laws, or the FAA from issuing rules and regulations to protect passenger safety. It merely requires that Congress and the agency to think about the costs of what they do. It will not in any way undercut or dilute existing rules, regulations, and laws on the books to protect aviation safety, to protect against terrorism or anything else.

Mr. Chairman, a little more than a year ago President Clinton's National Airline Commission identified the cost of complying with regulations as one of the main reasons for the airline industry's financial problems. It recommended a number of actions to address that problem.

This bill, Mr. Chairman, goes a long way toward implementing that recommendation. However, the amendment that is proposed would undercut that. The fact is, Mr. Chairman, that he airline industry has lost over $12 billion in recent years, in the last 2 or 3 years. That is a loss that you cannot sustain forever.

So all we are saying is yes, safety is paramount, has to be paramount, has to be a very top consideration of what we do. But clearly, if the proposed mandate on airline safety comes forward and the case is made that this is a necessary addition to the regulations and rules and mandates already in effect, something that is very definitely needed, I think I would be the first one to support passing that through without Federal funding. But at this point it would not require that.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I am happy to yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. I thank the gentleman for yielding.

Mr. Chairman, the gentleman just mentioned that the airline industry has lost a great deal of money. That is certainly true. But the airline industry has also caused a great number of people to lose their lives. I do not think that could be equated in dollars at this point or any other point in time, as a matter of fact. It seems to me that all these rules and regulations that we have and may need to be imposed in the future that deal with the security and safety of our aviation industry and our airports is just too important not to become a part of this particular legislation in the exclusion section of this bill.

Mr. CLINGER. Reclaiming my time, I was certainly not in any way suggesting that a mandate that was clearly going to improve the safety of passengers in this country should not be passed through. But what I am saying is that, given the perilous condition of the airline industry today and the fact that they have lost a great deal of money and we are potentially putting our employees at risk, that just to approve every potential safety-improving mandate without at least considering the cost I think would be a mistake. For that reason I would have to oppose the amendments of the gentlewoman.

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

Mr. Chairman, I have thousands, tens of thousands of flight hours both in the military and civilian aircraft, and in the future I plan to get thousands of more flight hours.

Mr. Chairman, the gentlewoman is correct that we have lost a lot of lives in aviation. If I thought for 1 minute that we could pass something that would prevent that, then I would pass the amendment, but I rise in opposition to the amendment. There is nothing that stops this body from passing a funded mandate onto States or Government agencies. If we feel it is important, whether it is endangered species, clean water, clean air, or, in the case of the gentlewoman's amendment, then we should fund it. It is only logical, when we fund it we should have a cost assessment to help all the Members figure out what those costs are going to be to the States, because if we pass on an unfunded mandate, then I imagine the States, and I imagine the State of the gentlewoman and the State of California, none of us has enough money to do all of the things we want to do in the other services that we talked about, in education, law enforcement, social services and the rest.

But when we pass that unfunded mandate, it makes the States take a look at a priority, and quite often those priorities are not in agreement with the individual Members passing on the mandate. So I would suggest to the gentlewoman that a funded mandate of this type—and I would support a funded mandate, but not an unfunded mandate, to the organization because I do think we need oversight in availation safety. I personally do, and I know the gentlewoman flies home, plus I fly privately and in the military; so I think in all of those cases it is not too much off the wall to ask that we, A, have a cost assessment and, B, to fund the mandates that this body regulates on enterprise or on the States.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, Representative COLLINS of Illinois is talking about her amendment mainly on airport safety and talking about airline safety. Let me bring up another point.

Just like my colleague from California, though he has a little bit further to go, but I go home every weekend to be in my district in Texas, which is just halfway to California.

But I also feel a lot safer when I have to go through that airport security and those scan devices, simply because it makes me safer in the Houston airports. That was not put there because the city of Houston, our airport authority, did that out of the goodness of their heart. They did that because there were Federal mandates to do that. Also, they utilized enterprise funds, local funds that are made up of money that we pay as passengers to provide that airport security. We have some of the best, secure airports in the world because a lot of us have been to a lot of other places and we know we are really concerned about walking through some of those machines and we do not know if they work or not. But we know in our airports they do because they have to.

Again, if we could compete, whether it be Houston, San Diego, Los Angeles, or somewhere else, we might have different standards for each of them if we do not have some kind of recognition nationwide of airport security needs, not just from terrorism, or pilot training or private pilot training. That is a mandate. It is in some ways funded because I am sure FAA provides some funding for it. But some of it is unfunded because it is also made up of local tax dollars and local money paid for out of airline tickets that pays for that. So it is unfunded from the Federal Government. We may vote for that next week, if there is some new technology that comes out, but what is going to happen if we pass this without recognizing that the next Congress may say we are in a bad budget, we are in a $4 trillion debt. But I am willing to pay for funded mandates, sure I will, but I am not sure that there are going to be 218 Members of Congress who will do it. So we will see the standards in our airports possibly go down because of the threat of terrorism. Also, we do not have to go very far to know some countries only pay lip service to it whereas in the United States we put teeth into it. It is paid for most of the time by local funds because they also benefit by having a major airport in their community.

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

Mr. GENE GREEN of Texas. I yield to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. I thank my friend for yielding.

Mr. Chairman, I agree with the gentleman. Airport safety, especially in times when we had fundamentalist problems, for example, during Desert Storm, those things are required. But I say to my friend, if it is important enough—and I believe there is not a Member here who is not going to support it, I do not believe there is—that will not support safety in airports, since we all ride those things, that we would not fund that.

□ 1830

Our only request is that, when we think something is important enough to mandate it, let us fund it, and I will support the gentleman.

Mr. GENE GREEN of Texas. And I understand that, and, reclaiming my time, we will, we very well may do that some future time, if we find some new technology. It may cost a million dollars to provide new technology to discover some new type of weapon that somebody may try and smuggle in our airport. We must fund it from here, but also those local communities benefit from having that airport there, so they should also participate in. That is what we are doing now.

I just want to say we all are supporting, and I support, the bill. I just want to make sure that we recognize that some future Congress may say, ''Oh, no, that's an unfunded mandate,'' and the standard of living that we have become accustomed to in these great States will go down because some future Congress may say, ''Well, we have to take an unfunded mandate vote,'' and I am so against unfunded mandates, but we cannot increase the national debt because of that. We are just going to have to take our gamble, and may be some terrorism from wherever else in the world may be able to slip through. We need to recognize that today when we are debating this bill because it will have an impact on the gentleman's and my constituents.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. GENE GREEN of Texas. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. I would like to engage for just a minute the gentleman from California, if I can, because, when I look at the section on the limitation of application, I am looking at particularly there is a requirement that would eliminate the required compliance with accounting and auditing procedures for prospective grants and other——

The CHAIRMAN. The time of the gentleman from Texas [Mr. GENE GREEN] has expired.

(On request of Mrs. COLLINS of Illinois and by unanimous consent, Mr. GENE GREEN of Texas was allowed to proceed for 3 additional minutes.)

Mrs. COLLINS of Illinois. It requires compliance with accounting and auditing procedures with respect to grants or other money for property provided by the Federal Government; No. 4, provides for emergency assistance or relief at the request of any State and local government, or tribal government, or any official of such a government; or No. 5, is necessary for the national security, or the ratification or implementation of international treaty applications, and so forth.

It just seems to me there is nothing more important than the national security of the people who have to live in this country, and who will fly on these airplanes and make their living through going on airplanes, vacationing. I would just hate to see a situation where the flying public feels they are not going to be safe, they are not going to be secure, they are not going to be provided for in any kind of way to make sure when they board a plane, or when they go through an airport, they are not going to be able to come off that plane safely or even get on the airplane safely.

As my colleagues know, some of the problems that we have when we were doing these investigations, that we actually put FAA officers, people who work for FAA, along with our investigators, to walk through airports, and, when we go through an airport now, we see little numbers on these doors before we get ready to get on the plane. Those have numbers on there. That is a result of the kind of mandates they had to do. It was necessary because people were walking right on.

We also found that there were actually—we put toy guns, if my colleagues will, at that time on luggage, and the FAA officials were with us when they did it, and they passed right through the security screening every single time. They were surprised. We even were able to walk on the tarmac of airports, not just small municipal airports, but huge international airports in our country. We were able to do those things, and the FAA, because it had the responsibility that we gave it, we mandated that these airports be made safe and secure.

For us to ignore that kind of national security, it seems to me, is just to disregard all that has been done. Because of that we do not have the number of hijackings that we had a number of years ago. We do not have the number of planes falling out of the sky every other day that we had before. We do not have possible bombings as we have had in other countries where people were walking in an airport, and the whole thing goes up in smoke. As my colleagues know, we do not have that because of the fine work of the FAA and because we in Congress mandated these kinds of security measures.

Mr. GENE GREEN of Texas. Let me just mention that there are some exceptions in the bill that we are amending on section 4, and, as the gentlewoman from Illinois [Mrs. COLLINS] mentioned, No. 5, it is necessary for national security, ratification or implementation of international treaty. This amendment may be under this bill right now. But since we did not have a public hearing, we could not ask those questions of the experts in the FAA. We were not able to find out, and so that is why we are having to take this time on the floor of the House tonight.

Mrs. COLLINS of Illinois. The gentleman is absolutely right.

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

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, colleagues, there are two areas of unfunded mandates issues that are of great concern to me in the field of aviation. One is security; the other is safety.

Security measures should not be subject to a mere point of order, that they could be stricken by a single point of order made against a measure that would improve security for American air travelers at home and abroad, at our airports and abroad, our airlines and foreign airlines. Certainly an issue of that matter ought to be subject to a majority vote, but not by a simple point of order. A motion to strike is always in order. But a point of order against a matter so important as security, this legislation would undermine, would gut, the ability of Congress and Federal agencies to impose needed security and safety measures on airport operators and on United States and foreign airlines. All major airports are now run by agencies of State or local government. When we consider laws that we have enacted in the past, that would have been jeopardized by a provision such as this had it been in effect at the time we enacted or brought on to the floor such legislation.

On December 21, 1988, terrorists succeeded in blowing PanAm 103 out of the skies over Lockerbie, Scotland; 270 of our fellow citizens died in that tragedy. As a result of the breach of security and the devastating results, President Bush asked for, and the Congress enacted, legislation creating a commission on security and terrorism, on which I served and of which our former colleague, John Paul Hammerschmidt on the Republican side, served, and produced a report with 64 recommendations which we then drafted in a legislative form, introduced in the House and the Senate, and got enacted into law, and the President signed all of those provisions into law. Now I look back on the work that we did in that legislation, and I shudder to think what would have happened had we brought that bill to the floor, and any one of those provisions could have been subject to a mere point of order.

Now there is no way that we could fully fund with Federal funds all the requirements that were necessary to go into effect to protect security, protect the security of American travelers on U.S. airlines at U.S. airports and protect the security of American travelers overseas, at foreign airports, aboard foreign airlines. They, too, have a responsibility to security. They, too, have a responsibility to the people that travel aboard domestic and foreign airlines, and to say that, no, that that responsibility can be knocked out on a point of order does not make sense without even subjecting it to a matter of debate on the House floor. When millions of flights take off, nearly 40 million a year in this country, when they take off and land safely, when there is no loss of life because of terrorist action, which there has not been in the domestic United States since 1969, we do not see headlines about it, but we

know that lives have been saved because of the legislation that we have enacted. But this Congress has had the responsibility to come forward and deal with, and that we have accepted that responsibility, and we have acted, and I say, ''But if you have one hijacking aboard a domestic airliner, or one airport invaded by terrorists because of a breach of security, and you go back and find, well, it happened because we didn't have sufficient laws in place, because we didn't have sufficient security measures in place, and then if you were to go back further and say, 'Yes, we tried, but it was stricken on a point of order on the House floor,' sure doesn't make sense to me.''

It certainly seems to me that the provisions in this unfunded mandate legislation undermine the responsibility we have to our fellow citizens to ensure that aviation be maintained safe and secure. The same argumentation applies to the safety side of aviation.

□ 1840

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

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

Mr. OBERSTAR. Mr. Chairman, we have enacted legislation to provide for safety aboard American airlines and at American airports, and there is already a very heavy burden of responsibility on the FAA to undertake in conjunction with each safety rule making a benefit-to-cost study as they proceed in the rulemaking process.

That has enormously bogged down the FAA. One of the most important considerations now in light of tragedies that happened last year in the commuter airline sector is to have a single standard of safety between part 121, the major airlines, and part 135, the commuter and regional airline operators. It has taken months, it will soon be over a year, for the FAA to issue regulations in this area, where the commuters are agreed and that majors are agreed that those safety regulations ought to go into effect.

Now, they have been bogged down because of this need to conduct the cost-benefit analyses for 15 different signoffs within the FAA and DOT and the Office of Management and Budget. If you add to that someone can stand up on the floor and make a point of order, and say no, you can't do that, what are you doing to safety?

I just think it is an egregious affront to safety to provide this kind of procedure, where on a simple point of order, in initiatives such as emergency escape path markings, seat cushions that will not catch fire readily, protective breathing equipment for use by flight attendants in emergency, improved cabin interior materials that burn less readily and do not put out toxic fumes aboard new aircraft.

When FAA went to move on those safety improvements, they had to run a gauntlet of procedural hoops and second guessers in the Department and the Office of Management and Budget. Please do not add another hoop and another gadget and another hostility here on the House floor to safety and security in aviation. You travel also, each one of us travels aboard aircraft, and we want it safe for ourselves and our constituents.

Mr. MINETA. Mr. Chairman, I rise in strong support of the amendment.

The pending bill will make it far more cumbersome and time-consuming to adopt needed new laws and regulations to ensure the security of air transportation. A delay in security regulations might result in a tragedy which could have been prevented. The Collins amendment will correct this unfortunate consequence of the bill by exempting laws and regulations promoting aviation security.

It already takes FAA far too long to adopt needed security regulations. To cite just one example, a few years ago we lost an airliner over Lockerbie, Scotland and the terrorism threat soared. In response we passed a law, the Aviation Security Improvement Act of 1990, making extensive improvements in security, including a directive to FAA to develop regulations to require that persons with access to airline aircraft undergo employment investigations, and criminal history checks. More than 4 years have elapsed and the necessary regulations are still not in place.

The recent bomb threats in East Asia have shown that there continues to be a substantial threat that bombs will be placed on-board aircraft. We cannot tolerate further delays in the background check regulations which are designed to prevent terrorists from gaining access to parked aircraft. New regulations might prevent another Lockerbie tragedy.

The extensive delays in the FAA rulemaking on safety and security are partially attributable to the existing requirements for extensive studies of the costs and benefits of regulations, their impact on State and local government, and their impact on small businesses. The additional studies required by the pending bill would produce little valuable information, while further delaying a process which is already too slow.

Title II of the bill before us is going to make it much slower and more difficult for FAA to issue new standards to respond to aviation safety and security problems as they arise. It will tie the FAA up in more redtape and make it harder to act to protect the public interest. And that would also be true for new safety standards such as the new commuter airline safety standards which FAA is working on.

Title III of the bill before us would make it harder and slower to respond to aviation safety and security threats when a legislative response is necessary. New redtape and studies would be required before we could bring the bill to the floor, and additional points of order and votes would be required. The aviation security bill we passed in 1990 would have been subject to a point of order if this unfunded mandate bill had been law then.

Both title II and title III would make it unnecessarily difficult and slow to respond to aviation security issues. There is no good reason why aviation security should not be exempted from H.R. 5.

I strongly urge adoption of the pending amendment to prevent further delays in laws and regulations which would enhance aviation safety and security.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 256, not voting 9, as follows:

[Roll No. 25]

AYES—169

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

NOES—256

Allard	Bevill	Buyer
Andrews	Bilbray	Callahan
Archer	Bilirakis	Calvert
Armey	Bliley	Camp
Bachus	Blute	Canady
Baesler	Boehlert	Castle
Baker (CA)	Boehner	Chabot
Baker (LA)	Bonilla	Chambliss
Baldacci	Bono	Chenoweth
Ballenger	Brewster	Christensen
Barr	Browder	Chrysler
Barrett (NE)	Brownback	Clinger
Bartlett	Bryant (TN)	Coble
Barton	Bunn	Coburn
Bass	Bunning	Collins (GA)
Bateman	Burr	Combest
Bereuter	Burton	Condit

Cooley
Cox
Cramer
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
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
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, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
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
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
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—9

Bishop
Fields (LA)
Kennedy (MA)
Kennedy (RI)
Livingston
Quinn
Rush
Slaughter
Tiahrt

□ 1857

The Clerk announced the following pair:

On this vote:

Ms. Slaughter for, with Mr. Tiahrt against.

Mr. EDWARDS, Mr. SCHUMER, and Mr. RANGEL changed their vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 4?

AMENDMENTS OFFERED BY MR. GENE GREEN OF TEXAS

Mr. GENE GREEN of Texas. Mr. Chairman, I offer amendments 73 and 153 and ask unanimous consent that they be considered en bloc.

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

There was no objection.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. GENE GREEN of Texas:

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 licensing, construction, or operation of nuclear reactors or the disposal of nuclear waste.

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 licensing, construction, or operation of nuclear reactors or the disposal of nuclear waste.

(Mr. GENE GREEN of Texas asked and was given permission to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Chairman, the amendments that we are considering now would exclude regulations on licensing, construction, and operations of nuclear reactors, and also on disposal of nuclear waste from the point of order procedure in this bill. We have actually two amendments that deal with two sections of the bill.

The NRC is a national agency. Very seldom do States get involved in some of the regulation. However, Mr. Chairman, many States, not only my State of Texas but also New York, South Carolina, and a great many other States, have nuclear powerplants that are often either locally owned, State-owned, or in our case in Texas, are actually cooperatively owned by private business, ratepayer companies.

Mr. Chairman, the issue at hand is whether we should have national regulation of nuclear reactors and nuclear waste disposal, or whether it should be exempted from the unfunded mandate issue. The Nuclear Regulatory Commission is a national agency; in fact, an independent agency.

The problem where it comes in is that in south Texas and in other States we have cooperative nuclear power plants that are owned by investor-owned companies, but also by local municipalities. The issue that it brings up in this bill is what happens if we have, as in our case in south Texas, the managing partner who is an independent company, investor-owned utility, but the owners of it or partial owners of it are municipalities who provide electricity to their citizens in different parts of the State. How do we differentiate?

The concern I have, and that is why this is an amendment to section 4 of the bill, would exempt out that. Very seldom do we have State regulation of nuclear facilities, although we have an example of a bill now that has been introduced by the gentleman from Texas [Mr. FIELDS], that I have cosponsored, that would provide for waste disposal in a cooperative effort.

When I was in the Texas Legislature 3 years ago, we had to pass enabling legislation for that. The concern I have is that we are going to have nuclear reactors or nuclear waste that really should be a national issue. The Three Mile Island, the Pennsylvania tragedy back years ago, did not know State lines, any more than Chernobyl knew international lines. We need to have a regulatory commission that is not subject to the whim or a point of order procedure here on the floor of the House. They should not be shielded from that, whether it be on the power or the waste disposal.

Mr. Chairman, as the bill presently reads, a competitive advantage could be accrued to publicly owned utilities, often publicly owned facilities. That point of order procedure would block the mandates on States and localities, but not those local entities.

How does it affect the part-owned, part-public owned and part-private owned, as I first mentioned? The point of order standards place a new hurdle to pass on the safety regulations for nuclear power.

I am not anti-nuclear. I have been pro-nuclear. I think nuclear power plays a part in our energy policy, and it should, but it should not be to the whim of local governments or even States. It should be a national issue and not something that we deal with on 50 jurisdictions, or maybe hundreds of thousands of jurisdictions, based on our locality.

Mr. Chairman, this bill had no public hearings on it. The only person we could hear from was the sponsor of the bill, the gentleman from Ohio [Mr. PORTMAN], who is very knowledgeable on unfunded mandates, but we could not ask any questions on how it affected nuclear power or nuclear waste disposal, because we needed to have a hearing to discuss it so we can find out. We did not have that. That is why we have to run with not only this amendment but a number of amendments here on the floor.

Mr. Chairman, we need to learn the impact of how this is happening. That is why we are having not only this amendment but other amendments, to develop a legislative history so somebody down the line can say ''This is what the intent of Congress on unfunded mandates was.''

I mentioned earlier today an editorial in the Houston Post, and again, for those who were not here earlier, it is not the Washington Post, it is an outside-the-beltway paper, that Republicans and many Democrats support the unfunded mandate bill, but we also realize it is not a panacea, and we need to realize what we are doing with this.

The CHAIRMAN. The time of the gentleman from Texas [Mr. GENE GREEN] has expired.

(By unanimous consent, Mr. GENE GREEN of Texas was allowed to proceed for 2 additional minutes.)

Mr. GENE GREEN of Texas. In brief, let me say Republicans and many Democrats are going along with this effort, and want us to believe most mandates of Federal Government are not reasonable simply because the Feds love to meddle in our lives. While there is no denying that Congress and Federal bureaucracy do have a tendency to overregulate, that is not always the case.

The point needs to be remembered that many of the regulations were adopted in response to lack of action by local or State officials to protect people's lives and rights.

□ 1910

If we do not do this on nuclear power, what can we do with waste disposal?

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

Mr. GENE GREEN of Texas. I yield to the gentleman from Massachusetts.

Mr. MARKEY. I thank the gentleman for yielding.

Mr. Chairman, I would also like to add to the list a situation where, for example, the Federal Emergency Management Agency of the Department of Energy is also promulgating nuclear safety rules.

Let us take the case of Seabrook, where Seabrook is on the Maine, New Hampshire, and Massachusetts borders. What if there is a decision made with regard to nuclear safety that the State of New Hampshire does not want to comply with because of their own budgetary constraints? What recourse does the State of Massachusetts or Maine have with regard to a nuclear safety decision which could clearly affect large areas of both of those States if in fact there has been a budgetarily driven decision with regard to whether or not a safety or health-related decision should be implemented?

I thank the gentleman for raising this very important health and safety issue, and I would urge support for the amendment.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. GENE GREEN]. This amendment would preserve strict safety standards at nuclear facilities and maintain vital emergency evacuation plans around nuclear sites.

As we consider ways to reduce burdensome Federal mandates, we must not weaken the ability of the Federal Government to ensure a safe and secure environment for all Americans. This amendment is prosafety, not anti-nuclear.

The issue here is only the ability to protect citizens around nuclear facilities, nothing more. As accidents at Three-Mile Island and Chernobyl should remind us, laws and regulations designed to improve safety and evacuation procedures around nuclear plants must not be compromised in a dangerous scorched Earth policy to do away with Federal regulations.

I do not believe we have adequately examined just how this bill would affect the health and safety of Americans:

For example, what would happen if a State or local government owns and operates a nuclear powerplant? What regulations would the State be mandated to follow? In New York, the State purchased the Shoreham nuclear powerplant for the purpose of dismantling it. What Federal regulations would New York State or any potential State-owned nuclear facility have to follow if it ran a nuclear plant? What obligations would a State-run nuclear facility have in disposing of nuclear waste?

In the future, would weak safety and disposition regulations be permitted simply because they were cost-effective? I ask my colleagues to examine the human costs of passing this legislation unamended.

I understand that regulations promulgated by independent agencies such as the Nuclear Regulatory Agency are exempt from provisions in the bill. However, are important nuclear safety and evacuation guidelines established by the Energy Department and the Federal Emergency Management Administration [FEMA] subject to the bill's restrictions?

And how about a nuclear powerplant that sits on a State border? The Seabrook plant site in New Hampshire between Maine and Massachusetts. If New Hampshire refuses to meet a Federal nuclear safety standard, Massachusetts and Maine are exposed. Are these multi-State decisions solely subject to the budgetary constraints of a single State?

This amendment would alleviate concerns that the bill would hinder the Federal Government's ability to establish important safety protections. Mr. Chairman, I urge my colleagues to support the Green amendment.

Mr. GENE GREEN of Texas. I thank the gentleman from Massachusetts [Mr. MARKEY].

Mr. Chairman, in the last minute or so that I have, he made a great point. The Department of Energy plays a role in regulating nuclear waste disposal and it needs to be considered as important even though it is not an independent agency that may or may not be exempted under this bill. But again since we had no public hearings, we do not know whether it is or not.

I ask for a positive vote on the amendment.

Mr. Chairman, I include the following for the RECORD:

NO EASY ANSWERS: ISSUES AROUND UNFUNDED MANDATES NOT SO SIMPLE

Unfunded mandates—the term has become one of those overly used but often misunderstood catch phrases.

The new Republican majority in Congress has made eliminating unfunded mandates part of their battle cry. It can even be found in the House Republicans' Contract with America. Both houses are considering bills to make more difficult enacting legislation imposing costs of more than $50 million on states and municipalities.

If you have trouble understanding what it's all about, picture a teen-ager complaining about his parents' ordering him to run errands for them without providing the money for his car's gasoline. While the concept is that simple, the issue is not so simple.

For years, local and state government officials across the country have complained that Washington is too quick to tell them what to do but that it hardly ever provides them the money to help them comply.

The Clean Air Act, the Fair Labor Standards Act, the Family and Medical Leave Act—all were imposed on state and local governments by Washington. While some have come with federal grants, much of the billions it has cost states and cities to implement them has to be raised locally.

Is that fair? It depends. Going back to the analogy of the teen-ager and his car, clearly it is wrong for his parents to force him to use his money for gas to run their errands. But what if they are simply ordering him to repair his transmission so that it won't leak on their driveway?

It is the kid's car and his problem, but it is damaging the family's property. Should the parents have to pay for the repair just because they ordered him to get it fixed?

Suddenly it's not so simple, is it?

Now apply this to the government level. What if, as has happened repeatedly across the country, a city refuses to repair its sewage system to prevent the pollution of a local waterway? When the federal government finally steps in and says, ''Look, you have to quit endangering people's lives with your raw sewage,'' should the federal government be required to pay for the sewage-treatment plant repair?

Obviously not.

The Republicans—and many Democrats who are going along with them—want us to believe that most mandates from the federal government are unreasonable orders issued simply because the feds love to meddle in our lives. While there is no denying that Congress and the federal bureaucracy do have a tendency to overregulate, that is not always the case.

The point that needs to be remembered is that many of the regulations were adopted in response to lack of action by local and state officials to protect people's lives or rights.

A second point that bears remembering is that regardless of whether the money comes from Washington or Austin or Houston, it originates in our pocketbooks.

The only difference is that we lose a lot of it when we send it to Washington first because it goes through so many bureaucratic layers.

Finally, we should recognize that the point of the war on unfunded mandates is not to get Uncle Sam to pay for mandates, but to keep it from making mandates in the first place. It's part of an intense anti-regulation campaign.

The unfunded mandates solution being considered by Congress is like the balanced-budget amendment to the Constitution and other quick-fix ideas in that it helps lawmakers avoid hard decisions on specific issues.

While seeking to ease the burden on cities and states is a good idea, there is nothing keeping Congress from doing that right now.

Congressional proponents of the unfunded mandates measure have the votes to pass it, but it deserves careful scrutiny before it becomes law.

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

Mr. Chairman, once again in proposing an amendment, the gentleman has raised a very important issue, just as the issues that have already been raised dealing with airline security, dealing with clean water are important issues.

I would point out at least insofar as this particular issues is raised, however, that in the definition section, an agency does not include an independent

agency like the Nuclear Regulatory Commission.

So I believe that there is an exemption in the bill stated for the Nuclear Regulatory Commission identified by the gentleman.

Further, where there are licensing procedures, there is nothing in this bill that prevents the revocation of a license for not being in compliance with any requirement that one had to be in compliance with in order to receive a license in the first place.

Mr. Chairman, my point is that I believe that there are already exemptions in this bill which go a long way in addressing the issues that the gentleman from Texas has raised. But with respect to other issues that might remain, it still comes down to the fact that Congress should be accountable for those mandates it is passing on to State and local government.

Once again, we have to reiterate as supporters of the bill that there is nothing in this bill that prevents Congress from in fact passing unfunded mandates on to State and local government. There are those, and we may see an amendment before consideration of this bill is finished in this committee which would change the bill to make that requirement. But as the bill stands now, there is a requirement to identify costs and upon a point of order force the Congress to vote independently on whatever mandate is proposed if it does not include funding.

Just as with the other important issues that have already been debated on this floor, there is simply no reason why this particular issue should make Congress exempt from accountability if it is going to make State and local government take action at the expense of the State and local government.

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

Mr. Chairman, I listened closely to what the gentleman from New Mexico said and also the gentleman from Massachusetts, and I think there is even more reason based on their comments to support and pass the Green amendment.

The issue basically of the safety of our Nation's nuclear facilities, of disposal of waste and the other regulation that goes along with it I think is too important really for us to question exactly how this legislation will impact that area.

For that reason, I think that we need to pass this amendment. I think that H.R. 5 affects a lot of important public policy concerns and deserves the careful consideration that we have been giving it on the floor, but as has been mentioned by the gentleman from Texas [Mr. GENE GREEN] and others, it has been pushed through the legislative process in a manner I think that leaves a lot of questions unanswered.

The way the bill is currently drafted, it seems to set up an inequity between publicly owned and privately owned nuclear facilities. I think it can be interpreted that way. It can provide less protection to citizens living near publicly owned nuclear reactors or disposal sites than for those who live around privately owned facilities. This is a kind of patchwork effect that I think is unjustifiable. How are we going to explain to our constituents who are concerned about nuclear waste and nuclear safety that the relative safety or their peace of mind where they live is going to depend on who owns the nearby power plant?

In terms of business equity also I do not think we can justify creating an unequal playing field for different types of utilities, one which allows publics to escape certain costs while privates have to pay full freight for the safety.

I hope my colleagues will support the Green amendment to ensure that nuclear safety will not be compromised.

As you know, the bill provides similar protection for a lot of other important societal values like civil rights, Social Security, and national security. It seems to me that environmental protection, particularly in this sensitive area of nuclear safety, deserves the same degree of uniform application and bottom-line assurance as these other important concerns.

I know there is going to be a lot of talk about how if you read the bill a certain way that certain agencies are exempted and that one of these includes the Nuclear Regulatory Commission. But I still think there are a lot of questions there and the issue of nuclear plants and the safety of those facilities is too important in my opinion that it should be left alone. We have to in my opinion support the Green amendment because this area is so important and so sensitive.

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

Mr. Chairman, I certainly do understand the intention of the gentleman from Texas. However, with the NRC, whenever we are looking at the construction or the safety aspects of nuclear facilities throughout this country, they have certainly done a good job. We have not had one single death attributable to nuclear power in this country. The one thing I do not think we should be even talking about is a difference in the regulation of a private and a public utility, particularly when it comes to nuclear.

Our particular subcommittee deals with all of these issues and I think that when we start talking about a difference and a different type of law that they would have to follow or rule that they have to follow, fine. Now if there is something out there that is unfunded as far as the safety or the construction or the operation of a particular power plant, then the Federal Government certainly should be involved in the funding of that particular mandate. But I think this goes along the same way as the Clean Air Act, the airport safety, and everything else, that if indeed it is unfunded, it should be funded by the Federal Government. When it comes to nuclear power facilities, they should all be treated the same. We should look at public and private the same for the safety of the people in our country who live around these.

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

Mr. GENE GREEN of Texas. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Texas.

Mr. GENE GREEN of Texas. I thank the gentlewoman from Florida [Mrs. MEEK] for yielding.

Mr. Chairman, let me respond to some of the concerns that were raised by the other side of the aisle. One, and I understand that they say that the NRC is not included, but it is. The point of order on this floor still applies to the NRC or to the Department of Energy.

Also if we are going to regulate nuclear energy and the disparity to my colleague from Colorado is that we have local agencies, local units of governments, the city of Austin. Some of them wish they did not own portions of nuclear power plants now, but they do. And how are they going to be treated when the managing partner is a private investor-owned utility that would have to be paying part of a mandate if it is not included?

That is the problem with the bill. I think the bill in the definition section even though it does pull out independent agency, the point of order still lies here on the floor and that is the concern. It could slow up responsiveness by this Congress to a nuclear disaster, whether it be Chernobyl or Three Mile Island or whether it be something in the future that we on this floor may not know tonight.

□ 1920

It affects not only this amendment, but it affects airport security mentioned in earlier testimony. It mentioned even the Clean Air Act, because even though we all may have questions about the Clean Air Act, particularly those of us in Texas about the emissions, we still know that we have an ability to deal with that through the EPA, as some of us did last week from the State of Texas. But a point of order still applies on this no matter what this bill says on the floor.

Again, expanded even more, even though NRC may be an independent agency, and it is under the definitions, but the Department of Energy also has input into and has regulations on disposal of nuclear waste, and they are.

Granted, I want them all to come under the provisions of the bill. Most of the time they do. In fact, I do not know of a case where they have not consulted with local units of government that are impacted, and that is great, and that is why I support generally the bill.

But I also know we have to look into the future and say there are some exceptions that need to be made, and we are talking about nuclear waste, nuclear power, because again we have not only a national track record but an international track record to know that when we need to respond, we do not need to throw any other roadblocks in the way.

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

Mrs. MEEK of Florida. I yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Chairman, I know the gentleman understands the fact that the NRC has absolute authority over nuclear facilities, and the thing that I have been certainly concerned with is if an independent nuclear operation is moving in a different direction from which all others are, that if something did happen out there that there would be less response time, and that is the concern I have with the gentleman's amendment.

Mr. GENE GREEN of Texas. If the gentlewoman will continue to yield, my concern is that we are throwing up more roadblocks to respond and not listing them, and we may just have a difference of opinion on this, but I think when we require the NRC to go through it or the Department Energy or even on the floor of this Congress to have a separate point-of-order vote against something, one Member can require it, and we are run by majority, as the gentleman well knows. But we could still slow up the responsiveness to a nuclear incident or nuclear accident.

Mrs. MEEK of Florida. I commend the gentleman on his amendment.

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

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

Mr. BROWN of California. Mr. Chairman, I think it is regrettable that we have to go through this extensive, long, drawn-out process of seeking to correct some of the problems in this bill. I will point out, as many others have, that we could have avoided this through a more careful process of hearings and more extended consideration in committee. That same point has been made by others.

Most of us agree that some unfunded mandates can be bad, can adversely impact State and local governments, and can be difficult to defend on rational grounds. Most of us would like to correct that situation to the fullest extent possible. But the question, is how do we go about that process of correcting it?

The bill before us, H.R. 5, proposes a draconian solution by making all mandates more difficult and in many cases impossible, even when they have an obvious value to the public welfare and to the quality of life in this country.

While I am supportive of reasonable efforts to correct the problems of unfunded mandates, the bill before us does not meet that goal, and, as I said, this is reflected in the large number of the amendments proposing reasonable improvements to the bill.

One of these is the amendments that we have before us by the gentleman from Texas [Mr. GENE GREEN]. I commend him for offering this amendment.

There are many reasons why the nuclear industry should not be within the purview of this bill, including the reasons that it is going to be next to impossible for the Congress or the OMB to estimate either the cost or the benefits of regulation of the nuclear industry.

Literally thousands of man-years have been spent trying to evaluate the possibility of an accident, for example, and that is a key consideration in determining whether or not to regulate. If there is a possibility that some practice or some activity in the nuclear industry is going to cause serious problems, we need to know how serious, what is that possibility, and frankly, we are not in a position to provide that information with any degree of accuracy.

I doubt very seriously if most of the Members of Congress are going to be able to actually understand what the possibilities of serious accidents are and what the importance of correcting that accident through a proper regulatory measure are. I know how we have acted in the past. We have tended to use the best judgment that was available from experts who appeared before our committees and gave us that information, and then we have distilled that and provided the necessary authority to the NRC to take the actions that it would require.

I do not think that this bill represents any improvement on the processes we have been following. My guess is we should not have put it into the bill in the first place.

So I urge support for the amendment offered by the gentleman from Texas [Mr. GENE GREEN] largely because I am so uncertain about the range of its implications.

I might indicate there is a difference here on the floor of whether even the NRC is included within the purview of this bill. That is certainly one of the simpler things that should have been explored before the bill was bought to the floor, so we could get a definitive answer on that question.

I am also uncertain of the range of questions that the regulatory review and point-of-order procedures included in H.R. 5 will have on our ability to deal with legislative regulatory issues in the nuclear industry. H.R. 5 is not the appropriate legislative vehicle to cope with issues of this sort.

I urge the adoption of the Green amendment.

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

Quickly, to clarify points made by the gentleman from California and respond to the gentleman from Texas on the Nuclear Regulatory Commission again, it says it will be very difficult to mandate in the future. In fact, it says impossible in some cases. I do not know where that comes from.

Again, this allows us to have a cost estimate, allows us to have a debate on the floor, a vote up or down. It will not be an impossible task simply to have a majority of this body simply consider whether the new mandates make sense.

With regard to Nuclear Regulatory Commission, it is very clear under title II of the bill it is in fact an independent agency and thus is exempt. That is under title II of the bill. That point was made previously.

With regard to the legislation itself and the existing exemptions, and this is in response to the gentleman from Texas's earlier concern about emergencies, there is a specific exemption for emergencies, and that is found in section 4.

Finally, as the gentleman from Colorado [Mr. SCHAEFER] said previously with regard to the NRC, they certainly currently have statutory authority to react to an emergency.

So I think, Mr. Chairman, the points that have been raised, although they are important and that is a very important issue that has been addressed, I think this legislation is a measured approach. I say to the gentleman from California, it is not draconian. It does allow us to mandate in the future. We just have to be thoughtful about it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas [Mr. GENE GREEN].

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

RECORDED VOTE

Mr. GENE GREEN of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 162, noes 259, not voting 13, as follows:

[Roll No 26]

AYES—162

Abercrombie	Dellums	Gutierrez
Ackerman	Deutsch	Hall (OH)
Barcia	Dicks	Hastings (FL)
Barrett (WI)	Dingell	Hefner
Becerra	Dixon	Hilliard
Beilenson	Doggett	Hinchey
Bentsen	Doyle	Holden
Berman	Durbin	Hoyer
Bonior	Edwards	Jackson-Lee
Borski	Engel	Jacobs
Boucher	Eshoo	Jefferson
Brown (CA)	Evans	Johnson (SD)
Brown (FL)	Farr	Johnson, E. B.
Brown (OH)	Fattah	Johnston
Bryant (TX)	Fawell	Kanjorski
Cardin	Fazio	Kaptur
Clay	Filner	Kennelly
Clayton	Flake	Kildee
Clement	Foglietta	Kleczka
Clyburn	Ford	Klink
Coleman	Frank (MA)	LaFalce
Collins (IL)	Frost	Lantos
Collins (MI)	Furse	Levin
Conyers	Gejdenson	Lewis (GA)
Coyne	Gephardt	Lofgren
Danner	Gibbons	Lowey
de la Garza	Gonzalez	Maloney
DeFazio	Gordon	Manton
DeLauro	Green	Markey

Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—259

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
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
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
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, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Molinari
Montgomery
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
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
Tanner
Tate
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Baldacci
Bishop
Burton
Fields (LA)
Kennedy (MA)
Kennedy (RI)
Luther
Miller (FL)
Moorhead
Oxley
Rush
Slaughter
Tauzin

□ 1942

The Clerk announced the following pair:

On this vote:

Ms. Slaughter for, with Mr. Miller of Florida against.

Mrs. CHENOWETH changed her vote from ''aye'' to ''no.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 4?

AMENDMENTS OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer amendments Nos. 107 and 108.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. SANDERS:

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) establishes a minimum labor standard, including any prohibition of child labor, establishment of a mimimum wage, or establishment of minimum standards for occupational safety.

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) establishes a minimum labor standard, including any prohibition of child labor, establishment of a minimum wage, or establishment of minimum standards for occupational safety.

Mr. SANDERS. Mr. Chairman, I ask unanimous consent that amendments Nos. 107 and 108 be considered en bloc.

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

There was no objection.

Mr. SANDERS. Mr. Chairman, I offer this amendment along with my colleagues, Mr. CLAY from Missouri, and the gentleman from California [Mr. BECERRA].

Mr. Chairman, this amendment is simple and not controversial. It exempts Federal legislation that establishes minimum labor standards, including prohibition of child labor, establishment of a higher minimum wage, and establishment of minimum occupational safety standards. State and local governments are employers just like the private sector. So minimum labor standards are unfunded Federal mandates. This bill could have very serious consequences on the health, safety, and fair treatment of American workers.

Mr. Chairman, in the 102d, 103d, and in this Congress, I have introduced bills that increase the minimum wage. They provide for a moderate increase from the current $4.25 to $5.50 an hour and index future increases to the annual cost of living.

Mr. Chairman, today the minimum wage buys only 65 percent of what it did 10 years ago. At its current level, it is a hunger rate that results in full-time workers earning just $8,840 per year and falling well below the poverty level for a family of four. Any attempt to raise the minimum wage in this and future Congresses would be banned under this unfunded mandate legislation. This amendment protects hard-working Americans who deserve a livable wage.

□ 1950

Occupational safety and health standards that protect State and government employees, as well as private sector employees, are also considered as unfunded mandates that are banned by H.R. 5. This amendment would permit the establishment of minimum occupational safety and health standards that respond to newly discovered occupational hazards. Without this amendment, no minimum standard for indoor air quality relating to tobacco smoke, toxic dust, asbestos, radioactive and other cancer causing chemicals could be established for work areas. This amendment protects the safety of working America.

Mr. Chairman, more than 50 years ago, at the urging of President Franklin D. Roosevelt, the Congress established a basic minimum working age of 16 nationwide. This was done as a societal commitment that young Americans should be getting a good education in school rather than working in factories or sweatshops. Now the commercial exploitation of children in America is back with a vengeance in the 1990's, and this legislation would preclude the Congress from doing anything about it.

Consider these alarming facts:

Reported child labor violations are up more than 150 percent in the past decade,

There are fewer than 40 Federal investigators and compliance officers to enforce child labor laws and 50 other fair labor standards nationwide,

In the 1980's the average fine leveled on unscrupulous employers of minors who were killed on the job was all of $740.

In short, the scourge of child labor is spreading all across America again. If this amendment is not approved, this legislation would hamstring the Congress from doing anything to extend

fundamental protection to young Americans in the workplace at a time when many of them are struggling to strike a good balance between getting a good education and gainful employment.

Mr. Chairman, every civil society on Earth has seen fit to extend fundamental rights and to establish minimum labor standards for working people. The United States and more than 160 other nations are legally obligated to adopt and enforce laws promoting respect for internationally recognized worker rights and labor standards. If this amendment does not pass, the United States would signal our wholesale retreat from fundamental worker rights and minimum international labor standards. It would be a serious scar on America's credibility if we do not set minimum Federal standards that affirm our commitment to treat American workers with the same fundamental dignity and respect that they deserve.

There is another aspect of H.R. 5 that I believe is ambiguous. As costs increase, the cost of States and localities to meet the same standards also increase. Thus, if it costs States more money to enforce the same occupational safety standards——

The CHAIRMAN. The time of the gentleman from Vermont [Mr. SANDERS] has expired.

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

Mr. SANDERS. Thus, if it costs States more money to enforce the same occupational safety standard, there is arguably a new unfunded mandate that can be banned. I am seriously concerned that current minimum labor standards are in serious jeopardy.

I offered this amendment during the committee markup. Many of my colleagues have voted against the adoption of the amendment, said that they did not want H.R. 5 to apply to minimum labor standards. They were in agreement. I find it disingenuous that these same colleagues claims to support my amendment, yet voted against it. Let us make it clear today that we value the safety and well-being of working Americans. I urge all Members to support this amendment.

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

Mr. Chairman, I have to say once again the gentleman from Vermont, like other people, have offered amendments on the House floor, and the committee before him, have selected an important area of consideration. I would point out, first, however, that there is nothing in this bill that retroactively repeals any bill already enacted into law by Congress. This obviously would include present child labor laws. I think the meat of the amendment goes to the Occupational Safety and Health Administration, [OSHA] and future rulemaking that they might do or future legislation that Congress might make with respect to worker safety.

Giving a personal note, Mr. Chairman, I understand the importance of worker safety, as we all do, but close up because I was an OSHA inspector for the Air National Guard. For 6 years of my more than 20-year career in the New Mexico Air National Guard I was a ground safety officer, and among other duties with that responsibility was inspecting the facility for worker safety under the Air Force's version of OSHA. But I want to say that, although I understand the importance of labor standards and being concerned about worker safety, I have been seen and heard my share of horror stories. Business after business has come to me since I was elected to Congress with regulations imposed by the Occupational Safety and Health Administration which appear to be imposed without any regard to how practical they are, how needed they are, what their costs are, oftentimes apparently by people who have never worked in the workplace themselves and hardly have the qualifications to be imposing that on either State government and its employer or anyone else, and therefore, what this comes down to is there is simply no reason why the issue of worker safety should be exempt from the consideration of this bill.

If the Congress upon due consideration, if this bill is enacted into law, decides that the cost of a particular new piece of legislation is warranted, and if Congress does not have the funds to pay for it, then by majority vote we can still enact it. Once again we are requiring accountability. We are not precluding any action on the part of the Congress.

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

Mr. Chairman I am pleased to offer this amendment, along with my colleagues, the gentleman from Vermont and the gentleman from California.

The sponsors of the bill acknowledge in section 4 that some matters are of such fundamental Federal interests that they should be exempt from the bill. In my view laws protecting the health, safety, and welfare of American workers belong in that category, as well as laws covering the minimum wage, the Family and Medical Leave Act, OSHA, and the Employee Polygraph Protection Act.

H.R. 5 creates needless procedural hurdles to the ability of the Federal Government to regulate the conduct of State and local governments. There is no conceivable justification for treating State and local governments differently with respect to laws designated to protect our workers. Yet, if the proponents of this bill think that the Congress has not given due consideration to the impact of labor statutes on public employees, let me correct that faulty assumption.

Mr. Chairman, I was a member of the Committee on Education and Labor when the Congress extended the Fair Labor Standards Act to State and local governments. I was actively involved in the enactment of the Family and Medical Leave Act and the Employee Polygraph Protection Act, and in every instance throughout the entire legislative process the views of public employees were fully considered by the Congress. We do not need the unfunded mandate bill to force us to continue careful consideration of the impact of our decisions.

State and local public employees face the same pressures to provide for themselves and their families. The fact that one may work for a public employee does not lessen the need to earn a living wage. The public employee does not age differently than one in the private sector and should be accorded the same protection under the age discrimination law. Those working for a public employer are no more immune from occupational disease or accident than those who work for private employers and should be afforded the same protection under our worker safety laws. H.R. 5 could well force us to adopt inequitable workplace statutes.

Mr. Chairman, the Congress does not enact labor statutes in order to impose costs upon employers. The Congress enacts labor statutes because it has determined that the need to protect the American workers is a matter of great national interest, and I urge my colleagues to support this amendment.

□ 2000

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

Mr. Chairman, I believe that my friends from Vermont and from Missouri and from California are very sincere in offering this amendment, and I think it is well-intentioned all the way around. But the fact of the matter is we once again have come to the point where we are imposing another mandate on State governments.

Before I was elected to the Congress and I had the privilege of serving here, the only elected office I ever held was that of student council officer in high school. But the fact of the matter is, there are very many distinguished former State legislators who serve here. I look at my friend, the gentleman from California [Mr. MARTINEZ], who had a distinguished career as a member of the California Legislature, and I have to say as I look at this amendment, we were basically saying to legislatures that you cannot make this kind of decision.

Well, on the issue of labor and minimum wage standards, 36 States have minimum wage laws which have a rate that is equal to or higher than the Federal minimum wage standard.

I happen to be one who has a great deal of confidence in those State legislatures. My State legislature out in California right now is going through more than its share of problems, but, nevertheless, I do believe very sincerely that those States should have the opportunity and really the power to make these kinds of decisions.

So while I congratulate my friends for offering this amendment, I believe that it once again moves in a very, very bad direction, jeopardizing the rights of States. For that reason I am opposed to it.

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

Mr. DREIER. I am very happy to yield to my friend from Monterey Park.

Mr. MARTINEZ. Mr. Chairman, as my colleague from California knows, I served on the local level in the State legislature, but I also served as a council member and mayor for the city of Monterey Park.

Now, let me tell you what happens with us and our budgets as a local elected official when we try to develop our priorities and how we are going to serve our constituents. Let me tell you something: There are certain things we have a responsibility to, but we will ignore them because we feel that the higher priorities for that money are what is going to make our constituents happy to get us elected. All right, that is a simple fact of life at every level of government.

Mr. DREIER. Not here.

Mr. MARTINEZ. So what we are doing here, even here we are gaining votes on many of the actions we take. But even so, somebody has to determine, and I think it is the Federal Government's responsibility, the responsibilities that we have in regard to civil rights or in fact to the point where people, their rights are being violated and they are being treated in an abusive way.

Sometimes it is easier for us to make a decision because we are farther removed than those local elected officials are, and we have to live up to that responsibility.

I would say to my friend that there are certain things that we in the Federal Government are going to have to mandate, but we do not necessarily have to provide the money for, because actually they are the responsibility of the local governments and the State governments.

Mr. DREIER. If I could reclaim my time to respond to my friend, this legislation does not eliminate unfunded mandates. It simply creates a requirement that we be accountable for those decisions. I know my friend would be very supportive of that. We have to go on record here, rather than sneaking provisions that have been snuck in in the past into legislation, imposing unfunded mandates on State and local governments, we have to stand here and say yea or nay, which is I believe is what the American people want us to do.

Mr. MARTINEZ. If the gentleman will yield further, let us say that we could agree that there are certain things that the Federal Government does mandate to local governments, that since it is their idea, they ought to pay for them. There comes a question of us being able to raise the taxes. Now, if you have the supermajority that everybody is talking about passing, it is going to be very difficult for us to raise the taxes for it. So we are not going to be able to.

So when it comes to judging whether or not there is a cost involved, the idea of measuring the benefit versus the cost is going to be a very subjective thing, because there are people that do not see any value in a lot of things we do, like for example ombudsmen to take care of frail people and elderly people in nursing homes, and 20/20 just did an hour on that.

But we are not going to be able to do that if we say we are going to have to raise the taxes. So we have to say that the State governments have that responsibility and have to do it.

More than that, if we say that this is a Federal mandate, but you have to do it on the local basis, and we are going to say weigh the benefit in an objective way, not a subjective way, and I still maintain that will be done subjectively here, because in the first place the only reason you want an unfunded mandate law that says you have to weigh those benefits before you make that decision it is to be able to have some reason to deny. And that is the plain and simple truth.

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

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

Mr. DREIER. Mr. Chairman, I would simply respond to my friend by saying again that he had the privilege of serving as a city council member, a mayor of a great city in California, and as a member of the State legislature. The unfortunate thing for me is I, having not done that, I have so much confidence in your successors in those bodies that I believe we should give the right to make those decisions to them at the State and local level, and if we make the decision that they cannot handle it, we still can impose that unfunded mandate. We just have to be accountable in doing it.

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

Mr. DREIER. I yield to my friend, the gentleman from St. Louis.

Mr. CLAY. Will the gentleman cite for the RECORD which bills we sneaked through here?

Mr. DREIER. Well, sneaked through, I am thinking of a wide range of legislation in which, for example, the Clean Air Act——

Mr. CLAY. We sneaked that through, sir?

Mr. DREIER. I am talking about the unfunded mandate aspect.

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

(By unanimous consent, Mr. DREIER was allowed to proceed for one-half additional minute.)

Mr. DREIER. Mr. Chairman, I would like to ask my friend from St. Louis if he knew that during this 5-year period that we would be imposing on States the responsibility of paying $3.6 billion to comply with the Clean Air Act? We did not know that. So all I am saying is that while many unfunded mandates have been included in legislation in the past, when I say ''snuck in,'' it meant that we have not been accountable for them because we have not been required to have an up or down vote on whether or not that mandate should be imposed. And that is what I meant by that.

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

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

Mr. WYNN. Mr. Chairman, I rise this evening in strong support of the amendment sponsored by the gentleman from Vermont [Mr. SANDERS]. I think this is an opportunity in which we in Congress define our role. Not too long ago we stood and raised our hands and took an oath, and the essence of that oath was that we would protect the national interests. That is the interests of all Americans. And I submit that in the areas of occupational safety, minimum wages, and, most importantly, child labor laws, that this is an appropriate area for national decision-making and that we have in fact an obligation to protect the Nation's best interests.

Let me say, it was interesting listening to the discussion a few moments ago, that I too served in the State legislature for 10 years. And in the State legislature I was a strong advocate for limiting unfunded mandates. I support the concept today, but I feel strongly that the bill can be improved, and that is why I am supporting this amendment.

Mr. Chairman, my colleagues on the other side have attempted to paint themselves as the advocates of the working class. Well, I will tell you, working class people are in trouble and the issue is wages. The bill in its current form makes this situation worse.

The current minimum wage of $4.25 an hour has only increased $4 since its creation under the Fair Labor Standards Act in 1938. At this rate the average family of two is just above the poverty level at $8,840. This minimum wage only buys 65 percent of what it could buy 10 years ago. The problems of homelessness, poverty, all go back to the question of wages.

I think when I listen to some of the opponents of this amendment that they would have us resort to the levels of under developed countries and eliminate all wage standards.

It was interesting, Mr. Chairman, in a recent show the question of the minimum wage was discussed. Opponents of the increase in the minimum wage said this would cause us to cut jobs. Then they talked to a seamstress who did piecework and asked her, you are a minimum wage worker, and if they increase the minimum wage, could this

cost you a job? You know what she said? She was a mother with children. She said I will take my chances with the increase in the minimum wage. I think there are jobs out here, but I need a decent wage.

So we at the Federal level have a responsibility to respond to that seamstress. If we take on that responsibility, we should not have our intentions abrogated or intercepted by virtue of this bill.

I think it is very important, therefore, Mr. Chairman, that we support the gentleman's amendment. Similarly in the area of child labor laws, we got into the business of child labor laws about 50 years ago when someone said, you know, it might make sense for us to impose some national standards on what age children should be allowed to work and under what conditions.

□ 2010

And I find it hard to believe that some of the Members in this Chamber would say we should turn back the clock 50 years and say the Federal Government has no role. Yes, as a State legislator, I, too, have a great deal of confidence in the judgment of State and local officials, but I feel when I stood up and took that oath, I said, I was going to look out for the national interest. I was going to make sure we had fair minimum standards for occupational safety and minimum wages and child labor laws, and I think, in order to keep my oath, I have to support this amendment. And I certainly urge my colleagues to do similarly.

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

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

Mr. BECERRA. Mr. Chairman, I rise today as a cosponsor of this amendment with the gentleman from Vermont [Mr. SANDERS] and the gentleman from Missouri [Mr. CLAY] to urge its adoption. I think we all know that we have one of our jobs here to protect those of our workers in America who are out there producing for America.

But let me focus my attention, if I may, on one particular aspect of our labor force. And that is our children, the most vulnerable group of people in our society that are out there sometimes working.

As currently drafted, H.R. 5 would pull the rug out from under these members of our society that are not yet prepared to go on and become as productive and fully participatory in our society as we would like. This unfunded mandate bill makes no effort to preserve our children's future health and safety through child labor laws. Under H.R.5, any new child labor laws would be suspect.

This amendment that we are proposing here today would simply exclude child labor laws from the effects of this unfunded mandates bill. Across the country exploitation of child labor is unfortunately making a vicious comeback. From New York to California, employers are breaking the law by hiring children who put in long hard hours and often work in dangerous conditions.

In 1990, the Department of Labor detected over 42,000 child labor violations, an increase of over 340 percent since 1983. And that is just what was detected. Who knows how many child labor violations actually occurred during those years?

Rising injuries, lack of labor law enforcement, rampant child labor law violations in agriculture and elsewhere all contribute, if anything, to the need for a renewed Federal attention to child labor.

Let me give some quick examples: In Los Angeles, many children who should be in school are instead working in garment industry sweatshops that are dirty, crowded and often contain hazards like locked fire doors. In California and Texas, young children work beside their parents for up to 12 hours a day as migrant farmers. Augustino Nieves, at age 13, was picking olives and strawberries in California. He missed months of school that particular year, working from 6:30 a.m. until 8 p.m. with a 20-minute lunch break, 6 days a week at less than minimum wage.

This is not an anomaly. It happens all the time across the country.

Another situation that is becoming more common is the hiring of children for candy selling scams. Candy sellers hire children, sometimes as young as 7 years of age. They pile them into a van; then they drop them off in unfamiliar neighborhoods to go door to door. These children sell their candy for $5 and usually they get to keep about a dollar. Brandy, a girl who started selling candy at age 11, said, ''On a good night, I could sell 10 boxes. Sometimes the kids drank in the van or used drugs. One time the driver left a boy in Napa,'' that is in California, ''and he had to walk 15 miles home at night. Another night I waited for 2 hours on the corner to get picked up.''

This is frankly embarrassing. It is disgraceful that in the United States of America, the model for developing countries, we have kids who should be on the playgrounds but who are instead waiting on the corners of some strange street for a stranger to remember to pick them up and take them home.

Since 1990, several States have updated their child labor laws, making significant advances in protecting minors. Unfortunately, the vast majority of States have not updated their laws in close to 50 and, in some cases, 80 years. It seems ironic that H.R. 5 would stymie Federal regulation of child labor laws, which were originally requested by the States themselves.

Walter Trattner wrote, in 1933, in his reform-oriented study called Crusade for Children.

Sweatshops and fly-by-night plants were exploiting children for little or no pay, moving at will across State lines to take advantage of laws of nearby States. The individual States were unable to halt these abuses which had far-reaching effects, including the complete breakdown of wage scales.

Trattner then concludes by saying the following: ''Everywhere people were looking to Washington for help and direction.''

The massive illegal employment of children damages the United States in two major ways: First, it has a negative impact on the education and thus the future of our young people. Who are they but the Nation's future work force. And we should be doing what we can in this particular work force that we will be counting on so tremendously to be able to say that they will get educated. And second, this massive illegal employment has as a result, in many cases, the death and serious injury of many young workers.

According to the Children's Defense Fund, young people who work more than 20 hours a week have diminished investment in school.

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

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

Mr. BECERRA. According to, as I was saying, the Children's Defense Fund, young people who work for more than 20 hours a week have diminished investment in school. They are more likely to be delinquent in school and are more likely to use drugs. Over one-third of working adolescents in a study said they took easier classes in order to manage their school work while they were employed.

In a hearing before the Committee on Government Relations or Government Operations last session, real life horror stories were relayed by the victims or survivors of accidents which occurred as a result of child labor violations, whether it was a pizza delivery young man who ends up dying because he is trying to drive around and he is lucky enough to have a license or unlucky enough to his life or whether we are talking about the boy who lost his leg because it was torn off by a dryer which did not have a safety lid, in which case the company paid a $400 fine, we find that there are violations that are occurring.

We must change this. The States have asked us to do this, and what we should do today is understand that in unfunded mandate legislation, we should not abandon our children.

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

Mr. Chairman, I want to make it clear in this body tonight that there are 170 unfunded mandates over the last 5 years, and this is according to the President's National Performance Review.

As a former State representative for 7 years and a county commissioner for 3 years, I can tell Members that they

are looking to us for assistance in not sending more unfunded mandates.

The fact of the matter is, every Member of this Congress wants to make sure we have safe child labor laws. We have safe labor laws on the books now. This is only prospective in nature. We need to make sure that everyone who is voting on this will realize that section 4 of the bill does not in fact provide for emergency assistance relief and any other kind of presidential emergency legislation, should that be necessary. But we cannot have another vote for another unfunded mandate when in fact this matter should be handled separately. And the legislation that we have here today that is going to protect America so we know that we have what the costs are upfront. And by making sure we have this bill passed we will know up front at any time in the future what the costs will be.

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

Mr. FOX. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I just wanted, since I did not want 5 minutes, I thank the gentleman for yielding.

I just want to rise and say that one of the things what has been fascinating about this debate is that we have learned a lot, I think, from each other during the course of the days that we have had what is truly an open rule. It is the first time in my time in Congress where we have actually had a give and take and a dialog between and among Members.

I just want to say to my colleagues that as someone who has a record of supporting environmental laws and health laws and safety laws and labor laws, including my intention, if it is a reasonable increase in minimum wage, to support the President, if he requests a rise in the minimum wage, if it is logical and meaningful.

I just make a point to my colleagues on the other side of the aisle, this mandate bill that was designed really by Members on both sides of the aisle, allows us the opportunity to have the full kind of debate we are having right now.

□ 2020

If a minimum wage is desired by more than a majority of the Members of Congress, or OSHA safety laws, we simply can override the point of order by a simple majority.

It seems to me, Mr. Chairman, that some of the dialog we have been having is a dialog that would legitimately happen when those particular bills come before us. However, at least then we know the cost of the legislation if we do not want to fund them.

I thank my colleague, the gentleman from Pennsylvania [Mr. FOX], for yielding to me, but I also oppose this amendment. This amendment, like any other amendment that has been offered, would really kind of gut the concept of the bill. If we have a mandate bill, a simple majority can override the mandate requirement point of order.

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

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

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, I would like to respond to the gentleman from Connecticut [Mr. SHAYS], because repeatedly this has been said this is prospective in nature. I think that is not with regard to reauthorization, which obviously could affect many laws that we have that have a term in terms of time.

However, in addition to that, on page 18 of the bill, and the gentleman is very familiar with it, this statement to accompany significant regulatory actions, here it goes through 13 separate steps. It says ''Any final rule that indicates any Federal mandate that may result in expenditures of States'', and here we are dealing with the rules that are promulgated by the agencies, ''any rule that has an intergovernmental nature or any rule this has an effect of having $100,000.''

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

Mr. FOX. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, it is just, in that instance, an assessment of cost. That is the point.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I would suggest that he look at this, and this section, section 202, is not prospective in nature. It is retroactive. It affects any new rule that is promulgated that deals with the types of labor law problems we are talking about here.

We are talking about any reauthorization. Therefore, at the very least I think this is what concerns many of the Members here. We are really putting in place a vehicle that we do not know how it will work.

Mr. FOX. Mr. Chairman, reclaiming my time, I yield further to the gentleman from Connecticut.

Mr. VENTO. Mr. Chairman, if the gentleman will continue to yield, I just want to finish my statement.

Mr. FOX. Mr. Chairman, reclaiming my time, I yield further to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Chairman, we are new at this. We are learning the process.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman operating in good will, if he will continue to yield to me, just to finish my sentence.

Mr. FOX. I have lots of good will, Mr. Chairman, but I want to make sure that my colleague, the gentleman from Connecticut [Mr. SHAYS], could finish his thought.

I yield to the gentleman from Connecticut.

Mr. VENTO. I think this is not prospective. It is very significant. It is a vehicle we have not tried. It is untried. There are 13 separate steps here. Some are questions like how many angels can dance on the head of a pin.

I think as we look at this, they are much more complicated. The whole vehicle has never been tried. Show me an example.

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

(On request of Mr. VENTO and by unanimous consent, Mr. FOX was allowed to proceed for 1 additional minute.)

Mr. FOX. The fact of the matter, what people of America want us to do is, if we are going to pay for an additional item, we want to have it voted up or down in this Chamber. This bill allows us to do that. The fact is that we need to pass H.R. 5.

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

Mr. Chairman, if it is the objective of the gentleman from Connecticut [Mr. SHAYS] to know the cost of the legislation, and not have any unintended effects, I believe he will have an opportunity later during the consideration of this bill to vote on the Moran bill which passed out of committee in the last Congress, which in fact does that without complications. It will be offered as a substitute.

Another gentleman rose earlier, Mr. Chairman, to talk about his experience in local government. I was a county commissioner in the early 1980's. There are a couple of ways to put burdens on local government.

One is unfunded mandates, and I believe we should address that problem. The second is to jerk funds out from underneath counties and local governments, which was done by President Reagan and the Congress when they killed revenue sharing and used the money for Star Wars.

We have to look out for both of those things. We have to get our priorities straight around here. Where is the money better spent?

Mr. Chairman, beyond that, during this last week I have heard a lot said about book deals here on the floor. However, if we fail to pass this amendment, Mr. Chairman, we are taking a page out of another book, a book by Dickens. We will be turning back the clock to an earlier and dark time when children were exploited and oppressed for their labor.

I know it is certainly not and could not be the objective of the authors of this bill to turn back the laws to the days of abuse of child labor or the days of Sinclair Lewis and The Jungle, with unsafe and unsanitary workplaces, or finally to prevent the imposition of a Federal minimum wage, where the various States, if we saw this new vision, could perhaps engage in a bidding war. Perhaps we could drive down wages to the level of Mexico, and then we would no longer have to fear the loss of our jobs under the NAFTA agreement.

Child labor, unsafe and unsantiary workplaces, sweatshops, subpoverty

wages, those certainly could not be the objectives of the authors of this bill. I would urge them, Mr. Chairman, since that is not their objective, to adopt this amendment.

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

Mr. Chairman, our Democrat friends seem to have ignored one of the major factors that they have introduced into labor law in this Congress in the last four years. It is called an earned income tax credit. It actually was invented by our friend, the gentleman from Wisconsin [Mr. PETRI], but they thought it was such a great idea that in this last session of Congress we put in the earned income tax credit.

The nice part about the earned income tax credit is the Federal Government pays the cost. If we take the minimum wage today and add to it what could be the additional income that the people at the bottom of the wage scale get, there is $1.21 an hour that people could add to the minimum wage right now because of the beneficence of this Congress, the Democrats and Republicans.

If they want to continue this and they want to help out local government without mandates, all they have to do is increase the earned income tax credit. The great part about that is the local government does not pay it, the State government does not pay it, the Federal Government pays it in an earned income tax credit.

This is a wonderful idea they have invented, and all of a sudden now the minimum wage has become the great wonderful thing. It does not get the aid to the people that need it, Mr. Chairman. The majority of people that earn the minimum wage are not poor people, they are a bunch of young kids working and getting into the whole labor market.

Mr. Chairman, when we increase the minimum wage, we increase the level of the beginning. The people that are really hurt there are people that are looking for jobs, the ones that cannot cut it anyhow. Why not put in the earned income tax credit?

The major idea is, the earned income tax credit is something that has been invented. It is a good idea and does a great deal more.

One other thing I would like to bring up: OSHA, which I am sure has been discussed already, OSHA, which is administered by 23 States at the present time on a voluntary effort on their part, has nothing to do with this bill at all. They have already voluntarily accepted OSHA, and nothing happens in this bill that is going to change that, unless the Federal Government forces some sort of new regulation and they give over $500 million more to bring that about. OSHA is safe. The earned income tax credit solves the problem they are speaking about.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate my colleague, the gentleman from North Carolina [Mr. BALLENGER], bringing up the earned income tax credit. Last session of Congress not one Republican Member voted for that earned income tax credit. To take credit for it tonight, maybe it was their idea, but to put it into existence, the people on this side of the aisle did that. That is why minimum wage is so important.

I appreciate my colleagues, the gentleman from Vermont [Mr. SANDERS], the chairman of the EEOC Committee, and my ranking member, introducing this amendment.

The case for minimum wage, and we hear that we are not talking about issues tonight, we are talking about unfunded mandates, but we are talking about issues, because to deal with safe drinking water, to deal with nuclear regulatory issues, to deal with minimum wage, we are putting up the roadblocks tonight to deal with those issues. To say we are not doing it, Members are casting aspersions and making the American people not realize what has actually happened. That is why this amendment is so important.

The case for minimum wage needs to be made tonight and hopefully, when we get a bill, here on the floor. We cannot raise a family on minimum wage, even with the earned income tax credit.

Many people in my district are required to live on that. At $4.25 an hour as a single person they make $8,840. It is barely above the poverty line for individuals. That is $7,360. If they have one child, the poverty line is $9,840. That puts them below the poverty level, even at minimum wage.

□ 2030

The purchasing power of the minimum wage measured in constant dollars is about the same as it was in the 1950's. Teenagers and young adults make up about half the minimum wage population. The gentleman from North Carolina [Mr. BALLENGER] was correct, according to the Economic Policy Institute. But the other half of hardworking adults, working Americans who need to have that increase, if we throw up another roadblock tonight for public employees not be paid a higher minimum wage, then that is doing a disservice to those people.

I also served many years in the Texas Legislature, 20 years in the legislature, so I know about unfunded mandates. I also know that in a minimum wage issue, it is a national issue and should not be dealt with on the State level.

Why should we be excluded from this bill? We have been discussing raising the threshold for passing the income tax. This Congress 2 weeks ago and maybe this week will make it a three-fifths requirement to require an income tax increase. Particularly in 1993 we raised taxes on the 2 percent of the wealthiest income earners. Yet we are going to make it even harder to pass a minimum wage on the people who are the lowest hardworking workers?

Why should we put procedural hurdles to raise the income of working Americans when we are putting a procedural hurdle to where it is harder to raise the taxes on the richest? We are protecting the people at one end of the earning scale but we are making it harder to help those at the other end.

It was a few year ago when I made minimum wage and I was glad Congress raised it then from $1.25 an hour. I remember where I come from. I hope that a lot of Members of Congress remember where we come from and recognize that we do not need to throw additional hurdles, particularly for public employees to make increase in minimum wage.

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

Mr. GENE GREEN of Texas. I yield to the gentleman from Minnesota.

Mr. VENTO. I want to commend the gentleman for his statement and the point about minimum wage. I want to commend my colleague from North Carolina for his statement about the earned income credit. I would like to have had more support 2 years ago when we passed it, but that is no excuse.

We believe in the private enterprise system in providing some minimum opportunities for people to get adequate compensation. We should not have to unless there are unusual circumstances to rely on the Tax Code and the income transfers that go in that direction. In fact, we are going to be talking about those income transfers a little later this week. I though maybe some of our colleagues were anticipating that debate.

The earned income tax credit is necessary, but it is limited in terms of what we can do. We want the private sector to pay adequate wages and compensation and benefits so that people can support their families.

I support the gentleman's statement and his concern, he is doing it with great aplomb, and I credit him for it.

Mr. GENE GREEN of Texas. I thank the gentleman.

Let me remind Members the earned income credit was a great bill and it passed in 1993. But that does not mean we should not also consider what we need to do with the minimum wage, and to separate out public employees, whether they work for cities, counties or States, to treat them separately from private individuals or private companies is wrong because they have to support families just like private employees have to.

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

Mr. Chairman, I move today in support of the amendment of the gentleman from Vermont.

All of us believe that we must find ways to ease the budget burden on States and municipalities. That is not, however, what we are really debating

today. We are not deciding whether we will make a serious effort to get our budget under control and legislate more reasonably. We are deciding whether in a frantic, unreasonable rush to claim that we are not passing on costs to localities, whether the Congress of the United States will completely abandon its vital role in protecting American working people.

A vote for H.R. 5 without this amendment is an unconditional surrender, an unconditional surrender of our obligation to ensure that American workers earn a decent wage and that they work in decent conditions.

Is our drive to congratulate ourselves and pretend we are helping States and localities so great, so immense that we are willing to risk the safety of working people all across our Nation?

Is our desire to take credit for so-called accountability so great that we are willing to risk child labor and minimum wage standards?

If, Mr. Chairman, in this committee, in the People's House we will not stand up for American workers, stand up so that they are paid a decent salary, stand up so that their children will not be forced to work, stand up so that they can all work in safety, then, Mr. Chairman, who will stand up for the American working men and women?

We all want to help States and localities. I want to help the city of Chicago. But we should not do it by risking the health, the safety, and the protection of American workers.

This is not an abstract problem, Mr. Chairman. The dangers are real.

In 1990, there was a 177 percent increase in child labor violations. If we pass this bill ignoring this important amendment, we will not be able to take steps to remedy this growing crisis.

My friends, we do not have to say no to workers, especially on a day like today when we have seen tens of thousands of marchers for pro-life. Is it not pro-life to guarantee that a mother can raise and feed and clothe and educate a child? Is it not pro-life that once that child is here with us, that we guarantee that that child is able to work under some reasonable conditions of safety and not at a young and tender age?

Is it not pro-life, and I see my colleagues on the other side smiling. They deny a woman's right to choose and then say we will not protect the children once they are here with us. Is it not pro-life to guarantee that people can smell the air and drink decent water and that our environment is not contaminated? Is that not what life is really all about? That we can raise our children, educate them and live in peace.

Mr. SHAYS. Will the gentleman yield?

Mr. GUTIERREZ. Excuse me, I have not spoken on this House floor in 2 years and I am going to speak today.

It seems to me, Mr. Chairman, that if we are truly going to be about life and the sanctity of life, it should be at all phases, at all steps along the way, not merely here on a debate. And it seems incredulous to me that we will pass a law that will make it more difficult to guarantee minimum wage and the same proponents will say to the richest, the wealthiest Americans here in the United States of America, we are going to give you a tax cut on your capital gains, on your investments, but we are not going to make a real investment in American men and women in this country by affording them a decent salary.

Mr. Chairman, that is what this debate should be all about. We were sent here to do the people's work. I do not know, there may be young people, I see them, flipping hamburgers and trying to make a living in high school so they can help their parents and their economy of their household along. But I also see them early in the morning, Mr. Chairman, grown men and women working very hard.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. GENE GREEN of Texas and by unanimous consent, Mr. GUTIERREZ was allowed to proceed for 1 additional minute.)

Mr. GUTIERREZ. Mr. Chairman, if we are going to guarantee, if we are going to talk about fairness in this the People's House, then we should not say that while we have a deficit here in this country, that while we have a looming deficit that is going to affect the children of this country, that is going to affect the families of this country, that the only tax cut that we can give is a capital gains tax cut; that the only way that we can ensure that men and women earn more money, lift themselves from poverty, is the earned income tax credit.

Mr. Chairman, just to finish, we have been into striking words of Members when we do no like them here. We should probably have a new rule.

When we use the word ''we'' as I heard it expressed by one of my colleagues from Texas on the other side of the aisle in reference to the earned income tax credit, when the ''we'' on that side of the aisle, not a single ''I'' on that side of the aisle contributed to the ''we'' for the American men and women, I think that we should move to strike those kinds of words, also.

□ 2040

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

Mr. Chairman, this amendment before us goes to the core of the proper role and responsibility of the Federal Government. Not that many years ago, industrial centers like New York City were notorious for sweatshops and deathtraps. Thousands of workers, many of them children, toiled before dangerous machinery and equipment for long hours, for little pay, and with few rests. Many were killed or injured. Those who complained were shown the door and tainted with a black mark that might prevent them from ever working again.

This body eventually assumed its responsibility to protect citizens and residents and enacted landmark legislation—what many would now criticize as unfunded mandates. Many of the most extreme abuses were reversed with the Fair Labor Standards Act, the National Labor Relations Act, and OSHA.

Things improved for working people. However, problems remain, and where there is abuse, there is a proper Federal rule. Indeed, many of the abuses that gave rise to our labor protection laws and regulations persist. The sweatshop, one of the most common symbols of abuse, persists in New York, Los Angeles, and elsewhere.

In 1989, the GAO documented a steady rise in sweatshops, which they defined as business that regularly violate both safety or health and wage or child labor laws. Three-fourths of the Federal officials interviewed at that time said that sweatshops were a serious problem in at least one industry in their geographic area. They found too few inspectors and inadequate penalties.

This past November, the GAO revisited the issue. They found that the sweatshop problem in the garment industry had not improved. In many cases it had worsened. It found deplorable working conditions when it accompanied Federal and State authorities on raids in New York and Los Angeles. It is estimated that there are between 2,000 and 2,500 illegal garment factories in my home city that operate outside of the law and its protections.

Our labor standards are being circumvented at an alarming and rising rate. The solution may be tougher regulations, or improved legislation. Without this amendment and similar ones offered this evening, the Federal Government puts itself into a straightjacket. The cumbersome procedures and points of order erected by this bill slow this body's ability to act swiftly, decisively, and effectively. In this time of rising competition, child labor is growing, minimum wages and maximum hours are being ignored, and occupational safety and health corners are being cut. Now is not the time to cut back on our ability to maintain minimum workplace standards. I urge my colleagues to support this crucial amendment.

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

Mr. Chairman, I rise in support of this amendment. However, I am advised that we should never amend a bad bill, and tonight I feel like a legislative cop on the highway of unfunded mandates. And I am asking my colleagues to slow down, stop, look, analyze even before they vote on this important bill.

The bill before Members is not, is not an unfunded mandates bill. It is a gridlock bill. It designs gridlock.

I do not think there is a Governor in the United States that if they had this bill before them would sign it.

Yes, there States and local governments want unfunded mandates legislation. But they do not want H.R. 5. California, the State I represent, has a constitutional requirement to fund unfunded mandates. The State has over 6,000 subunits of local government. Each keeps track of unfunded consequences of State action, and if it costs them money then the local government may make a claim for reimbursement. Unlike H.R. 5, the burden is not on the State legislatures to prove before they enact legislation that it will cost local governments money.

The legislature's job is to make good law and to pay for its consequences. This bill puts all of the burden on Federal agencies and on partisan congressional staff to determine the costs before they are incurred.

I would rather have cops on the beat, teachers in the classroom, nurses in the hospital determine the costs than people here in a partisan political arena.

The intent of this bill is to stop Federal legislation, to prevent having an equal playing field, to allow each State to go in their own direction on the environment, on job safety, and on many other social issues.

I ask the Governors of the States supporting this bill if they would sign such legislation in their own States. Look for example on page 18, line 9 which reads and I quote,

> Effects on the Private Sector.—Before establishing any regulatory requirements, agencies shall prepare estimates, based on available data, of the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

If that does not swell the size of the Federal bureaucracy, what will?

Next time your Governors wonder why legislation enacted to help your State has not been implemented, it is because the studies of the regulations necessary to implement your legislation are tied up in trying to determine the effect of mandates on the national economy, on productivity, on economic growth, on full employment, on creation of productive jobs, and on international competitiveness of U.S. goods and services. Do not hold your breath while hired lawyers and economists dispute these issues over the draft of a simple regulation.

Yes, my colleagues, we need unfunded mandates legislation, the same legislation that California and other States have adopted. But not H.R. 5 as it is on the floor today.

How do we put a price tag on saluting the flag, on the value of military music, on the cost of leaving a stream unpolluted? Our role in Congress is not only understanding the cost, but also explaining the benefits.

Please, Mr. Chairman, do not turn this place into a Congress that knows the price of everything and the value of nothing.

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

Mr. Chairman, I rise to support the pending amendment.

It is interesting as we proceed to discuss many issues in this House, we talk about being family friendly, we talk about emphasizing the idea of allowing people to seek an opportunity. As we look to the future we realize that people are desperate for work, we realize as we talk about welfare reform that the cornerstone of the proposals is to put people to work.

If we are to send people out into the work force and then disallow the safety in the workplace, we are then throwing the whole issue in support of family friendly, the encouragement of welfare reform, to put people to work, we are abandoning the tenets of this House and commitment to make sure they are safely provided for.

I think as we go forward on unfunded mandates, many of us have different opinions. I come from local government and understand the burden that has been borne by cities and States alike. But I cannot offer and support welfare reform, encouraging people in to the workplace, realizing the children that are already in the workplace, and then take away the responsibility of a safe workplace.

Mr. Chairman, I think it is very important that as we seek to be responsible in this House that although we share viewpoints on not burdening our respective jurisdictions, we cannot allow them to move away from the clarity of the importance of assuring when the American people go into the workplace that it is a safe place.

□ 2050

And certainly as it relates to children, we must understand that it is important for statements to be made that do not allow for sidestepping of responsibility for child labor laws.

And so, Mr. Chairman, I think it is very important, as we look forward to resolving the unfunded-mandates issue in this House, that there are certain guidelines that must be kept and those guidelines must include the safety of our working men and women and certainly the protection of our children.

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

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. SANDERS. Mr. Chairman, I know something about unfunded mandates and municipal government. I was the mayor of the largest city in the State of Vermont for 8 years.

But I also know something about the responsibility of the Federal Government and the responsibility of the U.S. Congress to all the people in the United States.

There may be some people in this Chamber and there may be State legislatures in America who are not concerned that we have millions of Americans working for starvation wages. There may be no concern on that area. But it does seem to me to be appropriate that here, in the U.S. Congress, we stand by boldly and say that if you are going to work in the United States of America, you should be working for a wage that can provide adequately for your family.

A gentleman earlier talked about the earned-income tax credit. Well, you know what, I voted for that bill. But I will tell you something, I do not believe that the working people of America and the middle class through increased taxes should be subsidizing McDonald's and Burger King and other low-wage employers in America.

If somebody is going to employ somebody, they should be paying a living wage and not a starvation wage, and this Congress should not put roadblocks in the way of those of us who want to raise the minimum wage to a living wage.

Now, there may be some people here in Congress who are not concerned that in terms of worker safety we have one of the worst records in the industrialized world in terms of the number of accidents and the death that takes place for workers in America. There may be some mayors and State legislatures that are not concerned about that issue.

But we are in the U.S. Congress, and our job is to make laws which protect all of the people in America, and I think we should make sure that we have the highest standards for worker safety in the world, and not put roadblocks in the way of those of us who want to protect worker safety.

Several of my colleagues have already alluded to the fact that child labor exploitation is growing in America. This, colleagues, is not 1910 or 1870. We are talking about 1995 and children being exploited all over America. Some of us want to protect those children.

This issue, Mr. Chairman, really comes down to what those of us believe is the proper responsibility of the U.S. Government. We understand unfunded mandates. We are against unfunded mandates, but we are not going to take away the responsibility of this Chamber to protect those people who are hurting the most, those people who are the weakest, those people who are the most vulnerable.

I urge support for this very important amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Vermont [Mr. SANDERS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 263, not voting 10, as follows:

[Roll No 27]

AYES—161

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
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
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—263

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
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
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
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
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
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
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
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
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
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

Bishop
Fields (LA)
Flake
Graham
Jefferson
Kennedy (MA)
Kennedy (RI)
Rangel
Rush
Slaughter

□ 2106

Mr. DEUTSCH and Mr. SPRATT changed their vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 4?

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. 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. SPRATT:

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 generation, transportation, storage, or disposal of toxic, hazardous, or radio-active substances.

Mr. SPRATT. Mr. Chairman, I offer this as a perfecting amendment so that H.R. 5 will not apply to the regulation, to any regulation, with respect to the generation, transportation, storage or disposal of toxic, hazardous or radioactive substances.

Mr. Chairman, 2 weeks ago some 1,800 containers of hazardous waste, waiting to be incinerated in my district, caught fire and burned out of control, burned so intensely that they virtually melted the metal building in which they were contained. This waste came to Rock Hill, South Carolina, from Fishkill, New York. Eighty to ninety percent of all the wastes that comes to this particular incinerator comes down the eastern seaboard or up the eastern seaboard from out of state to this location, and there is precious little South Carolina can do about regulating the inflow of that waste because virtually any regulation we try to impose pretty quickly runs into the interstate commerce clause or into Supreme Court decisions like New Jersey versus Philadelphia in a case called ''Don't Dump on Washington.''

There is very little we can do, and so in South Carolina we have hazardous waste landfill, one of the largest in the Southeast, two substantial commercial incinerators, a medical waste incinerator and landfill, a low-level, or two low-level, nuclear waste disposal facilities—at one time we would take in half or more of this Nation's low-level nuclear wastes—and several solid waste disposal facilities where garbage from out of state comes to our State. Much of this waste comes from private business, but a good part of it comes from city, and county, and State owned hospitals, burnt oils from city transit authorities. PCBs from municipal electrical distribution operations, low-level wastes from State universities and hospitals, and there is very little, as I said, a State like mine, a waste importing State against its will, can do about all this waste except look to the Federal Government.

Mr. Chairman, as I was saying, there is very little that a State like South Carolina can do about all this waste which comes from out of State except look to the Federal Government which has preemptive authority under the Constitution and the laws we have adopted, look to the Federal Government and hope that the Federal Government will be rigorous, and vigilant, and fair and firm, and now we have a bill which purports to help States, all States, but really breaks faith with States like mine because it sets up a double standard, and this amendment goes to that standard and goes to a fundamental flaw in this bill which has been raised by other amendments that we have already considered. It goes to two basic problems in this bill:

First of all, many State and local governments, as I said, generate, transport and dispose of toxic waste, hazardous waste and radioactive substances. This amendment ensures that when Congress passes new laws that control the generation and disposal of hazardous, toxic and radioactive wastes, in the handling of these substances these laws will apply to the public and private sector alike equally, in the same

manner to each. Without this amendment, Mr. Chairman, any bill in the future that steps up the regulation of these dangerous substances, many of which end up in States like mine, will be subject to a point of order unless, one, we exempted State and local government; or, two, we paid out of the Federal Treasury for the cost of complying with these new and additional regulatory mandates.

To my way of thinking, either option has problems. It would be a mistake to pass laws governing radioactive waste, in my opinion, but to exempt State and local governments. We would be saying it is all right to expose the public to dangers from radioactive wastes so long as the waste is publicly generated, and I think it would be a mistake, too, to give publicly owned facilities that generate the disposal of this type of waste a clear advantage over the private sector, which would be given if we allowed them to operate without these restrictions.

So, this simply tries to level the playing field. It says there are some matters, some dangers such as the disposal and handling of toxic and nuclear wastes, where State and local governments should be held to the same strict standards as anybody else who undertakes to operate in this area.

I urge my colleagues to recognize that this is not a weakened amendment. This is a perfecting amendment. It goes to a fundamental problem in this bill.

Join me in supporting this amendment to protect the public against the risk of hazardous, toxic and radioactive wastes regardless of whether they are generated and disposed of by public or private facilities.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from South Carolina [Mr. SPRATT] and would be very brief in my opposition.

Mr. Chairman, I am sympathetic to the problem the gentleman from South Carolina raises, and it is one we have discussed with him, but again this is an issue, an exemption, and the question we have to ask ourselves is:

Are any of the programs or statutes that have been suggested should be exempt from the provision of this law, do they rise to the level that there should not even be any discussion of the costs or the implications for State and local government?

□ 2120

I would point out that we have now dealt with about eight out of 50 proposed exemptions to the H.R. 5, eight out of 50. Every Member I think who has spoken on this matter, particularly those on the other side who have been introducing the amendments requesting exemptions, every Member has indicated they support unfunded mandates, that they support eliminating the opportunity for the Federal Government to pass through these things, and are in support of their local and State governments in opposition to unfunded mandates. Yet they are against them except for the program which they ask to be made exempt.

If we were to exempt all of the 50 or so that have been suggested here to rise to a level where they should not be allowed to even debate the cost that they would impose, we would basically have gutted the bill.

So I think, Mr. Chairman, the question is, is any program that has been suggested here so sacrosanct, so immune from consideration, so far above the pale, that we cannot even discuss or consider what the cost of that program will be, what the cost will be imposed into State and local governments?

I would stress again this is a bill that is only prospective in its operation. It will not in any way affect reauthorizations of existing programs, unless there are additional added mandates included in it, and it does not preclude us, after due consideration and debate, it would not preclude us from passing through that mandate without providing the funds. It just requires us to consider carefully what we are doing and making sure we are not going to impose unnecessary burdens on State and local governments.

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

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

Mr. WAXMAN. Mr. Chairman, in the bill itself you have some exemptions. The bill says if it is a statutory right that prohibits discrimination, we will not look at the cost of that. That, of course, involves civil rights laws and the Americans With Disabilities Act, which do involve costs.

The bill provides an exception where it is emergency assistance or relief at the request of any State or local government, or necessary for the national security or the ratification of implementation of international treaty obligations.

Why should an international treaty obligation not even be considered for the costs involved, but yet some of these interstate environmental problems, where the Federal Government has a clear responsibility, should be blocked by this legislation?

Mr. CLINGER. Reclaiming my time, we did indeed as the gentleman indicated provide certain exceptions. One very important one is those matters that do affect civil rights. I think the gentleman would agree that that has a constitutional implication that we should not be tampering with.

I think the reason for the exemption in terms of treaty obligations was that we would be extending perhaps the authority of this body to affect international authorities, and that would be an exemption we should not engage in.

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

Mr. Chairman, there are limits in this bill on the application of the legislation. I do not want to disagree with them. I think there are reasons why we ought to have exceptions for the application of the bill, enforcing constitutional rights of individuals, enforcing statutory rights that prohibit against discrimination, and requiring compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government. Now, that last one is sort of interesting. I could see the rationale for it. There are rationales for all of this.

But the amendment before us seems to me to have a very compelling rationale. If we are talking about an interstate problem of toxic pollution, why should a State be forced to look at the prospect of either not having the regulation in effect because it is an interstate problem, or that the Federal Government should have to pay for it? We are really talking about situations where there is a publicly run business versus a privately owned business. They ought to be treated the same. We ought not to say because it is publicly owned we are going to consider it something where the Government would have to and taxpayers would have to pay the costs.

I think that the argument by the gentleman from South Carolina [Mr. SPRATT] was a compelling one. I think this too ought to be made an exemption, along with others in the bill, and I rise in support of the amendment.

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

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

Mr. PORTMAN. Mr. Chairman, I think it is important to clarify a statement made by the gentleman from South Carolina [Mr. SPRATT], and also by the gentleman from California [Mr. WAXMAN] with regard to the options we would be facing. The two options that the gentleman states and the option Mr. SPRATT stated, were, No. 1, to fully fund the mandate, and, No. 2, not to impose the mandate.

Again, to be very clear, there is also a third option. The third option is for Congress to exercise its will on an issue of importance to the Nation, and that is to go ahead and impose the mandate. I think sometimes I feel as though we are not talking about the same legislation. But it is very clear in this bill, and I think it is very important in the context of Mr. SPRATT'S amendment.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, if I might respond, the gentleman is absolutely correct. There is the option of waiving the point of order and requiring a vote on the House floor. But that could have been the same application for the exception in section 4 on page 4 of the legislation. We could have said that if it requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government, that we could get the analysis, have a vote and a point of order, that it would have to be overcome by an affirmative

vote of the majority. The same for emergency assistance or relief or national security or emergency legislation.

I do not disagree with the exceptions that are in the legislation. But it seems to me that since we have a publicly owned enterprise competing against a privately owned enterprise, unless we apply the same rules to both, we may well find ourselves in the situation where we might well vote to overcome the point of order, but we may not. In that case, a privately owned toxic waste facility would be treated much more harshly in terms of regulations than a publicly owned one.

Mr. PORTMAN. If the gentleman will yield further, not only will Congress have that issue before it and Congress will be able to debate that issue, much as we have debated the issues tonight, but the committees under this legislation are specifically required to consider the public-private ramifications of any new mandate legislation that comes through the process. In many respects, I would say to the gentleman from California, this bill strengthens existing law with regard to that public-private distinction.

Mr. WAXMAN. It does not prohibit existing law. It strengthens what would otherwise be in the legislation itself.

Mr. PORTMAN. If the gentleman would yield further, I would say it strengthens existing law to the extent that is not currently considered by the authorizing committees.

Mr. WAXMAN. It without this legislation becoming law does not make a distinction between privately and publicly owned. If there is a regulation to protect the consumers or environment or to protect public health, it would apply equally. There is no reason why we ought to even put them in a position where one ought to be regulated and the other not, if the reasoning for the regulation is sound.

Mr. PORTMAN. If the gentleman will continue to yield, I would say currently when an authorizing committee such as your own might consider new legislation, there is no requirement to consider the very issue that the gentleman from South Carolina [Mr. SPRATT] raises. Where this bill improves this process is that it specifically requires the committees for the first time to consider in passing new mandates the issue of the competition between the public and the private sector.

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

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

Mr. WAXMAN. Mr. Chairman. I would indicate this is not an improvement to have a committee have to consider public versus private owned operations to see whether they ought to be put in the same competitive situation. Except for this legislation, we would have never tried to put one against another. Specifically I cannot imagine that we would want to aid a publicly owned business, so-to-speak, in competition with a privately owned one. I do not think this legislation is an improvement in that regard. The improvement would be if we exempted these very clear Federal responsibilities of dealing with interstate environmental problems, especially one as serious as hazardous nuclear waste disposal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 263, not voting 10, as follows:

[Roll No 28]

AYES—161

Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
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
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—263

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
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
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
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meyers
Mica
Miller (FL)
Minge
Moakley
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
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
Tanner
Tate
Tauzin
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

Abercrombie
Bishop
Fields (LA)
Flake
Kennedy (MA)
Kennedy (RI)
Martinez
Metcalf
Rush
Williams

□ 2142

Mr. NEAL of Massachusetts changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to section 4?

Mr. PACKARD. Mr. Speaker, just like old wild west outlaws dodging the law, the Federal Government uses unfunded mandates to dodge responsibility for their expensive regulatory schemes. But the American taxpayer voted in a new sheriff, and we have a new weapon to fight this sneaky crime. The Unfunded Mandate Reform Act will stop the Federal Government from riding off into the sunset, leaving expensive regulatory dust in their wake and passing the buck to State and local government.

In the State of California alone, mandates cost the taxpayer over $8 billion annually. Blanket, one size fits all mandates, eat up precious local and State resources, reducing flexibility and adaptability. State and local governments must sacrifice scarce funds to pay the Federal tab.

The people want control of their own lives—not Federal Government ''Dos and Don'ts.'' Unfunded mandates rob Americans of prosperity and freedom. The Federal Government must stop these reckless acts of intrusion. Abolishing unfunded Federal mandates will restore trust and accountability in the Federal Government. I urge my colleagues to vote in favor of H.R. 5.

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. THOMAS) 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.

MOTION TO PERMIT COMMITTEES AND SUBCOMMITTEES TO MEET DURING THE 5-MINUTE RULE FOR THE BALANCE OF THE WEEK

Mr. ARMEY. Mr. Speaker, I move that all the committees of the House and their subcommittees may have permission to sit for today and the balance of the week while the House is meeting in the Committee of the Whole House on the State of the Union under the 5-minute rule.

The SPEAKER pro tempore. This is a privileged motion. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. BONIOR. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BONIOR. Mr. Speaker, I understand this motion is debatable for 1 hour. Will the gentleman from Texas [Mr. ARMEY] yield the customary time to the minority for the purpose of debate?

The SPEAKER pro tempore. It is the Speaker's understanding that the 1 hour is to be held in its entirety by the majority leader, the maker of the motion, and time will be sought from the majority leader.

Mr. BONIOR. Continuing my parliamentary inquiry, Mr. Speaker, will the gentleman be willing to yield half the time for the minority for a discussion of this issue?

The SPEAKER pro tempore. That is not a parliamentary inquiry. The request will be made.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

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

Mr. ARMEY. Mr. Speaker, as Members know, the House Republicans have an ambitious legislative agenda for Congress' first 100 days. In order for the House to complete the action on the contract items, the committees and subcommittees have their work cut out for them. The purpose of this resolution is to allow this important work to take place and to move legislation to the floor for further debate.

Mr. Speaker, this resolution allowing committees to meet during the 5-minute rule is not a new policy for the House. In the last Congress, blanket authority for committees to meet during the amendment process was standard procedure.

In this Congress, we have changed our rules, and therefore it is necessary within our rules for me to have sought this exception to our rules. It is not something that I expect will be a commonplace practice on the part of the majority, but during this contract period, for our committees and subcommittees to be able to carry out our work, I have made this request.

□ 2150

Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. I thank my friend from Texas for yielding.

Mr. Speaker, just 2 weeks ago, the House approved a bipartisan package of sweeping reforms that the other side touted as major reform in this Congress on the first day. Now what we are finding this evening is that the Republicans are backtracking on that reform just 2 weeks into this session.

Mr. Speaker, Members cannot be in two places at one time. They cannot be on the floor voting while they are voting in committee and they should not have to run back and forth from committee to the Capitol every 5 minutes.

Now it would not be so laughable, Mr. Speaker, if this was not the centerpiece that we are going to be discussing next week, the balanced budget amendment, of their contract. While they are asking us to be here on the floor discussing the contract, they want to have the line-item veto in the Government Reform Committee. They want to deal with the Mexican loan bailout in the Banking Committee.

Mr. Speaker, we have over 160 amendments on this mandate bill, over 40 substitutes on the balanced budget amendment. We worked hard for those reforms that you were so proud of: ban proxy voting, eliminate the three committees, restrict the number of subcommittees.

All of a sudden we are into 2 weeks of the session and backtracking we go. I do not think the American people will agree with the reforms that you have put forward and the backtracking that you are about to undertake in this very first 2 weeks. Therefore, Mr. Speaker, I hope my colleagues will vote against this ill-conceived resolution.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to my friend, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I disagree with the majority leader's statement that this last year and the year before was blanket permission.

As I understand the rule, unless the House granted such permission, any Member in a committee that was sitting in a markup could have objected. Any Member could have objected. If you sat during the 5-minute rule to mark up a bill in committee, the objection of a single Member in committee ended that meeting. You had to come to the floor, and any 10 Members could block it.

This is an arrogation to the majority far beyond what we had. I sit on the Banking Committee. I do not want to be forced to choose between debating safeguards for the American people on the Mexico loan and protecting Social Security in the balanced budget amendment.

What you have done is a brandnew procedure. The intolerance for debate is already starting to rise, shout them down, don't yield time. The gentleman has an hour.

May I ask the gentleman from Texas how much time he plans to allow us to debate this?

The SPEAKER pro tempore (Mr. THOMAS). The time of the gentleman from Michigan [Mr. BONIOR] has expired.

Mr. ARMEY. Mr. Speaker, once again I would say the people's business requires prompt attention to their work from the committees and the subcommittees.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Mr. Speaker, I have a parliamentary inquiry.