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AMENDMENT TO VA/HUD BILL TO PREVENT EPA MOVING FORWARD ON DESIGNATION OF NEW NONATTAINMENT AREAS

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

Mr. COLLINS. Mr. Speaker, when a lower court ruled in 1999 against new Federal air standards, reasonable persons expected the EPA to delay further implementation of the standards until the Supreme Court ruled on the agency's appeal.

Instead, the EPA is pushing forward with rules that force State and local governments across the country to spend thousands of dollars to comply with new invalid standards.

To stop this waste of taxpayer money, the gentleman from Georgia (Mr. LINDER) and I will offer an amendment to VA/HUD later today which will prevent the EPA from moving forward with the designation of new non-attainment areas until such time as the Supreme Court makes a decision.

State and local governments could better use their resources to help their communities to comply with the rules that may never become legally enforceable.

Our amendment is simple. It does not affect existing air quality standards, nor does it render judgment on the new standards. It only requires EPA to postpone further action until the Supreme Court issues a final ruling.

It is common sense to postpone the designation process until we are certain that it will not be a huge waste of Federal, State and local resources.

LOS ALAMOS LEAKS

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

Mr. PITTS. Mr. Speaker, the Founding Fathers saw a national security as the very first duty of government. First amongst the powers given to Congress is the power to provide for the common defense. The first duty listed for the President is to be Commander in Chief of the Army and Navy of the United States.

National security is a very serious matter; and when nuclear secrets are lost, our national safety is threatened. Then why have we seen repeated security breaches at the Los Alamos National Laboratory?

Dr. Wen Ho Lee is still in jail awaiting trial for mishandling secret data a year ago. When that happened, Energy Secretary Richardson opposed new security measures, insisting that he wanted to be in charge and that he could handle the security himself.

Clearly, he has failed to do that. Some think we have better security at

Wal-Mart than we do in Los Alamos. Richardson blamed the University of California, but even his director of counterintelligence says we cannot rule out espionage.

If the Secretary of Energy cannot provide security for our Nation's top nuclear secrets, the President needs to find someone who can.

LAX SECURITY AT LOS ALAMOS NATIONAL LABORATORY

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

Mr. VITTER. Mr. Speaker, last year, following disturbing reports of lax security at the Los Alamos National Laboratory, the Congress passed and the President signed a law creating an Under Secretary for national security at the Department of Energy. This new position was created to strengthen security at our labs. Now Secretary Richardson objects to filling this post; and as a previous speaker said, he specifically took personal responsibility for security.

Now we know of another massive security breach at the lab. But is Secretary Richardson taking personal responsibility for these lapses occurring on his watch? Nope, not a chance. He has found a scapegoat in the University of California.

Madam Speaker, UC does have a contract to manage the lab, but responsibility for security lies with the Secretary.

Mr. Speaker, blaming the University of California for the security breakdown at the lab is like the captain of the Titanic blaming the head waiter for the iceberg. Of course, the captain did not; he took responsibility and went down with the ship. It is time for the Secretary of Energy to do the same and resign.

SUPPORTING LEGISLATION CALLING FOR APOLOGY FOR SLAVERY

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

Ms. MCKINNEY. Mr. Speaker, I am pleased to support and cosponsor the legislation of the gentleman from Ohio (Mr. HALL) that calls for an apology for slavery. I have heard the snickers, the snide comments, the perplexed faces from Members baffled by the gentleman's quest for justice. I think we all need to check ourselves.

This great Nation of ours did something terribly wrong during its infancy: I was written out of its Constitution, and it turned its head on slavery. And when our country actually saw itself for the first time in a mirror, its response was to proclaim that the black man had no rights that a white man was bound to respect.

It took a second look, however, and began to exorcise its demons; that is what reparations to Native Americans, Holocaust victims, and Japanese Americans was all about. Sadly, nobody thought about me. Yet an unarmed black man can be murdered on the streets of America and no one blinks an eye.

Innocent black men disappear to death row. Crack cocaine dumped into our neighborhoods. Malcolm X and Dr. Martin Luther King, Jr., murdered in conspiracies.

The gentleman from Ohio (Mr. HALL) is trying to close these wounds, not reopen them.

NONCOMMERCIAL BROADCASTING FREEDOM OF EXPRESSION ACT OF 2000

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 527 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 527

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 4201) to amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations. The bill shall be considered as read for amendment. The amendment recommended by the Committee on Commerce now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce; (2) a further amendment in the nature of a substitute printed in the Congressional Record pursuant to clause 8 of rule XVIII, if offered by representative Markey of Massachusetts or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 527 is a fair rule providing for consideration of H.R. 4201, the Noncommercial Broadcasting Freedom of Expression Act of 2000. H. Res. 527 provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

The rule provides that the amendment recommended by the Committee on Commerce now printed in the bill shall be considered as adopted. In addition, the rule provides for the consideration of the amendment in the nature of a substitute, printed in the CONGRESSIONAL RECORD, if offered by the gentleman from Massachusetts (Mr. MARKEY) or his designee, which shall be considered as read, debatable for 1 hour equally divided between proponent and an opponent.

Finally, the rule provides for one motion to recommit, with or without instructions, as is the right of the minority.

Mr. Speaker, like most Members, I have been contacted by a number of my constituents regarding the Federal Communication Commission's ruling on religious programming. By way of background, since 1952, the FCC has reserved a limited number of television channels for educational broadcasters, known as noncommercial education channels, provided that the nonprofit groups, including religious organizations, can show that they will devote more than half of their programming to general education purposes.

However, in the December 29, 1999, ruling granting a noncommercial educational television station license, the FCC included a section on "additional guidance" and ruled that programming largely "devoted to religious exhortation, proselytizing, or statements of personally held religious views and beliefs" would not count as educational.

I am disheartened that the FCC initially believed that religious programs do not serve the educational, instructional, and cultural needs of the community as defined by NCE regulations. I have no doubt that the millions of Americans who attend and watch church services find culture and education in the teachings of a sermon. I am pleased, however, that the FCC has since vacated its order.

Despite the fact that the decision has been reversed, many Members did, I know, have concerns about the FCC's interpretation of the law in this matter. In addition, we are concerned that the FCC ruled without the benefit of public comment, taking unilateral action without consulting those who would be affected. Moreover, in clarifying NCE television rules, the FCC established a new benchmark for evaluating the content of religious broadcasts. In effect, the FCC created a precedent that could have required the FCC to monitor and evaluate religious programming and decide what is educational.

Mr. Speaker, I find this course of action intrusive and question a decision that replaces programming decisions based on the community with FCC guidance.

This is why we need to consider H.R. 4201 this morning. This bill ensures

that the FCC does not engage in regulating the content of speech broadcast by noncommercial education stations, except by means of a formal agency rulemaking. This is responsible legislation that will answer the policy questions that arose following the FCC decision on this matter.

Nonetheless, there is an amendment that deserves consideration of the House on the House floor. In the Committee on Commerce, the gentleman from Massachusetts (Mr. MARKEY) offered an amendment to amend the bill, and the rule we had before us will permit the gentleman from Massachusetts (Mr. MARKEY) the opportunity to offer his substitute amendment.

I also want to applaud the gentleman from Louisiana (Mr. TAUZIN), the gentleman from Mississippi, my friend (Mr. PICKERING), and the gentleman from Ohio (Mr. OXLEY), for the work on this legislation. I encourage every Member to support this fair rule and the underlying bill.

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

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

Mr. Speaker, I want to thank the gentleman from Georgia (Mr. LINDER) for yielding me the time. Mr. Speaker, this is a restrictive rule which will allow for the consideration of H.R. 4201.

As my colleague, the gentleman from Georgia (Mr. LINDER), has explained, this rule provides for 1 hour of general debate to go equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

Under current rules, the Federal Communication Commission grants noncommercial broadcasting licenses for programming that is primarily educational in nature. This bill expands the qualifications to include cultural or religious programming.

The bill also restricts the FCC's authority to establish requirements on programming by noncommercial broadcasters.

The rule makes in order just one amendment that can be offered during floor consideration of the bill. The amendment offered by the gentleman from Massachusetts (Mr. MARKEY) would maintain an educational requirement to obtain a noncommercial broadcast license. No other amendments may be offered to the bill.

I regret that the Committee on Rules approved such a restrictive rule. I see no reason why this bill cannot receive an open rule. Also, Members have not been given enough notice that the bill would be taken up on the House floor and that a restrictive rule was under consideration.

However, because the gentleman from Massachusetts (Mr. MARKEY) was the only Member testifying at yesterday's Committee on Rules hearing in

support of an amendment and the rule does make in order that amendment, I will not oppose the rule.

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

Mr. LINDER. Mr. Speaker, I have no speakers. If the gentleman from Ohio (Mr. HALL) is prepared to yield back, I will yield back.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, this is a very important bill to a large number of people in my district. I am a little surprised that it has come up so abruptly and then we had no time to prepare for it, but I want to register my strong support for the steps that are being taken by the Federal Communications Commission to make broadcasting available, the opportunity to broadcast to small and nonprofit groups.

There is a whole array of groups beyond the obvious ones that are mentioned, the religious groups, educational groups that particularly want to push some aspect of education to the numerous ethnic and nationality groups in my district. There are a large number of people who are of Caribbean descent in my district and have had a great deal of problems with trying to get radio broadcasts which focus on their particular interests, Haitian, Jamaican, Canadian, and numerous others.

I think it is very appropriate that we take a step in this direction and leave it as broad and open as possible, following the general approach of the Federal Communications Commission without any restrictions. Indeed, the restrictions have been too great all these years. The broadcasting is regulated by the Federal Government. It is a form of free speech; and because it is regulated by the Federal Government, I think efforts should have been made many years ago to make it freer.

We have not had free speech using radio waves or free speech using television or any of the regulated broadcast bands that the Government is in control of.

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The Government is in control, and that means that all of the people are in control; all the people should be served. It should not be a matter of those who have the necessary capital to be able to capitalize a radio or television station. We are talking primarily here about radio now, which is the simplest and the cheapest way to provide some means of broadcasting for people who do not have means.

Certainly, if we are going to have freedom of speech, freedom of speech ought to mean that everybody has a chance to speak over the airwaves, especially if that is regulated by government. We have freedom of speech in

terms of printed matter, and anybody who can afford it can, of course, print matter. Of course the big newspaper chains and people that have money are able to take advantage of that even more so. But the Government does not regulate anybody out of the print business.

If one has the money, if one has the wherewithal, one can get into the print business at one level or another. That may mean passing out pamphlets, it may mean finding a newspaper, or it may mean starting a magazine. But it is not so in the broadcast arena. One cannot, even if one has the wherewithal, enter the broadcast arena, because that is tightly regulated by the Government, more than it should have been all of these years.

Mr. Speaker, we need more freedom and more opportunities, not fewer.

So I wholeheartedly support the steps that are being taken by the Federal Communications Commission, and I think that any attempts to restrict it in any way are steps that are moving us backwards in the wrong direction. I think it is long overdue that we allow small groups to have their voice, and perhaps we should look at the bill and look at the regulations being proposed by the Federal Communications Commission and make them broader and more liberal. The range of areas that are covered by these nonprofit stations in many cases is too small, and we would like to see them broadened. We would like to see efforts made to make it even less costly to begin a nonprofit station.

Full freedom of speech means that the freedom ought to be able to be a freedom that we can utilize over the free and regulated Federal airwaves.

Mr. LINDER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. TAUZIN) to clarify some information for the gentleman from New York.

Mr. TAUZIN. Mr. Speaker, I simply want to clarify for my friend from New York that this is not the low-power FM bill dealing with the Commission's decision to authorize the expansion of radio broadcasting to FM low power. This bill merely deals with the noncommercial television and radio licenses that are already issued by the commission. There are about 800 to 1,000 radio licenses; and there are 15 television licenses, eight more in the pipe, that are held by religious broadcasters. And the issue today that this rule authorizes the legislation on will be to limit the FCC's capacity to regulate the content of the religious broadcasting that goes on these noncommercial television and radio stations that are already on the air.

So the gentleman's concern about the FM low-power issue is obviously a very important one, and we dealt with that issue I think several weeks ago. This is a separate issue dealing with re-

ligious radio and television broadcasting.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. TAUZIN. Mr. Speaker, pursuant to House Resolution 527, I call up the bill (H.R. 4201) to amend the Communications Act of 1934 to clarify the service obligations of noncommercial educational broadcast stations, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 527, the bill is considered read for amendment.

The text of H.R. 4201 is as follows:

H.R. 4201

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Noncommercial Broadcasting Freedom of Expression Act of 2000".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) In the additional guidance contained in the Federal Communication Commission's memorandum opinion and order in WQED Pittsburgh (FCC 99-393), adopted December 15, 1999, and released December 29, 1999, the Commission attempted to impose content-based programming requirements on noncommercial educational television broadcasters without the benefit of notice and comment in a rulemaking proceeding.

(2) In doing so, the Commission did not adequately consider the implications of its proposed guidelines on the rights of such broadcasters under First Amendment and the Religious Freedom Restoration Act.

(3) Noncommercial educational broadcasters should be responsible for using the station to primarily serve an educational, instructional, or cultural purpose in its community of license, and for making judgments about the types of programming that serve those purposes.

(4) The Commission should not engage in regulating the content of speech broadcast by noncommercial educational stations.

**SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NONCOMMERCIAL EDUCATIONAL OR PUBLIC BROADCAST STATIONS.**

Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(m) SERVICE CONDITIONS ON NONCOMMERCIAL EDUCATIONAL AND PUBLIC BROADCAST STATIONS.—

"(1) IN GENERAL.—A nonprofit organization or entity shall be eligible to hold a noncommercial educational radio or television license if the station is used primarily to broadcast material that the organization or entity determines serves an educational, instructional, or cultural purpose (or any combination of such purposes) in the station's community of license, unless that determination is arbitrary or unreasonable.

"(2) ADDITIONAL CONTENT-BASED REQUIREMENTS PROHIBITED.—The Commission shall not—

"(A) impose or enforce any quantitative requirement on noncommercial educational radio or television licenses based on the number of hours of programming that serve educational, instructional, or cultural purposes;

"(B) prevent religious programming, including religious services, from being determined by an organization or entity to serve an educational, instructional, or cultural purpose; or

"(C) impose or enforce any other requirement on the content of the programming broadcast by a licensee, permittee, or applicant for a noncommercial educational radio or television license that is not imposed and enforced on a licensee, permittee, or applicant for a commercial radio or television license, respectively."

**SEC. 4. RULEMAKING.**

(a) LIMITATION.—After the date of enactment of this Act, the Federal Communications Commission shall not establish, expand, or otherwise modify requirements relating to the service obligations of noncommercial educational radio or television stations except by means of agency rulemaking conducted in accordance with chapter 5 of title 5, United States Code, and other applicable law (including the amendment made by section 3).

(b) RULEMAKING DEADLINE.—The Federal Communications Commission shall prescribe such revisions to its regulations as may be necessary to comply with the amendment made by section 3 within 270 days after the date of enactment of this Act.

The SPEAKER pro tempore. The amendment recommended by the Committee on Commerce printed in the bill is adopted.

The text of H.R. 4201, as amended pursuant to House Resolution 527, is as follows:

H.R. 4201

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Noncommercial Broadcasting Freedom of Expression Act of 2000".

**SEC. 2. FINDINGS.**

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(1) In the additional guidance contained in the Federal Communication Commission's memorandum opinion and order in WQED Pittsburgh (FCC 99-393), adopted December 15, 1999, and released December 29, 1999, the Commission attempted to impose content-based programming requirements on noncommercial educational television broadcasters without the benefit of notice and comment in a rulemaking proceeding.

(2) In doing so, the Commission did not adequately consider the implications of its proposed guidelines on the rights of such broadcasters under First Amendment and the Religious Freedom Restoration Act.

(3) Noncommercial educational broadcasters should be responsible for using the station to primarily serve an educational, instructional, cultural, or religious purpose in its community of license, and for making judgments about the types of programming that serve those purposes.

(4) Religious programming contributes to serving the educational and cultural needs of the public, and should be treated by the Commission on a par with other educational and cultural programming.

(5) Because noncommercial broadcasters are not permitted to sell air time, they should not be required to provide free air time to commercial entities or political candidates.

(6) The Commission should not engage in regulating the content of speech broadcast by noncommercial educational stations.

**SEC. 3. CLARIFICATION OF SERVICE OBLIGATIONS OF NONCOMMERCIAL EDUCATIONAL OR PUBLIC BROADCAST STATIONS.**

(a) *SERVICE CONDITIONS.*—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

“(m) *SERVICE CONDITIONS ON NONCOMMERCIAL EDUCATIONAL AND PUBLIC BROADCAST STATIONS.*—

“(1) *IN GENERAL.*—A nonprofit organization shall be eligible to hold a noncommercial educational radio or television license if the station is used primarily to broadcast material that the organization determines serves an educational, instructional, cultural, or religious purpose (or any combination of such purposes) in the station’s community of license, unless that determination is arbitrary or unreasonable.

“(2) *ADDITIONAL CONTENT-BASED REQUIREMENTS PROHIBITED.*—The Commission shall not—

“(A) impose or enforce any quantitative requirement on noncommercial educational radio or television licenses based on the number of hours of programming that serve educational, instructional, cultural, or religious purposes; or

“(B) impose or enforce any other requirement on the content of the programming broadcast by a licensee, permittee, or applicant for a noncommercial educational radio or television license that is not imposed and enforced on a licensee, permittee, or applicant for a commercial radio or television license, respectively.

“(3) *RULES OF CONSTRUCTION.*—Nothing in this subsection shall be construed as affecting—

“(A) any obligation of noncommercial educational television broadcast stations under the Children’s Television Act of 1990 (47 U.S.C. 303a, 303b); or

“(B) the requirements of section 396, 399, 399A, and 399B of this Act.”

(b) *POLITICAL BROADCASTING EXEMPTION.*—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended by inserting “, other than a noncommercial educational broadcast station,” after “use of a broadcasting station”.

(c) *AUDIT OF COMPLIANCE WITH DONOR PRIVACY PROTECTION REQUIREMENTS.*—Section 396(l)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)(ii)) is amended—

(1) in subclause (I), by inserting before the semicolon the following: “, and shall include a determination of the compliance of the entity with the requirements of subsection (k)(12)”;

(2) in subclause (II), by inserting before the semicolon the following: “, except that such statement shall include a statement regarding the extent of the compliance of the entity with the requirements of subsection (k)(12)”.

(d) *IMPLEMENTATION.*—Consistent with the requirements of section 4 of this Act, the Federal Communications Commission shall amend sections 73.1930 through 73.1944 of its rules (47 C.F.R. 73.1930–73.1944) to provide that those sections do not apply to noncommercial educational broadcast stations.

**SEC. 4. RULEMAKING.**

(a) *LIMITATION.*—After the date of enactment of this Act, the Federal Communications Commission shall not establish, expand, or otherwise modify requirements relating to the service obligations of noncommercial educational radio or television stations except by means of agency

rulemaking conducted in accordance with chapter 5 of title 5, United States Code, and other applicable law (including the amendments made by section 3).

(b) *RULEMAKING DEADLINE.*—The Federal Communications Commission shall prescribe such revisions to its regulations as may be necessary to comply with the amendment made by section 3 within 270 days after the date of enactment of this Act.

The SPEAKER pro tempore. After one hour of debate on the bill, as amended, it shall be in order to consider a further amendment printed in the CONGRESSIONAL RECORD, if offered by the gentleman from Massachusetts (Mr. MARKEY) or his designee, which shall be considered read and shall be debated for 1 hour, equally divided and controlled by a proponent and an opponent.

The gentleman from Louisiana (Mr. TAUZIN) and the gentleman from Massachusetts (Mr. MARKEY) each will control 30 minutes of debate on the bill.

The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Speaker, I yield myself 7 minutes.

I rise in support of H.R. 4201, the Noncommercial Broadcast Freedom of Expression Act of 2000. While this is indeed a good bill, I am frankly disappointed that it is necessary. It is necessary to correct a gross blunder by the FCC and to prevent it from ever happening again.

Earlier this year, in the WQED Pittsburgh station case, a television transfer case, the FCC sought to quantify the service obligations of noncommercial television licenses by requiring that “more than half of the hours of programming aired on a reserved channel must serve an educational, instructional, or cultural purpose in the station’s community of license.” But they went on to say that while programming which teaches about religion would count toward that new benchmark, programming that was “devoted to religious exhortation, proselytizing, or statements of personally held religious views and beliefs” would not. In short, the Commission was drawing substantive distinctions between what religious message would qualify in the content of that station’s broadcasting.

Now, the FCC has licensed quite a number of religious broadcasters on the noncommercial airwaves of America. About 800 to 1,000 radio licenses are currently held and operated by religious broadcasters. There are 15 television stations operated by religious broadcasters as a noncommercial license. The FCC has never before now tried to regulate the content of those religious messages in religious broadcasting. But in this situation, the FCC tried to do so.

I do not have to tell my colleagues that they were met with a huge outpouring of objections, not only from Members of Congress, but from people across America. Indeed, the gentleman

from Ohio (Mr. OXLEY) and I, along with the gentleman from Mississippi (Mr. PICKERING), the gentleman from Oklahoma (Mr. LARGENT), the gentleman from Florida (Mr. STEARNS), and about 140 additional Members of the House, including, by the way, the gentleman from Texas (Mr. DELAY), the gentleman from Texas (Mr. ARMEY), and the gentleman from Oklahoma (Mr. WATTS) all joined forces against the commission’s action.

Fortunately, in response to the collective public outcry against these actions, the FCC wisely decided to vacate the additional guidance, these new instructions that they were issuing in this order, and they vacated that order by a vote of four to six.

In other words, they back-peddled quickly. They quickly tried to undo the mistake they made. In fact, the concern that they might make that mistake again is, unfortunately still with us, because despite this four to one reversal, when we held a hearing at the Subcommittee on Telecommunications of the Committee on Commerce, one of the commissioners, Commissioner Tristani asserted, and this is a quote, that she, “for one, will continue to cast the vote in accordance with the views expressed in the additional guidance.” In other words, there is still a sense that the commission, at least by some of the members of the FCC, that they would like to dictate the content of religious broadcasting in America.

Mr. Speaker, imagine that. Federal bureaucrats telling us what we can and cannot hear on a religious broadcast station, what qualifies as a good message and what does not. Government telling religious broadcasters what they can and cannot say in a religious television or radio broadcast. What a horrible notion. And yet, at least one of our commissioners says, given the chance, she would do it again. Therefore, this bill becomes necessary.

This bill, which we have constructed and passed out of the Committee on Commerce and brought to the floor today, H.R. 4201 authored by the gentleman from Mississippi (Mr. PICKERING) on behalf of the gentleman from Ohio (Mr. OXLEY), myself, the gentleman from Oklahoma (Mr. LARGENT), and the gentleman from Florida (Mr. STEARNS), takes the appropriate stance against what the FCC tried to do. It basically codifies the old rule of the commission. The old rule of the commission, which basically is encapsulated in the commission’s reversal, by which they reversed their bad decision, is as follows. This is what the Commission said when it finally backed up and corrected the bad mistake it made: “In hindsight, we see the difficulty of minting clear definitional parameters for educational, instructional, or cultural programming. Therefore, we vacate our additional guidance. We will

defer to the editorial judgment of the licensee unless that judgment is arbitrary or unreasonable.”

That has always been the standard. The commission has always left it up to the licensee to decide what messages were broadcast on these religious non-commercial airwaves. That has always been the rule; this bill codifies that rule. In fact, the bill says that from now on, the commission shall not have the authority to change it, to try to dictate the content of religious broadcasting.

Now, in just a few minutes we will hear from my good friend, the gentleman from Massachusetts (Mr. MARKEY), and others about their objections to the bill. They come in two forms. One, they will argue that the bill broadens the eligibility standard for noncommercial educational licenses. That is not true. We simply codify the current standards. Under current standards, the FCC, licensing over 800 to 1,000 radio stations and now, nearly 23 television stations, uses either a point system or a lottery system that has nothing to do with religious affiliation and simply awards these stations on that basis. Nothing we do changes that. But the gentleman from Massachusetts (Mr. MARKEY) will offer an amendment later to try to reinsert into the bill the capacity of the FCC to determine whether the station is educational enough; that is, again, to give it the right to get in and dictate what messages qualify, which do not; which religious messages are educational and which, in the opinion of the FCC, are not.

For example, they could not tell us whether Handel's Messiah performing in the Kennedy Center would be educational; but it would not be educational on a religious broadcast station. We can see the difficulty and why this amendment needs to be defeated. It was defeated in the committee; it should be defeated on the floor.

Finally, I want to point out that the bill does exactly what the Constitution says it ought to do when it comes to religion. It simply provides a no-nonsense statement that instructional, educational, cultural, and religious programming are treated exactly the same, no difference. No preference for religion, no penalties for religious broadcasting. In short, it literally abides by the Constitution, protects free speech, protects religious broadcasting from government interference. This is a good bill and we need to pass it, and we need to defeat the Markey amendment when it is offered.

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

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

Mr. Speaker, let me begin this debate by clarifying for anyone who may be listening what we are fighting about. In the United States, we have two

types of television stations. We have commercial television stations. On commercial television stations people see the evening news, Who Wants to be a Millionaire, Survivor, a whole host of programs which are basically commercial.

Now, it is possible, and frequently it occurs, that individual religions purchase commercial TV stations because they want to use them as the vehicle by which they are able to communicate their message into a community. Those are commercial television stations.

Then we have the other kind of television stations, public TV stations. Most often we consider them to be PBS. We turn to them, we actually consider them just to have a number, in Boston it is channel 2, WGBH; and we have another smaller public television station as well. Those television stations are meant to serve the non-commercial, educational needs for the entire community. Commercial: Who Wants to Be a Millionaire, or any religion that wants to purchase a commercial station in order to advance the goals of that religion; noncommercial educational, a separate category, stations meant to serve the educational needs of the entire community.

This is a debate over one of those noncommercial, educational television stations. And the story is one which really does not deal with whether or not religions can purchase commercial stations in order to advance their goals within a particular community; they may continue to do so. This debate is over whether or not if a religion gains control over a noncommercial educational station, whether or not that religion can use it in order to advance full time, all day long the goals of its own religion, and not serve the non-commercial educational needs of the entire community.

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That is the debate in a nutshell, should we, in other words, continue to maintain the special purpose for which these noncommercial educational stations have always been reserved while allowing religions to run them if they want but under the guidelines that historically they have always had to maintain in order to ensure that the entire community is served.

If we allow this wall to be broken down, then we are going to wind up in a situation where individual religions are able to move into community after community with populations that have very diverse religious backgrounds and to use one of these very small number of public TV stations in a community exclusively for the religious purpose of that one religion. I believe that that is very dangerous, very dangerous, especially since each one of these religions has the ability to buy a commercial TV station.

Now, as we move forward in this debate, this very important debate, it is

going to be critical for everyone to understand the historic nature of what we are talking about here today. If in any way there is a misunderstanding with regard to whether or not any of us believes there should be any restrictions placed upon the ability of religious broadcasters on commercial stations to, in fact, proselytize if they want, then they misunderstand the nature of what it is we are proposing.

The essence of this debate is whether or not we want to continue to keep a distinction in place which separates public TV stations from commercial TV stations, commercial stations from noncommercial stations intended to educate the entire community.

So, Mr. Speaker, this is a debate which, unfortunately, has developed connotations which do not accurately reflect the core of the debate, the issues that are at the essence of this controversy. Our hope is that, in the course of this couple of hours, that we are going to be able to explain the very real differences of opinion that exist here with the hope that we can maintain this wall that historically we have created between the State and the establishment of religion, which I am afraid is being broken down by the legislation which is on the floor here today.

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

Mr. TAUZIN. Mr. Speaker, I yield 6 minutes to the gentleman from Mississippi (Mr. PICKERING), the author of the legislation, who has done an enormously excellent job in bringing this bill through the committee and to the floor.

Mr. PICKERING. Mr. Speaker, I rise in strong support and as a proud sponsor of this legislation. This is a critically important debate, as the gentleman from Massachusetts (Mr. MARKEY) indicated. Whereas, usually we try to find common ground on the Committee on Commerce, and I have with the gentleman from Massachusetts (Mr. MARKEY) on many occasions found that common ground, but today we are debating something that gives us a fundamental disagreement or provides a fundamental disagreement.

The gentleman from Massachusetts said the wall could be or will be or is being broken that separates church and State. He is correct. But it is not the breaking from the religious, but it is the heavy hand of government coming crashing down on that wall saying this is acceptable or this is unacceptable speech. It is the hand of the government coming in to regulate and to control and to set up a police of our speech, of our religious freedom and expression.

It is a very critical issue. Are we going to maintain the current tradition of our religious liberties and expression? Make no mistake, this is not about changing our current practice at

the FCC. This is about something that the FCC did that changed, fundamentally changed, and set a new course and a new policy for how religious broadcastings and noncommercial licenses would be regulated, the guidelines for that.

Let me read, this is from the FCC, "This is unacceptable speech: Programming primarily devoted to religious exploitation, proselytizing, or statements or personally held religious views and beliefs." They went on to say, "church services would not qualify."

So if Martin Luther King were alive today, and he were giving a speech or a sermon at a church, that would not be educational. It would not be cultural. It would provide no instructional benefit to any communities. That is the FCC's view.

So if one is Catholic or one is Protestant or African American or serving a rural community or urban, and it is a church service where one has moral instruction, one has cultural benefit, where one has teachings of educational importance, under the FCC's view, no value.

This is what the debate is about. Do we value the voice of the religious in the public square, or do we ban, do we exclude, or do we shovel them aside? Does it have value in our culture? Should they be in our public square?

Let me read a quote that I think captures this debate. "Americans feel that, instead of celebrating their love for God in public, they are being forced to hide their faith behind closed doors. That is wrong. Americans should never have to hide their faith. But some Americans have been denied the right to express their religion, and that has to stop. It is crucial that government does not dictate or demand specific religious views. But equally crucial that government does not prevent the expression of specific religious views."

The person who said those words was Bill Clinton at an address at James Madison High School in Vienna, Virginia. He was talking about this issue, does the religious voice have a place in our public square? He was making the case that it does. What is more public than our public spectrum, our licenses that the FCC gives, the greatest way to communicate on a broad basis.

What does this legislation do and what does it not do? Now, if one was listening to the gentleman from Massachusetts (Mr. MARKEY) one would think that no religious institution has had one of these noncommercial educational licenses in the past, that they were reserved solely and strictly for educational institutions, for the CPB or the public stations.

The reality is that we have had a tradition and a precedent and a practice of religious broadcasters holding these licenses. What we are doing is not changing current practice, current precedent. We are simply trying to prevent

and prohibit the FCC from going down a dangerous path of regulating religious speech, religious expression.

We have to do it because the FCC has tried to deem itself the holy trinity of the Constitution. They woke up one day and said, we can decide the establishment clause without a public comment or a public process, we can set a legislative policy that is reserved for this branch, not the executive branch.

So they have decided that they are both the court, the Congress, the executive branch in one, and they try to do something that is fundamentally unfair in a closed process that fundamentally challenged our core beliefs of religious freedom and religious expression.

What we are saying in this legislation today is not only, must one do everything in a public process, in a public fashion, in an open fashion, there will be no dark of nights but we are not going to allow one to undo the fundamental premises of our founding. We will not allow one to come in and regulate and control the religious speech and the religious beliefs of our people of this great Nation.

What is at stake? Do we honor our heritage? Do we say that government has the right to discriminate against religion and control religious speech? Should it be free of government regulation? Is the religious voice valuable in the public square? Is there a place for the religious voice?

With this debate, with these votes, we shall say that we will not have government intervention, interference, and regulation of the religious beliefs and religious views. We will find a value for the religious voice in the public square. We will protect that. We will not let the heavy hand of government come crashing down on the wall that separates and protects our people from an intrusive government.

I ask my colleagues to continue to vote in support of what we are trying to do today.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, just so it is very clear, if the bill being proposed today is adopted, there will no longer ever again be a requirement that a public television station must serve the educational needs of a community. They will not have that requirement any longer. It is gone. They can serve that community under this new bill as long as they are broadcasting religion all day long. They have fulfilled a requirement now under the new law. No education at all is required.

So here is a public television station. It has been in a community for 50 years, it has served the educational needs of the entire community, everyone who lives within that 1 million, 2 million, 3 million, 4 million person area, and all of a sudden it is now being run by a religion that has absolutely no responsibility to serve the edu-

cational needs of that community, none, zero, gone, do not have to ever again put on a single educational program. That is their new law.

Now, how does that serve a community? Some religion comes in, it could be a cult by the way, some cult comes in and buys a noncommercial educational station and says we are not going to serve the local educational needs of the community any longer. We are just going to have our own little cult on this TV station. Under this law, that is legal. That is legal. One cannot say anything about it.

The language in the bill says that, as long as one serves the religious purpose in a nonarbitrary or reasonable way, which the FCC would have to move in and challenge, then one is serving the entire community.

Now, how can that be a good thing? How can it be a good thing for one religion to move in, a cult potentially, buy one or two public television stations in town, and just broadcast their religion all day long.

Now, the only way in which that can be challenged is if the FCC, under their bill, the FCC comes in and determines that there is something wrong with this cult or that it is acting in an arbitrary or unreasonable way; that is this cult, this religion, that is now operating the public television station in town.

Well, let us take it a step further. Let us say two religions come along, and each one of them wants to run this public television station in the town. Now, who determines who gets this public television station? Well, under the bill, the FCC has to determine which of the two religions is more religious. Which of the two religions has the better likelihood of serving one community on the public television station, on potentially the only public television station available in town.

How can that be a good thing? How can we have the FCC in determining which religion is better, not based upon whether or not, by the way, they are going to serve the educational needs of the community, because there is no requirement, once this bill passes, that the educational needs of the community is served. They do not have to do it at all. They can, 100 percent of the time, just broadcast their religion, their cult potentially.

The FCC determines which of the two religions or cults is the better religion or cult to be the only religion on the public television station in a community that had historically been served as a noncommercial educational station, serving the entire community for the last 30 or 40 or 50 years. This is not a good idea. This is not what we intended noncommercial educational, that is, public television stations, to play as a role in communities across this country.

The deeper we get into this debate, the more troubling it becomes, because

it is very evident that, at the end of the day, there will be a small number of religions who will try their best to get ahold of these TV stations, these public TV stations, all across the country just to proselytize, just to run their religion into people's homes in these individual communities.

Again, we have nothing against any religion purchasing a commercial television station. They can do so, and they do in every single community across this entire country. We have no problem with any individual sect running a noncommercial public television station as long as they fulfill the requirements that they serve the educational needs of every child, every child who lives within that area. Every child within a 2 million or 3 million person area is not going to be served by one religion broadcasting its religion into the minds of every child in that broadcasting area.

□ 1100

That is not an educational purpose, as far as most parents are going to be concerned. Most parents are not going to want the public television station in their community broadcasting one religion into the minds of their children all day long. If a religion wants to do that, they should purchase a commercial television station. If they want to purchase the public television station in town, they should be required to serve every single child.

Now, some religions say by broadcasting their religion, even if 90 percent of the community is not of that religion, that they are furthering the educational needs of that community. Well, I would contend and maintain that almost every parent is of the belief that their child is not going to be served by listening to one religion all day long on the public television station in their community. They are going to be of just the opposite opinion; that their child is being misserved; that their child should not be watching that TV station; that it is no longer an educational TV station but it is a religious broadcasting station which should be a commercial station.

So in every one of our hometowns we have a public television station, and it has Sesame Street on it and it has all the rest of that programming that children across our country watch on an ongoing basis. Now, if this new law passes, and a particular religion gets access to one of these public TV stations, they do not have to put on anything except their own religion all day long. That cannot be a good idea. That is a complete perversion of the notion that was established 50 years ago about having these public television stations, that are public parks, in essence. They are public parks that every child, every adult can go to. It is common ground. It is not offensive to anyone. It is programming that everyone feels that

they are benefiting from, not just one sect, one sub part of a community.

So, my colleagues, this bill takes the public parks that are the public television stations in our country and they turn them into private preserves of one religion, one sub part of the community. And if we want to play in that park, if we want to watch that public television station, we have to assume that our children or our families are going to be exposed continuously, 100 percent of the time, to the religious tenets of that one religion.

Again, no one has any objection to any religion purchasing a commercial television station. They do so by the hundreds across the country. No one has any objection to a particular religion running a noncommercial television station, a public television station, as long as they abide by the rules that they are serving the entire community's educational needs, not religious needs. One religion should not be able to say, here is the religious programming that this one community needs and we are going to put it on 100 percent of the time on the educational television station in town. That is wrong, and that is why this legislation should be defeated.

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

Mr. TAUZIN. Mr. Speaker, I yield myself 1 minute.

My friend from Massachusetts, Mr. Speaker, made an interesting speech, but he has it all wrong. We are not talking about the Sesame Street stations. There are 800 to 1,000 noncommercial religious broadcasters today on the radio. There are 23, counting the television stations in the pipe, religious television broadcasters on television holding noncommercial television licenses. That is the current state of the law. We are not talking about anything different than what currently occurs.

If those religious broadcasters were not qualified to hold those licenses, because they are producing religious programming, they would not hold them today. The FCC tried to take them away, in effect, by deciding they were going to decide what programming could be on those programs. They were going to decide what religious messages were going to be on all those stations. This bill prevents that.

Secondly, let me point out that for years these stations have operated as religious broadcasters. The FCC has always considered that the religious messages they promote all day long are currently considered primarily educational. That is the current law. The bill incorporates the current law only.

Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), who has been a leader in the fight to prevent the FCC from content regulation of religious broadcasting.

Mr. OXLEY. Mr. Speaker, let us review a little bit of history. Back in De-

cember of last year, late December, between Christmas and New Year's, the FCC determined, in a rather ordinary license swap that goes on virtually every day, in this case a Pittsburgh license swap where the religious broadcasting was changing from a commercial to a noncommercial broadcasting license, the FCC determined at that date, when Congress was not in session, under what would be considered to be an ordinary license swap that the FCC would determine what would be educational, and they would determine whether, in fact, that particular broadcaster was broadcasting enough of what they would consider to be educational programming in nature. This was essentially a determination by the FCC what was educational or what was not, for the first time basically setting up the Government as the arbiter of what was to be considered educational broadcasting. It was a brazen attempt to force traditional religious programming off noncommercial channels.

At that point, working with the gentleman from Mississippi (Mr. PICKERING), the gentleman from Oklahoma (Mr. LARGENT), the gentleman from Florida (Mr. STEARNS), we all immediately wrote a letter to the FCC and then later introduced a bill, as soon as Congress returned, which overturned that directive. Religious viewers and listeners flooded Capitol Hill. I am sure many of the Members received phone calls and letters and faxes and E-mails regarding this outrageous decision by the FCC.

Because of the public outcry, the FCC almost immediately then vacated the order that they had first introduced after our bill was put in the hopper. But ultimately they never acknowledged, that is the FCC majority, their procedural, legal, or constitutional errors. And let me point out that the original vote, with two strong dissents from Republican Members, was a 3 to 2 vote, basically ruling that the FCC had that ability to determine what was educational. They quickly retreated and that vote was a 4 to 1 vote, with Commissioner Tristani voting in the negative to vacate the ruling.

But the interesting thing about the original decision and the vacation of the ruling was that the FCC never acknowledged their procedural, legal, or constitutional errors. They blamed the controversy on "confusion over their intent." I do not think there was ever any confusion about what the intent of the majority was. One commissioner, Commissioner Tristani, even dissented from overturning the order, saying that she would continue to vote as if the original directive were still in place, and she, in fact, testified to that before the committee.

Against this backdrop we worked together to craft a bill, which is now 4201, sponsored by the gentleman from Mississippi, which is on the floor today. It

would prevent the FCC from restricting religious content in the future by affirmatively stating that cultural and religious programming meet the educational mandate.

Now, I assume my friend from Massachusetts probably supported the original decision by the FCC; and as a result, we are here today. Some public broadcasting stations are opposing the bill. I can only conclude that they do not want to share their free non-commercial spectrum with religious broadcasters. But let us make one thing clear. Public broadcasters do not have a special claim to noncommercial channels. Indeed, if they did, C-SPAN would not be on the air. Religious broadcasters and others have an equal right to hold such licenses.

H.R. 4201 is a measured response to the effort to single out religious content for special scrutiny. The FCC has no business discriminating against faith-based programming. H.R. 4201 merely spells out that religious and cultural programming deserve the same treatment as educational and instructional programming. Nothing more and nothing less.

Ultimately, the issue is about freedom of religious expression and, indeed, whether government can control content. That is the ultimate issue. And the Constitution is pretty clear on that; that government shall not determine content.

Now, my friend from Massachusetts is worried about a cult getting a radio station. I would point out that the bill states that broadcasters' determinations that their programming serve as an educational, cultural, or religious purpose may not be arbitrary or unreasonable. So I would say the argument is fallacious.

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

The bottom line on this bill is that under current law the FCC decides whether the programming is educational. That is their job: Does, in fact, the public TV station fulfill the educational requirement to serve the entire community. If we adopt this bill, the FCC will have to decide whether the programming is religious. That is its responsibility.

Now, no one believes that it is the job of the FCC to make religious determinations, yet that is exactly what this legislation asks it to do. We will have turned the Federal Communication Commission into the faith-based content commission, all the time saying that they did not mean to. They did not mean to do that; they did not mean to have the FCC determining whether or not this public television station had served the religious needs of the community. But it will have to do that.

If we support public television, we should vote against this bill. If we support keeping Federal bureaucrats out

of religion, we should vote against this bill. But if we want the Federal Communications Commission deciding whether a broadcast applicant is sufficiently religious to qualify for a brand new licensing category, entitled "primarily religious," then this bill is the right bill. This takes the public television stations across America and has the Federal Communication Commission determining whether or not they are primarily religious; that is, are they religious enough.

Again, there is nothing wrong with some religion running a public television station. There is nothing wrong with them having a religious component. Much of what can be done with a public television station can include a lot of religious educational broadcasting. Educational. Not proselytizing, but educational. And that occurs today. It occurs today on a thousand radio stations across the country. It occurs on public television stations today that are being operated by individual religions, but it does not allow that religion to turn it into nothing more than a sanctuary for their own religion broadcasting 24 hours a day into the homes of every person that lives in that community.

Now, just so it is clear, there are a lot of people that oppose this particular bill. The Interfaith Alliance opposes it, the National Council of Churches of Christ in the United States opposes it, the National Education Association opposes this bill, the National PTA, the prime supporters of public television in America, especially because of its children's television component, opposes it. The National PTA opposes this bill. The Unitarian Universalists Association of Congregations opposes this bill.

This should send chills up the spine of any person that really does respect their own religion. Because rather than having a public television station in a community any longer serving the entire community, we are going to wind up with individual religions thinking that they can take one of the small number of public television stations in each community and just turning it into their own private preserve.

Again, nothing wrong with information on a public television station that is educational when it relates to religion, but when it turns into something that is nothing more than a pulpit for one church, I think there are real problems.

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

□ 1115

Mr. TAUZIN. Mr. Speaker, I first yield myself 30 seconds to read my colleagues a list of associations in support of this legislation: The Christian Coalition; the American Family Association; Concerned Women for America; Family Research Council; Home School

Legal Defense Association; American Association of Christian Schools; Justice Fellowship; Religious Freedom Coalition; Republican Jewish Coalition; Traditional Family Property, Inc.; Traditional Values Coalition; Vision America.

There is huge support among the religious community for this bill.

Mr. Speaker, I yield 1 minute to my friend, the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, the first amendment to our Constitution establishes the freedom of religion, freedom of speech, freedom of the press, freedom of assembly, and freedom to petition for redress of grievances.

This debate combines two of our most precious freedoms, the freedom of speech and the freedom of religion. These freedoms are the core of the first amendment and the Bill of Rights.

Do we really believe our Founding Fathers wanted the Federal Government to restrict or regulate free religious speech on our airwaves? This legislation will send a strong message to the FCC that they cannot and should not restrict free speech of religious broadcasters.

The Federal power to issue licenses to regulate commerce is a powerful one. It should not be misused to restrict, control, or regulate our freedom to speak or worship as we see fit. There is nothing that teaches children more that something is irrelevant than to require something be completely ignored. To require silence teaches irrelevance. We might as well teach religious bigotry.

The FCC tried once to restrict religious speech in the public square. This bill will make sure they will not do it again. Mr. Speaker, I urge my colleagues to vote for the legislation and reject the amendment.

Mr. TAUZIN. Mr. Speaker, I yield 4½ minutes to my good friend, the gentleman from Florida (Mr. STEARNS), from the Committee on Commerce.

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman for yielding me the time.

Mr. Speaker, this is a very easy bill to understand. What the gentleman from Massachusetts (Mr. MARKEY) wants to do is have a government-based content bill; and what we want to do is continue the status quo.

Now, there are five FCC commissioners who decided this ultimately in a 4-1 decision. On the commission there are five commissioners. Two are Republicans, and three are Democrats. They voted 4-1 in favor of what the gentleman from Louisiana (Mr. TAUZIN) has tried to do.

So, in this case, two Democrats on the commission who have all the information that is necessary and understand it much better than the gentleman from Massachusetts (Mr. MARKEY), perhaps better than anyone else

here, voted with the gentleman from Louisiana (Mr. TAUZIN). They felt the status quo and the precedent had been established and that they did not want to have government-based content.

In my home State of Florida there are three stations, one out of Boca Raton, Ft. Pierce, and Jacksonville, 24-hour a day with religious broadcasting. More than 125 noncommercial television broadcasters would be forced to completely drop their programs.

Under the amendment of the gentleman from Massachusetts (Mr. MARKEY), it would be almost impossible for a broadcaster to walk this line created by his bill. In fact, we had a hearing. Ms. Tristani, who is one of the commissioners, was asked to actually tell us if she could determine what was educational and what was religious broadcasting. And she admitted she could not.

In fact, I asked her during the hearing, would a TV show on collecting comic books or wrestling magazines be educational or not. She could not answer. Instructions on living with the Ten Commandments, is that religious or is that educational? Shows on collecting pet rocks. In all three cases, she had no idea whether that was educational or religious broadcasting. And that shows the confusion that people would have to culturally decide what is educational and what is religious broadcasting.

Let me quote from Furchtgott-Roth, who is one of the commissioners. He said, "The scariest moment, the most frightening moment, the most chilling moment" in all of his tenure at the FCC is when his staff asked him if he wanted to review videotapes to make the decision whether it was educational or religious. And he went on to say, "I will never support any move to have the Government in a position of deciding whether programming fits into any one pigeon hole or another."

So if my colleagues want more FCC regulation, then vote for the Markey amendment. If they believe in restricting, changing the precedent changing the status quo, then they should vote for the Markey amendment.

I believe, actually, the Markey amendment is unconstitutional because it allows the Federal Government to scrutinize and grade the content of religious broadcasting. It would insert the word "educational" in front of "religious broadcasting," which would give the FCC discretion to determine whether religious broadcasting is, in fact, educational.

I think it creates a loophole for allowing the FCC to continue to regulate unabashedly in this country and avoids the original intent of H.R. 4201.

So I ask my colleagues to vote no for the Markey amendment and yes for the Tauzin bill and understand that when they are voting for the Tauzin bill, they are voting for the present status

quo, the tradition which has existed in this country for so many years.

Many of us believe the FCC should be reformed. We do not have an FCC with the computer industry. With all the information we have coming to Americans today, up to 250 channels through direct satellite broadcasting, wireless, the Internet, cable, and all the myriad of new innovations that are coming, do we need the FCC standing in the gap and saying to Americans this is what they will watch and this is what they will not watch?

In fact, we probably should go back to the licensing of educational broadcasting stations and reform that because of the information that is available.

So I urge no on the Markey amendment and yes on the Tauzin.

Mr. MARKEY. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I do thank my good friend from Massachusetts (Mr. MARKEY) for yielding me the time, and I hope the House has been listening to him.

Mr. Speaker, if my colleagues want to start the religious wars, if they want to create all manner of trouble, if they want to put together a piece of legislation that is going to bring the Government into real conflict over religion, if they want to have a massive amount of trouble at some future time when the broadcasters and the people and the religious institutions in this country find out what we have done, then, by all means, vote for this legislation.

First of all, this legislation is opposed by religious groups who are smart enough to know the evil that we are sowing amongst ourselves today. That includes the National Council of Churches of Christ in America and a large number of other religious institutions which know that they do not want Government in their business.

Second of all, it is fully possible for a religious broadcaster to purchase a station which they can use for religious purposes in any fashion they want. It is also possible for them to bid on an educational station and to simply establish that they will provide good educational services in addition to religious services. They are doing that all over this country and are exercising that right. No one has been kicked off.

The FCC, in its great folly, and I want to point out I was as critical of the FCC on that matter as was anybody else in this Chamber, has withdrawn the rather silly set of rules which they were proposing. So there is no threat to religion, no threat to religious broadcasters under practices as they exist today.

Now, I would point out that what this does is to give essentially a situation to the American people in which, first of all, anybody who calls himself religious or a religious institution can

proceed to go about getting one of these. And let us talk about who would receive special preference and special treatment under this.

The World Church of the Creator, a White Supremist Institution; the Aum Supreme Truth, that is the institution which gassed the Japanese subways; the Branch Davidians and Mr. David Koresh; Heaven's Gate, where there were suicides in March of 1997 outside of San Diego; the People's Temple, run by Mr. Jim Jones, who poisoned people with Kool-Aid. These are all subject to very special and preferential treatment under the legislation which is presented to us today.

The Movement for the Restoration of the Ten Commandments of God in Uganda, where, on March 17 of this year, some 1,000 people were killed. Charles Manson and family, who had a religious mission we are so told. Satanism would qualify because it is a religion. And witchcraft or the local coven could seek to get special preference under this.

The result of this kind of situation is the FCC is shortly going to be compelled to come forward and to hold comparative proceedings between religious institutions. This is something which the FCC since its creation has prudently, carefully, wisely, and successfully avoided.

The practical result of comparative proceedings between two religious groups or between a religious group and an educational group, without having clear definition of what the purposes of the legislation are or what must be the defined behavior of the applicant, is to create a massive opportunity for real religious difficulties and troubles which will come back to plague not only this Chamber but the people of the United States.

I think that the amendment offered by the gentleman from Massachusetts (Mr. MARKEY), which will shortly be before us, is perhaps a way out of this thicket because it again restores the responsibility of the FCC to see to it that the judgment on channels which are now educational, and they are required under law to be educational but may also be religious, is the way to resolve the problem to keep the FCC and this Congress and this Government out of the business of making selections with regard to whose religion will receive a preference in terms of receiving a license to broadcast on airwaves which are a public trust.

If we want to get away from that, then vote for the bill and vote against the Markey amendment; and we are going to have all kinds of trouble, and there are going to be lots of red faces around this place; and lots of people who are going to be trying to lie out of what it was they did at some prior time.

Now, I repeat, I am no defender of the FCC. I have gone after them harder

than anybody else in this institution and with excellent good reason. And I think their original judgment in this matter was wrong. But they have withdrawn that and that issue is no longer.

I would observe that to do what we are doing here is no correction of anything which is wrong in broadcasting. Religion broadcasters can now broadcast under full license of the FCC. There are no end of religious broadcasters who are running religious and educational stations who have gotten the right to do that under the regular practices now in force. There is no reason to change that. And they broadcast both educational, they broadcast cultural things, like music. And they also broadcast religion, something which I applaud.

There is no threat to religious broadcasting in this country at this time. The FCC has withdrawn anything which offered any peril to religion broadcasters and to the use of our airwaves for religious purposes. But to take this legislation and to put the FCC in a position of having comparative hearings over the question of who is going to broadcast should gray the hair of anybody in this Chamber.

I urge colleagues to vote against the bill, vote for the Markey amendment, and to support the views that are held and brought forward by responsible religious groups and religious broadcasters.

H.R. 4201 purports to correct a particularly unwise decision made by the Federal Communications Commission last year. As many Members are aware, I am not generally known to be a great fan of the FCC. It is an agency that often blunders badly, and this mistake was certainly no exception. However, what makes this FCC foul-up unusual is that the Commission admitted its error and quickly corrected it.

So why is this bill before us? The sponsors say that legislation is needed to make sure the FCC does not make the same mistake again down the road. Ordinarily, I would agree. A prophylactic measure often is called for when dealing with an agency—like the FCC—that seems to take great sport in pushing the limits of its authority on a regular basis.

Unfortunately, the bill before us is not a simple prophylactic measure. It goes well beyond its stated purpose. In fact, it could not be clearer from the text that its drafters intend to fundamentally change the character of public broadcasting in this country.

For nearly 50 years the government has set aside specially reserved radio and television channels for public, noncommercial use. These channels are available to qualified organizations free of charge, with a catch. The catch is that these groups must have an educational mission, and must broadcast some educational programming.

This bill would change all that. It would actually abolish the educational requirement for public television programs. The bill's sponsors seem to think that promoting education is too much to ask of groups that receive this special license.

The fact is that the majority of Americans support public broadcasting as we know it today. An even greater number believe that education should be among the nation's top priorities. This bill manages to eviscerate not one, but both of these important American values in one fell swoop.

The bill suffers additional infirmities. It contains no definition of "nonprofit organization" or "religious broadcasting" to help determine who is eligible to receive this special license. As a result, any religious extremist or cult group would be eligible for a noncommercial license—at the expense of the American taxpayer—and program anything it sees fit, whether educational or not.

Hate speech, religious bigotry, and doomsday prophecies are all fair game, so long as the group asserts a "religious purpose." Parents who today rely on public television as a safe haven for their children may have nowhere to turn if this bill is enacted. Sesame Street and Mr. Rogers' Neighborhood could be displaced by programming produced by cult leaders like Jim Jones and David Koresh—each of whom would have been eligible to receive a specially reserved television channel under this bill.

The Markey amendment, which will be offered later, is an extremely simple, but significant, improvement to this legislation that I support. I would note a particular oddity in the underlying bill. While it eliminates the educational requirement for public broadcasting, the drafters still use the term "noncommercial educational license" throughout the text. The Markey amendment would simply restore proper meaning to this term by requiring an educational commitment of all public broadcasters—religious or secular—who hold this special license.

I urge my colleagues to support the Markey amendment and oppose H.R. 4201 as reported.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds to correct the RECORD.

Mr. Speaker, nothing in this bill creates a requirement on the commission to do comparative hearings to decide which religious broadcaster get a station. Nothing could be further from the truth.

The current law which is incorporated in this bill has a four-point system that is purely sectarian, has no religious connotations at all. It deals with diversity, statewide networks, technical parameters, and establishes local entity points that are awarded to the winner of these licenses, totally no connection at all to whether or not this entity is religious.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HALL), who is in support of the legislation.

□ 1130

Mr. HALL of Texas. Mr. Speaker, I rise today in support of the Noncommercial Broadcasting Freedom of Expression Act. It is a bill, as has been said here many times, that will ensure that Americans are going to continue to enjoy the broadcasting of church

services and other religious programming that is on our Nation's broadcast channels. I have high regard for the gentleman from Michigan (Mr. DINGELL) who just spoke. He named off a group of people that really should not have had access to the channels. They did have. But of the 12 the Master picked, one of them was bad, that was Judas, and that is about the only one most people can name.

This is a bill that would preserve the freedom of religion and religious expression, and I think prevents the FCC from regulating the content like they did some time back.

H.R. 4201 is an outgrowth of a decision by the FCC that would have restricted religious broadcasting on television. This action, and I think it was done without the benefit of any public comment or any congressional input, I believe it was done December 28 or 29 when Congress was not even in session and Congress was not even in town, would have forced some religious television broadcasters to either alter their programming or risk losing their licenses. The FCC ruling was wrong from both a procedural and a constitutional standpoint. It would have set a dangerous precedent that would have suppressed religious broadcasting and narrowed the definition of what is considered educational.

In response to this ruling, several of us got together and thousands of Americans in protesting the action of the FCC and called for an immediate reversal of this ruling. Now, something happened after we made that calling and that insistence. The gentleman from Mississippi (Mr. PICKERING) was among those, the gentleman from Ohio (Mr. OXLEY), and others of us. The FCC backed down on it. And unless they were definitely and totally wrong not only in their action but in how they took that action, they would not have taken that backward step. I also joined several of my colleagues in cosponsoring the Oxley bill, the Religious Broadcasting Freedom Act, which could have required the FCC to follow established agency rule-making procedures.

H.R. 4201 is an outgrowth of these efforts and goes a step further by making it a little bit easier for religious broadcasters to obtain noncommercial educational broadcast licenses. I am pleased to join the gentleman from Mississippi (Mr. PICKERING) and others on both sides of the aisle as a cosponsor of this important legislation.

In closing, we need this bill to ensure that there will be no erosion of freedom of religious programming in America. Mr. Speaker, we need this bill to ensure that Americans will continue to enjoy the religious broadcasting that they have come to depend upon. And we need this bill to ensure that the Federal Government does not become involved in regulating content of our broadcast programming.

I urge my colleagues to vote to uphold freedom of expression by voting in support of H.R. 4201 as it is now written.

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume in conclusion on this portion of the debate.

The gentleman from Louisiana contends that there will be no comparative test that has to be put in place by the Federal Communications Commission in order to determine which one of two religions is better qualified for the maintenance of a particular public television station in a particular community. But the reality is that once his language is adopted, once a television station, a public television station, can be primarily religious, then necessarily that test is incorporated into the historical set of criteria which must be looked at by the Federal Communications Commission to determine which potential applicant is more qualified to operate a public television station in a particular community.

In other words, Federal Communications Commission which historically has meant Federal Communications Commission, will be changed from FCC, Federal Communications Commission to FCC, Faith Content Commission. The FCC will have to determine which of the two religions is better qualified to run a public television station.

Now, do we really want the FCC to be in the business of determining which religion is better qualified, which one is more primarily religious in its operation of a public television station? I do not think we really want that. I think that the historical standard of which of the applicants will better serve the educational needs of a community is the standard which we should maintain, it has served our country well, and it is one which I believe once the debate moves to the Markey amendment will be better understood by all who are watching it, and ultimately I think, hopefully, supported so that we can maintain that status which has served our country so well.

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

Mr. TAUZIN. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. COX), a member of the Committee on Commerce.

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from California (Mr. COX) is recognized for 2 minutes.

Mr. COX. Mr. Speaker, I agree with essentially all of the arguments that were advanced by the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Michigan (Mr. DINGELL) just now in opposition to this bill because everything that they said makes sense. We ought not to have the FCC become the Faith-based Content

Commission. The reason we are here on the floor is that that is exactly what the FCC tried to do.

Six months ago, the FCC ruled that church services would not qualify as general education programming. Six months ago, the FCC ruled that the broadcast of religious views would not constitute educational programming. The FCC ruled that the broadcast of religious beliefs would not qualify as educational programming. The FCC put this out in the form of a rule. They, not the Congress, put the word "religion" into the test for whether or not you could get a broadcast license. And so this legislation is necessary to take away that discretion. So much for the arguments made by the gentleman from Massachusetts.

The gentleman from Michigan then says, "Well, it's not necessary to be here on the floor because the FCC has withdrawn their stupid rule," and many of the minority who spoke against this bill called the FCC's action stupid. It was withdrawn, they said, because the FCC should not have ventured into this area. This legislation is necessary to take away power that the FCC apparently thinks it has, but no one in the majority or the minority wishes them to have, to adopt such a significant policy change as they attempted to do here to take religious broadcasting off the air without any public notice or input.

We should vote for this legislation for this reason. Here is what it says: The Commission should not engage in regulating the content of speech. That is what this is all about. Vote aye.

Mr. POMEROY. Mr. Speaker, I rise in opposition to H.R. 4201, the Non-Commercial Broadcasting Freedom of Expression Act. This legislation eliminates the educational requirement from non-commercial public radio and television stations that receive free spectrum. This program was created by the Federal Communications Commission (FCC) nearly fifty years ago to serve the needs of our communities and provide educational programming to all of our families. I simply cannot watch this scarce and valuable resource be endangered by this bill. Pressure for spectrum is more intense than ever. I believe it is important to maintain the longstanding commitment to programs of broad public educational content.

As it stands, religious broadcasters are currently eligible for a license for non-commercial educational (NCE) broadcast television channels if they can demonstrate that their programming will be "primarily educational" in nature. H.R. 4201 eliminates the requirement that programming have an educational content.

This bill would set the stage for unwelcome government interference into religion. It would place the FCC in the untenable position of picking between

competing claims of various denominations and religions—a dangerous precedent in which the government would be expressing a preference of one religion over another. With this legislation, the FCC would be forced into a position in which it must choose between two opposing religious groups that are competing for the same license. This is in clear violation of the First Amendment. Moreover, the elimination of the educational requirement opens the door to allow any fringe group in America to qualify for a free broadcast license.

Some have said that the Non-Commercial Broadcasting Freedom of Expression Act was spurred on by a misguided ruling on the part of the FCC this past December. The FCC approved Cornerstone TeleVision Inc.'s application for an NCE license with "additional guidance" intended to clarify the current standards and stating that at least one-half of Cornerstone's broadcasting needed to meet an educational purpose. The FCC also offered guidance as to what constituted educational programming. After a great deal of criticism from across the political spectrum for the undue meddling of the FCC, the agency rescinded the "additional guidance" section of the license approval offer. The problem had been solved. Yet, this legislation, which aims to prevent undue government interference in the future, creates a new problem as the FCC determines which religious organizations warrant a license and which do not.

Mr. Speaker, the whole proposition raises many troubling questions which leaves me convinced we are better off under present law. I fully support religious organizations being eligible to apply for and receive non-commercial broadcast licenses as prescribed under current statute. Many of these organizations are already broadcasting educational programming successfully and adding to our greater understanding of faith and religion. The goal here is to preserve the integrity of a program that brought our children high quality shows such as Sesame Street and Mr. Roger's Neighborhood. At its very core, public broadcasting was meant to have an educational purpose. To eliminate that provision is to place this entire program at risk.

Mr. BLILEY. Mr. Speaker, let me start by thanking my colleagues from the Commerce Committee, Subcommittee Chairmen TAUZIN and OXLEY as well as CHIP PICKERING, for their hard work on this important issue.

Last December, while we were all back in our Districts for the holidays, the FCC attempted to get into the business of determining acceptable programming for public broadcasters.

Included a decision regarding a specific radio station in Pittsburgh, the FCC created "additional guidelines" that could have had sweeping changes to the way many broadcasters operate.

The FCC tried to claim that the changes were simple clarifications.

Further, the FCC also tried to make these changes without appropriate notice and comment.

The fact is that some in the FCC wanted to make the statement that religious expression is not educational and thus calling into question the noncommercial broadcast licenses held by religious organizations.

The truth of the matter is that these changes were more than clarifications. Beyond bad policy, the FCC's failure to allow the general public a chance to comment is equally harmful.

And criticism of these changes was universal. In fact, the outrage was so overwhelming that FCC rescinded their order in twenty-nine days. The FCC knew it was in the wrong and quickly tried to get out of the mess.

But what happens if in the future the FCC tries the same thing? What happens if instead of an explicit policy, the proposed additional guidance is implicitly used by staff behind closed doors?

It is now up to Congress to make sure something like this doesn't happen again. We have a responsibility to prevent the FCC from making content regulations for religious broadcasters using our nation's airwaves. We can achieve this today by passing H.R. 4201.

We are here not because the Federal Communications Commission simply made a mistake. We are here to make it abundantly clear that the FCC shall not have authority to impose such requirements now, or in the future.

Congress must act now and H.R. 4201 is the right legislation. I urge all Members to support this bill.

The SPEAKER pro tempore. All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MARKEY:

H.R. 4201

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Noncommercial Broadcasting Freedom of Expression Act of 2000".

**SEC. 2. CLARIFICATION OF SERVICE OBLIGATIONS OF NONCOMMERCIAL EDUCATIONAL OR PUBLIC BROADCAST STATIONS.**

(a) SERVICE CONDITIONS.—Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

"(m) SERVICE CONDITIONS ON NONCOMMERCIAL EDUCATIONAL AND PUBLIC BROADCAST STATIONS.—

"(1) IN GENERAL.—A nonprofit educational organization shall be eligible to hold a noncommercial educational radio or television license if the station is used primarily to broadcast material that the organization determines serves an educational, instruc-

tional, cultural, or educational religious purpose (or any combination of such purposes) in the station's community of license, unless that determination is arbitrary or unreasonable.

"(2) ADDITIONAL CONTENT-BASED REQUIREMENTS PROHIBITED.—The Commission shall not—

"(A) impose or enforce any quantitative requirement on noncommercial educational radio or television licenses based on the number of hours of programming that serve educational, instructional, cultural, or religious purposes; or

"(B) impose or enforce any other requirement on the content of the programming broadcast by a licensee, permittee, or applicant for a noncommercial educational radio or television license that is not imposed and enforced on a licensee, permittee, or applicant for a commercial radio or television license, respectively.

"(3) RULES OF CONSTRUCTION.—Nothing in this subsection shall be construed as affecting—

"(A) any obligation of noncommercial educational television broadcast stations under the Children's Television Act of 1990 (47 U.S.C. 303a, 303b); or

"(B) the requirements of section 396, 399, 399A, and 399B of this Act."

(b) POLITICAL BROADCASTING EXEMPTION.—Section 312(a)(7) of the Communications Act of 1934 (47 U.S.C. 312(a)(7)) is amended by inserting "other than a noncommercial educational broadcast station," after "use of a broadcasting station".

(c) AUDIT OF COMPLIANCE WITH DONOR PRIVACY PROTECTION REQUIREMENTS.—Section 396(1)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(1)(3)(B)(ii)) is amended—

(1) in subclause (I), by inserting before the semicolon the following: "and shall include a determination of the compliance of the entity with the requirements of subsection (k)(12)"; and

(2) in subclause (II), by inserting before the semicolon the following: "except that such statement shall include a statement regarding the extent of the compliance of the entity with the requirements of subsection (k)(12)".

(d) IMPLEMENTATION.—Consistent with the requirements of section 3 of this Act, the Federal Communications Commission shall amend sections 73.1930 through 73.1944 of its rules (47 C.F.R. 73.1930-73.1944) to provide that those sections do not apply to noncommercial educational broadcast stations.

**SEC. 3. RULEMAKING.**

(a) LIMITATION.—After the date of enactment of this Act, the Federal Communications Commission shall not establish, expand, or otherwise modify requirements relating to the service obligations of noncommercial educational radio or television stations except by means of agency rulemaking conducted in accordance with chapter 5 of title 5, United States Code, and other applicable law (including the amendments made by section 2).

(b) RULEMAKING DEADLINE.—The Federal Communications Commission shall prescribe such revisions to its regulations as may be necessary to comply with the amendment made by section 2 within 270 days after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 527, the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from Louisiana (Mr. TAUZIN) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I yield myself such time as I may consume. This amendment is very straightforward and very simple. It restores the word "educational" in two key areas. First, in establishing eligibility to obtain a noncommercial educational license, a public TV station, it stipulates that one must not merely be any nonprofit organization but rather a nonprofit educational organization.

Secondly, it restores the educational basis for the programming by adding the word "educational" before the word "religious" in the underlying legislation.

The point here is that noncommercial educational licenses should have an educational basis. If we do not pass the Markey substitute, the underlying bill has the effect of gutting the educational basis for public television because it would permit religious programming to qualify for such licenses 24 hours a day, 7 days a week.

Now, many of us would be very happy to have religious organizations broadcast in our communities, and many do so today under commercial licenses. A few also do so on noncommercial educational licenses, yet adhering to the educational requirements that such licenses hold. Nothing in this amendment would prevent religious programming. It simply states that in order to have a public TV license, a noncommercial educational license, you must be primarily educational in your programming.

I know that we have a difference of interpretation of what the sponsors of the bill believe their bill does. The sponsors believe that their bill does not change the eligibility requirements and operational requirements of noncommercial educational licenses, that is, public TV stations across the country. I continue to believe that the deletion of the word "educational" from the eligibility requirements so that noncommercial educational licenses are able to be licensed to any nonprofit organization as well as the inclusion of the word "religious" as a category of broadcast material for which these licensees must primarily serve their communities is a fundamental change.

The FCC has indicated that some religious programming will certainly qualify as educational. It always has. But we must remember that we have set these broadcast licenses aside to serve the community with educational programming. We have exempted these licenses from the auction process.

Again, that is not to say religious organizations cannot be noncommercial educational licensees. Many already hold such licenses under the current licensing regime. The only question is whether we are going to change the nature of the trusteeship of the public's spectrum. Again, these are our public

airwaves. We ought to ensure that these licenses that have been specifically set aside to serve the community, the entire community, with educational, noncommercial programming serves to the maximum extent possible the educational needs of the whole community. Religious organizations can certainly fulfill that role. We welcome them in that role. But we do not have to change the eligibility and operational requirements for them to effectively participate.

Again, I believe that we tread on very dangerous ground where sectarian messages intended for the followers of a particular religion are licensed to displace nonsectarian educational messages intended for the entire community. Again, I believe we go too far where the government favors religious messages by specifically blessing them by exempting them from spectrum auctions.

My amendment simply restores the educational focus for these licenses, and I hope that the House supports it.

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

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

Mr. Speaker, let me first say the gentleman from Massachusetts' amendment is not simple at all. It is not simple at all. By reinserting the word "educational" in front of the word "religious," what the gentleman from Massachusetts is doing is giving the FCC the authority to decide which religious programming is educational enough according to their standards. That is precisely what they tried to do in December. It is precisely the wrong, stupid action they took in December that even my colleagues on the other side have condemned as stupid and for which they turned around with a 4-to-1 vote and reversed themselves. This amendment would give them the power to do it again. And at least one of the commissioners said, given the chance, she will do it again, she will put the commission in the business of deciding which religious program, which religious message is educational enough to satisfy a Federal bureaucrat.

□ 1145

If it is not, the license can get pulled. Would that not be wonderful in America? Would we not be really blessed to have this amendment in the law, to give five federally appointed bureaucrats the right to say which religious messages are okay on these noncommercial stations and which are not?

Now, the gentleman will make us believe that there are only a few of these stations, just a little rare exception somewhere. My friends, there are 800 to 1,000 religious radio broadcasters holding noncommercial licenses today in radio. All across America, there are religious organizations and family groups

who have religious programming on these stations, and nobody until December, nobody in Washington had the nerve, had the audacity under our Constitution to suggest that they knew better than those programmers what was good religious programming, what was educational enough to satisfy the bureaucrats up here in Washington.

Like bureaucrats in Washington know the value of religion in our homes and in our communities. Let me tell you where these stations are, they are across America. There are 23 religious television stations in America, 23, I say to the gentleman from Massachusetts (Mr. MARKEY), not just a few.

There is one, for example, in Takoma, Washington, the Korean American Missions Incorporated. There is one in San Antonio, Texas, the Hispanic Community Educational TV, Incorporated. There is one in West Milford, New Jersey, Family Stations of New Jersey, Incorporated; The Word of God Fellowship in Denver, Colorado. They are across America.

There are stations that own these noncommercial licenses and do religious broadcasting for the good of this country and the good of families all over America; and the bureaucrats in Washington would like the right to put them off the air because their religious views are not educational enough to satisfy whatever the standards of five commissioners sitting at the FCC are.

For heaven's sake, do we really want to give them that power? If we really do, adopt this amendment; that is what it does. If we want to take the power away from the FCC to decide whether a religious message or program or religious church service is educational enough to meet these standards, whatever they are, then vote for this bill; that is all it does.

It simply says for the future the FCC can no longer try to do the stupid thing they tried to do in December and the thing they would be allowed to do if the Markey amendment is adopted. We need to defeat this amendment and pass this bill.

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

Mr. MARKEY. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I rise in support of the Markey amendment, and I urge my colleagues to do the same. The bill we are voting on today is quite simply an overreaction. The FCC attempted to clarify a rule. It then made a controversial decision and subsequently withdrew it, as they should have.

Today, my Republican friends at the behest of conservative religious groups are seeking to make sure that the FCC can never again venture into this area. They are seeking to use the power of the Congress to write a statute that fences the FCC off from this area.

Now, some may think this is the way that the Congress should spend its time. I think the FCC acknowledged that it made the mistake that it did; but it is overreaction, because the bill goes even beyond overreaction.

The bill is showpiece legislation for religious groups in my view. It is unnecessary. It is very, very poorly drafted, and it creates a bad precedent; but these are not criteria which exclude us from considering it. It goes beyond that.

The bill contains a very dangerous constitutional flaw. It opens the door for religions to qualify for a free noncommercial educational license provided at taxpayer expense.

We should strike that portion of the bill, by at least passing this amendment. Without this amendment, in my view, the legislation makes clear that the majority intends to change the fundamental nature of public broadcasting in America.

No longer will anyone have to prove their educational mission to obtain an educational noncommercial television license.

That standard will be changed. It will be relaxed to require only that a religious purpose exists. And how will the FCC define that religious purpose? It cannot; because the Government really has no business defining it. Therefore, anyone calling itself a religion can qualify; anyone including cults and charlatans that have called themselves prophets and even some that spread hate in our country, people like David Koresh, and Jim Jones others.

I do not think the Congress wants that. I do not think the country wants that. Mr. Speaker, without this amendment, the bill will present the FCC with the choice of choosing between religious groups. On its face it presents an unconstitutional predicament for the FCC.

In practice, it will allow potentially anyone to qualify for this free license. I appreciate the intent of those that support this bill. Many Members on the Committee on Commerce expressed what I think were somewhat sincere views. Protecting religious expression is not only a worthwhile objective for this Congress, it is our duty.

Remember the oath that we all took, when we were sworn in. Mr. Speaker, we should pass this amendment, if we do not, we will be passing legislation that will be overturned as unconstitutional. And more importantly, if we do not, we are providing television time and taxpayer money to underwrite religion. This is a slippery slope of government sponsorship of religion itself.

Mr. Speaker, I urge support of this amendment. It makes sense. It is good for the country. We do not need to be taking up the time of the Court to strike down the unconstitutional work of the Congress.

Mr. TAUZIN. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, again, to correct the RECORD, without the Markey amendment, the legislation, standing as it is, does not create any new standards to judge these licenses. The legislation codifies the words and the status quo, the old standard, the commission always used until December. It simply says that they will yield to the discretion of the religious broadcaster in its own programming, unless that discretion is exercised in an arbitrary or unreasonable manner, and they have always had that standard, that is, the standard in this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Mr. Speaker, I rise in opposition to the Markey amendment. It is always a good debating point to set up a straw man. In this case, my friend from Massachusetts (Mr. MARKEY) sets up this straw man as being some kind of a cult that would somehow get a noncommercial license and proselytize through that operation.

I would simply say to my friend from Massachusetts (Mr. MARKEY), that the legislation that was debated in committee, now being debated on the floor, is pretty clear, that unless it is unreasonable or arbitrary that the decision by the broadcaster will maintain and, in fact, that is the way it was from time immemorial until the FCC in this middle-of-the-night decision over the holidays determined that they would use a rather ordinary license swap to try to maintain their ability to determine what content was in the area of religious broadcasting; and had it not been for the Congress and Members of the Committee on Commerce acting quickly to point out what problems that decision would bring, had it not been for that outcry and the outcry from the people of this country, the FCC would have never decided to rescind that decision.

This bill makes certain that no matter who is at the FCC, no matter who appoints an FCC in the future, that these kinds of arbitrary decisions based on educational or cultural content basically determining what that content is by the Government shall not maintain, and that is really why this legislation is absolutely necessary.

If I was confident that in the future any FCC would follow the standard procedures that they had in the past and license swaps and decisions on licenses, I would feel a lot more comfortable. But I have to say that we have evidence to the contrary. Three FCC commissioners, the three Democrat FCC commissioners made the determination that they would determine what content in religious broadcasting was all about.

We are, indeed, representatives of the people. The FCC, despite being an independent agency, is essentially bureaucrats that interpret the law. We write the laws, so this legislation sets us

back where we were very comfortably before understanding what the purview of the status was and understanding the role of the FCC.

Ultimately, the FCC cannot, should not be an arbiter of what content is in this form of broadcasting, and that is ultimately what this decision is all about.

I do not know whether my friend from Massachusetts (Mr. MARKEY) supported the original decision by the FCC or the decision to overturn it, but I do know where he stands on this issue. This legislation is absolutely critical.

Mr. MARKEY. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I have never met a group of people who so were irked by the possibility of straw men being set up, who have demonstrated such massive talent to create a straw man, and I want to salute my good friend from Ohio for his ability to create a straw man. His straw man is the FCC. Now, the FCC has totally withdrawn the order. I opposed it; the gentleman from Massachusetts (Mr. MARKEY) opposed the order. The order is no longer a reality; it is gone.

The FCC is still the skunk at the picnic. Now, I have been more critical of the FCC than anybody in the body. I am quite delighted to castigate them when they are wrong. The simple fact of the matter is, they are not a factor in the debate before us.

Now, let us look at what the amendment does. It inserts the word educational in two places in the legislation, one at page 4 and one at page 3; and the purpose of that is to see to it that the organizations which seek this are, in fact, setting it up for educational purposes and that they are, in fact, educational organizations. That is what existing law is.

Mr. Speaker, the practical effect of this is to assure that the FCC will not be compelled to hold comparative hearings, as they must do when there is a contest, to choose between two different religious organizations, or between a religious organization and a secular organization.

I think if this country wants to proceed down the path of triggering the religious wars, which have plagued this race of men, and I am not talking about in the United States, but in England, to set up a situation where government is going to have to choose between religions, between religious teachings or between applicants who might have a religious purpose, is probably the finest way to return to the unfortunate days of the religious wars.

Mr. Speaker, what happens if several religious organizations apply to the FCC to get a license to broadcast under the bill as it is drawn? Then the FCC must commence a process of comparative hearings which will then choose. Now the only thing these applicants

must do under the legislation which is before us is to set out that their purpose is to teach certain kinds of religion.

Mr. Speaker, I do not know which one it would be, but that would be then the problem before the FCC, which religion? Which religious groups? Which religious tenets must they choose?

I would note that the amendment offered by the gentleman from Massachusetts (Mr. MARKEY) generally restores existing law. It does not make possible the FCC to return to its follies which have triggered this sorry mess, but I would note for the benefit of my colleagues on the other side that it prevents the FCC from making a decision on religious grounds.

It also prevents the courts from having before them a question which is bottomed on a religion-based application by an applicant for a particular license and for a particular wave length.

Now, I think we ought to understand that this is not the kind of choice that we want to have made in this country. Government must stay out of religious matters and leave these as private judgments to the people who wish to believe and to allow them to choose that which they believe without any kind of government preference.

Now, it would appear that this is some question of religion against secularism. Nothing is further from the truth. I would remind my colleagues that there are many religious broadcasters who oppose the legislation and who support the principles of the Markey amendment, not the least of whom are the National Council of Churches of Christ in America, the Interfaith Alliance, and the Unitarian Universalist Associations of Congregations.

I would note something else. We are not without a prospering group of religious broadcasters; there are over a thousand of them. They have a regular program of mailing and discussing issues with Members of Congress.

□ 1200

I have met with my religious broadcasters; and I receive large amounts of mail, which I respond to as courteously and carefully as I know how. They are a valuable force in our community, and they are not threatened by either the status quo or the Markey amendment. The responsible ones amongst them will agree, there is no peril to them.

If you want to put government in the midst of picking religions, picking religious broadcasters, supporting religious tenets and teaching, and opposing to others, to vote for the bill as it is submitted is a fine way to accomplish that purpose.

If you want to see that government stays out and that we take care of not only religious broadcasters, as they should in a fair and proper way, but that we take care of education, because I would remind my colleagues, this is a

raid on the educational broadcasting system, the educational broadcasting networks and upon public broadcasting, I would point out if this legislation is passed, you are going to find any imaginable form of religious crank or crackpot to come forward to claim priority in terms of religious broadcasting licenses. Reverend Koresh, Jim Jones, any one of many, can come in and then force your government, your agency, the FCC and this Congress, to address who is entitled to a broadcasting license.

Mr. TAUZIN. Mr. Speaker, the Chair is pleased to yield 5 minutes to the gentleman from Mississippi (Mr. PICKERING), the author of the legislation.

Mr. PICKERING. Mr. Speaker, again I rise, this time in opposition to the Markey amendment. Let me do two or three things: One, establish what the real agenda is in this case; establish the record; and then talk a little bit from personal experience.

One, what is the agenda? What happened in the case that was decided in December, the license in Pittsburgh? After the guidelines came out, the Pittsburgh station, the religious broadcaster withdrew its application because it did not want to submit itself to the FCC guidelines.

The real agenda here is to banish, to remove, to exclude, the religious voice, the religious broadcasters, from non-commercial licenses, educational licenses. The gentleman from Massachusetts has been very clear. He sees this as public, as educational, not as religious. They have plenty of commercial space, but they should not be on the public and the educational. He does not see them as performing an educational role, a cultural role or instructional role. The agenda is clear: Banish the religious voice from the non-commercial spectrum.

If there is a public park, do not let the religious children play. Make them go to the commercial strip mall, and that is the only place we will let them play. But not in the public park. There is no place for the religious voice in our park.

Now, we are all somewhat motivated and guided by our own personal experiences. I think many on the other side look at the religious discrimination and religious bigotry and religious bias that has occurred in our history and they see the religious practices as dangerous devices.

I have to admit I come to this floor with great concern and disappointment in my heart. I have great respect for the gentleman from Massachusetts and the gentleman from Michigan, but what has taken place today on this floor is that they try to take the worst examples, the David Koreshes, the Jim Joneses, and they demonize and they isolate and they marginalize the religious voice.

They take the whole group of religious broadcasters, and there are over

800 non-commercial religious broadcasters today on radio, and there is not one case, not one case that they can cite of any extreme, hate or group that has not behaved responsibly in performing their public interest, their community service, their educational, their cultural, their instructional roles and responsibilities in the community. Not one example.

In the Supreme Court case, *Peyote*, the Supreme Court said there is no government obligation to protect those who incite hate or who incite violence. So if there is a David Koresh or if there is a Jim Jones who wants this license, they will not be protected under Supreme Court precedent and under the language of our legislation.

Look at the report language: “. . . that the organization determines serves an educational, instructional, cultural or religious purpose in the station's community of license.” The new section also mandates that such determination by the broadcaster may not be arbitrary or unreasonable. If it is a hate-based, extreme group, they will be viewed as unreasonable and arbitrary. They will not be able to maintain their license if they are those types of groups.

But by tainting those who are responsibly serving their community now, I think it is frankly wrong, and it is doing exactly what those on the other side hate. They are demonizing, they are marginalizing, they are isolating, which then leads to discrimination.

The religious voice in the public square or in the public park is good for our country. It has been that way from our beginning, it is that way today, and we simply want to protect and preserve that and prohibit the FCC from coming in and regulating and controlling and stifling religious expression.

The gentleman from Michigan and the gentlewoman from California say that the Markey amendment will simply return us to the past precedent, the past practice. That is not the case. It will return us to the FCC guidelines issued in December, which they both said was wrong, which led to a regulatory regime of a speech police at the FCC, determining what is and what is not acceptable or unacceptable religious speech, what is educational in their eyes.

I urge all of my colleagues, let us not divide, let us not demonize; let us protect our fundamental history and legacy of religious liberty. There are those that are now performing vital roles in their communities. Let us not prevent them from doing so in the future.

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, again, let me come back to clarify once again. Under existing law, religious broadcasters are able to operate public television stations in

the United States. However, they do so accepting the responsibility that they must serve primarily the educational needs of the entire community, although they are free to also broadcast their own religious beliefs. But, primarily under existing law, they must serve the educational needs of the entire community.

Under the bill being proposed here today, that very same religion will now be freed up to broadcast exclusively their own religious beliefs, 24 hours a day, 7 days a week. Now, that is a big change, a big change, in the history of public broadcasting in our country.

No one has any objection to the existing religious broadcasters on non-commercial educational broadcasting stations. No one has any objection to the existing standards continuing to be used in order to define whether or not they are serving the community well. But we do object to the standard which the majority is seeking to propound here today, which, in my opinion, will be a violation, an encroachment, on the establishment clause of the United States Constitution, of the first amendment, which creates a very strong line of demarcation between the state and religion.

Here a public broadcasting station will be used by an individual religion to propound primarily religious messages all day long on a public broadcasting station, and I think at the end of the day that is wrong and it is something which should be rejected, as the Markey amendment seeks to correct it on the House floor here today.

Mr. TAUZIN. Mr. Speaker, I yield myself 1 minute.

Let me point out that the problem is that the FCC got into doing that. It got into trying to say which religious content was educational enough to please the gentleman from Massachusetts (Mr. MARKEY) or anyone else in this country. That is what was wrong. It basically said a church service was not educational enough, a sermon perhaps by the Reverend Jessie Jackson on the Ten Commandments would not be educational enough for these commissioners, and they were going to decide when these religious broadcasters were or were not meeting the standards of the FCC, as to whether or not their religious beliefs, sermons, and services were educational enough. How crazy. Thank God they backed down from it. We need to make sure they never go back to it. That is why the Markey amendment needs to be defeated.

Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, what we are talking about with the Markey amendment is the FCC deciding what the educational religious intent of television broadcasting is. So I pose these questions for the gentleman from Massachusetts (Mr. MARKEY).

Will the Christmas Mass at the Vatican be able to be broadcast under his

amendment? Obviously it is religious. Under the gentleman's amendment, you would no longer see the Christmas Mass at the Vatican on non-commercial TV.

What about the performance of the Messiah at the Washington National Cathedral here? Under the gentleman's amendment, no longer shall we see this.

The National Day of Prayer here in Congress, which is televised, many of the non-commercial religious stations broadcast that. No longer.

Opening prayer of House and Senate. You could stretch this on and on and on and on. Teaching the Ten Commandments. Under the Markey amendment, all of this would be gone, and that is why two-thirds of the Democrats who are on the commission voted to overturn their own ruling, because they realized what they did was wrong.

What we have today is the FCC creating a category of politically correct, government-approved religious speech. Let me repeat that. The Markey amendment is creating a category of politically correct, government-approved religious speech.

Interesting, as one commissioner said, "If you believe what you are saying about religion, you cannot say it on the non-commercial television band; but if you don't believe what you are saying, then you can." That is the paradox that the Markey amendment is providing here.

As I mentioned earlier, I think it is unconstitutional to let the FCC have this amount of power. Many of us think the FCC as an agency could be done away with. This whole idea of educational TV is being replaced through the Internet, through broadband, through wireless, through the cable. You get 250 channels through direct television. And here we are coming down on religious broadcasting that has been around since the start, the very start, of television broadcasting. We are totally changing this with this amendment. It has far-reaching implications.

So I ask my colleagues, do they want to do away with religious broadcasting completely and strip all religious broadcasting from television? Then they should vote for the Markey amendment. If they believe that they want to do away with the broadcasting of the Christmas Mass at the Vatican, vote for the Markey amendment. If they believe that the performance of the Messiah at the Washington Cathedral is wrong and they do not want to see it on non-commercial television, then they should vote for his amendment. In fact, simply the instructions for proselytizing or talking about religion on television will become history under the Markey amendment.

So I would close, Mr. Speaker, with these comments: The Markey amendment would create an educational reli-

gious purpose and play into the hands of those at the FCC that want to have the say over content of religious programming. Instead of providing clarity, which the Pickering amendment does, and protection from a hyperactive FCC, and I think Members on both sides of the aisle would agree that the FCC is hyperactive, instead of that, in reining in their power, we are giving them more power, and we are creating confusion for religious broadcasters and threatening their very existence.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

□ 1215

Mr. Speaker, just so we can once again clarify, under existing law, the way we have operated for the last 50 years in this country, Christmas mass can be on a public television station. Handel's Messiah can be on a public television station, as long as the operators of that public television station are serving primarily the educational needs of the community. However, under this amendment, Christmas mass can be on 24 hours a day, 7 days a week, 365 days a year, if that religion decides that that is the only thing that they want to put on. They do not have to any longer serve any of the educational needs of the community at all.

Under existing law, Christmas mass is on; Handel's Messiah is on. The educational needs are served. Under their amendment, their bill, all day long, religion 24 hours a day, one particular religion operating the public broadcasting station in town with no requirement to serve the educational needs of the community in any other way, shape or form. The children in the community, the local institutions in the community, and no one else.

Mr. TAUZIN. Mr. Speaker, I yield myself 1 minute to correct the record.

Again, there are over 1,000 religious broadcasters who do religious broadcasting all day long, today. They do not do educational programming and also religious programming; they do religious programming all day long. Never in the history of that broadcasting has any government bureaucrat ever had the audacity to come in and decide which of that religious broadcasting was educational enough for their purposes, whether the mass was educational enough, a sermon was.

But I will tell my colleagues what this commission tried to do in December. They tried to say that if 50 percent of it did not meet their standards, then they are off the air. This bill will prevent that ever happening again. The Markey amendment gives them a back door to do exactly what they did in December, to come in and say, we decide that 50 percent of it needs to be religious broadcasting that we think is educational enough; and if it is not, they are off the air. That is why it needs to be defeated.

Mr. Speaker, I yield 6 minutes to the gentleman from California (Mr. Cox).

Mr. COX. Mr. Speaker, I thank the gentleman for yielding me this time.

We are all agreed here, I think, having listened to the debate, we are all agreed on both sides of the aisle and on all sides of this question that the Government should not regulate the content of speech of noncommercial broadcasters and that the Government should not discriminate against some religious speech in favor of other religious speech. Both sides of this argument are claiming that high ground and saying, vote for us and we will vindicate those principles.

The legislation that is before us says, and I quote, "the Commission," referring to the Federal Communications Commission, "should not engage in regulating the content of speech broadcasted by noncommercial educational stations." That is the principle of this bill, to keep the Government out of the business of regulating speech.

Now, the Markey amendment does something very straightforward, at least mechanically. It inserts a word, one word, the word "educational," as an adjectival modifier in front of another word, "religious," so that we have an adjective on an adjective, a modifier on a modifier, and we now have something called "education religious programming." The term "educational religious programming" is nowhere defined in statute. It is nowhere defined in the rules or the regulations of the Federal Communications Commission. I do not know what it is, and the author of the amendment does not know what "educational religious programming" is.

But let us do what a judge or a court would have to do faced with this language. A judge or a court would have to say, we have an adjective in front of "religious." That means that we have something called "educational religious programming," and presumptively something that is not "educational religious programming." Two categories we have now created, this kind of religious programming and that kind of religious programming. Who decides which is which? Obviously, because of the way the statute is written and the way the gentleman has written his amendment, the Federal Communications Commission will decide which is educational religious programming on the one hand and which is the other category, presumably non-educational religious programming.

What does the bill do without his amendment? The bill, without his amendment, simply creates a presumption. It says, and I quote, "Religious programming contributes to serving the educational and cultural needs of the public and should be treated by the Commission on a par with other educational and cultural programming."

So the FCC has no decision to make. The FCC does not decide which religious programming is good and which religious programming is bad; it does not run afoul of the establishment clause of the first amendment to the Constitution as it would under the Markey amendment.

This new category that the Markey amendment would create of educational religious programming, which as I say, I have never seen, does not appear in statute, does not appear anywhere in the regulations, would create a lot of confusion. It would be a legal unicorn. Nobody having seen it before would not know quite what to make of it, or maybe it would be more like the Loch Ness Monster of the United States Code. We would see a vague apparition, but we would not quite know what to make of it. One court might decide one way; another court might decide another way.

I think that the colloquy between the gentleman from Florida and the gentleman from Massachusetts about the broadcasting of a church service makes the vagueness, the hopeless vagueness of this amendment's wording very obvious. Because the author of the amendment does not really know, at least I listened to his remarks and I inferred this much, does not really know whether or not under his standard, the broadcast of a church service would be acceptable or not. We ought not to put the FCC into that kind of legal muddle.

Remember the reason that we are here is that just 6 months ago the FCC said this, quote: "Church services generally will not qualify as general educational programming under our rules." They tried to change the status quo. The Democrats said that was stupid, the Republicans said that was stupid, and so the FCC quickly backed down.

Mr. Speaker, that leaves but one question. If we reject the Markey amendment and we have this base text, why do we need this bill to make sure the FCC does not do again what they did in December? After all, they have backed down and that argument has been forcefully made by the gentleman from Michigan.

The answer is that the commissioners have let it be known, certainly one of them, that they would go forward in this course of action again, given the opportunity. So what we are saying in this legislation is the following: the Federal Communications Commission shall not establish, expand or otherwise modify requirements relating to the service obligations of non-commercial educational radio or TV stations, except by means of agency rulemaking conducted in accordance with the law.

Because the FCC not only did something that the Democrats thought was stupid and the Republicans agreed was stupid, a word used several times to de-

scribe their action during the course of this debate, but they did so without any, without any public notice or input, or any warning to the broadcasters whose licenses were at stake. The policy change was announced as part of an adjudicatory proceeding relating to the transfer, as we have discussed here earlier in this debate, of a Pittsburgh TV station. By acting in this manner, the Federal Communications Commission circumvented the Administrative Procedure Act which requires public review and comment before any major policy change is adopted.

Mr. Speaker, I urge my colleagues to vote in favor of this legislation so that we will have a transparent process, so that we will not have bureaucrats run amok, so that we will not find ourselves 6 months from now on the floor of this House complaining that the FCC action directed towards broadcasters was stupid. I urge that we reject the Markey amendment so that we do not render this legislation unconstitutional and hopelessly vague, so that we keep the Government out of the business of regulating religious speech.

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

Mr. Speaker, the underlying bill allows, allows the Federal Communications Commission to determine that a broadcaster's programming, which is primarily religious, is arbitrary or unreasonable. In other words, the FCC, under the bill as written, can step in and make judgments on religion. We are not getting away from the FCC making content decisions. We are simply letting the FCC into judging religious programming and whether it is sufficiently religious. We should not allow the FCC to become the Faith Content Commission.

The gentleman from California referenced the bill's findings, and I am sure Judge Scalia will appreciate the findings. However, the actual legislative charge to the FCC goes much further in the legislation. Let me read. It says under Service Conditions on Non-commercial Educational and Public Broadcast Stations: "A nonprofit organization shall be eligible to hold a non-commercial educational radio or television license if the station is used primarily to broadcast material that the organization determines serves a religious purpose in the station's community of license, unless that determination is arbitrary or unreasonable."

There is no requirement that the broadcaster has to have an educational content; there is no requirement that it has to have served the needs of the entire community. The FCC is put in a position where, if two particular religions want one station, that they have to determine, the Federal Communications Commission, the Faith Content Commission, has to determine which of the two religions can better serve a

particular community without even judging whether or not either religion is going to serve the educational needs of the community. Only which one is sufficiently more religious.

So in fact, while the legislation's ostensible purpose is to remove the Federal Communications Commission from content-based decisions, in fact, what the legislation is about to do is to open wide the gates for religions all across America to begin to lay claim to individual educational public broadcasting stations all across America, and to argue before the Federal Communications Commission that their religion is more religious than another religion in taking over those public broadcasting stations. And, as part of the test, the Federal Communications Commission will not be able to look at whether or not the religion serves any educational need whatsoever in the community.

Now, that may be the goal, because I know that there is a latent hostility on the part of many Members on the other side towards the public broadcasting system. I understand that. They have never liked the public broadcasting system; they have never enjoyed at all their particular mission; they do not like the fact that they, in fact, do educate the entire community. I understand how many Members on the other side do not like the public broadcasting system. But we are going to have to set up an aquarium down here in the well of the House to deal with all of the red herrings that have been spread out here on the floor.

What, in fact, the majority is trying to do here today is to take public broadcasting stations and turn them into religious stations, plain and simple. That is the goal. So if you have a public television station back in your hometown and it has historically served the educational needs of the community, under this new language, they will no longer have to do so, and the FCC will have to intervene in order to determine which religion best serves the religious needs of that religion, of that community, but will be able to go no further.

So I say to my colleagues, if ever there was an unconstitutional piece of legislation out here on the floor, this is it. If ever there was a piece of legislation that is going to be struck down for violation of the establishment clause or the separation between church and State, this is it.

□ 1230

But for those who hate the Public Broadcasting System, this is just a natural further extension of their attempts to undermine its historic and thus far successful mission in every community in the United States. It will result ultimately, without question, in a transfer of stations over to individual religions with no educational goals whatsoever except for

the proselytizing of their own individual sect.

That should be allowed. They should be able to purchase commercial TV stations. In fact, let us be blunt, under the existing clause, as long as the religion does serve primarily the educational needs of a community they can talk about their own religion on that public broadcasting station, but they cannot do so to the exclusion of all other educational content, of all other service to the community, of all other service to children within that community.

Mr. Speaker, this amendment which I am propounding is one which very simply ensures that the word "educational" is inserted before the word "religious," that there is an educational component to any of this religious broadcasting which is going to be primarily broadcast on these public television stations.

If we do not do that, there is going to be a fundamental change in public broadcasting in our country. I know it is the goal of the majority, but it should not be the goal either of the Members of this House or of the American people.

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

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

Mr. Speaker, let me first let my friend, the gentleman from Massachusetts, know that I do not particularly like characterizing motives. I do not like it when we do this on the floor. I do not like it when my side does it or the gentleman's side does it.

However, if the gentleman wants to ask about motives, let me explain them. I do not think the gentleman can characterize the motives of people regarding public broadcasting. Many like public broadcasting but do not like the way it is being funded.

Many of us think there is enough diversity in television that we do not necessarily have to use tax dollars to fund a separate category of public broadcasting.

There are many who were offended when public broadcasting shared its donor list only with Democratic organizations. Members might look at that and see some real cause for anger and concern on this side. When a public institution funded with taxpayer dollars decides to help one political party to the exclusion of the other, I guess it is going to cause a little anger and upset on this side. It well should have.

But I have not accused nor would I question the motives of the gentleman's side in offering this amendment. I have not said the gentleman was against religious programming. I am not suggesting that the administration is out to shut down religious programming, or the FCC tried to shut down religious voices on noncommercial stations. There were some people saying that. I never said that.

What I have said, what I will continue to say, is that what the FCC did in December was stupid. It tried to inject government decisions into what was proper religious programming on a religious broadcast station. We ought to put a stop to that. It ought to be the decisions of the religious programmers themselves to decide what religious programming they are going to put on television and radio stations dedicated to religious programming.

Mr. Speaker, the FCC did something very different in December. Up until December, it was always the presumption that religious programming was presumed to be educational. I happen to think it is. The FCC thought it was for years and years, never questioned it.

Then in December it decided it was going to set up two categories of religious programming: educational religious programming and I guess noneducational religious programming. If there was not enough of one or too much of the other, they would shut them down.

What an offensive, arbitrary decision by the FCC, which is supposed to be carrying out the law, not making up their own law, not deciding as a matter of law what was good religious speech on television and radio and what was unacceptable. That is wrong. That is what is wrong. That is what is unconstitutional.

This bill will end it. It will not only say to the FCC, you cannot do it in the dead of night without public input and proceedings; it will say, you cannot ever do it again.

The gentleman's amendment will give them the right to do it again. The gentleman's amendment says, exactly as the FCC wanted to say, that there are two categories of religious broadcasting, one educational religious, and then something else. They do not define it, do not know what it is, and guess who defines it under the gentleman's amendment? The same FCC that did the stupid thing they did in December.

That is the reason the gentleman's amendment needs to be defeated; not because the gentleman had bad motives, not because our side has better or weaker motives than the gentleman, but because the amendment is wrong. It gives the FCC the power to do the stupid thing they tried to do in December. That amendment needs to be defeated.

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

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

Mr. Speaker, this issue is historic in its nature. Many on the other side contend that they support the historic mission of the public broadcasting stations across the United States. Yet, in their amendment, their bill, they are going to remove the educational re-

quirement for public broadcasting stations across the country, remove it.

No longer will there be a mandate that as part of the stewardship, part of the responsibility of controlling a public broadcasting station, that those individuals must serve the educational needs of the entire community. They are removing that. It is without question the core principle, the constitution that underlies the foundation of the public broadcasting stations in our country.

That is why the national PTA opposes their bill and supports the Markey amendment, the national PTA, the teachers, and the parents; and the National Education Association as well, and the Unitarian Universalist Association of Congregations, the Interfaith Alliance, the National Council of Churches of Christ. All of them support the Markey amendment and oppose the underlying bill.

The reason is that they have removed the educational requirement from educational TV. They are going to allow for religion to be the only thing which is on a public broadcasting station all day long, regardless of whether or not it has any educational content whatsoever.

Even though we concede that under existing law, existing law, that religious organizations are able to run and do run very well public broadcasting stations across this country, and they include a religious component to the maintenance of those TV stations, and that is fine. That should continue. Whether it be Christmas mass or Handel's Messiah, it should stay on public broadcasting TV stations. We agree with that.

Where we disagree and where the Markey amendment is so important is that we must ensure that the religious component does not replace the educational role as the primary responsibility of public broadcasting stations in this country.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I do not think anybody has really given on this side much thought to what this legislation does. Let us take a situation where a religious broadcaster or person who would be a religious broadcaster puts in an application and a group of educational broadcasters or would-be educational broadcasters put in an application. Then we have this occurring, we have a comparative proceeding before the FCC at which the FCC has to choose between the educational purpose for that station and essentially a religious purpose, with literally no real review, with no criteria whatsoever.

I challenge my friends on this side to come up with any criteria that a religious or would-be religious broadcaster

has to present to the FCC. So we have two situations, probably a priority given to the religious broadcasters, but certainly, in any event, a choice has to be made then between the FCC having to decide whether they are going to have a bona fide religious broadcaster broadcasting on that particular wavelength or some religious group broadcasting nothing, nothing, there is no requirement for anything but religion on that particular wavelength.

We are setting up a most dangerous situation here. I would simply point out to my friend, the gentleman from Louisiana, he is going to bear the guilt of having done this to broadcasting, for having stripped the American children of opportunities to have real educational broadcasting.

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

Mr. TAUZIN. Mr. Speaker, I yield 30 seconds to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, to use a ploy to say he (Mr. TAUZIN) bears a guilt is incorrect. Remember, two-thirds of the Democrats and 100 percent of the Republicans already voted to overturn the decision. So if the gentleman wants to point guilt, then he should point it to the gentleman's side of the aisle—namely, Democrats where two-thirds of the Democrats of the FCC Commission supported what we are doing today.

I point out in closing to the gentleman from Massachusetts (Mr. MARKEY), if the Christmas mass is broadcast at Fort Pierce, Florida, at midnight on Christmas Eve, and then suddenly that station decides, it wants to also broadcast it on New Year's Eve, what happens? Suddenly the FCC is going to call them up and say, no, and using the gentleman's words, the FCC would say there is primarily not enough educational TV so we are going to have to stop you from broadcasting on New Year's Eve.

Vote against the Markey amendment.

Mr. TAUZIN. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. LARGENT), a prime sponsor and supporter of the legislation.

Mr. LARGENT. I thank the gentleman for yielding time to me, Mr. Speaker.

I am afraid that some people over at the FCC have been holding their cell phones too close to their brains, because this winter they have come up with a decision and decided that they know what is best for the American people, that they understand the difference between what is religious and what is educational, so they have issued an edict.

They said, Hi, I am from the FCC. We would like to offer you additional guidance in determining what is religious versus what is educational, and if it is not religious, then it does not count as

educational; thus, no license. The FCC has really done this. They have made a value statement by saying that religious broadcasting is not educational.

It was an unprecedented move by the FCC to become the arbiter determining what constitutes religion and what does not. Do Members know what? The American people have rejected the decision and the help and the additional guidance by the FCC. Today this House will reinforce the view of the American people by rejecting the FCC's notion that they know what is best.

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

Mr. Speaker, the bill that is on the floor today takes the word "education" out of public broadcasting. The bill that is on the floor here today takes the word "education" out of nonprofit educational television stations. The bill that is on the floor here today changes 50 years of American history with regard to the public's relationship with public broadcasting stations and removes the word "education" as a requirement, as a mandate, with regard to how the managers of a particular public broadcasting station have to serve an individual community.

If this bill passes, never again will there ever be a test applied by the Federal Communications Commission that ensures that the educational needs of the community are being served by a public broadcasting station. Instead, they insert the word "religious" without any definition, without any restrictions in terms of how many hours a day, how many weeks out of the year, how many years in a row; the totality, the entirety of the broadcasting can be religious on a public broadcasting station.

Historically, religions have been able to run public broadcasting stations, but using the guidance that they must be primarily educational. That is what the Markey amendment does. It requires that the educational goals that historically have been the core of public broadcasting stations are maintained, while still allowing for there to be a religious component, but within the larger context of educating the entire community and not just a subpart of that community.

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

Mr. Speaker, let me read the bill without the Markey amendment. It says that these licenses are reserved to people who prove "that their organization serves an educational, instructional, cultural, or religious purpose."

We have not taken "educational" out. What the gentleman from Massachusetts (Mr. MARKEY) wants to do is take "religious" out. He wants to insert "educational religious." The word "educational" is still in. "Educational, cultural, instructional, or religious" is what the bill now says.

□ 1245

Proof it is just not so. What we are doing in the bill, what the Markey amendment would undo, is to prevent the Commission from qualifying which religious broadcasting is permitted.

I just attended the D-Day Museum dedication in New Orleans where we celebrate the greatest generation, what they fought for in World War II. They were fighting to preserve our Constitution and our freedoms. Our Constitution says the government needs to stay out of the business of religion in our country. Yet, this FCC tried to get into it. This bill keeps them out. The Markey amendment lets government get back in.

We need to defeat the Markey amendment and adopt the original bill.

Mr. BLILEY. Mr. Speaker, I rise in opposition to the substitute amendment offered by the gentleman from Massachusetts.

The substitute amendment by Mr. MARKEY will effectively gut the legislation before us.

Mr. Speaker, make no mistake, the goal of the substitute amendment is to require all public broadcasters to serve an "educational" purpose. It even creates a new category of programming serving an "educational religious purposes." This sounds acceptable on its face as education is a very high priority and I commend the public broadcasters that focus on education.

However, a good number of public broadcasters use public television stations to provide religious programming to their communities. And the FCC tried quite unsuccessfully in December to restrict what type of programming could be done. They tried to put a clamp on programming that they viewed as not having an educational message, like church services.

Some people within the FCC want to be in the content regulation business. They want to be able to dictate to religious broadcasters what religious programming is acceptable and that which is not.

Picture, if you will, several of the over 2000 bureaucrats at the FCC watching and listening to religious programming and deciding which parts serve an "educational religious purpose." To me, this picture is frightening and unacceptable.

This amendment would serve only to continue the confusion as to who is eligible for noncommercial licenses.

I do not want the FCC involved in content regulation of public television stations, especially those that provide a religious message and content.

The substitute amendment is clearly harmful to the original intent of the H.R. 4201 and would make the bill meaningless.

This is why I must respectfully oppose Mr. MARKEY's amendment and urge all Members to do the same.

The SPEAKER pro tempore (Mr. SHAW). All time has expired.

Pursuant to House Resolution 527, the previous question is ordered on the bill and on the amendment by the gentleman from Massachusetts (Mr. MARKEY).

The question is on the amendment in the nature of a substitute offered by

the gentleman from Massachusetts (Mr. MARKEY).

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

Mr. MARKEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 174, nays 250, not voting 10, as follows:

[Roll No. 294]

YEAS—174

Abercrombie	Gilman	Moakley
Ackerman	Gonzalez	Moore
Allen	Gordon	Moran (VA)
Andrews	Gutierrez	Morella
Baird	Hall (OH)	Nadler
Baldacci	Hastings (FL)	Napolitano
Baldwin	Hill (IN)	Neal
Barrett (WI)	Hilliard	Oberstar
Becerra	Hinchev	Obey
Bentsen	Hinojosa	Olver
Berkley	Hoeffel	Owens
Berman	Holt	Pallone
Biggert	Hooley	Pascarell
Blagojevich	Horn	Pastor
Blumenauer	Hoyer	Payne
Boehert	Inslie	Pelosi
Bonior	Jackson (IL)	Pickett
Borski	Jackson-Lee	Pomeroy
Boucher	(TX)	Porter
Brady (PA)	Jefferson	Price (NC)
Brown (FL)	Johnson (CT)	Rangel
Brown (OH)	Johnson, E. B.	Rivers
Capps	Jones (OH)	Rodriguez
Capuano	Kanjorski	Rothman
Cardin	Kaptur	Rush
Carson	Kennedy	Sabo
Clay	Kilpatrick	Sanchez
Clayton	Kind (WI)	Sanders
Clyburn	Klecza	Sawyer
Conyers	Klink	Schakowsky
Coyne	LaFalce	Scott
Crowley	Lantos	Serrano
Cummings	Larson	Sherman
Danner	Lee	Slaughter
Davis (FL)	Levin	Smith (WA)
Davis (IL)	Lewis (GA)	Stabenow
DeFazio	Lofgren	Stark
DeGette	Lowey	Stupak
Delahunt	Luther	Tanner
DeLauro	Maloney (CT)	Tauscher
Deutsch	Maloney (NY)	Thompson (CA)
Dicks	Markey	Thompson (MS)
Dingell	Mascara	Thurman
Dixon	Matsui	Tierney
Doggett	McCarthy (MO)	Towns
Dooley	McCarthy (NY)	Udall (CO)
Edwards	McDermott	Udall (NM)
Engel	McGovern	Velazquez
Eshoo	McKinney	Visclosky
Etheridge	McNulty	Waters
Evans	Meehan	Watt (NC)
Farr	Meek (FL)	Waxman
Fattah	Meeks (NY)	Weiner
Filner	Menendez	Wexler
Ford	Millender-McDonald	Weygand
Frank (MA)	McDonald	Woolsey
Frost	Miller, George	Wu
Gedensson	Minge	Wynn
Gephardt	Mink	

NAYS—250

Aderholt	Barrett (NE)	Bishop
Archer	Bartlett	Bliley
Armey	Barton	Blunt
Baca	Bass	Boehner
Bachus	Bateman	Bonilla
Baker	Bereuter	Bono
Ballenger	Berry	Boswell
Barcia	Bilbray	Boyd
Barr	Bilirakis	Brady (TX)

Bryant	Holden	Regula
Burr	Hostettler	Reyes
Burton	Houghton	Reynolds
Buyer	Hulshof	Riley
Callahan	Hunter	Roemer
Calvert	Hutchinson	Rogan
Camp	Hyde	Rogers
Canady	Isakson	Rohrabacher
Cannon	Istook	Ros-Lehtinen
Castle	Jenkins	Roukema
Chabot	John	Royce
Chambliss	Johnson, Sam	Ryan (WI)
Chenoweth-Hage	Jones (NC)	Ryun (KS)
Clement	Kasich	Salmon
Coble	Kelly	Sandlin
Coburn	Kildee	Sanford
Collins	King (NY)	Saxton
Combest	Kingston	Scarborough
Condit	Knollenberg	Schaffer
Cooksey	Kolbe	Sensenbrenner
Costello	Kucinich	Sessions
Cox	Kuykendall	Shadegg
Cramer	LaHood	Shaw
Crane	Lampson	Shays
Cubin	Largent	Sherwood
Cunningham	Latham	Shimkus
Davis (VA)	LaTourette	Shows
Deal	Lazio	Shuster
DeLay	Leach	Simpson
DeMint	Lewis (CA)	Sisisky
Diaz-Balart	Lewis (KY)	Skeen
Dickey	Linder	Skelton
Doolittle	Lipinski	Smith (MI)
Doyle	LoBiondo	Smith (NJ)
Dreier	Lucas (KY)	Smith (TX)
Duncan	Lucas (OK)	Snyder
Dunn	Manzullo	Souder
Ehlers	Martinez	Spence
Ehrlich	McCrery	Stearns
English	McHugh	Stenholm
Everett	McInnis	Strickland
Fletcher	McIntyre	Stump
Foley	McKeon	Sununu
Forbes	Metcalf	Sweeney
Fossella	Mica	Talent
Fowler	Miller (FL)	Tancredo
Franks (NJ)	Miller, Gary	Tauzin
Frelinghuysen	Mollohan	Taylor (MS)
Galleghy	Moran (KS)	Taylor (NC)
Ganske	Murtha	Terry
Gekas	Myrick	Thomas
Gibbons	Nethercutt	Thornberry
Gillchrest	Ney	Thune
Gillmor	Northup	Tiahrt
Goode	Norwood	Toomey
Goodlatte	Nussle	Trafficant
Goodling	Ortiz	Turner
Goss	Ose	Upton
Graham	Oxley	Vitter
Granger	Packard	Walden
Green (TX)	Paul	Walsh
Green (WI)	Pease	Wamp
Greenwood	Peterson (MN)	Watkins
Gutknecht	Peterson (PA)	Watts (OK)
Hall (TX)	Petri	Weldon (FL)
Hansen	Phelps	Weller
Hastings (WA)	Pickering	Whitfield
Hayes	Pitts	Wicker
Hayworth	Pombo	Wilson
Hefley	Portman	Wise
Herger	Pryce (OH)	Wolf
Hill (MT)	Quinn	Young (AK)
Hilleary	Radanovich	Young (FL)
Hobson	Rahall	
Hoekstra	Ramstad	

NOT VOTING—10

Campbell	McCollum	Vento
Cook	McIntosh	Weldon (PA)
Emerson	Roybal-Allard	
Ewing	Spratt	

□ 1307

Messrs. CUNNINGHAM, KUCINICH, BOSWELL, COSTELLO, and REYES changed their vote from “yea” to “nay.”

Mr. DAVIS of Florida changed his vote from “nay” to “yea.”

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SHAW). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. TAUZIN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 264, noes 259, not voting 11, as follows:

[Roll No. 295]

AYES—264

Aderholt	Etheridge	Leach
Archer	Everett	Lewis (CA)
Armey	Fletcher	Lewis (KY)
Baca	Foley	Linder
Bachus	Forbes	Lipinski
Baker	Fossella	LoBiondo
Baldacci	Fowler	Lucas (KY)
Ballenger	Franks (NJ)	Lucas (OK)
Barcia	Frelinghuysen	Manzullo
Barr	Frost	Martinez
Barrett (NE)	Gallegly	Mascara
Bartlett	Ganske	McCrery
Barton	Gekas	McHugh
Bass	Gibbons	McInnis
Bateman	Gilchrest	McIntyre
Bereuter	Gillmor	McKeon
Berry	Goode	Metcalf
Biggert	Goodlatte	Mica
Billbray	Goodling	Miller (FL)
Bilirakis	Gordon	Miller, Gary
Bishop	Goss	Mollohan
Bilely	Graham	Moore
Blunt	Granger	Moran (KS)
Boehner	Green (TX)	Murtha
Bonilla	Green (WI)	Myrick
Bono	Greenwood	Napolitano
Boswell	Gutknecht	Nethercutt
Boyd	Hall (OH)	Ney
Brady (TX)	Hall (TX)	Northup
Bryant	Hansen	Norwood
Burr	Hastings (WA)	Nussle
Burton	Hayes	Ortiz
Buyer	Hayworth	Ose
Callahan	Hefley	Oxley
Calvert	Hill (MT)	Packard
Camp	Hilleary	Paul
Canady	Hobson	Pease
Cannon	Hoekstra	Peterson (MN)
Castle	Holden	Peterson (PA)
Chabot	Hostettler	Petri
Chambliss	Houghton	Phelps
Chenoweth-Hage	Hulshof	Pickering
Clement	Hunter	Pitts
Coble	Hutchinson	Pombo
Coburn	Hyde	Portman
Collins	Isakson	Pryce (OH)
Combest	Istook	Quinn
Condit	Jackson-Lee	Radanovich
Cooksey	(TX)	Rahall
Costello	Jenkins	Ramstad
Cox	John	Regula
Cramer	Johnson, Sam	Reyes
Crane	Jones (NC)	Reynolds
Cubin	Jones (OH)	Riley
Davis (FL)	Kasich	Rogan
Davis (VA)	Kelly	Rogers
Deal	Kildee	Rohrabacher
DeLay	King (NY)	Ros-Lehtinen
DeMint	Kingston	Roukema
Diaz-Balart	Knollenberg	Royce
Dickey	Kolbe	Ryan (WI)
Doolittle	Kucinich	Ryun (KS)
Doyle	Kuykendall	Salmon
Dreier	LaHood	Sandlin
Duncan	Lampson	Sanford
Dunn	Largent	Saxton
Ehlers	Latham	Scarborough
Ehrlich	LaTourette	Schaffer
English	Lazio	Sensenbrenner

Sessions	Strickland	Vitter
Shadegg	Stump	Walden
Shaw	Stupak	Walsh
Shays	Sununu	Wamp
Sherwood	Sweeney	Waters
Shimkus	Talent	Watkins
Shows	Tancredo	Watts (OK)
Shuster	Tanner	Weldon (FL)
Simpson	Tauzin	Weldon (PA)
Sisisky	Taylor (MS)	Weller
Skeen	Taylor (NC)	Weygand
Skelton	Terry	Whitfield
Smith (MI)	Thomas	Wicker
Smith (NJ)	Thornberry	Wilson
Smith (TX)	Thune	Wise
Souder	Tiahrt	Wolf
Spence	Toomey	Young (AK)
Spratt	Trafiacant	Young (FL)
Stearns	Turner	
Stenholm	Upton	

NOES—159

Abercrombie	Gonzalez	Morella
Ackerman	Gutierrez	Nadler
Allen	Hastings (FL)	Neal
Andrews	Hill (IN)	Oberstar
Baird	Hilliard	Obey
Baldwin	Hinchey	Olver
Barrett (WI)	Hinojosa	Owens
Becerra	Hoefel	Pallone
Bentsen	Holt	Pascrell
Berkley	Hooley	Pastor
Berman	Horn	Payne
Blagojevich	Hoyer	Pelosi
Blumenauer	Inslee	Pickett
Boehlert	Jackson (IL)	Pomeroy
Bonior	Jefferson	Porter
Borski	Johnson (CT)	Price (NC)
Boucher	Johnson, E. B.	Rangel
Brady (PA)	Kanjorski	Rivers
Brown (FL)	Kaptur	Rodriguez
Brown (OH)	Kennedy	Roemer
Capps	Kilpatrick	Rothman
Capuano	Kind (WI)	Rush
Cardin	Kleczka	Sabo
Carson	Klink	Sanchez
Clay	LaFalce	Sanders
Clayton	Lantos	Sawyer
Clyburn	Larson	Schakowsky
Coyne	Lee	Scott
Crowley	Levin	Serrano
Cummings	Lewis (GA)	Sherman
Danner	Lofgren	Slaughter
Davis (IL)	Lowey	Smith (WA)
DeFazio	Luther	Snyder
DeGette	Maloney (CT)	Stabenow
DeLauro	Maloney (NY)	Stark
Deutsch	Markey	Tauscher
Dicks	Matsui	Thompson (CA)
Dingell	McCarthy (MO)	Thompson (MS)
Dixon	McCarthy (NY)	Thurman
Dogettt	McDermott	Tierney
Dooley	McGovern	Towns
Edwards	McKinney	Udall (CO)
Engel	McNulty	Udall (NM)
Eshoo	Meehan	Velazquez
Evans	Meek (FL)	Vislosky
Farr	Meeks (NY)	Watt (NC)
Fattah	Menendez	Waxman
Filner	Millender-	Weiner
Ford	McDonald	Wexler
Frank (MA)	Miller, George	Woolsey
Gedjenson	Minge	Wu
Gephardt	Mink	Wynn
Gilman	Moakley	
	Moran (VA)	

NOT VOTING—11

Campbell	Emerson	McIntosh
Conyers	Ewing	Roybal-Allard
Cook	Herger	Vento
Cunningham	McCollum	

□ 1327

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4201.

The SPEAKER pro tempore (Mr. SHAW). Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 8 of rule XX, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Such record votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

□ 1330

DEBT REDUCTION RECONCILIATION ACT OF 2000

Mr. ARCHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4601) to provide for reconciliation pursuant to section 213(c) of the concurrent resolution on the budget for fiscal year 2001 to reduce the public debt and to decrease the statutory limit on the public debt, as amended.

The Clerk read as follows:

H.R. 4601

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

*This Act may be cited as the "Debt Reduction Reconciliation Act of 2000".*

**SEC. 2. FINDINGS AND PURPOSE.**

(a) *FINDINGS.—The Congress finds that—*  
 (1) *fiscal discipline, resulting from the Balanced Budget Act of 1997, and strong economic growth have ended decades of deficit spending and have produced budget surpluses without using the social security surplus;*  
 (2) *fiscal pressures will mount in the future as the aging of the population increases budget obligations;*  
 (3) *until Congress and the President agree to legislation that strengthens social security, the social security surplus should be used to reduce the debt held by the public;*  
 (4) *strengthening the Government's fiscal position through public debt reduction increases national savings, promotes economic growth, reduces interest costs, and is a constructive way to prepare for the Government's future budget obligations; and*  
 (5) *it is fiscally responsible and in the long-term national economic interest to use an additional portion of the nonsocial security surplus to reduce the debt held by the public.*

(b) *PURPOSE.—It is the purpose of this Act to—*

- (1) *reduce the debt held by the public with the goal of eliminating this debt by 2013; and*
- (2) *decrease the statutory limit on the public debt.*

**SEC. 3. ESTABLISHMENT OF PUBLIC DEBT REDUCTION PAYMENT ACCOUNT.**

(a) *IN GENERAL.—Subchapter I of chapter 31 of title 31, United States Code, is amended by adding at the end the following new section:*

**"§3114. Public debt reduction payment account**

*"(a) There is established in the Treasury of the United States an account to be known as the Public Debt Reduction Payment Account (hereinafter in this section referred to as the 'account').*

*"(b) The Secretary of the Treasury shall use amounts in the account to pay at maturity, or to redeem or buy before maturity, any obligation of the Government held by the public and included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from the account shall be canceled and retired and may not be reissued. Amounts deposited in the account are appropriated and may only be expended to carry out this section.*

*"(c) If the Congressional Budget Office estimates an on-budget surplus for fiscal year 2000 in the report submitted pursuant to section 202(e)(2) of the Congressional Budget Act of 1974 in excess of the amount of the surplus set forth for that fiscal year in section 101(4) of the concurrent resolution on the budget for fiscal year 2001 (House Concurrent Resolution 290, 106th Congress), then there is hereby appropriated into the account on the later of the date of enactment of this Act or the date upon which the Congressional Budget Office submits such report, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2000, an amount equal to that excess. The funds appropriated to this account shall remain available until expended.*

*"(d) The appropriation made under subsection (c) shall not be considered direct spending for purposes of section 252 of Balanced Budget and Emergency Deficit Control Act of 1985.*

*"(e) Establishment of and appropriations to the account shall not affect trust fund transfers that may be authorized under any other provision of law.*

*"(f) The Secretary of the Treasury and the Director of the Office of Management and Budget shall each take such actions as may be necessary to promptly carry out this section in accordance with sound debt management policies.*

*"(g) Reducing the debt pursuant to this section shall not interfere with the debt management policies or goals of the Secretary of the Treasury."*

(b) *CONFORMING AMENDMENT.—The chapter analysis for chapter 31 of title 31, United States Code, is amended by inserting after the item relating to section 3113 the following:*

*"3114. Public debt reduction payment account."*

**SEC. 4. REDUCTION OF STATUTORY LIMIT ON THE PUBLIC DEBT.**

*Section 3101(b) of title 31, United States Code, is amended by inserting "minus the amount appropriated into the Public Debt Reduction Payment Account pursuant to section 3114(c)" after "\$5,950,000,000,000".*

**SEC. 5. OFF-BUDGET STATUS OF PUBLIC DEBT REDUCTION PAYMENT ACCOUNT.**

*Notwithstanding any other provision of law, the receipts and disbursements of the Public Debt Reduction Payment Account established by section 3114 of title 31, United States Code, shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—*

- (1) *the budget of the United States Government as submitted by the President,*
- (2) *the congressional budget, or*
- (3) *the Balanced Budget and Emergency Deficit Control Act of 1985.*