

Congress to define emergency spending and account for it in the budget, creating budget protection accounts that would allow spending cuts to be directed toward deficit reduction or tax relief, just to name a few proposals.

The RSC budget is an opportunity for Members of Congress to vote for the President's number on defense and homeland security and a little bit less than the Committee on the Budget's number on everything else. Voting for the RSC budget is voting for finding more savings in the largest category of Federal spending, mandatory spending. And voting for the RSC budget is voting for a way to enforce the budget that the House passes and to embrace a series of budget process reforms, which, if they are not successful in the Hensarling amendment, may yet be entertained by the 109th Congress in the months and days ahead.

I strongly support the gentleman from Texas (Mr. HENSARLING), his courage, his principle; and I urge support of all of my colleagues of the Hensarling amendment.

Mr. HENSARLING. Mr. Chairman, I yield myself the balance of my time.

For some people, Mr. Chairman, we just cannot get enough government. But we are drowning in a sea of red ink already.

This is not a debate about how much we are going to spend on health care and education and housing. This is a debate about who is going to do the spending. We believe families should do the spending. We believe good things come from freedom, from opportunity, and freedom for families to choose the health care that is right for them, to choose the education opportunities for their children that are right for them, to find the best job in a competitive market economy. We cannot have unlimited government and unlimited opportunity. The Republican Study Committee believes in unlimited opportunity.

Mr. Chairman, we urge the adoption of this amendment; but should it fail, please, we ask the House to vote for the Nussle budget.

Mr. NUSSLE. Mr. Chairman, I yield myself such time as I may consume.

As I said before, I rise with reluctant opposition. What the RSC has done is bold; it is worth consideration. It will be part of the consideration as we go through the process, I am sure, throughout the rest of the year as well as we consider the budgets in years to come. But I would ask, as the author of the amendment just did, that while consideration be given that we adopt the underlying bill. And, therefore, I oppose the amendment, but with a great amount of respect and admiration for the work that has been done.

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

The CHAIRMAN. The question is on the amendment in the nature of a sub-

stitute offered by the gentleman from Texas (Mr. HENSARLING).

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

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

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment in the nature of a substitute offered by the gentleman from Texas (Mr. HENSARLING) will be postponed.

Mr. NUSSLE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. DRAKE) having assumed the chair, Mr. LATOURETTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 95) establishing the congressional budget for the United States Government for fiscal year 2006, revising appropriate budgetary levels for fiscal year 2005, and setting forth appropriate budgetary levels for fiscal years 2007 through 2010, had come to no resolution thereon.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1334, PROTECTION OF INCAPACITATED PERSONS ACT OF 2005

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109-20) on the resolution (H. Res. 162) providing for consideration of the bill (H.R. 1334) to amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. GINGREY, from the Committee on Rules, submitted a privileged report (Rept. No. 109-21) on the resolution (H. Res. 163) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings

today on motions 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.

Record votes on postponed questions will be taken tomorrow.

#### PROTECTION OF INCAPACITATED PERSONS ACT OF 2005

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1332) to amend title 28, United States Code, to provide for the removal to Federal court of certain State court cases involving the rights of incapacitated persons, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1332

*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 "Protection of Incapacitated Persons Act of 2005".

#### SEC. 2. REMOVAL OF CERTAIN CASES TO FEDERAL COURT TO PROTECT THE RIGHTS OF INCAPACITATED PERSONS.

(a) RIGHT OF REMOVAL.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following:

##### "§ 1453. Protection of rights of incapacitated persons

"(a) Notwithstanding any other provision of this chapter, not later than 30 days after available State remedies have been exhausted, an incapacitated person, or the next friend of an incapacitated person, may remove any claim or cause of action described in subsection (b) to the United States district court for the district in which the claim or cause of action arose, or was heard.

"(b) The claim or cause of action referred to in subsection (a) is one in which the State court authorizes or directs the withholding or withdrawal of food or fluids or medical treatment necessary to sustain the incapacitated person's life, but does not include a claim or cause of action in which no party disputes, and the court finds, that the incapacitated person, while having capacity, had executed a written advance directive valid under applicable law that clearly authorized the withholding or withdrawal of food or fluids or medical treatment in the applicable circumstances.

"(c) In hearing and determining a claim or cause of action removed under this section, the court shall only consider whether authorizing or directing the withholding or withdrawal of food or fluids or medical treatment necessary to sustain the incapacitated person's life constitutes a deprivation of any right, privilege, or immunity secured by the Constitution or laws of the United States.

"(d) The United States district court shall determine de novo any claim or cause of action considered under subsection (c), and no bar or limitation based on abstention, res judicata, collateral estoppel, procedural default, or any other doctrine of issue or claim preclusion shall apply.

"(e) As used in this section—

"(1) the term 'incapacitated person' means a born individual who is presently incapable of making relevant decisions concerning the provision, withholding, or withdrawal of food, fluids or medical treatment under applicable law; and