

Approved: Carl Dean Holmes
Date 2-14-94

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson Carl Holmes at 3:30 p.m. on February 3, 1994 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Mary Torrence, Revisor of Statutes
Shirley Wilds, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Prior to planned debate and action staff presented a brief summary on the following bills:

Action on HB 2665:

Representative Shore moved to pass out favorably. Representative Freeborn seconded. Motion carried.

Representative Shore was appointed to carry the bill on the House Floor.

Action on HB 2714:

Representative Shore moved to delete the italicized wording on Lines 20 and 21, and retain the stricken language on Lines 17, 18 and 19. Representative Alldritt seconded. Motion carried.

Representative McKinney has agreed to carry the bill on the House Floor.

Action on HB 2715:

Mr. Tom Daily, Kansas Corporation Commission, submitted a proposed balloon to **HB 2715** to be changed as follows: (See Attachment #1)

on Page 1, line 32, ~~in the aggregate sixty days "statements outlining gross intrastate operating revenues shall be filed on or before February 28 for the preceding calendar year."~~ Annual reports shall be filed on or before "April 30 May 1" for the preceding calendar year "unless otherwise specified by Commission order, rule or regulation."

On line 43, regulations shall be subject to a civil penalty of not less "more" than \$500.

Representative Shore moved on Page 1, line 43 insert a period after the sum of \$500, and on Page 2, line 1, strike the italicized language. Representative McKinney seconded. Motion failed.

Representative McKinney made a motion to strike \$500 on the Balloon, Page 1, line 43 and change to \$50, retaining all other language. Representative Krehbiel seconded. Motion failed.

Representative Alldritt moved to adopt the balloon to **HB 2715** in its entirety. Representative Mills seconded. Motion carried. Representatives McKinney, and Myers requested to be recorded as nay.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 3, 1994.

Representative Mills moved to amend the italicized language on Page 1, line 43 to read “a fine of not more than \$500 per day for a public utility, and a civil penalty of not more than \$50 per vehicle owned by the common carrier, owned or leased.” Representative Lloyd seconded. After discussion, Representative Mills withdrew his motion and Representative Lloyd concurred.

Representative Mills moved to amend the italicized language on Page 1, line 43 to read” a fine of not less than \$500 per day for each public utility, and a fine not to exceed 5% of the assets of the common carrier per day. Motion failed due to lack of a second.

Representative Gatlin made a motion to pass the bill out favorably, as amended with the balloon. Representative Alldritt seconded.

Representative Krehbiel moved to report the bill out adversely. Representative Powers seconded. Motion ruled out of order.

Representative Grotewiel moved to table the bill. Representative Mills seconded. Motion failed.

On Representative Gatlin’s motion to pass out favorably. Motion carried. The following representatives requested to be recorded as voting nay: Representatives Krehbiel; Mills; Shore; Hayzlett; McKinney; Powers; Kjer and Myers.

Representative Lloyd has agreed to carry **HB 2715** on the House Floor.

Representative McClure referred Committee members to a copy of Drinking Water and Public Health Enhancement Amendments (HR 1701) of 1993. (See Attachment #2).

Chairperson Holmes referred members to copy a letter before them from the City of Lindsborg regarding HCR 5030. (See Attachment #3)

Action on HCR 5030:

The Chair referred to a copy of Representative McClure’s balloon amendments to **HCR 5030**. (See Attachment #4)

Representative McClure moved to adopt the balloon to **HCR 5030** amending Page 1, lines 9; 15; 16; 20; 28; and 36, striking “state, county and city government,” replacing with “public water supply systems.” Representative Krehbiel seconded. Motion carried.

Representative Krehbiel moved to pass the bill out favorably. Representative McClure seconded. Motion carried.

Representative Lawrence will carry **HCR 5030** on the House Floor.

In response to a Committee member question, the Chair explained the procedure for pursuing action on this Resolution once it would leave the Kansas Legislative process, with appropriate information dispersed to the various state officials and, ultimately, the national level.

Action on HB 2703:

Representative Powers moved to pass bill out favorably. Representative Myers seconded. Motion carried.

Representative Powers will carry **HB 2703** on House Floor.

Action on HB 2704:

Staff indicated that on Page 3, line 5 it should be amended to read, “Unlawful ~~altering~~ ‘altered,’ destroying or removing of capacity plate,” and line 11 strike the amount of \$32, changing to \$37.

Representative Lawrence moved to accept the technical changes, on Page 3, line 5, change the word altering to “altered,” and line 11, change the amount of \$32 to \$37. Representative Lloyd seconded. Motion carried.

Representative Powers moved to pass bill out favorably, as amended. Representative Grotewiel seconded. Motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 526-S Statehouse, at 3:30 p.m. on February 3, 1994.

Representative Powers will carry the bill on the House Floor.

Action on HB 2666:

Representative Powers moved to table the bill. Motion failed due to lack of a second.

Staff provided a balloon to Committee members amending on technical points. (See Attachment #4)

Representative Grotewiel moved to adopt the balloon to amend Page 2, line 6 (4) - "(h)" "Designated water well driller" means a water well driller - "an individual;" Line 18 except as; Line 19, provided in paragraphs (1) and (2) of subsection (c)(2) and (3) of K.S.A. 82a-1203 and amendments thereto by, or at the direction and under the supervision of, a contractor." Representative Freeborn seconded. Motion carried.

Representative Freeborn moved to pass bill out favorably, as amended. Representative Alldritt seconded. Motion carried. Representative Powers requested to be recorded as nay.

Representative Alldritt will carry **HB 2666** on the House Floor.

Chairman Holmes announced the particulars of the Hallmark tour on Monday, reminding them of the time and when they could expect to return to the Capitol.

Acknowledging his appreciation for the professional work done by the Committee in deliberating the various issues today, Chairman Holmes adjourned the meeting at 4:55.

The next meeting is scheduled for February 7, 1994.



Date: 7/3/94

[illegible]

HOUSE BILL No. 2715

By Committee on Energy and Natural Resources

1-21

8 AN ACT concerning certain public utilities and common carriers;
9 providing penalties for failure to make certain filings; amending
10 K.S.A. 66-123 and repealing the existing section.
11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 66-123 is hereby amended to read as follows:
14 66-123. Every public utility and common carrier governed by the
15 provisions of this act when, and as required by the corporation
16 commission, shall file with the corporation commission an annual
17 report and such monthly or other regular reports, or special reports,
18 and such other information as the corporation commission may re-
19 quire. The forms of such report shall follow as nearly as possible
20 the forms prescribed by the interstate commerce commission. When
21 required by the corporation commission such reports and information
22 shall be certified under oath by a duly authorized officer having
23 knowledge of the matters therein contained. The corporation com-
24 mission may at any time require from any public utility or common
25 carrier specific answers to any questions upon which it may desire
26 information in connection with matters pending before them.

27 The corporation commission may, in its discretion, grant extensions
28 of the time within which reports and information are required to be
29 filed. ~~Annual reports, however, shall be filed within two months~~
30 ~~after the close of the fiscal year as fixed by the corporation~~
31 ~~commission, and any extensions of such period shall not exceed~~
32 ~~in the aggregate sixty days statements outlining gross intrastate~~
33 ~~operating revenues shall be filed on or before February 28 for the~~
34 ~~preceding calendar year. Annual reports shall be filed on or before~~
35 ~~April 30 for the preceding calendar year.~~ The forms of reports of
36 the common carriers and the public utilities which report to the
37 interstate commerce commission shall, as nearly as possible, follow
38 the form prescribed by the interstate commerce commission.

39 Any public utility or common carrier governed by this act which
40 fails, neglects or refuses to file with the corporation commission any
41 annual reports, statements, monthly or regular reports or special
42 reports required by the commission pursuant to statute or rules and
43 regulations shall be subject to a civil penalty of not ~~less~~ than \$500

(SPECIFIED)

UNLESS OTHERWISE PRESCRIBED BY
COMMISSION ORDER, RULE, OR
REGULATION

MAY 1

MORE

Attachment #1
2/3/94

Energy, Natural Resources
Committee #1
2/3/94

- 1 *per day for each day the required report is delinquent.*
- 2 Sec. 2. K.S.A. 66-123 is hereby repealed.
- 3 Sec. 3. This act shall take effect and be in force from and after
- 4 its publication in the statute book.

DRINKING WATER AND PUBLIC HEALTH ENHANCEMENT
AMENDMENTS OF 1993

MAY 27, 1993.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1701]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred
the bill (H.R. 1701) to amend title XVI of the Public Health Service
Act (the Safe Drinking Water Act) to establish State revolving
funds to provide for drinking water treatment facilities, and for
other purposes, having considered the same, report favorably there-
on with an amendment and recommend that the bill as amended
do pass.

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The amendment is as follows:

69-006

RECEIVED

Energy & Natural Resources

JUL 04 1993

Attachment #2

KANSAS STATE LIBRARY
DEPOSITORY

7/3/94

103
Y 1.1/8
103-114

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drinking Water and Public Health Enhancement Amendments of 1993".

SEC. 2. STATE REVOLVING FUNDS FOR SAFE DRINKING WATER.

Section 1443 of title XIV of the Public Health Service Act (the Safe Drinking Water Act) is amended by redesignating subsection (c) as (d) and by adding the following new subsection after subsection (b):

"(c) STATE REVOLVING FUNDS.—

"(1) GENERAL AUTHORITY.—

"(A) GRANTS TO STATES TO ESTABLISH REVOLVING FUNDS.—The Administrator shall enter into agreements with States having primary enforcement responsibility for public water systems to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this Act. The grants shall be allotted to the States in accordance with this section and deposited in drinking water treatment revolving funds established by the State.

"(B) USE OF FUNDS.—Amounts deposited in such revolving funds, including loan repayments and interest earned on such amounts, shall be used only for providing loans or other financial assistance of any kind or nature that the State deems appropriate to public water systems. Such financial assistance may be used by a public water system only for expenditures (not including monitoring, operation, and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to such system under section 1411 or otherwise significantly further the health protection objectives of this title. 15 percent of the amount credited to any revolving fund established under this section in any fiscal year shall be available solely for providing loan assistance to public water systems which regularly serve less than 10,000 individuals.

"(C) FUND MANAGEMENT.—Each State revolving fund under this subsection shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in each such fund are not required for current obligation or expenditure such amounts shall be invested in interest bearing obligations of the State or of the United States. The Administrator and the States shall take such steps as may be necessary to insure that amounts made available under this subsection are deposited in State revolving funds and earning interest as promptly as practicable after the commencement of the fiscal year in which such funds are made available.

"(D) GRANTS FROM REVOLVING FUNDS.—A State may not provide assistance in the form of grants from a State revolving fund established under this subsection in an aggregate amount which exceeds the sum of the interest collected on deposits in such State revolving fund plus amounts deposited in such fund by the State pursuant to paragraph (3). Such grants may only be made to public water systems owned by a governmental or intergovernmental agency, a non-profit organization, an Indian tribe, or any combination thereof which the State finds to be experiencing financial hardship.

"(E) INVESTOR-OWNED PUBLIC WATER SYSTEMS.—In the case of any public water system not owned by a governmental or intergovernmental agency, a non-profit organization, an Indian tribe, or any combination thereof, the State may provide assistance from a State revolving fund under this subsection only to those systems having the greatest public health needs and financial need. The State may provide loan assistance to any such system from such a State revolving fund only after making a determination that the system has the ability to repay the loan according to its terms and conditions. States are authorized to require such systems to identify a dedicated source for repayment of the loans and to impose such other requirements as may be necessary to assure loan repayment.

"(2) SPECIFIC REQUIREMENTS.—The Administrator shall enter into an agreement with a State under this subsection only after the State has established to the satisfaction of the Administrator that—

"(A) the State will deposit all grants received from the Administrator under this subsection, together with all repayments and interest on such grants, in a drinking water treatment revolving fund established by the State in accordance with this subsection; and

"(B) no loan or other financial assistance will be provided to a public water system from such revolving fund to be used for any expenditure that could be avoided or significantly reduced by appropriate consolidation of that public water system with any other public water system, except that in such cases such assistance may be provided from the revolving fund for such consolidation.

The Administrator, in consultation with the States and public water systems shall establish criteria to be applied in determining when the consolidation of public water systems is appropriate.

"(3) STATE CONTRIBUTION.—In the case of grants made after fiscal year 1994 each agreement under this subsection shall require that the State deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State.

"(4) COMBINED FINANCIAL ADMINISTRATION.—Notwithstanding subparagraph (A) of paragraph (2), a State may combine the financial administration of a revolving fund established under this subsection with the financial administration of any other revolving fund established by the State if the Administrator determines that—

"(A) the grants under this subsection, together with loan repayments and interest, will be separately accounted for and used solely for the purpose specified in paragraph (1); and

"(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to such assistance remains with the State agency having primary responsibility for administration of the State program under this part.

"(5) FUND ADMINISTRATION.—(A) Each State may use up to 4 percent of the grants in a revolving fund established under this subsection to cover the reasonable costs of administration of the assistance program under this subsection and of providing technical assistance to public water systems within the State. For fiscal year 1994, each State may use up to 2 percent of the grants in any such revolving fund for public water system supervision if the State matches such expenditures with at least an equal amount of non-Federal funds (additional to the amount expended by the State for public water supervision in fiscal year 1993). An additional 1 percent of the grants in such fund shall be used by each State to provide technical assistance to public water systems in such State.

"(B) The Administrator shall publish such guidance and promulgate such regulations as may be necessary to carry out the provisions of this section including—

"(i) provisions to ensure that each State commits and expends funds from revolving funds established under this subsection in accordance with this Act and applicable Federal and State laws,

"(ii) guidance to prevent waste, fraud, and abuse, and

"(iii) guidance to avoid the use of funds made available under this subsection to finance the expansion of any public water system in anticipation of future population growth.

Such guidance and regulations shall also insure that the States, and public water systems receiving assistance under this subsection, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

"(C) Each State administering a revolving fund and assistance program under this subsection shall publish and submit to the Administrator a report every year on its activities under this subsection, including the findings of the most recent audit of the fund. The Administrator shall periodically audit all revolving funds established under this subsection in accordance with procedures established by the Comptroller General.

"(6) NEEDS SURVEY.—The Administrator shall conduct an assessment of financial needs of all public water systems in the United States and submit a report to the Congress containing the results of such assessment within 2 years after the date of the enactment of this subsection.

"(7) INDIAN TRIBES.—One and 1/2 percent of the amounts appropriated to carry out this subsection may be used by the Administrator to make grants to Indian Tribes and Alaskan Native Villages which are not eligible to receive either capitalization grants from the Administrator under this subsection or assistance from State revolving funds established under this subsection. Such grants shall

be used for expenditures by such tribes and villages for public water system expenditures referred to in paragraph (1)(B).

AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the purposes of this subsection \$599,000,000 for the fiscal year 1994 and \$1,000,000,000 for each of the fiscal years 1995, 1996, and 1997, and such sums as may be necessary thereafter.”

PURPOSE AND SUMMARY

H.R. 1701 amends section 1443(c) of the Safe Drinking Water Act to provide legislative authority for President Clinton's proposal to establish a state revolving fund to assist public water systems and states in their efforts to comply with the Safe Drinking Water Act. Each state with a drinking water protection program is eligible for a grant that it may use to provide loans and other financial assistance to public water systems. Assistance is to be repaid to the corpus of the fund, so that financial help can continue to be provided to other public water systems. All public water systems, including both publicly-owned and investor-owned (in cases of financial and public health need), are eligible for assistance.

Funding is authorized at \$599 million for fiscal year 1994, \$1 billion for fiscal years 1995, 1996 and 1997, and such sums as may be necessary thereafter. After 1994, states are required to provide matching funding at 20 percent of the amount of the federal grant.

NEED FOR THE LEGISLATION

The Committee has received numerous reports and voluminous testimony supporting the need for greater funding to help state and local governments comply with the Safe Drinking Water Act.

For example, a 1992 General Accounting Office Study requested by the Committee's Health and Environment Subcommittee directly addressed resource issues. GAO concluded as follows:

Our 1990 report and subsequent testimony noted that (1) many water systems (particularly smaller systems) were violating requirements for monitoring water quality and meeting drinking water standards and (2) states' and EPA's enforcement actions often did little to deter such violations or return systems to compliance. While EPA has taken steps to address these problems—most notably, through a significant increase in the number of enforcement actions by states and EPA—the Agency's ability to monitor states' progress and bring about improved compliance by water systems has been hampered by budgetary constraints.

Funding shortages at the federal, state, and water system level have been and continue to be a major contributor to the program's problems. Increasingly, states have indicated that they are unable to implement core elements of their programs effectively, much less the new and more stringent requirements of the 1986 amendments to the Safe Drinking Water Act. As a consequence, a number of states are now faced with the real prospect of having to relinquish the responsibility for the entire program ("primacy") to EPA.

These financial problems pose a genuine dilemma for EPA, given the chronic shortage of funding for many of the Agency's programs. However, in the absence of substantially greater resources to achieve EPA's target of fully implementing the Act within 5 years, the citizens of some states will be left with fundamentally deficient state drinking water programs—or no state program at all if primacy is returned to EPA. Given EPA's own determination that protecting drinking water should be considered one of the Agency's most critical environmental responsibilities, we believe it preferable for EPA and the Congress to reexamine the program's funding priority rather than compromise vital program elements and the overall integrity of the program.¹

A second GAO report, requested by the Committee's Health and Environment Subcommittee, and completed in April 1993, confirms that resources constraints are leading to widespread problems in state drinking water protection efforts. The report, *Drinking Water: Key Quality Assurance Program is Flawed and Underfunded*, suggests that most states are ill-equipped to detect and prevent serious drinking water contamination problems. GAO surveyed all 49 state drinking water programs; undertook in-depth interviews with federal, state and local officials; and completed a detailed review of 200 sanitary surveys in four states.

GAO's finding indicate that the states are not doing the work that needs to be done—in the form of audits of public water systems called sanitary surveys. GAO finds that when surveys are done, they are often superficial, and they rarely examine all of the elements that must be examined to assure safe operation of the water system. In most cases it appears that even when problems are found, the resources are not available to assure that they are rectified:

On the basis of a nationwide questionnaire and a review of 200 sanitary surveys conducted in four states (Illinois, Montana, New Hampshire, and Tennessee), GAO found that sanitary surveys are often deficient in how they are conducted, documented, and/or interpreted. Specifically, 45 states omit one or more of the key elements of surveys, such as inspections of the water distribution system or reviews of water system operators' qualifications. Additionally, some states do not require documentation of the inspection of items or of the surveys' results and results are sometimes interpreted inconsistently by surveyors.

Many of the 200 sanitary surveys revealed recurring problems with water systems' equipment and management, particularly among small systems. States' questionnaire responses confirmed that problems associated with the soundness of systems' infrastructures are largely found among smaller systems. GAO's detailed review of the four states' sanitary surveys also showed that, regardless of sys-

¹GAO, *Drinking Water: Widening Gap Between Needs and Available Resources Threatens Vital EPA Program* (July 1992) at 2. (emphasis added).

tems' size, deficiencies previously disclosed frequently went uncorrected.

The gap between the needs and available resources of state drinking water programs, estimated in the hundreds of millions of dollars annually, has severely affected states' capabilities to conduct sanitary surveys. * * * [A] key benefit of surveys—identifying and correcting problems before they become larger problems affecting water quality—has often not been realized. GAO believes that while the problems discussed in this report are correctable, effective action will depend on resolving the drinking water program's acute funding shortage.²

The public health dimensions of the resource shortfalls in the drinking water program were dramatized by a serious episode of contamination of the public water system in Milwaukee, Wisconsin, in April 1993. Large volumes of the microscopic parasite *cryptosporidium* contaminated the city's raw water supply and, as a result of a breakdown at a filtration plant, entered the drinking water in large volumes. The result was widespread illness, and a number of reported fatalities among individuals with immune system ailments. For a week, more than 800,000 residents were without potable water.

At the April 19, 1993 hearing of the Committee's Health and Environment Subcommittee on H.R. 1701, the Subcommittee also examined the contamination of Milwaukee's water supply, and how such episodes could better be prevented in the future. At that hearing, the Health Commissioner for the City of Milwaukee, Mr. Paul Nannis, revealed that between 200,000 and 400,000 people were afflicted by the contamination, approximately 330,000 workdays were lost, and a number of deaths were probably attributable to the outbreak.

The GAO testified that it had been more than a decade since Wisconsin, which has responsibility under the Safe Drinking Water Act for assuring that drinking water in Milwaukee is safe, undertook a detailed survey to assess the safety of the Milwaukee water supply system. State policy calls for sanitary surveys to be conducted every five years. EPA recommends such surveys be undertaken every three years.

GAO also testified that a sanitary survey of the Milwaukee system would be expected to highlight problems such as the vulnerability of the city's raw water intake to contamination from sewage and animal waste. Mr. Nannis testified that such a warning would have been very helpful to Milwaukee's efforts to prevent such contamination problems.

Testimony at the hearing indicated that drinking water contamination problems are not limited to Milwaukee alone. Dr. Dennis Juraneck, Chief Epidemiologist for the U.S. Centers for Disease Control, testified as follows when asked about the possibility that *cryptosporidium* may be contaminating other water systems:

Mr. WAXMAN: Dr. Juraneck, studies show that raw water for many systems is contaminated by cryptosporidium.

² GAO, *Drinking Water: Key Quality Assurance Program Is Flawed and Underfunded* (April 1993) at 2 (emphasis added).

Many systems are not filtering and the organism can only be controlled by filtration. Do you consider it possible, or even likely, that we could be seeing cases of diarrhea or more serious illnesses in other cities that are due to cryptosporidium contamination of the water supply, but have not been diagnosed as drinking water-related?

Dr. JURANEK: Yes, I think that is a possibility. I think many laboratories in the United States do not look routinely for cryptosporidium. * * * [U]nless a physician actually suspects the organism, and asks the laboratory to specifically check for it, it may very well be missed. * * * [O]n a given day, it may affect 500 or 600 people. And if each of these people went to see a different physician, nobody would ever put two and two together that it happened to be a water-borne problem during that period of time. It is only when you have something as overwhelming as the Milwaukee outbreak that it becomes very obvious you have a problem.³

On February 17, 1993, President Clinton issued his economic message and called for an "EPA/Drinking water state revolving fund" program. Authorizing legislation is needed for such a fund in support of the President's budgetary request to the Committee on Appropriations for fiscal year 1994.

Witnesses at the April 19 hearing were in agreement that funding shortfalls were a crucial part of the drinking water problems, in Milwaukee and in water systems across the nation. They praised President Clinton for his foresight in proposing this program. Mr. Nannis testified:

[The] proposed loan fund will be instrumental in seeing that both Wisconsin and Milwaukee can accomplish these [drinking water protection] goals.

Mr. Peter Guerrero, Associate Director of Environmental Protection Issues, U.S. General Accounting Office, explained:

It has become apparent that addressing these problems [in drinking water protection] will require confronting the extreme shortages in funding afflicting the drinking water program as a whole.

H.R. 1701 responds to this funding shortfall by providing financial assistance to states and public water suppliers to help their efforts to assure that drinking water supplies are safe. It also provides funds to the states in fiscal year 1994 to improve supervision of the law, including addressing the problems identified by the GAO.

HEARINGS

The Committee's Subcommittee on Health and the Environment held a hearing on drinking water contamination problems, resources shortfalls in the effort to carry out the Safe Drinking Water Act, and the bill, H.R. 1701, on April 19, 1993. Testimony was pro-

³ Testimony Before the Subcommittee on Health and the Environment, April 19, 1993 (Washington, D.C.).

vided by Martha G. Prothro, Acting Assistant Administrator for Water, U.S. Environmental Protection Agency; Paul Nannis, Commissioner of Health, City of Milwaukee; Peter F. Guerrero, Associate Director, Environment Protection Issues, General Accounting Office, Washington, D.C.; Dennis D. Juranek, DVM, Chief, Epidemiology Activity, Centers for Disease Control and Prevention, Atlanta, GA; David Tippin, Vice President, Association of Metropolitan Water Agencies, Director, Tampa Water Department, Tampa, FL; William F. Parrish, Program Administrator, Maryland Water Supply Program, on behalf of the Association of State Drinking Water Administrators, Dundalk, MD; Erik Olson, Senior Attorney, Natural Resources Defense Council, Washington, D.C.; James S. McInerney, President, Bridgeport Hydraulic Company, on behalf of the National Association of Water Companies, Washington, D.C.; Kathleen Stanley, Executive Director, Rural Community Assistance Program, Leesburg, VA; John H. Montgomery, Association Representative, National Rural Water Association, Washington, D.C.; and Robert L. Wubbena, Vice President, American Water Works Association, Washington, D.C.

On May 10, 1991, the Committee's Subcommittee on Health and the Environment held a hearing on progress in carrying out the Safe Drinking Water Act's provisions for control of drinking water contamination. Testimony was provided by William K. Reilly, Administrator, U.S. Environmental Protection Agency; Donald E. Elliot, General Counsel, U.S. Environmental Protection Agency; and LaJuana Wilcher, Assistant Administrator for Water, U.S. Environmental Protection Agency.

COMMITTEE CONSIDERATION

The Safe Drinking Water Act (SDWA) was first enacted in 1974 as an amendment to the Public Health Service Act (PHSA) of 1944. It is title XIV of the 1944 Act entitled "Safety of Public Water Systems."

On numerous occasions this Committee has considered and reported legislation, such as H.R. 1701, authorizing financial assistance to states and other in furtherance of the measures subject to the jurisdiction of this Committee under Rule X, clause 1(h) of the Rules of the House of Representatives. For example, the PHSA currently includes provisions for grants and other financial assistance for construction and modernization of health and other related facilities. In 1964, the Committee reported the 1964 Nurse Training Act/Public Law 88-581 for construction and rehabilitation of nursing schools. Both laws are a part of the PHSA. Also, under the Railroad Revitalization Act of 1976 (Titles V and VII), this Committee has enacted financing and construction authorities similar to H.R. 1701. Further Jefferson's Manual indicates in a note under Rule X, clause 1(h) that our Committee "has jurisdiction of bills authorizing the construction of marine hospitals and the acquisition of sites therefore." Finally, section 1444 of the SDWA now authorizes financial assistance to "any person" for purposes of "assisting in the development and demonstration (including construction) of any project which will demonstrate a new or improve method, approach, or technology, for providing a dependable safe supply of drinking water to the public."

Thus, the Committee on Energy and Commerce has a long history of considering and reporting exclusively bills similar to H.R. 1701. Clearly, H.R. 1701 is not a unique or new activity of this Committee under the PHSA or other laws under our jurisdiction. Consideration by our Committee of such bills has not been shared with any other committee.

On April 21, 1993, the Committee's Subcommittee on Health and Environment met in open session and by voice ordered favorably reported the bill, H.R. 1701, as amended, a quorum being present. On April 27, 1993, the Committee met in open session and by voice vote ordered favorably reported the bill, N.R. 1701, as amended, a quorum being present. The amended version includes provisions developed in consultation with the Administration.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, the Committee's Subcommittee on Health and the Environment held oversight hearings and made findings that are reflected in the legislative report.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(1)(3)(D) of Rule XI of the Rules of the House of Representatives, no oversight funds have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with Rule XI, clause 2(1)(3) of the Rules of the House of Representatives, the Committee states that the costs incurred in carrying out this legislation will be controlled in the same manner and to the same extent as other revolving funds administered by the Environmental Protection Agency (EPA). This will occur because we have authorized the EPA to enter into letters of credit establishing schedules of payment under which the Administrator will pay to the state the amount of each grant to be made to the state.

As in the case of other revolving fund authorizations administered by the EPA, the bill authorizes loans and other forms of financial assistance. It also authorizes payments not to exceed 2 percent of the grants to any state for supervision of the primacy program. All payments would, of course, be subject to the Intergovernmental Cooperation Act 31 U.S.C. 6503 and Treasury regulations requiring federal agencies to schedule the transfer of grant funds so as to minimize the time between outlay from the Treasury and disbursement from a state, while at the same time enabling the states to carry out the proposes of the grant program. This Act applies equally to the other revolving fund authorizations administered by the EPA.

Like other revolving fund authorities, there is no requirement in the legislation mandating that all payments be made in any one fiscal year as is suggested by the Congressional Budget Office. For example, letters of credit could be conditioned to allow draw-down to fulfill an SRF guarantee of local debt obligations, or local revolving funds, to purchase insurance for local or SRF debt obligations,

to make debt service payments on SRF debt obligations when necessary to avoid default, and for reasonable administrative costs, including 2 percent supervisory funds mentioned above.

The last sentence in subsection (c)(1)(C) of H.R. 1701 must be read in the context of the provisions in subsection (c)(1)(A) regarding letters of credit. Clearly, it is the intent of this Committee to hold down outlays. States may not draw down on the grants or letters of credit for the purpose of financing a cash reserve or for deposit into an investment just to earn interest.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1701.
2. Bill title: The Drinking Water and Public Health Enhancement Amendments of 1993.
3. Bill status: As ordered reported by the House Committee on Energy and Commerce on April 27, 1993.
4. Bill purpose: H.R. 1701 would authorize grants to states to establish state revolving funds that would offer financial assistance to water supply systems.
5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1994	1995	1996	1997	1998
Estimated authorization level	599	1,000	1,000	1,000	1,025
Estimated outlays	510	940	1,000	1,000	1,020

The costs of this bill fall within budget function 300.

Basis of estimate: The bill would authorize appropriations of \$599 million for 1994, \$1 billion annually for 1995–1997, and such sums as may be necessary after 1997. For 1998, the estimate shows \$1.025 billion—the 1997 authorization adjusted for inflation. Funding could continue at that level for a number of years, since the Environmental Protection Agency (EPA) estimates that the total cost to water supply systems to comply with drinking water regulations will be about \$10 billion over the 1993–1998 period.

Starting in 1995, H.R. 1701 would require each state to provide a match from state funds of at least 20 percent of the federal grant that would be provided by this bill. The bill would direct EPA to make grants to each of the state revolving funds as promptly as practicable after the beginning of each fiscal year. Consequently, the federal grant funds would be disbursed very rapidly. To reflect this, CBO's estimate of outlays for this program is based on the historical rate of grant obligations under the waste water treatment state revolving fund program established under title 6 of the Federal Water Pollution Control Act.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that enactment of H.R. 1701 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: CBO estimates that states would receive \$4.5 billion in federal grants over the 1994–1998 period, if the amounts authorized are appropriated. After 1994, H.R. 1701 would require states to deposit state funds

in the revolving funds created by this bill in an amount not less than 20 percent of the federal grant. We estimate that this requirement would cost states about \$795 million over the 1995–1998 period. As funds lent by state revolving funds are repaid, these repayments would become available to the states to provide additional financial assistance for water supply projects. States may use up to 5 percent of the monies in the revolving funds for administrative costs and technical assistance to public water systems.

8. Estimate comparison: None.

9. Previous CBO estimate: On April 29, 1993, CBO provided a cost estimate for H.R. 1865, the Water Supply Construction Assistance Act of 1993, as ordered reported by the House Committee on Public Works and Transportation on April 28, 1993. H.R. 1865 would authorize \$2,599 million in grants to state revolving funds over the 1994–1996 period. In addition, H.R. 1865 did not require EPA to transfer grants to states as soon as practicable; consequently, we estimate that the rate of federal spending will be slower for H.R. 1865 than for H.R. 1701.

10. Estimate prepared by: Kim Cawley.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee makes the following statement with regard to the inflationary impact of the reported bill: by assisting states and water supply systems and thereby reducing the economic damages from health problems associated with drinking water contamination the Committee believes the bill should not be inflationary.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 states that the legislation may be cited as the "Drinking Water and Public Health Enhancement Amendments of 1993."

SECTION 2. STATE REVOLVING FUNDS FOR SAFE DRINKING WATER

Section 2 amends section 1443 of title XIV of the Public Health Service Act (the Safe Drinking Water Act) to add a new subsection (c). New sec. 1443(c) provides authority for the Administrator of the Environmental Protection Agency to make capitalization grants to establish state revolving fund programs for safe drinking water supply purposes.

New section 1443(c)(1) provides authority for the Administrator to enter into agreements with states having SDWA primacy to make capitalization grants to state drinking water revolving funds. The purpose of the capitalization grants is to help public water systems comply with national primary drinking water regulations and to otherwise further the health protection objectives of the SDWA. The grants are to be allotted to states in accordance with the formula developed by the Administrator for allotting grants for public water system supervision under sec. 1443.

The legislation specifies that the capitalization grants may be made in the form of letters of credit, to be drawn-down when cash payments are required to be actually paid from the revolving fund. Using letters of credit in this fashion would have the fiscal advantage of delaying federal outlays until actual expenditures or obligations are due and payable by the revolving fund.

The amounts deposited into the revolving funds, including loan repayments and interest, can be used only to provide loans and other financial assistance to public water systems for expenditures of a type or category that the Administrator has determined will facilitate compliance with national primary drinking water regulations or will otherwise significantly further the health protection objectives of the SDWA. The legislation excludes expenditures for monitoring, operation, and maintenance purposes. It does not require that the grants be used solely for any one purpose. The bill gives EPA and the states flexibility to use the money in the most efficient, economic, and cost beneficial fashion. In the case of loans, the system must have the ability to repay the loan according to the terms and conditions. Fifteen percent of the amounts received by the fund are to be set aside to be used solely for providing loan assistance to small public water systems (which serve fewer than 10,000 individuals).

The states have considerable flexibility in determining the appropriate type of financial assistance to provide public water systems. In addition to loans, for instance, states can use the revolving fund to provide loan guarantees to public water systems. States are also allowed to leverage the fund. In addition, states can make grants to public water systems that are experiencing financial hardship and are owned by a government or inter-government agency, a non-profit organization, or an Indian tribe. However, the aggregate amount of these grants cannot exceed the interest earned by the fund plus the amount of state contributions to the fund. Grants should be awarded only to public water systems that have undertaken all available, practical, and affordable fiscal management steps to adequately fund their water systems.

Private (investor-owned) water suppliers with the greatest public health and financial needs can receive financial assistance from the state revolving funds. This assistance can be provided only after the state makes a determination that the system has the ability to repay the loan.

Section 1443(c)(1)(C) provides that the Administrator and the states must take steps to insure that amounts made available are deposited in revolving funds and earning interest promptly. This provision is designed to insure that once monies are available to be deposited into the fund, the monies are deposited promptly into the fund. For instance, a state receiving loan repayments should not delay depositing the repayments into the fund in order to take advantage of financial float.

This provision is not intended to limit the ability of the Administrator to use letters of credit for initial capitalization grants. If letters of credit are used by the Administrator for initial capitalization grants, the Administrator's obligation under section 1443(c)(1)(C) is to insure that as the letter of credit is drawn-down,

and cash payments are owing to the fund, these cash payments are deposited in the fund as promptly as practicable.

New section 1443(c)(2) establishes specific requirements for states. The Administrator can make grants only to states that will deposit the grants into revolving funds established in accordance with the section. States must also demonstrate to the satisfaction of the Administrator that no loan or other financial assistance will be provided to a public water system for expenditures that could be avoided or significantly reduced through consolidation with another water system. In such instances, however, assistance can be provided for consolidation.

The Administrator, in consultation with states and public water systems, must establish criteria to be applied in determining when consolidation is appropriate. The Administrator should also consult with water supply organizations, environmental organizations, and other interested parties.

New section 1443(c)(3) provides that states receiving grants must deposit amounts equal to at least 20% of the amount of the federal grant into the revolving fund. This requirement is waived for fiscal year 1994, however, because of the difficulty many states would have in enacting legislation on such short notice to provide funding.

New section 1443(c)(4) provides that states may combine the financial administration of the drinking water revolving fund established under this Act with the financial administration of any other revolving fund program run by the state. This bill does not try to single out any particular state revolving fund. Rather, it provides flexibility for the state, subject to review and agreement with the EPA. Clearly, the EPA would have influence in this regard. This combined financial administration would allow for administrative efficiencies and other financial advantages.

Any state combining financial administration must insure that the grants, loan repayments, and interest received into the drinking water revolving fund are separately accounted for and used solely for the purposes permitted under section 1443(c)(1).

In addition, states must insure that the state agency with drinking water primacy retains the authority to set assistance priorities and to carry out any oversight and other activities that bear upon drinking water quality.

New section 1443(c)(5) provides that each state can use up to 4% of the monies in the revolving fund to cover the costs of fund administration and the costs of providing technical assistance to public water systems. An additional 1% of the monies must be used by the state for providing such technical assistance. This is particularly important for small public water supply systems.

For fiscal year 1994, a state may use an additional 2% of the grants in the revolving fund for public water system supervision. The state matches this expenditure with at least an equal amount of non-federal funds. The state match must be from new funds that increase the state's fiscal year 1994 expenditures for public water system supervision above the state's fiscal year 1993 expenditures. This provision recognizes the extreme need state primacy agencies have for additional funds for public water system supervision in fiscal year 1994.

The Administrator must publish guidance or promulgate regulations as necessary to implement new section 1443(c). Such guidance and regulations must include provisions to insure that states comply with the requirements of section 1443(c); guidance to prevent waste, fraud, and abuse, including land speculation; and guidance to insure that the revolving funds are not used to finance expansion of public water systems in anticipation of future population growth. It is intended that any such guidance shall be developed with adequate consultation with the states, public water systems, environmental groups, water supply organizations, and others. Regulations must be used, consistent with applicable law, where guidance alone would not be adequate.

New section 1443(c)(6) requires the Administrator to conduct an assessment of financial needs of all public water systems. The results of such assessment must be submitted to Congress with two years after enactment.

New section 1443(c)(7) authorizes the Administrator to set aside up to 1.5 percent of the amounts appropriated to carry out section 1443 to make grants to Indian Tribes and Alaskan Native Villages that are not otherwise eligible either to receive capitalization grants from the Administrator because they lack primacy, or to receive assistance from the state revolving funds.

New section 1443(c)(8) authorizes appropriations to carry out section 1443(c). \$599 million is authorized for fiscal year 1994; \$1 billion is authorized for each of the fiscal years 1995, 1996, and 1997; and such sums as may be necessary are authorized thereafter.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1443 OF THE PUBLIC HEALTH SERVICE ACT

GRANTS FOR STATE PROGRAMS

SEC. 1443. (a) * * *

* * * * *

(c) STATE REVOLVING FUNDS.—

(1) GENERAL AUTHORITY.—

(A) GRANTS TO STATES TO ESTABLISH REVOLVING FUNDS.—*The Administrator shall enter into agreements with States having primary enforcement responsibility for public water systems to make capitalization grants, including letters of credit, to the States under this subsection to further the health protection objectives of this Act. The grants shall be allotted to the States in accordance with this section and deposited in drinking water treatment revolving funds established by the State.*

(B) USE OF FUNDS.—*Amounts deposited in such revolving funds, including loan repayments and interest earned on*

such amounts, shall be used only for providing loans or other financial assistance of any kind or nature that the State deems appropriate to public water systems. Such financial assistance may be used by a public water system only for expenditures (not including monitoring, operation and maintenance expenditures) of a type or category which the Administrator has determined, through guidance, will facilitate compliance with national primary drinking water regulations applicable to such system under section 1411 or otherwise significantly further the health protection objectives of this title. 15 percent of the amount credited to any revolving fund established under this section in any fiscal year shall be available solely for providing loan assistance to public water systems which regularly serve less than 10,000 individuals.

(C) FUND MANAGEMENT.—*Each State revolving fund under this subsection shall be established, maintained, and credited with repayments and interest. The fund corpus shall be available in perpetuity for providing financial assistance under this section. To the extent amounts in each such fund are not required for current obligation or expenditure such amounts shall be invested in interest bearing obligations of the State or of the United States. The Administrator and the States shall take such steps as may be necessary to insure that amounts made available under this subsection are deposited in State revolving funds and earn interest as promptly as practicable after the commencement of the fiscal year in which such funds are made available.*

(D) GRANTS FROM REVOLVING FUNDS.—*A State may not provide assistance in the form of grants from a State revolving fund established under this subsection in an aggregate amount which exceeds the sum of the interest collected on deposits in such State revolving fund plus amounts deposited in such fund by the State pursuant to paragraph (3). Such grants may only be made to public water system owned by a governmental or inter-governmental agency, a non-profit organization, an Indian tribe, or any combination thereof which the State finds to be experiencing financial hardship.*

(E) INVESTOR-OWNED PUBLIC WATER SYSTEMS.—*In the case of any public water system not owned by a governmental or inter-governmental agency, a non-profit organization, an Indian tribe, or any combination thereof, the State may provide assistance from a State revolving fund under this subsection only to those systems having the greatest public health needs and financial need. The State may provide loan assistance to any such system from such a State revolving fund only after making a determination that the system has the ability to repay the loan according to its terms and conditions. States are authorized to require such systems to identify a dedicated source for repayment of the loans and to impose such other requirements as may be necessary to assure loan repayment.*

(2) **SPECIFIC REQUIREMENTS.**—The Administrator shall enter into an agreement with a State under this subsection only after the State has established to the satisfaction of the Administrator that—

(A) the State will deposit all grants received from the Administrator under this subsection, together with all repayments and interest on such grants, in a drinking water treatment revolving fund established by the State in accordance with this subsection; and

(B) no loan or other financial assistance will be provided to a public water system from such revolving fund to be used for any expenditure that could be avoided or significantly reduced by appropriate consolidation of that public water system with any other public water system, except that in such cases such assistance may be provided from the revolving fund for such consolidation.

The Administrator, in consultation with the States and public water systems, shall establish criteria to be applied in determining when the consolidation of public water systems is appropriate.

(3) **STATE CONTRIBUTION.**—In the case of grants made after fiscal year 1994, each agreement under this subsection shall require that the State deposit in the fund from State moneys an amount equal to at least 20 percent of the total amount of the grant to be made to the State on or before the date on which the grant payment is made to the State.

(4) **COMBINED FINANCIAL ADMINISTRATION.**—Notwithstanding subparagraph (A) of paragraph (2), a State may combine the financial administration of a revolving fund established under this subsection with the financial administration of any other revolving fund established by the State if the Administrator determines that—

(A) the grants under this subsection, together with loan repayments and interest, will be separately accounted for and used solely for the purposes specified in paragraph (1); and

(B) the authority to establish assistance priorities and carry out oversight and related activities (other than financial administration) with respect to such assistance remains with the State agency having primary responsibility for administration of the State program under this part.

(5) **FUND ADMINISTRATION.**—(A) Each State may use up to 4 percent of the grants in a revolving fund established under this subsection to cover the reasonable costs of administration of the assistance program under this subsection and of providing technical assistance to public water systems within the State. For fiscal year 1994, each State may use up to 2 percent of the grants in any such revolving fund for public water system supervision if the State matches such expenditures with at least an equal amount of non-Federal funds (additional to the amount expended by the State for public water supervision in fiscal year 1993). An additional 1 percent of the grants in such fund shall be used by each State to provide technical assistance to public water systems in such State.

(B) The Administrator shall publish such guidance and promulgate such regulations as may be necessary to carry out the provisions of this section, including—

(i) provisions to ensure that each State commits and expends funds from revolving funds established under this subsection in accordance with this Act and applicable Federal and State laws,

(ii) guidance to prevent waste, fraud, and abuse, and

(iii) guidance to avoid the use of funds made available under this subsection to finance the expansion of any public water system in anticipation of future population growth.

Such guidance and regulations shall also insure that the States, and public water systems receiving assistance under this subsection, use accounting, audit, and fiscal procedures that conform to generally accepted accounting standards.

(C) Each State administering a revolving fund and assistance program under this subsection shall publish and submit to the Administrator a report every 2 years on its activities under this subsection, including the findings of the most recent audit of the fund. The Administrator shall periodically audit all revolving funds established under this subsection in accordance with procedures established by the Comptroller General.

(6) **NEEDS SURVEY.**—The Administrator shall conduct an assessment of financial needs of all public water systems in the United States and submit a report to the Congress containing the results of such assessment within 2 years after the date of the enactment of this subsection.

(7) **INDIAN TRIBES.**—One and 1/2 percent of the amounts appropriated to carry out this subsection may be used by the Administrator to make grants to Indian Tribes and Alaskan Native Villages which are not eligible to receive either capitalization grants from the Administrator under this subsection or assistance from State revolving funds established under this subsection. Such grants shall be used for expenditures by such tribes and villages for public water system expenditures referred to in paragraph (1)(B).

(8) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out the purposes of this subsection \$599,000,000 for the fiscal year 1994 and \$1,000,000,000 for each of the fiscal years 1995, 1996, and 1997, and such sum as may be necessary thereafter.

[(c)] (d) For purposes of this section:

(1) The term "public water system supervision program" means a program for the adoption and enforcement of drinking water regulations (with such variances and exemptions from such regulations under conditions and in a manner which is not less stringent than the conditions under, and the manner in, which variances and exemptions may be granted under sections 1415 and 1416) which are no less stringent than the national primary drinking water regulations under section 1413 and for keeping records and making reports required by section 1413(a)(3).

(2) The term "underground water source protection program" means a program for the adoption and enforcement of a pro-

gram which meets the requirements of regulations under section 1421 and for keeping records and making reports required by section 1422(b)(1)(A)(ii). Such term includes, where applicable, a program which meets the requirements of section 1425.

ADDITIONAL VIEWS

We are writing to provide our additional views on H.R. 1701, the Drinking Water and Public Health Enhancement Amendments of 1993.

We strongly support the goal of this legislation, which is to help public water systems pay for the costs of complying with the growing requirements of the Federal Safe Drinking Water Act. In 1986 Congress amended the Safe Drinking Water Act to require EPA to promulgate a number of regulations for the treatment of drinking water, including regulations for the filtration and disinfection of drinking water, and controls for 83 specific contaminants likely to be found in drinking water. As a result, the costs of complying with the Safe Drinking Water Act have increased dramatically. EPA currently estimates that public water systems must spend approximately \$2.5 billion a year to comply with the requirements of the Act. These increased costs have created a hardship for many public water systems, especially small systems in rural parts of the country. In some cases, public health may be jeopardized by the inability of a small system to provide adequate treatment of drinking water. We recognize that safe drinking water is an essential human need, and we agree that the Federal government should attempt to help public water systems pay for critical treatment technologies which are mandated by Federal law.

However, we have several concerns with the scope and approach of this legislation. First, we are concerned that this legislation attempts to treat only the symptoms, and not the cause, of the mounting costs of complying with the Safe Drinking Water Act. The cause of these mounting costs is the Safe Drinking Water Act itself. As described above, EPA has already issued more than 80 drinking water regulations in compliance with the 1986 amendments. Several major regulations are currently in the proposal stage. For example, EPA currently is drafting a regulation to control radon and other radionuclides in drinking water. The drinking water treatment industry estimates that EPA's current proposal could cost public water systems more than \$2 billion a year with more than two thirds of those costs falling on very small water systems that serve 500 or fewer people. Public water systems have expressed concerns over these costs since EPA's proposed regulation would likely affect only five percent or less of the radon that can occur in a residential dwelling. In addition to the existing and proposed regulations, the Safe Drinking Water Act requires EPA to issue 25 new drinking water regulations every three years. Thus, the costs of complying with the Safe Drinking Water Act are likely to continue to increase.

We believe that it is time to reexamine the Safe Drinking Water Act to determine whether the costs that public water systems—and ultimately consumers—are required to incur are resulting in rea-

public health benefits. The recent outbreak of the parasitic disease *Cryptosporidiosis* in Milwaukee shows that we cannot take safe drinking water for granted. However, the General Accounting Office's recent report, which concluded that an overwhelming number of public water systems have failed to conduct regular audits or "sanitary surveys" or their systems, suggests that public water systems are not spending their resources to protect against the most serious public health risks. At the Subcommittee's recent hearing on H.R. 1701, several witnesses suggested that Congress should look at what public health benefits come from many of the expenditures that public water systems are required to make under the Safe Drinking Water Act. For example, most public water systems are required to monitor regularly for contaminants that are not likely to occur in their water supply. And many EPA regulations require public water systems to remove even trace amounts of contaminants from raw water, even beyond the point of potential negative health benefits. Before we authorize a new spending program to pay for many of these costs, we should understand what the public health benefits are likely to be. At a minimum, the existence of a revolving loan fund to pay for such costs should not be an excuse to avoid such an examination of the mandates of the Safe Drinking Water Act.

Our second primary concern with H.R. 1701 is that it offers the choice between a larger Federal budget deficit or a promise of financial assistance for needy public water systems which the Federal government cannot make good on. The bill authorizes EPA to make "capitalization gains" to States in the amount of \$599 million in fiscal year 1994 and \$1 billion in each of fiscal years 1995-97. However, the bill itself does not provide any source of funding, so whatever funds the Appropriations Committee might approve must come from general revenues allocated for discretionary spending. Since the budget resolution provides virtually no increase in discretionary spending for fiscal year 1994, the Appropriations Committee apparently faces the following choices: (1) provide substantial funding for H.R. 1701 and reduce spending for other discretionary programs by the same amount; (2) provide significant funding for H.R. 1701 and exceed the budget resolution caps; or (3) decline to provide any funding for H.R. 1701. Since we think it will be difficult for the Appropriations Committee to reduce spending for other worthwhile programs, we think the result will be either no funding for H.R. 1701 or spending that will increase the Federal budget deficit.

We believe it is our obligation to investigate whether there are more fiscally responsible ways of providing much needed assistance to public water systems. Indeed, if cheaper ways are available to provide such assistance, it is more likely that Congress can approve that assistance. We are considering, for example, whether loans and loan guarantees are likely to be less expensive than, and equally effective as, capitalization grants for State revolving loan funds. The cost of a grant from the Federal government to a State is the full amount of the grant. However, the cost of a loan from the Federal government to a State is the cost of the interest rate subsidy plus the cost of any projected loan defaults. According to some preliminary estimates from the Congressional Budget Office,

it appears that the Federal government could provide roughly the same annual loan authority to the States that H.R. 1701 would provide—\$599 million in FY 1994—at about one-third the cost, or approximately \$150 million. We intend to work to examine whether there are more cost-effective alternatives for providing the financial assistance envisioned in H.R. 1701.

Finally, we have several concerns with particular provisions of H.R. 1701. First, we support the effort to ensure that financial assistance is available for small systems since most noncompliance problems occur among small systems. However, we hope that the specific set aside provision in the bill for small system will give States sufficient flexibility to use these funds to assist other systems if there is not sufficient demand for these funds from existing small systems.

Second, we are concerned that the criteria for loan eligibility for privately owned and investor-owned public water systems should not be overly restrictive. The bill allows the State to make a loan to a privately owned or investor-owned system only after it determines that the system "has the ability to repay the loan." The State may also require the system to identify a dedicated source of repayment of the loans. We think the capacity to repay a loan should be a criterion for all loans made from funds authorized by this bill since States should be endeavoring to preserve the corpus of their funds for future loans. The criteria for ability to repay loans should not be used to discriminate against privately owned or investor-owned public water systems, especially since these systems are subject to the same requirements of the Safe Drinking Water Act and many of these systems are small and located in rural areas.

Third, we recognize the importance of consolidation as a tool to address the problem of non-viable public water systems. However, we hope that EPA and the States will recognize that "managerial consolidation" may present as many opportunities for assisting public water systems as "physical consolidation." We urge EPA to consider the advantages of managerial consolidation as it works with the States to develop criteria to determine when consolidation of non-viable systems is appropriate.

CARLOS J. MOORHEAD.
THOMAS J. BLILEY, Jr.
JACK FIELDS.
JOE BARTON.
ALEX MCMILLAN.
J. DENNIS HASTERT.
FRED UPTON.
CLIFF STEARNS.
BILL PAXON.
PAUL E. GILLMOR.
SCOTT KLUG.
GARY A. FRANKS.
MICHAEL BILIRAKIS.

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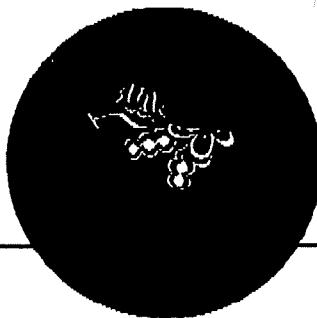
ADDITIONAL VIEWS OF HON. MICHAEL D. CRAPO

While I support my colleagues in their additional views regarding H.R. 1701, the Drinking Water and Public Health Enhancement Amendments of 1993, there must be a more fiscally responsible way of providing needed assistance to public water systems. Therefore, I urge the Appropriations Committee and the other members of this body to focus on reducing discretionary spending by selectively cutting other programs in an effort to provide funds for these projects, rather than having no funds available or spending that will increase the Federal budget deficit.

MIKE CRAPO.

(22)

○



The City of Lindsborg

Little Sweden, U.S.A.

P.O. Box 70 • 101 South Main • Lindsborg, Kansas 67456

Phone 913-227-3355 • Fax 913-227-4128

January 31, 1994

Representative Carl B. Holmes
State Capitol
Room 115-S
Topeka, Ks. 66612

Dear Representative Holmes:

Today, your committee is scheduled to consider a resolution that is important to all Kansans. HCR 5030 is a resolution urging Congress to amend the Safe Water Drinking Act to eliminate unfunded mandates which require State, County and City governments to expend their resources to comply with federal safe drinking water quality standards which provide little or no benefit to public health. I urge you to support HCR 5030 for the following reasons:

1. Municipalities are currently required to test for 83 contaminants, some of which have never been detected in Kansas. In addition, public water supplies will be required to test for an additional 25 contaminants, every three years. The cost of testing is very expensive and will continue to be passed on to the consumer. I have enclosed some information to show the costs of performing the tests.
2. When the maximum contaminant levels are set, it is important to consider the threat that exists. There are some contaminant levels that have been set so low that the threat of a health risk is extremely remote. A person is far more likely to be killed in a traffic accident or struck by lightning than to suffer from a health problem associated with a contaminant at the levels set by the Environmental Protection Agency.

I believe that we all desire and demand safe drinking water. However, we need to apply a degree of reasonableness when setting regulations that impact all water suppliers, regardless of size.

Your support for this resolution is greatly appreciated.

Respectfully,

Gary L. Meagher
City Administrator

GLM/jl

Enc.

Attachment #3
2/3/94

House Concurrent Resolution No. 5030

By Committee on Energy and Natural Resources

1-18

8 A CONCURRENT RESOLUTION urging Congress to eliminate un-
9 funded federal mandates which require ~~state, county and city~~
10 ~~governments~~ to expend their resources to comply with federal
11 safe drinking water standards which provide little or no benefit
12 to public health.

13
14 WHEREAS, The protection of the public health and welfare is
15 the primary concern of ~~state, county and city government~~; and

16 WHEREAS, The ability of ~~state, county and city government~~ to
17 protect the health and welfare of its citizenry has been greatly re-
18 duced by unfunded federal mandates contained in the Safe Drinking
19 Water Act; and

20 WHEREAS, ~~State, county and city governments~~ cannot afford to
21 commit limited resources on federal mandates which provide little
22 or no benefit to public health, but must rather be permitted to focus
23 their resources on protections which ensure the highest safety for
24 public health; and

25 WHEREAS, H.R. 3392, the Safe Drinking Water Act Amend-
26 ments of 1993, introduced by Representative Jim Slattery of Kansas
27 and Representative Thomas Bliley of Virginia, would amend the Safe
28 Drinking Water Act to allow ~~city, county and state governments~~
29 greater ability to effectively protect the public health and welfare
30 by ensuring that limited public resources can be sensibly focused
31 on the most serious risks presented by contaminants in drinking
32 water: Now, therefore

33 *Be it resolved by the House of Representatives of the State of*
34 *Kansas, the Senate concurring therein:* That the legislature urges
35 Congress to amend the Safe Drinking Water Act in such a manner
36 as will permit ~~state, county and city government~~ to focus their re-
37 sources on issues which threaten public health and which will provide
38 flexibility in meeting the real health needs of its citizenry; and

39 *Be it further resolved:* That the Secretary of State be directed
40 to send enrolled copies of this resolution to the speaker of the United
41 States House of Representatives, the President of the United States
42 Senate, all members of the congressional delegation from the State
43 of Kansas, the Administrator of the United States Environmental

-public water supply systems

-Public water supply systems

-public water supply systems

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1 water well contractor at such contractor's direction and under such
2 contractor's supervision.

3 ~~(h) "Water well driller" means an individual who performs labor~~
4 ~~or services for a licensed water well contractor at the contractor's~~
5 ~~direction and under the contractor's supervision.~~ (h)

6 ~~(i) "Designated water well driller" means a water well driller,~~ an individual
7 identified by a water well contractor at the time of initial licensure
8 or license renewal as being directly responsible to the contractor for
9 the construction, reconstruction, treatment or plugging of water
10 wells.

11 Sec. 2. K.S.A. 1993 Supp. 82a-1205 is hereby amended to read
12 as follows: 82a-1205. (a) The secretary shall be responsible for the
13 administration and enforcement of the provisions of this act and any
14 rules and regulations adopted pursuant thereto.

15 (b) The secretary shall fix by rules and regulations reasonable
16 license fees annually for each contractor and for each drill rig op-
17 erated by or for such contractor. The secretary shall fix by rules and
18 regulations an additional fee for each water well drilled ~~except as~~
19 ~~provided in paragraphs (1) and (2) of subsection (c)(2) and (3) of~~
20 ~~K.S.A. 82a-1203 and amendments thereto.~~ Such fees shall be in an
21 amount, which, together with any other funds available therefor,
22 will produce an amount, which will properly administer the provi-
23 sions of this act. Any nonresident may secure a water well contractor's
24 license in Kansas upon approval of an application therefor by the
25 secretary and the payment of a fee equal to the fee charged for a
26 similar nonresident license by the state in which the applicant is a
27 resident, but in no case shall the fee be less than that charged a
28 Kansas resident.

29 (c) The secretary shall have the power and authority and may
30 cause to be inspected water wells in all phases of construction,
31 reconstruction, treatment or plugging, and shall have access to such
32 wells at all reasonable times. The secretary shall have general su-
33 pervision and authority over the construction, reconstruction and
34 treatment of all water wells and the plugging of holes drilled and
35 abandoned in search of a groundwater supply or hydrogeological
36 information.

37 (d) The secretary may employ within funds available such en-
38 gineering, geological, legal, clerical and other personnel as may be
39 necessary for the proper performance of responsibilities under this
40 act. Such employees shall be within the classified service under the
41 Kansas civil service act.

42 (e) The secretary is authorized and directed to: Cause exami-
43 nation to be made of applicants for licensing; to of applicants

by, or at the direction and under the supervision
of, a contractor

W
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May 2000
10/1/00
Treatment

Indirect?
Hard Mountain