HOUSE OF REPRESENTATIVES—*Tuesday, January 31, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. GILLMOR].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 31, 1995.

I hereby designate the Honorable PAUL E. GILLMOR to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leader limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. GOSS] for 5 minutes.

CRISES IN OUR CARIBBEAN IMMIGRATION POLICY

Mr. GOSS. Mr. Speaker, our Caribbean immigration policy is a three-sided disaster. It is a disaster for Floridians, actually for all Americans, for Cubans, and for Haitians. When the Federal Government fails to control our borders or to enforce our immigration laws, the financial responsibility for that inevitably falls to the States. Florida in fact has borne the brunt of the combined impact of the last 2 years of ineffective Caribbean policymaking and inability to enforce laws designed to create a fair and orderly asylum process which we all want.

We are talking here about hundreds of millions of dollars of unfair costs. Floridians recently applauded Senator BOB GRAHAM for his amendments to the unfunded mandates bill in the other body requiring that the Federal Government must acknowledge the cost of its failed immigration policy. No more ducking and hiding on this.

The Clinton White House has been unable to address the problems in our failed national immigration program. Perhaps it is because they are unwilling, perhaps because they do not know how. They keep repeating pledges to fix what is broken, but it is not happening.

In fact, the administration is headed in exactly the wrong direction in one important area. By negotiating and striking deals with Fidel Castro, the Clinton team is playing into the hands of what we know to be a brutal dictator who stands at the core of one of the most serious immigration enigmas we have. The White House has given him exactly what he wants, a safety valve to drive out a minimum of 20,000 Cubans a year, most of them dissidents, all headed for America, and the legitimacy that comes from a high-level dialog with the United States that gives Castro some cover. Of course, he is also getting a diversion from the internal human rights violations that are going on in Castro Cuba, including the inhumane sinking of the tugboat March 13.

Then there is Haiti where the administration's performance has been especially troubling. In what I would call a ham-handed effort to bring the military regime to its knees there, the White House slapped a brutal embargo on the poorest people in the hemisphere and then trumpeted a policy that said, "If you can make it out to international waters, we'll pick you up and give you a safe haven."

Is it any wonder that desperate Haitians came by the tens of thousands? It was a self-manufactured crisis that is now a serious infection festering under a band-aid solution.

At the height of the combined Cuban and Haitian crises this past summer, more than 30,000 Cuban refugees and thousands of Haitian refugees sat in limbo in the heat, in tent camps in Panama and Guantanamo, patrolled and operated by United States soldiers at a very substantial cost to United States taxpayers.

In the past few months, the administration has been quietly paroling many refugees into the United States, more than we know, we do not have a number, more than 1,000 from the Panama camps alone. No matter how much passion Americans have for the plight of these refugees, and we do have compassion because of the miserable situations in their countries, they also know that this type of open-ended policy creates more problems than it solves. Why? Because the Federal dollars do not flow to the places where the refugees do, and when it comes time to settle these newcomers into the United States, there is no provision for them. It discourages individuals from using the orderly asylum process that is out there, which has worked well and served this country for years. And it encourages the truly desperate to take to the high seas in their rickety, overloaded boats, and sadly we have many examples of tragedy.

It is also a losing proposition for most of the refugees. The White House has just completed the process of returning Haitian refugees to their country, the last 4,000 dramatically against their will, literally kicking and screaming, being dragged off boats. These repatriations occurred despite the protests of the Haitian Government which asked for time to set up a system to reintegrate the refugees and avoid further destabilization of the tenuous calm that exists in Haiti today. Many of these disgruntled and frightened refugees are camped out now in Port-Au-Prince demanding employment from a government that has no means to provide employment.

Likewise the Cuban refugees are still smarting from the abrupt abrogation of the terms of the Cuban Adjustment Act.

All the while the policy is failing in every direction, the bills are mounting. Look for a defense supplemental as early as next week to provide billions of American tax dollars in funds to pay for these extra missions. And we must not forget that there are more than 6,000 American soldiers at risk on the ground in Haiti while there are still more in Panama right now donning riot gear and strapping on rifles in anticipation of rioting, arson, escape attempts, and suicides among the 7,500 Cubans being moved from Panama to Guantanamo now.

What does the administration plan to deal with its Caribbean crises? Where is the focus on national security in our own backyard? It appears from the weekend papers that the Clinton administration has decided that a replacement for Joycelyn Elders in the Surgeon General's Office takes a higher priority than the search for a new CIA director or for attention on our national security. I think that says something. I think maybe it is time we paid attention to the real problems that are affecting this country and leave some of the social thoughts to another day.

GETTING TOUGH ON CHILD SUPPORT ENFORCEMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from

Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, I really appreciate this opportunity because today a group of bipartisan Congresswomen that have worked for so long and so hard on child support enforcement are once again offering and putting in the RECORD our bill on tough child support enforcement. We have been trying for many years to get this country to focus on this issue.

It seems to us that everybody wants to talk about the mother and how bad the mother is, but let us realize that these children came with two parents, and let us talk about both parents having responsibility. Where is it written that the Federal Government will pick up if one parent decides to skip out? That is exactly what has been happening.

Mr. Speaker, we know that when it comes to car payments, it is unbelievable but less than 3 percent of America's car payments go uncollected. They are going to dig us up and think we worshiped our cars. Yet when we look at child support enforcement payments, let me tell you, we know that that is a devastating record.

The lowest estimate is that $34 billion went uncollected last year. Now, that is a lot of money. The reason we feel so strongly about this is that we think, had we been doing strong child support enforcement, we would not have to be worried about welfare. That is welfare prevention. Let us be perfectly honest about that. Many women are on welfare because they are the only ones supporting that child.

Mr. Speaker, our bill goes at all sorts of things. It says the Federal Government should not allow passports to people who are behind in child support. It mandates that if you are behind in child support, it gets reported to the credit bureau so people know that. It also requires direct withholding by employers immediately, so it is automatic and that is the end of it. It also says that States should not allow licenses to people who are behind in child support orders.

It is amazing how many professional people, such as doctors, are not paying their child support. Why? And States have hesitated to really go collect it because they think they will just make somebody mad and they just pass the bill on to the Federal Government.

I really wish this child support enforcement had been in the Contract With America. I do not know why they did not put it in the Contract With America. To me it is one of the things that most Americans can agree on that it makes such sense. The Congresswoman have been working on this forever and ever and ever, and it is absolutely amazing how difficult it is to move this front and center and get a focus on it.

If we are going to talk about family responsibility and we are going to talk about what families should be doing for young children, then I think we have to say that we have to use the laws of this land to make sure people take parenting very seriously. Very seriously.

I am really pleased that this comprehensive child support bill will be going in. It will be going in today. I hope every American joins with the Congresswomen in saying this is what should be at the front of the session. This is what we should be doing in these first 100 days. In fact, we should have done it 100 years ago. And we ought to get this online. We ought to get the system up where all the States are participating and sharing information.

In this great information era, it is absolutely amazing that people can cross State lines and avoid being picked up. No one else would tolerate that. I think it is long overdue that the children of this country have to tolerate that. Basically, they have had to tolerate it because they cannot vote, they are not that important, and if they are not that important a priority to this Government, then we allow it not to be an important priority to parents.

Either we mean that parents have to be responsible or we do not mean it. I think any child would much prefer having a parent be responsible than having the taint of having to rely on welfare payments, but they may go to welfare payments rather than starve, obviously.

When we look at the average welfare recipient, they are not happy about being a welfare recipient. They would much prefer this. But have you ever figured out what it costs to get a lawyer, what it costs to track people across State lines, what it costs to enforce these orders? That is why they go uncollected, because the States have not wanted to bother to do it, the Federal Government has kind of winked at it, and they have picked up the safety net that everyone fell into.

I hope every American joins with us and says, "Let's get this out. Let's get this out." We came very close to getting it out last year. Everybody talks a good game but somehow we never get it to the out box. If we make a massive effort, this is one way that we start saying parents become responsible for the children they bring into this world rather than the taxpayers become the parents of last resort. That is not a pretty picture for anyone and it just keeps generating the problems that we have seen in the past.

I hope everyone joins us in cosponsoring the bill.

Later on this week, I and a bipartisan group of Congresswomen will renew our efforts to make sure that the responsibility of fathers is not forgotten in the current welfare debate. Last Congress, the Congresswomen decided it was time for us to speak with one voice on child support enforcement. We want to hold children harmless in the economics of divorce.

Thus, the Congresswomen will reintroduce the Child Support Amendments of 1995. This bill is an improved, revised version of the Child Support Responsibility Act of 1994 (H.R. 4570), which I introduced on behalf of the Congressional Caucus for Women's Issues last June.

That bill, and the one we will be introducing this week, builds upon the 1992 recommendations of the U.S. Commission on Interstate Child Support. Its goal is to reduce the estimated $34 billion that deadbeat parents, mostly fathers, owe in child support. This bill puts teeth into the child support enforcement system so that money can be recovered and paid to the children whose economic well-being depends on these payments.

Child support enforcement is a pressing issue in our Nation. A majority of Members readily agree that immediate action is needed to strengthen our present child support system. I believe that for many families, child support payments are in reality welfare prevention measures.

In spite of a decade of congressional efforts to improve the collection of child support, deadbeat parents still fail to pay $34 billion annually. Our child support system is quickly becoming a national disgrace. Each of us has heard from constituents who face dire consequences when a child support payment does not come. The primary victims of this system are the millions of children facing lives of poverty.

Further complicating the present collection system is the rising number of parents who relocate to another State after their separation or divorce. Currently, almost one-third of child support cases involve parents who have moved to another State. The bottom line is that American children are being shortchanged by parents who fail to pay the support their children need. Our bill is a comprehensive measure which sends a clear message to deadbeat parents—whereever you are, you will no longer be able to renege on the financial responsibilities owed to your child.

The Child Support Responsibility Act will tighten the child support enforcement program and close loopholes through which noncustodial parents are able to shirk their financial duty to their children.

The central component of the Child Support Responsibility Act of 1995 is the creation of a national databank that expands the Federal Parent Locator Service and establishes a Federal Child Support Registry. This new system will allow States to access the records in other State agencies and will allow for W–4 reporting of child support obligations so that we can get to the problem of parents who cross State lines to avoid paying child support. We do not want noncustodial parents playing economic hide-and-seek from their kids.

Last session, the House passed four provisions of the Child Support Responsibility Act.

We passed a bill that would significantly strengthen the Federal Government's child support enforcement mechanisms and, for the first time, individuals would have been prohibited from receiving Federal benefits or become employed by the Federal Government if their child support obligations are 3 months in arrears and they refuse to enter into a payment plan for the arrearage.

We passed a bill that would restrict the passports of individuals with child support arrears exceeding $10,000. The Interstate Commission found that collecting child support payments internationally is extremely difficult. This provision would require noncustodial parents to pay up before they fly out.

We passed a bill that improved the collection of child support payments owed by military personnel.

And finally, we passed, and it became law, a bill that was incorporated into last year's bankruptcy reform law, that designated child-support payments as priority debts when an individual files for bankruptcy, making it more difficult to escape these obligations.

These provisions, except for the ones signed into law, are in the new bill we will be introducing. Highlights of the new bill include:

Establishes a Federal Child Support Registry for all child support orders issued or modified by any State court. The Federal registry is required to compare information on all W–4 forms with information in child support orders and notify State registries of child support obligations of employees.

Expands the Parent Locator Service to provide for a national network which allows the States to access the records in other State agencies and Federal sources to locate information directly from one computer to another.

Establishes State central registries for all child support orders issued or modified and the collection of obligations.

Requires reconciliation of child support obligations and payments on income tax returns.

Establishes a National Child Support Guidelines Commission to study the desirability of a national guideline for child support orders.

Enhances paternity establishment procedures—requires State agencies responsible for maintaining birth records to offer voluntary paternity establishment services; creates a national paternity acknowledgement affidavit for the use of voluntary acknowledgement of paternity; and establishes that a signed paternity acknowledgement affidavit is conclusively presumed to prove paternity by creating a legal finding that has the effect of a final judgement at law.

Mandates direct wage withholding of child support obligations by employers when child support orders are issued or modified by State courts.

Creates a uniform child support order to be used in all cases in which income is to be withheld for the payment of child support.

Requires States to adopt the Uniform Interstate Family Support Act [UIFSA].

Restricts professional, occupational, and business licenses of noncustodial parents who have failed to pay child support.

Retricts driver's licenses and vehicle registration of noncustodial parents who fail to appear in child support proceedings.

Requires reporting of delinquent child support payments to credit bureaus.

AGAINST THE MEXICAN BAILOUT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. BUNNING] is recognized during morning business for 5 minutes.

Mr. BUNNING of Kentucky. Mr. Speaker, the President has proposed that the United States cosign a loan for Mexico to the tune of $40 billion. But is the Government of Mexico a good risk?

The Wall Street Journal pointed out in its editorial on January 23, the problem in Mexico is bad economic policy. The Mexican Government borrowed too much and now it is suffering because it cannot meet its payments.

That inability to pay has caused a crisis of confidence in the Mexican peso which plunged in value. This, of course, had led to a wave of handwringing by the usual handwringers here in Washington, most of whom were pushing us to support NAFTA just a short time ago.

Apparently, the Mexican Government has not yet learned that free financial markets do not reward over-consumption in the form of borrowing in excess of the country's ability to pay.

Unfortunately, Mr. Clinton and his economic advisers have not learned that lesson either.

We went down this sorry road in the early 1980's when we bailed out the big banks that were too big to fail but which had greedily overextended credit to Mexico and other developing countries.

The Clinton administration would have us believe that if we simply pony up the loan guarantee, the Mexican Government will reform its policy of borrowing short term to pay for current consumption.

It is quite a leap of faith that Mr. Clinton is asking us to make. And, the leap looks even longer when you know that the Mexican Government does not even acknowledge that it has made a mistake.

The Wall Street Journal, again in its January 23 3ditorial, quoted the Mexican Foreign Minister as saying that the markets should not be taken too seriously because they are nothing more than "15 guys in tennis shoes in their 20's."

That is hardly the type of attitude that inspires my confidence to guarantee an American bailout for Mexico.

It does not seem to this Kentuckian that the working people of the United States should be cosigning a note to save those who made bad investment decisions. The big banks that made those bad decisions and those pension funds that made those bad decisions should bear the losses for their poor judgement, not the taxpayers.

A loan from the Federal Government is great—if you can get it. I am certain that Orange County, CA, could use our help. I am sure that the local governments in eastern Kentucky could do with a little help too.

We need to concentrate on helping our fellow Americans first. If we want to guarantee loans, we do not need to look beyond the city limits of Washington because our National Capital is in financial trouble.

Before we obligate ourselves to a potential $40 billion bailout of Mexico, we must have collateral from them to secure the loan. If the collateral does not cover the full cost of the loan, we should not cosign.

My guess is that short of military intervention Mexico will be no more willing to surrender the collateral today than when they would not pay American investors after nationalizing the oil industry.

As William Seidman pointed out in his companion article to the Wall Street Journal editorial, "Insuring a debtor who has a real problem is not likely to be cost free."

We cannot control the policies of the Mexican Government now anymore than we could in the 1980's; and, those are the policies which must change to restore confidence in the peso.

The potential cost of the guarantee is $40 billion regardless of who is ultimately in charge of Mexico's Government. And, I, for one, do not think that it is wise for the United States to underwrite bad decisions by Mexico and big international banks.

We should step back and let Mexico settle its problems the old-fashioned, American way: Let the debtor and creditors settle the problem between themselves, without the United States taxpayers taking a $40 billion hit.

MORE OVERSIGHT OF IRS NEEDED

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. TRAFICANT] is recognized during morning business for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I agree 1,000 percent with the former speaker, the gentleman from eastern Kentucky [Mr. BUNNING] and share in that message. Where the gentleman from Kentucky [Mr. BUNNING] says that Congress cannot control the policy within Mexico, nor for that matter any other foreign government, I wholeheartedly agree.

But what bothers me today is Congress can control the policy of the United States of America and that is why we were in fact elected. We were not elected as a Member of the British Parliament or the Israeli Knesset or the Japanese Diet. We are in fact Members of Congress.

An issue I want to talk about today is a bill that I have sponsored, H.R. 390, that is a very straightforward bill that deals with the IRS, I believe an agency of our Federal Government that the U.S. Congress has not only failed to control but has allowed to proceed without oversight in establishing not only policy which is clearly within the province of the United States of America, but rules and regulations that in fact impound and impact upon that policy and everybody seems to just be silent. Nobody wants the IRS on your back.

I am not going to go into the whole litany of Watergate, but if there was a real downside to Watergate, it was not that snooping. That happens all the time. The Nixon people happened to get caught. What bothered me, though, is reading the White House transcripts on the targeting of enemies of the White House, where the President is quoted in White House transcripts as saying, "That Congressman is on my back and I've had it. You get the FBI and you get the IRS out there and you get this guy out of the way."

We know that that goes on. We believe that it is relatively small. Most IRS agents are regular Americans like we are and they try and do a good job.

But there is a fundamental problem here. In their zeal, there are some overzealous agents. There have been Americans that have been ripped off and Congress continues to be silent.

The Traficant bill is right to the point. In certain civil proceedings, the only agency of the Federal Government that can waive the Constitution and its Bill of Rights is the Internal Revenue Service, because in certain civil proceedings in courts of law, the burden of proof is on the taxpayer to prove they are not guilty and they are in fact innocent. That is unheard of. How did this thing evolve?

Just on a matter of fairness, if there were not cases that speak to this dilemma that we face, how could this have evolved, Congress?

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Where are rules and regulations being promulgated behind closed doors by bureaucrats without congressional oversight able to basically change the basic tenet of our Constitution?

I want to give my colleagues one example, David and Millie Evans of Colorado. IRS said you owe us $40,000. We are going to lien your property unless you pay. David and Millie Evans said we do not believe we owe that money. About a month later the IRS called back and said we made a mistake; it is $100,000.

The Evanses got together at the IRS, they came to a settlement agreement, $22,000, and the Evanses wrote the check for $22,000. Another group in the IRS said we did not receive the check. It is a moot point. We want the $100,000.

The case went to court. They lost their business, their home was liened. They spent a ton of money on attorneys, and finally a court said the Evanses are in fact innocent.

The IRS appealed the case by saying the judge wrongfully instructed the jury. He told the jury that the burden of proof in this case was on the IRS to prove their case, but under this proceeding the burden of proof is not. The IRS said the burden of proof is on the Evanses and the case should be overturned and vacated, and it was.

The Traficant bill was not getting looked at too much because most Members want to say, "I can't believe the IRS has that power; come on now."

That was a court case. We have documented cases of suicide, we have documented cases of Americans that are simple told, "Prove it."

I think it is very simple, ladies and gentlemen, if the IRS has a case, and IRS has money coming, taxpayers of America want the Internal Revenue Service to collect that money. But I think we have created an agency that is a little bit out of control and too much for those people, including Red Skelton, who said we have a gestapo unit in Washington known as the Internal Revenue Service. I think Red Skelton an awful long time ago was trying to tell Congress about something that was building in our country.

Finally, Mr. Speaker, average Americans are frustrated with our Government. Many cannot articulate it, but one thing they know for sure, they know that the Internal Revenue Service has gone beyond the control of Congress. I hear many Members that say, "Look, Jim, I don't want to get involved in that case."

Well, your taxpayers are. Congress should be.

VOTING ON THE ISSUES AMERICANS DEMAND

The SPEAKER pro tempore (Mr. GILLMOR). Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Washington [Mrs. SMITH] is recognized during morning business for 2 minutes.

Mrs. SMITH of Washington. Mr. Speaker, this is an exciting time in America's history. The Congress has been moving quickly on the contract. It has been interesting, as just a regular person out in the world until this point, I have always had the perception that Congress talked and did not do.

We have watched this Congress step up and make major congressional reforms from its very first day. And just last week we did what voters have been asking for as long as I can remember any political debate. We passed a balanced budget amendment. And we required that Government operate in the Black for the first time by 2002.

We have to have a balanced budget. This was a major part of the commitment that we made to the people in the contract. Again, we took another step to keep our commitments, something that seemed to be again to me as an outsider looking in something Congress did not do in the past that was on Thursday.

On Friday we took a much-needed second step. I, along with other freshmen and leadership, announced plans to introduce a second constitutional amendment, one that would restrict Congress' ability to raise taxes. This is what the Barton amendment would have done if it had passed last week. Unfortunately, not enough lawmakers would vote for it.

Seven percent of the Republicans voted for it. It needed a supermajority vote, and only 16 percent of the Democrats would vote for it.

I want to tell my colleagues I do not think what the people want has changed just because we refused to do it last week. The American public wants a balanced budget amendment. They also want the peace of mind that Congress is not going to pass a balanced budget on the backs of the taxpayers, reaching into their back pocket again for all of the wonderful things that we think should be done for them.

They want us to make the tough fiscal decisions, clean house, get rid of inefficiencies, downsize, and yes, even the unspeakable, get rid of some of the agencies that are just bureaucracy.

For that, we are going to have this amendment up for a vote next April 15, and I think by then the American public can make sure that that happens, if constituents put pressure on their legislators.

THE REPUBLICAN LEADERSHIP AND NEWTSPEAK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. STARK] is recognized during morning business for 3 minutes.

Mr. STARK. Mr. Speaker, we obviously have entered the world of "Newtspeak." Unlike some of my colleagues, I do not have lapses in how to pronounce important messages.

But the Speaker of the House has decided to drag the Medicare system into the world of Newtspeak and is suggesting a program that would rethink Medicare from the ground up.

If I were going to cut $200 billion out of Medicare I would have to rethink it from the ground up too because I would have destroyed it, and that is exactly what the Speaker suggested in a speech over the weekend. He said that Medicare is the opposite of how America works. And I suspect that is true, if you are a Republican American.

America does not work by having Golden Rule Insurance Co., be 1 of the 10 largest donors to GOPAC and then have the whole structure of the American Congress in its first 100 days deciding to revise the Medicare system for the convenience of certain insurance companies.

I would like to bring the discussion of Medicare back to earth because it is the finest system in the United States. It has less than a 3-percent overhead.

And the Speaker, in his speech, suggested we ought to give American seniors more choice. There is no program in the United States that gives its beneficiaries more choice than Medicare. If you are Medicare beneficiary you can go to any physician or any hospital in the United States if you can walk, ride, hitchhike, or have the bus fare to get there.

And there are hundreds of managed care plans which are available to Medicare beneficiaries. As we speak today there are three or four dozen applications for new Medicare managed care programs to be opened to seniors. There is no insurance policy in the country that gives greater choice.

Why are we discussing at this point the idea of turning Medicare into a voucher program? I submit it is political payback time, and it is a way to finance 200 or 300 billion dollars' worth of the cuts.

The first hearing we had in the Committee on Ways and Means was a proposal on the first day of Congress to take $70 billion out of the Medicare Trust Fund. For what purpose? To finance tax cuts for the very 2 or 3 percent of the richest Americans in our country.

This is Newtspeak. This is not how America operates, giving money to the rich, and taking it out of the trust fund that supports a medical care delivery system for the most fragile, needy people in the United States.

Ladies and gentleman, Medicare is one of the wonders of our Government. Maybe many things do not work well and maybe many things are not efficient, but understand we have fewer than 4,500 bureaucrats serving 5 million people, and there is no insurance company in the country that comes close to that efficiency.

CHILD SUPPORT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from California [Ms. WOOLSEY] is recognized during morning business for 2 minutes.

Ms. WOOLSEY. Mr. Speaker, each year, over $5 billion in child support goes uncollected. This is a national disgrace that is punishing our children and bankrupting our welfare system.

Mr. Speaker, I know personally just how important child support is because, in 1968, I was a single, working mother who never received a penny in child support. In order to provide my children with the health care and child care they needed, even though I was employed, I was forced to go on welfare to supplement my wages. Today, millions of American families rely on welfare for exactly the same reason.

Mr. Speaker, currently, almost 1,500 State and local agencies are charged with collecting child support. Consequently, less than $1 for every $10 owed in interstate child support is collected.

A comprehensive welfare reform plan must recognize that the failure to collect child support is not a State-by-State problem, it is a national crisis demanding a national solution.

Mr. Speaker, let us make sure that families—families like mine—are not forced to go on welfare because they have not been given the child support they need and deserve.

We must insist that child support be front and center in the welfare reform debate.

IMPROVE CHILD SUPPORT ENFORCEMENT SYSTEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized during morning business for 2 minutes.

Mrs. KENNELLY. Mr. Speaker, the streets of America, as the Halls of Congress, have been filled with calls for young mothers to be more responsible, not to have children when they cannot take the responsibility for those children, to certainly cooperate and establish the paternity of the child's father. We hear this and we agree with this, but we really want to know, particularly in the contract, where are the demands for fathers to be responsible?

We must clearly say that both parents have an equal and unavoidable responsibility to provide for their children. The taxpayers want to provide for their own children, not for other people's children.

We have to insist that we have both parents responsible, because if we do not collect child support, we will have more people on Aid to Families with Dependent Children rather than less people.

Recently the chairman of the Ways and Means Subcommittee on Human Resources, the gentleman from Florida, Mr. CLAY SHAW, has come forth and said yes, we will take up the issue of child support enforcement. He was reacting to the strong suggestions by many people who have worked on this issue for years, particularly the Women's Caucus, to see that child support enforcement travels along with welfare reform and we look forward to seeing these provisions in print.

But we have to be very careful we do not just say do a block grant for child support enforcement. The very strength of child support enforcement these last few years is having a Federal approach. The way in which a young father or father can get away from the responsibilities to his children is merely to move, go across State lines and then it is almost impossible, unless you have a Federal directive to be able to get the individual to pay their support responsibilities to their children.

So I certainly hope child support enforcement travels along with welfare reform. I hope we can accomplish both, but to do this we must do it in the right way.

We have had a National Commission on Child Support Enforcement that has come forward with some marvelous suggestions about interstate tracking of where the father is working. So I would suggest to the gentleman from Florida [Mr. SHAW] that he look at the Commission's recommendation about interstate child support enforcement. There are wonderful suggestions there. Suggestions that will work and have been put into bill form.

The work has been done. Let us put it into law as we do child support enforcement along with welfare reform.

DEMOCRATIC PARTY'S EXCELLENT LEGISLATIVE HISTORY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Pennsylvania [Mr. FATTAH] is recognized during morning business for 5 minutes.

Mr. FATTAH. Mr. Speaker, today I continue my endeavor to refresh and remind my Democratic colleagues of the excellent legislative record we have created over the past 40 years.

Last week, I began this series of floor speeches with the 84th Congress. Ike was President and the Democrats had just taken control of the House of Representatives.

The 84th Congress raised the minimum wage, ratified the Southeast Atlantic Treaty Organization, established peace with Austria, and freed Germany from allied occupation. The Democrat Party did this and more.

Today, Mr. Speaker, Democrats are often chastised as the party of intrusive government and personal dependency. Today, I will cite examples from 85th Congress and provide historical evidence that counters these misconceptions.

Between 1957 and 1958, our country was rebounding from fighting World War Two and the war in Korea.

The United States was able to do this while engaged in the cold war with our Communist adversaries. Also during the 1950's, our Nation emerged as a world superpower and Congress joined the civil rights battle. The 85th Congress confidently and effectively addressed these pivotal national issues.

The threat from the Soviet Union was crystallized in 1957 when the U.S.S.R. launched the Sputnik satellite.

To address this menace from the sky, the Democratically controlled Congress established the National Aeronautic and Space Administration to direct the Nation's outer space program.

In 1958, Mr. Speaker, this Congress passed the National Defense Education Act. This act is probably the most important human investment program undertaken in our Nation's history.

Because without it, millions of Americans would not have been able to go to college.

In addition, this act improved the teaching of science, mathematics, and foreign languages to our children. It provided an educational foundation which enabled the United States to put the first man on the Moon in 1969.

However, the accomplishments of this Congress were not restricted to the heavens. The 85th Congress passed the landmark Civil Rights Act of 1957. This act created the Commission on Civil Rights and a new Civil Rights Division in the Department of Justice, laying the foundation of the Federal involvement in protecting civil liberties and individual civil rights.

Building on the 84th Congress' passage of the Interstate Superhighway Program, the 85th Congress, passed both the Federal Highway Act and the National Transportation Act. These two acts expanded road building programs and provided loans to the Nation's failing railroads.

Both of these actions created opportunities for American businesses to expand and compete both here and abroad.

The Democratic party has always believed in investment—investment in human capital and in physical and financial infrastructure.

Over these 40 years the Democratic Party has demonstrated a strong commitment to providing the necessary resources to educate children, to defend constitutional rights and to expand our national transportation systems.

The return on these investments are clear and indisputable. Investments made 40 years ago continue to yield results today.

As a party we should not be fearful of committing these necessary resources and redirecting our efforts into helping every citizen of this country.

As we enter the 21st century, this commitment to human investment will ensure that every American is equipped to reap the benefits of national prosperity.

Mr. Speaker, these are just a few examples from the 85th session of the U.S. Congress. Promoting our country, preserving our national interests and protecting individual rights have always been part of the Democratic Party's legacy. As a Member of the Democratic Party, I strongly urge my colleagues to regularly remind themselves of the fundamental commitments that make us Democrats.

We must allow these commitments to guide us in our actions. I urge my colleagues to examine the historical records, to see what our party has achieved and to allow this vision to carry us into the future.

CHILD SUPPORT NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. NEAL] is recognized during morning business for 5 minutes.

Mr. NEAL of Massachusetts. Mr. Speaker, today is day 28 of the Contract With America. We have passed the quarter mark for the fist 100 days. Until day 27, we heard nothing about child support being included in the contract.

In the past, we heard child support is important and would possibly be addressed at a later date. Why was child support not an original provision of the Contract With America? How could we possibly delay acting on such an important issue?

I was under the belief the contract was to benefit all Americans. If we are going to benefit all Americans we really have to have provisions which help our children because they are our future. I have carefully reviewed the Personal Responsibility Act and there are no child support provisions.

As I have stated before, welfare reform cannot be successful without child support. Child support is the cornerstone of welfare reform. Strong child support enforcement provisions are necessary.

When I reviewed the Personal Responsibility Act, my initial reaction was the legislation punished women and did not require men to face up to their responsibilities. Without taking action on child support, we would require young mothers to be responsible while we give fathers a free ride. This is the wrong message to send.

We have to send a message to the American people that we are serious about welfare reform. A tough child support system requires both parents to live up to their responsibilities.

On day 27, we heard the Republicans will include child support enforcement provision in the Personal Responsibility Act. We had to wait until day 27. Where were the child support provisions? What message was being sent to the American people? Was the message, Fathers do not really need to be responsible?

How could we have welfare reform without child support enforcement provisions? Child support is welfare prevention. For every $1 spent on administrative expenses, $4 is collected in child support.

On day 27 we heard child support would be included in the Personal Responsibility Act. I am pleased the Republicans have finally recognized the importance of this issue. Today, 63 percent of absent parents contribute no child support. We can and need to do better than this.

The potential for child support collection is estimated at $48 billion per year. Only $14 billion is actually paid. This leaves an estimated collection gap of about $34 billion. This gap needs to be closed. It was not until day 27 that it was decided to address the issue of closing this $34 billion gap.

One in four children now live in single parent homes. Without better child support enforcement, too many of these children will not have the support they need and deserve. In 1992, 17.6 million children lived in single parent homes. We need to improve these statistics now.

My home State, Massachusetts, has been very successful with child support enforcement and would serve as a role model for the rest of the country. Massachusetts has increased its child support collection rate from 51 to 67 percent over a 3-year period. We must make an improvement on the Federal level.

On day 27 we heard child support enforcement was going to be included in the contract. It is day 28 and we do not know what type of child support provisions will be included.

A comprehensive child support strategy is necessary to help parents become less dependent on AFDC and stay in the work force. A comprehensive child support strategy needs stronger requirements for paternity establishment.

Out-of-wedlock births have increased at an outrageous rate. In 1991, approximately 30 percent of all children born were born to unwed mothers. These children need to be given a fighting chance. There is no such thing as an illegitimate baby.

It's day 28 of the contract. Let us work together to address the issue of child support enforcement. We need to work to establish awards in every case. We need to streamline the paternity process. We need full cooperation from the mother.

We need to ensure fair award levels. Awards are generally set too low. If awards were modified to current guidelines, an additional $7.3 billion, 22 percent of the gap, could be saved.

We need to establish a national commission to study State guidelines and the desirability of uniform national guidelines.

We need to collect the awards that are owed. We need States to have a central registry and centralized collection and disbursement capability.

It is day 28 of the contract. We need to send a message to the American people that we are serious about child support enforcement. Ignoring child support enforcement sends the wrong message. It says that the noncustodial parent who is one-half responsible for the birth of a child does not have any responsibility for supporting that child. We cannot send this message.

We need tough new penalties for those who refuse to pay such as wage withholding, suspension of drivers' and professional licenses, and property seizures.

It is day 28 of the contract. Child support is finally starting to receive the recognition it deserves. Let us not stop now. We have to work together to close the $34 billion gap.

□ 1010

MORGAN COUNTY, WV, NEEDS ASSISTANCE FROM CONGRESS

The SPEAKER pro tempore (Mr. GILLMOR). Under the Speaker's announced policy of January 4, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 3 minutes.

Mr. WISE. Mr. Speaker, I come before you today to ask this body to help make government make some common sense.

Let me announce something to you right here: Last week by order of the Morgan County Commission, and Morgan County is a rural county about 2 hours' drive from here, a beautiful county, and Berkeley Springs many of you know for its waters, by action of the Morgan County Commission, Federal overflights are now prohibited in Morgan County airspace. Everyone laughs and says, "How can Morgan County do that?"

You understand, of course, the Morgan County Commission understands it cannot deny airspace. Only the Federal Aviation Administration can do that. It is trying to send a message, and the message is this: "Why will not the U.S. Air Force, the Air National Guard, pay the $10,886.20 that it owes to the Morgan County Commission when the Morgan County Commission and the emergency responders in Morgan County responded to the Air Force's need?"

Basically the story is this. In 1992 we suffered a real tragedy in the eastern panhandle of our State, when one of the C–130's from the 167th Air Wing based in Martinsburg crashed in Morgan County. Six crewmen were killed.

The county and, of course, the entire eastern panhandle responded immediately with emergency response and all the cleanup that needed to be done afterward as well as reaching out to the families and to the 167th Air Wing. The air wing and the members of the 167th Air Wing are not at issue here. What is at issue is what some bureaucrats in Washington is telling the Morgan County Commission, that despite the effort, despite the spontaneity, despite the outreach, despite the considerable resources expended by the Morgan County Commission by the emergency providers in Morgan County, the Air Force will not now reimburse $10,886.20 for containment and cleanup of hazardous materials at that crash site.

This is not a county that can easily afford this kind of expenditure.

Now, what is the cost here, the 10,886.20? For the Air Force it is going to be less than the litigation to litigate this issue. For the Air Force, it is going to be less than the public relations debacle that they are going to suffer. For the Air Force, I suspect it is probably less than five rivets on a B–2 bomber.

The problem with the Morgan County Commission is that when they submitted this voucher, they did not add enough zeroes. That is my opinion. If they had put two more zeroes, made it $100,000, maybe made it $10 million, probably somebody would have paid it without a blink of an eye. That sounds reasonable. They did not pad it, did not add zeroes, did not add to it. They just asked to be reimbursed for what they expended.

I am asking this body to help send a message to the Air Force. We think you owe Morgan County $10,886.20. We think you ought to show the small and large communities across this country when they do respond you will be there to help them and to help reimburse them for their efforts. We think you ought to show Morgan County that, yes, they are entitled to this which they have waited 2 years for already and how many more years to go.

I ask this body's help in having the Air Force and the Air National Guard in Washington respond with some common sense.

I will keep you posted, Mr. Speaker, because I have a feeling this saga has not ended yet.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 11 a.m.

Accordingly (at 10 o'clock and 18 minutes a.m.) the House stood in recess until 11 a.m.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. BARRETT of Nebraska] at 11 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious and loving God, You have created us in Your image and given to us the very breath of life, be with all people who call upon You for healing and strength and assurance. We know that the maladies of life confront people of every age but we believe too that there can be healing and recovery and that we can be renewed by the power of Your hand. May we be receptive to Your presence, O God, and open to Your good spirit that in all things we may know Your peace that passes all human understanding. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Minnesota [Mr. GUTKNECHT] come forward and lead the House in the Pledge of Allegiance.

Mr. GUTKNECHT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

REPUBLICAN CONTRACT WITH AMERICA

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

Mr. BOEHNER. Mr. Speaker, our Contract With America states; on the first day of our Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut one-third of committee staff; and cut the congressional budget; we have done that.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation, under consideration now, line-item veto; a new crime bill to stop violent criminals; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulation and unfunded mandate reforms; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature once again.

Mr. Speaker, this is our Contract With America.

THE PUNISHMENT IS NOT COMMENSURATE WITH THE CRIME

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON of Florida. Mr. Speaker, in the Rubaiyat of Omar Khayyam, by Edward FitzGerald, he wrote:

The moving finger writes; and having writ,
Moves on: Nor all your piety nor wit
Shall lure it back to cancel half a line,
Nor all your tears wash out a word of it.

Mr. Speaker, on this floor, the spoken word is just as indelible as the written word.

A Member may defame anyone he chooses—the President of the United

States, the Speaker of the House, the minorty leader—with total impunity. The offending party may have his words stricken and be prohibited from speaking for 24 hours. But the punishment is not commensurate with the crime, particularly when the words are perpetuated on C-Span and the nightly three major networks.

Mr. Speaker, I strongly recommend the majority party seriously consider amending its rules to have a more severe expedited penalty for the sake of civility and also for the sake of this body, particularly when abusive language can be repeated in lieu of an apology.

A LEGISLATIVE FOUR CORNERS

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, instead of coming out and going head to head on the issues, a lot of our Democratic colleagues have decided instead to take the air out of the ball and go into a sort of legislative four corners.

You remember the four corners, don't you, Mr. Speaker? It is a stall-and-delay tactic that inferior basketball teams would often employ against better teams. The idea being if the better team never had the ball they couldn't score. Of course, that was before college basketball instituted the time clock.

And that is what we are seeing on the other side of the aisle, as Democrats offer one frivolous amendment after another in an attempt to derail not only the unfunded mandates bill, but the entire Contract With America.

I am afraid I really do not understand the Democrats' tactics. Do they really think their legislative four corners will make the American people yearn for bigger government? Will it somehow make Americans wistful for higher taxes?

Mr. Speaker, to my friends on the other side I say come on, get in the game.

TRIBUTE TO THE CHAMPION SAN FRANCISCO 49ERS

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

Ms. PELOSI. Mr. Speaker, picking up on the sports theme from our colleague from Arizona, Mr. Speaker, I rise with great pride to praise the San Francisco 49ers organization, to Eddie DeBartolo, Carmen Policy, and Coach Seifert.

Mr. Speaker, on Sunday California had a great day, it sent two great teams to the Super Bowl, where they were received magnificently by Miami. And, with all the admiration in the world for the San Diego Chargers, I say we are so proud of the San Francisco victory. It was a joy to see a litany of records broken one after another; five for five, five times at Super Bowl, five victories as six touchdowns by Steve Young, most post-season receptions by Jerry Rice, three touchdowns—you know the story—Ricky Watters. The list goes on and on. We are so proud.

The coach of the San Diego Chargers probably said it best when he said, "I think San Francisco is a great football team, maybe one of the best of all times. I don't know what we were—maybe we were awestruck." Awestruck for San Diego, awesome for San Francisco, all-time great team. I am very, very proud to join my colleagues. I see Congressman GEORGE MILLER and my other colleagues from the Bay Area to help salute the all-time great San Francisco 49ers.

REAL OSHA REFORM

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

Mr. HEFLEY. Mr. Speaker, the main goal of the Contract With America is to make Government smaller, less costly and less intrusive. And there is probably no better way to do this than to address the question of OSHA. When OSHA first issued its safety regulations in the 1970's one provision required workers on bridges to wear orange life vests. As Dr. Kip Viscusi commented in 1983, "The ineptness of OSHA's enforcement is epitomized by the fact that one company fined for violating this standard maintained that this requirement was unrelated to worker safety because the channel under the bridge had been diverted." There was no water. It was dry. Yet the company was fined because these workers did not have life vests on. But they needed a trampoline, not a life vest. Some idiot at OSHA decided they should fine the company anyway.

Listen to the concerns of America's employers and workers, and it is obvious OSHA has not improved since Dr. Viscusi wrote those words.

In this Congress I introduced a measure in order to do this. It is time for real OSHA reform now.

A LOAN TO MEXICO: BAILING OUT EVERYONE BUT OUR CONSTITUENTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, let us see if I understand this: Orange County, CA filed bankruptcy, the District of Columbia is technically bankrupt, and the President and Congress at the highest levels are talking about bailing out Mexico.

And Wall Street agrees and the banks agree. Would you not? Forty billion dollars for Mexico takes the banks off the hook, it takes Mexico off the hook, it takes Wall Street off the hook, and it puts your constituents and mine right on the platter, right in the frying pan.

That is good old American policy: "Take care of everybody overseas and forget our own."

I say, Members, let us not forget when Mexico nationalized the oil industry and screwed American investors. Man, and they did not even say "I am sorry."

Think about it, Congress. If we have got $40 billion to bail out anybody, how about your city, my city, any city, U.S.A. How about good old America for a change.

IT'S TIME TO GIVE THE PRESIDENT THE LINE-ITEM VETO

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the Chinese philosopher Lao Tsu said that, "the journey of a thousand leagues begins with a single step."

Last week this House took a giant step toward fiscal sanity by passing the balanced budget amendment.

Later this week, the House will begin debate on giving the President the line-item veto. This is, to be sure, a powerful tool in the hands of our Chief Executive. Some will argue the potential for abuse.

But, my colleagues, 43 Governors have similar authority.

□ 1110

The real value of the line-item veto rests in the knowledge that the Executive has the power and will use it if he sees wasteful spending. Rather than see the line-item veto as a weapon, perhaps we should see it as a tourniquet, a tourniquet that will help us stop the hemorrhaging of red ink. With the national debt ballooning at over $10,000 a second, it is time we attack this issue on every front. It is time to give the President the line-item veto.

WHAT A LIST

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, Terry and Mary Kohler: $715,457.

Richard Gilder, Jr.: $310,000.

Roger Milliken: $255,000.

These are but a few of the heavy hitters who have contributed to Speaker GINGRICH's personal political machine, GOPAC. Is it any wonder the Speaker wants to keep this list a secret?

The Los Angeles Times succeeded yesterday in doing what the Federal Election Commission is attempting to do in the courts, revealing the contributors to GOPAC and what their interests are in legislation before this Congress.

What does the contributor get for $715,000? Only an outside independent counsel can tell us for sure.

The lists of questions about the Speaker's financial dealings get longer and longer. I ask, "Isn't it time we get an answer?"

We need an outside counsel. We need one now.

REPUBLICANS ARE KEEPING THEIR PROMISES

(Mr. FOX of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, what a difference 3 weeks can make. Since January 4, the new Republican-led Congress, under the leadership of NEWT GINGRICH, has cut the number of committees and subcommittees, cut the number of committee staffs by one-third, limited the terms of committee chairmen, ended the dishonest practice of baseline budgeting, opened committee meetings to the public, banned the practice of ghost voting, and have voted to audit the books of this Chamber. But, Mr. Speaker, that was not enough. In addition to those reforms, we passed the Congressional Accountability Act which forces Congress to live under the same laws we make the rest of the country live under, and as an encore we passed the balanced budget amendment last week which will force this body to live within our means just like every American family must do every day.

Mr. Speaker, the bottom line here is that the Republicans, the people elected to take care of this Congress, are keeping our promises.

THE REPUBLICANS ARE NOT KEEPING THEIR PROMISES

(Mr. BARRETT of Wisconsin asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of Wisconsin. Mr. Speaker, they are not keeping their promises, and they are breaking the contract.

Prior to the election, Mr. Speaker, the Republicans said that they would support a true line-item veto which would give the President the authority to get rid of pork barrel projects and special tax breaks. In the bills before us now, Mr. Speaker, they want to give the President the power to take away the pork barrel spending, but they do not want to give the President the power to take away those special tax breaks.

I ask, "Why don't they want to do it?" Because the Republicans like those special tax breaks. They like to give those to their wealthy contributors. They came up with that idea through the leadership of their former leader, Mr. Michel, who said quite frankly, "If you're for special interests, then vote against my amendment. If you are for a more complex Tax Code, then vote against my amendment."

The Republicans today and tomorrow are going to vote against Mr. Michel's amendment because they like special tax breaks for the wealthy. Mr. Speaker, give me a break. Let us do what is right for the people of this country and give the President the power to take away both pork barrel spending and special tax breaks for big contributors.

ALL THE DEMOCRATS WANT TO DO IS CHANGE THE SUBJECT

(Mr. TATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TATE. Mr. Speaker, I am a little worried that my friends across the aisle just do not get it. While the Republican majority is working hard to revolutionize Congress, the Democrats keep trying to change the subject. It seems to be an epidemic across the aisle. We talk about the balanced budget. They change the subject. We talk about welfare reform. They change the subject. We talk about unfunded mandates. They throw up every blockade known to man. It is as if, gee, if they throw up enough roadblocks and change the subject enough, people might want big government again. I do not think so.

Mr. Speaker, it is time for the Democrats to begin to work for a change in Congress and simply quit changing the subject.

MISGUIDED POLICIES OF THE FEDERAL RESERVE ARE THREATENING NATIONAL SECURITY

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

Mr. DEFAZIO. Mr. Speaker, at this very moment the President of the United States is announcing yet another plan to bail out the Government of Mexico. He says it is an issue of national security. The President is wrong.

Meanwhile on the other side of town, Mr. Speaker, a secret meeting of the Federal Reserve Board to consider a policy change that will affect the security of every American family is going on with little notice. They may propose the seventh increase in 1 year to fight imaginary inflation. This act could raise the deficit by $2.5 billion, drive up the costs of a hundred-thousand-dollar house by $1600 a year, close down home building, close small businesses, and it is designed to increase unemployment to 6 percent.

The misguided policies of the Federal Reserve are a real national security issue, and I would advise the President to drop the Mexican bailout and go after the no-growth policies of the Federal Reserve Board.

MEMBER OF CONGRESS ELECTED TO PRO FOOTBALL HALL OF FAME

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

Mr. LAHOOD. Mr. Speaker and Members, I come here today to pay special honor to one of our Members, the gentleman from Oklahoma [Mr. LARGENT].

Over the weekend the gentleman from Oklahoma [Mr. LARGENT] was elected to the Pro Football Hall of Fame, and it is a particular honor for me as STEVE is a Member of the new freshman class, as I am.

In 14 years with the Seattle Sea Hawks, Mr. Speaker, the gentleman from Oklahoma [Mr. LARGENT] set six different career records and participated in seven pro bowls. On the gridiron he led the Nation in touchdown receptions in 1974 and 1975. In 1988, Mr. Speaker, the gentleman from Oklahoma [Mr. LARGENT] was honored as NFL Man of the Year for his accomplishments on the field and off.

Mr. Speaker, he brings great honor and distinction to this body, and in particular I am proud to say he is a Member of our class and a Member of the House of Representatives. I say to the gentleman, "Congratulations, STEVE LARGENT, for being elected to the Pro Football Hall of Fame, a great honor for you and a great honor for all of us."

WE NEED TO BALANCE THE TRADE DEFICIT

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

Mrs. CLAYTON. Mr. Speaker, we should remind ourselves as we deliberate and pass policy:

Who do we help and who do we hurt?

How do we improve the quality of life?

This week we are considering legislation to curb unfunded mandates. Last week we passed the balanced budget amendment. How do we encourage and support economic development in our communities across the country?

Instead of fighting over whether the Federal Government or States are for admittedly needed programs and services, instead of making knees buckle under the weight of cuts necessary to balance the budget, we should be looking for ways to balance the trade deficit with many of our foreign partners.

According to economists, Mr. Speaker, last year the ever-widening trade deficit resulted in a reduction of nearly one full percentage point. In America we imported 27 percent of the goods we consumed. That is up from 20 percent in the last 5 years. Led by the Department of Commerce, U.S. Export-Import Bank, U.S. Trade & Development Agency, and the Small Business Administration, all are encouraging opportunities for our small businesses and our communities.

We should be about this, Mr. Speaker, instead of saying that we are taking away from growth and quality of life. We should be expanding jobs and economic development.

☐ 1120

FISCAL RESPONSIBILITY SEEN AS CONTRACT WITH AMERICA MOVES AHEAD

(Mr. KINGSTON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, what a great week last week was. The House took a major and crucial step toward fiscal responsibility by passing the balanced budget amendment. If the Senate does the same, then fiscal restraint will be the law of the land.

But also important last week was the fact that the Republican Party delivered on a campaign promise. This is a lesson that all politicians need to learn in today's society. But a second thing that was very important about it was that it was done with a bipartisan vote. We had about 70 to 80 Democrats voting for this, and as we look at the other elements of the Contract With America that we will be considering this month, finalizing the unfunded mandates bill, passing the line item veto, criminal justice reform, review of our national security situation, and regulatory reform, let us hope that that same bipartisan spirit still prevails, because as the speaker before me said, we have a major trade deficit problem. We need to work on that.

Mr. Speaker, we need to work in a bipartisan fashion. We always do so much better when the Democrats and the Republicans work together.

INTRODUCTION OF LEGISLATION TO ELIMINATE THE CIVILIAN MARKSMANSHIP PROGRAM

(Mrs. MALONEY asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY. Mr. Speaker, the President called for a smaller, leaner, smarter government. I think we all agree. So today I am introducing a bill to eliminate the dumbest program in the entire Federal Government, the Civilian Marksmanship Program.

This piece of petrified pork was put in the budget in 1903 during the Spanish-American War, Mr. Speaker, to teach Americans how to shoot straight. Ninety years later high-tech weapons have replaced rifles. It is time to declare victory and delete this wasteful program.

While we are fighting very hard to get guns off the street, Mr. Speaker, this program hands out 40 million rounds of free ammunition, sells surplus guns, and conducts an annual shooting match. We have too much debt and too many needs to subsidize recreational shooting.

This program is nothing more than a special interest boondoggle. Any Member who has ever campaigned against special interest politics should be embarrassed to vote for it.

TIME FOR THE HOUSE TO STOP BICKERING AND LEGISLATE

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

Mr. HOKE. Mr. Speaker, how silly we must look to the people beyond the beltway. They sent us here to govern and to make changes, but what do we do? We bicker, we quarrel, we argue. And over what? The things that the American people really want? No. We argue over pointless points of order, we offer a multitude of meaningless amendments. We bicker over supposed insults to each other's honor and integrity in ways that make many people wonder whether we have either.

To the folks back home this place must seem more like the children's playground than the people's House.

Mr. Speaker, it is time for the minority to get over it and get on with the business of the people, because if we continue to make this august body look more like a playground than a legislature, the American people who have already lost their patience will also lose their hope. The time for play is over.

Let us get down to real work.

INTRODUCTION OF LEGISLATION TO ALLOW HOUSE MEMBERS TO RETURN SURPLUS FUNDS TO THE TREASURY

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, yesterday Speaker GINGRICH said that he wanted to start a new idea in the House of Representatives and call it "Correction Day." He said to the American Hospital Association that he wants to start 1 day a month where Congress can act on a list of "the dumbest things the Federal Government is doing and just abolish them."

I would give the Speaker a recommendation that starts right here in this body. I have introduced a bill, H.R. 26, that has 52 Democrats and Republicans as cosponsors on it which would say that when we as Members of Congress save money in our office accounts and return money to the U.S. Government, we can have that money go directly to the U.S. Treasury to reduce the deficit rather than back into a slush fund that is spent on other Members of Congress who exceed their mail accounts.

Mr. Speaker, let us look in a bipartisan way to pass H.R. 26 and continue our efforts as we started last week to balance this budget.

THE UNITED NATIONS TAKES OVER IN HAITI

(Mr. GOSS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, I read in the paper this morning that the United Nations is going to take over the Haiti mission because things are stable and secure in that country now. Of course, they are still going to rely mainly on U.S. troops down there, but there will be new rules of engagement. We are only going to use weapons in self-defense.

But then we read on a little further, and our Ambassador to the United Nations, Ambassador Albright, says, "But if this U.N. force is pushed, it has the leaders, the mandate, the firepower, and the will to push back."

Now, I call that doublespeak. That is the kind of thing that confuses our troops, it confuses us, it confuses our allies, but it probably does not confuse our enemies.

It raises the specter of our troops under foreign command in another country, under U.N. command, under Boutros Boutros-Ghali, and it causes us problems because we do not know what their mission is.

Ambassador Albright also said that Aristide has wide popular support, and that is true. But she failed to say that apparently the United Nations is unaware that there is intense brutal opposition to Aristide as well. So all is not well, and we should keep our eyes on foreign policy in Haiti.

WHAT IS TRULY BEHIND THE $40 BILLION?

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

Mr. CLEMENT. Mr. Speaker, what is truly behind the $40 billion in loan guarantees to Mexico? Some have called it a bailout for Mexico, but I might call it a bailout for the banks and wealthy financiers and investors in the Mexican markets.

Mr. Speaker, there is risk involved in every investment. These institutions and individuals knew full well what was in front of them. They made the investments; we did not. And now that the investments have soured some, it should not be the responsibility of the United States to make up their losses.

Now the President is going to act on his own. He is going to bypass Congress because he knows it is not going to pass the U.S. Congress.

We are not talking about peanuts. Forty billion dollars is a lot of money, and what happens if Mexico defaults on these loans? What assurances do we have that we are protected by their oil reserves or any other kind of collateral? Forty billion dollars—that could be used to control crime, offset the shortfall in defense, make our streets safer, immunize our children, and make job training and continuing education available for more Americans.

CHANGING BUSINESS AS USUAL—PUTTING AN END TO UNFUNDED MANDATES

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

Mr. JONES. Mr. Speaker, we were elected to represent the people of our districts, and that means changing business as usual. Changing business as usual means no more unfunded mandates.

Every community in America is suffering at the hands of Congress. Currently, State and local governments must comply with 185 Federal mandates. According to the National Conference of State Legislatures, in 1993 alone more than 150 new mandates were introduced in Congress.

How can a community that spends approximately 13 percent of its revenue on these mandates afford to finance everyday priorities? Communities are being forced to postpone public safety programs and programs for children and senior citizens. They have reached their limit and have started fighting back. Some are even challenging Congress' authority to impose these mandates, and others are simply refusing to comply.

Mr. Speaker, let us join the fight and pass the unfunded mandate reform legislation for the good of our country.

A PLEA FOR REAL CHANGE, NOT FAKE CHANGES

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GUTIERREZ. Mr. Speaker, 1 week ago the President had the courage to talk about real change—not the fake, pretend change that my friends on the other side of the aisle have been promoting.

The American people did not send us here for fake change, and the American people cannot be fooled. They sent us here because they want a Government that understands their problems and is working to make their lives better. They want a House of Representatives that is not afraid to improve the way it does business so that it can improve the way it does the people's business.

Real change means altering the way campaigns are financed, the way we deal with lobbyists, the ethics laws that govern us, and the free gifts and perks we are allowed to take.

Mr. Speaker, we have heard a lot of talk from the other side of the aisle about change but not a word about these changes, real changes. This institution can be judged by answering a simple question: Will we provide a government that is ruled by Americans with extraordinary influence of a government that is influenced by ordinary Americans? The answer so far is not very promising.

□ 1130

KEEPING THE PROMISE

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

Mrs. WALDHOLTZ. Mr. Speaker, last week we brought to the floor and passed the balanced budget amendment. In doing so, we kept our promise with the American people throughout our Contract With America. We took that giant first step and passed what the American people have been demanding for years—for Congress to get its financial affairs in order.

I am proud to be a part of the bipartisan team that pulled together to pass the balanced budget amendment. And I look forward to continuing in this bipartisan fashion to pass the rest of the Republican's Contract With America.

This week we will be voting on the unfunded mandates bill. Through this bill, we are going to stop putting intolerable burdens on State and local governments and the private sector. I hope all my colleagues will join me in supporting this legislation and keeping the promise with the people.

RESTORING PUBLIC'S TRUST IN THE HOUSE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I rise today to join my colleagues in strong support of House Resolution 40, which seeks to ban gifts to Members and staff from lobbyists and lobbying firms. This legislation will ban all meals, entertainment, travel, legal defense fund contributions, and other gifts. It also seeks to ban House Members from accepting any royalties for any published work.

In his State of the Union Address, President Clinton stated that we do not need a law for everything and challenged Members to take it upon themselves not to accept any gifts from lobbyists.

For my part, I have decided to take the President up on his challenge and will follow the lobbyist gift ban. I hope that my colleagues on both sides of the aisle will follow suit.

Let us begin anew, and work to restore the people's trust in this House. This legislation is a strong first step.

FEDERAL MANDATES PRICE TAG

(Mr. CREMEANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CREMEANS. Mr. Speaker, last night was a very long night, and I have three words for my colleagues in the 104th Congress, and that is, Mr. Speaker: "Stop the insanity." Stop sending State and local governments insane Federal mandates with insane price tags. For over the last 9 years, Congress has imposed over 72 unfunded, burdensome mandates to the States. In the 16 years preceding that, only 19 of these oppressive mandates were passed.

Mr. Speaker, this is a disturbing trend. The Federal Government is increasing its demands on the States while actually sending them less money. In fact, the Federal aid to State governments has decreased by $27.2 billion in the last decade. For the past 40 years, Congress has forced States to pay for the Federal Government's mistakes.

Mr. Speaker, it is time to stop passing the buck. Let us stop the insanity.

DEMISE OF THE BAILOUT?

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

Ms. KAPTUR. Mr. Speaker, this morning we learned that the Clinton administration and Republican leadership here in Congress have abandoned their plan to seek congressional approval of $40 billion in loan guarantees to Mexico. Workers and taxpayers of America prevailed in our first round of debate over the proposed Mexican bailout. But President Clinton is scheduled to reveal an alternative plan when he addresses the Nation's Governors this afternoon.

We should watch carefully to ensure that he defends the American people against Wall Street speculators. At the same time, the Federal Reserve Open Market Committee is meeting right now and is likely to raise your interest rates. That is the seventh time over the past year. What this means to you is that if you bought a $60,000 home a year ago on a 30-year mortgage, your payments today will be about $100 higher than they were a year ago.

Now, why are interest rates rising when inflation has not gone up and your wages have not gone up? The reason is because the markets have discounted the cost of the $40 billion bailout, and more, that is related to NAFTA and Mexico.

Too much hot money from Wall Street was bet on a gamble in Mexico that we are all having to pay for now.

SUPPORT LINE-ITEM VETO

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

Mr. BLUTE. Mr. Speaker, last week Congress overwhelmingly passed the balanced budget amendment which began a 7-year journey toward a constitutional requirement of matching receipts with outlays. However, there will be potholes along the way in the form of congressional pork-barrel spending. That is why we need to give the President of the United States the line-item veto authority.

For too long the President has been faced with the Hobson's choice of signing an appropriation act along with all the pork, or shutting down vital Government services. H.R. 2, introduced by Chairman WILLIAM CLINGER and cosponsored by 160 of our colleagues, would make Congress more accountable for its spending by giving the President the ability to delete or reduce specific spending items.

When the President sends a package of rescissions to Congress, the light of public scrutiny will be on the Congress to either accept them or fight them. If Congress chooses to disapprove of the rescissions, it will be in the position of defending indefensible spending, and the voters will be listening. It is about accountability. I urge my colleagues to support H.R. 2, the Line-Item Veto Act.

BALANCED BUDGET AMENDMENT WON'T BALANCE THE BUDGET

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, last Thursday night this House passed a balanced budget amendment, and ever since then we have seen Members getting up here beating their chest and chanting about how wonderful that is. We had one Member on the other side, a colleague of mine, get up last Friday during these same 1-minute speeches and say we fixed the flaw in the Constitution. We took a giant step forward.

Yet the same day, his party in the Defense Appropriations Subcommittee marked up a defense supplemental that had $1.8 billion in new debt that is not offset. So we talk about balancing the budget, we even pass an amendment. It is a magic pill. It is supposed to work. But the next day we add almost $2 billion new debt, because we cannot really vote for it when it comes to the details.

We have talked for 2 years in here. We have heard the Republican side say cut spending first, cut spending first. Now they have got the chance to do it, and there are all kinds of excuses. They cannot vote to cut specific spending. They are like Wimpy in the Popeye cartoons. They will gladly pay us Tuesday for a hamburger today.

I say we have had enough borrow and spend, borrow and spend, borrow and spend, and the vote last Thursday night did not balance the budget.

ON THE MEXICAN LOAN GUARANTEES

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, last week I came here to the House floor to give a 1-minute on the concerns of my constituents regarding the proposed Mexican loan guarantees.

Mr. Speaker, only minutes later, a fax from a concerned citizen who saw me on the floor was waiting on my desk. This person does not live in my district. He is from all of the way across the Nation in Henderson, NV. But his words rang familiar to those of people in my district.

Mr. Speaker, the message was, "America is not made up of, nor successful as a nation because of elitists or CEOs. America is successful because of those willing to put their heart and soul as well as their backs into the very creation of America."

Mr. Speaker, he continued to admonish that, "Passing bills, arguing opinion, stating your support and even wishing does not get the wall painted, one must pick up a brush and take the risk of getting paint on their hands to get the job done."

Mr. Speaker, this message is not unlike what your constituents are telling you. Let us rise above the morass of petty partisanship that cripples this body and threatens to cripple this Nation, and move forward with positive legislation that impacts the lives of our people.

PERMITTING COMMITTEE CHAIRMEN TO SCHEDULE HEARINGS

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 43 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 43

Resolved, That, in rule XI of the Rules of the House of Representatives, clause 2(g)(3) is amended to read as follows:

"(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. If the chairman of the committee determines that there is good cause to begin the hearing sooner, the chairman shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems."

☐ 1140

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, I yield the customary 30 minutes to the ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], for the purposes of debate only. All time yielded will be for the purpose of debate only.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 43 amends clause 2(g)(3) of House rule 11 to restore by rule what has been the standard operating procedure around here ever since I can remember, and that is to permit committee chairmen to schedule hearings.

Mr. Speaker, earlier this month a question arose as to the literal meaning of the rule which states that a committee, I repeat, a committee shall call hearings at least a week in advance unless the committee for good cause determines that such should be called sooner.

The Parliamentarian's office confirmed that the term "committee" means just that. The committee acting collectively.

As a result of the point of order raised against a particular hearing that was overruled by a committee chairman in the committee, the Committee on Rules had to recommend to the House a waiver of the rule in order to bring a measure to the floor of the House last week.

Had we not done so, a legitimate point of order could have been raised in the House against the consideration of that measure.

Mr. Speaker, because of this interpretation every committee of this House was naturally thrown into a state of uncertainty as to the fate of its hearing and its bills. Consequently, the Committee on Rules was asked to look into the matter and resolve it as soon as possible.

Last Monday I introduced House Resolution 43 to substitute the word "chairman" for the word "committee" in that rule, as the party responsible for calling hearings.

The Committee on Rules met and reported the resolution on Thursday by voice vote with no amendments offered.

At that time, I was led to believe that was not a controversial issue and that everyone agreed there was a need to legally restore what has been the standard operating procedure in this House for many, many years.

However, since not all the bases have been touched by the minority in order to be safe we reported an open rule, should any subsequent concerns or amendments surface.

Mr. Speaker, in my experience such a special rule has never been reported before on a simple rule change such as this which is already privileged for House floor consideration without requiring a special rule. It was not until after we reported that we received letters from some very respected ranking minority Members expressing concern about the ability of chairmen under the new rule to call hearings for good cause with less than a week's notice.

At the urging of the minority, our report does contain language that warns against so-called spur-of-the-moment hearings and advises committees to adopt rules requiring consultation and prior notice requirements for any hearings scheduled less than a week in advance.

We had also agreed with our committee minority to conduct a colloquy on the floor to emphasize our intent that this should not be used for surprise hearings, which is the concern of some.

However, this was not sufficient assurance for some of the ranking minority members on other committees, and I understand that, having recently been in the minority myself. Believe me, I understand that.

Consequently, last Friday we sat down and discussed this further with those raising those concerns, and I promised to take those concerns and recommendations up with our leadership on our side of the aisle. And we were able to reach an agreement with all concerned before the House adjourned last Friday.

As a result, I will offer an amendment developed in cooperation with those ranking minority Members who expressed their concerns to me and the gentleman from Massachusetts [Mr. MOAKLEY] last Friday.

The amendment requires that if a hearing is set with less than a week's notice, it must be for good cause and be agreed to either by the chairman and the ranking minority member or be approved by a majority vote of the committee, a quorum being present for the transaction of that business. I think this will allay concerns that were raised that we were somehow laying the groundwork for instantaneous surprise hearings without adequate notice or without consultation.

That was never the intention of this rules change. We simply want to restore, by proper legislative language, what has been the standard practice for decades in this House.

Mr. Speaker, before I yield to our distinguished ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], let me simply conclude by observing that it is my intention, as the chairman of the Committee on Rules, to ensure that our House rules are adhered to here on the floor of this House and in committee. That includes protecting the rights and protecting the prerogatives guaranteed to the minority under the rules of this House.

Yes, this House operates by majority rule. But for that rule to be effective and accepted, it must be within the framework of protecting and respecting the rights of the minority. When I was named as chairman of the Committee on Rules by our Speaker, I promised to be firm and fair, and I intend to live up to that. I expressed my intentions to conduct our committee's work in as free and open a manner as possible and to report rules that would allow the House to operate in that same manner.

Mr. Speaker, this House runs best when we are operating in a bipartisan spirit of comity—recognizing our political differences—but hopefully being able to disagree without being disagreeable.

Mr. Speaker, both the majority and the minority are finding their way under this suddenly reversed role. It is not easy. We will both make some mistakes along the way and we will both antagonize the other, often without perhaps knowingly doing so.

I would simply urge that we make an extra effort to try to minimize our procedural differences so that we can properly direct our energies to engaging each other in a deliberative fashion on our policy differences. After all, that is really what we are here to do.

I think we can do so while recognizing that this House does have an obligation to do its work in a timely way without getting bogged down in partisan or procedural bickering.

Mr. Speaker, I hope by offering this compromise amendment to this resolution today that I would be setting some small example for both sides of the aisle to follow in a new spirit of comity. Let us get on with our work and let us get it done.

RULE REGARDING SCHEDULING OF COMMITTEE HEARINGS

Current Rule:

Rule XI, clause 2(g)(3):

[(3) Each committee of the House (except the Committee on Rules) shall make public announcement of the date, place and subject matter of any committee hearing at least one week before the commencement of the hearing. If the committee determines that there is good cause to begin the hearing sooner, it shall make the announcement at the earliest possible date. Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.]

* * * * *

Proposed Change in Rule by H. Res. 43 & Proposed Compromise (compromise in italic):

(3) The chairman of each committee of the House (except the Committee on Rules) shall make public announcement of the date, place, and subject matter of any committee hearing at least one week before the commencement of the hearing. [If the chairman of the committee determines that there is good cause to begin the hearing sooner, the chairman shall make the announcement at the earliest possible date.] *If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date.* Any announcement made under this subparagraph shall be promptly published in the Daily Digest and promptly entered into the committee scheduling service of the House Information Systems.

Explanation:

The existing rule requires that committees call hearings at least a week in advance unless the committees determine there is good cause to schedule them sooner.

H. Res. 43 as reported permits chairmen to call hearings at least a week in advance unless the chairmen determine there is good cause to hold them sooner.

The proposed compromise permits chairmen to call hearings a week in advance, and the chairman, with the concurrence of the ranking minority member, or by vote of the committee, to call them sooner for good cause.

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES,
Washington, DC, January 10, 1995.

Hon. XAVIER BECERRA,
Hon. BARNEY FRANK,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVES BECERRA AND FRANK: In your letter of January 6, 1994 you mention that the Committee on the Judiciary, at its organizational meeting held on January 5, adopted the following committee rule IIIa:

"The Committee or any subcommittee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it on any measure or matter at least one week before the commencement of that hearing, unless the committee or subcommittee before which such hearing is scheduled determines that there is good cause to begin such hearing at an earlier date, in which event it shall make public announcement at the earliest possible date."

As required by clause 2(a)(2) of Rule XI of the rules of the House, this committee rule is consistent with clause 2(g)(3) of Rule XI of the rules of the House. I would interpret this rule to require a committee or subcommittee determination, as the case may be, as to when hearings should commence, when that question is raised by a committee member in a timely manner. In my experience, committees and subcommittees have often deferred to their chairmen for the purpose of establishing hearing dates. Where the question is raised in a proper manner, however, I would conclude that the committee or subcommittee as a collegial body must ratify the call and scheduling of hearings. This is to be distinguished from the authority conferred in clause 2(c)(1) of Rule XI for chairmen of committees (and subcommittees) to call and convene additional meetings of their committees for the conduct of committee business.

Please let me know if I can be of further assistance.

Sincerely,

CHARLES W. JOHNSON.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York for yielding me half of his time. I also wish to thank the gentleman for sitting down with me and Mr. DINGELL, Mr. MINETA, and Mr. MILLER. He listened to our concerns and together we came up with an amendment that everyone can support.

Mr. SOLOMON has said all along that he simply wanted to amend the standing rule of the House to reflect current practice. The amendment now does that.

In effect, the chair of a committee can announce hearings so long as he or she gives 7 days notice.

To announce a hearing less than 7 days in advance, the committee chair must either get the agreement of the ranking minority member or get approval by a vote of the committee.

The amendment offered by Mr. SOLOMON gives other committee members some say on waiving 7-days notice. It does not grant the chair unilateral authority to announce hearings any sooner.

Let me clarify one point. Even though the ranking minority members argued for this change, it is not a minority rights issue.

House rules set a minimum notice requirement for hearings but not for any other business conducted by committees, not for markups, adoption of the rules, or the transaction of any other business.

The purpose of the notice requirement, Mr. Speaker, is to protect the public. The purpose, Mr. Speaker, is openness to let many voices be heard.

It is not to inform the minority but to inform the public so that they can be heard.

Mr. Speaker, in the minority views submitted with the report we outlined our concerns.

We expressed our hope that a bipartisan agreement could be worked out. I am thankful that agreement was reached.

Again, Mr. Speaker, I thank the gentleman from New York for his willingness to work this out and I urge my colleagues to support the amendment to the resolution

Mr. Speaker, I reserve the balance of my time.

□ 1150

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me conclude by thanking everyone who has cooperated in working out this compromise, and especially our ranking minority member, the gentleman from Massachusetts [Mr. MOAKLEY], for bringing us together. It is not easy being the person caught in the middle when you are being pressed from both sides to do what they say is right, but our distinguished ranking minority member has risen to the occasion as an honest broker and has served his committee and his party well.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 2, line 2, strike "If" and all that follows through the period on page 2, line 5 and insert the following: "If the chairman of the committee, with the concurrence of the ranking minority member, determines there is good cause to begin the hearing sooner, or if the committee so determines by majority vote, a quorum being present for the transaction of business, the chairman shall make the announcement at the earliest possible date.".

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The Chair recognizes the gentleman from New York [Mr. SOLOMON] in support of his amendment.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the amendment speaks for itself. It is an agreed-upon amendment. I do not know of any opposition to it. At the appropriate time, if there are no other speakers on the other side of the aisle, I would expect to move the previous question.

Mr. Speaker, I would ask the gentleman from Massachusetts if he has any requests for time.

Mr. MOAKLEY. Mr. Speaker, I have requests from the Members who were part of the compact we struck last Friday.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the ranking minority member, the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the ranking member on the Committee on Rules for yielding this time to me.

Mr. Speaker, it is important that we take a moment to understand what this issue is about and why it matters.

Under existing House rules there is a requirement that 7-days notice be given before a public hearing in a committee. Other kinds of meetings of Members of Congress are held around here, but there is no specific advance notice requirement on those meetings. Only public hearings have an advance notice requirement.

Why is that?

Because the public needs the notice if they are going to have any real chance to testifying. It takes time to find out what a hearing is really about and to decide to testify; it takes time to prepare testimony; and it takes time to make arrangements to travel to Washington, DC, to testify and to make that trip. Members of Congress can go to meetings on short notice—we are here anyway. But if we are to give the American public any real chance to participate in the crafting of legislation, then we have to give them sufficient notice so that they can testify at committee hearings.

That is why the 7-day-notice requirement is in the House rules—to protect the public's ability to know what hearings are going to happen and to have a realistic chance of participating in those hearings.

Under existing rules and practice, that 7-days notice can only be waived by a majority vote of the committee, or by agreement of both sides of the committee. So there is an ability to waive the notice, but only on relatively noncontroversial matters.

What the resolution now before us was all about was making it very easy to waive the 7-day notice requirement. Under the resolution as reported—without any hearings—last week by the Rules Committee, any full Committee chairman could decide unilaterally to waive the 7-day-notice requirement. No chairman—not me and not anybody else—should have that kind of power to effectively exclude public input on the legislation we write here. The potential for abuse would have been too great—a chairman could arrange to have only witnesses favorable to his or her position, then announce the hearing at the last minute so others would be precluded from testifying.

Fortunately the chairman of the Rules Committee has agreed to an amendment to his resolution. That amendment would basically restate existing rules and practice, by providing for a 7-day notice to the public, and that notice could be waived either by a majority vote of the committee or by the agreement of both sides of the committee, as represented by the chairman and the ranking minority member.

This amendment takes us back to existing rules and practice and therefore preserves the 7-day-notice requirement and the ability of the public to have its views reflected in committee hearings. I commend the gentlemen from New York for agreeing to this amendment. Without it we would have made it much harder for the views of the public to be heard in this House and to be incorporated into the bills we write. That would have been a real loss to democracy and to the quality of the legislation we produce, because I think it is clear that greater public input about the real-world impacts of what we do here only makes our product better.

I wish to thank the ranking Democrat on the Rules Committee, Mr. MOAKLEY, and our ranking Democrat on the Energy Committee, Mr. DINGELL, as well as the ranking Democrat on the Natural Resources Committee, Mr. MILLER, for their assistance on this issue.

I therefore support the amendment.

Mr. MOAKLEY. Mr. Speaker, I ask the gentleman from New York [Mr. SOLOMON] may I use some of his time if I need it?

Mr. SOLOMON. I would just say to the gentleman, Mr. Speaker, I thought we had an agreement. We have a heavy schedule today. I did not believe we were going to use all the time on either side of the aisle.

Mr. MOAKLEY. Mr. Speaker, that is why we rushed through with those three open rules today, so we could have the extra time on the floor.

Mr. SOLOMON. Let us consider it as we go along, Mr. Speaker.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], one of the arbiters of this deal that we have reached.

Mr. DINGELL. Mr. Speaker, I want to commend the distinguished gentleman from Massachusetts [Mr. MOAKLEY], for his assistance and hard work on this particular matter, and also my good friend, the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules. He and I have had a great friendship over the years. Although we have had some splendid differences which we have argued out with great vigor, the affection and respect which I hold for him knows no bounds. He is a valuable Member of this body, and I thank him and salute him for having worked this matter out.

Mr. Speaker, this started out as potentially a very bad situation. The rules of the House have always functioned to provide notice, not only to the Members, the minority, but very frankly, to the people, because the business that is done here very intimately affects every American. The purpose of the notice requirement was to permit people to come forward, to be heard on matters of concern on the conduct of their Nation's business.

As it originally started out, the rules change would have virtually eliminated the requirement for adequate notice to the American people, to the Members of this body, and to the minority. Happily, through the wisdom of the gentleman from New York [Mr. SOLOMON] and the gentleman from Massachusetts [Mr. MOAKLEY], and because of the hard work that has occurred on the part of a number of Members and staff people, we have been able to resolve that difference so now notice is given, 7 days, but also that opportunity for waiving that under good, sensible practice has been accomplished.

I want to say, Mr. Speaker, that again, we owe a debt to the gentleman from New York for his cooperative and decent approach to the concerns we felt. It also is so that we can look now to a situation where his concerns with regard to the ability of the business of the majority being properly conducted can properly be met under this.

I think one lesson we can all learn from this is that by working together we can resolve the problems that exist between us on this side of the aisle and on that side of the aisle, and that we can come together to address the concerns we all feel. When we do that, we can say that we have solved not only the problems of one side but also the other; also, Mr. Speaker, to observe that the result is a good one, because here the requirements of notice remain.

They can be waived upon consultation with the minority. They also can be waived on a vote of the committee with a working quorum present, so this is a good resolution. It is one which I hope will be an example of how the body can and should work together in a fashion to resolve our concerns in a bipartisan spirit of comity and cooperation.

Having said that, Mr. Speaker, I again want to express my appreciation to the gentleman from New York and the gentleman from Massachusetts, my good friend, the gentleman from California [Mr. MINETA], who was a tower of strength on this, the gentleman from California [Mr. MILLER], and the other Members on both sides of the aisle who have worked together to resolve what could have been a nasty problem in a way which does serve the public interest, serves the interests of this institution, and sees to it, yet, that people who have a concern about legislation will have an opportunity to participate in the process by coming from places as far away as California and Alaska in time to participate and to have their views heard as the Congress works its will on important legislative questions.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, this is a rules change pending before the House today that was worked out and brought to the floor over a period of several days. Into this rules change was invested a good deal of effort by the Republicans and by the Democrats, but this is not a rules change that the public is concerned about.

When the House of Representatives adopted its rules for the 104th Congress, a rules change, which the public is concerned about and that had the overwhelming support of Democrats, was conspicuously absent. That is a rule to prohibit the taking of gifts by Members of Congress from paid lobbyists.

POINT OF ORDER

Mr. LINDER. Point of order, Mr. Speaker. Regular order.

The SPEAKER pro tempore. For what purpose does the gentleman from Georgia [Mr. LINDER] rise?

Mr. LINDER. Mr. Speaker, I would inquire if the gentleman from Texas [Mr. BRYANT] is speaking to the motion before the House.

The SPEAKER pro tempore. The Chair will state that debate must be confined to the pending resolution.

The gentleman from Texas [Mr. BRYANT] may proceed in order.

Mr. BRYANT of Texas. Mr. Speaker, the pending resolution ought to include language to say that Members of Congress cannot take free meals and free vacations and free golf trips from lobbyists that are paid to influence the proceedings before this House. That addition to this provision could have been brought forward. It ought to be brought forward.

Mr. SOLOMON. Mr. Speaker, regular order. The gentleman is not talking in regard to a germane amendment to the issue before us right now.

The SPEAKER pro tempore. The Chair would advise the gentleman that the debate must be confined to the subject at hand.

□ 1200

PARLIAMENTARY INQUIRY

Mr. BRYANT of Texas. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The gentleman will state it.

Mr. BRYANT of Texas. Mr. Speaker, if I advocate that this amendment ought to be defeated unless it includes the language that I have suggested with regard to prohibiting Members of Congress from taking freebies from lobbyists, would I then not be talking upon the amendment at hand?

The SPEAKER pro tempore. It is not relevant to discuss unrelated issues as a contingency on this resolution.

Mr. BRYANT of Texas. Mr. Speaker, I would congratulate the 4 days of diligence of the Republican Committee on Rules working with the Democrats over here in crafting an amendment to the rules and bringing it posthaste to the floor that the public is not very concerned about and at the same time stifling and prohibiting anyone from talking about whether or not Members of Congress should be taking freebies from the lobby.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY], the ranking member, for giving me some time to speak on this.

I would like to applaud the gentleman from New York [Mr. SOLOMAN], the chairman of the Committee on Rules, for making this compromise available to the entire House. The original language would have allowed only a chairman to make a decision to decrease the notice requirement and allow committees to meet to have hearings without sufficient notice not only to Members of the Congress but also to the public.

I applaud the chairman in making sure that this compromise was reached. This will avoid the circumstances that occurred in my committee, the Committee on the Judiciary, wherein the chairman on his own initiative decided to reduce the amount of time necessary to give notice to not only Members of Congress, as I said, but also to the entire public about a very important matter, the balanced budget bill that we took up this past week.

It was unfortunate that at that point, the committee actually violated its own rules and actually held hearings without providing sufficient notice to people that this would occur. Obviously, it makes it difficult for witnesses to be present and for people to prepare, so it is great to see that we are finally going to try to bring ourselves within the rules of this House.

I think it is unfortunate while we are amending these rules, however, that right now while this window is open, that we do not take advantage of doing what I think the gentleman from Texas is trying to express, trying to make sure that we also clear up the rules to make sure that no one in their House can take freebies from lobbyists or take gifts. This is the time to do so. I would think right now a strong amendment——

POINT OF ORDER

Mr. LINDER. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. LINDER. Mr. Speaker, the Chair has ruled on several occasions that talking on other matters and rules not included in this rule are out of order and the gentleman is insisting on doing so. The gentleman is out of order.

The SPEAKER pro tempore. The debate must be relevant to the subject at hand, as the Chair has ruled earlier.

PARLIAMENTARY INQUIRY

Mr. BECERRA. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BECERRA. If a Member takes the floor to speak on the rules of the House and we are in the process of amending the rules of the House, is it appropriate to discuss the issue of amending rules of the House?

The SPEAKER pro tempore. Only the rules changes being proposed. That is the only item relevant to the debate at this moment.

Mr. BECERRA. Let me then conclude my remarks by saying that I believe this particular rules change is compromise language where we will make sure that there is bipartisanship in the conduct of the committees and in structuring any notice that might be required for a committee, especially if we are going to curtail the amount of time that would be out there in terms of notice for the public, I think that is a wise move. I appreciate the new majority in this House has realized that it is essential. It goes a long way toward satisfying the rules that the majority first passed which required sufficient notice and deliberation by the entire body of the committee, not just the chairman. I think it goes a long way, but I do believe that we should have gone a little farther and dealt with the ban on lobbyists' gifts as well.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, I rise in support of the Solomon amendment. I think that the amendment is a victory for openness and for full participation by all Members in the legislative process. I think that it is one of the ways in which we try to gain the trust of the American people. I also believe that we cannot go just halfway on that reform. The American people are looking to us in fact to reform this House and to open it up to their views and to their opinions.

While this is a good rules change, I think that the public cares about some other rules changes, including the whole effort to enact a ban on all gifts to Members of the Congress and their staffs. I think we have to enact a ban into law to assure the American people that the days of perks and privileges are really over. We also need to ban Members from using frequent-flier miles for their personal use and that ought to be part of a rules change. Every single perk that we allow to continue serves only to undermine all the other reforms that we enact in this body.

Reform really is an all-or-nothing proposition. If we do not go all the way and ban gifts and other perks, our reform efforts will die the death of a thousand cuts.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks on the resolution just adopted.

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

There was no objection.

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that House Resolution 47, the special rule for House Resolution 43, be laid on the table.

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

There was no objection.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore. 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.

□ 1208

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 Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, January 30, 1995, the amendments en bloc offered by the gentleman from Louisiana [Mr. FIELDS] had been disposed of and title I was open for amendment at any point.

Are there any amendments to title I?

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

I do so, Mr. Chairman, to sort of review where we are and where we hope to go, where we hope to be by the end of this day and the next couple of days. The good news is that we have over the last 6 days disposed of about 24 amendments and mercifully we have now completed action on section 4 of the bill.

I would say that I express my appreciation to Members on both sides of the aisle for the spirit in which the debate was conducted yesterday. I think we moved expeditiously through the amendments in a very orderly way and I was very indebted to the gentlewoman from Illinois [Mrs. COLLINS] for her support as we went through the process yesterday.

□ 1210

The bad news, however, is that we have about 130 or so amendments to go. All of the what I consider to be weakening amendments that were offered in terms of exemptions to the bill were defeated, not because the programs sought to be exempted by those amendments were not worthy and meritorious and had great value, because I think many of them did and do, but frankly because H.R. 5 poses absolutely no threat to the present administration, the present way those programs are being implemented, and really only asks us to be accountable to any additional mandates that may be imposed as a result of those provisions in the future.

So, I think those amendments have been defeated now, we have now moved on. Today we are going to take up title I to the bill, which is an attempt to look at what may be duplicative and redundant in the existing mandates. It is my hope that we can complete expeditiously title I to the bill. I think there are not too many areas in dispute in that, and I have discussed this with the gentlewoman from Illinois [Mrs. COLLINS] and I think she agrees we can move rather expeditiously through title I. And it is my hope we can do that, and it is my intent, Mr. Chairman, to complete title I and II before we rise tonight.

Let me stress it is not my intent to limit consideration of any and all amendments. This is an open rule, and we are respecting that. I think that every Member should have an opportunity to offer their amendment and have it considered.

Nor do I, Mr. Chairman, want to limit debate on the amendments that will be offered, and I will only seek to do so, and I hope I would not have to seek to do so, if it becomes clear that we are frankly beating amendments to death. I do not think that is going to happen. I really sense we are moving toward an orderly resolution of the remaining titles.

So, Mr. Chairman, I would just say that I look forward to the discussion of today. I think we do have some interesting issues in title II that deserve a full airing today. As I say, I hope we can move fairly rapidly through title I.

But, in closing, I would just say that there is a bipartisan, I think, majority of this House that is here and has been here for the last 7 days trying to do what President Clinton himself has requested. I would repeat what I read into the RECORD yesterday at this time when the President spoke to the National Governors.

We are strongly supporting the move to get unfunded mandates legislation passed in the Congress and are encouraged by the work that was done in the United States Senate where, as I remember, the bill passed 86 to 10 last week. After a really open and honest discussion of all appropriate amendments, the legislation is now moving through the House—I think there are about 100 amendments pending—but I think they will move through it in a fairly expeditious way, just as the Senate did.

Mr. Chairman, I would encourage Members on both sides to comply with what the President has requested as we move into day 7.

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. 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. SCHIFF:

Amend title I to read as follows:

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

SEC. 101. REPORT ON UNFUNDED FEDERAL MANDATES BY ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS.

(a) IN GENERAL.—The Advisory Commission shall in accordance with this section—

(1) investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities, and their impact on the competitive balance between States, local and tribal governments, and the private sector; and

(2) make recommendations to the President and the Congress regarding—

(A) allowing flexibility for State, local, and tribal governments in complying with specific unfunded Federal mandates for which terms of compliance are unnecessarily rigid or complex;

(B) reconciling any 2 or more unfunded Federal mandates which impose contradictory or inconsistent requirements;

(C) terminating unfunded Federal mandates which are duplicative, obsolete, or lacking in practical utility;

(D) suspending, on a temporary basis, unfunded Federal mandates which are not vital to public health and safety and which compound the fiscal difficulties of State, local, and tribal governments, including recommendations for triggering such suspension;

(E) consolidating or simplifying unfunded Federal mandates, or the planning or reporting requirements of such mandates, in order to reduce duplication and facilitate compliance by State, local, and tribal governments with those mandates;

(F) establishing common Federal definitions or standards to be used by State, local, and tribal governments in complying with unfunded Federal mandates that use different definitions or standards for the same terms or principles; and

(G) establishing procedures to ensure that, in cases in which a Federal private sector mandate applies to private sector entities which are competing directly or indirectly with States, local governments, or tribal governments for the purpose of providing substantially similar goods or services to the public, any relief from unfunded Federal mandates is applied in the same manner and to the same extent to the private sector entities as it is to the States, local governments, and tribal governments with which they compete.

Each recommendation under paragraph (2) shall, to the extent practicable, identify the specific unfunded Federal mandates to which the recommendation applies.

(b) CRITERIA.—

(1) IN GENERAL.—The Advisory Commission shall establish criteria for making recommendations under subsection (a).

(2) ISSUANCE OF PROPOSED CRITERIA..—The Advisory Commission shall issue proposed criteria under this subsection not later than 60 days after the date of the enactment of this Act, and thereafter provide a period of 30 days for submission by the public of comments on the proposed criteria.

(3) FINAL CRITERIA.—Not later than 45 days after the date of issuance of proposed criteria, the Advisory Commission shall—

(A) consider comments on the proposed criteria received under paragraph (2);

(B) adopt and incorporate in final criteria any recommendations submitted in those comments that the Advisory Commission determines will aid the Advisory Commission in carrying out its duties under this section; and

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Advisory Commission shall—

(A) prepare and publish a preliminary report on its activities under this title, including preliminary recommendations pursuant to subsection (a);

(B) publish in the Federal Register a notice of availability of the preliminary report; and

(C) provide copies of the preliminary report to the public upon request.

(2) PUBLIC HEARINGS.—The Advisory Commission shall hold public hearings on the preliminary recommendations contained in the preliminary report of the Advisory Commission under this subsection.

(d) FINAL REPORT.—Not later than 3 months after the date of the publication of the preliminary report under subsection (c), the Advisory Commission shall submit to the Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a final report on the findings, conclusions, and recommendations of the Advisory Commission under this section.

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

(a) EXPERTS AND CONSULTANTS.—The Advisory Commission may procure temporary and intermittent services of experts or consultants under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Executive Director of the Advisory Commission, the head of any Federal department of agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Advisory Commission to assist it in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Advisory Commission, the Administrator of General Services shall provide to the Advisory Commission, on a reimbursable basis, the administrative support services necessary for the Advisory Commission to carry out its duties under this title.

(d) CONTRACT AUTHORITY.—The Advisory Commission may, subject to appropriations, contract with and compensate Government and private agencies or persons for property and services used to carry out its duties under this title.

SEC. 103. DEFINITION.

In this title:

(1) ADVISORY COMMISSION.—The term "Advisory Commission" means the Advisory Commission on Intergovernmental Relations.

(2) FEDERAL MANDATE.—The term "Federal mandate" means any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty upon States, local governments, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

MODIFICATION TO AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I have a modification to that amendment at the desk, and I ask that the amendment and modification be considered together.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. SCHIFF:

In the proposed section 101(a), after paragraph (1) insert the following new paragraphs (and redesignate the subsequent paragraphs accordingly):

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

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

In the last undesignated sentence at the end of the proposed subsection 101(a), strike out "paragraph (2)" and insert "paragraph (4)".

In the proposed subsection 101(b)(3)(A) strike out "paragraph (2)" and insert "paragraph (4)".

At the end of the proposed section 101, add the following new subsection:

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

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

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

Mr. SCHIFF (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

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

There was no objection.

The CHAIRMAN. Without objection, the modification is agreed to.

There was no objection.

The CHAIRMAN. The gentleman from New Mexico [Mr. SCHIFF] is recognized for 5 minutes.

Mr. SCHIFF. Mr. Chairman, first of all, I am pleased to say that the amendment that I am about to offer was put together on a bipartisan basis. I worked very closely with the gentleman from Ohio [Mr. PORTMAN] on our side, and with the gentleman from Virginia [Mr. MORAN], the gentleman from Connecticut [Mr. GEJDENSON], and the gentlewoman from Florida [Mrs. MEEK] on the Democrat side.

This amendment makes two changes that are related to each other with respect to title I. The main change is that it takes out the brand-new commission that would have been created under title I to study the unfunded mandate issue further, as called for under this bill, and instead substitutes an existing government agency, the Advisory Commission on Intergovernmental Relations, whose members are appointed by the Congress and by the President on a bipartisan and independent basis to do this task.

Related to that change is the second change. My amendment would remove the $1 million authorization that is now contained in the bill as originally written for this purpose, and does not provide any authorization of additional funds.

I want to add, Mr. Chairman, that the other body, in their bill which recently passed that body, made the first of these changes. They substituted the Advisory Commission on International Governmental Relations for the new commission. However, I want to point out to our body that in their bill they added new duties in the bill that are not anywhere part of the bill nor part of my amendment. And because they added new duties, they added an authorization for the purpose of accomplishing the new duties.

It would be my recommendation to the House that assuming our bill passes in conference, we take up their additions and their proposed authorization as a matter of conference between the two Houses.

However, my particular amendment does not contain new duties and does not contain any authorization. So the net effect of my amendment is to make a net reduction in the authorization by $1 million.

Mr. Chairman, I want to say that we have been advised by the Parliamentarian that because my amendment made so many changes it is in the nature of a substitute to title I, and therefore those other Members who may seek to amend title I may do so as amendments in the second degree to the amendment I am now offering. But I would like to explain that the modification which I offered, and which is now a part of my amendment, is the adoption of the language offered by the gentleman from Pennsylvania [Mr. FATTAH], which was a modification to title I which was offered out of order previously in consideration of this bill. If that modification is not accepted into my amendment, then it could essentially get lost if my amendment is adopted by the House in the nature of a substitute to title I. That is the sole purpose of the modification that I have offered: to protect the language offered by the gentleman from Pennsylvania [Mr. FATTAH] and make sure it is continued in the language I am offering, if my language is adopted.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from New Mexico [Mr. SCHIFF] as well as the gentleman from Virginia [Mr. MORAN], the gentleman from Connecticut [Mr. GEJDENSON], and the gentleman from Ohio [Mr. PORTMAN]. We originally offered this amendment during our full committee markup in the House Committee on Government Reform and Oversight that is so ably served by our chairman and by our ranking member.

I felt then, as I do now, that it makes no sense to create and fund a new bureaucracy. I think we are on the right track here. A new commission on unfunded Federal mandates we do not need to study that this year. We already have an Advisory Committee on Intergovernmental Relations. It has conducted several studies which seem to have validity on the Federal mandates issue. It has the expertise.

I am very happy my colleague, the gentleman from New Mexico [Mr. SCHIFF], also removed the $1 million fiscal impact of such an endeavor, because wherever we can cut and save money the better it is, and this commission is already serving a similar purpose. They can do the job, and we need to let them do it.

I want my colleagues to support this amendment because it is one that has inculcated a bipartisan support and bipartisan input on that committee.

□ 1220

I have some concerns about H.R. 5, and I have supported and will support the amendments to strengthen and improve this bill, and I think that this amendment does. It saves money. It saves time. And it maximizes the efficiency which we already have, Mr. Chairman.

With that, I want to ask all of my colleagues to support the Schiff amendment.

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

Let me first of all commend the gentleman from New Mexico [Mr. SCHIFF], who is a member of the ACIR, for this amendment and also the gentlewoman from Florida [Mrs. MEEK], who has been a principal architect and author of this amendment. I think it is a good amendment. I think it recognizes, takes into account, that we have an existing commission which has done a great deal of work in this whole area over many, many years.

Initially my only concern with using ACIR as the commission to undertake this task was that the commission is very, very deliberate in what it does, and my concern was that it might take too long a period of time. We have already put this commission on a fairly short leash and said we really want to have a report back from the commission within a year's time as to what should be done or should not be done.

My only concern initially was ACIR might not be able to do what was required within the time that we gave them. I have since had conversations with Governor Winter, who is the head of the ACIR. He assured me the commission has taken that into account, will comply with our time restraints, will proceed with the work, so having been reassured in my own mind that the commission can in fact do that job we ask them to do in title II, I can now enthusiastically support the amendment.

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

Mr. Chairman, I rise in support of the Schiff amendment to substitute the Advisory Commission on Intergovernmental Relations for the Unfunded Mandate Commission contained in H.R. 5.

This issue was first brought to the attention of the Government Reform Committee by Representative CARRIE MEEK during our committee markup of H.R. 5. Mrs. MEEK offered this very substitute, but withdrew it at the request of Chairman CLINGER.

If we must have another mandate report, at least we should not waste taxpayer money. The Unfunded Mandate Commission in H.R. 5 is pure Government waste. Why should we throw away $1 million in taxpayer money to set up another Government commission?

This amendment would substitute the language in last year's bill, and require the U.S. Advisory Commission on Intergovernmental Relations to do the mandate report.

The U.S. Advisory Commission is nonpartisan, and has done numerous reports on unfunded mandates. These reports serve as the background for much of the work that has already been done in this area.

It is irrational to set a new Commission, with new staff, to do work that can be done by an existing Commission, with the existing staff. The American people are sick and tired of Congress wasting millions of dollars on unnecessary commissions.

Let us stop doing business as usual around here. Let us put an end to Government waste. I urge support for this amendment. I fully support this, and I am very happy that both the minority and the majority side have been able to agree on this amendment.

This is a darn good amendment.

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

Mrs. COLLINS of Illinois. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I want to thank the gentlewoman. Obviously we have had a number of differences on other parts of this bill. I just want to thank the distinguished ranking member from Illinois for working with our side, working with me and other Members, the gentlewoman from Florida [Mrs. MEEK], the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Virginia [Mr. MORAN], for working in a common interest where we can agree to make some progress on the bill. I want to express my appreciation.

Mrs. COLLINS of Illinois. I wanted to tell the vice-chair of the committee we certainly have enjoyed the opportunity of working with him and found he was certainly eager to enable us to work with him on this very important issue, and we are glad we had comity in this case.

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

I just rise to support the efforts of my colleagues, the gentleman from New Mexico [Mr. SCHIFF], my colleagues on the other side including the gentlewoman from Florida [Mrs. MEEK], to offer the strengthening amendment to the bill. I think it clarifies and strengthens what we are trying to do here. It should be noted there have been five major studies produced by ACIR in the last decade on this very issue of unfunded Federal mandates. I think theirs is certainly the professional organization in a position to do this job. It is made up of 26 members of all levels of government, local, State, and Federal.

I think the gentlewoman from Florida [Mrs. MEEK] is to be commended for raising this issue. I think in the end, as the vice chairman has noted, this will save the taxpayers money. We will end up with a better product.

I also will say I, too, have been in discussions with ACIR. I think they are properly motivated and properly focused on the timeframe that the chairman, the gentleman from Pennsylvania [Mr. CLINGER], has noted. So I have every confidence they are going to come through.

I would also say the Senate has approved a very similar amendment so that the Senate and the House bills will be, if not identical, very similar on this subject. ACIR is going to be given the responsibility and the authority to do this job.

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

Mr. Chairman, I also rise in support of this amendment.

I would like to ask the gentleman from New Mexico the effect of deleting the specific $1 million portion of appropriations. Is that limiting or delimiting the ability of the Commission to function?

I was walking over here as you were explaining it, I suspect, but I know that you made reference to the additional responsibilities that this Commission would have to take on as a result of the Senate action.

Is it your intention to supply sufficient resources or to eliminate the resources that we would make available?

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

Mr. MORAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I appreciate the gentleman yielding.

The intent of my amendment would remove at this time the authorization for new funds for this Commission which may now be the existing Advisory Commission on Intergovernmental Relations. That agency is already funded at approximately $1 million a year. Now, as the gentleman indicated and as I did refer to earlier, the Senate in their bill gave new duties. They adopted the Advisory Commission in place of a brandnew Commission. They then added new duties in the bill and provided an authorization, because they thought they had reached a point where some additional authorization was necessary even to an existing Commission.

My amendment does not offer extensive new duties and, therefore, I do not offer any additional authorization. I think if the House adopts my amendment and adopts this bill, that would be a matter of conference between our two Houses as to whether we wanted to have sufficient additional duties and some additional authorization.

Mr. MORAN. Reclaiming my time. I thank the gentleman for the explanation.

I am concerned that with such an important bill if we do not give the Commission that is delegated the responsibility of defining mandates and determining their impact, then all of this effort is for nought if we do not have sufficient resources to carry out this responsibility. So I have some concern with not providing sufficient funds.

I do not want underscore the importance of having the Advisory Commission on Intergovernmental Relations take on this responsibility. For those of you who are not familiar with it, it is chaired by the former Governor of Mississippi, Bill Winter; a very active member is the Republican mayor of Knoxville, TN, Victor Ashe, who is also president of the United States Conference of Mayors; a former senior staff person for the National League of Cities is executive director; Gov. Mike Leavitt is a very active member; the Democratic mayor of Philadelphia, Ed Rendell, is a very active member. It is totally bipartisan. In fact, it is fully committed to the principles espoused in the unfunded-mandates legislation we are currently considering. Over the last year, in fact, they have worked on defining a definition of mandates, the principles and processes involved in seeking relief for State and local governments, the guidelines for evaluating existing mandates and implementing mandate-relief legislation.

So they are the ideal body. They were created 30 years ago, and they have a history of being responsive to the issue that has caused us, the Congress, to devote the last 2 weeks to the concerns of State and local governments. So I am strongly in support of this amendment to the legislation.

I have some concern that within the legislation the Commission is required to come up with a criteria upon 60 days of enactment of this legislation. If we do not pass this amendment which designates ACIR, it is impossible to put a new Commission together in time to have the criteria, because the legislation actually designates the Commission to take operation within 60 days as well, so, in other words, the legislation empowers the Commission 2 months after enactment, but within 2 months after enactment, the Commission also has to have the report ready. So if we do not pass this amendment, we are going to have to revise some of the proposed legislation.

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

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

Mr. GEJDENSON. Mr. Chairman, I just rise in support of the gentleman from New Mexico [Mr. SCHIFF] and the gentleman from Virginia [Mr. MORAN] and the gentlewoman from Florida [Mrs. MEEK] and all the other speakers. This makes a lot of sense, even for those who have some doubts about the general legislation. This is an obvious improvement. It saves money and takes an existing institution with some memory to get the job done.

□ 1230

Mr. MORAN. I thank the gentleman from Connecticut [Mr. GEJDENSON] for his comments.

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

Mr. Chairman, I rise in strong support of Mr. SCHIFF's amendment to H.R. 5, the Unfunded Mandate Reform Act. I too believe H.R. 5 is an important first step in gaining control of big government spending and fulfilling the promises we made to the American people in keeping with the Contract With America. As it stands now, H.R. 5 sends an important message to the American people that the 104th Congress is serious about decreasing the financial burdens on States and localities.

Mr. Chairman, over the last 20 years, there has been a steady increase in the number of unfunded Federal mandates passed down by the Congress to our State and local governments. While the number of unfunded mandates increase, the compliance with these mandates become more difficult. According to a GAO estimate released last year, from 1992 to 1995, Chicagoans will spend $319 million to comply with unfunded Federal mandates. H.R. 5 puts a stop to this trend, and therefore, relieves the burdens on our State and local governments.

The people of Chicago carry the weight of unfunded Federal mandates such as the National Voter Registration Act, better known as the Motor-Voter Act and the 1991 Intermodal Surface Transportation Efficiency Act at the expense of our city's educational system, infrastructure, business community, and law enforcement. According to my colleague, Mr. DONALD MANZULLO, after an additional $15 million implementation cost, the Motor-Voter Act could cost our home State of Illinois another $2 million annually. The act will cost the Nation more than $100 million over 5 years according to the Americans for Tax Reform. These costs do not include the litigation cost adding up in States like California that have chosen to sue the Federal Government rather than comply with the unfunded mandate. That is why I have signed on as a cosponsor of Mr. MANZULLO's Motor-Voter Relief Act of 1995, which seeks to allow States to voluntarily adopt the motor-voter bill of 1993.

Unfunded Federal mandates place a burden on States, localities, and eventually, the taxpayers. There are many times when Federal mandates preempt State procedures which leads to ineffective policy and wasteful overhauls of systems that already work. Our State elected officials know what works best in their local area and we should trust them to make these decisions. One example that comes to mind is a measure which Congress previously considered that would prohibit the use of lead in piping anywhere in the transportation of public drinking water. Historically, all of the city of Chicago's public water lines contained lead soddar. These public water lines have not been all replaced, consequently, large sections essential to water trasport remain. In addition, many water lines serving private homes are composed of lead soddar. The city treats its water in order to assure FDA approval of our public drinking water. This is a perfect example of how our city reached a solution locally that ultimately satisfied the same FDA requirements that all cities are asked to abide by. If the city was forced to replace these public water lines that transported drinking water, it would be a financial disaster costing Chicagoans millions of dollars.

It is not only taxpayers who are bearing the burden. It is small business owners as well. Earlier this month the Washington Times reported on a regulation to force a Kansas City bank to install a Braille keypad, costing several thousand dollars, on its drive-through automatic teller.

In addition to being financially difficult on taxpayers and small business, unfunded Federal mandate's one-size-fits-all mentality is extremely disturbing.

Unfunded Federal mandates lead to wasteful spending. The Center for Study of American Business reported that in one community, the Endangered Species Act required paying a consultant $5,000 in taxpayers money to search for desert tortoises in dry desert washes. No tortoises were found but the city paid the consultant fees required by the Federal Government.

Mr. SCHIFF's amendment, in my opinion, is a perfecting amendment to an already top rate piece of legislation. It is designed to eliminate the proposed Commission on Unfunded Federal Mandates which, in my opinion, creates more bureaucracy. Why create more Government when an existing commission can be called upon to perform the required duties? Not only does this amendment eliminate the creation of a new arm of the Federal Government, it also eliminates the need to fund the proposed Commission to the tune of $1 million.

I strongly support H.R. 5 which limits future unfunded Federal mandates. Downscaling Government and stopping the irresponsible spending habits of past Congresses is what I, along with many of my colleagues, were sent here to do.

I compliment the gentleman from New Mexico on finding an avenue to do just that and I gladly support Mr. SCHIFF's amendment and H.R. 5 on behalf of the people of the Fifth District of Illinois.

Ms. LOFGREN. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage in a brief colloquy with the gentleman from Pennsylvania [Mr. CLINGER].

As the gentleman knows, I was prepared to offer an amendment, amendment No. 89, that would ask the Commission to report back and investigate the extent to which States require local governments, without their consent, to perform duties imposed on State government by the unfunded Federal mandates, including any duty to pay a matching amount as a condition of Federal assistance.

In reviewing this matter, it has been suggested to me that this investigatory and review function is really already included within the scope of what will be reviewed and reported back to this Congress.

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

Ms. LOFGREN. I yield to the chairman of the committee.

Mr. CLINGER. I thank the gentlewoman for yielding to me.

Mr. Chairman, may I confirm to the gentlewoman that that is exactly the intention here, that that would be included in the review, that we want to make sure we are reviewing at all levels the impact, both of Federal on local, of State on local, all up and down the line. So it would be included within the language.

Ms. LOFGREN. So given that we would get a report back on that specific subject, I would like it to be known that I will not be offering amendment No. 89. I thank the gentleman.

Mr. CLINGER. I thank the gentlewoman.

PERFECTING AMENDMENT OFFERED BY MR. BURTON OF INDIANA TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. SCHIFF

Mr. BURTON of Indiana. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified.

The Clerk read as follows:

Perfecting amendment offered by Mr. BURTON of Indiana to the amendment, as modified, offered by Mr. SCHIFF: In section 101(a)(4)(G), strike the period at the end of the paragraph and add the following ", and to ensure that unfunded Federal mandate relief does not increase private sector burdens.".

Mr. BURTON of Indiana. Mr. Chairman, I do not think this is a controversial amendment. I have cleared it with the majority and with the ranking minority member, the gentlewoman from Illinois [Mrs. COLLINS].

Exempting the public sector and their private sector competitors from unfunded Federal mandates could also burden private sector entities which are not competing with the public sector. They may bear a larger share of the burden of meeting the mandate if the mandate itself is unchanged.

For example, and this is a hypothetical example: City governments are exempted from a new clean air mandate for their vehicles. But the new clean air bill overall still requires pollutants to be reduced by 100 million tons. That is even though the cities will be exempt from it.

Therefore, since city-owned vehicles are exempt from the mandate, privately owned vehicles collectively must bear a larger share of the burden of accomplishing the 100 million tons of pollution reduction. Even though there is not competition, we would still have the public sector relief, which we support, inadvertently hurting the private sector.

So we just want the Commission to study this in the event that this might occur in the future.

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

Mr. BURTON of Indiana. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman for yielding.

Mr. Chairman, I support the gentleman's amendment to the amendment. It has been raised numerous times during debate on this bill about the possible effect of limiting unfunded mandates on public sector entities while not limiting them or not limiting them as much on private sector entities, the effect it might have when they are in competition with each other, such as in some cases power generation and other examples.

I want to say that although I think we have addressed that at different places, the gentleman's amendment to the amendment is well taken, to expressly ask the Commission to study that effect and report back to Congress so that Congress could consider it in terms of further legislation.

So I support the amendment of the gentleman from Indiana to the amendment.

Mr. BURTON of Indiana. I thank the gentleman, and I thank the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], and the gentlewoman from Illinois [Mrs. COLLINS] for her help as well.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Indiana [Mr. BURTON] to the amendment, as modified, offered by the gentleman from New Mexico [Mr. SCHIFF].

The perfecting amendment to the amendment, as modified, was agreed to.

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

Mr. Chairman, I rise to speak in support of the amendment and the efforts of the gentleman on this bill. Although there have been some differences on this side of the aisle on certain areas of exemptions and concerns that we have, I do plan to vote for this bill. I think it is a good bill. Its time is overdue.

Mr. Chairman, I was to have an amendment to this title which dealt with this Commission. This Commission, as we can see, is now a moot point, and naturally I will not have to offer that amendment.

But what my amendment would have done, if you will, in this Commission there would have been nine members appointed from individuals who possess extensive leadership and experience in and knowledge of State and local and tribal governments and intergovernmental relations, including State and local elected officials.

The Traficant amendment would simply say it would include officials representing the interests of working men and working women.

Now, I am not going to offer that. But when in fact the authorization comes up for the Advisory Commission on Intergovernmental Relations, I do want to support, to specify within that authorization those specific advocates for, that are keeping an eye out for, working men and working women.

□ 1240

But in title 2, when we move toward certain activities within the bill that look at the impact that this legislation, the effect it will have on the private sector, and productivity, growth, employment and jobs, I will have an amendment that specifies that it also consider and factor in workers benefits and pensions, and let me say this to the majority:

"Some of you are saying, 'Well, maybe that is covered.' There is a great need in this country to consider all of our legislation as it impacts benefits and health insurance which we are trying now to promulgate and plan to help those that are impacted upon by that and pensions, many of which are underfunded."

So, I am going to ask the majority to consider that in title 2. It is germane. I will not be offering my amendment in title 1, and I do support the gentleman's amendment.

I think one of the first things we could and should do is, if we are going to have this Federal mandates, maybe who do not need a lot of these commissions, so perhaps it is wise to throw some of these things out.

I commend the gentleman and ask for his support in that defining, delineating language to look at workers benefits and pensions in that title 2 scenario.

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

Mr. TRAFICANT. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say I will be glad to look at the gentleman's working. I have not seen it yet, but I just want to back up the gentleman's point about the composition of the Commission.

Of the 26 members of the Commission, Mr. Chairman, 20 are appointed by the President of the United States, and the existing law requires that three be private citizens without any connection to the Government.

So I think the concern the gentleman is addressing in terms of the composition I believe is already found in the existing Commission in the amendment I have offered, and I thank the gentleman for his support.

Mr. TRAFICANT. Mr. Chairman, I ask the gentleman to give me a hand; to give me a hand there in title 2. It is reasonable. Pensions and benefits of our workers should be considered in the impact of any legislation.

Mr. Chairman, I yield back the balance of my time.

REQUEST BY MR. BARTLETT OF MARYLAND TO OFFER AMENDMENT

Mr. BARTLETT of Maryland. Mr. Chairman, I offer an amendment numbered 27 of the amendment as modified, as amended.

The CHAIRMAN. The Clerk will designate the amendment.

First, let the Chair inquire, does the gentleman have an amendment to the Schiff amendment.

Mr. BARTLETT of Maryland. Mr. Chairman, I was asked to submit the amendment now. It is a perfecting amendment.

Mrs. COLLINS of Illinois. Reserving the right to object, Mr. Chairman, I do not think we have a copy of the amendment. We are looking for it now. We do not have a copy of it here.

What is going on here?

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentlewoman yield?

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

Mr. BARTLETT of Maryland. It is No. 27 in the RECORD.

Mrs. COLLINS of Illinois. All right.

Mr. Chairman, I will reserve a point of order.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] reserves the point of order.

The Chairman will advise the gentleman from Maryland [Mr. BARTLETT] that his amendment, as drawn, is not compatible with the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], but it could be easily modified to be compatible, and if the gentleman would withdraw it at the moment and work with the gentleman from New Mexico, perhaps his amendment would be in proper form.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. GEKAS. Cannot the gentleman from Maryland, by unanimous consent, request that the amendment be completed now so that he could proceed with his amendment?

By unanimous consent could he ask that the language be conformed to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF]?

The CHAIRMAN. He could ask unanimous consent to have the amendment drawn as a modification of the amendment offered by the gentleman from New Mexico [Mr. SCHIFF] as opposed to the language of the bill.

Mrs. COLLINS of Illinois. Reserving the right to object, Mr. Chairman, I am reserving the right to object because I would like to engage in a colloquy with the gentleman who wishes to offer the amendment.

Could the gentleman please just tell us what he is trying to do here? Maybe we can try to come to some kind of an agreement.

The CHAIRMAN. The Chair will treat as pending a unanimous-consent request to modify offered by the gentleman from Maryland and recognizes the gentlewoman from Illinois [Mrs. COLLINS] on a reservation of objection.

Mrs. COLLINS of Illinois. Mr. Chairman, I ask the gentleman from Maryland, will the gentleman tell me if he is planning just to engage in a colloquy or what he is planning to do at this point?

Mr. BARTLETT of Maryland. Mr. Chairman, will the gentlewoman yield?

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

Mr. BARTLETT of Maryland. Yes. If I could move to strike the last word, I think we could dispense with it very easily.

The CHAIRMAN. The committee is proceeding under a reservation of objection by the gentlewoman from Illinois [Mrs. COLLINS]. If the gentleman from Maryland could simply respond to the gentlewoman from Illinois, that would probably take care of it.

Mrs. COLLINS of Illinois. That would take care of it.

Mr. BARTLETT of Maryland. All right.

Mr. Chairman, my amendment was really quite a simple one. It merely instructs the Commission to examine whether unbiased science is used when enforcing the State implementation plans such as other emissions testing under the Clean Air Act.

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

Mrs. COLLINS of Illinois. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to first clear up the bit of confusion that started.

We were advised by the Parliamentarian that because we felt we had to make so many changes in the bill to add the Advisory Commission in place of the proposed new Commission that my amendment is offered in the nature of a substitute.

Mrs. COLLINS of Illinois. Yes.

Mr. SCHIFF. For that reason other amendments must be technically offered as amendments to my amendment, and I trust that all Members would, if they have not done so, ask unanimous consent just for that technical modification.

I do not speak for the gentleman from Maryland [Mr. BARTLETT], but it is my understanding that he and the chairman of the committee have agreed that following a colloquy, which would be responded with a reference to report language, the gentleman would offer to withdraw his amendment at that time.

May I ask the gentleman from Maryland if that is correct?

Mr. BARTLETT of Maryland. That is correct. The chairman indicated that he supports the intent of our amendment, that what we want to accomplish could be effectively accomplished with report language, and with his assurance that that report language will be developed, we are prepared to withdraw our offer of the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I withdraw my reservation of objection.

Mr. BARTLETT of Maryland. Mr. Chairman, I withdraw my proffer of the amendment.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] withdraws her reservation of objection, and the gentleman from Maryland [Mr. BARTLETT] has withdrawn his proffer of the amendment.

PERFECTING AMENDMENT OFFERED BY MR. RIGGS TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. RIGGS. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.

The CHAIRMAN. The Clerk will designate the perfecting amendment.

The text of the perfecting amendment to the amendment, as amended, as modified, is as follows:

Perfecting amendment offered by Mr. RIGGS to the amendment offered by Mr. SCHIFF, as modified, as amended: At the end of section 101 (Page 5, after line 14), add the following:

(e) PRIORITY TO MANDATES THAT ARE SUBJECT OF JUDICIAL PROCEEDINGS.—In carrying out this section, the Advisory Commission shall give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

Mr. RIGGS. Mr. Chairman, title 1 of H.R. 5, the Unfunded Mandates Reform Act, provides for an establishment of a commission to review existing unfunded mandates, as we have been discussing over the last few minutes. The gentleman from New Mexico [Mr. SCHIFF] has offered a substitute, currently under consideration by the House, to title 1 designating the existing Advisory Commission on Intergovernmental Relations as the body to conduct this review.

I rise to offer a bipartisan pérfecting amendment to the Schiff substitute for myself, the gentleman from Illinois [Mr. MANZULLO], and the gentleman from California [Mr. CONDIT], and I might add this amendment also has the unanimous support of my colleagues, the California Republican congressional delegation.

The Riggs-Manzullo amendment will direct the Commission to give the highest priority to immediately investigating, reviewing, and making recommendations regarding unfunded Federal mandates that are the subject of judicial proceedings between the United States and a State, local, or tribal government.

The Riggs-Manzullo amendment will not change underlying law, only direct that matters in litigation be given the Commission's first attention.

I urge my colleagues to support this important amendment.

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

Mr. RIGGS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say that I support the Riggs amendment as cosponsored by other Members of the House. I think that to say that the Advisory Commission should give its priority in studying those issues which are in litigation makes a great deal of sense. I have always felt, and long before I had the privilege of serving in this body, that there is a great waste of taxpayers' money when government agencies or levels of government go to court against one another and the taxpayers are essentially paying for both sides of a lawsuit.

Now we all understand that is necessary, that a sovereign State has the right to make certain challenges to the Federal Government, and within the laws of those States, municipalities and counties may be able to challenge the State.

□ 1250

But it seems to me to the extent we can head this off or if they arise to the extent we can address them rapidly, that saves a great deal of money, of time, and of effort of government agencies that are litigating against each other.

Mr. Chairman, I want to conclude by saying that the gentleman's amendment is not any more specific. There is no way of saying whether litigation in the future might involve Democratic administrations at one level versus Republican administrations at another level. It does not matter. It is not relevant to the amendment, and it should not be relevant to the study of the Commission. Once there is litigation between levels of government, that should be sufficient to trigger the gentleman's priority, with which I agree.

So, Mr. Chairman, I support the amendment.

Mr. RIGGS. Mr. Chairman, I thank the gentleman for his comments.

Mr. Chairman, I yield to the chairman of the California Legislative Task Force, the gentleman from California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I rise simply to reiterate what was stated by my friend, the vice chairman of the California congressional delegation, that being that our delegation is strongly behind this. Clearly, the issue of litigation, as we look at this question of unfunded mandates, should be a priority. It has been demonstrated that there is major concern and controversy over a number of particular items.

It seems to me that as we look at those, ACIR should be in position to in fact place those items at the top of the priority list. The Riggs amendment is, I believe, a very wise and helpful perfection to the Schiff amendment. I strongly support it, and I know my California colleagues join in extending their support.

Mr. RIGGS. Mr. Chairman, I yield now to the gentleman from California [Mr. CONDIT].

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

I think this is a good amendment. The fact that California and several other States are involved in lawsuits and the fact that litigation exists is an example of proof that the issue of unfunded mandates is an extreme problem for State and local governments. I think this is one of the ways for us to expedite the problems of litigation and legal problems by getting it before this Commission and hopefully getting it resolved.

Mr. Chairman, I think it is a good amendment, one that we should adopt, and I ask my colleagues to support it.

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

Mr. Chairman, I stand in support of this amendment that the gentleman form California [Mr. RIGGS] and I crafted.

The issue here is very simple. Regardless of the views of Members of this Chamber on the issue of unfunded mandates, I am sure that they know full well that this bill is going to pass, and that everybody in this body would want to make sure that those matters have the first attention of the Commission during the study of those matters that are presently in the hands of the courts or may be in the hands of the courts later on.

The purpose of this amendment is to state that because litigation is existing, this means that the issue of studying unfunded mandates in those particular situations is paramount.

Therefore, Mr. Chairman, I rise to urge the Members of this body to vote in favor of the Riggs-Manzullo amendment.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from California [Mr. RIGGS] to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], as modified, as amended.

The perfecting amendment to the amendment, as modified, as amended, was agreed to.

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

Mr. Chairman, I will not use very much time, but I wanted to discuss this with the gentleman from New Mexico.

On the amendment that was withdrawn by the gentleman from Maryland [Mr. BARTLETT], I would just say that I support the gentleman in what he is trying to do. The auto emission testing is a major issue certainly in my State and in my home city of Houston.

While I support the goals of the Clean Air Act, we have found that the implementation of the program has not gone as planned, and it is something that has been a problem. There are not enough stations, and the lines are long. If the car fails the testing, the consumer must pay for repairs, as well as return for another test, and that is quite a bit to ask, particularly when they are asked to get other tests under State laws as well.

So, Mr. Chairman, I support the intent to have the ACIR look at this.

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

Mr. BENTSEN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I appreciate the gentleman's yielding.

First of all, I appreciate the gentleman's concern over the auto emissions testing. In the city of Albuquerque which I represent, the city of Albuquerque has attained Federal clean air standards for the last 3 consecutive years. Nevertheless people within our municipal and local governments believe that they have to alter our current testing programs to be in compliance with the desires of the Environmental Protection Agency. I am not clear on why we have to make changes when in fact we are now in compliance with Federal clean air standards.

It was simply felt by the chairman of the committee and the gentleman from Maryland that certain issues laid down listing specifically—because we could list specific issues virtually without end—that that issue instead of being listed as part of the bill would be recommended in report language in conference between the House and the Senate, and that is the commitment the chairman of the committee had with the gentleman from Maryland.

Mr. BENTSEN. Mr. Chairman, I appreciate that, and I appreciate the intent of the committee to include that in report language.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleagues, Representatives SCHIFF, GEJDENSON, MORAN, and MEEK to delete the provision in H.R. 5 that establishes the Commission on Unfunded Federal Mandates and would instead require a similar review of unfunded mandates by the existing Advisory Commission on Intergovernmental Relations.

This bipartisan body was established to ensure coordination between the different levels of government. As a member of the Advisory Commission, I have been impressed with the ability of the 26-member bipartisan panel which includes Members of Congress, members of the executive branch, Governors, and other State, county, and local officials to develop consensus on issues important at every level of government.

Mr. Chairman, the Advisory Commission is currently in existence and equipped to carry out the mandate prescribed by H.R. 5. The Advisory Commission on Intergovernmental Relations is uniquely qualified to provide us with the expertise to give technical assistance on unfunded mandates. This agency has garnered an impressive body of research on this issue.

The Commission has already completed a comprehensive analysis of the impact of unfunded mandates at every level of government, especially at the localities where the impact of regulatory burden is focused and felt.

It does not make sense to expend limited resources to create a new bureaucracy, while we sit up here talking about dismantling a bloated one, when there is already an existing agency currently functioning in the proposed capacity.

Mr. Chairman, I urge my colleagues to support this very important measure, because in all the rhetoric of cutting unnecessary government machinery, we have lost sight of the fact that creating a duplicate agency works counter to that objective.

PERFECTING AMENDMENT OFFERED BY MR. MANZULLO TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. MANZULLO. Mr. Chairman, I offer a perfecting amendment to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF]. I wish to enter into a colloquy with the gentleman, and then it will be my intention to withdraw the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Perfecting amendment offered by Mr. MANZULLO to the amendment offered by Mr. SCHIFF, as modified, as amended: In section 102(a)—

(1) in paragraph (1), before the semicolon insert the following: ", including the role and impact of requirements under section 182(d)(1)(B) of the Clean Air Act (42 U.S.C. 7511a(d)(1)(B))"; and

(2) in paragraph (3), at the end add the following: "The Commission shall include in recommendations under paragraph (2) recommendations with respect to requirements under section 182(d)(1)(B) of the Clean Air Act (42 U.S.C. 7511a(d)(1)(B)).".

Mr. MANZULLO. Mr. Chairman, the amendment I offer brings to focus a terrible unfunded mandate that has come as a result of the 1990 amendments to the Clean Air Act. That states as follows: "In any area that has been nominated to be a severe or extreme ozone nonattainable area, States are required to file a State compliance plan."

Part of that plan states that any employer that has an excess of 100 employees has to file a plan that certifies that within a year or two employee trips will be reduced by 25 percent. This is known as forced car pooling.

The purpose of my amendment here would be to direct that the Commission give No. 1 priority to this unfunded mandate which is costing the States millions and millions of dollars.

The gentleman from New Mexico [Mr. SCHIFF] has cordially agreed to enter into a colloquy to show that on the employee commute option, which is part of the Clean Air Act, had we had the unfunded mandates law in effect in 1990, this would have been studied. I ask the gentleman, is that correct?

Mr. SCHIFF. Mr. Chairman, if the gentleman will yield, I believe that is correct.

□ 1300

Mr. MANZULLO. Mr. Chairman, it just goes to show the absolute necessity of passing this unfunded mandate law. Back in 1990 there would have been required a study to say what is the impact on forced car pooling on State agencies, local agencies, and on local businesses. The State of Illinois now faces tens of millions of dollars in this new unfunded mandate. It is a new age, it is a new federalism. It is a time to look at America through the eyes of those that are trying to conserve its resources. That is why I simply cannot impress upon this body the absolute necessity of passing this unfunded mandates bill.

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

Mr. MANZULLO. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I want to say the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER], and the gentleman from Illinois [Mr. MANZULLO] have discussed this issue, and once again there are issues which we recommend be placed in the bill and other issues which by way of example are matters that the committee should stay.

I understand the chairman of the committee has made a commitment to the gentleman from Illinois that assuming we do get to conference with the other body, that the chairman commits to try to get into report language the issues the gentleman has raised.

Mr. MANZULLO. Mr. Chairman, I ask unanimous consent to withdraw my amendment numbered 17.

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

There was no objection.

PERFECTING AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT OFFERED BY MR. SCHIFF, AS MODIFIED, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer a perfecting amendment to the amendment, as modified, as amended.

The Clerk read as follows:

Perfecting amendment offered by Mr. TRAFICANT to the amendment offered by Mr. SCHIFF, as amended, as modified: Before the semicolon at the end of the proposed section 101(a)(1), insert "and consider views of and the impact on working men and women on those same matters".

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the amendment says at the end of section 101(a)(1), before that semicolon, insert, which would be after the following: "Investigate and review the role of unfunded Federal mandates in intergovernmental relations and their impact on State, local, tribal, and Federal Government objectives and responsibilities and their impact on the competitive balance between State, local, and tribal governments and the private sector."

The Traficant amendment is very clear. It would clarify an intent of Congress and a concern of Congress by adding the following words: "And consider views of and the impact on working men and working women on those same matters."

That is the amendment in a nutshell. It would not have been germane for me to offer it to that Commission, but as a perfecting amendment to the gentleman from New Mexico's amendment, I believe it will clarify the intent of Congress more than anything else in legislative history.

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

Mr. TRAFICANT. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, when this bill was drafted, I believe that it was the committee's intent to include the working people who work for State government, local government, tribal government, and the private sector as being considered under the study by the Commission. However, I certainly believe that this clarifies that issue for the future, should this bill be enacted into law. Therefore, I accept the amendment of the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's support. I think the legislative history shows the intent of Congress to be concerned with the views of the working men and women to be in our best interests.

The CHAIRMAN. The question is on the perfecting amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], as modified, as amended.

The perfecting amendment to the amendment, as modified, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SCHIFF], as modified, as amended.

The amendment, as modified, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

(a) IN GENERAL.—Each agency shall, to the extent permitted by subchapter II of chapter 5 of title 5, United States Code—

(1) assess the effects of Federal regulations on States, local governments, tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in legislation), including specifically the availability of resources to carry out any Federal mandates in those regulations; and

(2) seek to minimize those burdens that uniquely or significantly affect such governmental entities or the private sector, consistent with achieving statutory and regulatory objectives.

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall develop an effective process to permit elected officials (or their designated representatives) of States, local governments, and tribal governments to provide meaningful and timely input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(c) AGENCY PLAN.—

(1) IN GENERAL.—Before establishing any regulatory requirements that might significantly or uniquely affect small governments, an agency shall have developed a plan under which the agency shall—

(A) provide notice of the contemplated requirements to potentially affected small governments, if any;

(B) enable officials of affected small governments to provide input pursuant to subsection (b); and

(C) inform, educate, and advise small governments on compliance with the requirements.

(2) EFFECTS ON 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.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

(a) IN GENERAL.—Before promulgating any final rule that includes any Federal mandate that may result in the expenditure by States, local governments, or tribal governments, in the aggregate, or the private sector of at least $100,000,000 (adjusted annually for inflation) in any 1 year and before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any such rule, the agency shall prepare a written statement containing—

(1) estimates by the agency, including the underlying analysis, of the anticipated costs to States, local governments, tribal governments, and the private sector of complying with the Federal mandates, and of the extent to which such costs may be paid with funds provided by the Federal Government or otherwise paid through Federal financial assistance;

(2) estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of—

(A) the future costs of the Federal mandate; and

(B) any disproportionate budgetary effects of the Federal mandates upon any particular regions of the country or particular States, local governments, tribal governments, urban or rural or other types of communities, or particular segments of the private sector;

(3) a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandates (such as the enhancement of health and safety and the protection of the natural environment);

(4) 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;

(5) a description of the extent of the agency's prior consultation with elected representatives (or their designated representatives) of the affected States, local governments, and tribal governments, and designated representatives of the private sector;

(6) a summary of the comments and concerns that were presented by States, local governments, or tribal governments and the private sector either orally or in writing to the agency;

(7) a summary of the agency's evaluation of those comments and concerns; and

(8) the agency's position supporting the need to issue the regulation containing the Federal mandates (considering, among other things, the extent to which costs may or may not be paid with funds provided by the Federal Government).

(b) PROMULGATION.—In promulgating a general notice of proposed rulemaking or a final rule for which a statement under subsection (a) is required, the agency shall include in the promulgation a summary of the information contained in the statement.

(c) PREPARATION IN CONJUNCTION WITH OTHER STATEMENT.—Any agency may prepare any statement required by subsection (a) in conjunction with or as part of any other statement or analysis, if the statement or analysis satisfies the provisions of subsection (a).

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

(1) collect from agencies the statements prepared under section 202; and

(2) periodically forward copies of them to the Director of the Congressional Budget Office on a reasonably timely basis after promulgation of the general notice of proposed rulemaking or of the final rule for which the statement was prepared.

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

(a) IN GENERAL.—The Director of the Office of Management and Budget, in consultation with Federal agencies, shall establish pilot programs in at least 2 agencies to test innovative and more flexible regulatory approaches that—

(1) reduce reporting and compliance burdens on small governments; and

(2) meet overall statutory goals and objectives.

(b) PROGRAM FOCUS.—The pilot programs shall focus on rules in effect or proposal rules, or on a combination thereof.

SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.

Not later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including each of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing Federal court rulings in the preceding calendar year which imposed an enforceable duty on 1 or more States, local governments, or tribal governments.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment to subsection (c) of section 201.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In subsection (c) of section 201, strike paragraph (2), strike the heading for paragraph (1) and run its text to the dash following the heading for the subsection, and redesignate subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out in consultation with the majority. Section 201(c)(2) requires an evaluation of private sector costs associated with major rules that appear to largely duplicate the evaluation required in section 202. Thus the amendment improves the bill by striking an apparently redundant provision. The amendment is also necessary because the language in section 201(c)(2) used vague terms like regulatory requirement that could have been interpreted to cover more than major rules. This amendment eliminates these potential ambiguities.

Mr. Chairman, I urge support of the amendment.

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

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

Mr. PORTMAN. I thank the gentleman from California. This is an important clarifying amendment. We have worked this out, and I want to congratulate the gentleman on clarifying an important aspect of the legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer my amendment numbered 140.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: Amend section 201(b) to—

(1) strike "AND TRIBAL GOVERNMENT" in the subsection heading and insert "TRIBAL GOVERNMENT, AND CONCERNED CITIZENS", and

(2) strike "and tribal governments" and insert "tribal governments, and concerned citizens".

Mr. WAXMAN. Mr. Chairman, H.R. 5 provides that Federal agencies must consult with State and local governments before proposing Federal regulations. This amendment that I am offering modifies this provision to require that Federal agencies also consult with concerned citizens at the same time. The amendment was adopted without dissent in the full Committee on Government Operations in the last Congress in October.

The amendment recognizes that concerned citizens should have the same rights to participate in the rulemaking process as State and local governments.

For example, if EPA is considering a new drinking water standard, the public that drinks the water should have just as much input into the standard as the public water suppliers who have to comply with that standard. I think this amendment makes a great deal of sense. It brings about a consultation with all those who are involved in the matter, and therefore would help those who are about to propose regulations to make the wisest regulations possible. I urge support for the amendment.

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

Mr. Chairman, I have to rise in reluctant opposition to this amendment, having accepted the last amendment from the gentleman from California [Mr. WAXMAN], which I thought was a good clarifying amendment.

The chairman of the committee and other Members on this side who have been active in this process have looked carefully at this amendment. We are reluctantly opposing it. We certainly think input from private citizens to develop meaningful regulations makes a lot of sense, and that is exactly why there is a process currently in the legislation to allow citizens to participate, call a notice and comment period for the promulgation of regulations. every citizen has a right to submit comments and participate in this regulatory process.

Reluctantly, because we agree on the intent of the amendment but we think it is not necessary to further amend this title with regard to this second amendment from the genteleman from California [Mr. WAXMAN], we must rise in opposition to it.

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

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

Mr. WAXMAN. Mr. Chairman, I understand the point the gentleman is making, that you think all parties ought to be involved, but I wanted to point out that the comment period is after a proposal is already on the table. And this bill provides that State and local governments can come in in advance. If they are going to come in in advance, then private citizens ought to be able to come in in advance and be able to participate on equal terms.

What we are proposing to do is there ought to be equal terms for comments, whether it be by a local government or by other concerned citizens.

Mr. PORTMAN. Mr. Chairman, reclaiming my time for a moment, I think what we have done in this legislation is entirely consistent with the executive order and the current process. State and local governments are coregulators.

□ 1310

It is appropriate that they have the input that is provided in the title. Again, although I think the intent of the gentleman's amendment we all agree with, we think there currently is the ability for citizens to have the kind of input that the gentleman desires. Again, we must reluctantly oppose the amendment.

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

Mr. Chairman, this is a meritorious amendment.

This bill requires agencies issuing regulations to first develop a plan to solicit input from local governments. However, there is no similar requirement to solicit the input of private citizens who may also be affected by the regulation being contemplated.

Ironically, this bill, in title III, does require CBO to solicit and consider information or comments from designated representatives of the private sector in conducting studies under section 424(b)(3), page 37 at line 19.

So why not require of the agencies the same wide range of views that is required by CBO? During the debate in the committee last Congress, the gentleman from California [Mr. WAXMAN] raised similar concerns. And the gentleman from New Mexico [Mr. SCHIFF] made some excellent points that deserved to be heard by the new members of the committee, and there are 31 new members of the committee.

He stated that if there is an antipollution regulation that addresses a health hazard affecting anyone, that it makes sense to have input from those who might be affected. And he supported an amendment that is similar to this one.

Let me give my colleagues an example why this is so important. If EPA is contemplating proposing a new regulation, for example, affecting incinerators operated by State and local governments under H.R. 5, EPA must allow officials of those governments to have input before the regulation is even proposed. Yet neither the residents of these local low-income communities who are breathing in the pollution from these incinerators nor the operators of privately run incinerators would have that same opportunity.

This is a commonsense amendment, and I would certainly hope that my colleagues would support this amendment.

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

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

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding to me.

I just want to reiterate the point that was persuasive on both sides of the aisle in the last Congress. If a local government is running an incinerator and they want to come in in advance and have consultation with the regulators, that is unfair to the citizens who are not also being consulted in advance who are going to have to breathe in the pollution. The same would be true when Government is acting in a businesslike capacity almost like a private sector business, where they run a drinking water system or a sewage system.

I have no objection with the consultation with the regulators, but it seems to me that they should not have an unfair advantage to be consulted without other citizens having that same opportunity.

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

Again, I think what the gentleman is attempting to achieve here, we can certainly understand it and sympathize with it. In fact, I think one of the things we are trying to get at with this bill is to prod the Federal Government, which has been reluctant to seek the kind of input from State and local governments. But this bill is really going to the regulator. They are coregulators. These are the people we are attempting to involve in the process.

They have not been adequately involved in the process before. Private citizens should they have the same standing, should they have the same level, be allowed to input the system at the same level? I think not, because we are really asking here for the State and local governments to be a part of the process on regulations that directly affect them.

I think we should note that nothing in this legislation prevents anyone from making comments on proposed regulations. That clearly is not the intent of this legislation. I must also point out that all of the interest groups that have been involved in shaping this legislation, the so-called big 7, National Governors Association, League of Mayors, all of the rest of them oppose this amendment because they do not want to see a special kind of a review process carved out for private citizens.

So I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, my amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: Insert at the end of section 201 the following:

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

Mr. MORAN. Mr. Chairman, most of my colleagues on the other side and on this side are aware that I introduced an unfunded mandates bill about 4 years ago. Most of the provisions that were in that bill are also included in this bill. But there are some very important provisions that are not. This amendment deals with one of those.

This amendment would require that when Federal agencies issue a notice of proposed rulemaking, receive comments back from the private sector and from State and local governments that would be affected by the new rule, that they choose the least costly alternative method of implementing the intent of the legislation. And if they do not choose that least costly alternative, then they must at least explain why they did not.

I think this is a terribly important provision to include in our unfunded mandates bill, Mr. Chairman. The amendment simply asks that the Federal agencies act rationally. It does not tie their hands. But the fact that they have not, in many cases, acted rationally is the core problem for many of the issues that have come to the floor over the last week and a half during this unfunded mandates debate.

One such issue is that of the emissions inspection requirement under the Clean Air Act. Now, when the Environmental Protection Agency issued its regulations, they got a lot of comments back. But they chose to impose a cookie cutter approach to implementation of the Clean Air Act. That is why so many Members, and it happened again this morning, have risen opposed to that Federal agency's regulations. There are far better ways of implementing the intent of the Clean Air Act, a concept that I agree with, I agree with the intent of the legislation. I very strongly disagree with the way in which the Environmental Protection Agency has chosen to implement that legislation.

For example, they have required in many States to have central testing facilities, facilities that did not exist before, facilities that are not equipped to make the repairs necessitated by the rejection of the emissions test. And so we have a ping pong effect where citizens not only have to wait in long lines but they have to go back to a repair station, get the repair done. They cannot know whether it is going to pass or not until they go back to the central testing facility, and then oftentimes they ping pong back and forth. And it takes up the entire day or several days. No wonder the American people are upset with the Federal Government. It does not make sense.

Why not have new automobiles be able to go to test and repair stations that already exist, but older automobiles could go to central testing? There are any number of other ways that we could choose to implement the intent of the legislation without violating any of the basic provisions and save a whole lot of money and a whole lot of aggravation.

Another example is in Alexandria, and this is one of the reasons why I offered the unfunded mandates legislation, the FAIR Act, 4 years ago.

EPA said that we had to separate our sewage from our storm water runoff. But they said we have to do it in a way that every other jurisdiction does it. For Alexandria, it meant digging up streets that were laid down 200 years ago, that were surveyed by George Washington, that are supporting very expensive historic structures. We would have had to dig under all those homes and streets to lay an additional storm water piping.

□ 1320

We had an alternative to have a retaining tank down in Old Town. Members have probably not noticed it because it is not even obvious. We could do it with very little money, accomplish the same purpose, with no threat to the health of our citizens, at a fraction of the cost, and yet it was unacceptable to EPA because they had one cookie cutter approach they wanted every jurisdiction to implement.

This is the case with many Federal agencies, so what this amendment would do, Mr. Chairman, is to say, "If you get better ideas from State and local governments on how to implement these regulations, or from the private sector, use that better thinking. Take advantage of it. Work with States and localities and businesses, and let us do the public's business in the most efficient and effective manner possible."

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

Mr. Chairman, I am confused because I am going to accept the gentleman's amendment. I am delighted to be able to indicate strong support for the amendment. I think the gentleman has made a very good argument that what we are trying to do here is to find the most effective, the most efficient, the least expensive and least disruptive way to accomplish these things.

What the gentleman had done here is to clearly indicate that where there are two choices, we should clearly opt and encourage that the least expensive, least costly, and least disruptive be adopted, so I am pleased to accept the gentleman's amendment as a major contribution.

Let me just also commend the gentleman for his, as he said, 4- or 5-year effort in this regard as a principal player in this whole unfunded mandates debate. He has done a superb job. We have been grateful to work with him.

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

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

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

Mr. Chairman, I would echo the gentleman's comments. I am very pleased to support the amendment. Let me say briefly, this amendment is consistent with language that is in the FAIR Act, which I believe is the foundation for the legislation, H.R. 5, before us today, and have said that on many occasions, as the gentleman knows.

It is also consistent with the Executive order, and we have had lots of discussions about the Presidential Executive order that is currently in place. All agencies are meant to abide by the requirements in this Executive order. It goes far further than title II of this act, which sets up the requirements for our Federal agencies in this legislation.

Mr. Chairman, let me give a couple of examples. H.R. 5 only applies to rules having an impact of $100 million or more annually. The Executive order currently in place by President Clinton applies not only to rules having an impact of $100 million or more, but in addition all rules affecting in a material way productivity, competition, jobs, environment, State and local governments, even if less than $100 million.

Therefore, I would just make the point clearly here that yes, the gentleman's amendment is a good one. The least burdensome manner in which the agencies can regulate is a good idea. It is a sound idea. It is part of FAIR. It is also part of the Executive order.

I would say, though, in addition, Mr. Chairman, that the Executive order in fact goes even further than the gentleman's amendment, and we will be accepting this amendment happily, but not picking up all of the requirements and additional burdens on the regulators that is in the Executive order, the Clinton Executive order of October 1993. I am happy to accept the amendment.

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

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

Mr. CONDIT. Mr. Chairman, I rise to support the amendment, and make mention of the efforts of the gentleman from Virginia [Mr. MORAN] on this issue. He has been a tremendous leader in the unfunded mandates issue. He is partly the reason we are here today. Had he not started this fight and engaged us in this debate some time ago, we would not, probably, be at this point.

To his amendment, the gentleman's amendment is a good amendment. I think it demonstrates good common sense for us to take the best option, and the gentleman from Virginia [Mr. MORAN], I think in his amendment characterizes what he has done in this whole issue, for us to move to a solid, commonsense solution. I commend the gentleman for that. I urge Members to support the amendment, and I congratulate and commend the gentleman for his effort in this entire issue.

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

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

Mr. MORAN. Mr. Chairman, I thank my friends and colleagues for their support.

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

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

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

Mr. Chairman, I rise in support of the amendment offered by my friend and neighbor, the gentleman from Virginia [Mr. MORAN], on this. I just want to take the opportunity to say I think this puts some teeth into title II. As a former board chairman adjacent to the city of Alexandria, of which Mr. MORAN was the mayor, I applaud his leadership in this area.

Long before many people were talking about unfunded mandates, the gentleman from Virginia [Mr. MORAN] has been a leader in this cause. I think this amendment will strengthen this bill. I just want to applaud the gentleman once again for his efforts in this, and rise in support of it. I hope the amendment will be accepted.

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

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

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I would also like to thank the sponsor of the amendment for bringing this issue up.

Mr. Chairman, let me just relate as quickly as I could the experience of Texas on the unfunded mandates issue with the Clean Air Act. We also support clean air, but there are options we can get to that, I think the Moran amendment points that out, that we have the option, both the State agencies, but also the EPA here in Washington has some options that they would pick the least burdensome, or, as we call it, the most user-friendly, to get to that point on clean air.

Mr. Chairman, I think with the controversy going on not only in Texas but in Illinois and lots of other States, I think this adds to this bill. I am glad that my colleague and also the chairman is accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: At the end of title II insert the following:

SEC. 206. JUDICIAL REVIEW.

(A) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

Mr. MORAN. Mr. Chairman, there is another part of this bill that I think could be strengthened. That deals with the issue of judicial review.

The bill before us is silent on judicial review, but that does not mean that judicial review does not apply. In fact, ironically, it opens up much of this legislation to procedural suits, procedural delays, excessive litigation.

My amendment, Mr. Chairman, would specify what is appropriate judicial review, and limit the ability to conduct unlimited litigation against provisions of law and regulation for which the unfunded mandates legislation might apply. Specifically, Mr. Chairman, it says that where we have agencies that are not currently subject to judicial review, that they would not become subject to judicial review under the Administrative Procedures Act solely for compliance with the procedural aspects of this legislation.

It also says, Mr. Chairman, that where there is a single court of jurisdiction, whether it be the Court of International Trade, the U.S. Circuit Court, whatever court is appropriate for that agency, that any other litigation must go through that court. In other words, lawyers cannot go to several courts, which would be principally for the purpose of delaying action.

Third, where there is an exhaustion of administrative remedies under the Administrative Procedures Act, in substantive legislation that exhaustion of administrative remedies would apply in this case as well, where legislation has been affected by the unfunded mandates legislation.

Fourth, if there are substantive agency actions that cannot be stayed; in other words, you cannot delay implementation of the regulations, get an injunction against issuance of regulations, then you cannot as a result of this legislation, either.

Mr. Chairman, there are four aspects that really do need to be addressed and refined. Mr. Chairman, I think it is terribly important that there be judicial remedies if Federal agencies and the executive branch do not comply with the intent of this legislation. On the other hand, we certainly do not want to open up a Pandora's box of opportunities to litigate for any period of time that a person who feels they are adversely affected by legislation or regulations might choose to.

I think without this clarifying amendment, this limited amendment, Mr. Chairman, we would do just that, because if we do not specify limits to judicial review, the Administrative Procedures Act applies to everything, and in fact would create substantial gridlock throughout the Federal Government.

Therefore, Mr. Chairman, I would ask the chairman of the committee and the sponsors of this bill to positively consider this amendment, and I think that its strengthens the legislation itself, the underlying legislation.

□ 1330

The only people who might not like it are in the legal community, but I do not think their interests are particularly well-served, either, by not addressing the issue of judicial review.

I could give any number of examples where this would apply and where in fact this must apply to implement this legislation in a rational way, but at this point I would respond to any comments by people that might have questions about the intent of this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word, just to very briefly say we have now had a chance to review this amendment on our side. In fact we have been in long discussions with the gentleman from Virginia [Mr. MORAN] over a long period of time on this. I think it represents a very, very good compromise between very divergent views on this question of judicial review. I think it is better than what we started out with, that it is clearly an improvement. I am delighted to accept the measure.

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

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

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding, just briefly to rise in support also of the amendment. It is a very good amendment.

We have had on the floor here an interesting debate the last several days about the issue of judicial review. It came up in the context of the exemptions to the legislation, but it really went at some of the core issues of this act.

I think the gentleman from Virginia would agree that judicial review is very important in order to ensure that there are teeth in the provisions in title II, to ensure that the agencies actually carry out the provisions which again are less burdensome on the agencies than the current executive order requirements that President Clinton issued in October 1993.

I would say that this is an important clarification of the kind of judicial review that we had intended to have in this legislation. It is our view that this is not an issue that necessarily needed to be resolved by amendment, but if there is any misunderstanding or any clarification needed, I think it is important to do so. This specifically addresses concerns raised on the floor by the gentleman from Pennsylvania [Mr. KANJORSKI]. The gentleman from Pennsylvania [Mr. KANJORSKI] raised the issue that you could possibly have a stay on an injunction in the case of a regulation and it would keep the regulation from going forward. This language I think very clearly provides that such a stay would not be permitted, that there would not be that kind of injunctive relief provided under the judicial review that is provided under H.R. 5.

I thank the gentleman for clarifying that point and for addressing a legitimate concern which was raised on the floor.

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

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

Mr. MORAN. I thank the gentleman for yielding.

The chairman of this committee and principal sponsor of this legislation has played a very constructive role in both working out the amendments that strengthen the legislation and in fact in getting this bill to the floor which I think is terribly important. I certainly appreciate the comments that were made by the gentleman from Pennsylvania, the gentleman from Ohio, the gentleman from Virginia, and the gentleman from California.

I would like to say for the RECORD whereas I am getting recognized, I would like to recognize someone who was the original sponsor of the Fair Act and worked very hard on it. This particular judicial review issue was terribly important to the gentleman from Pennsylvania [Mr. GOODLING]. The gentleman from Pennsylvania [Mr. GOODLING] has played an instrumental role in the unfunded mandates legislation. As a former superintendent of schools, he understood the importance of not imposing mandates that in effect abrogated a locality's ability to carry out their own priorities with their own best judgment.

I want to recognize particularly the gentleman from Pennsylvania [Mr. GOODLING] and I thank my friends and colleagues on the other side.

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

Mr. Chairman, I had put in the RECORD an amendment on this very subject of judicial review which I will not offer at this time. I will support the Moran amendment because I think it is an improvement over the text that has been submitted to this Committee of the Whole. But I do not think it goes far enough.

I would hope that when we go into conference with the other body, the managers of this legislation will look with great care at the other body's stand on this very issue. In the other body, in their unfunded mandates legislation, there is an explicit provision saying that there should not be judicial review. I think that is appropriate, for the very simply reason that judicial review can tie up regulations for a very, very long time and leave a great deal of uncertainly about what the regulations will in fact be in the long term.

Section 202 of H.R. 5 provides that before promulgating a final regulation containing a Federal mandate, the agency would have to prepare a detailed statement analyzing a number of different factors, economic and other impacts of the regulation. The matters that must be analyzed include the anticipated costs to State and local governments; the estimates of future costs of Federal mandate; estimates of disproportionate budgetary effects upon particular regions of the country or particular States; estimates of disproportionate budgetary effects upon urban or rural or other types of communities; estimates of any disproportionate budgetary effects on the private sector; a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandate, including enhancement of health and safety and protection of the natural environment; the effect on national economy; the effect on productivity; the effect on economic growth; the effect on full employment; the effect on creation of jobs; and the effect of mandate on international competitiveness.

I do not disagree with all of these factors being analyzed, but if we allowed judicial review of the regulation pursuant to statute, pursuant to laws adopted by the Congress and signed by the President and the judicial review does not go against the regulation as to whether it is a wise one pursuant to the statute, but in case they did not look at the productivity factors as opposed to one economist's view vis-a-vis another economist's view on any of those items I have listed, it seems to me that it will not make a lot of sense to allow that kind of second-guessing by the courts of the regulations.

It seems to me to offer a lot of opportunity for agencies to be stymied in their objectives to carry out laws like the Clean Air Act, the Safe Drinking Water Act, laws that are put in place to protect the public.

Who will benefit from judicial review? One thing I can say with certainty, it will be all the lawyers that will be litigating this matter, because they will have the ability to drag this litigation on for a very long time.

The Moran amendment does go far enough to say that there cannot be an injunction on the implementation of the regulation, but it still permits the adjudication of that regulation based on whether the agency has done a sufficient analysis to the satisfaction of the court, which may then decide to get involved in the procedural matters of this review.

I do not think judicial review is necessary to enforce what we are asking the agencies to do before they adopt regulations. The judicial review is not necessary for enforcement. The review requirements can be enforced by the White House during OMB review. The requirement can also be enforced through congressional oversight.

Before EPA developed its proposal to regulate emissions from municipal incinerators, EPA consulted with the Conference of Mayors, the National League of Cities, and the National Association of Counties.

Before the Department of Education proposed a regulation relating to vocational training for disadvantaged students, the Department held public meetings with State and local education officials.

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Before proposing rules affecting housing on tribal lands, HUD met with many tribal authorities. In fact to assure compliance with the Executive order, OMB has sent several regulations back to the agencies for failure to consult with all of the State and local governments that were appropriate.

For instance, EPA regulations controlling emissions from municipal landfills were sent back to EPA for this reason. Likewise regulations to improve water quality in the Great Lakes were sent back to EPA for that same reason.

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

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

Mr. WAXMAN. Mr. Chairman, in other words, we ought not to provide a judicial review as the way to enforce that the analysis be done. OMB has that role as they look at regulations coming from that agency and they have required the agencies to go back and review these things if they felt a satisfactory review did not take place.

In fact, the Director of OIRA, the Office of Information and Regulatory Affairs at OMB, Sally Katzen, has informed us that she is not aware of a single complaint with a State, local or tribal authority since the adoption of the Clinton Executive order, which has the same purpose as this legislation would in this regard.

So the point is the Executive order is working without judicial review. The idea of judicial review can be very troublesome for the regulations to be settled with certainty. There are industries that can be affected by that uncertainty, and the public interest has been certainly adversely affected by that uncertainty and the lengthy litigations to be followed.

It would be far better to see if there is a problem in reality before we have a judicial review provision that could have the consequence I fear.

So I stand in support of this amendment with the statement that I want to make very clear on the RECORD that I do not think it needs to go as far as we need to have us go on this very issue.

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

Mr. Chairman, first let me say in response to the comments from my colleague from California that I appreciate him bringing this issue to the floor, for bringing it to the attention of the sponsors of the legislation. I think we worked responsibly with the gentleman from Virginia [Mr. MORAN], with the gentleman from California, and others to try to address at least the major concerns that have been raised on the floor, and I think it was a healthy process.

I happen to believe in the end we have ended up with the right mix. We have judicial review, which I think is necessary to put teeth into agency requirements in title II.

Just to remind my colleagues again, these requirements are less burdensome on the agencies than those found in the Executive order which is currently in place.

I would also just very briefly talk to the issue of the standard which the courts will apply that the agency action must be arbitrary and capricious standard, which is very high. I quote from Judge Scalia with regard to the issue the gentleman raises:

> The scope of review under the "arbitrary and capricious" standard is narrow and a court is not to substitute its judgment for that of the agency. This is especially true when the agency is called upon to weigh the costs and benefits of alternative policies since such cost-benefit analyses epitomize the types of decisions that are most appropriately entrusted to the expertise of an agency.

I think that is very important, and I think I would agree with the gentleman from California, we do not want to needlessly tie things up in court. We want to defer to the agency expertise. The gentleman has raised a number of important concerns, and I believe given that standard which was just quoted, which is the common practice of the courts, that we would not be in such a position.

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

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

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding on that point. I think it is a helpful one for us to have on the record and I do want to express to the gentleman and the chairman of the committee my appreciation for their willingness to explore this issue with me. I regret that we were not able to reach full agreement on it. I think we have come to a compromise, and perhaps we can continue to look at the issue as this legislation moves forward. But I do express the good spirit in which the gentleman engaged us in this issue to try to come up with what is the best public policy.

Mr. PORTMAN. Reclaiming my time, I thank the gentleman. Again, I think we have done this in a way where we end up with the kind of teeth in the legislation, H.R. 5, many of us on this side feel is necessary to make sure these requirements are carried out.

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

Mr. PORTMAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding. I want to say the gentleman from California [Mr. WAXMAN] has clearly stated his position that he does not believe judicial review should apply at all, and I understand the position and I respect the reasons he has given. However, I believe no judicial review ultimately means no enforcement.

However, the concerns that have been raised have been legitimate concerns. And I think the gentleman from Virginia [Mr. MORAN] in his amendment has tried to tighten this bill and tighten judicial review, so we hope to avoid even the prospect of some of the problems that might have arisen due to judicial review, as remote in my judgment as they may have been. I think the amendment strengthens the bill, and I support the amendment of the gentleman from Virginia.

I yield back to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman from New Mexico.

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

Mr. Chairman, I reluctantly support the amendment of the gentleman from Virginia, because I, too, do not think it goes far enough. If this bill is subject to judicial review, we should rename it the Lawyers Relief Act of 1995.

Any new regulations issued pursuant to the bills covered by H.R. 5 could be tied up in court for years. The Senate provision, which is the same as the original contract, would preclude judicial reviews, and I urge my colleagues to look at the Senate provision very carefully. It carries out the language of the contract. It favors review but it does not favor lawyers and litigation.

New cottage industries on mandate law will suddenly spring up all over the country. Courses in mandate will be required to graduate from law school. The Civil Division at the Department of Justice will have to increase the number of lawyers it hires in order to keep up with the rising workload. Anyone remotely familiar with civil litigation knows that that agency regulations could easily be tied up in court for years. Delays, postponements, discovery, motions, and trials would make the swift implementation of agency regulations next to impossible. Meanwhile, the American people would be left out without vital health and safety protection.

How important are these regulations?

Well, I think one example will suffice. Just ask the parents of children who have died of E. coli bacteria about the need for new mandated requirements with State governments for meat inspection. The President and Vice President are continuing a historic effort to reinvent Government. Part of this effort involves streamlining and simplifying the Federal regulatory process.

It also involves making the Federal Government respond more quickly to the needs of the American people. Yet much of the progress that has been made already by the President will be undone if all of the Government actions are subject to judicial review.

The Federal Government will become entangled in an endless array of needless and confusing regulatory requirements in an effort to protect itself from being sued.

Those who support judicial review argue that it is needed to ensure that Federal agencies comply with the requirements of this act. But there are other more effective ways to guarantee compliance. One way is the congressional oversight process, and that is what our committee is: Government Reform and Oversight.

The Constitution confers on the Congress the responsibility to oversee the operations of the Federal Government. Congress has also been given a vast arsenal of weapons to oversee agencies' compliance with Federal law, including subpoena power and the power to command the appearance of witnesses to testify in public hearings, and the power to get access to most agency documents.

Second, we have the appropriations process, the power of the purse. An agency's failure to comply with Federal law can be met with a reduction in funding for that agency. I can think of no more powerful tool to enforce the requirements of this bill.

Many supporters of the no funding, no mandates provisions in this bill should also be concerned if it is undermined by judicial review.

Suppose during a fiscal year the Committee on Appropriations fails to fully fund a mandate, triggering the bill's requirement that the responsible agency reduce the responsibilities of State and local governments. Judicial review will prevent that reduction from going into effect. This will leave State and local governments with less money while performing the same duties for years, while the issue is resolved in court.

Tying up the executive branch with costly litigation is not an appropriate remedy for the problem of compliance. Compromising health and safety regulations because of legal gridlock is extremely dangerous.

And again, I am going to support the amendment by the gentleman from Virginia [Mr. MORAN], but I sure do not think it goes far enough.

Mr. Chairman, I yield back the balance of my time.

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

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

Mr. GOODLING. I yield to the distinguished chairman, the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, just to clarify what may not have been clarified, and that is that as the chairman of the committee I do support the gentleman's amendment wholeheartedly.

Mr. MORAN. Mr. Chairman, if the gentleman will yield, I very much thank the gentleman for that clarification.

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Mr. GOODLING. Mr. Chairman, there was a time in the history of this Congress when they believed that people back home would believe whatever we say and whatever we say we did rather than really tell them the way it is. Fortunately for this country that time is gone forever.

I can remember a gentleman that I came with to Congress, and I used to say to him, "I do not understand the philosophy you espouse here, because it seems to be totally opposite of your constituency." He said, "My constituents believe what I tell them." Well, as I said, fortunately that is gone. I mention that simply because I am glad an accommodation was worked out, because as the gentleman from Virginia said, I feel very strongly about judicial review. I feel very strongly because nothing is going to happen if that threat is not there.

When we presented the bill a couple years ago, I and others asked the CRS to comment on what it is we were doing in relationship to judicial review. We asked three specific things: How judicial review would apply to sections 201, 202, and 203; what impact this would have on the regulatory process, whether agencies would have to comply with the stipulations stated in sections 201, 202, 203, if section 201, page 15, lines 22 through 24, were removed.

I am convinced in their response that we are on the right track and we are on the right track when we sent out the Dear Colleague, and I would like to read just a portion of that Dear Colleague:

> As you may recall, President Jimmy Carter signed the Regulatory Flexibility Act into law September 19, 1980. The new law requires agencies to consider the special needs and concerns of small entities whenever they engage in rulemaking subject to the notice and comment requirements of the APA or other laws. Each time an agency was to propose a rule in the Federal Register, it was also supposed to publish a regulatory flexibility analysis. This RFA would describe the impact of a proposed rule on small entities, which includes small business, organizations, and governmental jurisdiction.

Well, to make a long story short, provided in this was also an indication that judicial review would not apply. The end result was, as history will show, that the agencies paid no attention whatsoever to the RFA. They just ignored it completely, and so it meant that the act had no teeth and, therefore, the act was totally worthless.

That was my fear with this legislation, that we would have this wonderful shell out there as if we were really doing something big, but they would not have the opportunity for judicial review. In return, the agencies would pay no attention whatsoever.

Now, you see, the history of judicial review would indicate to us that there is no standing only line out there where everybody is rushing in trying to get into the judicial review process. It is so difficult that very seldom is it ever used.

So, again, I am glad that we have come up with some accommodation. I hope we are strong enough, because I feel very strongly that without it this is a worthless, toothless piece of legislation.

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

Mr. Chairman, I rise in strong support of this amendment and the compromise that has been reached with this piece of legislation.

When I first ran for Congress, I realized in talking to my constituency that there is a real problem with excessive regulation, and there is a real problem, because the Federal Government was not listening to the little guy, to the small business, to the units of government that do not have large legal staffs or big budgets. When I came to this body then, I thought what can we do about it. I looked into it, and I found that we had the Regulatory Flexibility Act, and I read that act. I thought, "This should work. This should be a big help."

And then I said, "Why is it not working?" Well, I was told very quickly that it was not working because of the boilerplate language in that act that says that any agency can say the act does not apply to this rule and regulation and move right ahead as if no analysis was needed.

What was the response from those being regulated? It was there was no judicial review.

Ladies and gentlemen, judicial review is imperative unless we want to project on the American people another cruel hoax that we are doing something to help them overcome regulation and yet we are not.

So this is an excellent compromise. I think that it is excellent that we are going to do this and send it to conference, and we can discuss that with the Senate side and hopefully we will come up with judicial review that will protect the little guy, the small business, the small unit of government.

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

The CHAIRMAN. The gentleman has had prior recognition.

Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I rose before to strike the last word, and I rise in support of the amendment now.

I do so to clarify for the RECORD that the General Accounting Office was asked to review what is called the Reg Flex Act to see whether the regulatory flexibility regulations are in fact being enforced by the executive branch, and they came back with a report which I would insert in the RECORD following my remarks that some agencies have in fact complied.

The Environmental Protection Agency, which is a target of much of the debate here today, they said had complied. Where there was noncompliance, the reasons were many, not, they pointed out, because there was a lack of judicial review, but because the Small Business Administration had not issued guidance, or the OMB had not established procedures to enforce the Regulatory Flexibility Act. They did not say that a judicial review was recommended or required in order for the Regulatory Act to work. I want to make that point clear.

Because I do not think judicial review is advisable as a part of enforcement of these proposals.

Mr. Chairman, the GAO report is included at this point in the RECORD, as follows:

> U.S. GENERAL ACCOUNTING OFFICE,
> *Washington, DC, April 27, 1994.*
>
> Hon. JOHN J. LAFALCE,
> *Chairman, Committee on Small Business, House of Representatives.*
>
> Hon. JOHN GLENN,
> *Chairman, Committee on Governmental Affairs, U.S. Senate.*
>
> This letter is in response to your requests that we evaluate federal agencies' implementation of the Regulatory Flexibility Act of 1980 (RFA), codified in Title 5 of the U.S. Code.[1] Specifically, you asked that we (1) review the Small Business Administration's

[1] 5 U.S.C. 601-612.

(SBA) annual reports on agency compliance with the RFA and generalize from the reports about which agencies were and were not implementing the RFA in an effective manner and (2) review SBA annual reports and related documents on the extent to which agencies have complied with the RFA requirement that they periodically examine their rules (section 610 of Title 5).

BACKGROUND

The RFA requires federal agencies to assess the effects on their proposed rules on small entities. According to the RFA, small entities include small businesses, small governmental jurisdictions, and small not-for-profit organizations. As a result of their assessments, agencies must either (1) perform a regulatory flexibility analysis describing the impact of the proposed rules on small entities or (2) certify that their rules will not have a "significant economic impact on a substantial number of small entities." The RFA does not define "significant economic impact" or "substantial number," but does require the regulatory flexibility analysis to indicate the objectives of the rule and the projected reporting, recordkeeping, and other compliance requirements. Agencies must also consider alternatives to the proposal that will accomplish the agencies' objectives while minimizing the impact on small entities. The RFA also requires agencies to publish a semiannual regulatory agenda that describes any prospective rule that is likely to have a significant effect on a substantial number of small entities.

Section 612 of Title 5 requires the SBA Chief Counsel for Advocacy to monitor and report at least annually on agency compliance with the RFA.[2] SBA's primary method of monitoring agencies' compliance is to review and comment on proposed regulations when they are published for notice and comment in the Federal Register during the federal rulemaking process. The Chief Counsels have issued 12 annual reports on RFA compliance since 1980.[3] The reports discuss some, but not all, federal agencies' RFA compliance.

RESULTS IN BRIEF

The SBA annual reports indicated agencies' compliance with the RFA has varied widely from one agency to another. Some agencies (e.g., the Environmental Protection Agency) were repeatedly characterized as satisfying the RFA's requirements, while other agencies (e.g., the Internal Revenue Service) were viewed by SBA as recalcitrant in complying with those requirements. Still other agencies' RFA compliance reportedly varied over time (e.g., the Federal Communications Commission) or varied by subagency (e.g., the U.S. Department of Agriculture). The same lack of uniform compliance is reflected in SBA documents regarding the section 610 requirement that agencies periodically examine their rules. Some agencies had developed plans for the review of their regulations and had acted on those plans, while other agencies had neither developed plans nor taken any action.

One reason for this lack of compliance with the RFA's requirements is that the RFA does not expressly authorize SBA to interpret key provisions in the statute. Also, the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, and SBA has not issued any guidance to federal agencies defining key statutory provisions. Finally, the RFA does not authorize SBA or any other agency to compel rulemaking agencies to comply with the act's provisions. The Office of Management and Budget (OMB) said that it has helped to ensure RFA compliance during the rulemaking process whenever SBA has notified OMB of SBA's concerns regarding an agency's RFA compliance. However, OMB's ability to ensure RFA compliance has been limited because SBA does not normally notify OMB of SBA's RFA concerns when it comments on agencies' proposed rules. Also, OMB has no established procedures in its review process to determine whether agencies have complied with the RFA. Finally, OMB cannot review rules from independent regulatory agencies or agricultural marketing orders.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine which agencies SBA's annual reports and other documents (1) frequently indicated were and were not implementing the RFA in an effective manner and (2) indicated were and were not complying with section 610 of Title 5. To accomplish these objectives, we reviewed the annual reports of the SBA Chief Counsel for Advocacy for 1981 through 1992; correspondence from SBA and various agencies regarding section 610 activities; and related hearing records, reports, and other RFA-related materials. We also obtained information on the RFA and the regulatory process from officials at both SBA and OMB. We did not make an independent determination of agencies' RFA compliance. Any characterizations of particular agencies in this report are directly attributable to SBA. We discussed the results of our work with the SBA Chief Counsel for Advocacy and officials, including the Deputy Administrator, from the Office of Information and Regulatory Affairs at OMB in March 1994 and incorporated their comments where appropriate. We conducted our review from September 1993 to February 1994 at the Washington, D.C., headquarters offices of SBA and OMB. The review was conducted in accordance with generally accepted government auditing standards.

SBA REPORTS INDICATE VARIABLE AGENCY COMPLIANCE WITH THE RFA

The SBA annual reports we reviewed did not evaluate all federal agencies' compliance with the RFA.[4] Only the Environmental Protection Agency's compliance record was specifically mentioned in all 12 reports. Five other agencies—the U.S. Department of Agriculture (certain subagencies), the U.S. Department of Labor, the Federal Communications Commission, the Internal Revenue Service, and the Securities and Exchange Commission—were mentioned in at least 8 of the 12 reports. At the other extreme, some agencies (e.g., the U.S. Departments of Education, Energy, Housing and Urban Development, Justice, State, and Veterans Affairs) were either not mentioned in any annual reports or were only rarely mentioned. The SBA Chief Counsel said that differences in the degree to which agencies were mentioned in the reports are primarily due to differences between the agencies in their levels of regulatory activity. For example, the State Department issues very few regulations that affect small entities.

The Chief Counsel said SBA normally becomes aware of the specifics of a proposed rule when it is published for notice and comment. If SBA believes the rulemaking agency has not adequately considered the effect of the proposed rule on small entities, the Chief Counsel said SBA will send the agency written comments. However, the Chief Counsel said that SBA does not usually send OMB a copy of their compliance concerns. OMB officials said that SBA officials have occasionally called them on the telephone regarding certain agencies' RFA compliance and, in those instances, OMB has taken SBA's views into consideration during its reviews and helped ensure RFA compliance. For example, they said that if SBA official told them that a rulemaking agency should have conducted an RFA analysis, OMB would ask the agency to show why an analysis was not done before permitting the proposed rule to be published in its final form.

CONCLUSIONS

Our review of SBA's annual reports and other documentation indicated that some agencies have not complied with the RFA as interpreted by the SBA Chief Counsel for Advocacy. We believe that the reasons for this apparent lack of compliance include the following: (1) the RFA does not expressly authorize SBA to interpret the act's key provisions, (2) the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, (3) SBA has not issued any guidance to federal agencies defining key statutory provisions in the RFA, and (4) the RFA does not authorize SBA or any other entity to compel rulemaking agencies to comply with the act's provisions.

OMB can help ensure certain rulemaking agencies' compliance with the RFA by reviewing and commenting on those agencies' significant regulatory actions pursuant to its responsibilities under Executive Order 12866. OMB can return most regulatory actions to agencies for further consideration if it believes the actions are inconsistent with the RFA. However, OMB's authority to play an enforcement role is limited in several respects. OMB cannot review rules proposed by independent regulatory agencies and cannot return agricultural marketing orders to AMS. Also, OMB does not have established criteria or procedures to determine whether agencies have complied with the RFA. Finally, while SBA reportedly notifies rulemaking agencies in writing of its RFA concerns during the rulemaking notice and comment period, it does not normally provide OMB with a copy of those concerns and only occasionally telephones OMB about SBA's compliance concerns. Therefore, OMB's ability to ensure agencies' RFA compliance is diminished because it is often unaware of SBA's concerns regarding an agency's compliance.

MATTERS FOR CONSIDERATION OF CONGRESS

If Congress wishes to strengthen the implementation of the RFA, it should consider amending the act to (1) provide SBA with clearer authority and responsibility to interpret the RFA's provisions and (2) require SBA, in consultation with OMB, to develop criteria as to whether and how federal agencies should conduct RFA analyses. Congress could also consider focusing its RFA oversight on the independent regulatory agencies and agricultural marketing orders over

[2] There have been several Chief Counsels since the RFA was enacted, some of whom served as Acting Chief Counsels. In this report, the Acting Chief Counsels are referred to as "Chief Counsels."

[3] The first report for 1981 was provided on October 7, 1981, in testimony before the Subcommittee on Export Opportunities and Special Small business Problems of the House Committee on Small Business. Reports for 1989 and 1990 were not prepared until 1992. All reports were prepared the year after the subject year. The report for 1993 is scheduled to be published in mid-1994.

[4] All but the first report contained an appendix listing selected comments filed by the Office of Advocacy regarding agencies' proposed rules during the year. These listings did not, however, evaluate agencies' compliance with the RFA.

which OMB's review and comment authority is limited.

RECOMMENDATIONS

We recommend that the OMB Director, in consultation with SBA, establish procedures OMB can use to determine agencies' compliance with the RFA. These procedures should be incorporated into OMB's processes for reviewing regulations before they are published for notice and comment and before they are published in final. We also recommend that the SBA Administrator direct the SBA Chief Counsel for Advocacy to send OMB a copy of any written notification of RFA noncompliance the Chief Counsel sends to an agency.

AGENCY COMMENTS AND OUR EVALUATION

We provided a draft of this report to the SBA Chief Counsel for Advocacy and discussed the report with her on March 23, 1994. She suggested certain technical changes, which were incorporated into the final report. Overall, she said she agreed with the report's conclusions and recommendations. She said SBA welcomes clarification of its authority to interpret RFA provisions and will work with OMB to develop criteria and procedures for agency compliance with the act. The Chief Counsel also said that she will send OMB a copy of any written notifications of RFA noncompliance she sends to agencies during the rulemaking process.

We also provided a draft of the report to the Administrator of the Office of Information and Regulatory Affairs at OMB and discussed the report with her staff on March 3, 1994. The Deputy Administrator said OMB has no objection to any changes in the statute or in the rulemaking process that would strengthen its position in ensuring RFA compliance. He also said OMB would work with SBA to develop criteria and procedures for determining RFA compliance. Finally, he said that if the SBA Chief Counsel notifies OMB during the rulemaking process that an agency is not complying with the RFA, OMB would discuss the issue with the agency before concluding its review of any final regulations.

We are sending copies of this report to the SBA Administrator, the SBA Chief Counsel for Advocacy, the OMB Director, the Administrator of the Office of Information and Regulatory Affairs at OMB, interested congressional committees, and others who may have an interest in this matter. Copies will also be made available to others upon request.

The major contributors to this report are Charles I. Patton, Jr., Associate Director, Federal Management Issues, General Government Division; Curtis W. Copeland, Assistant Director, Federal Management Issues, General Government Division; and V. Bruce Goddard, Senior Attorney, Office of the General Counsel. If you have any questions or require any additional information, please call me on (202) 512-8676.

WILLIAM M. HUNT,
Director, Federal Management Issues.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. PRYCE

Ms. PRYCE. Mr. Chairman, I offer an amendment, No. 106 as printed in the CONGRESSIONAL RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PRYCE: At the end of title II insert the following:

SEC. 206. ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE WITH REQUIREMENTS OF TITLE.

Not later than one year after the effective date of title III and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, written statements detailing the compliance with the requirements of sections 201 and 202 by each agency during the period reported on.

Ms. PRYCE. Mr. Chairman, the amendment that I am offering, along with my friend, the gentleman from California [Mr. CONDIT], is designed very simply to strengthen regulatory accountability and improve congressional oversight of executive branch agencies.

To insure that Federal agencies are not skirting the intent of this legislation, our amendment would require the Office of Management and Budget to provide Congress with annual written statements detailing each Federal agency's compliance with the requirements set forth in title II. Our proposal would allow the Committee on Government Reform and Oversight and its sister committee in the Senate to conduct greater oversight of Federal agencies.

The amendment is not meant as a substitute for judicial review, nor is it incompatible therewith.

Our amendment would merely give Congress a reliable status check on how well agencies are complying and whether any modifications are needed.

Without this amendment, I fear agencies may regard these requirements merely as obstacles to overcome, rather than a standard to be diligently applied.

This amendment provides real teeth go into title II of this legislation. Accountability should be part and parcel of the work that every Federal agency performs.

Too often, bureaucracies take on a life of their own, and in the process they lose sight of the original intent of the legislation.

We have all heard the horror stories about regulatory abuses by overzealous bureaucrats. This amendment would help ensure that State and local governments and the private sector are protected from future abuses.

State and local governments are valuable coregulators. They help carry out the purposes of many Federal laws, and their perspectives should be invited and heard.

This legislation and our amendment would force Federal agencies to recognize that mandates impose real costs on taxpayers and consumers alike. If for some reason agencies choose to ignore the requirements in title II and avoid coming to this realization, then they will have to justify their actions before this Congress.

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Mr. Chairman, I would like to thank my friend from California for his strong support for this common sense, good government amendment. I urge its adoption.

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

Ms. PRYCE. I yield to the gentleman from California.

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

Mr. Chairman, I would like to say that my Rules Committee colleague has done a superb job. The gentlewoman mentioned my friend from the other part of California who is a coauthor of this amendment, but I would like to associate myself with the words of the gentlewoman and state that accountability is key here, and enhancing the ability for reporting back to us from the agencies is I think a very important part of this whole goal of trying to reduce this extraordinary burden which is shifted from Washington onto the shoulders of State and local governments.

I would like to again say how proud I am of the fine work my friend from Columbus is doing on the Rules Committee and this amendment is clear evidence of that.

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

Ms. PRYCE. I yield to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman's amendment is going to do much to shed light on how this whole bill is going to work. It is going to provide Congress with the administrative material to comply with H.R. 5. The information is going to be of interest to the President as well, since much of this is what is required by the President through his Executive order, and I believe this affords the Congress strong oversight. I think it is a very valuable addition to what we are trying to accomplish in H.R. 5. It does clarify what is required, and I am glad to support the gentlewoman.

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

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to comment on my colleague from Ohio's amendment. I would like to thank the Rules Committee for helping us to perfect the legislation. This is a good example of that. It provides a very important feedback loop back to the authorizing committees from the agencies that I think is really critical in order for the structure of H.R. 5 to work properly, and I congratulate the gentlewoman.

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

Ms. PRYCE. I am happy to yield to the gentleman from California.

Mr. CONDIT. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment and say this is one of the good amendments that would force Congress to revisit this issue so it does not get away from us. It forces us to reevaluate the program, whether or not it is working, so we can take corrective actions if we need to do so.

I commend the gentlewoman for her thoughtfulness in bringing up this amendment, and I have enjoyed working with her on it.

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

Ms. PRYCE. I yield to the gentlewoman from Illinois [Mrs. COLLINS].

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

Mr. Chairman, I have reviewed the amendment and support it.

As I said earlier, congressional oversight of agency compliance with title II is an important mechanism that should be used to make title II effective.

It is a less costly and more effective oversight tool than the courts.

I recognize it is not being offered as a substitute for judicial review, but I still support it as a useful amendment.

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

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. TRAFICANT. I thank the gentlewoman for yielding.

Mr. Chairman, I think this is a very good perfecting amendment. It not only is common sense, it is good government. I think the gentlewoman brings that record to the Congress, and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. PRYCE].

The amendment was agreed to.

AMENDMENT, AS MODIFIED, OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment, and I ask unanimous consent that it be considered as read and printed in the RECORD.

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

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, we would like to know the number of the amendment.

Mr. ALLARD. Mr. Chairman, if the gentlewoman will yield, it is No. 26.

The CHAIRMAN. It is the Chair's understanding that this is a new form of the amendment.

Mr. ALLARD. This is a modification of amendment No. 26. We cleared it with the Clerk, and it was determined that the best way for everybody to understand where we were at this point was just to move the amendment. But it is a modification of amendment No. 26.

The CHAIRMAN. The amendment, as modified, is required to be read.

Is there objection to dispensing with the reading of the amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve a point of order until we find out what the modification is.

The CHAIRMAN. The point of order is reserved.

Mr. ALLARD. Mr. Chairman, I have no objection to reading the amendment. It is a very short amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] withdraws his request, and the Clerk will report the amendment.

The Clerk read as follows:

Amendment, as modified, offered by Mr. ALLARD: In section 202(a) in the matter preceding paragraph (1), strike "prepare a written statement containing—" and insert "prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—".

Mr. ALLARD. Mr. Chairman, I rise in support of H.R. 5 and also the amendment, as modified. I want to note that according to my understanding, the amendment, as modified, is now acceptable to the sponsors of H.R. 5.

The Unfunded Mandates Reform Act of 1995 is a piece of legislation whose time has come. However, as currently written, H.R. 5 will not prohibit certain regulations that could impose an unfunded mandate on States and localities. That is why Mr. GRAHAM of South Carolina and I are offering this amendment to tighten H.R. 5.

Our amendment requires regulatory agencies to identify the statutes that give the agencies specific authority to issue a regulation that imposes a mandate on State and local government and the private sector. This helps to ensure that executive agencies cannot escape the scrutiny of H.R. 5 by issuing general regulations that impose an unfunded mandate.

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

Mr. ALLARD. I yield to the chairman of the committee.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the amendment. President Clinton's Executive order contains a very similar kind of requirement that a regulatory plan must include a statement of the statutory basis by which the plan is being carried out, and I think this clarifies that the intent is we are not trying to do anything extralegally. We are trying to ensure that what does happen here is going to be done according to statute. I think it is a welcome addition to the bill.

I would urge my colleagues to support the Allard-Graham amendment.

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

Mr. ALLARD. I yield to the gentleman from South Carolina.

Mr. GRAHAM. I thank the gentleman for yielding.

Mr. Chairman, this amendment is the kind of amendment that embodies the idea of government, a very simple idea but an important idea. Almost every municipality or county government in my district is affected by an unfunded regulatory mandate. What we are trying to do now is for the regulatory agency to tell us where the authority exists to regulate, to begin with. A big problem in this country is that agencies get off and running with these statutes and we are trying to rein them in.

I come from a town of 2,000 people. Let me tell you what happened to a town of 2,000 in central South Carolina because of a regulatory mandate situation.

The water bill went up 80 percent, we spent $16,000 to test the water through a government mandate that could have been done for about $2,000 from a private firm. We had to pay $5 million to upgrade their water system, to test for contaminants not native to South Carolina.

It is about time we started doing something about it, and this is a good step.

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

Mr. ALLARD. I yield to the gentleman from North Carolina.

Mr. BURR. I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the Allard-Graham amendment. I believe that this amendment will halt overzealous regulators that pass unfunded mandates to our local communities. This amendment strengthens H.R. 5, by forcing Federal regulators to be fiscally responsible as well. Under this amendment, regulators will be required to reference a specific law before passing unfunded mandates onto the State and local officials.

In my district, I had a county commission that was forced to raise taxes on its citizens, not from an unfunded Federal mandate, but from an unfunded regulatory agency mandate. In Caldwell County, the Environmental Protection Agency forced the commission to place a clay liner on its land fill. Protection was not at issue. Instead, the issue was why a clay liner? Why was it necessary to use a material not available in the area? Why not look for and use an equally reliable material to reduce the $6 million cost to this community? And most important, what law gave the EPA the right to mandate this community? The fact is, a lack of legislation allowed this to occur. By supporting the Allard-Graham amendment, you can put an end to this "taxation without representation".

Mr. Chairman, I urge strong support for this amendment.

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

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

Mr. MORAN. I thank the gentleman for yielding.

Mr. Chairman, I rise at this time only to withdraw the point of order reservation made by the gentlewoman from Illinois [Mrs. COLLINS].

The CHAIRMAN. The reservation of the point of order is withdrawn.

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

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

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's amendment. It is a good amendment. It is the kind of clarification that we need. I would also like to thank the gentleman from South Carolina [Mr. GRAHAM] for working closely with the sponsors of the legislation and with the chairman of the committee to come up with a proposal that I think fits with the broader scheme of H.R. 5.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. ALLARD].

The amendment, as modified, was agreed to.

□ 1410

AMENDMENT OFFERED BY MR. OXLEY

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

The CHAIRMAN. The Clerk will designated the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY:

SECTION 205. CLARIFICATION OF MANDATE ISSUE AS TO GREAT LAKES WATER QUALITY GUIDANCE.

Section (c)(2)(C) of the Federal Water Pollution Control Act (33 U.S.C. Section 1268(c)(2) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the requirement that the States adopt programs 'consistent with' the Great Lakes guidance shall mean that States are required to take the guidance into account in adopting their programs for waters within the Great Lakes System, but are in no event required to adopt programs that are identical or substantially identical to the provisions in the guidance."

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

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] reserves a point of order against the amendment.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I would like to bring to the attention of my colleagues another example of an unfunded mandate under the Clean Water Act which will cost my constituents millions of dollars. The issue is the proposed Great Lakes water quality rule from the U.S. EPA which is expected to be finalized in early March.

The Great Lakes Critical Programs Act requires EPA to issue guidance concerning certain water quality regulatory procedures, and then requires the Great Lakes States to adopt requirements that are consistent with that guidance. However, when EPA issued its proposed guidance, that document was actually a binding regulatory mandate instead of the guidance that the act requires. If fact, EPA clearly indicated that it wants all of the State programs, to be identical to the Federal rule.

EPA's intention to issue a binding regulation rather than guidance with respect to the Great Lakes is inconsistent with congressional intent. Also, by taking away any flexibility for a State to develop a program that is appropriate for its own situation, EPA would violate the basic federalism principles that are at the heart of the Clean Water Act. Again, the Federal Government would be imposing an unfunded mandate on the States.

This mandate will result in unfunded compliance costs in excess of $2 billion per year and potential loss of 33,000 jobs without producing meaningful toxic reductions.

Several cities in my district surveyed their own municipal water treatment operations and looked at the additional regulatory controls needed to control mercury under the proposed Great Lakes water quality rule. The survey, based upon mercury only, shows that it would cost Bucyrus, OH, population 14,000, $13.6 million to comply with the proposed rule. Mansfield, OH, population 50,000, would pay $29.1 million and Lima, OH, population 43,000, would pay $89 million.

In terms of household taxes, the town of Lima has estimated an increase of $207 in taxes to pay for the costs of the water treatment program. In later years, as the rule is fully implemented, the town of Lima estimates that the household tax will increase to $1,147 per home per year.

This is an incredible increase in local taxes for a federally mandated program from EPA. These costs are in addition to what Lima taxpayers already pay for safe drinking water controls and Clean Water Act controls on mercury. The Federal Government and EPA cannot expect towns like Lima to spend millions of additional dollars when the results will demonstrate little environmental improvement.

EPA has simply gone too far. The 1986 reauthorization of the Clean Water Act did not ask EPA to propose a rule on these pollutants to improve the Great Lakes Basin. In fact, the act simply called for the EPA to issue guidance to the States surrounding the Great Lakes.

The Great Lakes States want to fix the toxics problem, not just throw money at it. My amendment would require that the EPA issued guidance which could be used in a flexible manner as the States choose.

If we are to keep our promise we made with the people, we must not force the costs of the Great Lakes initiative on the cities and States. Including this initiative in the unfunded mandates reform would prevent if from being issued as a regulation. It is my hope that if we cannot resolve this matter today, Congress will move quickly to fix the Great Lakes water quality initiative. While well-intended, this proposal is an unproductive and expensive detour around the real environmental solutions.

Mr. CLINGER. Mr. Chairman, I am going to have to insist on my point of order because I think the amendment is not germane. I do appreciate the gentleman from Ohio [Mr. OXLEY] taking the time to raise this very important issue. I would like to assure the gentleman that I am aware of and sensitive to the impact that the Great Lakes water quality initiative is going to have on municipalities and industries all across the Great Lakes region.

My district does not border on the Great Lakes. My hometown of Warren is only an hour's drive from Erie, PA, and, according to a study conducted by the Great Lakes Quality Coalition, the EPA's new binding regulatory mandates could cost Erie, PA $119 million. Also the General Electric plant in Erie expects GLI's regulation to cost $50 million.

National Forge, a major employer in my district, manufactures crankshafts for approximately 900 engines built annually in G.E.'s Erie plant, and the G.E. plant accounts for nearly 20 percent of National Forge's business, and the ripple effect of these costly mandates could force layoffs, or worse, relocation of National Forge.

Another company affected by these new regulations that has significant presence in my district is International Paper. The cost of compliance to I.P.'s mill at Erie could reach $30 million.

Although the Pennsylvania Department of Environmental Resources states it would not impose the new regulations statewide, the Lock Haven mill in my district could be indirectly affected since the Erie mill supplies wood pulp to Lock Haven.

So, as the gentleman could see, I, too, have some concerns about EPA's new regulations and very much appreciate his bringing this to our attention and would like to work with the gentleman to address this very important issue, but must insist, I think, on my point of order in this regard.

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Ohio [Mr. OXLEY], the author of the amendment to H.R. 5, for his efforts in bringing this issue to the floor.

I support this proposal which seeks to clarify the original legislative intent in the Federal Water Pollution Prevention and Control Act of 1990. The language in this act requires the

States to institute water quality programs consistent with the Environmental Protection Agency's Great Lakes guidance, but in no way requires the States to adopt regulations which identically comply with the specific elements of the Great Lakes guidance.

Accordingly, Mr. Chairman, it will be helpful to clarify the intent of this section of the Federal Water Pollution Prevention and Control Act.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

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

Mr. Chairman, I rise in opposition to the amendment that was just withdrawn by the gentleman from Ohio [Mr. OXLEY], and I take the time of the House to speak on this because it is such an important issue to those of us who reside on the Great Lakes.

The Great Lakes are the largest single body of fresh water in the world. They are an important environmental and economic resource for this Nation and for those of us who live on their borders.

In 1990, we passed the Great Lakes Critical Programs Act which included a measure to level the playing field of all States that border the Great Lakes. The Great Lakes Water Quality Initiative, or the GLI as it is known, requires Great Lakes State governments to develop and adopt uniform water quality standards, and it is imperative that the overall mission of the GLI not be undermined by the amendment that we were about to consider. This is a classic case where the Federal Government is needed to ensure that each State is playing by the same rules, that we have a level playing field, that one State does not disadvantage another State.

The GLI eliminates the competitive advantage a State might derive by setting relaxed pollution standards. Now different States share resources, and one has a different approach to managing the resources than another. Who mediates the dispute? Logic would suggest the Federal Government.

I do not always agree with my Governor, Gov. John Engler of Michigan, but in this case he understands the need to replace conflicting water pollution control rules that widely vary from State to State with a uniform comprehensive and enforceable set of standards, and in this instance I hope that others of his party will follow his lead in the future.

While I do not believe this amendment is germane, and it obviously is not because it was withdrawn by the gentleman from Ohio [Mr. OXLEY] at the suggestion of the gentleman from Pennsylvania [Mr. CLINGER], I would have opposed it anyway. Good responsible governing does not try to gut every Federal rule that has ever been made. It is about resolving issues that States cannot resolve on their own. This is one instance where the Federal Government should and must intervene, and I hope, when this debate unfolds in the future, that we will remember this issue and we will not give up on a program that works, is needed and will help mediate the problems between the various Great Lakes States.

Mr. Chairman, I submit for the RECORD an editorial from the Detroit Free Press: "Ban on Federal Mandates May Even Hurt Great Lakes."

[From the Detroit Free Press, Jan. 30, 1995]

BAN ON FEDERAL MANDATES MAY EVEN HURT GREAT LAKES

If you want an example of the mischief that can be done in the name of heedlessly doing away with unfunded mandates, consider an Ohio congressman's move to throw out the proposed Great Lakes water quality standards.

The Great Lakes Initiative [GLI] has been painfully hammered out by business, regulators, governors and the environmental community. The result didn't satisfy everybody, but its stunning virtue is that it would apply the same rules to all players: Steel mills in Illinois, auto plants in Ohio and sewage plants in Wisconsin would have the same water quality rules as their counterparts in Michigan.

That protects the Great Lakes, and also eliminates the competitive advantage a state might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

That protects the Great Lakes, and also eliminates the competitive advantage a stage might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

Enter Rep. Michael Oxley, R-Ohio, with an amendment to the unfunded mandates bill that would turn the GLI into advisory guidelines, rather than rules. That would get Ohio off the hook and gut Great Lakes protection. And bad as the Oxley proposal is, it is only one of scores of similar amendments the trash-the-rules gang is lining up to tack onto the measure.

Clean lakes? Safe drinking water? Worker safety? Consumer protection? Not if the mandate-bashers have anything to say about it. Rep. Oxley's amendment emasculating the GLI is bad enough. A rigid, unthinking prohibition of any form of federal mandate would be far worse.

□ 1420

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. 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. TRAFICANT: In section 202(a), after "productive jobs," insert "worker benefits and pensions,".

Mr. TRAFICANT. Mr. Chairman, this amendment has been banged around a little bit. It has had quite a bit of scrutiny and review, but I think it is imperative that the amendment be understood and that we understand the importance of the amendment as it relates to unfunded mandates, working people, and the health of our economy.

This bill requires Federal agencies to examine a number of factors before promulgating regulations, but under this section where my amendment is in fact targeted, agencies are required to examine the effect of a proposed rule on the economy, the effect on productivity, economic growth, full employment, creation of productive jobs, and the impact on international competitiveness.

The Traficant amendment adds the impact on workers' benefits and their pensions. Let me say this: Many pensions in this country are underfunded. When a pension plan is underfunded, the Congress of the United States bails those pension plans out through the Pension Benefit Guaranty Corporation.

As we know, workers are worried sick around the country about many of these underfunded pension plans.

The Traficant amendment is not designed to impose any regulatory process on the insurance industry nor pension plans, but what the Traficant amendment says is that when we consider and when that group considers the impact of these unfunded Federal mandates on these respective elements under section 202(a)(4), they also look at its impact on the long-term effect on those health insurance plans and those pension plans.

The Pension Plan Fund of America is the major source of investment money that impacts our stock markets, our bond markets, and the viability of our economic community, and I believe that in fact to leave that out, to be silent on that, or to not address it specifically would be a failing of this bill.

I am a strong supporter of the bill, and I believe that we cannot separate these important areas from the other elements that are addressed specifically in the bill.

So I would ask the Members to support the amendment and to keep that amendment in that part of the bill which addresses the fact that it must be reviewed and considered in any other capacity as those other areas so delineated. I think if we are going to ask the agencies to examine those other areas, we would be remiss if we did not focus on those two main areas that so affect our economy.

With that, Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the amendment offered by my colleague, the gentleman from Ohio [Mr. TRAFICANT].

The gentleman from Ohio has been very active on this issue of making the bill a better bill. I think this amendment is a good amendment. I think he has tried to work it out with the majority and tried to do everything he can to make sure it fits in where it is supposed to fit. I commend the gentleman for his effort and his support on this issue. It has been greatly appreciated, and I ask the Members to support the amendment.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from California for his leadership on the bill.

Mr. Chairman, I now yield to the distinguished chairman of the subcommittee.

Mr. SCHIFF. Mr. Chairman, I want to say that as I understand the debate over the type of unfunded mandates we are talking about, I see them distant in the areas I can think of from the areas the gentleman is talking about.

However, the area of pension guarantees is so important that if there is any possibility that this legislation affects the areas the gentleman from Ohio is identifying, then I think it is important that we add his amendment to the bill as offered, and I accept the amendment and support it.

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the gentleman from New Mexico [Mr. SCHIFF].

Mr. Chairman, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding.

I certainly support the gentleman's amendment. It makes a lot of sense. It would add the words, "work benefits and pensions" after the words, "creation of productive jobs" as one aspect of private sector regulatory analysis.

Certainly regulations can affect productivity and jobs. They can create jobs or cost jobs. What is equally important is the impact upon the benefits and pensions of workers across the country. I find that the average worker is not just concerned about the security of his job or her job, but they are equally concerned about the security of benefits and the security of pensions which are increasingly being eroded.

The gentleman's amendment makes a lot of good sense. It focuses our attention and the agency's attention on this very important matter.

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

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

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

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

Mr. PORTMAN. Mr. Chairman, I thank my colleague, the gentleman from Ohio, for yielding, and I just want to thank the gentleman for educating us over the last several hours here on this very important issue. I thank the gentleman for his contribution to the debate.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's comments.

Before I complete my presentation, let me say this: It is not just the retirees and their pension plans I am concerned about. When those pension plans are impacted and that money dries up for investment in our economy, it impacts the active workers in our country as well.

Mr. Chairman, I appreciate the openness of the Members of the majority party in looking at this issue as broadly as they have. I appreciate their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

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

Mr. Chairman, I rise to protect my right to offer an amendment, amendment No. 14.

I understand a similar amendment has already been considered today, and I was not on the floor at that time. But I do, nonetheless, want to raise the issue.

Mr. Chairman, on page 17 of this bill it provides that each agency shall develop an effective process to permit elected officials or their designated representatives of State, local, or tribal governments to provide meaningful and timely input in the development of regulatory proposals.

The amendment that I had considered offering today and, therefore, had printed in the RECORD, was an amendment that would also provide for private sector input and not just the input of elected officials. I thought the thrust of what I had been hearing here on the Hill was that we wanted to give the Government back to the people, and that perhaps we wanted to have input from individuals, private individuals, not just elected officials.

Having understood a previous amendment which was very similar to mine was not passed, I would be willing to not belabor the point if I could get a point of view as to why this type of amendment would not be found acceptable by the majority.

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

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

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's yielding.

Very briefly, we did have a good discussion on this issue previously in response to the amendment offered by the gentleman from California [Mr. WAXMAN] which was not accepted.

I think there are two issues here. No. 1, there is a process by which through the existing Administrative Procedures Act, in a notice and comment period in the private sector, individuals would have an opportunity to be heard.

The second point is that we do in fact provide for a special place in a sense for State and local governments at the table, but that is because they are the coregulators of the very Federal regulations that are subject to this rulemaking.

So I think the response is, frankly, that there is already in the process the opportunity for people to be heard, and that is appropriate. We endorse that. But we did not need to carve out a special requirement for the agencies with respect to this. We did so for State and local governments, again in the sense that they are the coregulators and are directly affected by these regulations.

Mr. FATTAH. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, in consideration of what has been offered as an explanation, I would reiterate that it would seem to me that it would be appropriate for us to provide in this section absolute guarantees of private sector input and private citizen input. However, so that we would not delay the process and in consideration of the vote on the previous amendment which was similar to mine, I at this point would withdraw my amendment.

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

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

Mr. PORTMAN. Mr. Chairman, let me say that I again thank the gentleman from Pennsylvania. We worked closely on some other amendments in the process, including amendments to title I, and I appreciate the gentleman's withdrawing his amendment at this time.

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. FATTAH] simply declines to offer his amendment.

□ 1430

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

Mr. Chairman, this is an extremely important piece of legislation, and I must just take 1 minute to draw the body's attention to what this legislation is doing in the area, for example, of the Great Lakes.

Mr. Chairman, we've heard many examples of the burdens placed on the States by unfunded Federal mandates during this debate. The Great Lakes States, are facing a very serious problem that will affect cities, townships, and villages all around the lakes.

The EPA's proposed Great Lakes Water Quality Initiative [GLI] will impose substantial costs on local government and industry with little proven environmental benefit.

The EPA Science Advisory Board and the American Council on Science and Health, as well as a study commissioned by the Great lakes Governors, have all expressed doubts about the proposal's potential environmental effectiveness.

There is little doubt, however, that the proposal will do significant damage to the Great Lakes economy. The Governors' study estimates that it will cost more than $2 billion a year and destroy more than 33,000 jobs.

These large costs are not being imposed solely on industry. The most recent study estimates the costs will be even higher. For just 50 municipalities, this study estimates $1.7 billion in capital costs and $695 million in operating and maintenance costs. That means costs to the entire region could be well in excess of $5 billion.

The EPA currently intends to issue the proposal as a binding regulatory mandate that must be implemented the same way in every State and every community. There would be no flexibility, and consequently, no opportunity to reduce costs.

This is yet another example of an outrageous unfunded mandate imposed by an out-of-control bureaucracy. A mandate that may bankrupt an entire region with little or no proven environmental benefit.

We must return to some common sense in our governmental conduct. The proposal was originally intended as a guidance, not a mandate. We must give the States back the flexibility to adopt the GLI to local conditions and needs.

This amendment says clearly that the States should take the EPA guidance into account in adopting water quality programs. At the same time, however, State programs do not have to be identical to the EPA guidance.

Mr. Chairman, this amendment would provide a sensible remedy to an expensive and unfair situation.

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent that we proceed out of order at this point. I think this amendment is the last one that was going to be offered in title II. We are working with the majority side to try to reach agreement on this language. Rather than try to proceed prematurely, I ask unanimous consent that we go into title III and reserve the right to come back.

Mr. SCHIFF. Mr. Chairman, reserving the right to object, we have no objection. The gentleman from Colorado and the chairman of the committee have been discussing this issue. In the possibility that they might reach agreement, it would be well warranted.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the rights of the gentleman from Colorado [Mr. SKAGGS] to offer an amendment to title II will be protected.

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

Title IV of the Congressional Budget Act of 1974 is amended by—

(1) inserting before section 401 the following:

"Part A—General Provisions"; and

(2) adding at the end the following new part:

"Part B—Federal Mandates

"SEC. 421. DEFINITIONS.

"For purposes of this part:

"(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

"(2) DIRECTOR.—The term 'Director' means the Director of the Congressional Budget Office.

"(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means the amount of budget authority for any Federal grant assistance or any Federal program providing loan guarantees or direct loans.

"(4) FEDERAL INTERGOVERNMENTAL MANDATE.—The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

"(I) a condition of Federal assistance; or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

"(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if—

"(i)(I) the provision would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

"(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

"(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

"(5) FEDERAL PRIVATE SECTOR MANDATE.—The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

"(A) would impose an enforceable duty on the private sector except—

"(i) a condition of Federal assistance; or

"(ii) a duty arising from participation in a voluntary Federal program; or

"(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of ensuring compliance with such duty.

"(6) FEDERAL MANDATE.—The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (4) and (5).

"(7) FEDERAL MANDATE DIRECT COSTS.—

"(A) FEDERAL INTERGOVERNMENTAL DIRECT COSTS.—In the case of a Federal intergovernmental mandate, the term 'direct costs' means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend or would be required to forego in revenues in order to comply with the Federal intergovernmental mandate, or in the case of a provision referred to in paragraph (4)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

"(B) PRIVATE SECTOR DIRECT COSTS.—In the case of a Federal private sector mandate, the term 'direct costs' means the aggregate estimated amounts that the private sector would be required to spend in order to comply with a Federal private sector mandate.

"(C) EXECLUSION FROM DIRECT COSTS.—The term 'direct costs' does not include—

"(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

"(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that Federal mandate; or

"(II) to comply with or carry out State, local government, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that mandate; or

"(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

"(I) their compliance with the Federal mandate; or

"(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

"(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

"(8) LOCAL GOVERNMENT.—The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

"(9) PRIVATE SECTOR.—The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

"(10) REGULATION.—The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

"(11) STATE.—The term 'State' has the same meaning as in section 6501(9) of title 31, United States Code.

"SEC. 422. LIMITATION ON APPLICATION.

"This part shall not apply to any provision in a bill, joint resolution, motion, amendment, or conference report before Congress that—

"(1) enforces constitutional rights of individuals;

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

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

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

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

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

"(7) pertains to Social Security.

"SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.

"(a) SUBMISSION OF RULES TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate orders a bill or joint resolution of a public character reported, the committee shall promptly provide the text of the bill or joint resolution to the Director and shall identify to the Director any Federal mandate contained in the bill or resolution.

"(b) COMMITTEE REPORT.—

"(1) INFORMATION REGARDING FEDERAL MANDATES.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraph (2) and, in the case of a Federal intergovernmental mandate, paragraph (3).

"(2) REPORTS ON FEDERAL MANDATES.—Each report referred to in paragraph (1) shall contain—

"(A) an identification and description of each Federal mandate in the bill or joint resolution, including the statement, if available, from the Director pursuant to section 424(a):

"(B) a qualitative assessment, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandate (including the effects on health and safety and protection of the natural environment); and

"(C) a statement of the degree to which the Federal mandate affects each of the public and private sectors and the extent to which Federal payment of public sector costs would affect the competitive balance between States, local governments, or tribal governments and the private sector.

"(3) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report referred to in paragraph (1) shall also contain—

"(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs or for new Federal financial assistance, provided by the bill or joint resolution and unable for activities of States, local governments, or tribal governments subject to Federal intergovernmental mandates; and

"(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and, if so, the reasons for that intention; and

"(B) a statement of any existing sources of Federal financial assistance in addition to those identified in subparagraph (A) that may assist States, local governments, and tribal governments in paying the direct costs of the Federal intergovernmental mandates.

"(4) INFORMATION REGARDING PREEMPTION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on whether the bill or joint resolution, in whole or in part, is intended to preempt any State, local, or tribal law, and if so, an explanation of the reasons for such intention.

"(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

"(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 424(a), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available to be included in the printed report.

"(2) OTHER PUBLICATION OR STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

"SEC. 424. DUTIES OF THE DIRECTOR.

"(a) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which such a Federal intergovernmental mandate (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations or budget authority or entitlement authority under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates.

"(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

"(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

"(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

"(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

"(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the threshold specified in paragraph (1)(A) or (2)(A), the Director shall so state and shall briefly explain the basis of the estimate.

"(4) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared the statement pursuant to subsection (a) for a bill or joint resolution, and if that bill or joint resolution is reported or passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a supplemental statement for the bill or joint resolution in that amended form.

"(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

"(1) IN GENERAL.—At the request of any committee of the House of Representatives or of the Senate, the Director shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

"(A) a significant budgetary impact on State, local, or tribal governments; or

"(B) a significant financial impact on the private sector.

"(2) CONTINUING STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

"(3) FEDERAL MANDATE STUDIES.—

"(A) At the request of any committee of the House of Representatives or the Senate, the Director shall, to the extent practicable, conduct a study of a legislative proposal containing a Federal mandate.

"(B) In conducting a study under subparagraph (A), the Director shall—

"(i) solict and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

"(ii) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

"(iii) include estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

"(I) the future direct cost of the Federal mandates concerned to the extent that they significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

"(II) any disproportionate budgetary effects of the Federal mandates concerned upon particular industries or sectors of the economy, States, regions, and urban, or rural or other types of communities, as appropriate.

"(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

"(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year period referred to in subparagraph (B)(iii)(I);

"(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

"(iii) the effect of Federal private sector mandates in the bill or joint resolution 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.

"(c) VIEWS OF COMMITTEES.—Any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on the States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall provide its views and estimates on such proposal to the Committee on the Budget of its House.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Congressional Budget Office to carry out this part $4,500,000 for each of fiscal years 1996 through 2002.

"SEC. 425. POINT OF ORDER.

"(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4); or

"(2) any bill, joint resolution, amendment, motion, or conference report that contains a Federal intergovernmental mandate having direct costs that exceed the threshold specified in section 424(a)(1)(A), or that would cause the direct costs of any other Federal intergovernmental mandate to exceed the threshold specified in section 424(a)(1)(A), unless—

"(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(B) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts or a decrease in new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate and an increase in new budget authority or new entitlement authority in the House of Representatives or an increase direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(C) the bill, joint resolution, amendment, motion, or conference report—

"(i) provides that—

"(I) such mandate shall be effective for any fiscal year only if all direct costs of such mandate in the fiscal year are provided in appropriations Acts, and

"(II) in the case of such a mandate contained in the bill, joint resolution, amendment, motion, or conference report, the mandate is repealed effective on the first day of any fiscal year for which all direct costs of such mandate are not provided in appropriations Acts; or

"(ii) requires a Federal agency to reduce programmatic and financial responsibilities of State, local, and tribal governments for meeting the objectives of the mandate such that the estimated direct costs of the mandate to such governments do not exceed the amount of Federal funding provided to those governments to carry out the mandate in the form of appropriations or new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate, and establishes criteria and procedures for that reduction.

"(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

"(c) DETERMINATION OF DIRECT COSTS BASED ON ESTIMATES BY BUDGET COMMITTEES.—For the purposes of this section, the amount of direct costs of a Federal mandate for a fiscal year shall be determined based on estimates made by the Committee on the Budget, in consultation with the Director, of the House of Representatives or the Senate, as the case may be.

"(d) DETERMINATION OF EXISTENCE OF FEDERAL MANDATE BY GOVERNMENT REFORM AND OVERSIGHT AND GOVERNMENTAL AFFAIRS COMMITTEES.—For the purposes of this section, the question of whether a bill, joint resolution, amendment, motion, or conference report contains a Federal intergovernmental mandate shall be determined after consideration of the recommendation, if available, of the Chairman of the Committee on Government Reform and Oversight of the House of Representatives or the Chairman of the Committee on Governmental Affairs of the Senate, as applicable.

"(e) LIMITATION ON APPLICATION OF SUBSECTION (a)(2).—Subsection (a)(2) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

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

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

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

"SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

"It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425(a): *Provided, however*, That pending a point of order under section 425(a) or under this section a Member may move to waive the point of order. Such a motion shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent but, if offered in the House, shall otherwise be decided without intervening motion except a motion that the House adjourn. The adoption of a motion to waive such a point of order against consideration of a bill or joint resolution shall be considered also to waive a like point of order against an amendment made in order as original text.".

SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Cause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end of the following:

"(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1)(A) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.".

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of Rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 303. EXERCISE OF RULEMAKING POWERS.

The provisions of this title (except section 305) are enacted by Congress—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such they shall be considered as part of the rules of the House of Representatives and the Senate, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives and the Senate to change such rules at anytime, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate, respectively.

SEC. 304. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting "PART A—GENERAL PROVISIONS" before the items relating to section 401 and by inserting after the items relating to section 407 the following:

"PART B—FEDERAL MANDATES

"Sec. 421. Definitions.
"Sec. 422. Limitation on application.
"Sec. 423. Duties of congressional committees.
"Sec. 424. Duties of the Director.
"Sec. 425. Point of order.
"Sec. 426. Enforcement in the House of Representatives.".

SEC. 305. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—The State and Local Government Cost Estimate Act of 1981 (Public Law 97-108) is repealed.

(b) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the fiscal years following such fiscal year, together with the basis for each estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.".

SEC. 306. EFFECTIVE DATE.

This title shall take effect on October 1, 1995.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer my amendment numbered 51.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois: In section 306, strike "October 1, 1995" and insert "at the end of the 10-day period beginning on the date of the enactment of this Act".

Mrs. COLLINS of Illinois. Mr. Chairman, many Democrats will vote for this bill because they believe the open and full debate on the costs to the public and private sector is the essence of good public policy.

That is why it is imperative that if this bill is passed, the requirements of the bill be applied to legislation as soon as possible. We need to ensure a full and open debate on the true costs of the legislation that the Republican leadership will be bringing to this floor.

Unfortunately, H.R. 5 in its present form will not allow us to do that. The effective date in section 306 is not when we pass this bill, or even a week or a month after passage. No, for some unexplained reasons, this bill does not go into effect until October 1, 1995. That is more than 8 months away. My amendment would simply move up the effective date to 10 days after enactment.

We have heard how important this legislation is, how essential it is to pass it as soon as possible. How urgent is this bill?

So urgent that the primary committee of jurisdiction, the Committee on Government Reform and Oversight, was told that it did not have time for a hearing on the bill.

So urgent that it was marked up just 2 days after the bill was printed.

So urgent that the markup took place at the same time that the committee held its first organizational meeting.

So urgent that the majority requested permission to file the committee report early to get us to the floor today.

Why, if it is so urgent, does it not take effect for another 9 months? The chairman of the committee has stated that he wanted to give the Congressional Budget Office time to gear up for its new responsibilities. I would answer that CBO has had plenty of opportunity to gear up. It has known for 2 years that unfunded mandate legislation was coming.

In fact, in staff discussions with CBO, its staff does not believe it will take much additional resources to carry out its duties under this legislation.

Let me suggest a different reason for delaying enactment until October 1: By then, most of the Republican contract, including rescission bills, welfare reform, and other cost-cutting measures, will have come to the floor and been acted on.

Some of these bills, in cutting the Federal responsibility for certain programs, may very well have the effect of shifting those burdens to State and local governments.

For example, the welfare reform bills that we have heard about would provide less money to States while perhaps still requiring them to provide certain levels of assistance. That is an unfunded mandate under this bill. And we have no idea what impact the rescission bills may have on State and local governments.

We have heard that none of the legislation to be taken up between now and October will impose any costs on State and local governments. Therefore, there should be no opposition to this amendment. If there is hesitation to applying this bill over the coming months, then either this bill has great problems, or there are in fact unfunded mandates in the Republican agenda.

Let us not delay the effect of this bill. Regardless of your views on this bill, there is no reason to exempt our actions over the coming months on the Republican contract.

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

Mr. Chairman, I know that the amendment is very well intentioned, but it seems to me that there is a sense that this October 1 effective date was somehow just drawn out of thin air, when in fact that clearly is not the case. The enactment date of October 1 was not determined by the Contract With America. In fact, it was determined based on consultations with the Congressional Budget Office to arrive at a reasonable time frame that would allow the Congressional Budget Office to obtain the staffing and expertise to conduct accurate cost estimates, which clearly is the major thrust of what we are trying to do with this legislation.

It seems to me that is a very responsible route for us to take. Nothing is trying to be put off at all.

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I think that the attempt to proceed with this is less than responsible.

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

Mr. DREIER. I yield to the gentleman from Cincinnati, OH.

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

A couple of points in response to the gentlewoman's comments regarding the effective date. It should be made clear, Mr. Chairman, that in last year's legislation, which passed the Government Operations Committee by a vote of 35 to 4, the effective date was October 1, 1995. This was, of course, prior to the Contract With America, prior to the new Congress. And this was a piece of legislation which was very similar to the H.R. 5 now before us. Again, it was a strong bipartisan vote of 35 to 4. The reason October 1 was chosen is precisely what my friend from California has said, which is, it would take that long for the Congressional Budget Office to be prepared to do the extensive analysis which is required under this legislation.

I would say, in addition, that I have had direct personal conversations with CBO as recently as in the last 2 weeks with regard to this very issue. And they, in fact, would probably prefer the Senate version of the bill, which provides for an effective date of January 1, 1996. The House version, again, is October 1, 1995.

I would say finally that this is also very important so that our committees, authorizing committees here in the House and so that the Federal agencies can be prepared to actually respond to the new requirements in this legislation, which are so important to the accountability that is central to this act.

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

Mr. DREIER. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, the gentleman from Ohio [Mr. PORTMAN] mentioned that the bill that we had last year had an enactment date of October 1995. I just want to point out, this is not the bill we had last year. This is a totally different bill than the bill we had last year. This is a new bill, as the gentleman very well knows. It just seems to me we cannot compare those two at this point in time.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, just one small comment, it is a different piece of legislation with regard to the CBO requirements. If anything, this bill has even more requirements for CBO, although the bill last year also had a CBO cost requirement, as the gentlewoman knows, and if anything, one would think the logic would be that we would push back the effective date beyond October 1, given the change in the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, they also had a year's head up since we are in another year, and another Congress.

Mr. DREIER. Mr. Chairman, I think a very important point that needs to be made here is that the dollars that would be necessary for the Congressional Budget Office to successfully implement this will not be appropriated until the next fiscal year. We can authorize it, but those funds would not be available until following October 1, and that is the reason for this date. That is why I think that it is important for us to maintain that.

A great deal of thought went into it. It is for that reason that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, would the gentleman have any idea when he would expect CBO to be doing these estimates and getting information back to the Congress?

Mr. DREIER. This is obviously going to be taking place over the next several weeks and months following implementation of this legislation. And they are well aware of the fact that this October 1 date is obviously key for them and that sets an actual deadline.

Mrs. COLLINS of Illinois. Does the gentleman expect an unfunded mandate to come down the pike before then, before October 1?

Mr. DREIER. Surely. Before the first of October, surely, we are going to be looking at those. It is obvious that as we begin addressing this issue, it is going to be on the horizon, but this October 1 date was very important and, as I said, was not grasped out of thin air. It was something that clearly we did with careful negotiations with the Congressional Budget Office.

It is for that reason, Mr. Chairman, that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Could the gentleman tell me when is the effective date of title II?

Mr. DREIER. The effective date on title II.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, I would say in response to the gentlewoman's question with regard to title II, which is the regulatory requirements, that it is my understanding that they become effective upon enactment.

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

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

Mr. DREIER. Mr. Chairman, was the answer adequate?

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, the gentleman said title II was effective upon enactment. So will we have to wait for that title until October 1, 1995, even though it is effective upon enactment?

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, it is my understanding that the regulatory section, which is title II, becomes effective upon enactment. In other words, the Federal agencies will be required to continue to do as they do now.

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

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

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, the Federal agencies will be required to do as they are required now under the Executive order to carry out the cost-benefit analysis contained in title II.

Mrs. COLLINS of Illinois. Mr. Chairman, does the gentleman suppose they might be willing to delay any additional enactment until October 1, 1995, under title II, the Federal agencies?

Mr. PORTMAN. Mr. Chairman, the Federal agencies are currently required, under the Executive order, to go even beyond the cost-benefit analysis provided in title II. We now have it in statute, not just in the Executive order. But it is my understanding the agencies would continue to provide the cost-benefit analysis that was subject to the debate earlier today.

Mrs. COLLINS of Illinois. Mr. Chairman, the problem is, it is a new requirement because it is a new bill. I just wondered how it was going to all play out between now and October 1, 1995.

Mr. PORTMAN. It is my understanding that the Congressional Budget Office, because, they have no requirements within title II, will begin their analysis on October 1. By that time they will have adequate funding and adequate personnel to do the very major tasks which we are asking them to do in this legislation. Again, this is all consistent with the legislation we passed last year, H.R. 5128. The Senate bill has January 1, 1996, as a deadline.

The CHAIRMAN. The question is on the amendment 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.

The recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 250, not voting 3, as follows:

[Roll No. 73]

AYES—181

Abercrombie	Duncan	LaFalce
Ackerman	Durbin	Lantos
Andrews	Engel	Laughlin
Baesler	Eshoo	Levin
Baldacci	Evans	Lewis (GA)
Barcia	Farr	Lincoln
Barrett (WI)	Fattah	Lipinski
Becerra	Fazio	Lofgren
Beilenson	Fields (LA)	Lowey
Bentsen	Filner	Luther
Berman	Flake	Maloney
Bishop	Foglietta	Manton
Bonior	Ford	Markey
Borski	Frank (MA)	Martinez
Boucher	Frost	Mascara
Browder	Furse	Matsui
Brown (CA)	Gejdenson	McCarthy
Brown (FL)	Gephardt	McDermott
Brown (OH)	Geren	McHale
Bryant (TX)	Gibbons	McKinney
Clay	Gonzalez	Meehan
Clayton	Gordon	Meek
Clyburn	Green	Menendez
Coleman	Gutierrez	Miller (CA)
Collins (IL)	Hall (OH)	Mineta
Collins (MI)	Hamilton	Minge
Condit	Harman	Mink
Conyers	Hastings (FL)	Moakley
Costello	Hilliard	Mollohan
Coyne	Hinchey	Montgomery
Cramer	Holden	Moran
Danner	Hoyer	Nadler
de la Garza	Jackson-Lee	Neal
Deal	Jacobs	Oberstar
DeFazio	Jefferson	Obey
DeLauro	Johnson, E. B.	Olver
Dellums	Johnston	Ortiz
Deutsch	Kanjorski	Orton
Dicks	Kaptur	Owens
Dingell	Kennedy (MA)	Pallone
Dixon	Kennedy (RI)	Parker
Doggett	Kennelly	Pastor
Dooley	Kildee	Payne (NJ)
Doyle	Klink	Payne (VA)

Pelosi	Scott	Traficant
Peterson (FL)	Serrano	Tucker
Peterson (MN)	Skaggs	Velazquez
Pomeroy	Slaughter	Vento
Poshard	Spratt	Volkmer
Rahall	Stark	Ward
Rangel	Stokes	Waters
Reed	Studds	Watt (NC)
Reynolds	Stupak	Waxman
Rivers	Tanner	Williams
Roybal-Allard	Tauzin	Wise
Rush	Tejeda	Woolsey
Sabo	Thompson	Wyden
Sanders	Thornton	Wynn
Sawyer	Thurman	Yates
Schroeder	Torres	
Schumer	Towns	

NOES—250

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

NOT VOTING—3

Bilbray	Gekas	Mfume

□ 1505

Mr. RICHARDSON changed his vote from "aye" to "no."

Messrs. BARRETT of Wisconsin, DOOLEY, DEAL of Georgia, BAESLER, TAUZIN, PARKER, and LAUGHLIN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 73, the amendment by Mrs. COLLINS of Illinois to change the effective date of the bill from October 1, 1995, to 10 days after the measure's enactment.

Had I been here I would have voted "yea."

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on Tuesday, January 31, 1995, I was unavoidably detained during rollcall No. 73, and thus my vote on the Collins amendment to H.R. 5, the Unfunded Mandate Reform Act, was not recorded. Had I been present, I would have voted "nay" on agreeing to the amendment.

AMENDMENT OFFERED BY MR. PORTMAN

Mr. PORTMAN. 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. PORTMAN: In section 301, in the proposed section 423(b)(2) of the Congressional Budget Act of 1974, amend subparagraph (C) to read as follows:

"(C) a statement of—

"(i) the degree to which the Federal mandate affects each of the public and private sectors, including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or on the competitive balance between the public sector and the private sector; and

"(ii) in the case of a Federal mandate that is a Federal intergovernmental mandate, the extent to which limiting or eliminating the Federal intergovernmental mandate or Federal payment of direct costs of the Federal intergovernmental mandate (if applicable) would affect the competitive balance between States, local governments, or tribal governments and the private sector.

Mr. PORTMAN. Mr. Chairman, my colleague and friend the gentleman from California [Mr. CONDIT] and I are offering this amendment in response to concerns we have heard from Members about the potential adverse impacts this legislation, H.R. 5, could have on the private sector and the competitive balance between the public and private sectors.

I should say at the outset it is not my view that H.R. 5 would have such a negative impact. In fact, it strikes me as rather odd that while certain Members of the other party are expressing concerns about the devastation that might befall the private sector, it is representatives of this very sector, the private sector, that have strongly supported H.R. 5 and have worked with us in drafting this bill and are strongly supportive of this clarifying amendment.

The list of business groups endorsing H.R. 5 is too lengthy to go through in its entirety, Mr. Chairman, but I will say for the record that we have support from the chamber of commerce, the NFIB, the Small Business Legislative Council and, yes, one of the largest private sector entities involved in this situation which would be BFI, Browning-Ferris. That is quite persuasive to me that the concerns being expressed by the opponents to H.R. 5 are being overdone.

These are groups that the opponents of H.R. 5 claim would be negatively affected by its enactment. Yet these groups want this legislation. They want it passed now.

As someone who is very proud of my record of support of the private sector, particularly small business, I can assure my colleagues that I would not be standing here today arguing for the passage of H.R. 5 if I believed it would harm this critically important sector of our economy. In fact, I believe just the opposite. Passage of H.R. 5 does not mean that Congress is denied the right to impose mandates on the public sector that are imposed on the private sector. Nor does it mean that we will fund mandates for the public sector that are not funded on the private sector, thereby setting up a competitive disadvantage. Instead it simply means we are going to have the cost information we need to make an informed decision.

Specifically on this point, H.R. 5 gives us for the first time, Mr. Chairman, a requirement that Congress must address the impact on the private sector. It must address this very issue of the competitive balance between the public and private sectors. The Portman-Condit amendment strengthens this requirement so that before legislation is brought to the House floor, we will be apprised of the degree to which Federal mandates in this bill could affect the competitive balance between the public and private sectors.

This amendment, Mr. Chairman, would require that the committee report accompanying the Federal mandate legislation spell out precisely what the effect on the public-private competitive balance would be if there were mandates on both the public and private sector that were scaled back, eliminated, or funded for the public sector.

By doing so, Mr. Chairman, we achieve the goal of accountability that is central to H.R. 5. These are the very ends that H.R. 5 seeks, accountability and informed debate. We owe nothing less to the American people than to have that. I believe this amendment clarifies and strengthens the accountability in this act. I urge my colleagues to support the amendment.

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

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

Mr. DREIER. I thank my friend for yielding.

Mr. Chairman, I would simply like to associate myself with his remarks and say that I believe that this amendment strikes the very important balance which we are seeking between the private and public sectors, so that in fact an analysis can be done that would determine if there were any negative effects that this measure were imposing on those on the private side.

I think it is a very good amendment, it clarifies the situation which was in question, and I hope my colleagues will support it.

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

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

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to join in support of this amendment. I think it is a very constructive one. This analysis about the competitive situation between the public and the private side will be a very useful one. I think this is a helpful amendment and I urge support for it.

Mr. PORTMAN. I thank the gentleman for his support and appreciate it very much.

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

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

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and thank the gentleman from Ohio [Mr. PORTMAN] for his involvement and effort in this amendment and the bill.

□ 1510

I think that this amendment is a good amendment in dealing with the private sector problem that we have, and we acknowledge that we have a private sector problem. We are doing everything that we can to try to deal with it in a fair fashion. We think this does it. We think this reporting requirement would allow us the opportunity to collect the information, and to then do something about it at a later time.

Let me also just remind my colleagues that in a few weeks we will also be discussing other issues that I believe deal with the private sector, that will help them in dealing with unfunded mandates, and that is risk assessment and cost analysis.

For those who get overly exercised about this not being totally what they want it to be or totally fair, I think we are going to have another bite at the apple down the road with risk assessment and cost benefit, which I think will be a great benefit to the private sector and to putting some balance in regulatory law in this place.

So, this is a good amendment. It may not be what everybody wants, but I think it is a good amendment, it makes the bill work, and I would encourage Members to support the amendment.

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

Mr. Chairman, I agree with the gentleman from California [Mr. CONDIT] that this does not do everything we want and it is not totally fair. And I am glad he made that point.

I support this amendment. I think it is appropriate that each authorizing committee consider the impact of their legislation on both the public sector and the private sector and where it creates a disparity, a lack of competitiveness, that committee ought to address it.

But where this amendment does clarify the problem, it does not rectify the problem. I will have an amendment that I will offer shortly that would rectify the problem. But I appreciate my friends, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT], bringing up this issue, exposing it to public consideration and particularly within this body, because it is a very basic issue, and I think a significant flaw within this legislation.

But it is a flaw that we can easily, as I say, rectify with a subsequent amendment that I will offer to treat the public sector equally with the private sector.

The basic problem with this bill is that it enables State and local governments to avoid Federal mandates if they are not completely funded. But it does not give that same option to the private sector.

So all of these privatization efforts that we have made and that I think the other side is particularly supportive of, but they are getting a lot of support on the Democratic side as well, to let the public sector carry out in the most efficient way all of the privatization efforts, which are going to be compromised or in fact eliminated if we do not rectify this basic flaw in the legislation which says that it becomes optional for State and local governments to carry out Federal legislation, but it is not optional for the private sector. Even though we will know what the cost to the private sector is, we do not give them the option to avoid the impact of this legislation, and as a result, in most areas where the private sector attempts to compete with the public sector it will become uncompetitive because it will not have to comply with environmental or labor laws or any other piece of legislation that we will subsequently enact. It is basically unfair and I think it is totally inconsistent with the concept of this legislation.

So, while I support this amendment and I certainly support what the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT] would like to accomplish with this amendment, it does not do the job.

I appreciate the fact that they have pointed out the problem, but I would hope that they would support my effort to rectify the problem.

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

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

Mr. PORTMAN. Mr. Chairman, I am looking forward to the debate on the upcoming amendment to which the gentleman referred.

I would say this amendment does in fact address the problem, it does in fact force Congress to deal with the issue of public-private competition. If Congress, under its point of order requirement, which would be the discretion of Congress by majority vote, chooses not to impose a mandate because of the private-public concern, then Congress has the ability to do that under H.R. 5. And by this amendment we are insuring that Congress has the information to carry out that very informed debate and to make this very important decision.

So I would say that this amendment in fact does solve the gentleman's concern, and I look forward to the debate on his amendment.

Mr. MORAN. I thank the gentleman. If I could reclaim my time just shortly to respond, yes, it will give us that information, and that information should be used for our decisionmaking.

The problem is the gentleman wants us to make a decision now which will preclude our ability to rectify the unfairness that committees are going to discover as a result of the gentleman's amendment. That is the basic problem. He wants to make the decision now before we have the information that is available.

But, we will continue this discussion when we entertain my amendment. I do support this particular amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. PORTMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer amendment number 15.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment number 15 offered by Mr. HALL of Ohio:

In section 301(2), in the matter proposed to be added as a new section 421(4)(B)(ii) to the Congressional Budget Act of 1974, insert "except with respect to any low-income program referred to in section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985,".

□ 1520

Mr. HALL of Ohio. Mr. Chairman, my amendment is very simple and straightforward. It protects very low-income programs, those that we exempted from sequestration under the Gramm-Rudman Act of 1985 as unfunded mandates. This is important, because there could be major changes coming down the road on low-income programs including food and poverty programs.

My amendment clarifies the definition of Federal intergovernmental mandates in section 421. What I am trying to do is clarify the intergovernmental mandates in section 421 to ensure that the poor will get an up-or-down vote on their programs just like everyone else. Programs that would be protected under this amendment are child nutrition, which would be school lunch, school breakfast, summer food service, child- and adult-care food programs, food stamps, Aid to Families with Dependent Children, Medicaid, and SSI.

Mr. Chairman, H.R. 5 is essentially a piece of legislation that changes the procedures for bills coming down the road, and we have not yet seen the bills and amendments it is intended to affect.

While I am sympathetic to the idea the Federal Government should provide adequate funds for mandates, I want to be sure that the poor are not left out. Whenever tough issues come up, it seems like we always look to the weakest constituency first, the poor, and these people really have no one fighting for them.

What I am saying is our Government does have a responsibility to provide basic things like food and shelter and health care for our own poverty-stricken. I am afraid if this amendment is not included, the poor will be left holding the bag.

There are many proposals in Congress to change poverty programs. The Contract With America proposes to eliminate Federal nutrition programs and substitute a single block-grant payment to the States. We will be confronted with a proposal very soon that would eliminate the entitlement status of food programs including food stamps, and it will reduce appropriations in the first year alone, I am told, to about $5 billion below the levels required to maintain current services.

Under the best-case scenario, the Contract With America will result in a reduction of funding in food assistance for the poor and hungry by over $30 billion by fiscal year 2000. While I oppose these kinds of changes, particularly when the Conference of Mayors tells us that the requests for emergency food and shelter are on the rise, we all know who will be the victims of these changes, millions of low-income families, children, and the elderly. My own State of Ohio is slated to lose about 20 percent of funding for food assistance in fiscal year 1996.

If the Federal Government places responsibility on the States to take care of low-income people with fewer resources, then that is an unfunded mandate, and while section 421 does have language to this effect, it also has language which would allow States the flexibility to lower services.

To many, the third paragraph of that section is very unclear, and that is the section that I am trying to get at. The amendment makes it clear, my amendment, that these entitlement programs would be unfunded mandates and subject to the point of order if they are reduced.

Many of my friends on both sides of the aisle have already voted to protect these very important programs. We have done this already, and we have done it time and time again. We did it under the Gramm-Rudman Act. Congress has spoken on this. We should do it again.

My amendment will make sure that the poor programs will get the same vote as other unfunded programs. Do not leave poverty and nutrition programs in doubt. Please, join me in supporting this amendment.

Mr. DREIER. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I would say to my very good friend, colleague on the Committee on Rules, I am very sympathetic with the need to address the concerns of those who are less fortunate, those who are hungry, those who are desperately in need. In fact, we on this side of the aisle clearly feel that one of the pressing needs out there is for us to expand individual initiative and responsibility and self-reliance.

But having said that, we are well aware of the fact that there are people who do have to have some kind of assistance provided by government, but the concern that we have with this amendment here is that we are not providing the States with the kind of flexibility which is needed.

I happen to be one who believes strongly that States do feel a responsibility to address these issues, and there is a sense, I have inferred from this amendment, that if we choose to accept this amendment that we are somehow saying that the States do not have any kind of responsibility to effectively address the issues of hunger and homelessness and a wide range of other social needs that are out there. I happen to believe that they are positioned to, and feel a responsibility to, address those needs, and it is for that reason that I am compelled to oppose the very well-intentioned amendment by my friend.

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

Mr. DREIER. I yield to the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. If the gentleman will yield, I would just also have to rise in reluctant opposition to the gentleman's amendment. I think he is right to be concerned about what some of the impacts could be. But I think he is also wrong in the assumption that giving flexibility to the States to implement these programs, carry out these programs, that they are not going to be concerned about the health, safety, and well-being of their children. So I think that we at the Federal Government, I think, too often take the assumption or have the assumption that the States and local governments cannot be trusted to do these things.

Hopefully they will be challenged to do them and to provide the kind of necessary measure of care. But they need the flexibility in order to do that.

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

We are in the position where some would like to say we are somehow abrogating our responsibility if we do not in fact micromanage these particular programs, and we happen to have a great deal of confidence in individuals and State and local governments to address these needs, and it is for that reason that we are opposing the amendment.

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

Mr. Chairman, what this amendment seeks to do is to have the Congress understand that if we are going to cut back on these programs for low-income people, the most vulnerable people in our society, that we are creating an unfunded mandate on local governments either to have to make up the difference in dollars or to cut some of these people adrift from food stamps or from supplemental security income or WIC. These are programs for very, very low-income people.

When we had the Gramm-Rudman bill before us, we specifically said that those programs would not be required to undergo the sequestrations that would be required to be placed on other Government programs, because we wanted to treat these with a special concern.

I think the amendment offered by the gentleman from Ohio is a good one. If we are going to cut these programs that affect the low income in our society, let us know about it, let us have a point of order, and let a specific vote be cast in order to accomplish that goal with the full information before us that we are hurting those who are most vulnerable in our society.

I urge support for the Hall amendment.

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

Mr. Chairman, I rise today in strong support of the amendment which our colleague from Ohio [Mr. HALL] has offered to H.R. 5, the Unfunded Mandate Reform Act.

Mr. HALL's amendment is designed to make certain that Congress specifically studies and deliberates any reductions in programs which make up our Nation's weakening social safety net.

Without attachment of this provision to H.R. 5, there is a distinct possibility that reductions in the basic Federal poverty programs—AFDC, child nutrition, food stamps, medicaid, and SSI—could be reduced without a specific vote on that reduction.

At a time when the majority has called for increased accountability and responsibility on the part of Congress, this should be an absolute no-brainer for this body.

Even during the Reagan budget-cutting frenzy of the mid-1980's, there was a specific exception to the Gramm-Rudman-Hollings budget deficit act for all of these programs.

They are the lifeblood of our Nation's poorest citizens, and therefore deserve the deliberate and conscious protection which this amendment would ensure.

This amendment would by no means assure that reductions will not occur in the funding allocations for these budget items.

However, it would guarantee that a separate floor vote and committee analysis be accomplished before such reductions could be enacted.

In a commonsense manner, this amendment would provide that reductions of this type be treated as unfunded mandates.

This is particularly appropriate, since States and local governments would undoubtedly have to make up for such reductions with their own funds.

Mr. Chairman, I implore my fellow Members on both sides of the aisle to support this extremely worthwhile amendment.

□ 1530

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

Mr. Chairman, I rise very reluctantly, as the distinguished gentleman from Ohio [Mr. HALL] knows, in opposition to his amendment. I want to go through a scenario that gives me some serious concern. It is difficult to precisely read Mr. HALL's amendment because there is no specific line number in the amendment.

It appears the amendment would foreclose the Federal Government's ability to ever cut or impose a cap on a number of low-income programs which are listed in section 255(h) of the Budget Act. In essence, any cut or cap would be by definition a Federal intergovernmental mandate even if the States have the authority to change their financial or programmatic responsibilities. This would trigger the point of order.

Now, to get specific and go to one of the programs listed in 255(h), Medicaid, the Hall amendment would define any cut or cap in the Medicaid Program as an unfunded mandate regardless of the fact that the States have the flexibility to change their programs.

To demonstrate that this is not good policy in the Medicaid Program, I would like to remind my colleagues about a sad chapter in the Medicaid Program involving provider-specific taxes and disproportionate share payments to hospitals. Because of a change in Medicaid law in 1990, provider-specific taxes help cause an annual growth in Federal Medicaid payments to the tune of $10 billion per year, that is annually, $10 billion per year, every year.

Now, to help close this loophole, legislation was passed in 1991; the provider-specific tax amendments of 1991 and in OBRA 1993 to place a cap on disproportionate share payments.

Now, my friend, the gentleman from Ohio [Mr. HALL] voted for both of these caps on the Medicaid Program. In both instances these caps were placing limits on an element of the Medicaid Program that was being abused; I think we agree.

In both instances the States had the flexibility to change their programs. If Mr. HALL's amendment was in effect, his votes would be defined as an unfunded intergovernmental mandate subject to points of order.

So it is for that very technical reason, even though I understand what the gentleman is trying to accomplish, that I have to again underscore that while this is well meaning it is not going to have a benign effect on what we are trying to do, in my view, and is going to remove flexibility.

The States have asked for that flexibility. To take that away from them, especially after what we just heard from the Governors, just does not make a lot of sense to me at this time.

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

There isn't a more vulnerable population out there than children, especially poor children. The food programs the country has instituted over the years have been put in place to protect this most at-risk group. It is unconscionable for this body to consider legislation that would deny food to the very mouths of babes.

Upward of 2.2 million children could be affected in the Food Stamp Program alone by this bill.

Another 1 million children could be affected by cuts to the WIC Program.

Even more would feel the impact of cuts to child nutrition, school lunch and breakfast and other hot meal programs that provide essential services to our youngest and most tenuous of constituents.

I urge my colleagues to support the Hall amendment and give American kids a fighting chance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. HALL].

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

RECORDED VOTE

Mr. HALL of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 289, not voting 1, as follows:

[Roll No. 74]

AYES—144

Abercrombie	Furse	Nadler
Ackerman	Gejdenson	Neal
Barcia	Gephardt	Oberstar
Becerra	Gibbons	Olver
Beilenson	Gonzalez	Owens
Bentsen	Gordon	Pallone
Berman	Green	Pastor
Bishop	Gutierrez	Payne (NJ)
Bonior	Hall (OH)	Pelosi
Borski	Hastings (FL)	Rangel
Boucher	Hefner	Reed
Brown (CA)	Hilliard	Reynolds
Brown (FL)	Hinchey	Richardson
Brown (OH)	Hoyer	Rivers
Bryant (TX)	Jackson-Lee	Roybal-Allard
Cardin	Jacobs	Rush
Clay	Jefferson	Sabo
Clayton	Johnson, E. B.	Sanders
Clement	Johnston	Sawyer
Clyburn	Kaptur	Schroeder
Coleman	Kennedy (MA)	Scott
Collins (IL)	Kennedy (RI)	Serrano
Collins (MI)	Kennelly	Skaggs
Conyers	Kildee	Slaughter
Coyne	Klink	Stark
Danner	LaFalce	Stokes
de la Garza	Lantos	Studds
DeLauro	Levin	Thompson
Dellums	Lewis (GA)	Thurman
Deutsch	Lofgren	Torres
Dicks	Lowey	Torricelli
Dingell	Maloney	Towns
Dixon	Manton	Traficant
Durbin	Markey	Tucker
Emerson	Martinez	Velazquez
Engel	Mascara	Vento
Eshoo	Matsui	Volkmer
Evans	McCarthy	Ward
Farr	McDermott	Waters
Fattah	McKinney	Watt (NC)
Fazio	McNulty	Waxman
Fields (LA)	Meehan	Whitfield
Filner	Meek	Williams
Flake	Menendez	Wolf
Foglietta	Miller (CA)	Woolsey
Ford	Mineta	Wyden
Frank (MA)	Mink	Wynn
Frost	Moakley	Yates

NOES—289

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

Deal	Kasich	Radanovich
DeFazio	Kelly	Rahall
DeLay	Kim	Ramstad
Diaz-Balart	King	Regula
Dickey	Kingston	Riggs
Doggett	Kleczka	Roberts
Dooley	Klug	Roemer
Doolittle	Knollenberg	Rogers
Dornan	Kolbe	Rohrabacher
Doyle	LaHood	Ros-Lehtinen
Dreier	Largent	Rose
Duncan	Latham	Roth
Dunn	LaTourette	Roukema
Edwards	Laughlin	Royce
Ehlers	Lazio	Salmon
Ehrlich	Leach	Sanford
English	Lewis (CA)	Saxton
Ensign	Lewis (KY)	Scarborough
Everett	Lightfoot	Schaefer
Ewing	Lincoln	Schiff
Fawell	Linder	Schumer
Fields (TX)	Lipinski	Seastrand
Flanagan	Livingston	Sensenbrenner
Foley	LoBiondo	Shadegg
Forbes	Longley	Shaw
Fowler	Lucas	Shays
Fox	Luther	Shuster
Franks (CT)	Manzullo	Sisisky
Franks (NJ)	Martini	Skeen
Frelinghuysen	McCollum	Skelton
Frisa	McCrery	Smith (MI)
Funderburk	McDade	Smith (NJ)
Gallegly	McHale	Smith (TX)
Ganske	McHugh	Smith (WA)
Gekas	McInnis	Solomon
Geren	McIntosh	Souder
Gilchrest	McKeon	Spence
Gillmor	Metcalf	Spratt
Gilman	Meyers	Stearns
Goodlatte	Mica	Stenholm
Goodling	Miller (FL)	Stockman
Goss	Minge	Stump
Graham	Molinari	Stupak
Greenwood	Mollohan	Talent
Gunderson	Montgomery	Tanner
Gutknecht	Moorhead	Tate
Hall (TX)	Moran	Tauzin
Hamilton	Morella	Taylor (MS)
Hancock	Murtha	Taylor (NC)
Hansen	Myers	Tejeda
Harman	Myrick	Thomas
Hastert	Nethercutt	Thornberry
Hastings (WA)	Neumann	Thornton
Hayes	Ney	Tiahrt
Hayworth	Norwood	Torkildsen
Hefley	Nussle	Upton
Heineman	Obey	Visclosky
Herger	Ortiz	Vucanovich
Hilleary	Orton	Waldholtz
Hobson	Oxley	Walker
Hoekstra	Packard	Walsh
Hoke	Parker	Wamp
Holden	Paxon	Watts (OK)
Horn	Payne (VA)	Weldon (FL)
Hostettler	Peterson (FL)	Weldon (PA)
Houghton	Peterson (MN)	Weller
Hunter	Petri	White
Hutchinson	Pickett	Wicker
Hyde	Pombo	Wilson
Inglis	Pomeroy	Wise
Istook	Porter	Young (AK)
Johnson (CT)	Portman	Young (FL)
Johnson (SD)	Poshard	Zeliff
Johnson, Sam	Pryce	Zimmer
Jones	Quillen	
Kanjorski	Quinn	

NOT VOTING—1

Mfume

☐ 1553

Mr. STUPAK and Mr. SCHUMER changed their vote from "aye" to "no".

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 74, on the amendment offered by Mr. HALL of Ohio. Had I been here I would have voted "yea."

AMENDMENT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Chairman, I offer an amendment, the amendment numbered 165.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PETERSON of Minnesota: In section 301, in the proposed section 424(a)(2)(A) of the Congressional Budget Act of 1974, strike "$100,000,000" and insert "$50,000,000".

Mr. PETERSON of Minnesota. Mr. Chairman, this is a straightforward amendment offered by myself, the gentleman from Kansas [Mr. ROBERTS], the gentleman from Indiana [Mr. BURTON], the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and others who worked on this and who had similar ideas.

It is a straightforward amendment that lowers the threshold on private sector mandates in which CBO is required to file a report from $100 million to $50 million.

Mr. Chairman, this will equalize the threshold at $50 million for both the public and the private sector. There were a number of amendments offered in this area. Some of them went lower, but we thought this made sense, to equalize the two.

One of the issues was whether the lowering of this threshold would possibly cost CBO additional money. But we have checked, and CBO said the money authorized in this bill is sufficient to comply with these provisions.

Mr. Chairman, in the 103d Congress, 226 of us, including myself, cosponsored the bill of the gentleman from California [Mr. CONDIT], which would impose a tougher standard, basically a "no money, no mandate" standard, which a lot of us would still like to see. But this is a good first start.

What we are doing here by lowering this threshold is making sure that we have the same standards in both the public and private sector, and also that we will include more mandates in this process.

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

Mr. PETERSON of Minnesota. I yield to the gentleman from Indiana, the chairman of the Subcommittee on Government Operations, on which I serve.

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

Mr. Chairman, I want to commend the gentleman for his efforts in fashioning a bipartisan approach to this and for his efforts in my Subcommittee on Regulatory Relief to do the same.

I think this is an important amendment because it would lower the threshold at which we would study the problem of regulations in the private sector. As I have said many times before, regulations are a hidden tax on the middle class in this country, and we have to do something to attack that problem. It is important that we do that well informed and with the studies that would be resulting from this legislation.

I strongly support this amendment, and want to thank my colleague from Minnesota for introducing it here today.

Mr. PETERSON of Minnesota. Mr. Chairman, I yield back the balance of my time.

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

Mr. Chairman, I would like to thank the gentleman from Minnesota [Mr. PETERSON], in coauthoring this amendment with myself, the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and many other members of the unfunded mandates caucus. This has the support of the unfunded mandates caucus.

It is bipartisan in nature. The gentleman has simply explained the amendment very well. What it does is to equalize the threshold and brings it down to $50 million in regards to the private sector.

It is my considered opinion that all mandates should fall under the careful scrutiny of the Congressional Budget Office. A mandate is a mandate. In fact, I think there are some of us that would support lowering the threshold to zero. This is really an effort by the gentleman from Minnesota, myself, and others, to make the threshold apply to rural and small-town America.

Obviously, if you exclude the smaller mandates, that is going to impose a greater burden on small communities. So the gentleman's amendment is certainly appropriate to that effort.

☐ 1600

There has been some concern about the fact whether or not the CBO can do this job. They can. We have been in contact with the CBO, and I think I should point out to Members that the CBO cost estimates have not always been in agreement with the cost estimates that are prepared by State and by local governments. So if you had a $100 million threshold, as opposed to $50, look what happened in regards to the Motor Voter Act. The cost of implementation as estimated by CBO was $28 million. It costs $26 million alone in regards to California.

It is a good amendment. I rise in support of it. I thank the gentleman from Minnesota.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, just briefly let me just say that this has bipartisan support. I obviously want to congratulate the gentleman from Minnesota for his hard work as well as my distinguished colleague who was gracious enough to yield to me.

We are moving in the right direction as far as these mandates are concerned. I think the people of this country, both public and private, are going to congratulate us for this effort.

I would just like to say, once again, to my colleague, congratulations on the amendment.

As has been stated, our amendment equalizes the threshold for requiring a CBO cost estimate of mandates on the public and private sector.

Under H.R. 5, if a mandate will have an annual impact of $50 million or more on State and local governments, then CBO must do a cost analysis of the mandate and find out how much it will actually cost. A point of order can be raised if the bill does not contain this information.

The threshold for the same cost estimate for the private sector is $100 million, and a point of order can also be raised here as well if this information is not included.

My amendment lowers the threshold for the CBO cost estimate for the private sector to $50 million. This helps to level the playing field.

In many cases, the mandate should then be reduced or killed, and if it is really necessary it should be paid for.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for his contribution. Let the record show the gentleman from Indiana [Mr. BURTON] was a coauthor of this amendment and worked very hard with us to bring it to the attention of the House at this moment.

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

I just want to be very brief and compliment the authors of this amendment and say on behalf of the committee that we support this amendment.

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

Mr. Chairman, this will expand the scope of this legislation. It will bring in many more Federal activities. But since the private sector will only require that a cost estimate be done, it will not trigger the optional aspect of this legislation, as would be triggered for States and localities. I do not see that it is a problem. The reality is that for CBO to determine whether or not a piece of legislation is going to impose a mandate of $100 million or more, they have to do the analysis anyway. So in the process of doing the analysis, that will suffice for the $50 million threshold.

I do not think it is going to cause much more work on the part of the Congressional Budget Office. It is consistent with the intent of the legislation, and it would be welcomed by the private sector. So I support the amendment as well.

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

Mr. Chairman, I thought that the intent of the majority was that we would have no strengthening or weakening amendments to this bill. The other Chamber has acted on this matter, and this amendment would seemingly fly in the face of reaching some appropriate compromise on this matter, because it actually moves in the opposite direction.

So I would hope that even though it has been indicated that there is support, that there would be some consistency as we move through this process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PETERSON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment, the amendment designated number 173.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: 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) pertains to the immunization of children against vaccine-preventable diseases.

Mr. ROEMER. Mr. Chairman, first of all, I would just like to say that the intention of this amendment, which would exempt children's immunizations from the legislation that we are considering here, given the special circumstances that we have a Federal program running right now for children's immunizations which we need to improve but we might need to eventually have go back to the States and localities, I am not sure that I will offer this. I may withdraw it, but I do want to talk about the importance of immunizations for children.

Let me say, I want to congratulate the Members that have been working so hard on this bill, the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Ohio [Mr. PORTMAN], the gentleman from California [Mr. CONDIT], the gentleman from Virginia [Mr. MORAN], and many others.

My amendment is in no way to be dilatory or to take away from the serious debate and the bipartisan nature by which we are working together to prohibit unfunded mandates where many of my constituents and Democratic and Republican mayors want us to act in this body in a bipartisan way.

I intend to vote for passage of this legislation. But I also want to make sure that there are not unintended consequences of this legislation. And with immunization rates in this country trailing badly other developed and industrialized countries, we need to make sure that we continue to put the very highest priority on immunizing our children. We are 20 and 25 percent behind the immunization rates of countries such as Japan and Germany.

We invest $1 in immunizing a child and we save $10 later on in our health care costs. There is absolutely no question that to put the very highest priority on these programs is in the very best interest of our children, our taxpayers, and our health care system. So I want to offer this amendment with the intention of working with the Republican majority and other interested parties here in Congress on seeing that we improve our immunization rate, seeing that we improve the Federal program that was started by President Clinton, seeing that we improve the State rate of participation, and seeing that at some point in the future we may need to critically analyze and critique this program that is currently running and possibly move it back to the States and the localities, which might run it in a better and more efficient fashion.

We have seen some of the regulations with this program throw some hurdles into the delivery of immunizations and inoculations for children, in that a regulation requires a doctor to keep a free vaccination in a separate quarter from a paid-for vaccination or inoculation. So I think that there are many improvements that we can do, and I want to just guarantee and have guarantees from the majority that we can improve this program, there will be priorities put on this program to immunize our children and that there are no hurdles put up under this bill.

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

Mr. ROEMER. I yield to the gentleman from Ohio, who has worked so hard on this legislation.

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

I would just say, as the gentleman is aware, there is nothing in H.R. 5 which would preclude the Congress from continuing to have an active role to play in immunization programs and to perfect, in fact, the local-State-Federal partnership on immunization. I think on the majority side we share the concern about the programs. We share the gentleman's view that these are salutary preventive programs that make a lot of sense, that they are very cost effective.

I would say, again, as we said many times over the last several days in response to the exemption argument, that this legislation will in no way preclude Congress carefully considering future mandates in this area.

However, reluctantly, we would have to oppose such an amendment simply because it again creates an exemption which is not necessary for this legislation.

I would ask the gentleman if he would be willing, given that understanding, that in fact these immunization programs would be coming to the floor, would be receiving debate on a more informed basis, I might add, that he might consider withdrawing his amendment.

Mr. ROEMER. Mr. Chairman, I will ask unanimous consent in the next minute, to withdraw the amendment and just make two further points, ancillary points to what the gentleman has just brought up.

I thank the gentleman for his willingness to work together on this.

The reason that I brought the amendment to the floor was, again, not to be dilatory but that immunizations have two distinct differences from some of the more generic amendments that have been offered by my colleagues on children's health.

One is that we have a Federal program in place.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

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

Mr. ROEMER. We have a program in place that we do not want to see hurt by this legislation. I think we may want to see improvements in it. And if we cannot implement those improvements, we may want to work more with the State and local governments to see this implemented.

Second, with the outbreak of a virus or something that could affect our children, the emergency provisions in this bill would allow us to act pretty expeditiously if we want to guarantee that quick action, not only for the impact on children but for our senior citizens, who might be more susceptible to infection.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, in section 4, there is a specific exemption for emergency situations such as the one which the gentleman stated. I would think that that would be covered by that exemption.

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

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

□ 1610

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer amendment No. 158.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: In paragraph (4) of section 202(a), insert before "the effect" the following: "estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of".

Mr. SKAGGS. Mr. Chairman, this amendment deals with what I suspect was really a drafting error, back in title II of the bill, having to do with the estimates that are required to be prepared by agencies pursuant to the new authorities in this legislation.

Interestingly, Mr. Chairman, in subsection A(2) of section 202, estimates made by agencies concerning future costs or disproportional budgetary effects are to be made "if and to the extent that the agency determines that accurate estimates are reasonably feasible."

However, over in paragraph 4 of that subsection, estimates concerning the effect on the national economy, including productivity, economic growth, full employment, creation of jobs, and international competitiveness have no such qualifying language about reasonable feasibility.

It seems to me those estimates are equally problematic for the agency to be able to conduct, Mr. Chairman. In discussing this with the floor manager of the bill, the gentleman from Pennsylvania [Mr. CLINGER], I think it is clear that we all recognize that in this proposed statute, as in any others, there is an implied qualification of reasonableness.

I just wanted to inquire of the floor manager currently on the floor, the gentleman from Virginia [Mr. DAVIS], if indeed that is his interpretation, that we are looking for reasonable estimates to be made by the agency under paragraph 4, just as under paragraph 2.

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

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

Mr. DAVIS. Mr. Chairman, I thank the gentleman from Colorado for yielding to me.

Mr. Chairman, I would concur with the gentleman's statement. There is a standard of reasonableness built into this bill in terms of the agencies being able to gather and make the reports.

Mr. SKAGGS. Therefore, we are not asking them to do anything that is impossible or impracticable, is that correct?

Mr. DAVIS. If the gentleman will yield further, that is correct.

Mr. SKAGGS. With that understanding, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman from Colorado [Mr. SKAGGS] is withdrawn.

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. COOLEY

Mr. COOLEY. Mr. Chairman, I offer amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COOLEY:

Strike out subsection (e) of the proposed section 425 of the Congressional Budget Act of 1974.

Mr. COOLEY. Mr. Chairman, I rise today to offer an amendment that would strike the mandate grandfather provision of the Unfunded Mandate Reform Act.

Added during the Committee on Rules' consideration of this bill, this provision, found in section 425(E), protects all past mandates as long as they do not increase the mandate or decrease the resources allocated to fund it.

In other words, the Clean Water Act, Clean Air Act, Immigration Act, Safe Drinking Water Act, Endangered Species Act, Resource Conservation Recovery Act, and Superfund amendments are all protected from the bill as written.

As I have listened to this debate, Mr. Chairman, these past few days it has occurred to me that it has been a degradation of the debate on the value of this particular law. Someone wants to keep the bill from applying to seniors, another to children and yet women, yet another to laws affecting public health and safety.

Mr. Chairman, these are debates for another time. The question at hand today is "Will we make States pick up the tab for Congress' ideas?"

Mr. Chairman, I submit that there is not a single Member of this body who wants to jeopardize the health and safety of Americans, nor do we believe that there is a single Member who would want to lessen the standard of living for the children, mothers, or senior citizens. Disabled persons are not on anyone's hit list, either. We are here in Congress because we are concerned about these very problems.

In light of that, I cannot fathom why the opponents of this bill are so certain that the bill will be the undoing of all laws governing public health, safety, and the environment. Would striking the exemption for existing unfunded mandates mean that we instantly disregard the progress we have made? Absolutely not.

My amendment would simple ensure that unfunded mandates be on equal footing. There should be nothing sacred about these massive costs inflicted upon the States, nor should future mandates, if deemed critically important, be considered less necessary to public health and safety by virtue of their following this act. All mandates, whether funded or unfunded, should be considered on their merit.

We can signal our resolve to carefully consider all unfunded mandates that come up for reauthorization by cancelling the provision that protects them from a point of order.

Mr. Chairman, if we subject future unfunded mandates to a point of order, then we should do the same for those being reauthorized.

Before I close, I must unequivocally state that my amendment does not end all present unfunded mandates immediately. That is, my amendment does not make this legislation retroactive. The only thing that will change is a law requiring reauthorization for related appropriations to be subject to the point of order.

Clearly, if Congress supports the underlying legislation that faces reauthorization, it will dispose of the point of order. Everyone here knows that if the sentiment is here for the substance of the legislation, the point of order, which requires a simple majority, will be waived by a similar count.

My amendment simply makes us stop and consider the wisdom or folly of our predecessors. If we waive the point of order, then we will have deemed the content of the reauthorization necessary.

We have considered this bill for the purpose of casting light upon the burden that unfunded mandates have created for the States. If my amendment is adopted, these past mandates will be evaluated on the basis of the burden they impose and the benefits they bring to our States and communities. If past mandates do not pass the muster, then why have them and why protect them, as they are unfairly shielded in this bill as presently written?

My amendment merely signals our intention to consider all unfunded mandates equally. I would ask my colleagues to support this amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to this amendment. It will unabashedly seek to undo all Federal laws that protect the health, safety, and welfare of Americans by subjecting the laws to a point of order when they are reauthorized. We have repeatedly sought to exempt laws already on the books from the provisions of this bill, as long as reauthorizations did not impose additional unfunded mandates.

The chairman of the Committee on Government Reform and Oversight, as far as I know, has agreed. The chairman of the Committee on Rules has agreed, as far as I know, and in fact, inserted language specifically to clarify this point.

Now the gentleman throws out all statutes as they come up for reauthorization. The result would be a wholesale dismantling of dozens of laws. All of our environmental statutes would be repealed, because there is no way we could fully fund the costs. So would worker safety laws. Consumer protection standards would be gutted.

Are the American people really willing to risk their drinking water? I do not think so. Are they willing to trust States upstream to not dump their sewage in their rivers and our beaches? I do not think so. Do they want airport safety to be decided by some local accountant? I do not think so. Will they forego the safety of their children? I know they will not.

Mr. Chairman, we all know the answer to these questions. Vote "no" on this amendment. This is a crippling amendment, one we do not need. I would urge all my colleagues to strike it down and not vote for it.

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

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from Oregon [Mr. COOLEY]. I know what many on this side of the aisle and Members on the other side of the aisle feel is that this bill does not go far enough, that we really should be looking back and taking a look at all of the myriad mandates that we have imposed on State and local governments over the years.

Title I of this bill is a first effort to do that, to say yes, we need to review where we stand. We need to look at what is on the books. We need to assess what has been the impact, what is the cumulative impact.

I think there is no question that we can say 1 mandate is not too much, 2 is not too much, but 176 unfunded mandates clearly is too much, so I think the gentleman is certainly on the right track. He is looking at this thing and saying we have gone overboard and we should really be reviewing and eliminating those at this point.

However, Mr. Chairman, I would say that this language that is in the bill does represent a compromise that was effected, and which was actually fashioned in the Committee on Rules to address this very issue. Mr. Chairman, I think it is fair to say that this would be a killer amendment. It is a strengthening amendment, there is no question about that, but I think it strengthens the bill too much to survive. For that reason, I would have to oppose the amendment.

□ 1620

Mr. GOSS. Mr. Chairman, I would like to further state that the Committee on Rules did respond in a very cooperative way to what we think was a very legitimate concern by the Committee on Government Reform and Oversight on how to work out a compromise that would work on this, and we did come up with an amendment which we called the Goss amendment which we thought resolved the issue pretty well.

I would like to point out that this is a subject that went through a briefing, a hearing, a markup, and not a little bit of debate, to say nothing at all of the fact that we had a rule discussion on it. So we have really given this a lot of analysis.

My concern about a killer amendment is very real. We have tried to weigh and balance, and we have got a protection built in. I say this sincerely, because I speak as a local government official who has come out of being a mayor and a county chairman. I have very strong, deep personal feelings about dealing with unfunded mandates whether they come from the Federal Government or the State capital, and that is, that we have got our Advisory Commission on Intergovernmental Relations, and we have been given, I think, very strong promises of commitment from the leadership that we are going to pay attention to what they say.

We are going to have a report, a study, monitoring, and I think we have hit middle ground here. Until we know a little better whether there is a problem or there is not, I think we ought to go as the committee has presented it.

I thank the distinguished gentleman for yielding. I regrettably say that I will be in opposition to the Cooley amendment.

Mr. CLINGER. Mr. Chairman, reclaiming my time, I would just say to the gentleman that I am sympathetic to the concerns that he has raised here. I think that what we have in this bill, however, is a first cut. As the gentleman has indicated, there are many on this side that would like to see us go much further. There are many on the other side who think we have gone way too far as it is, and this seems to strike a fairly reasonable balance. Again, I would have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. COOLEY].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 287, not voting 1, as follows:

[Roll No 75]

AYES—146

Allard	Condit	Geren
Bachus	Cooley	Gibbons
Baker (CA)	Cox	Gillmor
Barr	Cramer	Goodlatte
Barrett (NE)	Crapo	Gordon
Bartlett	Cremeans	Graham
Bereuter	Cubin	Green
Bevill	Cunningham	Gunderson
Bilbray	Deal	Gutierrez
Blute	DeLay	Gutknecht
Bonilla	Doolittle	Hall (TX)
Bono	Duncan	Hancock
Browder	Dunn	Hansen
Brownback	Edwards	Hastert
Bryant (TN)	Emerson	Hastings (WA)
Bunn	Ensign	Hayworth
Burr	Everett	Hefley
Camp	Ewing	Heineman
Chambliss	Flanagan	Herger
Chenoweth	Forbes	Hilleary
Coble	Frank (MA)	Hoke
Coburn	Funderburk	Hostettler
Collins (GA)	Gallegly	Hunter
Combest	Ganske	Istook

Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
LaHood
Largent
Latham
Laughlin
Lewis (KY)
Lightfoot
Lincoln
Linder
Longley
Lucas
Manzullo
Martinez
McCollum
McHugh
McInnis
McKeon
Metcalf
Minge
Montgomery
Nethercutt
Neumann
Ney
Norwood
Orton
Owens
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Pombo
Pryce
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tauzin
Thornberry
Tiahrt
Torkildsen
Vucanovich
Waldholtz
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker

NOES—287

Abercrombie
Ackerman
Andrews
Archer
Armey
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Berman
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Crane
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Goodling
Goss
Greenwood
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Mfume

□ 1648

Messrs. RUSH, OLVER, BONIOR, COYNE, ACKERMAN, RICHARDSON, DINGELL, and MARKEY, and Ms. BROWN of Florida changed their vote from "aye" to "no."

Messrs. HERGER, HASTINGS of Washington, HILLEARY, HANCOCK, JOHNSON of South Dakota, GALLEGLY, KIM, SMITH of Texas, ALLARD, EWING, and WAMP, Mrs. VUCANOVICH, Messrs. PACKARD, PAXON, and CAMP, Ms. PRYCE, Mr. BEVILL, Mr. McCOLLUM, Mrs. SEASTRAND, and Messrs. LAHOOD, LIGHTFOOT, NORWOOD, BARRETT of Nebraska, SAM JOHNSON of Texas, ISTOOK, TORKILDSEN, BLUTE, and BEREUTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 75, on the amendment offered by Mr. COOLEY of Oregon.

Had I been here I would have voted "no."

AMENDMENT OFFERED BY MR. WAXMAN

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

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In the proposed section 424 of the Congressional Budget Act of 1974, redesignate subsection (d) as subsection (e) and insert after subsection (c) the following:

"(d) ESTIMATES.—If the Director determines that it is not feasible to make a reasonable estimate that would be required for a statement under subsection (a)(1) for a bill or joint resolution, the Director shall not make such a statement and shall inform the committees involved that such an estimate cannot be made and the reasons for that determination. The bill or joint resolution for which such statement was to be made shall be subject to a point of order under section 425(a)(1).

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

□ 1650

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out with the majority. It is noncontroversial, a perfecting amendment to clarify what CBO is supposed to do if it is not able to estimate the impact on State or local governments. It provides in this situation that CBO may give the committee a statement that it is not feasible to estimate the cost. We have worked this out. I would urge support for the legislation.

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

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

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment offered by the gentleman from California. I think it is a good addition to the bill. What it is really saying is we do not want CBO to have to invent figures, make them up, to be forced into coming up with squishy numbers in this area, though yet the point of order would still lie. We have preserved the point of order.

We also say "Be straight up with us, tell us if you cannot do it. If you cannot to it, just tell us that."

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, No. 144.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN:

In the proposed section 421(4) of the Congressional Budget Act of 1974, add the following new sentence at the end of the section: "Clause (i)(I) of subparagraph (B) shall not apply to provisions that are designed to prevent fraud or abuse or to increase fiscal accountability of the program administered by the States, local governments, or tribal governments receiving assistance."

Mr. WAXMAN. Mr. Chairman, the bill before us provides that it would be considered an unfunded mandate if we increase the stringency in an entitlement program as a condition of assistance. Now, the way this is defined, I think it applies perhaps exclusively, but certainly to the Medicaid program.

What my amendment would provide is that if there is an increase in the stringency of conditions of assistance in Medicaid, this would not apply if the change in the requirements is to assure the fiscal integrity of the program to assure that expenditures are for the purposes that are legitimate under the program or to prevent fraud and abuse by people or providers receiving payment under the program.

This is a good Government amendment. If we are, let's say under the Medicaid Program, going to pay for health care services for poor people and we ask the States to be sure to police the program to be sure that there is no fraud or abuse being committed, if in that increased stringency requirement in order to protect the integrity of the program the States are required to do more than would otherwise be the case, we should consider that an unfunded mandate that would be prevented.

We have, as most of you know, a reverse suggestion of what we ordinarily think about in this unfunded mandate. We have a provision for extra payments by the Federal Government when the States provide assistance to disproportionate share institutions. These are usually hospitals that serve a disproportionate share of low-income people and we want to provide extra reimbursement to them.

But some of the States took advantage of this provision and they concocted schemes to rip off Federal dollars to which they were not entitled. They came in and requested that the Federal Government match money that they put up and then used the Federal dollars under Medicaid for things that had nothing to do with Medicaid. Medicaid was being used as a revenue-sharing program.

Let me just illustrate this by the fact that under this loophole States collected billions of dollars of Federal Medicaid spending. We went in the space of about 3 years from spending $300 million on disproportionate share payments to $11 billion. When we came back in 1993 in a bipartisan way and we said this is a loophole that cannot be tolerated, we plugged up that loophole. But if this mandates bill were in effect, that would be considered increased stringency of the program and the States could come back and say you cannot increase the stringency of the program as it relates to them, even though it plugged up a loophole by which they got Federal dollars from the Federal Government to which they were not entitled.

Those of us who want to protect the integrity of a program like Medicaid to make sure States police for fraud and abuse, make sure the States are protecting the integrity of the dollars being spent by the Federal Government, those things should not be considered unfunded mandates. We should not subject such a requirement and Federal changes in Federal law to a point of order. This amendment would accomplish that result. So I would urge an aye vote for this amendment.

It is not dissimilar, by the way, to the exceptions in this legislation that say that when we require compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government, that should not be considered an unfunded mandate under section 4 limitations on the limits of the legislation.

But I do not believe that that limitation on the application of what is considered unfunded mandate means where we say if it is to comply with accounting and auditing procedures, it would apply to something more to protect the fiscal integrity of the Medicaid Program.

Mr. Chairman, I ask support for this amendment.

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

Mr. Chairman, I rise in opposition to the amendment very briefly.

Mr. Chairman, I think this amendment is too broad for what the gentleman is seeking to accomplish. As he has already indicated, we do exempt auditing and accounting from the provisions of this bill to prevent waste, fraud, and abuse. The concern I have with it is that it really does broaden the scope of what we are trying to do. I think the purpose we should be focusing on, at least, is to try to enforce what exists. We do have controls existing that are not being enforced. I think we do a better job of getting the inspector generals to enforce what exists now without adding new restrictions and broadening language to the bill.

So I must oppose the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 275, not voting 6, as follows:

[Roll No. 76]

AYES—153

Abercrombie	Cardin	Doggett
Ackerman	Clay	Durbin
Baldacci	Clayton	Engel
Barcia	Clement	Eshoo
Barrett (WI)	Clyburn	Evans
Becerra	Coleman	Farr
Beilenson	Collins (IL)	Fattah
Bentsen	Collins (MI)	Fazio
Berman	Conyers	Fields (LA)
Bishop	Costello	Filner
Bonior	Coyne	Flake
Borski	DeLauro	Foglietta
Boucher	Dellums	Ford
Brown (CA)	Deutsch	Frank (MA)
Brown (FL)	Dicks	Frost
Brown (OH)	Dingell	Furse
Bryant (TX)	Dixon	Gejdenson

Gephardt	Markey	Richardson
Gibbons	Martinez	Rivers
Gonzalez	Mascara	Roemer
Green	Matsui	Roybal-Allard
Gutierrez	McCarthy	Rush
Hall (OH)	McDermott	Sabo
Hastings (FL)	McHale	Sanders
Hayes	McKinney	Sawyer
Hilliard	McNulty	Schroeder
Hinchey	Meehan	Schumer
Holden	Meek	Scott
Hoyer	Miller (CA)	Serrano
Jackson-Lee	Mineta	Skaggs
Jacobs	Minge	Slaughter
Jefferson	Mink	Stark
Johnson, E. B.	Moakley	Stokes
Johnston	Mollohan	Studds
Kanjorski	Moran	Stupak
Kaptur	Nadler	Thompson
Kennedy (MA)	Neal	Torricelli
Kennedy (RI)	Oberstar	Towns
Kennelly	Obey	Tucker
Kildee	Olver	Velazquez
Kleczka	Owens	Vento
Klink	Pallone	Ward
LaFalce	Pastor	Waters
Lantos	Payne (NJ)	Watt (NC)
Levin	Payne (VA)	Waxman
Lewis (GA)	Pelosi	Williams
Lofgren	Pomeroy	Wise
Lowey	Rahall	Woolsey
Luther	Rangel	Wyden
Maloney	Reed	Wynn
Manton	Reynolds	Yates.

NOES—275

Allard	Davis	Hilleary
Andrews	de la Garza	Hobson
Archer	Deal	Hoekstra
Armey	DeFazio	Hoke
Bachus	DeLay	Horn
Baesler	Diaz-Balart	Hostettler
Baker (CA)	Dickey	Houghton
Baker (LA)	Dooley	Hunter
Ballenger	Doolittle	Hutchinson
Barr	Dornan	Hyde
Barrett (NE)	Doyle	Inglis
Bartlett	Dreier	Istook
Barton	Duncan	Johnson (CT)
Bass	Dunn	Johnson (SD)
Bateman	Edwards	Johnson, Sam
Bereuter	Ehlers	Jones
Bevill	Ehrlich	Kasich
Bilbray	Emerson	Kelly
Bilirakis	English	Kim
Bliley	Ensign	King
Blute	Ewing	Kingston
Boehlert	Fawell	Klug
Boehner	Fields (TX)	Knollenberg
Bonilla	Flanagan	Kolbe
Bono	Foley	LaHood
Brewster	Forbes	Largent
Browder	Fowler	Latham
Brownback	Fox	LaTourette
Bryant (TN)	Franks (CT)	Laughlin
Bunn	Franks (NJ)	Lazio
Bunning	Frelinghuysen	Leach
Burr	Frisa	Lewis (CA)
Burton	Funderburk	Lewis (KY)
Buyer	Gallegly	Lightfoot
Callahan	Ganske	Lincoln
Calvert	Gekas	Linder
Camp	Geren	Lipinski
Canady	Gilchrest	Livingston
Castle	Gillmor	LoBiondo
Chabot	Gilman	Longley
Chambliss	Goodlatte	Lucas
Chenoweth	Goodling	Manzullo
Christensen	Gordon	Martini
Chrysler	Goss	McCollum
Clinger	Graham	McCrery
Coble	Greenwood	McDade
Coburn	Gunderson	McHugh
Collins (GA)	Gutknecht	McInnis
Combest	Hall (TX)	McIntosh
Condit	Hamilton	McKeon
Cooley	Hancock	Menendez
Cox	Hansen	Metcalf
Cramer	Harman	Meyers
Crane	Hastert	Mica
Crapo	Hastings (WA)	Miller (FL)
Cremeans	Hayworth	Molinari
Cubin	Hefley	Montgomery
Cunningham	Heineman	Moorhead
Danner	Herger	Morella

Murtha	Roth	Tauzin
Myers	Roukema	Taylor (MS)
Myrick	Royce	Taylor (NC)
Nethercutt	Salmon	Tejeda
Neumann	Sanford	Thomas
Ney	Saxton	Thornberry
Norwood	Scarborough	Thornton
Nussle	Schaefer	Thurman
Ortiz	Schiff	Tiahrt
Orton	Seastrand	Torkildsen
Oxley	Sensenbrenner	Traficant
Packard	Shadegg	Upton
Parker	Shaw	Visclosky
Paxon	Shays	Volkmer
Peterson (FL)	Shuster	Vucanovich
Peterson (MN)	Sisisky	Waldholtz
Pickett	Skeen	Walker
Pombo	Skelton	Walsh
Porter	Smith (MI)	Wamp
Portman	Smith (NJ)	Watts (OK)
Poshard	Smith (TX)	Weldon (FL)
Pryce	Smith (WA)	Weldon (PA)
Quillen	Solomon	Weller
Quinn	Souder	White
Radanovich	Spence	Whitfield
Ramstad	Spratt	Wicker
Regula	Stearns	Wilson
Riggs	Stenholm	Wolf
Roberts	Stockman	Young (AK)
Rogers	Stump	Young (FL)
Rohrabacher	Talent	Zeliff
Ros-Lehtinen	Tanner	Zimmer
Rose	Tate	

NOT VOTING—6

Chapman	Hefner	Petri
Everett	Mfume	Torres

□ 1715

Messrs. HOLDEN, MCHALE, and HILLIARD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 76, on the amendment offered by Mr. WAXMAN of California.

Had I been here I would have voted "yea."

AMENDMENTS OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc and printed in the RECORD.

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

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. HAYES:

In Section 301, in the proposed section 421 of the Congressional Budget Act of 1974, on page 29, line 11, after the period, insert the following: "(12) SIGNIFICANT EMPLOYMENT IMPACT.—The term 'significant employment impact' means an estimated net aggregate loss of 10,000 or more jobs."

In section 301, in the proposed section 424(b)(1)(B) of the Congressional Budget Act of 1974: on page 38, line 11, strike "or"; and on page 38, line 13, after "private sector", insert: "; or (C) significant employment impact on the private sector".

□ 1720

Mr. HAYES. Mr. Chairman, realizing the length to which this bill has proceeded, I will be as brief as I can.

The impact of these two amendments considered en bloc as they appear have impact on sections 421 and 421(b)(1)(b) of the Budget Act of 1974 as follows:

We talk so much about unfunded mandates in terms of money. The word "funding" itself would make us believe that we have got to look at each and every dollar sign.

The fact of the matter is that there are many instances in which the cost to human beings cannot be easily predilected in terms of money accounts.

In my home State of Louisiana, we lost more oilfield workers in the crash of the early 1980's than the entire automobile industry of America lost. So what the gentleman from Louisiana [Mr. BAKER], my colleague, and I have done, in a bill filed in the last Congress, the impact of which is to effect the amendments to this bill in this Congress, is simply add language saying that the significant employment impact on the private sector, under a definitional statement, a net aggregate loss of 10,000 or more jobs is as significant as any amount of money could possibly be.

For that reason, we are simply extending the application to the consideration of the impact of loss of jobs to the American worker.

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. BAKER of Louisiana. Mr. Chairman, I would like first to commend the gentleman from Louisiana for his efforts in this matter and point out that there is one other aspect of this amendment I think most important.

The debate to date has been centered about the effect of unfunded mandates on local and State governments. The effect of this amendment with regard to employment stretches the effect of analysis to go now to the private sector, which I think is very important in all this rush to make sure we are not doing things that are unreasonable.

If we are going to cost American jobs, we should be mindful of the effect, and balance that against the supposed benefit of some new federally mandated rule or regulation.

So the scope and effect of this amendment, I think, is very important in that it assigns a dollar value to the regulations for local governments. But it also assigns a job employment effect for those in private enterprise.

I commend the gentleman for his hard work and cooperation on this matter and hope the House will look favorably on its adoption.

Mr. HAYES. Mr. Chairman, the gentleman from Louisiana [Mr. BAKER], and I, for the last 8 years, have been able to work under what is now called bipartisanship and what we considered a natural kinship for the betterment of the State of Louisiana. I am glad the rest of the Congress is on occasion catching up to the gentleman from Louisiana and I.

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

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

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding to me. I am pleased to rise in support of the amendment. I think it makes a valuable addition to what we are trying to do here and merely authorizes the committees of Congress to seek information as to what it is going to mean to employment, what kind of impact it is going to have on employment.

It does not affect the point of order, but it does provide valuable information to the committees. I am pleased to support the gentleman's amendment.

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

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

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

I would simply like to join in and praise the bipartisan spirit of this amendment and say that I believe that it is right on target and to say to my friend from Louisiana that those of us in the 52-Member delegation from California are in fact learning from the marvelous example that the two gentlemen are setting.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. HAYES].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DREIER

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

The Clerk read as follows:

Amendment offered by Mr. DREIER: In section 301, in the proposed section 425 of the Congressional Budget Act of 1974, strike subsection (d) and redesignate subsection (e) as subsection (d).

In section 301, in the proposed section 426 of the Congressional Budget Act of 1974, strike: ": *Provided, however,*" and all that follows through the close quotation marks.

In section 301, after such proposed section 426, add the following:

"SEC. 427. DISPOSITION OF POINTS OF ORDER.

"(a) IN GENERAL.—As disposition of points of order under section 425(a) or 426, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(b) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(c) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.".

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. DREIER. Mr. Chairman, during consideration of H.R. 5 in the Committee on Rules, an amendment to section 426 was adopted that creates a mechanism to allow any Member to make a motion to waive points of order against a mandate in any bill, joint resolution, amendment or conference report that does not include a CBO cost estimate or a means for paying for the mandate.

The language currently in section 426 is preferable to the language in H.R. 5 as introduced for several reasons.

First, it more directly achieves the goal of the authors of H.R. 5 to guarantee votes in the House specifically on unfunded mandates. Second, it does not place undue constraints on the legislative schedule by requiring our Committee on Rules to report two rules every time a decision is made to waive the application of section 425.

Third, it relieves some of the burden on the presiding officer when making a determination with respect to a point of order.

Since H.R. 5 was reported to the House, I have been working with the parliamentarian and a lot of other Members have been working with the parliamentarian on language to address two additional concerns raised by section 426. The language is contained in the amendment that I am now offering, Mr. Chairman.

First, the amendment further reduces the burden on the presiding officer to rule on points of order with respect to not only the existence of a mandate but whether the cost of the mandate exceeds the threshold of $50 million. This will be particularly troublesome in situations where a motion to waive such a point of order is not made.

Second, the amendment addresses a concern raised by a number of my colleagues on the other side of the aisle with respect to the role of the chairman of the Committee on Government Reform and Oversight in advising the Chair about the question of unfunded mandates. Under my amendment, that advice would no longer be necessary.

Essentially, Mr. Chairman, the amendment provides that whenever points of order are raised pursuant to section 425(a) or 426, the points of order shall be disposed of by a vote of the Committee of the Whole.

The question would be debatable for 20 minutes, 10 minutes by the Member initiating the point of order and 10 minutes by an opponent of the point of order.

This also addresses the concern that was raised by our distinguished ranking minority member, my friend, the gentleman from South Boston, MA [Mr. MOAKLEY], who argued that the 10 minutes of debate time contained in the existing section 426 was insufficient.

Mr. Chairman, this amendment is an honest attempt to address a number of the concerns raised by my colleagues on the other side of the aisle. It further clarifies the procedure under which points of order against unfunded mandates are to be enforced in the House.

The amendment should not be controversial, and I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. MOAKLEY TO THE AMENDMENT OFFERED BY MR. DREIER

Mr. MOAKLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOAKLEY to the amendment offered by Mr. DREIER:

In the proposed new SECTION 427, insert the following new subsection (a) (and redesignate the existing subsections accordingly):

"(a) In order to be cognizable by the Chair, a point of order under section 425(a) or 426 must specify the precise language on which it is premised."

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. MOAKLEY. Mr. Chairman, the Dreier amendment is a major improvement over the text of the bill. I would, however, make one suggestion.

As the gentleman from California [Mr. DREIER] explained to us, his amendment will change the point of order into a question of consideration. But I am worried that there will be no way to ensure that this process is not abused.

So as the amendment now stands, if a Member wanted to avoid a vote, the Member just could raise the unfunded mandates point of order. Once that point of order has been raised, the Chair will have no choice but to put the question of consideration.

There is no way to prevent a Member from making an unfunded mandates point of order, even when there is none.

My amendment makes the Member who is raising the point of order show exactly where the unfunded mandate exists and explain how that language constitutes a violation.

I believe that this amendment to the Dreier amendment will make a very big difference in preventing abuse of the unfunded mandate point of order.

If my amendment is accepted, a Member will not be able to raise a point of order against a measure unless he or she can show that one may exist.

Mr. Chairman, I have had a lot of constructive conversations with the gentleman from California. [Mr. DREIER]. I appreciate his willingness to work with us on this matter.

□ 1730

Mr. Chairman, I hope the gentleman from California [Mr. DREIER] will accept this amendment. Later if we find we have to make further modifications, perhaps we can take those up in conference.

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

Mr. MOAKLEY. I am glad to yield to the gentleman from California.

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

I have to say, Mr. Chairman, well wonders never cease. The Louisiana delegation has come together. The Committee on rules is coming together. We are working in a bipartisan way in the 104th Congress to deal with many of the challenges that lie ahead of us.

It seems to me that on this issue the burden of proof should in fact lie with the Member raising the point of order. This is a very effective way to address that concern. I strongly support the amendment offered by the gentleman from Massachusetts. [Mr. MOAKLEY] to the amendment I have offered. The gentleman from Pennsylvania [Mr. CLINGER] will be let off the hook with this amendment.

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

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

Mr. CLINGER. Mr. Chairman, that is precisely what I wanted to say. In the legislation presently drafted, the task of determining what was or was not an unfunded mandate would have fallen on the shoulders of the chairman of the Committee on Government Reform and Oversight, and/or perhaps the ranking member of that committee, so I certainly appreciate the fact that this is now going to ensure that this matter will be decided by the House itself. That is the appropriate place for this decision to be made. I am pleased to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY] to the amendment offered by the gentleman from California [Mr. DREIER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER] as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. 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 Mrs. MINK of Hawaii: In section 301, in the matter proposed as section 421(4)(A)(i)(II) of the Congressional Budget Act of 1974, strike "except as provided in subparagraph (B)".

In section 301, in the matter proposed as section 421(4) of the Congressional Budget Act of 1974, strike subparagraph (B).

In Section 301, in the matter proposed as 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 insert at the end the following:

"(8) requires compliance with certain conditions necessary to receive grants or other money provided by the Federal Government in programs for which the States, local governments, or tribal governments voluntarily apply.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to offer this amendment to express my opposition to this legislation because of the many questions caused by the ambiguous, overly broad language contained in this legislation which have not been resolved to my satisfaction.

Mr. Chairman, the debate on this bill has raised many areas of national concern which will be seriously jeopardized by the mandate that all standards and requirements be fully funded or risk the hazard of not being implemented or even repealed.

This debate is a lesson on the critical issues that we have tried to face as a Nation where the Congress has set forth the goals, and sought to make the case for national compliance in a shared responsibility with States and local communities.

This bill provides that unless the Federal Government pays for the cost of implementing these standards and goals on a local level, that these goals are of no force and effect.

The obvious effect of this bill is to reduce the reach of the Federal Government to help fight disease, curb pollution, prevent contamination of our environment, improve educational opportunities, raise the minimum wage, maintain safe places of work, prohibit child abuse, child exploitation, and provide for the poor, the elderly, and the infirm.

We in the minority believe very strongly that the Federal Government has the constitutional responsibility to provide for the general welfare of all citizens of this country and that, accordingly, it has the duty to establish by Federal law, Federal rules of conduct and safety, Federal standards, and Federal regulation that cut across State boundaries because they are safeguards and protections we are sworn to provide to all citizens of this country.

But the sweep of this legislation we are debating is to cut off the establishment of any new Federal responsibility or to expand an existing responsibility unless we are prepared to pay for it totally. the majority explicitly state that their goal is to transform the Federal Government and to reduce its function and authority in all programs, regardless of merit.

When the public realizes what this bill will do in reducing their protections in the areas of health, safety, and educational benefits, I feel confident that they will seek the abrogation of this contract which the majority seeks to impose on an unwilling Nation.

Mr. Chairman, I agree that certain mandates are unreasonable and ought to be revisited, but because you have a problem with your toe is no reason to cut off your foot and cripple yourself for the rest of your life.

My amendment makes clear that this bill does not affect any program which is voluntary. If the Federal Government sets out its goals, and invites the States and local entities to participate with the lure of funding, it is clearly voluntary and should not be covered by any bill which deals with mandates.

Yet this bill is unclear exactly where it draws the line as to what is voluntary and what is not.

My amendment seeks to make explicitly clear that no voluntary program entered into by the States and local communities can be converted into a mandate because it costs more than $500 million. If a program was voluntarily entered into by the States and local communities, the fact that it now costs the Federal Government to implement it does not convert it into a mandate.

Section 301 of H.R. 5 includes voluntary entitlements. Why? Strictly because it costs the Federal Government more than $500 million. Why should costs convert what is voluntary into a mandate? An entitlement is a mandate on the Federal Government.

It does not mandate participation on the part of the States. No State is required to participate in a voluntary entitlement program. It chooses to do so on its own, voluntarily, and when it chooses to participate, it agrees to the basic guidelines set forth in the law.

Mr. Chairman, AFDC is a classic example. The range of voluntary participation can be easily demonstrated by just looking at the range of benefit payments: $120 a month to a family of three in Mississippi, $624 a month to a family of three in California. There is no uniform benefit payment. AFDC is clearly and unequivocally a voluntary program, yet it is covered by this legislation as an unfunded mandate because it costs the Federal Government more than $500 million.

Mr. Chairman, this same argument applies to all the other voluntary entitlement programs. I urge this House to support my amendment and make clear that this bill does not cover voluntary programs whatsoever.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

Mr. Chairman, we have, as we know, eliminated or exempted voluntary programs and those that would have conditions as part of a grant, but when we are talking about exempting out an entire Medicaid Program, which is one of the largest programs we have, I think it would be very remiss of us not to at least consider what the cost of that would be, and to at least have some accounting of what the cost would be. This, again, would be a massive exemption from the provisions of this bill. Again, it would not affect the bill, but it would clearly call into account what we are doing here and make it very difficult for us to go forward.

Mr. Chairman, I would oppose the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

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

RECORDED VOTE

Mrs. MINK of Hawaii. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 121, noes 310, not voting 3, as follows:

[Roll No. 77]

AYES—121

Abercrombie	Gibbons	Nadler
Ackerman	Green	Oberstar
Barcia	Gutierrez	Obey
Beilenson	Hall (OH)	Olver
Bentsen	Hastings (FL)	Owens
Berman	Hilliard	Pastor
Bishop	Hinchey	Payne (NJ)
Bonior	Holden	Pelosi
Brown (CA)	Hoyer	Rangel
Brown (FL)	Jackson-Lee	Reynolds
Brown (OH)	Jacobs	Rose
Bryant (TX)	Jefferson	Roybal-Allard
Cardin	Johnson, E. B.	Rush
Clay	Johnston	Sabo
Clayton	Kanjorski	Sanders
Clement	Kaptur	Sawyer
Clyburn	Kennedy (MA)	Scott
Coleman	Kennedy (RI)	Serrano
Collins (IL)	Kildee	Stark
Collins (MI)	Klink	Stokes
Conyers	LaFalce	Studds
Coyne	Lantos	Stupak
Dellums	Levin	Thompson
Dicks	Lewis (GA)	Torres
Dingell	Lofgren	Torricelli
Dixon	Maloney	Towns
Doggett	Manton	Traficant
Doyle	Martinez	Tucker
Engel	Mascara	Velazquez
Eshoo	McCarthy	Vento
Evans	McDermott	Ward
Farr	McKinney	Waters
Fattah	McNulty	Watt (NC)
Fazio	Meek	Waxman
Fields (LA)	Menendez	Williams
Filner	Mfume	Wise
Flake	Miller (CA)	Woolsey
Foglietta	Mineta	Wynn
Ford	Mink	Yates
Furse	Moakley	
Gephardt	Mollohan	

NOES—310

Allard	Bass	Browder
Andrews	Bateman	Brownback
Archer	Bereuter	Bryant (TN)
Armey	Bevill	Bunn
Bachus	Bilbray	Bunning
Baesler	Bilirakis	Burr
Baker (CA)	Bliley	Burton
Baker (LA)	Blute	Buyer
Baldacci	Boehlert	Callahan
Ballenger	Boehner	Calvert
Barr	Bonilla	Camp
Barrett (NE)	Bono	Canady
Barrett (WI)	Borski	Castle
Bartlett	Boucher	Chabot
Barton	Brewster	Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manzullo
Markey
Martini
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Becerra
Coburn
Crane

□ 1756

Mr. GEJDENSON, Ms. SLAUGHTER, and Mrs. LOWEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. 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. BEILENSON: In the proposed section 421(a)(4)(ii) of the Congressional Budget Act of 1974 insert "or the amount of appropriations" after "appropriations".

In the heading for the proposed section 424(a) of the Congressional Budget Act of 1974, strike "OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS".

In paragraphs (1) and (2) of the proposed section 424(a) of the Congressional Budget Act of 1974, strike "of authorization".

In the proposed section 425(b) of the Congressional Budget Act of 1974, insert "(2)" after "(a)".

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would impose the same information requirements with respect to unfunded mandates on appropriations bills as H.R. 5 requires for authorizing legislation.

Even if we are not going to prohibit consideration of appropriations bills which contain unfunded mandates we should at least, Mr. Chairman, require that they be submitted to CBO for an estimate of the cost of any unfunded mandates they may contain. Otherwise we will be making appropriation bills a magnet for authorizers attempting to circumvent the requirements imposed on their own bills.

I personally have some reservations about the practicality of CBO-produced estimates of Federal mandates in legislation. It is a good idea in concept, but we are likely to see problems in its implementation, at least for a while. But if we are going to require such cost estimates for authorizing bills we ought to require them for appropriations bills as well.

It is easy to imagine a situation where members of authorizing committees, frustrated that they are unable to get a cost estimate from CBO on a timely basis, or are unwilling to do so because they know how the figures will turn out, go to the Committee on Appropriations and persuade a majority of members there to add the legislation to the appropriations bill.

□ 1800

It is also easy to imagine members of the Committee on Appropriations inserting legislation into their bills that the authorizing committees will not act on. It is easy to imagine these scenarios, because they have happened frequently in the past for other reasons. When an authorizing committee is unable to move a piece of legislation under its jurisdiction for whatever reason but wants to enact a programmatic change, the authorizing members often persuade the appropriators to include the legislative language in one of their bills.

Likewise, appropriations members who cannot get a legislative provision they want through an authorizing committee have been known to put it in an appropriations bill.

Subjecting authorizing bills but not appropriations bills to cost estimates for mandates would give Members an additional reason, potentially a very powerful one, to try to use the appropriations process to enact legislation.

The chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has argued that using the appropriations process to circumvent the unfunded-mandate requirement will be difficult because the Committee on Rules will not waive clause 2 of rule XXI, the prohibition on legislation in an appropriations bill. However, there will be times that the Committee on Rules will be under enormous pressure to waive that rule, and if the Committee on Appropriations does not have a determination from the CBO as to whether there are unfunded mandates in the bill, the Committee on Rules will have no way of knowing whether waiving rule XXI will also result in sending an unfunded mandate to the floor.

Subsequently, if the House votes to waive rule XXI, the House could find itself voting on an unfunded mandate without knowing it is doing any such thing.

Furthermore, no matter how well we adhere to our prohibition in an appropriations bill here in the House, we have no control over what the Senate will do in this regard. We may well find that in conference on appropriations bills House Members will be under enormous pressure to accept legislative provisions containing unfunded mandates inserted by Members of the other body.

In sum, Mr. Chairman, if we fail to ask of appropriations bills what we are asking of authorizing bills under this proposed legislation in the way of information requirements, we will be tilting the balance of power among our committees away from authorizers and toward the appropriators, and we will have created a significant loophole in this legislation. We can avoid doing both to a great extent by adopting this amendment.

I urge support for it. I think it is an eminently reasonable amendment. I think it makes all the sense in the world, and I urge Members to support it and vote for it.

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

Mr. Chairman, this amendment essentially repeals the exemption in the bill for the appropriations bills, as my friend has said. Contrary to the argument that has just been provided, there really is no loophole. There clearly is no loophole.

Any unfunded mandate in an appropriations bill would constitute legislating in an appropriations bill and would, therefore, alone be subjected to a point of order. So it is open to a point of order that conceivably could be raised.

Even if the Committee on Rules reported a rule that waived this point of order, an amendment to strike the unfunded mandate would always be in order unless it were a completely closed rule. Those of us on this side who are in the majority now do not plan to continue this pattern we have seen in the past of closing down rules.

So it seems to me that this amendment really does not do anything to effectively address the issue we are trying to get at here. There is really no need to proceed with this, and I hope very much that we will be able to reject this duplicative amendment which is already addressed in the standard operating rules of the House of Representatives.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, why is this change so important? Well, the House is about to embark on some drastic cost-cutting measures including rescissions and elimination of programs through the regular appropriations process. Already the Committee on Appropriations is working on two rescissions bills that will soon be considered on this floor. We must make sure that we know whether these cuts will shift the cost burdens to State and local governments, and if they do, we must apply the procedures of H.R. 5 to those bills.

No proponents of this legislation have given a reason why appropriations bills are not covered by H.R. 5. Just as important are conference reports on appropriations bills that come back from the other body with all sorts of authorizing legislation attached.

If a conference on an appropriations bill contains an unfunded mandate, why should not H.R. 5 apply?

Now, Mr. Chairman, we all know that provisions can be attached to continuing resolutions and reconciliation bills. They should all be included in the scope of this legislation. But in order to accomplish this, we must first amend the definition of Federal intergovernmental mandate in section 421(4). That definition currently includes only bills that decrease authorization of appropriations and not appropriations bills themselves.

Therefore, CBO is not required to perform any cost analysis on appropriations bills even though those bills may drastically cut funds for State and local governments used to pay for Federal mandates.

The goal of full and open debate on the cost of legislation cannot be met if appropriations bills, including rescissions, are not included.

Now, the Republican leadership has been talking of consolidating many costly Federal assistance programs and, instead, providing block grants to States. This, they promise, will save money, because fewer dollars will be needed. I want to tell you that I am skeptical. I fear that, instead, these unfunded mandates will be passed on to the States. That is why we need to closely scrutinize each appropriations and rescission bill that comes to the floor and to apply the proceeds of H.R. 5 to stop any unfunded mandates.

I urge the adoption of this amendment.

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

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

As we have heard over the past few days, the unfunded-mandate legislation is a far-reaching effort to alter the way the Federal and State governments relate to each other on a wide range of regulatory matters. There is certainly room for improvement in this relationship.

The fact is, we used to do a better job of listening to each other and sharing responsibility for the standards we set. I think we should bring back a better balance to the system. But it seems to me that the legislation which we are considering here today contains a very large loophole. It does not extend the CBO information requirements to appropriations bills.

I am at a loss to understand why. This is a very significant part of our legislative process, and this was omitted from the legislation. When we raised the issue in the Committee on Rules, the only response from the authors of the bill is that they did not want to offend the members of the Committee on Appropriations.

Mr. Chairman, I believe that extending the reporting provisions to appropriations bills so that we have information on any unfunded mandates they may contain would close a glaring loophole and provide a very valuable addition to this bill.

Mr. Chairman, to be fair and to be comprehensive in our desire to address the legitimate financial concerns of the States and localities, we need to extend the provisions of H.R. 5 to appropriations legislation, and I urge my colleagues to support the Beilenson amendment.

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

Mr. MOAKLEY. I am happy to yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would simply like to say that as we look at the Committee on Rules' relationship to the appropriations process, for the past several years we have seen restrictions imposed on the appropriations bills and waivers granted and all, but before that, that really did not happen, and I believe very sincerely that in this 104th Congress we are going to be able to get back to the point where we are not imposing those kinds of constraints on consideration of appropriations bills.

Also, I have to add that when I had the privilege of serving with the gentleman from Indiana [Mr. HAMILTON], cochairing our Joint Committee on the Organization of Congress, I was just reminded, throughout that hearing process I said the greatest reform that we could possibly implement in this institution would be to simply comply with the standing rules of the House. That is all we are saying right now.

The amendment offered by the gentleman from California [Mr. BEILENSON] tragically is based on the assumption that we are going to be waiving the rules of the House again. We would like to think, it is not ironclad, but we would like to think in most cases we will, in fact, be able to look at that as a thing of the past.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I have several problems with the logic there. First of all, arguing that something should not be included because it is not necessary, if there is any ambiguity, it seems to me a weak argument. None of those arguing in opposition said it would do any harm. They said it is not necessary.

In other words, we are getting the argument from literary elegance, not from logic.

Let us not be redundant. Fortunately the rule against redundancy does not apply to our speeches, or we would be in better shape.

On the other hand, there is a reason to apply this here. Among other things, we are not the only institution in this capital that treats appropriations legislation. Yonder lies the Senate. They have no such rule.

We have sometimes been confronted, as the gentleman understands, with situations in which, in conference, we have had to agree to that. So to argue that we should not put something into a statute which is intended to last indefinitely, because we have a House rule provision that does the same thing, is no argument at all.

□ 1810

If you are serious about the principle, then the fact it is in the House rule is a good idea, but hardly a sufficient protection. Putting it in the statute does no harm and arms us against a Senate where there is no such rule whatsoever.

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

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

Mr. DREIER. I thank the gentleman for yielding.

Mr. Chairman, as my colleague knows, over in the other body they regularly have opportunities with motions to strike. So clearly this issue can be addressed there.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Now, I am surprised because the gentleman has not said that all the time we spent on the unfunded mandates was a waste, because he is saying in effect we do not need an unfunded mandate bill, all we need is not to vote on unfunded mandates.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

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

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding further.

Mr. Chairman, this is astonishing. What the gentleman is saying is we do not need any of this because if a motion comes up in a bill that has an unfunded mandate we defeat it. Has this been a charade? No, it has not been a charade. I mean, is the contract unnecessary? Is this superfluity? How can you argue that we do not need this whole bill and argue that we do not need this amendment because, after all, if it comes up we will vote it down. That stands the whole process on its head.

I am surprised that the gentleman thinks that the whole thing we are talking about is illogical. Given the logic of a need for an unfunded mandates bill, applying it to appropriations bills makes the most obvious sense. The gentleman from California [Mr. BEILENSON] is correct.

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

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

Mr. DREIER. I thank the gentleman.

Mr. Chairman, beyond the standing rules of the House, on which we have had a pattern of waivers over the past several years, and this measure, what else would be necessary to ensure that we do not proceed with imposition of an unfunded mandate? I am just saying at what point? We have concluded that the rules of the House are not enough. I happen to think they are.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has again expired.

(On request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. MOAKLEY was allowed to proceed for an additional 30 seconds.)

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman.

Mr. Chairman, the rules of the House are not enough, I would say to the gentleman very simply, when we are dealing with a matter which includes the U.S. Senate. That is not hard. The rules of the House do not bind the Senate, they do not impress the Senate, and if you are serious about this you do it by statute.

Mr. DREIER. The rules of the House are not enough, and people who were formerly in the majority have had a pattern of constantly waiving them.

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

Just briefly, Mr. Chairman, in response to the point of the gentleman from Massachusetts [Mr. FRANK], No. 1: In the Senate debate on this the Senate did agree to a Senate procedure which handles the appropriations issue. So Mr. FRANK will take comfort from that, I am sure.

It is in a sense a line item in the appropriations bill on the Senate side. So that point is not necessary.

Second, this legislation is in fact not only necessary, but as we have seen over the last week in debating it, there is a crisis out there in terms of us sending unfunded mandates to States and localities.

If we do not get at it at the authorizing committee level, we will be in a situation where in a balanced budget environment we are increasingly pushing our costs down to the local level. So the legislation is absolutely necessary.

Mr. DREIER's concerns are well-stated. Why have another point of order? We already have a point of order. Why have a duplication of a second point of order on appropriations bills? If you are legislating on an appropriations bill, there can be a point of order raised. That is all we are saying. We just do not need it. The language in the bill makes it very clear that at the authorizing committee level you have to consider the costs. Then on the floor of the House there is a point of order raised if the mandate is not funded. At the appropriations level there is always a point of order if you go beyond what the authorizing committee has done.

So in point of fact, by definition there is a point of order for both situations, and I think this legislation should not be duplicative. We should not go out of our way to go back and make rules that are not necessary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. 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. BEILENSON: Amend section 425 of the Congressional Budget Act of 1974 to read as follows:

SEC. 425. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4).

(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

Strike the proposed section 426 of the Congressional Budget Act of 1974 and strike the reference to such section in the amendment made by section 304.

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would eliminate the bill's prohibition on consideration of legislation containing an unfunded mandate on State and local governments.

This amendment goes to the heart of what makes this bill so troublesome and problematic: The prohibition it establishes against considering legislation that contains an unfunded mandate on State and local governments of more than $50 million annually. It is clear from the debate we have had thus far that we do not know enough about the likely impact of such a rule to institute it at this time.

We do not know how an unfunded mandate will be determined, how different types of Federal activities will be affected, and whether the Congressional Budget Office will be capable of assessing the costs of a proposal to State and local governments accurately and in a timely fashion. It seems unwise, to say the least, to prohibit consideration of a certain type of legislation when we really do not know what legislation we will be prohibiting.

Supporters of H.R. 5 have portrayed the proposed rule as a rather benign procedure that will not prevent Congress from enacting any legislation we want to enact. They have said that it is not a "no money, no mandates" rule; they have said that all it will do is help us make more informed decisions about legislation which would impose an unfunded mandate, and be more accountable for those decisions.

But that, in fact, is not the case. If this rule were as benign as some of its proponents claim, the sponsors would not have exempted legislation dealing with civil rights, or national security, or emergencies. They would not have exempted appropriations bills. They would not have agreed to amendments offered by Democratic Members to exempt Social Security and antidiscrimination measures for older Americans.

Their support for exemptions for certain types of legislation is a tacit admission that this new prohibition does in fact have the potential to be a serious obstacle—if not a complete barrier—to enactment of certain types of legislation.

If you consider what this new rule means, and how it will work, you cannot help but reach the conclusion that it will make it enormously difficult, if not impossible, to enact legislation imposing a requirement that could be determined to be an unfunded mandate. And that would effectively stop us from enacting legislation promoting clean air, clean water, public health, child safety, labor standards, and a whole host of other activities which the vast majority of Americans support.

Let us look at how the process will work:

If a bill containing an unfunded mandate, as determined by CBO, is reported from a committee, or if a Member wants to offer a floor amendment that contains an unfunded mandate, the legislation in question cannot be protected by a waiver included in the rule providing for the bill's consideration. This, by the way, is the only case where the Rules Committee will not be allowed to include a waiver of a point of order in a rule. No other rule of the House is treated this way.

Instead, any Member will be able to make a point of order against any legislation which he or she knows, or suspects, may contain an unfunded mandate. Following that, the Chair would put the question of consideration.

If this rule does not make it impossible to pass legislation containing an unfunded mandate, it certainly will make it almost impossible. Certainly committees will avoid reporting legislation which has been judged by CBO to contain an unfunded mandate—no matter how worthy the purpose may be—to avoid subjecting the bill to a vote which is almost certain to fail.

Thus, contrary to what many of this bill's supporters say, the practical effect is that it is a "no money, no mandate," bill.

In cases of amendments, we may not know if the legislation contains an unfunded mandate and, if so, how serious the violation is. Yet we will be required to vote on the question of consideration. That does not make any sense, and it puts Members in the very difficult situation of having to make a decision and cast a vote on the waiver without the information we would need to make that decision.

Proponents of the legislation say that this procedure will encourage Members to get cost estimates for their amendments ahead of time. But the fact is, it is going to be very difficult for CBO, even with the extra resources they will get under this bill, to assess the costs of mandates on the more than 87,000 State and local governments for committee bills. It will be next to impossible to assess those costs for individual Members' amendments. It will be completely impossible to assess them in the middle of floor debate. So, by adopting this new point of order, we will be setting ourselves up for some very difficult situations on the House floor, to put it mildly.

There are cases where it makes sense for us to prohibit consideration of certain types of legislation. One good example is our point of order against tax or entitlement legislation which would increase the deficit. That makes sense because it is an enforceable rule and because it is relatively easy for CBO to determine whether legislation will have that effect. But establishing a rule against consideration of legislation containing unfunded mandates is far more problematic.

For all of these reasons, it would be wise for us to drop the prohibition on consideration of legislation containing unfunded mandates at this time. We ought to give CBO some time to get some experience in defining unfunded mandates, and determining their costs before we use those determinations as a basis for banning the consideration of legislation, and setting up a process that could create some real procedural problems for the House.

□ 1820

If what we really want from this legislation, as has been stated repeatedly during this debate, is information and accountability with respect to our actions regarding legislation containing unfunded mandates, we can achieve that by requiring CBO to determine whether reported bills contain an unfunded mandate and requiring the committees to include that information in reports accompanying the reported bills. This amendment would maintain the prohibition on consideration of committee reported legislation if the committee fails to include a CBO analysis of the cost of the mandate.

So, Mr. Chairman, so long as we have that information available to us, it will become part of the debate. We will know that by voting for the measure we are acting to impose an unfunded mandate. We will be accountable for that vote, but we will not have stacked the deck against enactment of such legislation to the extent that the bill currently does. We will not have tied our hands with respect to responding to as yet unknown problems that may emerge in the future.

This amendment will enable us to achieve the fundamental purpose of this bill, knowing the cost of mandates we are imposing and thus making us accountable for our vote, as we shall be, without making it all but impossible to enact important environmental, health and safety legislation, and I urge our colleagues to support the amendment.

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

Mr. Chairman, unfortunately this amendment really does not allow us to address the issue of payment, and, first, it only establishes a point of order for failure to include a CBO analysis in the committee report. Under H.R. 5 a point of order also exists if the bill does not provide for a way to pay for the mandate. Actually getting the cost information is needed not only to provide information, but to determine how much is necessary to pay for the mandate.

It seems to me that this is completely unnecessary, and I am going to urge my colleagues to oppose the amendment.

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

Mr. Chairman, I rise in support of the amendment offered by my good friend the gentleman from California [Mr. BEILENSON]. I believe that his amendment establishes a point of order which is far more appropriate than what is currently contained in this bill. Under this procedure, CBO would be required to provide detailed information on the potential cost that any unfunded mandate in proposed legislation would have on State and local governments as well as on private businesses. The point of order would not apply, however, to the consideration of legislation containing an unfunded mandate.

By including a point of order against consideration of mandate legislation we would effectively create a "no money, no mandate" bill. It would be next to impossible to get Members to cast an explicit vote to impose an unfunded mandate. I believe that it is valuable for Members to have the ability to make informed decisions on whether the particular Federal mandate's benefit outweighs the financial burden that might be incurred due to the legislation. However, it seems to me that we do not want to jeopardize the opportunity of the House to decide whether to consider a legislation proposal without an appropriate amount of deliberation and debate.

Under this procedure proposed by Mr. BEILENSON, legislation containing mandates important to our Nation would still be able to move forward for consideration by the Congress. The CBO information would provide members with an upfront assessment of the costs of the legislation being considered. Members could then decide by comparing the merits of the bill with the impact of the burden on non-Federal entities. I urge my colleagues to join me in support of this constructive amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 291, not voting 5, as follows:

[Roll No. 78]

AYES—138

Abercrombie	Gephardt	Oberstar
Ackerman	Gibbons	Obey
Baldacci	Gonzalez	Olver
Barrett (WI)	Green	Owens
Beilenson	Gutierrez	Pastor
Bentsen	Hall (OH)	Payne (NJ)
Berman	Hamilton	Pelosi
Bevill	Hastings (FL)	Pomeroy
Bishop	Hilliard	Rangel
Bonior	Hinchey	Reed
Borski	Hoyer	Reynolds
Boucher	Jackson-Lee	Richardson
Brown (CA)	Jefferson	Rivers
Brown (FL)	Johnson, E. B.	Roybal-Allard
Brown (OH)	Johnston	Rush
Bryant (TX)	Kanjorski	Sabo
Cardin	Kaptur	Sanders
Clay	Kennedy (RI)	Sawyer
Clayton	Kennelly	Schroeder
Clyburn	Kildee	Schumer
Coleman	Kleczka	Scott
Collins (IL)	LaFalce	Serrano
Collins (MI)	Lantos	Skaggs
Conyers	Levin	Slaughter
Coyne	Lewis (GA)	Spratt
DeLauro	Lofgren	Stark
Dellums	Lowey	Stokes
Dicks	Luther	Studds
Dingell	Maloney	Stupak
Dixon	Manton	Thompson
Doggett	Markey	Thornton
Durbin	Martinez	Torres
Engel	Mascara	Torricelli
Eshoo	McKinney	Towns
Evans	McNulty	Traficant
Farr	Meek	Tucker
Fattah	Mfume	Velazquez
Fazio	Miller (CA)	Vento
Fields (LA)	Mineta	Ward
Filner	Minge	Waters
Flake	Mink	Watt (NC)
Foglietta	Moakley	Waxman
Ford	Mollohan	Williams
Frost	Moran	Woolsey
Furse	Nadler	Wynn
Gejdenson	Neal	Yates

NOES—291

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

NOT VOTING—5

Becerra	Frank (MA)	Rose
Crane	McDermott	

□ 1842

Mr. LIVINGSTON changed his vote from "aye" to "no."

Mr. BEVILL 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 title III?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 99.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: In the proposed section 421(4) of the Congressional Budget Act of 1974, add after and below subparagraph (B) the following:

A mandate which would apply an enforceable mandate equally on State, local, or tribal governments and the private sector shall not, for purposes of section 425(a)(2), be considered a Federal intergovernmental mandate.

Mr. MORAN. Mr. Chairman, the purpose of this amendment is to treat the private sector in the same way that we treat the public sector. It is as simple as that. It only takes up one paragraph.

The basic problem it gets at is that this piece of legislation has a fundamental flaw. On the very first day of this session, we passed legislation that said that every law that applies to private citizens ought to apply to the Federal Government as well, particularly to the U.S. Congress. But now this piece of legislation would say that every law that applies to private citizens and private businesses will not necessarily apply to State and local governments and that, in fact, it intends to exempt State and local governments from complying with many of the safeguards and the standards that will continue to be imposed upon private citizens and private businesses.

The purpose of this amendment is to say that is not fair. We ought to treat the private sector in the same way that we treat the public sector.

Ironically, the point of order provision in this legislation will end virtually all of our privatization efforts. It has that potential, Mr. Chairman.

There is nothing wrong with the point of order that says that if we do not know the cost of legislation that is being imposed on State and local governments and private businesses, then that legislation ought to be subject to a point or order, because no longer ought we to pass the bill and then pass the buck to others to pay for it. But that point of order that requires a fiscal impact analysis makes sense, because it relies upon this Congress to exercise its judgment to determine whether or not the intent of the legislation is worth the imposition that it will impose on state and local governments and businesses.

That is necessary. The vast majority of the Members of this Congress last year cosponsored legislation that would do that.

This bill goes one step further. I think one step further that flaws the intent of the bill and will create unintended consequences that will haunt us for years to come, because it says that if there is not 100 percent funding for legislation, then there is no mandate.

In effect, if the appropriations committees pass an across-the-board cut, that will trigger the option for States and localities to determine whether or not they want to implement legislation.

Now, let me give Members some examples of the specific problem areas this will create. There are 16 million public employees. If, for example, we were to increase part B hospital insurance premium under Medicare, which may well have to be done to make that program solvent, we would not be able to fund it. We should not have to fund it. But it will make it optional for all 16 million public employees, all of the thousands of public entities that employ those employees, whether or not they want to come up with the premium.

I cannot imagine any of them voluntarily paying that premium, which means that the 100 million private employees will not only have to pay their share of that Medicare increase, they will also have to make up for the fact that 16 million public employees do not have to pay for it. That is the problem we are trying to get at.

We have 1,800 municipal power plants, almost 1,000 rural electric cooperatives who will be exempt from meeting new Clean Air Act requirements.

□ 1850

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

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

Mr. MORAN. Mr. Chairman, there are 226 investor-owned power companies. They will have to abide by every single new air quality standard, even though they generate 75 percent of the power in this country, whereas those municipal power plants will not have to. That is the unfair treatment we are creating.

Mr. Chairman, if we enact this legislation in its present form, we are going to take a step backward, backward to a situation that is really analogous with the Articles of Confederation. From about 1781 to 1787 we gave almost complete discretion to all the States. It did not work. There had to be national standards. This says there no longer have to be national standards.

Mr. Chairman, I appreciate the efforts that have been made by my friends on the other side to study this legislation, but the problem is that studying it, exposing it, even understanding it, does not rectify it. This amendment rectifies it.

Mr. Chairman, this amendment says that where we have Federal activities that are carried out by both the public and the private sector, we have to treat them equally; that in fact we cannot give an option to States and localities whether or not they want to comply with standards. It still requires that we know exactly what the cost of implementation is, but it leaves it to our judgment whether or not we want to pass that legislation.

Mr. Chairman, obviously it does not apply to any programs that are completely Federal programs, like Medicaid. SSI is a public program, the Women, Infants, and Children Program, any number of these entitlements. Those are all public programs. We are only talking about programs that apply to both the public and private sector.

Mr. Chairman, I think this is a terribly important amendment that this body needs to support and pass.

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

Mr. Chairman, this might be deemed the mother of all exemptions, because there is a very real possibility here that many amendments can be deemed to have application to both public and private entities. This would in effect say that anyone that had equal application, both private and public, would be exempt from the provisions of this bill. That sweeps in many, many of the exemptions that have already been dealt with here tonight.

Mr. Chairman, this is, as I say, the mother of all exemptions. I think exempting this class of mandates would preclude Congress from having the Congressional Budget Office cost estimates for these requirements. Further, it would deny the ability of Congress to have a separate vote on whether or not to consider these amendments.

The gentleman talked about some of the things, horrendous things that could occur with this. We are just saying we need to consider these on a case-by-case basis; that we should take a look at it, and in fact there are serious competitive disadvantages built into it. I think that would determine the response we might well make.

However, to say that we are going to exempt them flat out, across the board, without that kind of case-by-case analysis, I think would be wrong.

Mr. Chairman, I would point out that H.R. 5 already requires committee reports to include a statement analyzing the degree to which the Federal mandate affects each of the public and private sectors, and the extent to which Federal payment of public sector cost would affect the competitive balance between States, local governments, or tribal governments, and the private sector. This is something that we have never had before. We have never had the ability or never had the requirement that this kind of analysis be done, as to how it affects the competitive balance between the governmental entities and the private sector.

Mr. Chairman, language was crafted in very careful consultation with the U.S. Chamber of Commerce, the National Federation of Independent Business, Browning-Ferris Industries, and other groups who may well be in a competitive situation with public sector entities. but they have all endorsed H.R. 5 as presently structured.

The point is that Congress, as a result of this legislation, is going to have more information as to the costs of private sector mandates, and I believe this is just the first in what are going to be a series of efforts in Congress we are going to make over the next few months to address the very pressing need for regulatory reform.

We cannot solve all of those issues in one fell swoop, but I do consider this amendment to be a weakening one. In fact, I consider this to be one that would be so sweeping in its potential application as to render the bill really useless.

Miss COLLINS of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend, the gentlewoman from Michigan, for yielding to me.

Mr. Chairman, in response to the gentleman from Pennsylvania [Mr. CLINGER], let me say and emphasize this does not exempt every program that is carried out by both the public and the private sector whatsoever. All it says is that the opt-out provision would no longer be included in the legislation. There are any number of other provisions that apply.

We still have a bill that addresses unfunded mandates, a bill that every single State and local organization in the country that I am aware of supported, a bill that the Chamber of Commerce supported, that the Federation of Independent Businesses supported, the National Association of Manufacturers.

Mr. Chairman, we have written support from all of those organizations. In fact, I have a letter from Browning-Ferris objecting to this provision.

Mr. Chairman, my point was not that we should exempt any of this legislation. My point is that we are going too far in including the opt-out provision. The gentleman is aware of so many privatization efforts that are working so well.

In fact, we got a letter from the National School Transportation Association. They pointed out that in Connecticut 90 percent of the buses are operated by private companies. Any Federal law or regulation that applies to the operation of those bus companies would continue to be imposed on that private company, but would not on municipalities, and there is no question that all of these school districts are going to take back the operation of those buses, because it will eventually become uncompetitive.

Mr. Chairman, all we are trying to do is to say the private sector ought to be able to compete with the public sector in areas that are appropriate. If we do not pass this amendment, they cannot, because the public sector can opt out. The private sector does not have that option. Mr. Chairman, these standards would continue to be imposed upon them.

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

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just to clarify, the gentleman keeps talking about the opt-out provision. What is the opt-out provision in H.R. 5?

Mr. MORAN. Mr. Chairman, if the gentlewoman will continue to yield, the opt-out provision is that if there is not complete funding for a program, a Federal activity that would be considered on the floor of the House, then States and localities have the option of not implementing.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will continue to yield, that is an incorrect representation of the bill. What the bill says is that there is a point of order to be raised if the mandate is not funded. Congress can always act by a majority vote to waive that point of order. It is not an opt-out provision for State and local government.

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield further, the point is the gentleman is assuming that we will overturn the point of order. Every time we raise these issues, if the gentleman's answer is, we are going to overturn the point of order, what we are saying, let us not create that situation in the first place. It is a fundamental flaw.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will yield further, I would hope we would not override the point of order in every case. I would hope Congress would in an informed way be able to look at the issue of public-private. That was the purpose of an amendment offered earlier today by the gentleman from California [Mr. CONDIT] and myself.

The committees have the responsibility, the requirement under this bill to look at the very issue the gentleman is discussing. As the gentleman knows, they have three things they can do. They can either not fund the public mandate, they can either have the mandate apply equally to both parties, or they can not apply the mandate to the private sector, so there is an explicit provision in this legislation to get at the very issue that is addressed.

Miss COLLINS of Michigan. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I appreciate the point the gentleman from Ohio [Mr. PORTMAN] makes. The problem is that all he does is to require that we look at the situation after we have passed this legislation. That is the problem. We do not want to create a situation that we subsequently have to undo.

In the National League of Cities publication this week, it tells States and localities, it is obviously very pleased with this legislation, but it tells States and localities, and I want to make sure that the ranking Democratic member of the Committee on Appropriations is listening, it tells States and localities that in the future, any Federal program that is not an individual entitlement for full funding will become optional to States and localities. They will not have the requirement to carry it out.

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

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, does the gentleman believe that is an accurate representation of the legislation?

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has expired.

(At the request of Mr. PORTMAN and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

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

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

□ 1900

Mr. PORTMAN. Does the gentleman believe that is an accurate representation of the legislation?

Mr. MORAN. I would tell the gentleman from Ohio that the National League of Cities represents more than 16,000 local jurisdictions. This is their understanding of legislation that affects them more than any other group.

Mr. PORTMAN. Is the gentleman's understanding correct?

Mr. MORAN. That is what they are being told and they are citing conversations that they have had with the proponents of the bill. So that is their understanding.

Mr. PORTMAN. That representation is not accurate. As you know, the legislation is very clear, we have now talked about it for a week. It does provide a point of order if the new mandate is not funded. This bill is only prospective, as we know. The bill would not apply to any existing mandate, and it provides a point of order on the floor of the House absolutely. That is the whole idea. But the representation from the League of Cities or even your earlier characterization of the bill just are not what we have here before us today on H.R. 5.

Mr. MORAN. You are correct if you can assume that we will overturn points of order consistently when they are raised.

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has again expired.

(At the request of Mr. OBEY and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

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

Miss COLLINS of Michigan. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to vote for this bill if the Moran substitute is adopted tomorrow, but frankly I am still concerned about the point the gentleman is trying to make, because I do not want to create the possibility of creating additional entitlements when we are supposedly telling the country we are in the business of shaving them back.

Would the gentleman walk through for the House again how in your view without your amendment and without the amendment you are going to be offering tomorrow as well, how this, in fact, does create an unintentional entitlement, if the Committee on Appropriations, for instance, were to cut back by passing an across-the-board cut?

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield, I will be happy to do that. I thank the gentleman from Wisconsin for raising that issue.

The legislation says that if there is any reduction from the amount that is authorized to be appropriated for any Federal activity we pass on the floor, if there is any reduction, that triggers the option for States and localities whether or not they want to implement it.

There is another alternative. If in that legislation the authorizing committee specifies that the Federal agency, the executive branch, has the option of paring back the program, choosing what activities they want to conduct and which they do not, it gives that kind of prerogative to the executive branch to decide what part of an authorization they choose to implement and how they want to cut it back if there was such an across-the-board cut in the appropriations bill.

Mr. OBEY. Does the gentleman believe that under this procedure there would in fact be built into the process an incentive against cutting spending under those circumstances?

Mr. MORAN. I think it will preclude the Committee on Appropriations from exercising its discretion on domestic discretionary programs in the same way that it lacks discretion on entitlement programs today.

Mr. OBEY. I thank the gentleman.

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

Mr. Chairman, this issue came up in our committee meeting and at the time I indicated that I have a great deal of sympathy with the problem that was created here or the potential problem that the private sector enterprises would be put at a disadvantage if they were not put on the same playing field as the public sector. But I do think that this remedy to that problem is much too extreme and goes too far in gutting the basic provisions of this bill.

What I would propose and would like to do is work with my colleague, the gentleman from Virginia, on addressing this issue in H.R. 9 or other appropriate legislation to grant many of the same protections to the private sector that would be available to their public sector competitors, so we can move forward with unfunded mandate legislation that is real legislation and real reform and yet at the same time make sure that we do not put the private sector at a disadvantage.

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

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

Mr. MORAN. I thank the gentleman, my colleague on the Committee on Government Reform and Oversight, for yielding.

Mr. Chairman, I noticed that the gentleman from Indiana [Mr. MCINTOSH] had a amendment that would have required that the private sector be fully funded just as the public sector would be fully funded. I notice that that was withdrawn because I suspect the leadership requested it and, of course, it would have exposed the box that the opponents of this bill have put themselves into.

There is no way that we can fully fund private sector mandates, but nevertheless we are treating them unequally from public sector. The public sector we control. The private sector we do not.

Mr. McINTOSH. Mr. Chairman, reclaiming my time, let me address the question. I think that there are ways of doing this that does not require the Federal Government to lay funds forward but simply to extend the provision that says where there are no funds appropriated, there is no mandate to extend that provision to the private sector.

I am willing to discuss the other if the gentleman from Virginia would like to see it, but I think the context is not in this bill. It should be done in the context of regulatory reform for the private sector which I understand will be coming forward to this House in the coming month.

Mr. MORAN. If the gentleman will continue to yield, that is the other obvious alternative. No money, no mandates for all the private sector. Forget air traffic control, forget all of the regulations that apply, but that is an honest provision.

Mr. McINTOSH. Mr. Chairman, I do not think we are going to get into any of that type of situation. What we will do is create a level of playing field for the private sector competitors of public sector providers of services and goods that are regulated. I would favor addressing that issue in a later bill.

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

Mr. Chairman, unfortunately, the issue of public and private sector competition under Government mandates has gotten awfully confused here. Let us look at the facts as they exist today. Today government at the local level and the Federal level does compete against private industry and vice versa in many areas.

When the Federal Government issues a mandate to local government to do something, the local government today is in competition in many cases with private sector companies who are under the same mandate to do the same thing. The local government funds that operation today. It funds it out of tax dollars raised locally.

The only change this unfunded mandate bill makes in that equation is it changes as to who raised the money to pay for the public sector operation. That is the only change. It does not change the equation of private sector or public sector competition at all. It simply says that in that equation when it comes time to raise the money to carry out the mandate, instead of raising the money locally with taxes raised at the local level, the money has to be raised on the Federal level, or else a point of order is raised against the mandate to begin with.

Now, if you really do not believe in the unfunded mandates concept of this bill, the gentleman from Virginia [Mr. MORAN] has offered you the perfect amendment to defeat it. This amendment would simply say that where you have a Federal mandate that does apply to both local government and to private sector businesses, which most of these mandates do, that the point of order does not lie against it. But you cannot in fact enforce the unfunded mandate provision of this bill against such a mandate.

If you ever wanted an exemption that exempted most Federal mandates out of this bill, we have just been offered it today.

Let me say again, the equation of competition private to public is not affected by this bill. If you believe that, you need to think just a second what is happening in the world today. The private sector competing against local government, local government having to carry out Federal mandates, raising the money locally because we force them to, and the change this bill will make, the only change is that instead of telling local government you have to do it this way and you have to raise the money locally to do it, under this bill a point of order would lie against such a rule.

Unless we exempted ourselves from that point of order or waived it, a point of order would lie against it so that we would have to come up with the money here in Washington to fund that public mandate on the public institution locally at home. That is the only difference.

I understand if you do not believe in that proposition. If you believe that Government ought to be able to mandate things on local governments and we ought not to have to come up with the money to fund them, if you believe that we ought to be able to tell a State and county and parish and city governments across America that you have got to do it our way and you have to raise the taxes to pay for it, if you really believe that, this is the perfect out amendment.

□ 1910

This amendment says a point of order will not lie against those kind of mandates in the future, and it also says, in effect, this unfunded mandate provision will not be enforceable against any mandate that affects both the local government and a private business in your district.

So if my colleagues really do not like this bill, if they do not believe in it, if they want to believe in mandates from Washington without the necessity of funding them, then vote for this amendment. If my colleagues believe in a strong unfunded mandates bill, they have got to defeat this amendment. It is the amendment that exempts most mandates from the bill. It is the one that destroys the whole idea of an unfunded mandates bill.

So, I urge Members, defeat this amendment and let us go on to pass a strong unfunded mandates bill.

When we get through, every time we have a mandate that affects public and private businesses from now on we will now consider do we in fact fund it from Washington or do we tell our comrades in arms, the local city councilmen, the Members who represent a district back home, a county or a parrish or a State government it is up to you to come up with the money, you just have got to do it our way? If Members want to keep doing business that way, vote for this amendment.

If they want to change business and make sure from now on when we mandate things on local governments back home we either provide the money or we do not mandate it, vote against this amendment. It is that simple.

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

Mr. TAUZIN. I am happy to yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank the gentleman from Louisiana for yielding. I know my friend does not mean to be deliberately misleading, but I would ask my friend if he is aware that there is a provision in the bill that says that it is always in order to strike an unfunded mandate? And this amendment does not affect that.

Mr. TAUZIN. Reclaiming my time, let me assure the gentleman the League of Cities campaigned that the opt-out provision applied to the former bill introduced in the last Congress by my good friend, the gentleman from California [Mr. CONDIT], who led this effort. It does not apply to H.R. 5; that provision is not in the bill.

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

Mr. Chairman, let me say I rise to cosponsor this amendment because I firmly believe that what the gentleman is seeking to do is very important. And I do not believe that the cavalier attitude of casually disposing of all of these important amendments is in the best interests of what we are trying to do for this country.

Mr. Chairman, I believe that public employers should be model employers. As such, I believe they have a duty to provide their workers with the same protections that we otherwise require of private employers. They have a responsibility to ensure that the manner in which they operate shows the same respect for the health and safety of the general public that we require of private sector businesses.

I note from my colleagues on the other side that the adoption of this amendment will ensure that H.R. 5 does not confer undue and improper competitive advantages to public employers over private employers. That is the point that the gentleman from Virginia has made and very effectively made.

A public hospital should not be treated any differently with regard to Federal standards regulating the disposal of hazardous wastes than a private hospital. The city of St. Louis should be under the same requirement to pay at least minimum wages to its employees that we impose on private sector employees.

Mr. Chairman, the gentleman from Virginia is absolutely right. If we do not fully fund some of these programs that apply to both public and private, then a point of order can be raised to knock out the public sector involvement. And it probably will stand.

Mr. Chairman, an employee has the same responsibilities to provide a decent living for his or her family, regardless of whether the employee is employed in the public sector or the private sector. The fact that hazardous fumes emanate from a public incinerator instead of a private incinerator in no way diminishes the health hazards to the general public. There are basic protections that must and should be extended to all.

Where the Congress determines such a circumstance to exist, public employers and private employers should be treated equally.

Mr. Chairman, I urge support of the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend from Massachusetts for yielding.

Mr. Chairman, it is important to respond to what the gentleman from Louisiana said. When I brought up the fact that it would always be in order to strike any unfunded Federal mandate, the last thing the gentleman said was that that provision was in the bill of the gentleman from California [Mr. CONDIT]. It is not in this bill.

Mr. TAUZIN. Mr. Chairman, would the gentleman yield for a second?

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to correct the RECORD. I did not say that the provision to have a point of order against the mandate is not in this bill; it is. What is not in this bill is the opt-out for local governments, which was contained in the Condit bill last year, which the League of Cities wrote to the gentleman and all of us about, and which the gentleman from Virginia quoted on the floor tonight. That provision is not in H.R. 5. It was in the Condit bill last year.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield again to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think the gentleman from Louisiana missed the point. I was not referring to last year. I was referring to the point that the gentleman from Louisiana tried to make, that if we pass this amendment it will essentially gut the intent of this legislation.

That could not be further from the truth. And I would draw the attention of my colleagues to page 48, that says that

> With regard to the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of a measure, to move to strike such unfunded Federal mandate from the portion of the bill that is open to amendment.

And this is not affected by our amendment.

The point is that with passage of this bill it will be in order for any Member of this House to strike an unfunded Federal mandate. That is what we want. All I am trying to get at is the disparity in the treatment of the public sector versus the private sector. I am not trying to eliminate any responsibility to address unfunded Federal mandates. And this bill would continue to do that.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Massachusetts for yielding.

Very briefly, there is a big difference between the motion to strike and the point of order. The point of order is precisely what gives us information on the public-private competition issue that we want to have to address this issue responsibly. So I would say in response to the gentleman's concern about what the gentleman from Louisiana said, that the motion to strike does not solve the problem. We need the point of order, we have to have the point of order.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield to the gentlemen from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think we are ready to vote here. The point is if we do not pass this amendment, we are going to hear from our private sector businesses who will be treated unfairly, who will lost their opportunity to compete with the public sector in a constructive way, and we are going to wind up having to change this bill down the road when we realize the unintended consequences of this legislation.

So, I would urge my colleagues to treat the public and private sector alike, to approve this amendment, and then to pass a responsible version of the unfunded mandates legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 285, not voting 6, as follows:

[Roll No. 79]

AYES—143

Abercrombie	Gutierrez	Olver
Ackerman	Hall (OH)	Owens
Barcia	Hastings (FL)	Pastor
Beilenson	Hefner	Payne (NJ)
Bentsen	Hilliard	Payne (VA)
Berman	Hinchey	Peterson (FL)
Bishop	Hoyer	Pomeroy
Bonior	Jackson-Lee	Rahall
Borski	Jefferson	Rangel
Boucher	Johnson, E. B.	Reed
Brown (CA)	Johnston	Reynolds
Brown (FL)	Kanjorski	Richardson
Brown (OH)	Kaptur	Rivers
Bryant (TX)	Kennedy (MA)	Roybal-Allard
Cardin	Kennedy (RI)	Rush
Clay	Kennelly	Sabo
Clayton	Kildee	Sanders
Clyburn	Klink	Sawyer
Coleman	LaFalce	Schroeder
Collins (IL)	Lantos	Scott
Collins (MI)	Levin	Serrano
Conyers	Lewis (GA)	Skaggs
Coyne	Lincoln	Spratt
de la Garza	Lofgren	Stark
DeFazio	Lowey	Stokes
DeLauro	Luther	Studds
Dellums	Maloney	Stupak
Dingell	Manton	Tanner
Dixon	Markey	Thompson
Doyle	Mascara	Thornton
Durbin	Matsui	Torres
Engel	McCarthy	Towns
Eshoo	McDermott	Traficant
Evans	McKinney	Tucker
Farr	Meehan	Velazquez
Fattah	Meek	Visclosky
Fazio	Mfume	Ward
Fields (LA)	Miller (CA)	Waters
Filner	Mineta	Watt (NC)
Flake	Mink	Waxman
Foglietta	Moakley	Whitfield
Ford	Mollohan	Williams
Frank (MA)	Moran	Wise
Furse	Murtha	Woolsey
Gejdenson	Nadler	Wyden
Gephardt	Neal	Wynn
Gonzalez	Oberstar	Yates
Green	Obey	

NOES—285

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
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
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
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
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Becerra
Crane
Gibbons
Martinez
Pelosi
Smith (NJ)

□ 1934

Ms. JACKSON-LEE changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FAZIO of California. Mr. Chairman, I have always been sensitive to the local impact of Federal laws that are underfunded—that are not supported by adequate resources. They place State and local governments in an awkward, and often impossible, position—trying to ensure that the required protections are in place, without sufficient financial support.

For that reason, during the last Congress, I supported the efforts of my Democratic colleagues—Mr. CONDIT of California and Mr. MORAN of Virginia—to provide local governments with some relief from this financial hardship. And, at this time, I want to acknowledge both Mr. CONDIT and Mr. MORAN for meeting this challenge head-on during the 103d Congress, each by introducing legislation that would have provided some relief in response to the pleas for help that we received from local communities.

As Governor of Arkansas, President Clinton experienced, first hand, the difficulty and frustration of dealing with Federal laws that were insufficiently funded. That is why he has expressed support for unfunded mandate reform, just as many local officials in my district have. The cities of Winters, Red Bluff, and West Sacramento, along with Tehama, Colusa, and Solano Counties, are just some of the local jurisdictions that advised me of their support for Federal mandate relief. Some passed resolutions, and others incorporated mandate reform in their legislative platforms. Regardless of the vehicle, however, the message was consistent—local government is overly burdened by Federal programs that are not accompanied by the necessary resources to implement them. Although giving local communities more flexibility in managing these programs helps, we also need to weigh and control their cost.

I therefore support enactment of legislation that will help us make all-around better decisions—decisions that are solid, sound, informed, and responsible, and that do not overly burden the local communities charged with implementing them. But, the Federal Government also has a responsibility to ensure that both the public and private sectors follow basic policies and practices if the health, safety, environment, and human and civil rights of American citizens are to be protected. Without these standards—whether they are for education, or nursing homes, or clean air and water, or proper waste disposal within States and across State lines—American families are placed at great risk. And, although implementation can be costly, the social costs of not implementing them—of failing to protect the public—are immeasurable.

That is why I have several serious concerns about the bill that is now before us and why I support amendments that clarify its intent and enhance its effectiveness. As it is written, H.R. 5, the Unfunded Mandates Reform Act, could force us to abandon many of the most important Federal safety and environmental standards in existence today—standards that protect the American public and that the American people really want and support. To rush this legislation through without hearings and without improving it is a grave mistake.

Unamended, H.R. 5 is much too broad and much too vague. If it is enacted, will we continue to be able to protect our children? What about school safety regulations designed to safeguard against asbestos, radon, and lead paint? What about child support enforcement laws? Will the Federal Government be able to enact national standards that prevent child abuse and exploitation?

What about the American worker? Are minimum labor standards, such as minimum wage, child labor prohibitions, and occupational safety standards at risk?

What about Medicare and the social service programs that serve as a safety net for our senior citizens? What about Federal protections that extend to investors, financial markets, federally insured banks and credit unions and deposit insurance funds? What about regulating the generation, transportation, storage and disposal of toxic, hazardous, and radioactive substances? Without a Federal standard, can each State set its own guidelines for waste disposal, and be free to unload its waste on another? Will this bill threaten water safety regulations? Are those protections that we have worked so long and hard to put in place at risk of being erased? I support the concept of mandate reform, but I have serious problems with this process—the way in which we are forcing this bill through. Its long-term impact is too great and too far reaching to be sacrificed for a short-lived success.

I am voting in favor of final passage of H.R. 5 in support of the communities in my district that have consistently expressed their frustration and concern with underfunded mandates. However, I also want to go on record noting my concerns with mandates reform that moves too quickly and does not take into consideration its far-reaching impact. H.R. 5 must ensure that State and local governments get the help that they need in meeting the financial costs of complying with Federal regulations. But it must also reflect the fact that we must have Federal standards. There are certain protections that cannot be waived or eroded. We must therefore work together to develop legislation that balances our support of these critical protections with consideration for the State and local governments that bear the burden of their implementation.

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. BEREUTER) 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 costs of Federal mandates on the private sector, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I asked for a leave of absence after 5:30 p.m. to conduct business in my district in Illinois. Because I was in the district I was unable to cast my vote on three amendments. Had I been present I would have cast my vote against the Mink amendment, rollcall No. 77; against the Beilenson amendment, rollcall No. 78; and against the Moran amendment, rollcall No. 79.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 101, TAOS PUEBLO INDIANS OF NEW MEXICO LAND TRANSFER

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104-12) on the resolution (H. Res. 51) providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 400, THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104-13) on the resolution (H. Res. 52) providing for the consideration of the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 440, LAND CONVEYANCE IN BUTTE COUNTY, CA

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104-14) on the resolution (H. Res. 53) providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to contain individuals in Butte County, CA, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEES TO SIT ON TOMORROW, WEDNESDAY, FEBRUARY 1, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Agriculture; Economic and Educational Opportunities; Transportation and Infrastructure; Judiciary; Science; Resources; Commerce; and International Relations.

It is my understanding that the minority has been consulted and that there is no object to these requests.

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

Mr. WISE. Mr. Speaker, reserving the right to object and I will not object, the minority is not going to object but simply say to the Members of the majority, the distinguished majority leader, that this is certainly the appropriate way to go about this. I think we have had a very fruitful day today, we moved quickly through the bill. In each of the cases, the eight committees that the distinguished majority leader mentioned, there was full consultation with the minority. Everyone signed off on it. We think this is the way to operate. We look forward to operating in this way in the future.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

GRIDLOCK

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute.)

Mrs. SEASTRAND. Mr. Speaker, when I was elected to this great body just 3 short months ago, I made a commitment to my constituents to fight diligently for the ideas that I believe in and to be just as unrelenting in my fight against those ideas that are not good for my district, my State, and our country.

But I must say that I find the behavior by some Members on the other side of the aisle a bit bizarre. They fight to stall legislation that they eventually vote to pass.

I have maintained that gridlock is not necessarily a bad situation. If you oppose something, try to defeat it with every weapon at your disposal. But when a group purposely stalls a bill simply for partisan gain, that is pretense without principle. Some of the antics on the other side of the aisle make you wonder who is devising their strategy.

We are working for real change. We kept our promises by passing the balanced budget amendment last week and are working this week to pass the unfunded mandates bill that will stop the Federal Government from not only passing the buck, but passing the bill to our States and localities.

Mr. Speaker, we should stop the delaying tactics. The American people want us to end the bickering and go on about the people's business.

□ 1940

COMMUNICATION FROM THE HONORABLE RODNEY P. FRELINGHUYSEN, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. BREWSTER) laid before the House the following communication from the Honorable RODNEY P. FRELINGHUYSEN, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 30, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the Superior Court of New Jersey in Morris County.

After consultation with General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

RODNEY P. FRELINGHUYSEN,
Member of Congress.

SERIOUS QUESTIONS ABOUT AUTHORITY UNDER WHICH ACTION WAS TAKEN TO BAIL OUT THE MEXICAN PESO

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

Mr. BARR. Mr. Speaker, today we heard communications from the White House, which were communicated and reverberated around the world, that the President of the United States has made an end run around the Congress, and I think this raises some very troubling problems about the Mexican bailout process.

Just 1 short week ago, Mr. Speaker, we had the top administration officials appear before the Committee on Banking and Financial Services, on which I have the honor of serving, to tell this Congress that the only way, the only way that we could avoid a crisis in the international monetary market and avoid a collapse of the Mexican economy, is if this Congress acceded to the wishes of the administration and provided legislation that would in effect bail out the Mexican peso.

Less than 1 week later, Mr. Speaker, we find out that the administration has another plan, and I call on the administration to come clean with this Congress, to let us know exactly what is going on and to answer some very serious questions about the authority under which this action is taking place, why it was not foreseen and why this administration, through the testimony of the administration officials in the Committee on Banking and Financial Services, appeared to mislead this U.S. Congress and the American people.

BIPARTISANSHIP PREVAILS

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

Mr. KINGSTON. Mr. Speaker, last week, when we passed the balanced budget amendment, we took a good step not only toward fulfilling campaign promises, but also for working with each other as Democrats and Republicans because there are about 70 to 80 Democrats who voted on the balanced budget amendment and joined the Republican majority. I think that is a great bipartisan effort. The same thing has happened as we debate the unfunded mandates bill. Many Democrats are not going along with this obstructionism. They are coming over to the majority side and putting the business of the American people first.

During the month of February, Mr. Speaker, we are going to be debating the line-item veto, and the crime bill and regulatory reform. All these are very, very important to our constituents, Democrats, Republicans, big cities, small cities, rural, urban, and I hope that this bipartisan spirit prevails so that we can take care of the business that America demands and do what is best for our great country.

PRESIDENT SHOWS HIGH DEGREE OF LEADERSHIP BY HELPING MEXICO STABILIZE ITS ECONOMY THROUGH GUARANTEED LOANS

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

Mr. TORRES. Mr. Speaker, I think that today's action by the President of the United States in taking his prerogative as a Chief Executive to order an Executive order guaranteeing the $47.5 billion guarantees to Mexico was a prudent move. I believe it sends out a strong signal to the international markets, to the international community, that he is showing a high degree of leadership. Since we in Congress were not able to meet his request, I believe that the President is taking his prerogatives as the Chief Executive to order those guaranteed loans which will go a long ways in seeing to it that the Mexican peso is stabilized, that the economy of Mexico can be stabilized, for not to do so would have a serious negative impact on American workers and on our relationships with that country, not to speak of the problems that it would cause as a domino effect in Brazil, and Argentina and other developing nations.

So, Mr. Speaker, I believe that today's move by President Clinton was an important one and indicates once again that he is willing to make tough decisions in a crisis time like this.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BREWSTER). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CIRCUMVENTING THE WILL OF CONGRESS

Mr. LIPINSKI. Mr. Speaker, today the Clinton administration abandoned its effort to pass a $40 billion loan guarantee to Mexico. The President came to the conclusion that his bailout proposal would have failed in Congress, and he was right.

So what does the administration turn around and do? Instead of really responding to the opposition of Congress, the administration decides to devise a new plan, a new plan which effectively circumvents the will of the Congress. While this new plan includes more international financial support, it also calls for dipping into our country's exchange equalization fund for as much as $20 billion to prop up the peso. This fund, which only holds $25 billion, I might add, is usually only used to help stabilize the U.S. dollar.

Mr. Speaker, this marks the fist time that the fund has ever been used to support any kind of currency other than the U.S. dollar.

Mr. Speaker, I must take exception. I must take exception to how this administration wants to put the Mexican peso before the American people. I must take exception to how this administration chooses to side step the authority of Congress in this matter.

Even with International Monetary Fund support, U.S. tax dollars are still at risk. By avoiding the authority of the U.S. Congress the administration does not have to answer to the elected Representatives of the American people on this rescue plan for Mexico.

How did we come to where we are today? Well Mr. Speaker, it all began with something called NAFTA. Over a year ago, the media hailed it as the right thing to do.

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Meanwhile, the Clinton administration cut deals with various Members in exchange for their vote in favor of the agreement. I and others, however, stood our ground and said "no" to NAFTA. We did so knowing full well the devastating effects such an agreement would have on the U.S. work force and our country's trade position.

Unfortunately, our warnings went unheeded, and today the administration wants to bail out Mexico.

The Clinton administration promised that 100,000 new jobs would be created in the first year of NAFTA. These jobs we have yet to see. Let us take a look at the statistics. Since NAFTA was enacted, United States net imports with Mexico fell more than half. Our trade deficit in electronics has doubled, and we have a $12 billion trade deficit in automobiles and parts. In fact, the overall automotive trade deficit with Mexico has only worsened under NAFTA.

The Department of Commerce estimated that $1 billion in exports supports approximately 20,000 jobs. This means our automotive trade deficit alone has cost our country 32,000 jobs. So how are U.S. workers expected to deal with this? NAFTA's trade adjustment assistance program certainly is not helping, because eligibility requirements are extremely strict and the actual benefits are limited. Many firms have actually consulted their employees and told them not to bother applying.

Labor and environmental side agreements negotiated under NAFTA have proven to be abused.

Now after a year of NAFTA, Mexico has experienced a financial crisis, and Americans, thousands of whom lost their jobs to Mexico, are being asked to foot the bill. Americans are being forced to prop up the peso through a government fund that was set up specifically to help the U.S. dollar.

To me, this is incredible.

Many questions have yet to be answered about the nature of the peso crisis. Reports that the administration knew long beforehand about the situation of the peso also cause the urgency of the situation to come into serious question. During debate on NAFTA, opponents pointed out that Mexico was highly overvaluing the peso and that provisions must be included in the agreement to stabilize the currency relationship. No such provisions were included in the agreement, and look where were are today.

We just passed a balanced budget amendment to the Constitution, and we are being asked to swallow this bailout, and we must ask, will U.S. and international loans really help anyone?

In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Mr. Speaker, the Teamsters and United Electrical Workers unions filed unfair labor complaints against Honeywell and GE companies in Mexico—the National Administrative Office dismissed these cases with no penalties for the companies—a blatant disregard for workers' rights.

Likewise, the environment and public health have suffered a great deal. Are NAFTA supporters aware that a GM plant near the border in Mexico bumped a toxic chemical at 215,000 times the acceptable level? It is no wonder that children's cancer rates have increased dramatically by 230 percent in Brownsville TX—230 percent!

In July 1994, a 13-year-old boy from Texas died from a brain infection after swimming in the Rio Grande.

American health officials traced the infection back to the 24 million gallons of raw sewage from Mexico which is pumped into the river each day.

Mr. Speaker, NAFTA is literally poisoning our children and grandchildren.

William Seidman, former Chairman of the FDIC, who was in favor of NAFTA, opposed the administration's original loan guarantee package. Mr. Seidman said that it bore striking similarities to the S&L bailout of the 80's—and he should know. Mr. Speaker, under this new administration plan, taxpayers' dollars are still on the line.

Mr. Speaker, at best, efforts to prop up the peso are simply a political rescue for the new Mexican Government and a bailout for Wall Street. The Mexican and American middle class will see little direct benefit.

At the very least, the peso crisis gives us reason to step back and take a good long look at what's wrong with NAFTA.

In Mexico where the disparity between rich and poor is so great, we need to slow down, reevaluate the integrity of our trading partner and ask ourselves—who really is going to benefit from the loan guarantee.

We must recognize that the peso instability is not a quick fix situation—the loan package will not alter the underlying structural weaknesses of the Mexican economy. A year or so from now, Mexico may be back wanting more financial aid.

When will it end?

We just passed a balanced budget amendment to the Constitution and we're being asked to swallow this bailout?

And, we must ask, will U.S. and international loan efforts really help anyone? In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Why not just let the Mexican market fix itself? This admittedly may cause investors to lose money, but they assumed this risk, they deserve little sympathy from American taxpayers.

A major issue in last November's election was the fear, the concern, and the insecurity that the American middle class has about their shrinking standard of living. Now, with NAFTA and this billion dollar bailout, we are not only shipping out middle class jobs, but putting an additional burden on the middle class to subsidize another country.

Since 1979, the United States has lost 16 percent of its manufacturing job base—that is 3.2 million jobs lost. The United States has lost these jobs to Mexico. Not to Mexican companies, but to over 1,600 American-owned plants, plants that employ low paid Mexican workers.

I have already heard from a large number of my constituents urging me to reject the peso bailout. These are the same people who knew that NAFTA was not good for this Country. These are also the same people who go to work everyday, live within their means, and are responsible for their own finances.

Mexico and Wall Street could learn a lot from my constituents.

I have cosponsored legislation to repeal NAFTA and legislation which says that no loan guarantee shall be provided which could result in any direct or indirect financial obligations on the part of the American taxpayer. I urge my colleagues to do the same. The American people deserve nothing less.

Mr. Speaker, how can we in good conscience rush to bailout Mexico when we have thousands of people here at home who desperately need our help—many of whom lost their jobs to Mexico?

I am very disappointed that Congress has been denied this say on this issue.

Mr. Speaker, instead of rescuing Mexico and Wall Street, we need to be helping our own citizens achieve a better way of life.

UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

(Mr. FOX of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, in November the American people clearly demonstrated their disgust with outlandish spending, skyrocketing taxes, and a lack of responsiveness from Congress.

The new Republican majority is working hard to eliminate many of the business-as-usual policies and practices of the past, including the onerous burden of unfunded mandates. The burden of unfunded Federal mandates has become an albatross for many State and local governments and impacts nearly every community at some level.

As a former Montgomery County commissioner in Pennsylvania and a former member of the Pennsylvania State House of Representatives, I have seen firsthand the devastating financial effects such unfunded programs have had on municipal, county, and State budgets.

If the Congress really believes in a program, then the Congress should pay for that program. We can no longer pass the buck on to others. The practice has to end here and now.

Honest reform and accountable government are not only what the public wants to see, they are the right things to do. The American people are sick of legislation which uses smoke and mirrors and accomplishes nothing. We need effective reform, which clearly marks the 104th Congress as different from the rest. Ending unfunded Federal mandates should be at the top of this list.

FDA'S EXPENSIVE NEW FACILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, one of the most wasteful, inefficient agencies in the entire Federal Government is the Food and Drug Administration.

In their bureaucratic and arrogant way, they have held medicines and medical devices off the U.S. market, sometimes for years, to the detriment of the health of American citizens.

By their rules, regulations, and redtape, they have driven up the price of drugs and have helped the big drug giants by making it extremely difficult or almost impossible for small businesses to compete in the field.

Now, however, they want to do something which should outrage every taxpayer in the Nation.

At a time when we are supposed to be downsizing the Federal Government, the FDA wants to build a Taj Mahal complex of buildings in Maryland for a new headquarters.

Part of this project is to be in Montgomery County and part in Prince Georges County.

However, the important point is not the location. It is the cost.

The original cost estimate for these buildings was almost $1 billion.

However, because the FDA has become concerned about the appearance of this exorbitant and excessive spending at a time when most people want frugality in Government, they have lowered their estimated cost, all the way down to $875 million.

Even if this project comes in on budget, which I seriously doubt, it would still be at a cost of a whopping $257 a square foot.

State governments are building beautiful buildings for half this cost.

And is the FDA doing everything possible to hold down costs? Well, since the money is not coming out of their own pockets, they chose the most expensive site they looked at and some of the most expensive land in this Nation.

The original cost estimate for the Prince Georges facility was $290 a square foot.

The Montgomery County complex is to be several buildings interconnected, in a college campus-like setting, on a 530-acre tract of land—530 acres when they could build a beautiful headquarters on an acre or less.

The fact is, Mr. Speaker, the FDA should be greatly reformed. It should be greatly downsized. It should stay where it is now.

Perhaps the most phenomenal thing of all is the size of this project—3.4 million square feet—to house only 6,500 employees. This comes out to approximately 750 square feet per employee.

Most Members of Congress have approximately 1,000 square feet to house 9 or 10 employees, or about one-seventh of what the FDA wants.

Moreover, FDA's current offices and laboratories occupy 2.1 million square feet of office space.

The new FDA complex will be 3.4 million square feet in size. This is 1,300,000 square feet more than what they have now—a 60-percent increase—at a time when the Federal Government is supposed to be downsizing.

With a national debt of more than $4.7 trillion, we should not be spending almost $1 billion to build plush new quarters for FDA bureaucrats.

The bureaucrats want to live like kings while taxpayers foot the bill.

I am pleased that today, the Citizens for a Sound Economy came out strongly against this project.

I know we have a Government that is of, by, and for the bureaucrats instead of one that is of, by, and for the people, but, Mr. Speaker, this is one I hope we can win for the taxpayers.

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THE PRIVATIZATION OF THE HUMANITIES ACT

The SPEAKER pro tempore (Mr. BEREUTER). Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Mr. Speaker, we've been told time and time again that spending has already been cut to the bone and that we can't cut anything without shredding the fabric of our society. Well, that's not true. All sorts of needless bureaucracies continue to waste all sorts of money and eat a hole in our wallets. Today, I'd like to call attention to one of the more egregious examples I've seen during my first month on the job.

I am referring to the tripe that I and all my colleagues received this past week from the National Endowment for the Humanities.

The NEH produced and sent around to us something called a conversation kit, more formally entitled a "National Conversation on American Pluralism and Identity."

Inside you'll find 20 or so high-gloss pamphlets, some of them 30 or 40 pages long, that contain readings of varying quality, simplistic questions, and the Government's edicts on how folks should talk to each other.

This is the brainchild of NEH Chairman Sheldon Hackney and his band of "culture bureaucrats," as George Will has labeled them. Its basic assumption is that we, as free-thinking Americans, need the Government to tell us how to engage in day-to-day conversations. The plan, as I understand it, is for NEH-types to go around the country circulating these packets and instructing us all how to talk with one another.

Besides assembling arcane questions such as "When do we act as public people and when as private people?" or the more abstract "Where do we belong?" the conversation kit suggests readings by militant feminists such as Patricia Williams and Charlotte Bunch, and provides a list of movies that, quote, "might make good conversation starters." I must thank Mr. Hackney for spending our tax dollars to tell us about a little known film called "Casablanca."

So the American public can see first hand some of Mr. Hackney's handiwork, I ask unanimous consent to include in the RECORD a small excerpt from the conversation kit.

Besides the kit's skewed content, every American should be outraged by the expense of printing these conversation kits. This particular program, I'm told, is going to cost us $1,700,000 just by itself. And remember, given our huge national debt, that's $1.7 million that we don't have and that we're charging to our children's accounts.

Mr. Speaker, the NEH again has thrust the Federal Government into another venture in which it does not belong. And once again, we see the Federal Government pushing its inane, self-righteous agenda on the American public.

These conversation kits may be politically correct, but they're fiscally foolish. They're also insulting to the intelligence of our citizens.

America's filled with sensible, kind, and intelligent people who know how to talk with one another. The last thing we need is a group of condescending academics squandering our tax dollars to tell us how to talk to each other. This is not the proper role of the Federal Government and we need to end, forever, this type of wasteful spending.

That's why I urge my colleagues to join me in cosponsoring Congressman JOE HEFLEY's bill, The Privatization of the Humanities Act. Let's tear down Sheldon Hackney's fiefdom. The critics and the naysayers believe we cannot balance the budget. Well, here's a golden opportunity to begin that process by trimming $177 million of fat from the Federal budget.

Mr. Speaker, I include for the RECORD the following information:

APPENDIX A

CHECKLIST FOR CONVERSATION PLANNING

People:

Do you need to contact organizations that can help you assemble a planning committee and find participants for the conversation?

Does your planning committee have the same racial, ethnic, and cultural diversity as the people you hope will participate?

Have you divided responsibilities among committee members?

Have you identified an effective discussion leader?

Have you appointed someone to take notes or tape-record each session?

Have you personally invited the participants or responded to them personally after they have expressed interests in joining the conversation?

Have you sent information and directions to participants several days before the first session?

Have you made reminder phone calls to participants one or two days before each session?

Content:

Have you decided how to focus your discussion? If there will be more than one session, have you identified all the topics? Or will participants choose the later topics at the first session?

Have you selected the materials—e.g., readings, videos, conversation starters, Scholars' Essays, news clips—for each session?

How will you use the materials? How will you distribute them?

Have you considered inviting an expert to provide background information for the discussion?

Format:

Have you chosen an appropriate conversation format (number, length, and frequency of sessions)?

Do you have an agenda, including time for opening remarks, introductions, and ground rules?

Is the discussion leader familiar with the reading materials and the makeup of the group?

MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Today the administration, with the acquiescence of the top leaders in this Congress, announced a sweeping $47.5 billion bailout of the Government of Mexico and its Wall Street creditors by our taxpayers through the instrumentalities of the United States, including our U.S. Treasury, our Federal Reserve, the International Monetary Fund, into which the United States pumps money, and the Bank for International Settlements, on whose board sit the chairman of our Federal Reserve and the chairman of the New York Federal Reserve.

All of this was done without a vote of the Congress of the United States, the only federally elected officials representing the people of this country.

This newest proposal is a perpetuation of the worst kind of manipulative politics, both here in our country and in Mexico. And from a constitutional standpoint, it is absolutely precedent setting in the abuse of power by our own Federal Reserve, in collaboration with the U.S. Department of Treasury.

This new proposal is nothing short of a circumvention of the democratic process and a circumvention of the proper role of the elected leaders of the Congress of the United States.

The administration chose this path because they knew that they did not have the votes in this Congress, nor the support of the American public. In fact, over 80 percent of the American people oppose this bailout.

This new proposal is representative of what is wrong with politics in our country: not reflecting the will of the people.

Federal Reserve Chairman Greenspan, officials in the administration, and the top Republican leadership of this Congress have all exhibited this type of behavior during the present Mexican peso crisis and further through past trade policies which created this mess, an arrogance and abuse of power which knows no bounds.

It is well known that people tend to change once they come into the beltway in Washington.

In October 1979, Federal Reserve Chairman Greenspan told the Senate Banking Committee that a proposed $750 million loan, one-fortieth of what is being proposed here, for near-bankrupt Chrysler Corp. was a bad idea that flew in the face of the principles of free enterprise. This is the same man who by raising interest rates has increased your mortgage payments and increased your monthly credit card payments, eating into your wages over the last 20 years.

Chairman Greenspan and the Federal Reserve are trying desperately to cover their own tracks in this crisis. In fact, it was the Federal Reserve's own interest-rate policies of the past 3 years that helped set Mexico up for a fall.

Low United States rates in 1992 and 1993 led speculators to pump record levels of money into Mexico, some estimating over $70 billion, and other emerging markets, but then the Fed's interest rate increases of 1994, all six of them, led those same investors to pull their money back out and bring it home.

If Chairman Greenspan was so concerned about Mexico, he would certainly not have raised United States interest rates six times over the last year.

The latest increase in interest rates means that if you own a $60,000 home with a 30-year mortgage, your mortgage payments have gone up by an additional $100 a month. And as a result of the Fed's actions, your home will cost you about $1,200 more a year or about $36,000 over the life of your mortgage.

Chairman Greenspan is unelected, unaccountable, and evidently unaware of the people's lives in this country that his policies affect.

There is absolutely no reason that a proposal of this magnitude should not be considered by the Congress of the United States.

Under the Constitution, we have the absolute authority to coin money and to regulate the flow of money between nations. What was done here, very cleverly through the back door, was that an entity within the U.S. Treasury Department, the Currency Stabilization Fund, took deutschemarks and yen that they hold and they said to the Federal Reserve, we will borrow against those. And essentially a flow of funds came from the Federal Reserve to the U.S. Treasury against the terms of the Constitution of the United States, which require all appropriated dollars to be voted on by the Congress of the United States.

INVESTIGATION OF COMMERCE SECRETARY RON BROWN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana, [Mr. BURTON] is recognized for 60 minutes as the majority leader's designee.

Mr. BURTON of Indiana. Mr. Speaker, let me first say that I just listened with great interest to my colleague from Ohio. I think she is right on the money.

I would like for my friends who are paying attention to this special order to know that this is a bipartisan concern about the circumvention of the will of the people and the will of the Congress. I think it is wrong.

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Mr. Speaker, there were many of us that worked on the draft legislation for the loan guaranty program with Mexico. In the draft legislation we had many conditions spelled out to protect the American taxpayer and to put in some other things that were very important to our hemisphere.

I am the chairman of the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs. We put things in there that we thought would put the heat on Castro in Cuba and stop Mexico from giving aid, direct or indirect aid to Castro. We wanted to put $3 billion in hard assets in American banks to protect American taxpayers against a loss or a default. All those things are circumvented by this Executive order.

I think the gentlewoman is right on the money. The people of this country ought to be outraged, as well as their Representatives in the Congress. I congratulate the gentlewoman on her fine remarks.

Tonight I want to talk about another subject, however, because I think it is very, very important and it bears upon the credibility of this Government and this administration. The Secretary of Commerce, Mr. Ron Brown, who is the former chairman of the Democratic National Committee, is once again under fire by the media for possible improprieties that took place since he became the Secretary of Commerce. However, before I get into that, I want to talk a little bit about Ron Brown's background, because I think it is extremely important that my colleagues know what this gentleman has done over the past several years.

Mr. Speaker, back in the early 1990's, in 1991, Ron Brown was involved with an organization called the Chemfix Technologies Corp. The Commerce Secretary has a history of questionable business dealings. This is one of them. None of the charges have been adequately investigated by the FBI or this body regarding Chemfix or any of these other allegations I'm going to talk about tonight. We need to have answers to these questions.

In 1991, columnist Michael Kinsley wrote about Brown's conflicts of interest in the Washington Post. Kinsley's allegations were followed by a television report on "20/20."

While chairman of the Democratic National Committee, Brown was a partner in the law firm of Patton, Boggs, and Blow in Washington, DC. This firm represented BCCI here in the United States.

Brown was also a member of the board of directors of this company, Chemfix Technologies, a Louisiana-based company that helps cities dispose of sewage. Right when the Democratic National Convention was being decided, the committee was meeting to decide whether they were going to hold its 1992 convention in New York, that city gave Chemfix a $210 million contract to dispose of sewage from New York. This deal was made despite complaints from numerous other cities about Chemfix's poor operations, their past performance.

Right after the deal was struck, before the convention, Ron Brown purchased 5,000 shares of stock in this company. The "20/20" report on Chemfix stated that the city of New Haven was so dissatisfied with Chemfix's performance that it tried to get out of the deal. Chemfix refused, and Ron Brown made $100,000 on the stock options. Brown's firm, Patton, Boggs, and Blow, also made hundreds of thousands of dollars doing Chemfix's legal work. This all happened during Brown's tenure as chairman of the Democrat Party.

In responding to Kinsley's column, Brown stated that he had nothing to do with the fact that Chemfix was awarded the $210 million New York contract, and that the contract played no role in the selection of New York City as the site of the 1992 Democrat convention. Right. But as Kinsley wrote, "There is only one reason a Louisiana sewage company would want a Washington lawyer high in Democrat politics on its board, and it's not because of his knowledge of sewage." That is the first time, not the first time, but it is the first glaring example of some possible improprieties on the part of Mr. Brown.

Then, in 1993, a gentleman named Binh Ly from Florida came to see me to talk to me about a deal that was allegedly made between Mr. Brown and a man named Mr. Hao and the Government of Vietnam to normalize relations with that country, even though we had never had an accounting of the POW-MIA's that are still missing. Mr.

Ly said that the Government of Vietnam had promised to give Ron Brown a large sum of money, $700,000, as a down payment for his influence to normalize relations with that country.

Members will recall that this country had made a commitment under President after President after President since the Vietnam war that we would never normalize relations with Vietnam until we had a full accounting of all those POW's and MIA's. It still has not been done, and yet the normalization process has started because of Ron Brown's efforts.

In February of 1993 Binh Ly, this gentleman I'm talking about, was interviewed by the FBI. The FBI gave him a lie detector test, a 6-hour lie detector test, which he passed.

The FBI, after the lie detector test, gave him a briefcase equipped with a tape recorder and a beeper so he could tape conversations between him and Mr. Hao about Mr. Brown's activities. In April of 1993, the FBI mysteriously took the beeper and the briefcase back, claiming budget cuts, and discontinued the investigation.

I might add that Mr. Ly told me that he asked the FBI "Why are you taking the beeper back, because we are trying to get evidence on Mr. Brown," and the FBI man winked at him and said it was, it is because of budget cuts, and the inference was he was getting orders from the top to curtail the investigation into Mr. Brown.

A grand jury investigation was not begun until after an extensive article about Ron Brown's Vietnam contacts had been published in the U.S. News and World Report in the summer of 1993. After denying, Mr. Brown, Ron Brown, Secretary of Commerce, after denying that he had never met with Mr. Hao, Ron Brown admitted later that year in September, 1993, that he met with him not once, not twice, but three times, the third time being at the Department of Commerce, just like Binh Ly claimed.

In October of 1993, ABC News and other news organizations reported that the FBI had obtained two notes faxed from Mr. Hao to the Vietnamese Government stating that his first two meetings with Ron Brown had been a big success, further verifying Binh Ly's statements.

Also in October the New York Times reported that the FBI had uncovered evidence of wire transfers indicating that the Vietnamese Government was preparing to establish a special bank account in Singapore, backing up Binh Ly's statements that the Vietnamese Government was going to pay Ron Brown $700,000 through this bank in Singapore.

They had proven, the FBI had proven, that there was a bank in Singapore, that there were wire transfers, just as Ly said, and the amount was not disclosed, but we estimated, we believe it was the $700,000 that had been promised in the agreement.

In December of 1993 the Federal prosecutor conducting the investigation in Miami, the grand jury investigation, attempted to terminate the investigation without even calling Binh Ly to testify.

We contacted him and said that Binh Ly should testify because he was the principal witness, so the special prosecutor put Binh Ly before the grand jury only when he was ordered to do so by his superiors. This was clearly not a very aggressive prosecutor.

I might add, this prosecutor was not the local U.S. District Attorney in Miami, whom you would normally think would conduct the grand jury investigation. It was a special assistant to Janet Reno, the Attorney General, who was ordered to go down there and conduct the grand jury investigation.

They then said to me and other Members of Congress, they did not say Ron Brown was innocent. They said they did not have enough evidence, in their opinion, to indict him. Because they said they did not have enough evidence to indict him, then he was able to keep his job as Secretary of Commerce and everything went on as usual.

The fact of the matter is, this Congress has never had a complete report on that investigation by the Justice Department. Now that we have a majority in this Congress on the Republican side, we are trying to get a complete documented report from the Department of Justice on the entire investigation, starting with the FBI. We are going to continue to work on that until we get to the bottom of it.

Now we come to the latest allegations that have been in the paper this past week. These are pretty damning as well. These latest allegations are about a lady named Nolanda Hill and Ron Brown, and are very serious and demand a very thorough investigation.

In a nutshell here is what happened. A company owned by Nolanda Hill defaulted on a $40 million debt that the Federal Government inherited, the taxpayers inherited, from bankrupt savings and loans.

At the same time, that same company was paying $12,000 a month to another company that was co-owned by Nolanda Hill and Ron Brown, so while she was defaulting on a $40 million obligation to the taxpayers of this country, and the same company that was in bankruptcy, she was paying $12,000 a month to another company in the same office that was owned by her and Ron Brown.

The second company, First International Communications, was located in the very same office as the company that defaulted on the loans.

Now let us talk about First International Communications. In the 1980's Ron Brown and Nolanda Hill formed a partnership. They named it First International Communications. Nolanda Hill owned a second company named Corridor Broadcasting.

□ 2020

Corridor Broadcasting borrowed $26 million from two savings and loans in Texas and New Mexico to buy two television stations, one here in Washington, DC, WFTY, Channel 50, and the other in Needham, MA, WUNI, Channel 27. Corridor also borrowed an additional $23 million from another savings and loan.

Nolanda Hill's company, Corridor, eventually defaulted, as I said, on both of the loans, the savings and loans failed, and the $40 million in bad debt was inherited by the taxpayers, the Federal Government.

Interestingly enough, Corridor Broadcasting, Nolanda Hill's company, and First International Communications, the partnership between Nolanda Hill and Ron Brown, as I said, were in the same office. Ron Brown has stated repeatedly that he never invested any of his own money in First International. He also stated many times for the record that there were never any ties between Corridor Broadcasting and First International.

However, it was just revealed this month that First International's only substantial source of income was the $12,000 a month in interest payments coming from Corridor Broadcasting on a loan of $875,000.

Here you have Ron Brown saying there is no connection between the two companies, and yet there was a loan from one to the other and the defunct company that was in default to the taxpayers to the tune of $40 million was paying $12,000 a month in interest to the other company, while Ron Brown said there was no connection.

In other words, at the same time that Corridor Broadcasting could not afford to repay $40 million in debts that had been inherited by the taxpayers, it could still afford to pay $12,000 a month in interest to Nolanda Hill and Ron Brown.

Ron Brown's lawyer has recently stated that Ron Brown did not know that First International had made a loan to Corridor Broadcasting and was not directly involved in First International's operations.

Here are some questions that need to be answered:

If Ron Brown was one of the two partners in the firm, how could he be ignorant of the firm's sole source of income? It is beyond comprehension.

If Ron Brown did not invest any of his own money in First International, what was the purpose of including him in the partnership? Was it to use his influence, first as chairman of the Democrat Party and then as Secretary of Commerce?

Three. Where did the $875,000 come from that First International loaned to

Corridor Broadcasting? Nobody said where did that $875,000 come from? Where did it come from?

It has been alleged, as I said before, that the Government of Vietnam wanted to pay Ron Brown $700,000 for his influence to get the embargo on Vietnam lifted, and according to the FBI, there was an electronic transfer from the Government of Vietnam to this bank in Singapore, and here all of a sudden we have a mysterious $875,000 turning up that was invested into this corporation. And Ron Brown said he does not know anything about it.

If Corridor Broadcasting could not afford to repay the taxpayers of this country, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation, how could it afford to pay $12,000 a month in interest to Secretary Brown and Nolanda Hill?

Let us talk further about Ron Brown and this possible payoff that we were talking about. Ron Brown was nominated to be Secretary of Commerce in December 1992. He was confirmed by the Senate in January 1993. He owned a share of First International Communications throughout 1993, although he did not pay anything for it, but he owned a share in it. He did not pay anything for it.

Listen to this. He owns a share in it and did not pay anything for it, yet he received roughly $135,000 in payments from First International in 1993. That is a pretty good investment. It didn't cost you anything and you get $135,000. This was the year that Corridor Broadcasting's loans were finally written off by the Federal Government.

So while Corridor Broadcasting is going down the tubes, First International, which is getting $12,000 a month in interest payments, paid him another $135,000.

In December 1993, he sold his share of the company back to Nolanda Hill because of the bad publicity, and, get this, he did not pay anything to own part of the company, but he got between $250,000 and $500,000 for his one share of stock.

He got $135,000, then when he sells his share of stock back, he gets almost half a million dollars with no investment.

However, it has just been revealed that in 1994, Nolanda Hill spent an additional $190,000 paying off personal debts of Ron Brown. Their attorneys state that this was part of the transaction in which Secretary Brown liquidated his holdings in First International.

So we have got $135,000. We have got between $250,000 and $500,000. Now we have another $190,000. And all this with no investment.

It is unclear if this $190,000 was part of the payment listed on Secretary Brown's 1993 financial disclosure statement or if it was in addition to that amount.

Here are some questions:

If Secretary Brown did not invest any of his own money in First International and most of its ventures were total failures, how could his shares be worth almost a half million dollars? Everything was a failure. He put no money into it. How could it be worth a half a million dollars?

Did Nolanda Hill repurchase these shares at fair market value, or was this a gift to Secretary of Commerce Brown?

Three. What was the total amount Secretary Brown received from Nolanda Hill? Was the $190,000 Nolanda Hill used to pay Ron Brown's debts part of the money reported on Secretary Brown's financial disclosure report for 1993 or was it in addition to that amount?

Four. If Ron Brown did not invest any money in First International, then all the money he was paid when he divested himself should be considered a capital gain.

Question: Did Secretary Brown pay capital gains taxes on all these funds, including the $190,000 paid to him last year to pay his debts?

There is another corporation in this same office, a third one, called Know, Inc. Nolanda Hill owned a third company, Know, Inc. Oddly enough, Know, Inc. was in the same office as Corridor Broadcasting and First International.

In 1992, Nolanda Hill loaned Ron Brown $78,000 through this third corporation.

We have got $135,000, he got $190,000 and he got somewhere between $250,000 and $500,000. Through this third corporation he got $78,000 so he could pay off another debt. According to the Washington Post, Brown needed to repay a debt to the National Bank of Washington before his Senate confirmation hearings began.

Nolanda Hill—now, get this—she loaned him $78,000 to pay off his debts. And now Nolanda Hill later forgave the debt and did not require Ron Brown to pay it back.

So here he is now. He has got $135,000, $190,000, probably a half a million dollars, and now he has got $78,000 in a note that is forgiven. All with no investment.

Questions:

If Nolanda Hill could not afford to repay the taxpayers any of the $40 million she owed, where did she keep coming up with all this money for Ron Brown? Did Secretary Brown report this $78,000 as income on his financial disclosure statement? Did Secretary Brown report this $78,000 on his income taxes, and why did Nolanda Hill have so many different companies, if they were all located in the same office? Could it have been to shield herself from paying off legitimate debts that the taxpayers are now paying to the tune of $40 million?

The FDIC announced this week that they are launching an investigation of Nolanda Hill's defaulted loan. In addition, 14 Senators have written to Attorney General Reno to ask for a thorough investigation of this entire matter. A thorough investigation of this whole mess is absolutely necessary and an independent counsel is probably necessary. Congress in my opinion must also continue to investigate all of these nefarious activities or apparently nefarious activities of Ron Brown that have taken place for the last 5 or 6 years that have garnered him probably millions of dollars.

I would just like to say that we have tried for the past couple of years to get an independent counsel to investigate the allegations of the Vietnamese affair and we have done that without success.

We have brought to the attention of the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight, and I believe that the gentleman is already looking into this and hopefully we will have a very thorough investigation not only into these latest allegations against Ron Brown but also into these others.

I hope the FDIC and the Internal Revenue Service will take a very close look at his ethics reports as well as his income taxes, because if all of that stuff is on his income tax reports, he must have paid a heck of a lot of money in the last couple of years.

□ 2030

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

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding. I would ask the gentleman from Indiana, if the Speaker will permit, a few questions if I may in regard to his presentation.

First, does the law impute that the Commerce Secretary would be knowledgeable of the questionable transactions of his firm?

Mr. BURTON of Indiana. Does the law require that?

Mr. FOX of Pennsylvania. Would the law impute, in other words, based on the transactions the gentleman spoke of and the fact it was in his firm, would they automatically assume that the Secretary would have known?

Mr. BURTON of Indiana. I would think that any investigative attorney would question highly a partner in a firm with these kinds of resources.

Mr. FOX of Pennsylvania. Especially with the size of the amount.

Mr. BURTON of Indiana. Not knowing about the activities of one of the partners, so it is beyond comprehension to me that Mr. Brown would not know of these activities.

Mr. FOX of Pennsylvania. Would the gentleman further yield?

Mr. BURTON of Indiana. Sure, I am happy to yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Are members of the Cabinet required to file statements of financial disclosure?

Mr. BURTON of Indiana. Yes; they are.

Mr. FOX of Pennsylvania. Would the transactions that the gentleman listed or discussed here this evening be noted on the Secretary's financial disclosure form?

Mr. BURTON of Indiana. Yes; I believe all of these activities should be very thoroughly documented in his report, and that is one of the reasons why I believe that the Senators and those of us in the House are asking the FDIC, and other agencies of Government to take a close look at those, and his income tax returns, because we question whether or not this stuff has been reported.

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman further yield?

Mr. BURTON of Indiana. I am happy to yield.

Mr. FOX of Pennsylvania. Based on the issue of credibility and questionable activities you have outlined, does this loss of confidence make it difficult for the Commerce Secretary to be fully effective, in your opinion?

Mr. BURTON of Indiana. Yes; and I think one of the things that we should do is we should write a letter to the President, and I believe we will probably have one drafted sometime tomorrow asking the President to have the Commerce Secretary step aside while this investigation is taking place so it will not cast any aspersions on the administration. You know, the administration has had a lot of problems in the past year with not only allegations but proven allegations being made public on a number of administration officials, Web Hubbell and Mr. Altman and others, and Mr. Nussbaum, and as a result those people having been forced to resign, and I think the administration would be well advised to ask Mr. Brown to step aside. They do not have to ask him to resign his post if they do not want to, but ask him to step aside so he does not conduct any of his official duties while this investigation is taking place.

Mr. FOX of Pennsylvania. Only the U.S. Senate has the right to confirm Presidential appointees and Cabinet members. What options does this House have to investigate a Cabinet member as far as you know?

Mr. BURTON of Indiana. The chairman of the Government Operations Committee or Government Oversight and Reform Committee has the right to hold hearings on suspected inappropriate activity on the part of a member of the executive branch; much like the Banking Committee held hearings on the Whitewater investigation last fall.

So, I think since the Resolution Trust is involved and a default of $40 million of taxpayers' money, then I think that possibly the Banking Committee, as well as Government Reform and Oversight Committee would have jurisdiction and we could both have hearings.

Mr. FOX of Pennsylvania. So it is your opinion then that the Banking Committee under JIM LEACH and Government Reform and Oversight Committee under Congressman CLINGER could in fact hold appropriate hearings to get the appropriate and honest and fair information regarding this matter so Congress would have and the American people would have a proper view of these circumstances, am I correct?

Mr. BURTON of Indiana. Yes, I think that should be done. And I also believe we should seriously consider urging that an independent counsel be appointed to thoroughly look into all of these activities I have alluded to. If we can get the Justice Department and FBI to give us a thorough accounting of what went on in the Vietnamese affair I talked about, I think that that probably would give Chairman CLINGER in this particular case reason to hold hearings on that subject alone. I really believe that.

But if that were not enough, then certainly these latest revelations would lead Chairman CLINGER to hold not only hearings here, but also to urge that we have an independent counsel investigate this.

Mr. FOX of Pennsylvania. If the gentleman will further yield, one final question. Inasmuch as the Federal Deposit Insurance Corporation is already conducting an investigation in a related portion of the matters you have raised before the House tonight, would the Commerce Secretary's involvement as part of the overall investigation be appropriate by FDIC, or do you believe it should be a committee of the House?

Mr. BURTON of Indiana. I think the FDIC is looking into this already, because it involves taxpayers' moneys and loans from the Federal Government. And so I think that the FDIC is going to look into this at the request I believe of Chairman CLINGER and others.

I also think there should be an audit of Mr. Brown's tax returns because of the tremendous amounts of money and loans that were given to him and were forgiven, to see if they were declared as income.

So I think there should be a number of agencies involved in this investigation: FDIC, the IRS, independent counsel, as well as the House and Senate Committees on Government Oversight.

Mr. FOX of Pennsylvania. If the gentleman will further yield, I would say I know the Members of the House appreciate your bringing these issues forward because the very foundation of our democracy is we are a nation of laws and not men.

And Congressman BURTON, I appreciate your bringing this forward tonight. I hope you will continue to advise the House of whatever matters come before you or Chairman CLINGER, so we are aware of what is happening and the American public has a chance to weigh in as well.

Mr. BURTON of Indiana. I thank the gentleman from Pennsylvania for his participation in this special order, and I agree with him that we should continue these special orders to illuminate issues of national concern.

One of the problems that we have in this country right now is there is not a great deal of confidence in government. I think the last election showed that very clearly. And when you have member after member of the administration quitting or being forced to resign under a cloud, it creates more doubts and concerns among the electorate and the people of this country. So I think what we have to do is reinstill confidence in them that the Government is honest, that the people that are running the Government in both the executive and legislative branches are honest, and if we find some wrongdoing, that needs to be brought out in the full light of day through hearings or investigations. And that is why we urged during the Vietnamese debacle there be hearings, but we were not in the majority at that time and could not get it done.

Now that we are in the majority, we should have full and fair hearings. I do not think it should be we are tying him up and tar and feathering him and carrying him off over into the sunset. I think they ought to be fair hearings with fair questions being asked and expecting fair answers from Mr. Brown and his associates.

But these things that are in the paper are going all across the country right now, and the people I am sure are shaking their heads and saying, "Oh my gosh, there is another corrupt government official." And we need to get to the bottom of it and get to the bottom of questions like this.

Mr. FOX of Pennsylvania. I hope the gentleman will get back to us through this forum of the special orders or within our Committee on Government Reform and Oversight because I know the gentleman from Pennsylvania [Mr. CLINGER] has a full plate with many of the Contract With America items, but I know he has made a priority your discussion with regard to restoring public confidence in public officials. We look forward to hearing further.

Mr. BURTON of Indiana. I thank the gentleman. Let me just say next week we will be taking a special order going into some other activities in the administration which I think will be of great interest to my colleagues.

With that, I yield back the balance of my time.

FINANCIAL STABILITY OF THE UNITED STATES GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, this evening we would like to address two subjects having to do with the health of the economy of the United States, and the financial stability of our Government. And they go to the proposed or pending interest rate increase before the Federal Reserve Board, and the announcements today made by the administration regarding the Mexican bailout which apparently now will be done by administrative order.

I would like first to start, since it has not happened yet, perhaps we can prevent a disaster, start with the proposed interest rate increase by the Federal Reserve.

Six times in the last year, a record, the Federal Reserve Board has seen inflation somewhere over the horizon and raised interest rates.

□ 2040

Those six increases have hit hard at anybody in America who has to borrow money, families who want to borrow money to buy a house, individuals who want to borrow money to buy a car, people who want to start or continue with a small business, homebuilders and others. They have been hit time and time again by the Federal Reserve raising interest rates, this latest pending increase estimated to be one-half of a percent.

Now, just think about it, this is a group that will meet in secret. The Federal Reserve meets in secret. They are accountable to no one. Calls were recently placed down there by my staff regarding the Mexican peso bailout, and we were told there was no business of the Congressman what involvement the Federal Reserve might have with our tax dollars and reserve money that underlies our bank accounts. They will meet in secret, and they will consider a policy change that is likely to raise this year's deficit by $2.5 billion.

It is likely, according to the homebuilders, to drive a medium-priced home beyond the reach of 1 million families in America. That is after they have already driven up prices of mortgages by more than $200 a month on a $100,000 home in the last year. This single increase will drive up the mortgage on a $100,000 house by about $1,600.

Now, here we are squabbling over these proposals to reduce taxes by a pizza a week for every American family, and the Federal Reserve in secret with no accountability to the U.S. Congress or the elected representatives of the people is going to unilaterally impose a policy that will increase the deficit by $2.5 billion, will increase the price of a home for a modest family, a $100,000 home, by $1,600 per year with no public scrutiny, no hearings, and no accountability. It is absolutely outrageous.

Furthermore, they have adopted a policy now, they think that any rate of unemployment less than 6 percent is inflationary. God forbid that wages should go up a little bit in this country. They have not gone up for your average family in the last 20 years, and the Federal Reserve has a concerted policy to make sure that does not happen. They consider a wage increase for working Americans to be inflationary.

Yet we had a wire story today that said we had the least pressure on employment costs since those statistics have been kept. Yet again, the Federal Reserve is going to preemptively raise interest rates with a concerted policy to put tens of thousands more Americans out of work. Remember, it used to be 4 percent was considered full employment in this country. Now they say 6-percent unemployment is full employment. That is 3½ million Americans who are going to be deprived of their jobs by the Federal Reserve because the Federal Reserve sees inflation that does not exist.

Furthermore, Alan Greenspan, the Chairman of the Federal Reserve, appointed by the last Republican President, has said that we overstate inflation in this country. He testified just last week before the Banking Committee and said, "Well, you know, the CPI overstates inflation by 1 to 1½ percent." That means, according to Alan Greenspan's own numbers, inflation is at more than a 30-year low in this country. Yet they are going to go back to the well one more time. They are going to raise interest rates again. They are going to raise the price of houses again, refrigerators, anything you buy on time will be increased.

Why? Not because there is a real threat of inflation, but because it is being demanded by Wall Street.

Now, it is an interesting question who makes monetary policy in this country, who controls the currency of the United States. And are we running this Nation for a few select bankers on Wall Street, or are we running this Nation for the American taxpayers? That brings up the Mexico bailout.

The gentlewoman from Ohio [Ms. KAPTUR] found a very interesting quote in the Wall Street Journal, and I thought you might want to present that.

Ms. KAPTUR. If the gentleman will yield, I thank you for your tremendous work on focusing on the Federal Reserve and the important role they play in this country. They are unelected. They do not have to come up here. Most Americans do not know who the Board of Governors of the Federal Reserve are, and yet all of the money that the citizens put in their banks back home, those banks, if they should choose, and most of them do, then pay dues into the Federal Reserve System.

They are organized by districts around the United States. The closest one to me is in Cleveland, OH, since I live in the State of Ohio. Those banks belong to the Federal Reserve here in Washington.

It is my opinion not all Federal Reserve district banks have the same importance in the system, because it was not the banks that belonged to the Cleveland Federal Reserve that got into all the trouble 12 years ago or 13 years ago in making those loans to Mexico. It was largely money-center banks in New York City that caused all the trouble. Yet our member banks back home had to help cushion those blows. They were forced to charge higher interest rates to their customers.

They did not cause the damage in the system, and I think what we have here is the predominance of one set of money-center banks from Wall Street and their related brokerage houses doing business in very close communication, not open to the general public. Of course, I mean, they do not see this happening.

But yet they draw money in from the system, do things with it that causes problems, and they become very powerful in making economic decisions for this country.

The gentleman was asking me about an article in the Wall Street Journal today. You know, we have been trying to figure out why interest rates are going up in the United States when there is no inflation, when people's wages are not going up; in fact, people are taking benefit cuts all over this country. We have so many part-time workers and temporary workers and people who are being outsourced, downsized, restructured, redeployed. There are all kinds of names for this.

And you ask yourself why would interest rates be going up in the United States. Well, they are not really going up because of what is happening in this country, but the markets are reflecting, our market here, and the interest rates, are reflecting draws on the system because of decisions made by money-center banks and large corporations in other countries.

The closest one at the moment is Mexico. I believe interest rates are going up in this country because the market is taking it out on the American people, the banks that have a lot at risk and have made some bad decisions, and the brokerages that borrow from them have made some bad decisions. And now the American people are having to pay for it in their checking accounts, in the mortgage payments that they make, as the gentleman said, and what you mentioned in terms of the price of a $100,000 house.

I know I figured it out for a $60,000 house in Toledo, OH. The interest rates over last year will cost that family $100 more a month, $1,200 more a year.

I do not care how much tax-cutting we do this year in this Congress, we are not going to be able to offset the real dollars people are paying every day through the worst taxes of all, which are these higher interest rates people pay on their credit cards and cars and on their homes.

Some of the people that are causing the trouble were talked about today beginning on page A3 of the Wall Street Journal in an article called "Mexico's Currency Plunges Nearly 10 Percent," and it continues on page A8. We have been asking the Clinton administration for a list of who Mexico owes money to, who are the creditors that are supposed to be bailed out. Of course, they have not sent us an answer.

It is very interesting what it says in the top paragraph on page A8. It says that if the Congress and the taxpayers were to bail out Mexico, one beneficiary would be the firm that Treasury Secretary Robert Rubin used to run, Goldman, Sachs & Co., which ranked as the No. 1 underwriter of Mexican stocks and bonds in the United States and European markets for 1992 through 1994. In those 3 years, according to Security Data Co., Goldman underwrote over $5 billion worth in Mexican securities compared with $2 billion for the securities unit of J.P. Morgan & Co. Third was Bear, Stearns & Co. at $1.8 billion.

So I would guess that even though the administration and the Treasury Department have not provided us with the specific list of creditors that we are looking for, we can begin by reading between the lines here and see whose wallets are really on the line.

Mr. DEFAZIO. If I could interject at that point. There is an excellent quote which plays off that in the business section today of the Washington Post, page D1, where the vice-chairman of Goldman, Sachs, Robert Hormats, says the prestige of the President, the Fed Chairman, and the leadership of both Houses in Congress has been committed. If Congress were to kill the aid package, the feeling in the rest of the world would be that we are a nation in disarray, a country incapable of addressing a crisis. The psychological blow would be enormous.

I wonder if Mr. Hormats is really talking about the blow to the United States of America and the people whom I represent who have not been speculating in Mexico, or is he talking about the blow to Goldman, Sachs, who has done 5.2 billion dollars' worth of business in Mexico for the last 3 years.

If we are taking about that, I am really concerned what is being proposed now by the ex-director of Goldman, Sachs, the Secretary of the Treasury, is to bail out Mexico now through an Executive order, not through coming to the United States Congress.

□ 2050

They found the Congress exerted, in this case, uncommon good sense; they said "Wait a minute, we don't see the collateral or the national security interests. Why are we looking at this $40 billion bailout?"

I see the gentleman from California [Mr. HUNTER] has arrived.

Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I thank my friends for continuing to discuss this issue. I think there is an even greater issue now that I hope all of Congress will start looking at and the American people will look at, and that is the whole underpinning of this blind adherence to free trade that those in the executive branch and many of our colleagues and friends in Congress have adhered to over the last 10 years or so. If it is true, if these apocalyptic claims by the Goldman-Sachs representatives of the world are true, if you want to have a poor person Mazatlan send me a thousand dollars, if that is true that we really have tied the United States and the well-being of our people to the fortunes of a Third World nation which we cannot control, then there is a fundamental flaw in our free trade philosophy.

What that means is we have handcuffed ourselves pursuant to the deep breathers, the free trade advocates, to a drowning swimmer, somebody who cannot swim.

I am talking about Mexico and other Third World markets, so-called emerging markets that our investors have put billions of dollars into. That is not a fundamentally sound economic policy for the United States to follow.

So the people that helped engineer NAFTA I think have to answer a couple of questions. First, they have to prove that this is an apocalyptic situation—and I do not think it is—and I think Bill Siederman and other responsible conservatives, moderates, and liberals in the economic world have made good statements with respect to that. But if our free trade philosophy has handcuffed us to these nations that cannot swim, has put us in the deep water and said "Have a nice day," then that is fundamentally unsound and fundamentally flawed and we should rethink free trade for that reason.

I think the gentlewoman from Ohio [Ms. KAPTUR] the lady with the rose, who has always had such an articulate viewpoint on this very important issue and keeps coming and coming and coming on this issue on the House floor, trying to persuade our colleagues to take a seek look at this blind adherence to free trade. I think in the aftermath of NAFTA and this debacle a lot of Members are starting to disengage themselves from their idealistic philosophy and look at the real world.

I thank the gentleman from Oregon [Mr. DEFAZIO] also for his work because he has been here night after night working on this issue. I thank the gentleman for what he is doing.

Mr. DEFAZIO. I thank the gentleman.

Mr. Speaker, I see the gentleman from Vermont [Mr. SANDERS]. I say to the gentleman we are discussing both the Mexican bailout proposal and also more generally the policies of the secretive Federal Reserve Board that is obviously hand in glove involved with the bailout of Mexico.

Mr. Speaker, I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentleman for yielding.

Let me congratulate the gentleman from Oregon and Ms. KAPTUR and Mr. HUNTER for their excellent work.

I find myself just a little bit nervous in agreeing with the gentleman from California [Mr. HUNTER] with whom on many issues we do not have much in common. But the point I just heard him make is an excellent point.

It frightens me to think that if the global economy means that the future of a decent standard of living of the American people rests on the prosperity of an authoritarian corrupt government in Mexico, then we are in very, very deep trouble. It also seems to me that in a time when this Congress and this President are having such a difficult job improving the standard of living of every ordinary American—today there was a piece in the paper which indicated there are about 6 million children in America under the age of 6 who are living in poverty. We have the highest rate of childhood poverty in the industrialized world. Forty million Americans have no health insurance. We are losing millions of decent manufacturing jobs to Third World countries.

We have enormous problems in this country, which this Congress, this President, President Clinton, and President Bush and others have been unable to solve. If we cannot resolve our own problems how in God's name are we going to be running the country of Mexico?

So I would simply suggest that we leave to our Mexican friends the difficult charge that they have to run and try to improve the lives of their people and that we should try to concentrate on our own needs here.

The other point that I would make is that I was at a Banking Committee hearing last week and at the meeting in pursuing the bailout for Mexico we had the Secretary of State, Warren Christopher, we had the head of the Federal Reserve, Mr. Greenspan, and we had the Secretary of Treasury, Mr. Rubin.

My, my, my, all of these heavy hitters working night and day trying to help us bail out Mexico, and yet I look at what happens to family farmers in Vermont working 80 hours a week losing their farms; 2 million people in America who are homeless; children who are hungry. Where are the heavy hitters who are standing up and saying we have an emergency right here in the United States of America. Our standard of living is in decline, let's pay attention to that need.

So I get a little bit resentful, a little bit resentful when all of this energy, all of this big money focuses on bailing out Mexico and yet the needs of the American people seem to be ignored.

Mr. DEFAZIO. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. I would like to add a point to that in terms of who are wiling to bail out and who are not willing to bail others out. One of the most advanced industries in our country is the airline industry. Every day we see newspaper articles in papers across this country about the fate of USAir. That is one of our major carriers, which serves my hometown and has served different parts of the Northeast.

There has been no surge as far as I have noted from those same three gentlemen mentioned by the gentleman from Vermont, who appeared before the Committee on Banking to try to help USAir work out of its situation or its handsome losses over the past several years, to keep thousands and thousands of people on their jobs.

I have not seen any phone calls or comments made by anybody over at Treasury. In fact, it is interesting if you look at the Chrysler situation several years ago before I got to the Congress, Alan Greenspan at that time was opposed to any Federal involvement in the Chrysler bailout.

Whether you agreed with the Chrysler bailout or you did not agree with the Chrysler bailout, they paid their money back with interest, as Lee Iacocca will remind us no matter where you meet him anywhere in the country; he was opposed. Yet he is for this, one of the chief sponsors of this effort to try to find a way, back doorway now of getting our taxpayers and our banking system to bail out Mexico. Yet when one of our own companies has been in trouble, now USAir needing a little bit of help, I have not seen the Secretary of the Treasury on the telephone or the Chairman of the Federal Reserve with the head of USAir.

So I would agree with the gentleman.

While I have the floor for a moment I just want to commend the gentleman from California [Mr. HUNTER] who has also been on this floor so many evenings trying to give some incredible speeches that reached far beyond the Beltway into the hearts and minds of the American people, trying to show the people a new road, not a road that closes off America but a road that is fair to American workers and builds democracy abroad.

That is what we should be about here. For those of us who have fought this long fight it is a great fight to be in because we know we are right. The American people are now listening. They know something is up.

I thank the gentleman from Oregon for having this special order this evening.

Mr. DEFAZIO. The interesting problem is that we have been somewhat successful. I think when we first started to speak out against the Mexican bailout it was pretty lonely. The Republican Speaker and the Republican majority leader in the Senate went down to the White House to meet with the President, Alan Greenspan, Secretary of the Treasury, Democrat President. We had a bipartisan agreement that it was in the national security interest of the United States to bail out Mexico and rush something through the Congress. But then a few of us started standing up and asking embarrassing questions about why this was necessary, why the haste, what was the collateral, what exactly was the national security interest. These are questions of cost that have never been answered, and in fact that is why they will not try to have to move that legislation through the House. They do not want answers to those questions, the list that the gentlewoman from Ohio provided about exactly who holds these securities that are at risk. They are trying to come in and tell us it is pension funds.

□ 2100

Well, we made some calls in my district, and I know other people have, and we have yet to find anybody managing a pension fund that will admit that they were speculating in junk bonds in Mexico, bonds that paid between 20 and 50 percent interest.

Now I do not think there are very many prudent pension managers around the Nation who are engaged in such speculation, but apparently Goldman Sachs was into Mexico very big time, $5.2 billion over 4 years, and who knows how many of their clients were at risk here, as opposed to Goldman Sachs itself as a firm, and how much liability they might have for having provided poor advice to their clients talking about the emerging markets of Mexico, but in our success it appears we are about to be short-circuited.

Where we could not get $40 billion out the front door, it appears that the President is going to attempt to take $40 billion out the back door, still working hand in glove with the Federal Reserve with secret amounts of money under terms not to be disclosed to the people's Representatives in the Congress, working through the International Stabilization Bank. How much of the money being channeled through the International Stabilization Bank is flowing out of our Federal Reserve, working through the International Monetary Fund? How much of the money coming through the International Monetary Fund is money being channeled by the Federal Reserve of the United States of America? I have not heard the outcry in Europe that we must stabilize Mexico in order to stabilize the world economy. I have not heard those cries, but we certainly heard the cries coming from the people running Goldman Sachs in Wall Street.

So, now it turns out that the President, even though he came to the Congress in a bipartisan way to propose this bailout, has decided, well, actually he did not need the authority anyway, that there is another way to structure this bailout using section 5302 or chapter 31, section 5302, of the U.S. Code stabilizing exchange rates and arrangements.

The gentleman from Vermont [Mr. SANDERS] is on the Committee on Banking and Financial Services, and I know the gentlewoman from Ohio [Ms. KAPTUR] is more versed than me, but the way I read this, Mr. Speaker, it allows us to engage in short-term swaps or exchanges of funds to defend the U.S. dollar, not 10-year loans to bail out a failing government in a collapsing economy.

I ask, "Would you want to address that for a moment?"

Ms. KAPTUR. I am glad the gentleman brought up that point. Before I address that, let me just say that through our efforts 80 percent of the American people oppose this effort to try to prop up the peso so that Mexico can pay its debts to Wall Street speculators. What is interesting is the Wall Street Journal today also said that 75 percent of the residents of Mexico City, the people of Mexico, were against the loan guarantee packages as well, so if the people of the United States are against it, and the people of Mexico are against it, who is it that is ramming this through?

And the gentleman asked about the Banking Committee. In my 8 years that I spent on the committee, Mr. Speaker, I never saw the Currency Stabilization Fund used for this purpose. It was always used in small amounts, never to the tune of $20 billion. We are trying to research back to see the largest such use of the fund. Maybe we found $2 billion back 10 years ago, but never to this extent, and never to defend the debts owned by another country. This is a very precedent-setting move that is occurring here.

In addition to that, there is an additional, around $17.5 billion, coming through the International Monetary Fund, and at the moment it is unclear to us whether that is $17.5 billion in new money because the U.S. contribution to the IMF has to be appropriated dollars through here. Are those old dollars? Are those new dollars? Where are those dollars coming from?

And then the third element of this is the International Bank for Settlements, which is $10 billion, and it is very interesting because the Bank for International Settlements has a board just like the Federal Reserve. It has 24 members on the board. The United States has never participated on that board before. We were not making payments. All of a sudden who ends up on the board of the 24 most recently? The Chairman of our Federal Reserve, Alan Greenspan, and the chairman of the New York Fed, Bill McDonough, all of a sudden. And Citibank, surprise, surprise, is all of a sudden making payments into the Bank for International Settlements.

Now if it would happen that the debtors could not pay their debts, the burden of the Bank for International Settlements falls to the member countries to pay back. So they have a lot of different names, but it is the same people in these different institutions, and it all comes back right here, to the taxpayers of the United States, and every single economist that came before our hearings that the gentleman from California [Mr. HUNTER], and the gentleman from Oregon [Mr. DEFAZIO] and the gentleman from Vermont [Mr. SANDERS] helped us organize about a week ago, every single person said this was a set of credits that had high risk. This was not something where there was certain repayment. They expected losses. So, we expect that there will be claims that will be made on the taxpayers of our country under this new scenario.

So, the gentleman is correct. I think what the President has done is just pushed the definition of what is in that section to the limits both in terms of his own authority and the amount of funds that will now be drawn down for the purpose of, not propping up the dollar, but propping up the debts that are owed to creditors by the Government of Mexico.

Mr. DeFAZIO. Mr. Speaker, I yield to the gentleman from Vermont for a moment.

Mr. SANDERS. Mr. Speaker, the gentlewoman from Ohio [Ms. KAPTUR] mentioned that she read in the Wall Street Journal, I gather, that not only are the vast majority of the American people in opposition to this bailout, but in Mexico City, for interesting reasons having to do with the sovereignty of the Mexican people, very strong opposition to this bailout as well. So, on one hand you have the American people in opposition. On the other hand we have the Mexican people in opposition.

But probably in the Wall Street Journal, if we went to the editorial page of the Wall Street Journal, let me guess. The Wall Street Journal is strongly in support of the bailout, which takes us back to the scenario that took place some 14 months ago when we debated this issue of NAFTA right here on the floor of the House.

And interestingly enough the proponents of this bailout are trotting out all of the same figures once again. We have all of our former Presidents who told us what a great deal NAFTA would be. They are out again. And all of the former Secretaries of the Treasury who told us what a great deal NAFTA would be, they are out again. And all of the major newspapers in America and all of the large corporations in America who told us that NAFTA would significantly improve the standard of living of Mexican workers, why they are out again telling us editorially what a good deal this bailout would be.

The truth of the matter is that, and I say this, and I know you have made this point before: We are not gleeful, we are not delighted to say that we were right about NAFTA and they were wrong. We are not gleeful. But we do think it would be helpful for some of these editorial writers and the Wall Street Journal, instead of saying, "Let us pump another $40 billion of loan guarantees into Mexico, and then maybe they may want to acknowledge that they were wrong and that maybe we want to rethink."

And I know that the gentleman from Oregon [Mr. DEFAZIO] has introduced a very important piece of legislation that I know we are on which says, "Let us break the NAFTA agreement, let us withdraw from the NAFTA agreement," but it really does bother me that, after misleading the American people, they are back 14 months later saying, oops, we made a little bit—they do not acknowledge that they made a mistake, but now they have proposed that we have—we put another $40 billion of loan guarantees.

Mr. DeFAZIO. Well, actually what they do is they say, "We never could have anticipated this."

Of course we talked about the fact the peso was overvalued, would be devalued. I mean they can go back and review the debate, and actually we told them, as did credible economists.

But the gentlewoman from Idaho [Mrs. CHENOWETH] I believe has a question she would like to direct to the gentlewoman from Ohio [Ms. KAPTUR] and I yield to her for that purpose.

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman very much, and, being a freshman in this distinguished body, I have watched with great admiration as the gentlewoman from Ohio has patiently explained to us and the American people much that we need to know, and I appreciate her very much, and I am learning from her, but I do want to ask either the gentlewoman from Ohio [Ms. KAPTUR] or the gentleman from my neighboring State, the gentleman from Oregon [Mr. DEFAZIO]. I have a question about the basic function and the statutory authority of the Bank of International Settlements. I was shocked to realize that they, too, were a part of this bailout.

□ 2110

It was my understanding that the Bank of International Settlements was set up to help with International disputes. Again, Mr. DEFAZIO pointed out there is no national security problem here or no great national interest here.

Where is the dispute? Can you help me out here? Can you help the American people out? So much is being skirted in terms of what our expectations should be in the way institutions function, as well as government. It seems that the institutions are functioning outside of government, and it is a frightening thing.

Ms. KAPTUR. First of all, I think the gentlewoman from Idaho, so early in her first term, for being down here in the well asking the right questions.

Sometimes we do not always win our issues, but we find if we give voice to the American people, even though sometimes we feel like we do not have a lot of power, with that voice comes greater understanding, and slowly you see a country change. I think that is what we are about.

I am not aware of what the dispute is. The Bank for International Settlements was a consortium of central bankers that was devised in order to try to deal with some of the currency differences and for central banks to band together for assistance if there were draws that went more to one country than another country. I, like the gentlewoman, am quizzical as to what the dispute would be in this case. And I am very concerned about what the U.S. financial obligation would be if bills come due you.

I also wanted to place on the record this evening, to the gentleman from Vermont, who has been so steadfast in participating in these special orders, to say you have talked about the Wall Street Journal, one of the most respected publications in our country. And read it everyday and many, many analytical articles are just superb.

But I think it is important for the record to indicate that the former president of Mexico, the most recent president of Mexico, Carlos Salinas, was appointed to the board of Dow Jones & Co., which owns the Wall Street Journal, and it does not surprise me, therefore, as I read the various headlines in the Wall Street Journal and some of the hype that has been put into trying to make it seem like if we do not do this there will be an apocalypse, "Mexico worries spread to emerging markets," the headlines, "Mexico's currency plunges 10 percent amid worries about U.S. rescue plan." The headlines, you worry. Headlines form policy. It is important to know who is in position to make opinions about this and influencing public opinion.

So if I might further respond to the gentlewoman from Idaho, my hope is that as we get more details on the package, over the next day we hope—we were not able to get the fineprint today—we will be able to answer your constituents and our own with more specificity as to the role of the Bank for International Settlements in this.

We know it is $10 billion. We do not know how that is being drawn down. We were not provided with any details today.

Mr. DEFAZIO. I thank the gentlewoman for answering questions as best we can at this time.

I think the gentlewoman from Idaho has raised an excellent question. The Bank for International Settlements, what is the United States' obligation to that bank at this point in time? How is it we came so recently to be represented on the board of directors by Alan Greenspan and the chairman of the New York Fed?

What commitments has the United States made of either funds that are being channeled through the Federal Reserve Board in secret, or more overt agreements or obligations of the Federal treasury? How much do we have at risk here?

I think these are excellent questions that need to be answered.

You know, there is this wisdom that somehow we have to allow the Federal Reserve to operate in secret because it is the only way to give them political independence. The Bundesbank in Germany is I think the most highly regarded central bank in the world, and they are required to conduct all their deliberations, negotiations, discussions and votes in public. But yet our Federal Reserve somehow is the only agency of the Federal Government, more powerful than the Congress and the President combined in terms of the economic future of this country today, in terms of whether or not we bail out Mexico or raise interest rates again to fight inflation that no one else sees except for Alan Greenspan and a few other inflation warriors at the Federal Reserve, they do all this in secrecy. They change the policies to say they think 4 percent unemployment is too low and they would rather have 6 percent, because otherwise wages might go up a little bit and working people might earn more in this country and that might start an inflationary trend. At the same time they are tying us to international agreements and institutions which are diminishing the role of U.S. labor.

So on the face of it their arguments are not even consistent. But they do not have to account to anyone. They do not have to answer questions if we call down there.

My staff called down today to ask about conflicts of interest by members of the Federal Reserve Board. Do any members of the Federal Reserve Board represent regional banks which are heavily invested in Mexico, and have they disclosed that fact, have they recused themselves from voting as they apportion funds to bail out Mexico? No, we are not allowed to know the answer to that question.

So what is this body we have created, that is so much beyond the public and the elected representatives of the people? Its role in this bailout is just extraordinary.

Mr. SANDERS. I think the points that the gentleman is making are absolutely correct. Ostensibly we live in a democracy, and ostensibly it is the President of the United States and the House and the Senate that represent the American people, and presumably are elected to do the best that we can to represent the interests of the American people, and presumably are elected to do the best that we can to represent the interests of the American people. And one of the aspects of this whole bailout which bothers me very, very much, is that all over this country the American people know what a lemon it is. They know that with the $290 billion deficit, and with people in this body talking about cuts in Medicare and Medicaid and nutrition programs for the elderly and for the children, that it is absolutely insane to be talking about putting $40 billion of American taxpayers' money at risk in this bailout.

It is not often in my view, as the only Independent in the Congress, that actually the Congress hears the needs of the American people. But guess what? On this particular instance, the Congress, the Republicans, the Democrats, the Independent, heard what the American people were concerned about and made it very clear that the U.S. Congress was not going to support the Mexican bailout.

So some of us last night, we were saying hey, every once in a while we actually win a victory. It looks like we are going to win this particular fight.

But lo and behold, guess what? So what if many of the vast majority of the American people do not want the bailout? So what if the vast majority of Congress does not want the bailout? I guess the Wall Street Journal, the major corporations and the major banks in America do want it. So, hey, if it is between the American people and the Congress on one hand, and the corporate world and the banks on the other hand, which way are we going to do?

So what the President does, which is really disturbing, I would have been disturbed if Congress had voted for the bailout. But I could have lived with it, just as I had to live with NAFTA. But the idea that the President circumvented the Democratic process, pulled out some ancient, arcane law which ostensibly gave him the authority, is very, very disturbing. And I frankly think those of us in Congress who are concerned about this issue have got to deal with that statute and make some changes to it.

Mr. DEFAZIO. Well, I appreciate the gentleman's comments there. I think it is certainly time to review this statute. It is obviously time to get some clarification from the administration on exactly what authority they believe they do have. Are there no limits? We are now pledging $20 billion to Mexico. Is there no limit? What if the $20 billion is not enough? Credible analysts came before our hearing, unlike the playacting hearing put on by the Committee on Banking and Financial Services, but a hearing where we invited people who had differing views from the administration and the bailout artists, and said "No. $40 billion will not be enough. Mexico is such a basket case, if you are going to tie the U.S. dollar to the Mexican peso, you better be prepared to defend the U.S. dollar against a run by the Japanese and the Germans and others, because they do not think this is a very smart thing to do." They said, "You can expect to be talking about $150 billion, not $40 billion dollars."

So this stabilization fund, will the President next week announce that well, the $20 billion was not enough, and now we are going to go for another $50 billion or $100 billion?

□ 2120

Where does this money come from? As you said, we have a $200 billion deficit, where does this money come from?

Mr. SANDERS. I think the gentleman and gentlewoman might agree that if we were talking about loan guarantees, it might be appropriate to talk about loan guarantees right here in the United States of America. Can you imagine how many decent paying jobs we could create right here at home rebuilding our economy, both the public sector and the private sector, if we had loan guarantees right here. But apparently, uplifting the poor people of America—I always get a kick, I get a kick out of hearing how good it would be for our economy if we can improve the standard of living of Mexican workers. I happen to be very strongly pro-Mexican and very concerned about the problems and the poverty that exists in Mexico, and we all want to uplift the Mexican people.

But how ironic that that same argument is not used here in the United States of America. Fourteen percent of our people live in poverty. Now maybe if we invested in a jobs program, maybe if we rebuilt our cities and towns and our infrastructure and provided decent jobs for our people and uplifted them, maybe they would also be able to purchase the goods and services that right now corporate America wants to sell to Mexico.

But apparently that is a very, very radical idea to suggest that we might want to uplift the poor people in America rather than the poor people in Mexico.

Mr. DEFAZIO. Did not the gentleman identify an article yesterday that said that because of the economic straits that our country is in that we are going to have to lower the loan guarantees made available to small businesses in this country?

Mr. SANDERS. The small businesses.

Mr. DEFAZIO. In my State the thriving growth of the last 20 years has come from small businesses. We have had a few big corporations move in, but generally we can identify most of the growth that is coming in. Now we will have to cut back on loan guarantees for small businesses in America while we, for example, extend $40 billion to Mexico.

Mr. SANDERS. The gentleman is quite right. That was in the Washington Post, I believe, yesterday. It dealt with the Small Business Administration, that is correct.

Mr. DEFAZIO. That is extraordinary. So somehow, I guess small businesses in the United States are not a good risk or we just cannot afford them, even if they are a good risk. And so we are going to have to cut back on that extension of credit. But a regime in Mexico, which has had three major financial crises, essentially two previous defaults in the last 12 years, which is an authoritarian regime which has lowered the standard of living of its own people by 25 percent in the last decade, which has, however, created 24 billionaires in a mere 7 years, is somehow a great credit risk. And there is nothing to worry about. But American businesses, well, I am sorry, we cannot afford to extend that kind of credit to American businesses. We are just going to have to cut that program back, and we are also going to cut our loans, rural electrification loans and other things.

We do have a budget crisis. I agree. It is time to get it under control. But how is it that suddenly, when we have to bail out the savings and loans, we can do it off budget; when we have to bail out Mexico, we can do it off budget. But if it goes to average American people and their concerns, their small businesses, their livelihoods, their education, we are broke.

This is a strange parallel to me.

Mr. SANDERS. The other irony, I think, perhaps the interesting irony in this whole affair is that I personally happen not to be a great believer in the free enterprise system for many reasons. I do respect people who take a risk and, having taken that risk, if they do well, they earn a whole lot of money. I think that is okay. But when you take a risk by definition, there is a chance that you may lose. I find it really outrageous that the people who invested in Mexico, especially after the NAFTA agreement, they invested a whole lot of money, and they expected a high rate of return. Well, things did not turn out the way they expected. That is unfortunate.

But in Vermont, small businesses are having very great difficulty, family farmers, workers, having very great difficulty. And yet they do not have the U.S. Government guaranteeing their investment. What a wonderful world it is for Wall Street investors. It is heads, I win; tails, you lose. Heads, I win and get a large rate of return from my investment in Mexico or tails, you guarantee my investment. Sorry, the American taxpayer.

So they make these investments. And then they come crawling into the Congress and say, gee, Congress, gee, Mr. President, we very, very wealthy people may have to lose some money. That is unacceptable. We are very wealthy. We are not supposed to lose any money. So you ordinary Americans, average taxpayers, workers who may have seen your jobs go to Mexico, we want you to bail us out.

And the leadership of the Republican party and the President and Mr. Greenspan say, well, that makes sense to us. Hey, that is a good idea. We will guarantee your investments.

Oh, that the average American small businessperson had that type of support behind him or her.

Mr. DEFAZIO. I think a lot of our colleagues are not aware of the fact that a lot of these short-term tesobonos that the Mexican Government cannot turn over are paying rates of interest between 21 and 50 percent. Now, I do not know, but if someone offered me a 21 percent rate of return on my modest savings, I might say, is there not a risk. That seems like an awful high rate of return.

If they said, no, Congressman, do not worry about it, there is no risk at all, I think maybe I would make a few phone calls. But the Wall Street people, the Goldman Sachs firm, which is into Mexico for $25.2 billion over the last 3 years, and others, said, oh, no, this is an emerging economy. There is no risk. This is just sort of like the United States except the people speak Spanish. There is no risk down there. Do not worry about the government. They just had an election.

Well, they had an election 6 years ago. The party that lost won, and they were the one we liked the most. And this last time the party that we liked the most, well, they won again. They may have fixed the election, but they always win, so there is no risk. They do not allow people to organize, labor unions. And if they do organize the labor unions, do not worry, we also control the judiciary because we do not have an independent judiciary in this country. And the judiciary will take care of those pesky people trying to drive up wages there in Mexico. So we will keep wages down there even lower than we can drive wages in the United States so your investment in Mexico is totally safe.

This is what is extraordinary to me, that we have allowed this thing to spin so far out of control, that we get sold such a bill of goods. Not you and I, since we voted against the NAFTA agreement, but so many of our colleagues. And now we are going to go to this extent to cover some very prestigious fannies around here and extend $40 billion of our taxpayers' money to bail them out. They could not get it through the Congress, to the credit of this institution. But now they are going to find another way to do it.

Mr. SANDERS. I think at this point maybe some Americans are wondering what they can do about this fiasco. I think the iron law of politics is that government will often try to get away with as much as they can until people stand up and say, sorry, you are not going to do that.

So I think I would speak for you and many Members of Congress who are saying to the American people, we have enough problems at home. We have a $200 billion deficit and a $4.6 trillion national debt. We do not think it makes a lot of sense within that context to be bailing out an authoritarian and unstable government and a very shaky economy in Mexico. I would very strongly urge the American people, write to the President, write to your Members of Congress and say, wait a second. We want you to stop this $40 billion bailout.

So I would hope that the American people would stand up and say, no, Mr. President, no Republican leadership, let us reinvest in America. Let us control our own deficit. I hope we do not take this lying down.

If people stand up and fight back, we can yet turn around this fiasco.

Mr. DEFAZIO. I thank the gentleman.

I think these are an extraordinary couple of days in the history of this republic. The House of Representatives and the Senate did stop the bailout of Mexico or at least indicated that they were not willing to go along readily. That was great. But now we have seen an end run around the Congress of the United States with the creative interpretation of a statute and another way to send $40 billion out the back door that Congress would not let go out the front door. Yet again the Federal Reserve is going to meet tomorrow to try and visit another catastrophe on the American people, to raise interest rates, to banish the threat of inflation that does not exist.

□ 2130

There is a 30-year low in terms of inflation statistics to drive up unemployment. That is the policy of the Federal Reserve.

Did this Congress authorize the Federal Reserve to drive up unemployment? Are those the underlying laws and statutes in the United States, and is that the authority which extended to the Federal Reserve: You are charged with driving up unemployment because we do not want to see wages go up, we don't want people to make a better standard of living?

That is not what I got elected to do. I believe there are some extraordinary questions here, and they all seem to come back to the same very small influential group, the Federal Reserve, a few people on Wall Street and some people in the administration, some of whom used to work on Wall Street very recently, earning up to $26 million a year advising their company to invest $5.2 billion in Mexico, and now want to bail out Mexico.

These are extraordinary times, and the people should be very attentive to what is going on here.

Mr. SANDERS. Mr. Speaker, I say to the gentleman from Oregon, [Mr. DEFAZIO], what especially distresses me, as the gentleman knows, in this last election only 38 percent of the American people bothered to vote. I think the reason for that is so many people are just shaking their heads and shaking their hands and they are saying, "Hey, I really have no power. I have no authority."

With this whole business, what this whole business indicates is that we can understand why people are giving up on the democratic process, because here we have, for once in a very long time, the Congress of the United States actually doing the right thing and saying no to the bailout, and yet we still cannot win.

So next time when we run for reelection and we go back home, people are going to say, "What difference does it make? You are trying to do a good job but they are going to go around you anyhow. You do not have enough power to represent ordinary people."

I think that is a very sad thing at a time when many of us, I know the three of us, are reaching out. We want working people and we want poor people and we want the elderly to get involved in the political process.

This action on the part of the President just discourages, I think, millions of people who say, "Hey, it does not make a difference. Wall Street has made a demand and the President has succumbed to it, and it does not matter what ordinary people think about it."

Mr. DEFAZIO. Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I just want to say what a pleasure it has been to participate in this special order with both gentlemen this evening, and to also mention that part of the reason we doubt this rescue package is simply because people like myself believe that the markets are being manipulated by those who have a great deal of power.

In Mexico, for example, we know that both the Government of Mexico and our own Government knew that the peso was overvalued. We tried to get it dealt with in the NAFTA agreement itself. They tried to prop up and they did prop up the value of the peso right before the Mexican election in August, and right after the election the peso began to drop in value.

Then we had the GATT debate here in Congress, and right after GATT passed the peso went through the floor. So we know that that government manipulates the value of its money. Knowing that, we know we are now being manipulated; that much of what we see happening is being done to benefit the very same financial interests that created the overinflated peso during the 1993–1994 period. There is a lot of money on the line for many of these private interests.

My point with them is when, especially for those interests in the United States which made over a 66-percent return on their emerging market funds since 1990, you greeted those gains and profits with smiles and parties in New York and boat parties off the docks and all the things that happened with a 66-percent return, while interest rates for average American families were going up at the same time as you ate your profits, now is the time to eat your losses. The private market is a very harsh referee, but you have to accept the market, both in the ups and the downs, and not come running to the taxpayers of the United States for some type of private or public relief for private actions.

I just want to thank the gentleman for participating in this special order this evening, and to say what makes it worthwhile serving in the Congress of the United States. Though we don't always win, though we fight as hard as we know how, it is only bearable because of the people who send you here and because of the fine colleagues with whom you serve.

I would say to the gentleman from Oregon [Mr. DEFAZIO] and to the gentleman from Vermont [Mr. SANDERS] it is only worth serving because you are here, too. It has been a pleasure to be here with you.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman. I thank her for her leadership, and I can assure our colleagues that this is not the last they have heard from us on this issue, either on the Mexican bailout and the new attempts by the President to end run the Congress, or the Federal Reserve and their incessant increases in interest rates driving thousands of Americans out of work.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY), for today, after 5:30 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.
Mr. MENENDEZ, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BARR) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.
Mr. BARR, for 5 minutes, today, and on February 1.
Mr. KOLBE, for 5 minutes, today.
Mr. CHABOT, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. SKELTON in two instances.
Mr. STOKES in two instances.
Mr. KLECZKA.
Mr. HOLDEN.
Mr. LANTOS.
Mr. MFUME in four instances.
Mr. JACOBS.
Mr. UNDERWOOD.
Ms. PELOSI.
Mr. MONTGOMERY.
Mr. RICHARDSON.
Mr. STARK.
Mr. TRAFICANT.
Mr. FAZIO of California.
Mr. TORRES.

(The following Members (at the request of Mr. BARR) and to include extraneous matter:)

Mr. PACKARD.
Mr. WOLF.
Mrs. MORELLA.
Mr. FAWELL.
Mr. GEKAS.
Mr. GILMAN.
Mr. KOLBE.
Mr. KNOLLENBERG.
Mr. CRANE.
Mr. BATEMAN.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until Wednesday, February 1, 1995, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 51. Resolution providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo, Indians of New Mexico (Rept. 104-12). Referred to the House Calendar.

Mr. MCINNIS: Committee on Rules. House Resolution 52. Resolution providing for the consideration of the bill H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes (Rept. 104-13). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 53. Resolution providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County (Rept. 104-14). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON:

H.R. 748. A bill to amend the Internal Revenue Code of 1986 to provide that individuals who are residents of the District of Columbia shall be exempt from Federal income taxation, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORRES:

H.R. 749. A bill to provide that professional baseball teams, and leagues composed of such teams, shall be subject to the antitrust laws; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 750. A bill to amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Economic and Educational Opportunities.

H.R. 751. A bill to amend section 207 of title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

By Mr. COLLINS of Georgia (for himself, Ms. DUNN of Washington, Mrs. MYRICK, Mr. CLINGER, Mr. CARDIN, Mr. ENGLISH of Pennsylvania, Mr. PARKER, Mr. TALENT, Mr. LINDER, Mr. KINGSTON, Mr. BUNNING of Kentucky, Mr. SOLOMON, Mr. HASTERT, Mr. MINETA, Mr. SHUSTER, Mr. OBERSTAR, Mr. DUNCAN, Mr. FAWELL, Mr. QUINN, and Mr. RAMSTAD):

H.R. 752. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on fuel used in commercial aviation which is scheduled to take effect on October 1, 1995; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. PASTOR, Mr. COBURN, Mr. RAMSTAD, Mr. COX, and Mr. BILBRAY):

H.R. 753. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLDEN (for himself, Mr. BOUCHER, Mr. KANJORSKI, Mr. KLINK, Mr. MASCARA, Mr. MURTHA, Mr. RAHALL, and Mr. WISE):

H.R. 754. A bill to make improvements in the Black Lung Benefits Act; to the Committee on Economic and Educational Opportunities.

By Mr. HOLDEN (for himself, Mr. BARRETT of Wisconsin, Mr. BLUTE, Mr. CANADY, Mr. FRANK of Massachusetts, Mr. JACOBS, Mr. KLINK, Mr. LINDER, Mr. MANZULLO, Mr. MEEHAN, Mr. MILLER of Florida, Mr. POSHARD, Ms. SLAUGHTER, and Mr. ZIMMER):

H.R. 755. A bill to reduce the amount authorized for the official mail allowance for Members of the House of Representatives by 20 percent; to the Committee on House Oversight.

By Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. GREENWOOD, Mr. COLLINS of Georgia, Mr. CANADY, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, and Mr. SHAW):

H.R. 756. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Ways and Means, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JACOBS (for himself, Mr. MCCRERY, and Mr. MORAN):

H.R. 757. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of an overpayment otherwise payable to any person shall be reduced by the amount of past-due, legally enforceable State tax obligations of such person; to the Committee on Ways and Means.

By Mr. JONES:

H.R. 758. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KNOLLENBERG (for himself, Mr. KOLBE, Mr. SMITH of Texas, and Mr. ISTOOK):

H.R. 759. A bill to improve the effectiveness of Federal welfare efforts and increase citizen participation in fighting poverty; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, Economic and Educational Opportunities, Banking and Financial Services, the Judiciary, Resources, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCNULTY:

H.R. 760. A bill for the relief of Henry Johnson; to the Committee on National Security.

By Mr. NADLER (for himself, Mr. DELLUMS, Ms. VELAZQUEZ, Mr. OWENS, Mr. MILLER of California, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. TRAFICANT, Mr. PALLONE, Mr. ACKERMAN, Mr. DEUTSCH, Mrs. MALONEY, Mr. YATES, and Mr. ENGEL):

H.R. 761. A bill to establish the AIDS Cure Project; to the Committee on Commerce.

By Mr. TRAFICANT:

H.R. 762. A bill to reestablish the revenue sharing program of annual payments to States and units of general local government, to authorize appropriations for payments under the program, and to offset that authorization by reducing the authorization of appropriations for foreign aid; to the Committee on Government Reform and Oversight, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. GOODLATTE, Mr. TRAFICANT, Mr. MORAN, and Mr. GORDON):

H.R. 763. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Resources.

By Mr. WYNN:

H.R. 764. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

By Mr. MILLER of California (for himself, Mr. GEJDENSON, Ms. WATERS, Mr. HINCHEY, Ms. MCKINNEY, Ms. SLAUGHTER, Mr. GENE GREEN of Texas, Mr. OWENS, Mr. RANGEL, Mr. MCNULTY, Mr. SERRANO, Mr. FRANK of Massachusetts, Mr. STARK, Mr. GUTIERREZ, Ms. VÁLEZQUEZ, Mr. FLAKE, Mr. FARR, Mr. COLEMAN, Mr. HALL of Texas, Mr. BREWSTER, Mr. EDWARDS, Mr. OBEY, Mr. TAUZIN, Mr. DEFAZIO, Mr. TRAFICANT, Mr. WYDEN, Mr. ROEMER, Mr. FOGLIETTA, Mr. STUDDS, Mr. CONDIT, Mr. ABERCROMBIE, Mr. MCDERMOTT, Mr. DURBIN, Ms. ESHOO, and Mr. SPRATT):

H. Res. 54. Resolution expressing the sense of the House of Representatives that the Federal Open Market Committee and the Board of Governors of the Federal Reserve System should defer any further increase in the Federal funds rate and the discount rate until at least September 1995; to the Committee on Banking and Financial Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LINDER introduced a bill (H.R. 765) for the relief of Larry Errol Pieterse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. FIELDS of Texas.

H.R. 26: Mr. MILLER of Florida, Mr. PASTOR, Mr. DEAL of Georgia, Mr. COX, Mr. BROWN of Ohio, Mr. LEVIN, Mr. MINGE, Mr. TUCKER, Mr. COLEMAN, Mr. PAYNE of Virginia, Mr. CONDIT, Mr. PORTMAN, Mr.

LAUGHLIN, Mr. STENHOLM, Mr. VOLKMER, Mr. QUINN, Mr. POMBO, Mr. CALLAHAN, Ms. HARMAN, Mr. GILCHREST, Mr. BROWDER, Mr. COBLE, Mr. TRAFICANT, Mr. BAESLER, Mr. BALDACCI, Mr. OLVER, Mr. COSTELLO, and Mrs. THURMAN.

H.R. 28: Mr. PORTER and Mr. CUNNINGHAM.

H.R. 47: Mr. BURR, Mr. STUMP, Mr. ISTOOK, Mr. SOLOMON, Mr. FOLEY, and Mr. STEARNS.

H.R. 52: Mr. KENNEDY of Rhode Island, Mr. HOLDEN, Mr. DOOLEY, Mr. FROST, Mr. ROYCE, and Mr. FORBES.

H.R. 62: Mr. WELLER, Mr. MCHALE, and Mr. FLANAGAN.

H.R. 65: Mr. WELLER, Mr. FRANK of Massachusetts, and Mr. PASTOR.

H.R. 66: Mr. FRANK of Massachusetts.

H.R. 70: Mr. PETE GEREN of Texas.

H.R. 97: Mr. EVANS and Mr. GEJDENSON.

H.R. 103: Mr. JACOBS, Mrs. THURMAN, and Mr. HINCHEY.

H.R. 104: Mr. RIGGS and Mr. TORKILDSEN.

H.R. 109: Mr. MILLER of Florida, Mr. RIGGS, Mr. GONZALEZ, and Mr. PASTOR.

H.R. 112: Mr. WYNN.

H.R. 120: Mr. HILLIARD and Ms. LOFGREN.

H.R. 125: Mr. CRAPO, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. NORWOOD, Mr. PETERSON of Minnesota, and Mr. ROSE.

H.R. 139: Mr. MCHALE.

H.R. 142: Mr. FLANAGAN.

H.R. 208: Mr. SAM JOHNSON and Mr. ARMEY.

H.R. 216: Mr. FLANAGAN.

H.R. 260: Mr. CALVERT.

H.R. 303: Mr. WELLER and Mr. FRANK of Massachusetts.

H.R. 325: Mr. DORNAN and Mr. FRELINGHUYSEN.

H.R. 359: Mr. BOUCHER, Mr. WILSON, Mr. ROBERTS, Mr. WYNN, and Mr. BARTLETT of Maryland.

H.R. 363: Mr. SABO, Mr. MARTINEZ, Mr. HINCHEY, Mr. FATTAH, Mr. GENE GREEN of Texas, Mr. HILLIARD, Mr. MILLER of California, Mr. GONZALEZ, Mr. CONYERS, Mr. OWENS, Mr. PAYNE of New Jersey, Mr. DELLUMS, Ms. VELAZQUEZ, Ms. WATERS, Ms. NORTON, Mr. FILNER, Mr. EVANS, Mr. TORRES, Mr. TOWNS, Mr. YATES, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. BONIOR, and Ms. PELOSI.

H.R. 436: Mr. ARMEY, Mr. SOUDER, Mr. COSTELLO, and Mr. CHAPMAN.

H.R. 450: Mr. BILBRAY, Mr. LATHAM, Mr. HILLEARY, Mr. ARCHER, Mr. FRISA, Mr. GOODLING, Mr. GRAHAM, Mr. TIAHRT, Mr. NORWOOD, Mr. RAMSTAD, Mr. GUTKNECHT, Mr. FOLEY, Mr. FLANAGAN, and Mr. TAYLOR of North Carolina.

H.R. 463: Mr. QUILLEN.

H.R. 469: Mr. RIGGS.

H.R. 483: Mr. SMITH of New Jersey, Mr. PETERSON of Minnesota, Mrs. FOWLER, Mr. DEUTSCH, Mr. DIXON, Mr. GALLEGLY, Mr. DOYLE, Mr. ZELIFF, Mr. DORNAN, Ms. DANNER, Mr. SABO, Mr. ANDREWS, Mr. QUILLEN, Mr. GOODLATTE, Mr. LIGHTFOOT, Mr. COX, Mr. BOUCHER, Mr. GILLMOR, Mr. OXLEY, Mr. ENGLISH of Pennsylvania, Mr. SCHIFF, Mr. SHAW, and Mr. BARTLETT of Maryland.

H.R. 497: Mr. LAFALCE, Mr. DAVIS, Ms. NORTON, Mr. UPTON, Mr. LIVINGSTON, Mr. STEARNS, Mr. PICKETT, Mr. SHAYS, and Mr. ROEMER.

H.R. 502: Mr. FIELDS of Texas, Mr. GILCHREST, Mr. RADANOVICH, Mr. TRAFICANT, Mr. KNOLLENBERG, Mr. SHAYS, and Mr. FOX.

H.R. 512: Ms. MOLINARI.

H.R. 513: Mr. CALVERT.

H.R. 522: Mrs. MORELLA.

H.R. 523: Mrs. MORELLA.

H.R. 526: Mr. BARRETT of Nebraska.

H.R. 555: Mr. FOGLIETTA.

H.R. 559: Mr. RAHALL, Mr. GONZALEZ, Mr. FILNER, Mr. WILSON, Mr. DELLUMS, Mr. SMITH of New Jersey, and Mr. FROST.

H.R. 582: Mr. WALSH.

H.R. 593: Mr. PORTER.

H.R. 594: Ms. PELOSI and Mr. KLUG.

H.R. 608: Mrs. MINK of Hawaii and Mr. GUTIERREZ.

H.R. 609: Ms. ESHOO, Ms. JACKSON-LEE, Ms. WOOLSEY, and Mr. OLVER.

H.R. 663: Ms. PRYCE, Mr. HUNTER, Mr. SHUSTER, Mr. KLUG, and Mr. TALENT.

H.R. 682: Mr. MCCRERY, Mr. TANNER, and Mr. FOX.

H.R. 696: Mr. MFUME.

H.R. 697: Mr. COX, Mr. METCALF, Mr. HUNTER, Mr. FOX, Mr. MCINTOSH, Mr. FROST, Mr. DELAY, Mr. MANZULLO, Mr. SCHAEFER, Mr. DEUTSCH, and Mr. GOSS.

H.R. 739: Mr. KNOLLENBERG, Mr. HALL of Texas, Mr. FUNDERBURK, Mr. HUNTER, Mr. SHAYS, Mr. TAYLOR of North Carolina, and Mr. PETRI.

H.J. Res. 3: Mr. FIELDS of Texas.

H. Con. Res. 12: Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, and Ms. COLLINS of Michigan.

H. Res. 20: Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. DEUTSCH, Mr. GENE GREEN of Texas, Mr. MEEHAN, Mr. OWENS, Mr. SCOTT, and Ms. MCKINNEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. FATTAH

AMENDMENT NO. 2: At the end of section 2, add the following new subsection:

(d) LIMITATION ON APPLICATION.—This Act shall not apply to any discretionary budget authority for the legislative branch of the Government.

H.R. 2

OFFERED BY: MR. FATTAH

AMENDMENT NO. 3: Section 1 is amended by—

(1) inserting "; **FINDINGS**" in the section heading before the period;

(2) inserting "(a) SHORT TITLE.—" before "This"; and

(3) adding at the end the following new subsection:

(b) FINDINGS.—The Congress finds that—

(1) in some States whose governors have "line item veto" authority similar to that given to the President by this Act the governor has used the authority to influence the votes of individual State legislators on issues other than the amount of spending by the State; and

(2) the ability of Congress to conduct effective oversight of the Executive branch and the ability of individual Members of Congress effectively to represent their constituents both require that the President be unable selectively to rescind the amount appropriated for individual parts of Congress (such as Members' staff, committees' staff, the General Accounting Office, the Congressional Budget Office, the Office of the Legislative Counsel of the House, the Office of the Parliamentarian of the House, the Congressional Research Service, the Office of Technology Assessment, and the Government Printing Office).

H.R. 2

OFFERED BY: MR. KANJORSKI

AMENDMENT NO. 4: At the end, add the following new section:

SEC. 7. TERMINATION DATE.

This Act shall cease to be effective on January 1, 2000.

H.R. 2

OFFERED BY: MRS. LOWEY

AMENDMENT NO. 5: The first sentence of section 5(d)(1) is amended by striking "without amendment" and inserting "without amendments except amendments to strike any rescission or rescissions of budget authority".

Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order except amendments to strike any rescission or rescissions of budget authority. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 6: Paragraph (3) of section 4 is amended to read as follows:

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers whether or not such provision is limited by its terms to a particular taxpayer or class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

H.R. 2

OFFERED BY: MRS. THURMAN

AMENDMENT NO. 7: Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order, except any Member may move to strike any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

OFFERED BY: MR. WISE

AMENDMENT NO. 8: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that speecial message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committeee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the proceeding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. This bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider to the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate or a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall get equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with the special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. WISE

AMENDMENT NO. 9: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals for decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

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(A) in subsection (a) by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

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(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

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