SENATE—*Friday, January 20, 1995*

(Legislative day of Tuesday, January 10, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our opening prayer this morning will be delivered by the Reverend Mark Dever, pastor of the Capitol Hill Baptist Church.

PRAYER

The guest chaplain, the Reverend Mark E. Dever, offered the following prayer:

Let us pray:

Lord God, before the debates and disputes, the committees and compromises which may fill our day, we would stop and confess publicly that You are a good God. You have provided all we need, and so much more. We praise You for the freedom from want which marks off this land from so many others.

Thank You for the wise and just leaders who work in this place, and for the people who honor law and pray for our elected officials.

Thank You for all the good motives which move the hearts of those present to undertake these duties of governance. We ask that where their hearts are stubborn to You, You would subdue them, where they are mistaken, You would teach them, where they are discouraged, You would comfort and strengthen them.

Help them in their service to this Nation, to discern their service to You.

Lord God, bless America, we pray. Forgive us for our callousness to Your blessings. Forgive this Nation particularly we pray for the ways in which we abuse our leaders. Give this Nation a sense of the hope for justice and prosperity that America still is to many around the globe today. We ask that You would give us a renewed sense of Your bounty in this land, an appreciation of the wealth You have given us in the abundance of natural resources, in the hard work of so many people, in the stability of our society.

Give us a nation marked by gratitude for Your blessings, and stewardship of them in kindness and compassion and self-control. We pray that this Chamber would reflect Your character in this.

And along with a renewed sense of Your bounty, we pray for a renewed sense of our accountability. Remind all who work here, in massive buildings which seem so permanent, remind them of the brevity of life, and the certainty of judgment.

We ask this in the name of Jesus Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, let me just indicate for our colleagues that there will be a period for the transaction of morning business throughout the day, with Senators permitted to speak for not to exceed 15 minutes each. And I remind Senators and members of their staff that under the unanimous-consent agreement entered last night, there will be no rollcall votes today and no rollcall votes on Monday, prior to 4 p.m.

Today Senators may discuss their amendments to S. 1 and have them printed in the RECORD in order to qualify them under the 3 p.m. Tuesday deadline. I do not know how many Senators wish to speak today, but we will be in for whatever period of time it may take.

Mr. FORD. Mr. President, will the distinguished majority leader yield?

The PRESIDENT pro tempore. The distinguished acting minority leader.

Mr. FORD. Mr. President, I think it might be appropriate, I say to my friend, that we review a little bit your understanding with our leader as to the offering of amendments so that we will not get into—it is a gentlemen's agreement, and we want to uphold our part of it. But I want to be sure everybody understands that, if you do not mind.

Mr. DOLE. Right. As I indicated, we entered into the agreement last night and we have listed in the RECORD all the amendments on both sides of the aisle. I think they total around 67 amendments. To offer the amendment, you simply have to send it to the desk. If there is an amendment pending, you have to, of course, set that amendment aside.

We also agreed that if for some unusual circumstance someone was prevented on either side of the aisle from offering their amendment before the 3 o'clock deadline, the two leaders could agree that one of our colleagues, or more, could then offer the amendment, or amendments, in any event.

The importance of the agreement is to get a finite list of the amendments. There are no time agreements on any of the amendments. I hope not all the amendments are offered. But even if all the amendments are offered—that means sent to the desk—they may not be called up. It is my hope we can complete action sometime maybe on Wednesday of next week. I suggest to my colleagues who have any other questions that in the Calendar of Business on pages 2 and 3, we have outlined the agreement.

I think the highlights are that we will start considering S. 1 again on Monday at 10 a.m., with no votes until 4 o'clock, if any votes are ordered. There will be no business today, except you can send your amendments to the desk.

Mr. FORD. May I further ask, one of the points the majority leader made last evening is the fact that an amendment may be filed but that is not sufficient to cover the unanimous-consent agreement. It must be offered. It can be set aside and that constitutes an offering and it can be taken up later but, nevertheless, a Senator must offer his amendment or by unanimous-consent one of the leaders or the floor manager can do that.

So there was concern last night, and I want to make that clear again this morning, that if an amendment has been filed for cloture, it is not sufficient to accommodate this unanimous-consent agreement.

Mr. DOLE. The Senator is correct. There are a number of amendments, I think 117 amendments were filed when we were getting into cloture. In order to qualify under this agreement—Senator BYRD from West Virginia made it clear—the Senator himself must offer the amendment, himself. I think we can accommodate everyone, but hopefully they will be able to accommodate us, too, and not offer all these amendments.

Mr. FORD. I have three on there that could go away. I thank the majority leader.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 15 minutes each.

Mr. COCHRAN addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Mississippi.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

TRIBUTE TO RUBYE ELIZABETH STUTTS-LYELLS

Mr. COCHRAN. Mr. President, on December 22, Mississippi lost one of its most outstanding citizens when Mrs. Rubye Stutts-Lyells passed away. She was a personal friend of mine, but she was also a friend of many, and was one of the real leaders in our State in many areas of activity and interest. She took a very active role in helping to improve the opportunities for everyone in our State through her work in civic, cultural, religious, and political endeavors.

While I was not able to attend her funeral, which was described as "The Celebration of Triumph," and was held in Jackson, MS, members of my staff did represent me on this occasion and sent me a copy of the program which contains a very fine and sensitive obituary.

Mr. President, in conclusion, let me say that one mark of the courage and interest in the political development of our State was illustrated by Mrs. Lyells' active and conspicuous participation in the development of the modern Republican Party in Mississippi.

As an African-American, she took a stand and defended it with grace and with dignity and with intelligence, in a way that reflected credit on many of us who were actively involved in trying to build a new political party as a vehicle for political expression for our State and the citizens of our State at the national level. For that, I also will be forever grateful to her and to her family.

In memory of Mrs. Lyells, I ask unanimous consent, Mr. President, that a copy of the obituary and the program, "The Celebration of Triumph, Mrs. Rubye Elizabeth Stutts-Lyells," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE CELEBRATION OF TRIUMPH—MRS. RUBYE ELIZABETH STUTTS-LYELLS

1:00 p.m.: Special Ceremonies conducted by Beta Delta Omega Chapter, Alpha Kappa Alpha Sorority, Inc., Mrs. H. Ann Jones, President.

PROGRAM

ORDER OF SERVICES

(Dr. Lelia Gaston Rhodes, Presiding)

Prelude

Processional

Scriptures: Old and New Testaments, The Reverend Dr. Leon Bell, Pastor, New Mt. Zion Baptist Church, Jackson, Mississippi.

Prayer.

Solo: Mr. L.L. Knowles.

Tributes:

Alcorn State University, Dr. Walter Washington, President Emeritus' Dr. R.E. Waters, Interim President.

"As a Friend and Physician," Robert Smith, M.D., Director and Chief of Staff, Mississippi Family Health Center.

Alpha Kappa Alpha Sorority, Inc., Mrs. Mildred B. Kelly, Beta Delta Omega Chapter.

Solo: Mrs. Rose Knowles White.

Acknowledgements: Ms. Renalda Jaynes.

Obituary, Interlude: Read Silently.

Solo: "The Lord's Prayer," Mr. Jobie Martin.

The Christian Science Message: Mr. Harold Karyes, reader.

Funeral Directors of Peoples in Charge.

Recessional.

Postlude: Mrs. Princess B. Gwynn, organist.

ACKNOWLEDGEMENTS

The family of the late Mrs. Rubye E. Stutts-Lyells extends loving gratitude to all friends, neighbors, and church members who have provided ongoing comfort and have displayed innumerable acts of kindness during her illness and our bereavement. We thank you today, tomorrow and always. May God's richest blessings of good health, happiness and hope for 1995 be with you!

OBITUARY

Mississippi's claim to a segment of intellectual prominence, perhaps can be best described in the polished craftsmanship of some of the progenitors who suffered with dignity, with poise, with scholarship and a demeanor of elegance, the complexes, and atrocities of Mississippi's intricate maze of social classes, racial differences, poverty and ignorance.

So to chronicle the life of a scholar, par excellence, who was a major player in the saga of change in Mississippi, historians must thoroughly research data for future generations, the multifaceted experiences of the stature of Mrs. Rubye E. Stutts-Lyells. Mrs. Lyells was born Rubye Elizabeth to the late Tom and Rossie A. Cowan Stutts in Anding, a crossroad village in Yazoo County, Mississippi. Her parents had two sets of twins; one set of whom Mrs. Lyells was the older. All sisters preceded her in death. Mr. Tom Stutts was a prominent progressive farmer known throughout the deep South.

Mrs. Lyells' early education was begun at Utica Institute where in 1923 she completed both the eighth and ninth grades, and in 1924 completed the tenth and the eleventh grades. In 1925 she graduated as Valedictorian of her class.

During the fall semester of the same year Mrs. Lyells' parents enrolled her in the former Alcorn A&M College (now Alcorn State University) where she graduated in 1929 as Valedictorian of her class. Following graduation from Alcorn, she matriculated at Hampton Institute as a Julius Rosenwald Fellow and in 1930 was conferred the degree of Bachelor of Science in Library Science. She immediately returned to her Alama Mater as the first professionally trained African American Librarian in the State of Mississippi. Mrs. Lyells worked assiduously to bring the library in compliance with standards of professional accrediting agencies, both on the state and regional levels. Much of her work became a model for collection development in other Black Land Grant Colleges.

Mrs. Lyells has been at the forefront of almost every significant educational, social, and political advancement made in Mississippi during the past half century. To be on the cutting edge of advancements in the field of librarianship, she took a leave of absence from Alcorn to enroll in the Masters of Arts Library degree program at the University of Chicago where she graduated with distinction in 1942.

Mrs. Lyells' services, as the state's only African American librarian, were in great demand throughout the nation. However, her immediate decision was to stay in Mississippi to serve as a catalyst in helping to raise the standards of academic and public libraries. She served with distinction as head librarian at Jackson State University as the first African American Librarian to head a branch of the Jackson Municipal Library System; acting librarian at the Atlanta Public Library System and Special Assistant Librarian at the Iowa State University Library.

Mrs. Lyells' persistent pioneering efforts for professionalism among African American librarians and her emphasis on quality, available public library resources and facilities for all people were met with apathy, hostility and out-right resistance by those who viewed her "call for change" as threatening to their way of life—as recounted by Clarence Hunter and the editor of the Jackson Advocate, Mr. Tisdale—"Mississippi's Library Heritage—Rubye E. Stutts Lyells—A Woman For All Seasons" She was adamant in her views that librarians should be treated as professionals; that if historically black colleges are to carry out their mission, they should by statutory mandate be funded at a level to acquire and maintain quality libraries.

As a world traveler, noteworthy among her distinguished affiliations were: Executive Director, Mississippi State Council on Human Rights; member of the Mississippi Women League of Voters, President, Mississippi Federated Clubs, President of Terrell Literary Club; a post president of Beta Delta Omega Chapter of Alpha Kappa Alpha Sorority, Inc.; Alcorn State University National Alumni Association, Inc. and the University of Chicago Alumni Association, Inc. She was the recipient of numerous citations and awards. Mrs. Lyells was a candidate for nomination to the Mississippi Senate in 1975; attended the Republican National Convention in 1952 and was invited to the Inauguration of President Dwight D. Eisenhower in 1953. In 1970 she served on the Advisory Committee of the Co-chairman of the Republican National Convention (In 1969 she was a delegate to the Southern Republican Conference in New Orleans). In 1979, Mrs. Lyells was appointed to the Mayor's Advisory Committee in Jackson.

She is listed in numerous scholarly publications which include Marquis Who's Who; The World Who's Who of Women, Cambridge, England, 1978, p. 724. She was a prolific writer. Many of her articles appeared in refereed journals.

Mrs. Lyells served on the Board of Trustees of Prentiss Institute. The Library is named in her honor. The Doctor of Humanities (L.H.D.) degree was conferred on her from Prentiss Institute.

She was married to M. J. Lyells, a longtime professor at Alcorn A&M College and Lanier High School. She was a member of the Christian Science faith having joined the Mother Church in Boston, Massachusetts with local affiliation in Jackson.

Following an extended illness, Mrs. Lyells demise came Friday, December 22, 1994 at Englewood Manor Nursing Home. Survivors include a niece, Mrs. Rose Knowles White, Baton Rouge, LA; grand-nieces: Ms. Angela Denise White, San Francisco, CA, Ms. Ann Rossie White of Chicago, IL; one nephew, Mr. Leon Stutts Knowles, Los Angeles, CA (Dana); brother-in-law, Mr. L. L. Knowles; a special daughter-nieces, Mrs. Alice Stutts Jaynes, Jackson, MS; a special cousin, Mr. Renalda Jaynes of Jackson, MS and additional relatives and friends.

Mr. COCHRAN. Mr. President, in conclusion, let me simply say that one mark of the courage and interest in the political development of our State was

illustrated by Mrs. Lyells' active and conspicuous participation in the development of the modern Republican Party in Mississippi.

As an African-American, she took a stand and defended it with grace and with dignity and with intelligence, in a way that reflected credit on many of us who were actively involved in trying to build a new political party as a vehicle for political expression for our State and the citizens of our State at the national level. For that, I also will be forever grateful to her and to her family.

Mr. President, I yield the floor.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. COVERDELL). The Chair would like to make an announcement.

On behalf of the Vice President, pursuant to the order of the Senate of January 24, 1901, appoints the Senator from Wyoming, [Mr. THOMAS], to read Washington's Farewell Address on February 22, 1995.

The Chair recognizes the Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent to address the Senate.

The PRESIDING OFFICER. The Senator has the right to address the Senate.

UNFUNDED MANDATES GRIDLOCK

Mr. INHOFE. Mr. President, in order to properly frame some observations that I made last night and at the risk of being redundant in some of the comments I made on this floor yesterday, let me just make some reflections as to my feelings on unfunded mandates that come from quite a few years back.

Back in 1967, one of my closest political allies and friends, who later became Senator David Boren, and I came to Washington from the State legislature to protest the mandates that came from Lady Bird's Highway Beautification Act of 1965. We made a list of what it would cost the private sector in terms of screening. We made a list of the violations, of what we perceived to be violations of the 14th amendment, property rights, people having their property taken away from them in such areas as outdoor advertising signs and others. But primarily because it was the cost to the municipalities.

The leverage they used at that time was that if you do not comply with the mandates of the Highway Beautification Act of 1965, we will withhold several million dollars of your Federal highway matching funds.

Now, keep in mind, these are funds that emanated originally from the State of Oklahoma, went to Washington and were coming back. Of course, Oklahoma, having been a donor State for quite a number of years, does not get as much money back as it sends to Washington. So I guess what they were saying to us from the Federal Government, in its infinite wisdom, was we have passed a law that says you in Oklahoma cannot have the money you sent to Washington unless you comply with these mandates.

That was my first exposure to mandates. I mentioned yesterday also that there are many fine Members of this honorable body who have differences of opinion philosophically and ideologically. Certainly the very distinguished Senator from California, [Mrs. FEINSTEIN], and I differ on many issues, but we have one thing in common in our background, and that is we were both mayors of major cities.

I remember when we were both serving on the U.S. Conference of Mayors Board of Directors our major concern at that time was unfunded mandates.

Whether it is in the State of Kentucky or the State of Georgia, regardless of who you go to, if you talk to your mayors and your county commissioners and your State legislators and the private sector, they will say the major problem we have is not necessarily crime; it is not welfare; it is unfunded mandates. Because while we are facing fiscal problems here in Washington, the problems are even more severe at the local level.

A lot of people do not realize the genesis of the problem that we have in these mandates. I think it goes back to the Great Society days when we decided Government was going to take on a role that perhaps was outside the boundaries of what our Founding Fathers thought the Government should be doing. At least if I have any understanding of the 10th amendment to the Constitution, it says that powers will be reserved to the States or to the people other than those specifically delegated to the Federal Government; that we have become very greedy at the Federal level, and that this greed emanates from the desire of politicians, an insatiable appetite to give things to people in return for their votes. And realizing that there is not an adequate amount of money there, they, of course, impose those financial hardships on political subdivisions below them. And that is where we have found ourselves today.

I hope that all of the American people were watching what was happening last night and what has happened over the past 6 days. I asked our staff to advise me as to how many hours have we been debating the unfunded mandates bill. According to their calculation, it is 47 hours—47 hours of debate on something that really is not that complicated.

Yes, we can get into the finer details and the amendments that perhaps might make it more workable, and I think our distinguished majority leader, Senator DOLE, has gone far beyond the expectations of the American people in being fair. Those of us who are freshmen—and I think I can speak in behalf of all 11 of us who are newly elected who just came off the campaign trail and listened to the people and were there on November 8 when the mandate came out—do not look at this Contract With America in the cute reference that many other people try to put it, in a demeaning sense. It is a very real thing. People are sick and tired of the games we are playing here in Washington, and for the last 6 days we have been playing games. We have not been legislating. We have been playing games.

I know that a lot of Americans out there are applauding at a statement like that because that is what is happening, and they are sick and tired of it. We have a man who ran for President of the United States, elected in 1992, who used throughout his campaign the word "gridlock." We are going to come to Washington and we are going to change; we are going to eliminate gridlock.

We have created gridlock, Mr. President, in the last 6 days and we have done it willfully. We have created gridlock to stall an issue. And I am going to make a prediction in the Chamber of this Senate that is going to offend a lot of people, I am afraid, Mr. President, but it is something that I think has to be said. I believe that this issue has been stalled for a very good reason. First of all, why would they stall an issue on unfunded mandates? Who is opposed to unfunded mandates except for a few liberal people who want to keep the ability to pour money into social programs or other programs and then let the States and the cities and the counties and the people pick up the tab.

Now, that is a philosophy that is out there, and there are some of those who want to do that. But this is not a Republican or Democrat program; it is not a conservative or liberal program, because if you look at the Senator from California, as I mentioned, Mrs. FEINSTEIN, she is very supportive of this because she has sat in a mayor's seat and knows what it is like to have to pay for these mandates that come down.

Yesterday, in the Chamber, I outlined that in only three cities in Oklahoma the unfunded mandates exceeded $35 million, and this is over a period of time. It is just incredible that you could have this. It is not just in Broken Arrow and Tulsa, OK, and in San Francisco. It is throughout America. So it is something that everyone now wants to do something about. The liberals are for it. The conservatives are for it. Organizations like the U.S. Conference of Mayors are for it; the Municipal League is for it; the NFIB is for it. All organizations out there are for this. And yet it has been stalled and stalled

and stalled and stalled. It is a bill, a resolution that could very well have been deliberated for 2 days and passed as everybody wants it.

The reason I do not believe it was passed is because there is a deliberate effort to stall the vote on this until after the State of the Union Message that will take place next Tuesday night. And when that happens, I predict in the Chamber of this Senate right now that the President will stand up, even though he may not like the idea of passing an unfunded mandates bill, which I personally do not think he really wants but he heard that the American people did want it on November 8, and he is going to say, "And I am going to ask this Congress, I am going to ask this Senate to go back into session and pass the unfunded mandates bill." And we will. And it is a bill that we should have passed a week before.

Is this gridlock? Yes, it is gridlock. I think it is intentional gridlock. One time someone put the pencil to how much it costs us to keep this body in. I wish I could recall those figures right now, but it is very, very expensive. So there was a tremendous cost to the American people. There is a lot of inconvenience to a lot of people. There were late nights. There was a dialog. We talked on this floor about every conceivable subject that you could talk about and finally got around to making a few comments about unfunded mandates.

So I am saying, yes, it is going to happen, but it is not going to happen until after the State of the Union Message. I think that is a very sad thing.

Do you know where I got the idea of gridlock and where I am coming up with this? It came from someone who talks to a lot of people. It is my barber. A lot of times we have this beltway mentality here where we talk to bureaucrats and we talk to think tank people and we talk to each other and we forget that there is a real world out there with real people who are sick and tired of what is going on up here. I think we will all have learned a lesson as a result of this.

So, Mr. President, in conclusion, I say I hope the American people have been watching for the last couple of days, because what they saw is something we are going to bring to an end. I think I speak in behalf of certainly all 11 of the freshmen Members of this organization when I make this statement.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kentucky.

UNFUNDED MANDATES

Mr. FORD. Mr. President, I admire my new-made friend from Oklahoma. I, too, was Governor. I came to Washington about the so-called unfunded mandates. It was a little easier to take care of then than it is now because we had 12 years of Republicans who ran us from $900 million to over $4 trillion in debt in 12 years. It is a little tough for us now to carry that load.

Mr. INHOFE. Will the Senator yield?

Mr. FORD. Not now. I did not disturb the Senator when he was speaking.

The PRESIDING OFFICER. The Senator declines to yield.

Mr. FORD. Then we hear something about gridlock. If the Senator had been here 2 years ago, you would have been part of gridlock—and I say "the Senator" rather than "you"; I want to be careful of my language for the RECORD—because the Republican side would not let us go with pieces of legislation we thought were important. Now they have become part of the Contract With America. The same pieces of legislation, basically, that were filibustered in the last session of Congress are now in the Contract With America. Surprising, is it not? Surprising.

We stand here in the last few days, last couple of weeks, and act like the world has stopped.

We forgot aging in the bill that came out of committee. It would have gone on and we would have excluded aging in the amendment. And the manager of the bill from the Republican side, the majority side, was a cosponsor of that amendment when he found out about it. So we have made some contribution.

We had an amendment last night that was defeated, but utilities—and your State ought to be very interested in utilities—wanted that very badly, because the mandates to private enterprise stick and they do not stick on public entities under this legislation. So it is the business-oriented group here, I guess you would say, who have said to business: We are going to stick it to you. Because the mayors and commissioners out there are raising Cain, we are going to let them off the hook.

So we have incinerators: Private and public. The public does not have to take the mandate but private will, regardless of what it costs.

Landfills: Public and private. The private will have to get stuck with all that.

Schools—think about schools, the mandate on schools. Private will have to be stuck with it; public will not.

Hospitals; in my hometown we have two fine hospitals. Those fine hospitals want to come together—one is public and one is private—and come with an HMO, to merge and try to give better service at lower rates in my community. We better be careful because the private hospital might have to carry out some mandates that the public hospital will not have to.

Why jam this thing through when all those problems are there that should be worked out? We wake up: Oh, I did not know it was in the bill. I will guarantee not a Senator here, with few exceptions, can tell you everything that is in the bill. You get up here and talk about, oh, we are just gridlocked. It may be gridlock, but a couple of things—real, I think—have happened. One, the utilities woke up and business woke up about what is getting ready to happen to them, for one. That is one. Then we found we left out the elderly; we exempted everybody but the elderly. AARP, I am sure, did not know it. But last night it was 99 to zip when you found it, and that was because we said let us look at the bill. And Senator LEVIN, from Michigan, was the individual who found it, brought the amendment up, and the Republican floor leader became a cosponsor of that amendment. That was helpful.

You can stand here all you want to and say we have to get it through because the American people want it. But when small business and major businesses are being hurt, they are not able to be competitive with public—we have local incinerators and private; we have landfills, public and private; we have hospitals, public and private—and you are putting a heavier burden on business and taking it off of their competitor, which is government, I think you ought to take a step back and see what you are doing on this.

We on this side have given you an opportunity to do that. If you want to continue to make the mistake, continue to make the mistake of putting horrendous burdens on business and not on the public entities, then go ahead. When this Senator, 8 years ago, introduced unfunded mandates legislation—the threshold was $50 million then and it has not changed—I got two Senators, two Senators who would be cosponsors.

How times have changed. You said back, I guess in 1967 or 1968, you were here. Where were you when I needed you 8 years ago? Where was all this euphoria for unfunded mandates legislation? I introduced it a year later—nothing happened. So I dropped it. Maybe I should have carried it on. I would have been a part of the Contract With America. But I was there 8 years ago. I was there 7 years ago. The threshold is the same. Now you want to change some from $50 to $100 million. Things are beginning to change. And there are now some changes being made in the bill, I think for the better.

You can fuss at me all you want to. You just give me the devil. Devil take the hindmost, you know? But I am doing what I think is right, and two changes have made this bill better.

It does not go into effect until 1996. Why is the urge here to get something done when mistakes are being made in the bill?

And one other thing, one other thing. Many of you, the new Members, are from the House. Over in the House you could be paid for your travel and be a frequent flier and you take those frequent flier miles and use them personally. That is all right on the House

side. We have never done it on the Senate side. I am a chairman of the Rules Committee. I said no, and that is agreeable.

So I had a little amendment here, if you recall, about a week or 10 days ago that said the House could not use taxpayers' money for personal use. They get out here on the floor and every Republican voted against me and said let the House take care of it. If they want to have it for personal use, let them do it.

What is wrong is wrong and what is right is right. If you listened to Sam Donaldson the other night, and the House let the bill go through without making the changes and they are still getting the perk—you are going to get that amendment again. Because 50 million people watched, as they said the House did not take care of that personal perk. So think about it just a little bit.

In this bill you are changing the rules of the House. You are changing the rules of the House in this bill. And I am going to ask you to stop it because you would not—Let them have the perk. So why should you mandate changes in the rules of the House in this bill? All the former House Members, how mad would you get when the Senate did that when you were in the House? You got pretty mad, got pretty upset. You did not want it done. That was the reasoning.

But now in this bill it is all right. It is in your bill that you want to get through immediately, and you are changing the rules of the House. Try a look at page 26, (d), lines 1 through 5. Just take that little section of this bill and see what it does to the House. What is fair for the goose is fair for the gander. And you are going to have that amendment. You are going to say no, we just want to let them have perks. But in this bill, this is the difference. We are going to find out the attitude, and see how you go are going to vote because we are going to get that amendment. And it is coming pretty quickly. Maybe we can get it early Tuesday. But some changes ought to be made in the bill, and they will be offered. We will have a chance. The Senate will have a chance to be for or against this piece of legislation.

Mr. President, I do not know about my time. I do not know whether I can reserve it. But some will not use time, and I will be able to get more time later on.

But let us be reasonable about this. Talk about having comity. We get up and say how bad we are. I can go back and give speeches maybe of months ago almost identical on this side that the other side made. They are almost identical. So as times change, the more they stay the same.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SANTORUM. Thank you, Mr. President.

Mr. President, I come here to join my colleague from Oklahoma in his comments concerning what is happening in the Senate. I have a statement, but I want to yield to him for a few moments to respond to the Senator from Kentucky.

Mr. INHOFE. I thank the Senator from Pennsylvania.

Mr. FORD. Mr. President, I might say that under the rules of the Senate, he can get, by asking unanimous consent, all the time he wants. The Senator does not have to yield to him.

Mr. INHOFE. I say to the Senator from Kentucky that we know the rules. But I would like to make one short response, if I may.

First of all, Mr. President, I have a great deal of respect for this institution, and I have studied the background and the history of how we got into a bicameral system. I think there is a very useful purpose for that. I served 8 years in the House of Representatives, and things run through there quickly. The train has slowed down here. But there is a difference between slowing down the train and stopping the train.

When a statement is made about why the urgency since it does not take effect until 1996, the urgency is that we have many other things in a contract, a so-called Contract With America, things that Americans believe they were voting for on November 8. We want an opportunity to present those. We cannot do that if we get bogged down day after day for hours and do not get much done with a bill.

I will make one other statement that I think is very significant. Certainly, I have the utmost respect for the Senator from Kentucky. It is true that when the Republicans were the minority here in this body, that there was filibustering going on. I think even though it may not have technically been a filibuster, what we have been experiencing in the last 6 days certainly is very close to that. The difference is this: The difference is when they were filibustering last year in this body, they were filibustering a bill; for example, the Government takeover of the health care system. That was something that 80 percent of the people did not want.

What we are talking about now is unfunded mandates, which is something that by survey 80 percent of the American people do want, and I draw a major distinction between the two.

I thank the Senator from Pennsylvania for yielding.

Mr. SANTORUM. Mr. President, what I want to do is first respond to the Senator from Kentucky and a couple of points that he made, and then talk in general about the problem I think we are confronting here in this debate on unfunded mandates.

I would agree with the Senator from Kentucky that amendments have been offered to improve the bill. I would agree that the amendments he referred to have in fact improved the bill, and have in fact gotten bipartisan support, and the legislative process in that respect is working.

I also remind the Senator from Kentucky that we are in the first step of the process. We are considering the bill here for the first time. The House is yet to bring it up. They are going to be considering amendments under an open rule which will allow improvement to this bill. We will then in all likelihood pass different versions of this bill. It will then go to conference where different ideas that have been percolated through the legislative process get resolved, and hopefully even a better product will come out with the best ideas of the House and Senate.

I do not think anyone would say that any bill that passes the House or the Senate is perfect. There are always things that are going to come up that could have been improved. We would like to see debate. I would like to see debate on germane amendments that deal with the issue of unfunded mandates. I would like to see improvements to the bill. I would like to hear the concerns of both Republicans and Democrats as to what we can do to make this bill a better and more efficient process for reducing the amount of unfunded mandates that we pass on to the State and local governments.

But that is not what is going on here. What is going on here are amendments that have absolutely nothing to do with unfunded mandates, like frequent flier amendments, abortion clinic amendments, and going on and on, that have nothing to do with the substance of the bill that are in these riders.

I remember when I was running for office, people would come up to me and say, "When you get to the Senate, you get rid of those riders, all of those things that they just throw on these bills that have nothing to do with the bill, that really clog up the legislative process and get all these things thrown in there that we do not like."

What we are seeing here is a classic example of what the American public does not like, which is a bill that has broad public support that is moving through the process, that is continually being derailed on education issues, on abortion issues, and unfortunately we are not getting back to the subject at hand, which is unfunded mandates, and moving that process through which has overwhelming public support.

We are happy to deal with germane amendments and improvements to the bill. That is what we have been striving to do—limit the debate with cloture petitions that the majority leader has

sent to the desk. Let us have a full and open debate on unfunded mandates. Let us deal with the amendments that are germane to the bill that could improve the quality of legislation. That is what we are attempting to do with the cloture petition. Let us just deal with the things that are germane, that are improvements to the bill, and let us put all this other stuff—which may be important—let us put it aside and we can bring it up another day.

As many Senators from both sides of the aisle said, we are in early January. We have a lot of time in this session to deal with a variety of issues.

But this is a bill that has the support that has been worked on for at least 8 years, and has had bipartisan support for a long period of time.

I just got off a conference call 2 days ago with mayors all across my State. We did a conference call talking to them. The comments that I got were just overwhelming. I have been getting calls from my county commissioners from both sides of the aisle saying, "Please move this bill forward. We need this help. We need this assurance that you are not going to continue to push more and more costs on local government and State government without providing the needed funds to pay for these programs."

So we have the consensus. I agree the details need to be worked out. The Senator from Kentucky is absolutely right. We have improved the bill. There will hopefully be other amendments on which we can make improvements, at least that we can discuss, to this bill. But let us do that. Let us focus in on that.

I came from the House of Representatives. I have been reminded many, many times that the House and the Senate are different bodies, and they are. I appreciate the difference. I understand the Senate is a more deliberative body. That is a wonderful thing.

I look back at last year, and look at the bills that were stopped here in the Senate that were rammed through the House because of the rules of the House, that were rammed through the House, that came here to the Senate and were slowed down and in many cases changed, and in some cases stopped completely. It was a benefit.

The Senator from Oklahoma referred to the health care bill. He is absolutely right. That process was slowed down dramatically here in the Senate, and I think to the benefit of the American public in the long run.

So the Senate does have an important role to play. But when we have pieces of legislation that have broad support, in fact have broad bipartisan support in this body—we have 60-some cosponsors on this bill—we have, hopefully, more that will actually vote for the bill. When you have that kind of support, when you have the support here, the support in the public, and you have—with this last election—a clear mandate to move, then I think it is the obligation of the people who support this measure, on both sides of the aisle, to stand up and say that it is time to move forward.

So I hope that Republicans and Democrats can join together and push this package forward and limit the debate to amendments that are germane to improving the quality of this bill, so we can produce the best product here in the Senate, so we can come up with the best piece of legislation that the best minds in the country here in the U.S. Senate can work on and craft and send to the House. And maybe if they recognize the great handiwork that we have done here, they will just accept what we have done.

They did that with the congressional accountability bill—another bill that was slowed down for a week with spurious amendments on a whole variety of different topics that had nothing to do with congressional accountability. We did such fine work on the germane amendments, such good handiwork here in the Senate on the underlying bill, that we kept it, in a sense, clean from all these other amendments. And when it came to the House, the House said: You folks did a pretty good job; we will just pass your bill. In fact, it is now on the President's desk.

That is the kind of action the folks in Pennsylvania want. I think that is the kind of action folks all over the United States of America want from this body. They want us to get down to business. They want us to focus in, one by one, on the issues that are important to America. The Senator from Kentucky is absolutely right. The frequent flier issue is an important issue. It is a perk that the House should not have. When I was in the House, I did not accept my frequent flier miles. I did not use them for personal use. It was my office policy. The Senator from Kentucky is right that that privilege is available and it should not be. It should not be. I hope that we can work together and make that happen. I hope the House acts quickly to do that. But I would not be averse to putting some pressure on the House to do that.

Let us focus on what we all now agree should be passed, what needs to be passed to restore to this institution the faith of the American public that we are a body that listens, that we are a body that can act, and that we are a body that understands our obligation to serve the American public. I hope that is what we can do when we return for votes Monday and Tuesday—that we can focus the attention back on the bill, that we can improve the quality of the bill, that we can move the bill forward quickly, that we can get to the other pieces of legislation that are waiting in line behind unfunded mandates, like the balanced budget amendment, that are important pieces of legislation which, again, the public wants us to take up and move in a timely fashion.

I do not want to stop debate on any amendment that improves the quality of this bill, not one. Offer them, debate them. It is needed. The Senator from West Virginia is absolutely right that there are things in this bill that concern a lot of Members and a lot of people in this country, and they should be debated. That is what we want to do with this cloture motion. If we get an agreement to limit the number of amendments and the time in which they can be offered, that is what we want to do.

That is what this side of the aisle is trying to do. We are trying to move the bill forward, trying to be accommodating. We are trying to keep our promise with the American public to move this institution, to get bills passed, to get it done in a prompt fashion, and to deliver on the November election.

I think we can do that, and I hope that with the support of Members on both sides of the aisle, we will be able to accomplish that.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD] is recognized.

Mr. FORD. Mr. President, may I inquire of the Chair, what would be the procedure now since we are limited to 15 minutes and no other Senator is seeking recognition? What would be the parliamentary procedure, so that we might understand that for the rest of the day?

I felt the Senator from Oklahoma could have gotten the floor in his own right without——

The PRESIDING OFFICER. The Chair finds that as long as we are in morning business, any Senator can be recognized for 15 minutes at a time.

Mr. FORD. I ask unanimous consent to speak as in morning business for an additional 5 minutes.

The PRESIDING OFFICER. The Chair would find that every time the Senator is recognized, he would have 15 minutes; it is not necessary to ask unanimous consent.

Mr. FORD. Now, that is clear.

HOW THE SENATE OPERATES

Mr. FORD. Mr. President, it is a new day and I am enjoying it. I remember when I came from Frankfort, KY, as a former Governor, I had a file cabinet, one of those paper file cabinets, drawer size, with projects in it that I was unable to complete. If you remember—maybe you all are not old enough—but if you remember, we had a pocket veto of highway funds and utility funds by President Nixon. A suit was filed, as I recall—do not hold me to every detail, but a suit was filed—and I think Senator Muskie was the chairman of the Budget Committee, and the Governor

of Missouri filed suit. The courts held that the President of the United States had to release that money.

Well, we had been held up for a year and we were into the second year of appropriated funds, so we had a lot of money to spend. We were doing well. We got the first and second phases of some projects done—sewer, water, things of that nature. So I came with that box of projects that I wanted to get finished. The senior Members here said to me—you know, I was gung ho. They said, "That is all right, son; you just relax. We will get to it next week, and if we do not get to it that week, we will get to it the week after that."

It was hard for me to take. That has only been 20 years, and I remember it as if it were yesterday. I wanted to move. When I was Governor, I picked up the phone and the highway department would move, or I picked up the phone and somebody else would do something for me. It was something that I felt I would be in a position to do here, but I could not. The rules were different; attitudes were different; the institution was different from the Governor's office.

So, as my learned friend from Pennsylvania said, the House and Senate are different. The Senator from Pennsylvania talked about the nongermane amendments. Well, if you recall, it was on both sides of the aisle yesterday. It was not just Democrats that put up a nongermane amendment. A Republican put up a nongermane amendment which took hours. Even your majority leader offered a nonbinding amendment, a sense-of-the-Senate amendment to that amendment to try to get rid of it. We had another one on our side. It took hours. That proves a point, though, about the Senate.

Every Senator has a right on this floor, and his right is not stymied by a Rules Committee and a vote of the Senate that limits him to 2 minutes or 5 minutes or three amendments, or something of that nature. Every Senator has a right. That makes this body significantly different. So the Republican Senator was within his right to offer a nongermane amendment here. The Democratic Senator was within his right to offer a nongermane amendment, under the rules of the Senate.

So maybe you do not like it, but that was his right and he exercised that right. As far as frequent flier miles, I tried to put that on congressional coverage. I argued strenuously that we were not truly doing what we had told the American people we were going to do about congressional coverage. Congress took care of itself. You are immune. The people out there think you are not.

We set up a commission to study and see what should apply—about $5 million a year. I, as former chairman of the Rules Committee, had set up the Fair Employment Office. That is about $1 million a year just for that office. You are not paying for it; the taxpayers are paying for it. I thought maybe we should lift the veil and let it all apply, instead of being special and Congress taking care of itself again. That was part of my problem.

The distinguished majority leader said at that time that this bill would be accepted by the House and sent to the President.

So I felt it was more incumbent upon me, then, and other Senators here, incumbent upon us to see that that bill was as good a bill as we could pass. Because it was not going to conference, we would not have a second shot at it. And so that became the concern of those that felt that congressional coverage was not adequate and that we were not being fair with the American people. So I just think you have to get it all in the right perspective.

And when your leader says it will be accepted on the House side, I respect that statement. So, therefore, when I respect the individual and the statement he made, I became more concerned that this bill ought to be changed, if it was going to be changed, here, because they were going to accept it and, just like grease, go to the White House.

So that was one of my concerns and one of the reasons I felt that we ought to debate that bill and try to change it and make it as good as possible. Because that was the last chance we were going to have; no other shot at it.

So now on this piece of legislation, unfunded mandates, sure they want it. Oh, do they want it. I had a mayor from Kentucky, who is the retiring president of the National Mayors Association. Oh, do I get calls; do I get fussed at a little bit.

But when you sit down and talk to them and say, "Look, we are getting down to the amendments now that we feel are very important"—and they are—"and we left out the elderly." We exempted everybody else but the elderly. I want to respect the elderly. I think they ought to be given the same kind of respect and coverage as others. So we put in the elderly. It is a good amendment. Everybody voted for it. Even those that are fussing at us because they think we are holding the bill up.

My learned friend from Pennsylvania says we ought to get an agreed list. We have an agreed list. We did it last night. I stayed here until almost 1 o'clock this morning. I do not know where those Senators were when we made that agreement, but we made that agreement. And those amendments have to be offered by the individual Senator unless it is by unanimous consent. He or she has to be here and offer that amendment. We got that agreement. We have a time certain to shut off amendments, and then we go to third reading and that is debatable.

We had a gentleman's agreement last night. And if, in the judgment of one or the other, that gentleman's agreement is breaking down, they have every right, it was said last night, to file a cloture motion.

So I think we have done a decent job here, even though everybody wants to move it a little bit fast.

I am going to vote for the bill. I am very strong for unfunded mandates. But I do not want to jeopardize the mother's milk of the economy, and that is business. If you are going to look at this bill and say you are going to mandate on business and not the public sector when they are in competition with each other, I think you ought to take a step back and look at it. Hopefully, some of these amendments will be taken very seriously. I hope that business will come forward. They are very strongly for the unfunded mandates bill. So I hope that they will look at it a little bit closer. Do they want to take a chance on having a public entity, government entity, to be in a better position to compete than they are? Maybe they already have. But this is another addition.

I wish the Senator from Oklahoma were here. He talked about one filibuster that we filed cloture on.

There were 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 filibusters. Here they are. You voted on them in the 103d Congress.

And now, when we are trying to correct a bill—and even getting Republican support for our changes in the bill—we are being fussed at because there is gridlock. There is no gridlock here.

As the congressional coverage bill was to leave here and never to be considered again, we would never have another shot at it, I think it was incumbent upon us to try to correct it. And filibusters—there they are. There is the record. I will not put it in the RECORD. I do not want the cost of $480 a page.

So Mr. President, I am overwhelmed by the attendance here this morning and those who want to wax eloquent. As I heard my distinguished friend from Arkansas say last night, he was going to wax eloquent. Someone said he was going to wax. He said "no," it is going to be eloquent.

So I am sure there is nothing waxing or eloquent about me. I am enjoying being here this morning and visiting with some of my colleagues and talking about this great institution and how we function here and what is good for the country and how fast we ought to be moving and that sort of thing.

I was out here and someone said, "You're awful nice, FORD." I said, "Yes, I'm a better human being than I was because I want to be good."

A lot of us got stomped on November 8—real good. I listened. I listened 8 years ago on unfunded mandates. I listened 7 years ago on unfunded mandates. I listened in 1991 when we cut off

frequent flier miles for personal use. I listened then.

The House Members came over here and wanted it. I turned it down. It was the Rules Committee who said "no." I think we made a good decision under the circumstances. So those House Members came over here; and even the Vice President was interested in it when he was a Senator.

So there are a lot of things. Just remember, it is all down in black and white in the history there. Let us be sure what we say, and I want to be sure what I say is correct.

I see another Senator here who probably would like to have some time.

Mr. President, under the ruling of the Chair that when you are recognized each time, you have 15 minutes, I will yield the floor so I can be recognized again.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH). The Chair recognizes the Senator from Tennessee.

MEDICAL SAVINGS ACCOUNTS

Mr. FRIST. Mr. President, I rise today to discuss the issue of health care in America and specifically the concept of medical savings accounts, sometimes called medical IRA's.

I speak today as an elected official, as a U.S. Senator, but also as a practicing physician having devoted the last 20 years of my life to caring for patients.

I have witnessed first hand the unequalled quality of health care in the United States. But I have also witnessed the problems in health care today—the skyrocketing costs and limitations in terms of access.

Last year, President Clinton addressed the problems of our health care system, but his proposed solutions were fatally flawed. He favored monopolization, not competition. He sought to empower bureaucrats, not individuals. And in the end, he relied on Government, not the private sector.

Fortunately, once the American people heard the truth about the administration's plan, they rejected it. Nevertheless, the problems with our health care system have not disappeared. Make no mistake. There are problems with our health care system in this country today. Instead of scrapping the whole system we must target and fix what is broken.

Mr. President, I believe the use of medical savings accounts is an important first step in that process. A fundamental problem which characterizes every interaction between patient and health care provider is that the provider is not paid directly by the patient but by a third party. On average, every time a patient in America receives a dollar's worth of medical services, 79 cents is paid for by someone else, usually the Government or an insurance company. The result is that we grossly overconsume medical services in this country today.

Imagine if we were all required to pay out of pocket only 20 cents out of every dollar of food that we purchased, or transportation, or clothing. We would all buy more than we need. That is what happens in medicine every day. Since people do not feel they are paying for it out of their own pockets, and everyone does want the very best and the very most at any price. Whether it is the deluxe hospital room, whether it is the MRI scan for a headache, whether it is the latest and the newest in nuclear medical imaging, we all want the best and we overconsume. We must become more cost-conscious consumers of medical services.

Mr. President, there are two methods of doing this. First, as the Clinton administration urged this past year, we can limit technology. We can ration care thereby ultimately destroying the good quality of health care that we have today. The American people outright rejected this alternative. And with good reason. It would have reduced the quality of care in this country.

I saw this happen first hand during a year I spent in England as a medical registrar in heart and lung surgery. I watched over and over again as patients waited months for medical procedures which they would have obtained in a few days or a few weeks in this country. Sadly, in some instances, I watched patients die while they waited.

The second choice, and the one I believe we must follow if we are to stem the skyrocketing cost of health care in this country, is to empower individuals to enable them to purchase their medical services directly, as they do other services in our society today.

Medical savings accounts would encourage patients to become more prudent in their decisionmaking in the purchase of health services. What are medical savings accounts? Medical savings accounts are tax-free personal savings accounts which can be used by an individual to pay his or her medical bills. Take, for an example, an employee of a typical company. Today, an employer might pay $2,000, $3,000, or even $4,000 for a medical insurance policy with a $500 deductible for an employee. But the employee then has no incentive to be cost conscious. In contrast, if medical savings accounts were available, the employer would deposit an amount, say $2,000, in a tax-free personal savings account which would belong to the employee. The employee would turn around and buy an inexpensive catastrophic-type policy which would cover medical expenses greater than $2,000 if they occurred in any single year. For medical expenses incurred up to that $2,000 deductible limit, the employee, using his or her own discretion, would use money from the savings account for these purchases.

Any savings account money not spent on health care over the course of that year would roll over into that savings account and grow tax free. It would accumulate, year after year. At retirement that money—the money not used—could be rolled over into an IRA, into a pension or be used to pay for long-term care or other expenses.

Thus, the individual would have a strong incentive to become a cost-conscious consumer of medical care. He or she will demand quality care at competitive prices. The consumer, the individual, the patient, will then drive the market. The system will respond with better outcome measures, better and lower unit prices for health care broadly. In short, medical savings accounts will give American health care consumers strong incentives to change to modify the way they consume health care services because they are able to keep any money that they do not spend.

We will potentially save billions of dollars in health care costs because individual patients will modify their purchasing habit behavior. Medical savings accounts will also potentially save billions of dollars in administrative costs. In 1992 alone, administrative costs for health insurance exceeded $41 billion. With medical savings accounts, patients will deal directly with health care providers and eliminate many of the third-party intermediaries.

Finally and perhaps most importantly, the use of medical savings accounts will maintain the high quality of care that Americans have come to know. While the Clinton administration would limit technology and force hospitals and doctors to ration care, medical savings accounts will put the individual back in charge of his or her own care and consumption of medical services.

Mr. President, in closing, we in America are fortunate to have the absolute highest quality of health care in the world. When the leaders of the world become seriously ill they do not go to Great Britain or Canada to seek treatment. They come here, to the United States. While there are those who would like to stifle our technological advances and allow bureaucrats to tell people how much and what kind of health care we can receive, the American people have spoken loudly and clearly and rejected this notion.

No one can predict what will happen in the next 50 years of the 21st century in the field of medicine; 50 years ago when my dad was a practicing physician, making house calls day by day, he would not envision that somebody such as myself would be doing heart

transplants in the 1990's. The technological advances are simply mind-boggling.

Mr. President, the challenge for everyone is to maintain the highest quality health care in the world, and to continue to make it available to all Americans. This can only be done if we change the basic framework through which medical services are consumed and continue with a market-based system.

I believe the use of medical savings accounts will be a major first step in that direction. Individual patients become part of the solution, not just part of the problem. For this reason I hope that my colleagues in the Senate will support my efforts to pass legislation later in this session to create medical savings accounts.

Thank you, Mr. President. I yield the floor.

(Disturbance in the visitors' galleries.)

The PRESIDING OFFICER. The gallery is reminded not to display any approval or disapproval of remarks on the floor.

Mr. FORD. Mr. President, I have a longtime habit that is hard to break and it is opposed to the rules of the Senate. I should not refer to another Senator as "you." It was not any disrespect at all. So in referring to the two Senators, one, I think, from Oklahoma, the other from Pennsylvania, by using the word "you" I hope that it will not be taken as an affront in any way because I did not mean it that way. I will look at the RECORD and see if I cannot straighten it out by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent I be allowed to address the Senate in morning business.

The PRESIDING OFFICER. The Senator is recognized for up to 15 minutes.

UNFUNDED MANDATES

Mr. KYL. Mr. President, the debate we are engaged in, and have been for 8 days now, is important not only because the American people are tired of the Federal Government telling them what to do—and, in the case of State and local governments and tribal governments, having the additional burden of then having to pay for those Federal mandates. It is important, therefore, not only because the unfunded mandates legislation would put a stop to that in the future and say that from now on the Federal Government is going to have to identify the cost of mandates on the private sector and is going to have to pay for the mandates it imposes on the public sector—it is important not only for that reason, but it is also important because when we pass the balanced budget amendment and send that to the States for their ratification, the State legislatures and the Governors are going to be considering whether or not to ratify that amendment. One of the concerns that they are going to have is that the Federal Government might attempt to achieve its requirement of meeting a balanced budget by simply foisting the costs onto the State and local governments and tribal governments.

I would add as a footnote that in my State of Arizona the business of tribal governments is significant, and they have to bear the burden of some of these mandates. So they are all concerned about this.

In the case of the people in the State legislature, they suggested to me that if we want the balanced budget amendment to be ratified by the State legislatures, we had better make it very clear that the Federal Government is not going to attempt to achieve that balance by laying all of these mandates on State and local governments. We might have done that in the case of the health care legislation that, I think fortunately, was killed last year. One of my friends back in Arizona called it "justifiable homicide." I am delighted we did not pass the kind of bill that was originally proposed because it would have created a huge mandate on the private sector. In fact, it was called employer mandates. And employers would have been required to pay substantial amounts of money. In some cases I believe there were situations where they really could not afford it, which is the reason they do not provide that health care today. So both for the public and private sectors it is important that the Government not impose these mandates. But as I said, it is important not only in its own right but because of the connection to the balanced budget amount.

BALANCED BUDGET AMENDMENT

Mr. KYL. Mr. President, I would like to turn for a moment to the subject of a balanced budget amendment in this overall context that we are debating unfunded mandates, and soon we will be debating the balanced budget amendment because the Joint Economic Committee held a hearing this morning and took testimony from both House and Senate Members on their proposals for achieving this goal.

When we talk about the Federal Government achieving a balanced budget without passing the costs on to the State and local governments in the form of unfunded mandates, the question of course, arises, how are we going to do it? In fact, some people, some Members of the Senate, have challenged those of us who support a balanced budget amendment as to how it is going to be done. They say be specific. Of course, we have said, "You say we don't need a balanced budget to achieve balance. So why don't you tell us how you would do it? Why don't you be specific? You have had 40 years in the case of the House of Representatives and you have not gotten the job done. Give us a chance and we will do it."

First, we want to establish the discipline that requires us to do it. Assume we had passed the balanced budget amendment in the House and it is the version that did not pass but almost passed the House of Representatives and, we believe, has the votes to pass in the Senate now and will pass the House of Representatives. That merely requires that the Federal Government balance its budget. What then? We know that there are people in both the House and Senate who propose that we also limit taxes. I am for a three-fifths vote to raise taxes. That would put an additional constraint on the House and Senate and would make it more difficult for us to try to achieve a balanced budget by raising taxes. The fact is that has never worked.

In March of 1993, W. Kirk Hauser wrote an article, an op-ed piece, in the Wall Street Journal in which he noted that over the last 30 or 40 years revenues to the Federal Treasury have been almost static at about 19 percent of the gross national product or 19.5 percent of the gross domestic product. It has ranged very little, and it does not matter whether we try to raise taxes or lower taxes or whether we have a Democrat President or a Republican President or we were in war or good times or bad times. None of that mattered. Over a few weeks revenues would fluctuate a little bit. But very soon they would stabilize at 19.5 percent of the GDP.

In fact, when we tried to raise tax rates in order to bring in more revenue, for a very short period of time more revenue came in. Then, as people changed their behavior, it settled right back into 19 percent of GNP. When we lowered tax rates momentarily there was a reduction in revenues. But very quickly the increased economic activity that resulted from those lower rates resulted in more taxes to the Federal Treasury even though at a lower rate.

How could that be? It is like a store that has a sale. When you reduce the prices you do not necessarily reduce income. You bring more people into the store. You sell more goods, and you can make more money than if you price the goods at a very high price. It is the

same thing with revenues to the Treasury.

So we reduced tax rates. We have not reduced revenues to the Treasury. They have stabilized at 19 percent of the gross national product.

The lesson to be learned from this is this: People change their behavior based upon governmental actions. You cannot expect people to just sit there and take it when the Government does things to them. The result is that if we limited spending to 19 percent of the gross national product we would be limiting spending to the historic level that the American people have been willing to pay in the form of Federal tax revenues. We would also be balancing the budget because our spending would be the same as our revenues. That is what a balanced budget is all about.

The other advantages to this kind of approach—and I have to confess that the very first bill that I introduced as a Member of the House of Representatives was a Federal spending limit as the way to balance the budget and it was also the very first bill that I introduced here in the U.S. Senate; a bill that would require a balanced budget and achieve that by limiting spending as a percent of the gross national product.

There are additional advantages to that approach. In addition to spending the historic amount that Americans have been willing to pay to the Federal Government, we would also be achieving another extraordinarily important objective.

Mr. President, I cannot stress this point too much. People who say that all we have to do is have a requirement for a balanced budget are, in effect, saying that we could balance the budget at twice what it is today, or three times as much or four times as much as long as we bring in the revenues to pay for that.

Would anybody support that? I think not. We have a $6 trillion economy right now. Would anybody suggest that we should have a $6 trillion Government budget and try to raise the money to pay for that budget? We would be in balance if we could do it. But, of course, that would be extraordinarily detrimental to our standard of living, to our economy, and nobody, I think, suggests that there should be an unlimited amount of money that could be spent so long as we raise it.

So it matters as much where we balance that budget as the fact that we require it be balanced. We need to balance it at a sensible level. I suggest that the level is again a historic amount that Americans have been willing to pay to the Treasury, 19 percent of the gross national product. That is where we need to balance the budget.

It also matters how we try to balance the budget. Did we raise more revenues by raising tax rates? The answer is no, because people change their behavior. The luxury tax of a few years ago is a perfect example. Congress thought that by raising the rates on yachts and jewelry, expensive cars, we would rake in more money. Of course, rich people are not necessarily dumb. And they just stopped buying the yachts and the jewelry and the cars. So guess what? The tax revenue did not come in. And there was another very serious unintended consequence. The people who made the yachts, for example, lost their jobs because people stopped buying them. You price yourself out of the market in the private market. Government can do the same thing in the case of tax rates.

So it matters how we achieve a balanced budget, and you cannot do it by artificially raising tax rates. No. You need to do it the simple, straightforward way by getting at the heart of the problem. What is our problem? The problem is Congress spends too much. Is there any other problem? Why are we out of balance? It is because we spend too much. So the simple and straightforward way to deal with that problem is by limiting Federal spending.

There is another very important reason why I believe that a Federal balanced budget amendment and spending limit makes a lot of sense. We need to do things to stimulate economic growth, to provide more jobs in this country. Fortunately, our unemployment rates are low right now. But it is a constant challenge, as the Secretary of Labor would attest, it is a constant challenge for us to keep this economy growing, to keep providing jobs so that future generations will have the same kind of standard of living that we have been able to enjoy.

You do not do that by sucking all of the money out of the private sector for Government revenues. I have never understood how you make people better off by taking more of their hard-earned tax dollars.

It is like the old practice of bleeding a patient with leeches in order to make the patient healthy. They figured out after a while that taking a patient's blood did not make him more healthy. The same thing is true with extracting more tax dollars. If you leave those dollars in people's pockets, they invest them, they spend them on things that are important in their lives; they will send their kids to college, they will put some money in a savings account.

By the way, what happens if they buy a stock or bond? Say they take a little of that and put it into a money market account —that is a stock; it is money that goes to a corporation which needs the money to expand, to build a new plant, let us say. Then they build a new plant. Plants are empty, so what do they do? They hire people to work in them. Putting money to work in the private sector is capitalism. That is what our economy and a free market is all about.

If you leave that money in the private sector, we will have a growing economy. Congress too often has pursued policies that are inimical to economic growth and to sound market principles. I believe if we had a spending limit requirement on a balanced budget amendment, what we would find is—particularly if we tied it to a percent of the gross national product—that Congress all of a sudden got real smart about economic policy. If we said—as my amendment says—Congress can only spend 19 percent of the gross national product, what would Congress' incentive be with respect to the gross national product? It would be to pursue policies to grow the gross national product, because the more the gross national product grew, the more the Congress could spend. If the gross national product grew $100 billion, Congress could spend $19 billion more. What does Congress love to do? It loves to spend money. Let us take advantage of a little human nature here. If we want Congress to promote sound economic policies, to help the economy grow, as measured by the gross national product, we say to the Congress, you can have more money to spend if the economy grows. So why do you not do some things to help it grow?

What are things we can do? We can reduce certain tax rates that are too high to promote economic growth. Studies show that there is $7 trillion locked up in our economy because of our capital gains tax rates today. That means if we were able to reduce the capital gains tax rates, people would say: Now there is incentive for me to turn this piece of property over that I have been holding all these years. I inherited this from Grandma Jones, and we have held onto it because if we sold it, we would have to pay a huge tax on it. But we could use the money and would like to invest it in something.

With reducing the capital gains tax rates, that family might make the decision to sell that piece of land, to reap the liquid result, the liquid capital from the sale, and invest that into something else.

Economists believe that this $7 trillion that is thus locked up could be freed by a reduction of capital gains tax rates in a way that would generate huge economic growth because of the turnover of this capital in our market.

So there is additional incentive to balance the budget by limiting Federal spending as a percent of the gross national product. I believe it would cause Congress to be more responsible in the way we deal with our economy.

Mr. President, these are just a few thoughts that I have regarding my proposal to limit Federal spending as a percent of the gross national product. I realize that this is too tough and, in a sense, it is too sensible, and that it is going to be easier to get the votes to pass a balanced budget amendment if

we are not too tight, if we are not too tough, because some people have a view that we should be able to raise taxes, for example. And so the only version that probably has a chance of passing is one that simply requires us to balance the budget. It does not set the level or tell us how to do it. It does not provide incentives to help the economy grow. But we can achieve those objectives by the way we implement the balanced budget amendment.

In conclusion, what I am going to be suggesting here very soon is that as soon as the balanced budget amendment is adopted, we need to come in behind that, in the wake of the passage of the balanced budget amendment, with implementing legislation. A lot of our friends have said, "How are you going to do it? Tell us how." Here is how I would do it. I think if we can provide implementing legislation that limits Federal spending, we can guarantee that we are going to achieve the objective in the right way. There will have to be enforcement provisions, and we will still have to make the tough, specific decisions as to exactly which programs in which to reduce spending, for example. But in terms of an outline of how we will achieve the objective, I think this spending limitation approach is exactly the right approach.

So while I would support the balanced budget amendment that does not have the spending limit requirement in it—because that is all I think we can get passed—I think we have to come in right behind that with a proposal to limit spending as the way to implement the constitutional balanced budget amendment. Of course, as a mere statutory program, Congress can override it. We can always unpass what we just passed. But at least I think it sets forth a blueprint, a guideline for achieving the objective.

Finally, Mr. President, I think almost all of us agree that if we pass this balanced budget amendment and send it to the States for ratification, we have to begin achieving that balanced budget today. We have to go back to last year's budget and see if there is anything in the appropriations we passed last year that we can pull back—money that we can save. We need to look at this year's budget as the first of the budgets that gets us on the glidepath to a balanced budget, and set the outside limit of perhaps 7 years. But we probably ought to try to do it in a shorter period, if we can, so that when the balanced budget amendment has finally been ratified by all of the States, it will not be an impossible task for us; so that we will have already started the process and each year intervening will have brought that budget deficit down another ratchet.

If we do that, in the last couple of years when we actually have to do it as a constitutional requirement, it will be an achievable objective, and in the last year or two, we will be able to make the savings and limit spending in such a way that we can achieve that balanced budget at the time it is called for in the constitutional amendment.

So these are some of the things we are going to have to think about as the balanced budget debate begins to unfold. I think it is important to at least begin to think about them in the context of the debate we are having on unfunded mandates, because as the Governors and State legislators that have to deal with the balanced budget amendment tell us, they know we have to mean business and get on with the balanced budget amendment.

At this point, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COATS). Without objection, it is so ordered.

The Chair recognizes the Senator from Georgia for up to 15 minutes in morning business.

NATIONAL SERVICE

Mr. NUNN. Mr. President, I rise today to discuss the national service program which has been the subject of a good bit of discussion in recent media accounts and which President Clinton addressed this last week.

From the outset, I want to make it clear that I join President Clinton in expressing my continued strong support of the concept of national service. The passage of the national service bill in the last Congress was an event that I, along with a number of my colleagues, looked forward to for many years. Since President Clinton signed the legislation into law on September 21, 1993, thousands of Americans have served our country in projects which range from teaching school in inner-city neighborhoods to preventing destruction of lands along our Nation's rivers.

The case for this initiative depends on understanding that it is uniquely a program that offers a triple investment in the future productive capacity of our people and our communities—first of all, in the service performed; the service experience, No. 2; and the postservice benefit for our young people, No. 3. I know that the word "investment" has been much abused in debate on the Senate floor in recent years, and for some it is just a code word for Government spending. We must not, however, become so cynical that we cannot see a real investment with a real payoff when it is staring us in the face.

The idea for this investment came from recognition that many Americans have, for the first time, perhaps, in our history, forgotten the relationship between rights and responsibilities. We often see reports in the news media about various groups proclaiming that this Government service or that Government service is a right. We are so often reminded of the rights all Americans should enjoy that we often lose sight of the other side of the same coin, and that is the responsibilities that we must share in order to make these rights possible. Just as we have rights to freedom, to life, liberty and the pursuit of happiness, those sacred rights carry with them equally sacred responsibilities. The National Service Program was created to provide young Americans with opportunities to fulfill that obligation to give something back to their country and to their communities.

Dr. Martin Luther King, Jr., who dedicated his life to the cause of civil rights and whose birthday we celebrated this past Monday, understood that only through assuming responsibilities that accompany our rights can we help ourselves. He said in the last Sunday morning sermon before his assassination:

> Human progress never rolls in on the wheels of inevitability; it comes through the tireless efforts of men willing to be co-workers with God, and without this hard work, time itself becomes an ally of the forces of social stagnation. So we must help time and realize that the time is always ripe to do right.

National Service provides young people a means to meet the challenge to do right while expanding their own horizons and building opportunity for their futures.

Critics have tried to attack the National Service Program in a number of different ways. During the debate on the authorizing legislation, we heard cries of how many more Pell grants we could fund with the money, or how many more job training programs we could fund with the money. Though these criticisms are valid as far as they go, they almost inevitably lose sight of the fact that National Service does not exist for the purpose of simply providing student aid or even job training. National Service exists primarily to provide service. And if the program is not providing service, then it does not deserve to exist. A good analogy is our Nation's Armed Forces. We do not maintain Armed Forces in order to provide valuable skills and develop good character in young men and women. Rather, Armed Forces personnel develop skills and character in the military as they carry out their primary mission of providing our Nation's security.

The same is true of National Service. Would critics have the Senate disregard the benefits to society of national service participants providing employment counseling and tutoring to homeless people in Atlanta? Should

we ignore the benefits of the first-time immunization of 33,000 children in Fort Worth, TX, in one month which was carried out by those serving in the national service program?

I could go on and on with the kind of service being provided. That is the true test of national service. Are we really serving people and helping communities? Considering the benefits national service provides at the community level, it is difficult to see why there are so many objections to this program. Indeed, given the debates we have heard on unfunded mandates and we continue to hear that on legislation in this body, I would think that our colleagues would agree that national service represents the type of program that we ought to support.

National service is not a Federal mandate for any specific type of service, nor does it require that communities participate at all. National service gives communities and service organizations and young people the chance, voluntarily, to identify and perform the kind of service which best meets their local needs with the Federal Government providing the funding. So it is almost the opposite of a Government mandate.

At the same time, it provides meaningful work for young people addressing real problems without Federal micromanagement. This real work for real value will ensure a strong payback for the taxpayers' dollar. In the process, national service instills in young people the strong traditional values of hard work and responsibility. They learn those values because they are serving. It is not a program to teach those values. It is a program where the values are learned because of service rendered.

As for the claim that national service is—quoting one of the critics—"coerced volunteerism," I would suggest that critics ask any of the more than 200,000 people who requested applications for last year's AmeriCorps Program or the 20,000 that were selected and are now serving, whether they were coerced. National service is not coercion any more than was the Montgomery GI bill which provides educational benefits for hundreds of thousands of young Americans who serve and have served in our Nation's All-Volunteer Force.

Instead, like the Montgomery GI bill, national service is an opportunity, an opportunity that young people all over America have said they want. Nothing is more evident of that than the overwhelming number of applications. I think we will see even more of the applications in the years to come, assuming this program continues.

As for the benefits of service, and to me this must be the way we judge the program more than any other judgment, although there are, really, as I said, three parts to the program, service is the No. 1 part. In my State alone the excellent works that have been performed by these young people is very impressive. In Georgia, national service participants are working in Atlanta area schools as teaching assistants, tutors, and mentors. They are aiding police in developing a community-oriented police program in Albany, GA. They are helping create an emergency 911 network in Douglas and Coffee County. They are identifying local environmental programs in Decatur, GA, and developing plans to engage youth in solving them. They are tutoring hundreds and thousands of young people every day in elementary school. They are also in some of the rural areas that I visited. They do not have any foreign language teachers in the schools there and they have found that with the immigration that is growing in our State and other States, these young people who are in school that cannot speak English need help. In many cases, in a couple of the rural communities, that help is coming from national service participants who have a second language and who are able to be the only ones in the community that can really communicate with the newly arrived legal immigrants in our school.

All of these efforts are duplicated in national service programs nationwide. From aiding the American Red Cross and providing food and clothing for California flood victims to building homes for needy families in the poorest sections of Miami, with Habitat for Humanity.

In conclusion, Mr. President, national service provides a triple payback in valuable service to the community. Higher skills and lower debts for our young people for attending colleges or getting advanced education after high school and a much stronger sense that we are all in the American enterprise together, bound by mutual respect and mutual obligation.

In the Peace Corps Program in my State the participants begin each day with a chant announcing their readiness to serve, to earn, and to learn. That, Mr. President, is the most eloquent summary of the concept of national service that I think we can offer: To serve, to earn, and to learn.

I urge all Senators to listen to our young people, to visit these programs, to make sure that the criticism of the programs—which is welcome—make sure it is constructive, to make sure we look at whether we are really getting service in the communities where they are serving, rather than simply oppose this program as another governmental program.

I urge all Senators to particularly talk to our young people, listen to them, and see what they say about what they are doing in serving and earning and learning and continuing to give them a chance in this regard. There is room for improvement in the program. There is room for constructive criticism. There is room, perhaps, to even critique the program in a way that would affect the budget. In my view, blind opposition to this exciting concept is simply not the way to go at this point in time.

I think the main measure must be whether we are getting service from these young people and whether they are helping the communities, helping young people, helping those in need. It is my hope that if this program works and I believe it is working, that it will be viewed in the future as not simply an addition to the way we deliver services to those in need in our country and in our communities but rather in lieu of some of the existing programs.

I can think of no better way to deliver social services in this Nation to those in need. We are going to continue to have people in need. We are going to continue to have community demands that cannot be met with nominal funding. I can think of no better way than unleashing the energy, enthusiasm, and idealism of tens of thousands of America's young people in addressing these critical problems. To me this is the way we ought to begin thinking about shaping our social services.

At this point in time this program is in addition to the existing programs. We should look at it more and more as a substitute to some of the programs and a supplement to others.

I thank the Chair. I know the Senator from New Hampshire would like to speak. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

END DELAY ON UNFUNDED MANDATES LEGISLATION

Mr. SMITH. Thank you, Mr. President.

Mr. President, the bill that has been before the Senate for 8 days now basically has been delayed and stalled, is very important business for the people of the United States of America and certainly many communities around the country who suffer from the unfunded mandates that they have to comply with.

I want to discuss that legislation today for a few minutes and also to say that I sincerely hope that in the very near future, hopefully some time early next week, that we will be able to pass that legislation and get it on through the House and the Senate and get it to the President. Hopefully he will sign it. This is a major piece of legislation that the majority, overwhelming majority of the American people support.

I do not understand why we are delaying it. Apparently there seems to be, based on those we talk with, a great number of people on the other side of the aisle who say they support the bill yet when it came down to signing the

petition for cloture, we did not get much help at all. Indeed, we only had one vote. I find a strange inconsistency here that those who say they support the legislation cannot bring themselves to bring the legislation to a vote. I think sometimes we get criticized here for not being able to accomplish anything and the American people look at this and say, why is it that a Senator, perhaps my own Senator, would say, "I am for this bill but I do not want us to vote on it."

When we get criticized out there in the public, we really should not wonder why that happens. There is nothing wrong with debate. All Senators have every right to debate this legislation as long as they wish. Certainly, I stand here today before one of the most historic desks in the U.S. Senate. This desk belonged to Daniel Webster, one of the few original desks in the Senate.

Daniel Webster, of course, at one time represented New Hampshire in the House, was born in New Hampshire, and represented Massachusetts in the U.S. Senate, one of the greatest orators of the pre-Civil War time. He certainly stood on the floor of the U.S. Senate before this desk and debated many of the great issues of the day and, I am sure, frustrated a lot of people on the other side. That is the way it should be. That is what the Senate is. There is nothing wrong with that. I do not criticize that in any way.

I will say that this is an issue, the unfunded mandate issue, that is so overwhelmingly supported by the people in this country—I hesitate to say this, but I think it is true—that the American people, I think, are going to exact a price from those who delay it. I think they do it under grave risks.

This legislation places, very interestingly, increased and added responsibilities on those who want to create the new mandate. It would also increase the cost of an existing one. In other words, they must get an estimate of the cost of the new requirement to both State and local government and the private sector and provide the funds needed for the State and local governments to comply with the change. So it puts the responsibility on those who want to produce the mandates.

It is a very important piece of legislation that is going to provide not only relief from the unfunded mandates—that is a very general way of saying it—but it is also going to provide relief for the taxpayers, the local and State taxpayers who have to pay for this when the Federal Government puts the mandate in and does not fund it. Those are the people who are going to benefit from this bill. Those are the people who need relief. When we pass a piece of legislation without funding it and insist that the local community pay for it, what has to happen? Money does not come from heaven. It has to come from the taxpayers. It is extracted involuntarily from those taxpayers in those local communities.

These local communities, Mr. President, all over the country are speaking out to us saying, "Pass this bill." It is enthusiastically endorsed by the U.S. Conference of Mayors, National League of Cities, Council of State Governments, National School Boards Association, U.S. Chamber of Commerce, National Governors Association—and on and on—National Association of Counties.

This information has been stated on the floor during the debate, but it is interesting, one quote comes from John Motley, the vice president of NFIB, who strongly supports S. 1, who said:

> It was not the cities and States who paid roughly $10 billion in unfunded mandates during the 1980's. It was the taxpayers, small business owners as well as everybody else. In June 1994, a poll of all NFIB members resulted in a resounding 90 percent vote against unfunded mandates.

Even the Democratic Governor, who is the chairman of the National Governors Association, Gov. Howard Dean, said:

> We begin the 104th Congress with S. 1, the Unfunded Mandates Relief Act of 1995, which is a major priority for all State and local officials. We have reviewed the new bill, drafted in full consultation with all our organizations, and strongly support its enactment.

So it is bipartisan support that we have—support from communities, from selectmen, from mayors, from Governors, from taxpayers all across America in every State and hamlet. It is one of the most overwhelmingly supported pieces of legislation in recent time. Yet, here it is bottled up in the U.S. Senate for 8 days. We are essentially doing no business today, other than debating it and offering amendments. We are in morning business, which means we do not have to debate it. I choose to debate it because I think it is important. That is why I am here. The majority leader, to his credit, sought on the floor last evening to get support to bring this thing to a head, and I hope that this will happen in the next few days and that we will see a vote.

In talking about unfunded mandates, it really is an interesting dichotomy, just the very fact that we are here to try to repeal unfunded mandates or to stop future unfunded mandates, as this bill specifically does, because we always hear experts, if you will, constitutional experts, telling us what the Founding Fathers intended or what they did not intend. It is always very interesting. I would be fascinated to see people like Thomas Jefferson and James Madison and George Washington and Alexander Hamilton, John Jay, and others come here and listen to the debate that goes on in this Chamber regarding what they thought these gentlemen really believed and what they were saying in the remarks that they made. It is interesting the way we twist and turn these remarks.

If you take them literally, there is not any doubt. Let us listen to Thomas Jefferson:

> When all government, domestic and foreign, in little as in great things, shall be drawn to Washington as the center of all power, it will render powerless the checks provided of one government on another and will become as venal and oppressive as the government from which we separated.

It does not get any clearer than that. Jefferson was saying that we left England, we separated from the Government of England for this very reason. They created a government here where they did not want all of the power in Washington, and they made it very clear in the 10th amendment to the Constitution that all power would not be in Washington. Yet, here we are debating a bill that we want to pass to eliminate unfunded mandates which we really should not have in the first place. That is exactly where we are.

The 10th amendment is the constitutional embodiment of Jefferson's belief in a limited Federal Government, respectful of the rights of the States. How are we being respectful to the rights of the States, Mr. President, when we simply put unfunded mandates on them telling them they must do this without the money? That is not being respectful. With all due respect, that is being disrespectful. Of course it is being disrespectful, and we have been doing it to the States and the communities all across this country for years in education, environment, you name it, we have done it to them and they know it. That is why we have so much support, so much grassroots support from all over America, at the levels that I discussed, coming back and saying to us, "Get this off our backs, we are sick of it, we are tired of it. We want it off our backs."

What does the 10th amendment say? Again, we get all these interpretations. Let us read it. It is very simple:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectfully, or to the people.

Yet somebody somewhere along the line at some course in our history has come up with this terrible idea, stupid idea that this is wrong and that we ought to be able to provide unfunded mandates to the States and communities. This is in direct conflict with the 10th amendment. But all these great legal scholars and constitutional scholars and probably some of our predecessors on the floor of this body thought otherwise and basically took the 10th amendment and tore it up as if it did not exist. And there it goes. So here we are now trying to get this corrected.

That is what went wrong. When did this start happening? We can go back to the New Deal. Ever since then, the

Federal Government has increasingly encroached upon fiscal and constitutional prerogatives of the State and local governments. When you put a mandate on a State, on a community, you force the taxpayers to pay for it. That is where it comes from. The State and local government has no choice but to increase those taxes. So you are mandating a tax increase on a small community, whether it is in Indiana or New Hampshire or Georgia or West Virginia, or wherever.

This is exactly what Jefferson warned us against. Very clearly he warned us against it: Do not draw all the power to Washington, for the same reason they did not want all the power drawn to England or to a monarch or to a tyrant. They were afraid of it. They feared it. That is why they came here and built this country. That is why they wrote the Constitution, because they did fear it. That is why they disseminated the power among the three branches of government as they did, and between the States and the Federal Government.

These States were reluctant to create this country from the Constitution. The Federalist Papers by Madison and Jay and Hamilton were particularly written to convince the people to write the Constitution. They had to be persuaded because they were afraid to give up their State and community rights. That is why the 10th amendment was put in the Constitution, my colleagues.

Unfunded Federal mandates impose enormous costs on the States. Nationwide examples are all over the place. The U.S. Conference of Mayors recently reported that the Clean Water Act alone mandated costs on the cities with populations greater than 30,000 more than $3.6 billion in 1993.

Now, our opponents will say, "What's wrong with the Clean Water Act?" I am not opposed to cleaning up the water in the United States. I do not think there is a citizen in America who wants to drink dirty water or swim in dirty water. The issue is not that. The issue is should this Congress, this Government, pass laws that mandate that be done without providing the dollars? Did they ever stop to think that maybe a community of a few hundred people cannot raise that kind of money out of the taxpayers? It is not there.

That is what is wrong. That is why the American people voted the way they did on November 8, 1994—because they are sick of it. They are sick of it. They want it changed. They made it very clear.

Now, from 1994 through 1998, the Conference of Mayors reports 10 Federal mandates that they studied—10, just 10 Federal mandates, unfunded some of them—will cost $54 billion. The Clean Water Act alone is $29.3 billion; Safe Drinking Water Act, $8.6 billion, and RCRA, Resource Conservation and Recovery Act, $5.5 billion—again, well intended pieces of legislation, some of which do a good job. But should it be mandated without the funds? The answer is no. That is what we are here talking about. That is what is being delayed. That is what the other side, our friends on the other side of the aisle are doing. They are delaying this bill to stop this stuff so it does not happen in the future.

Now, there was a Price Waterhouse survey that said counties are spending $4.8 billion annually—1993, $4.8 billion annually—to comply with just 12 of many unfunded mandates in Federal programs, and that they will spend $33.7 billion over the next 5 years.

Let me give you a couple of examples in New Hampshire.

The city of Berlin, NH, economically depends on one business really for its livelihood, and that is a big paper mill—11,700 residents and declining. It is under an EPA order to construct a new $18 million water supply system pursuant to this Safe Drinking Water Act, mandated $18 million.

Berlin has problems with its water, and it is trying to correct them, and it needs the time to do that. Those citizens, many of whom I know personally, do not want to drink polluted water. But they cannot bond this amount of money within the time that is dictated to them by the EPA. They simply cannot do it. So they are facing fines of $25,000 a day, a depressed community of 11,700 people facing $25,000 a day fines for not complying with the regulations.

I might inquire of the Chair, has my time expired?

The PRESIDING OFFICER. It has. The Senator may seek additional time if he wishes to ask unanimous consent.

Mr. SMITH. I ask unanimous consent for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Here we are facing fines of $25,000 a day, trying to fix $18 million worth of problems. Does that make sense? Does it really make sense to fine these people to try to comply?

That is what an unfunded mandate does. Not only is it an unfunded mandate; it is fining for not complying with an unfunded mandate, which compounds it. It makes it worse. You cannot get $25,000 a day from people who do not have jobs, who are worried about the mill closing. It just does not work. Yet, here we go. I have people in those towns tell me, "Senator, why don't you have the Federal Government come up here and take over the town because it will be a lot easier. It will give us less headaches. You run it. You want to tell us what to do, so go ahead and run the town."

Rochester, NH, same thing—mandate under the Clean Water Act. I could mention numerous examples all over my State, and of course every Senator could mention similar horror stories all over America. Because of the enormous costs associated with the removal of these materials, for example, in Rochester, it has been forced to hire lawyers now to fight its case.

Oh, boy, there is always the opportunity to hire lawyers. Get the lawyers involved and stretch it out to cost even more. There is always a lawyer on either side to get a lot of money out of this thing. So we do not spend any money on cleanup; we spend it on lawyers rather than on cleanup, which makes it worse.

Why? You know why? Do you know why we have the lawyers involved in this? Because somebody back beginning approximately in the New Deal era, and built upon since then, has said that the 10th amendment ought to be torn up and thrown in the waste basket and ignored, and that we ought to put mandates on the people of America. That is why lawyers are fighting. And it is ironic that these same lawyers are the ones who are sworn to uphold the Constitution and to work under the Constitution.

I was a local official. I was a school board member for 6 years. I was the chairman of that same school board for 3 years. I know what it is like. I have seen what happened to my school district when an unfunded mandate came in that said: You will do this. I do not care what it costs, you will do it. That forces many small communities to go out and raise additional taxes on that mandate.

But again, we always get the debate off on whether or not what the mandate directs is good or bad. That is not the issue. In most cases, they are good. For example, handicapped children, absolutely, educating the handicapped, helping those people to get mainstreamed, absolutely supported by me and others. But should it be an unfunded mandate? If you want to mandate it, if that is what America wants, then fund it. Do not force a community that cannot pay for it to pay for it.

Do you really want to cut taxes for the middle class? That is what I hear the President say—cut taxes for the middle class. Then, Mr. President, when you get this bill, if you ever get it, if your party ever will let us get it to you, sign it and you are going to save hundreds of millions of dollars—hundreds of millions of dollars on middle-class Americans who carry the load.

Unfunded Federal mandates encroach on the authority of the States in contravention of the 10th amendment.

So what is the solution? The solution has been proposed by my most distinguished colleague, the Senator from Idaho [Mr. KEMPTHORNE], himself a former mayor, who drafted this legislation, who traveled all over the country getting support for it and pulling this

thing together and managing it so brilliantly in the Chamber. Some say he has only been here 2 years as a Senator. But he had several years as a mayor on the receiving end of these mandates. He knows what those mandates do to his tax base, as the mayor of Boise, ID, and he knows what it does to the tax base of every community that is impacted by one of those mandates.

This is a vital step. It will end a deplorable practice of Congress imposing unfunded mandates on State and local governments.

Now, S. 1, the bill which we are talking about, sets a tough standard. It is stuff. You bet it is. And it ought to be. We are trying to get back to the Constitution of the United States, which we have ignored. It needs to be tough. This bill provides that it shall not be in order for the Senate to even consider any bill, joint resolution, amendment, motion, or conference report that would increase the direct costs of Federal intergovernmental mandates by an amount that causes the $50 million threshold to be exceeded unless the mandate is paid by the Federal Government.

That is the way it ought to be. We cannot even consider it, let alone pass it. That is how tough it is, and that is good. That is why it is being opposed by some on the other side, because some of our colleagues on the other side—not all—are responsible for the fact that we have these mandates in the first place, and they do not want them to go away. But the American people want them to go away.

Any bill that imposes an unfunded mandate above that threshold of $50 million on State and/or local governments shall be out of order on the Senate floor. You cannot even get a chance to vote on it to pass it. That is tough. That is the way it should be.

There is a further step. I am going to support Senator HATCH's constitutional amendment to prohibit unfunded mandates on State and local governments unless two-thirds of the Houses of Congress decide to do so. And there again is another irony. We have a 10th amendment that says we cannot have unfunded mandates, in my opinion, yet we are now going to probably have to have a 27th or 28th amendment which says we are going to prohibit them.

That tells you where we are at in this country. It tells you that people in this country—some in this Congress—are willing to trash the Constitution of the United States of America. For what? Political gain? I do not know. How do you get political gain out of something the majority of the American people do not want by advocating it? It beats me.

It is unfortunate, and frankly ironic, that S. 1 has become necessary. Our Founding Fathers are probably spinning around in their graves right now. They created a limited Federal Government that would respect the rights of the States and here we are on the floor of the Senate, trying to gain back what the Founding Fathers never wanted to lose in the first place. They made that protection very explicit in that 10th amendment. Frankly, not only the Congress, the Supreme Court as well—let us not let the Supreme Court off the hook here—all these brilliant judges, scholars, over the years who have allowed this to happen. They are responsible, too. They have not afforded sufficient respect to the 10th amendment.

There have been some brilliant people who have served in Government since the Constitution was written, many of them. I stand at the desk of one of them, Daniel Webster. Henry Clay, John C. Calhoun—great orators, great Senators down through the years as well as others in the House and the Senate. And, frankly, out of politics—on the courts: brilliant people. But I have not yet met the match for Thomas Jefferson and James Madison and John Jay and others during that time, our forefathers, who wrote this brilliant document.

They knew what they were doing. I think we made some terrible mistakes. The Senator from Idaho with this legislation is giving us the opportunity to correct some.

The Senator from Tennessee, who is a surgeon, who was talking about health care a while ago on the floor when I was in the Chair—we are going to have to perform corrective surgery. And it is about time. It is about time. That is why the American people changed course on November 8. I hope this Senate will get the message and pass this legislation next week, get it through the House, and get it to the President of the United States so it will become the law—which it already should be under the 10th amendment.

In conclusion, we must never forget—and I think we have—that it was the States, there were only 13 at the time, but it was the States that created this Government. I used to teach history, so forgive me for a moment. The States created this Government. Without the large State-small State compromise, the Senate would not be here. The House would not be here. The Federal Government would not be here. They decided to give certain powers to the Federal Government and created that Government as a result. They never wanted the Federal Government to go beyond the specific powers they were given.

Let us get back to the Constitution. If we do the debate, the integrity of the debate is on our side, and we will win. I think we will. It is just going to take a little time. It is a little frustrating that Senators exercise the right that they have to delay and debate. If you are going to delay to debate to make your point that is fine. If you are going to delay simply to stop the legislation, from us getting a chance to vote on it, I think that is wrong. Especially when you are trying to repeal something that is unconstitutional, in my opinion, to begin with.

Mr. President, I yield.

The PRESIDING OFFICER. The Senator from Pennsylvania.

FEDERALISM

Mr. SPECTER. Mr. President, I support Senate bill 1 to eliminate unfunded mandates to States and local government. There is no doubt about the onerous imposition of very expensive projects on State and local government which have been decreed out of Washington, DC, and the Federal Government. I think as a matter of fundamental fairness, if we decide something ought to be done as a matter of national policy, then we ought to be paying for it.

Many have spoken about the principle of federalism, which is the concept that the United States was founded on. It is to leave to the States all that was not specifically delegated to the Federal Government in the Constitution on the very obvious point of having the governmental unit closest to the people making the decision. Also, as a matter of federalism and the concept of federalism, the idea is to leave to local government as much as possible so the people closest to the problem may decide what they want to spend their money on.

We have within the bill presently on the floor the principle of the States leaving to local government the maximum amount possible without telling local government what ought to be done. So I think this is a sound bill. I look forward to its early passage as a signal to the American people that the mandate from the last election is being complied with. We have already enacted important legislation which imposes on every Member of the U.S. Senate and the U.S. House of Representatives the same obligations that any other American citizen bears. That is sound as a matter of basic fairness but also sound as part of the regulatory system so we may not overly burden American business and the American people when we have to comply with the same rules.

Mr. President, I now ask unanimous consent that I may make two brief statements as in morning business. There is no one else on the floor to speak to the bill.

The PRESIDING OFFICER. Without objection the Senator from Pennsylvania is recognized as in morning business.

Mr. SPECTER. I thank the Chair and I ask unanimous consent my following remarks be captioned: "Silvi Morton Specter."

The PRESIDING OFFICER. Without objection, it is so ordered.

SILVI MORTON SPECTER

Mr. SPECTER. Mr. President, last night I spoke briefly on the one-year anniversary of the birth of the next generation of the Specter family, on the birth date of my granddaughter, the first grandchild in our family, the daughter of my son Shanin Specter, and his wife, Tracey Pearl Specter. But I could not speak at any length because we were in the midst of working out the unanimous-consent agreement on the disposition of this bill. And as the hour grew late, when we had consecutive back-to-back votes as part of the efforts to reach an accommodation on the bill, I did secure the floor for a few minutes, at 11:25, but spoke only briefly because the managers of the bill were about to present the unanimous-consent agreement and there were many Senators on the floor at the time.

I now speak to an empty Chamber with the exception of the Presiding Officer. But this is a matter, I think, of importance beyond the birth date of one young woman in America because I speak about all of the children of America and Silvi Specter's generation.

We have a heavy burden, the Congress of the United States, and in the U.S. Senate, to see to it that adequate care and protection will be given to her generation. I focus on the balanced budget amendment which has now been reported out of the Judiciary Committee, which will seek to eliminate the deficit Federal spending which now approximates $200 billion a year and a national debt which is climbing toward $5 trillion.

We had debated the deficit and the national debt more in the 14 years-plus that I have been in the U.S. Senate than any other subject.

So frequently there has been agreement that the Federal Government ought to live within its means just as every other unit of government has to. The State governments, the city governments, the county governments, and for that matter any individual has to live within his or her means or they face bankruptcy. But at the same time we have continued to spend. The promise of the balanced budget amendment is to put the same discipline on Congress which every other governmental unit in the past has had and every private citizen has. I think that is very important for Silvi Specter's generation. Certainly, I would not think of borrowing on her account or using her credit card. But that is exactly what we are doing when we run up these deficits.

I think, too, about the primary duty of Government to protect its citizens and the strides which are yet to be made on crime control domestically and national defense on the international scene.

We have a great deal to do, Mr. President, on the basic issue of crime control. It is something that we have to address for the present generation and succeeding generations.

I had the opportunity to serve as district attorney of Philadelphia for some 8 years after having been an assistant district attorney for 4 years where I tried many robbery cases, many rape cases, many burglary cases, and then as the district attorney ran an office which prosecuted 30,000 criminal cases a year including 500 homicide cases.

I believe that we have to tackle the problem of violent crime on many levels. I think to start with, this is a major problem in our criminal justice system in our failure to utilize capital punishment as an effective deterrent against violent crime. It is obvious that the critical aspect of a deterrent is its certainty and its swiftness. But that is not the case with the death penalty. At the present time there are more than 2,800 inmates on death row and in the last year only 38 cases where the judgment of sentence was carried out. The reason for that is the Federal appeals processes which allow the cases to go on virtually interminably forever; some as long as 20 years, on the average 8 years. We have the power to correct that.

My legislation was passed by the Senate in 1990 and has a good chance to be passed this year by the House and the Senate and signed into law if we would make a few basic changes. First, provide that the requirement "upon exhaustion of State remedies" is eliminated because that means the case has to be litigated in the State courts until every possible issue has been resolved before going to the Federal courts. And then there is a ping-pong effect where it goes back and forth.

My legislation provides that there would be Federal jurisdiction attaching as soon as the State supreme court had upheld the judgment of sentence of the death penalty. Then there would be one hearing in the Federal courts taking up all the issues without getting involved in what is a full and fair hearing in the State courts, which leads to interminable litigation, again with the State court taking it up and then coming to the Federal court as to whether there had been a full and fair hearing, which is an aspect of exhaustion of State remedies.

The Federal court ought to hear it once and once alone. If something then arises at a later time which warrants exceptional circumstances and unique Federal review again, that should happen only if the court of appeals approves it; that is, submission to Federal judges.

There also ought to be a time limit of 120 days in the Federal district court, unless the judge is able to put on the record factors which require a longer period of time, and that should be within the discretion of the trial judge. But I have handled these cases in the Federal court on habeas corpus, and 120 days is long enough, providing the judge puts it at the top of the list. That would not be an undue burden where only one of these cases would come before a judge every 18 months. There should be time limits in the court of appeals so that this appellate proceeding could be concluded within 2 years instead of 20 years.

Then, Mr. President, I think it is necessary to look at realistic rehabilitation. It is no surprise when someone leaves jail without a trade or a skill, as a functional illiterate, to go out into society, they are back to a life of crime and a revolving door. What I think we need to do is to have early intervention, especially with juveniles, for literacy and job training to give them a chance. But if they become career criminals—that is, three major offenses—then I think it is fair for society to impose a life sentence and to carry it out with adequate prison space.

Just the day before yesterday in the city of Philadelphia there was an atrocious murder a block and a half from the Philadelphia police station where a car was stopped. Apparently the individual was being followed on a robbery attempt, and a cold-blooded murder at 5:23 in the afternoon a block and a half from the police station at 7th and Vine in Philadelphia. A man was shot down in cold blood.

This happens again and again with drive-by shootings, with people being at risk. Violent crime could be curtailed if we really took the steps necessary to do that. That is something we ought to be looking at for this generation, the next generation, and those which follow.

There is also a major problem in international issues with national security. From the position that I have just taken on as chairman of the Intelligence Committee, there is a real need to do more in the area of nuclear nonproliferation. There is grave concern about the agreement which the administration has just made with North Korea where we will not be inspecting the spent fuel rods for some 5 years; whether this is the best way to protect against whether North Korea is in fact proceeding to build nuclear weapons. It has been disclosed recently that North Korea and Iran are working jointly on ballistic missiles and that North Korea currently has the capacity to send a missile as far as Alaska. When we asked the director of the Central Intelligence Agency in hearings a week ago Tuesday what the prognosis was for reaching the continental United States, there can be no assurance. A great deal more has to be done in that respect.

The issue of nutrition is of enormous importance. I was shocked more than a decade ago on my first occasion to see a 1-pound baby, a human being about

as big as the size of my hand weighing 1 pound. That is a human tragedy because those children carry scars for a lifetime, and frequently the lifetime is not too long because of the intensity of the injuries carried. And it is a financial disaster with more than $150,000 in cost for each child and multibillion dollars in costs.

It is a matter which can be corrected with prenatal visits as outlined by Dr. Everett Koop, former Surgeon General, in part of a health care package which I have proposed in Senate bill 18.

As I think about the tragedy of low-birthweight babies or the tragedy of teenage pregnancies, as I think of my granddaughter, Silvi Morton Specter, who lives surrounded by love with her mother, Tracey Pearl Specter—a professional woman in her own right, but her daughter comes first—as I see them playing together—in effect, I say that Tracey is Silvi's best playmate—it is a sight to behold and really a tragedy that all children do not have the affection that Silvi has from her doting mother and doting father, my son Shanin Specter, and her grandparents, Carol and Alvin Pearl and Joan and myself.

So I take a few moments on this Friday afternoon to talk about Silvi Morton Specter's generation and the obligations we have here on personal safety from violent crime at home, the problem of nuclear attack abroad, and the issue of not spending to burden Silvi's generation on the problems which children face everywhere. It is a real burden that we face and a real obligation that we have to do a better job as Senators and Members of Congress as we look forward to the 21st century. It is my own personal view that America has not seen its best and brightest days.

I think of my father, who came to this country as an immigrant from Russia at the age of 18 in 1911 without any formal education, and my mother, who came with her parents from Poland in 1905 at the age of 5, and how much better it has been for my brother, my two sisters and me, and how much better it has been for my two sons, Shanin and Steve, and how much better it can be for Tracey and for Silvi Specter's generation if we do our jobs in the U.S. Congress.

I thank the Chair. I yield the floor.

RULES OF THE COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, Senate Standing Rule XXVI requires each committee to adopt rules to govern the procedures of the committee and to publish those rules in the CONGRESSIONAL RECORD not later than March 1 of the first year of each Congress. On January 11, 1995, the Committee on Indian Affairs held a business meeting during which the members of the committee unanimously adopted rules to govern the procedures of the committee. Consistent with Standing Rule XXVI, today I am submitting for printing in the CONGRESSIONAL RECORD a copy of the rules of the Senate Committee on Indian Affairs.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON INDIAN AFFAIRS

COMMITTEE RULES

Rule 1. The Standing Rules of the Senate, Senate Resolution 4, and the provisions of the Legislative Reorganization Act of 1946, as amended by the Legislative Reorganization Act of 1970, to the extent the provisions of such Act are applicable to the Committee on Indian Affairs and supplemented by these rules, are adopted as the rules of the Committee.

MEETINGS OF THE COMMITTEE

Rule 2. The committee shall meet on the first Tuesday of each month while the Congress is in session for the purpose of conducting business, unless, for the convenience of Members, the Chairman shall set some other day for a meeting. Additional meetings may be called by the Chairman as he may deem necessary.

OPEN HEARINGS AND MEETINGS

Rule 3. Hearings and business meetings of the committee shall be open to the public except when the committee by majority vote orders a closed hearing or meeting.

HEARING PROCEDURE

Rule 4(a). Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee at least one week in advance of such hearing unless the Chairman of the committee determines that the hearing is noncontroversial or that special circumstances require expedited procedures and a majority of the committee involved concurs. In no case shall a hearing be conducted with less than 24 hours notice.

(b). Each witness who is to appear before the committee shall file with the committee, at least 48 hours in advance of the hearing, a written statement of his or her testimony with 25 copies.

(c). Each Member shall be limited to five (5) minutes in the questioning of any witness until such time as all Members who so desire have had an opportunity to question the witness unless the committee shall decide otherwise.

(d). The Chairman and Vice Chairman or the Ranking Majority and Minority Members present at the hearing may each appoint one committee staff member to question each witness. Such staff member may question the witness only after all Members present have completed their questioning of the witness or at such other time as the Chairman or Vice Chairman or the Ranking Majority and Minority Members present may agree.

BUSINESS MEETING AGENDA

Rule 5(a). A legislative measure or subject shall be included in the agenda of the next following business meeting of the committee if a written request for such inclusion has been filed with the Chairman of the committee at least one week prior to such meeting. Nothing in this rule shall be construed to limit the authority of the Chairman of the committee to include legislative measures or subjects on the committee agenda in the absence of such request.

(b). The agenda for any business meeting of the committee shall be provided to each Member and made available to the public at least two days prior to such meeting, and no new items may be added after the agenda is published except by the approval of a majority of the Members of the committee. The Clerk shall promptly notify absent Members of any action taken by the committee on matters not included in the published agenda.

QUORUMS

Rule 6(a). Except as provided in subsections (b) and (c) six (6) members shall constitute a quorum for the conduct of business of the committee. Consistent with Senate rules, a quorum is presumed to be present, unless the absence of a quorum is noted.

(b). A measure may be ordered reported from the committee unless an objection is made by a Member, in which case a recorded vote of the members shall be required.

(c). One Member shall constitute a quorum for the purpose of conducting a hearing or taking testimony on any measure before the committee.

VOTING

Rule 7(a). A recorded vote of the Members shall be taken upon the request of any Member.

(b). Proxy voting shall be permitted on all matters, except that proxies may not be counted for the purpose of determining the presence of a quorum. Unless further limited, a proxy shall be exercised only on the date for which it is given and upon the terms published in the agenda for that date.

SWORN TESTIMONY AND FINANCIAL STATEMENTS

Rule 8. Witnesses in committee hearings may be required to give testimony under oath whenever the Chairman or Vice Chairman of the committee deems it to be necessary. At any hearing to confirm a Presidential nomination, the testimony of the nominee, and at the request of any Members, any other witness shall be under oath. Every nominee shall submit a financial statement, on forms to be perfected by the committee, which shall be sworn to by the nominee as to its completeness and accuracy. All such statements shall be made public by the committee unless the committee, in executive session, determines that special circumstances require a full or partial exception to this rule.

CONFIDENTIAL TESTIMONY

Rule 9. No confidential testimony taken by or confidential material presented to the committee or any report of the proceedings of a closed committee hearing or business meeting shall be made public in whole or in part by way of summary, unless authorized by a majority of the Members of the committee at a business meeting called for the purpose of making such a determination.

DEFAMATORY STATEMENTS

Rule 10. Any person whose name is mentioned or who is specifically identified in, or who believes that testimony or other evidence presented at, an open committee hearing tends to defame him or otherwise adversely affect his reputation may file with the committee for its consideration and action a sworn statement of facts relevant to such testimony or evidence.

BROADCASTING OF HEARINGS OR MEETINGS

Rule 11. Any meeting or hearing by the committee which is open to the public may be covered in whole or in part by television, radio broadcast, or still photography. Photographers and reporters using mechanical recording, filming, or broadcasting devices shall position their equipment so as not to

interfere with the sight, vision, and hearing of Members and staff on the dais or with the orderly process of meeting or hearing.

AMENDING THE RULES

Rule 12. These rules may be amended only by a vote of a majority of all the Members of the committee in a business meeting of the committee. Provided, that no vote may be taken on any proposed amendment unless such amendment is reproduced in full in the committee agenda for such meeting at least seven (7) days in advance of such meeting.

MEDICAL SAVINGS ACCOUNTS

Mr. FRIST. Mr. President, I rise today to discuss the issue of health care in America and, specifically, the concept of medical savings accounts, sometimes called medical IRA's.

I speak today as an elected official, but also as a practicing physician, having devoted the last 20 years of my life to caring for patients. I have witnessed first hand the unequalled quality of care that we have in the United States, but also the problems which include skyrocketing costs, uneven access, and inadequate emphasis on prevention.

Last year, President Clinton addressed the problems in our health care system, but his proposed solution was fatally flawed. He favored monopolization, not competition. He sought to empower bureaucrats, not individuals. And, in the end, he relied on Government, not the private sector. Fortunately, once the American people heard the truth about the administration's plan, they rejected it.

Nevertheless, the problems with our health care system have not disappeared. And make no mistake, there are problems with our health care system. But instead of scrapping the whole system, we must target and fix what is broken. Mr. President, I believe the use of medical savings accounts is an important first step in this process.

A fundamental problem which characterizes every interaction between patient and health care provider is that the provider is paid not by the patient, but by a third party. On average, every time a patient in America receives a dollar's worth of medical services, 79 cents is paid for by someone else—usually the Government or an insurance company. The result is that we grossly over-consume medical services. Imagine if we were all required to pay out of our own pockets only 20 cents of every dollar spent on food, clothing, and transportation. We would over-consume—we would buy more than we need. And that's what happens in medicine. Since they don't feel they are paying for it, everyone wants the most and the best—at any price—whether it's the deluxe hospital room, the latest in nuclear medical imaging, or the MRI scan for a headache. We must become more cost-conscious consumers of medical services.

Mr. President, there are two methods of doing this. First, as the Clinton administration urged, we can limit medical technology and ration care, thereby limiting choice of physician and ultimately access. The American people rejected this alternative—and with good reason. It would have severely reduced the quality of patient care. I saw this happen first-hand during the year I spent in England as a registrar in heart and lung surgery. I watched over and over again as patients waited months for medical procedures which they would have obtained in days or weeks in the United States. And sadly, in some instances, I watched patients die while they waited.

The second choice, and the one I believe we must follow if we want to stem rising health care costs without decreasing the availability and quality of patient care, is to empower individuals and enable them to purchase medical services directly, as they do other services. Medical savings accounts would encourage patients to make prudent, cost-conscious decision about purchasing medical services.

What are medical savings accounts? Medical savings accounts are tax-free, personal accounts which can be used by an individual to pay medical bills. Take, for example, an employee of a company: today an employer might pay $3,000 or $4,000 for a medical insurance policy with a $500 deductible. The employee has no incentive to be cost-conscious. In contrast, if medical savings accounts were available, the employer would deposit an amount—say $2,000—tax free in a savings account, which would belong to the employee. The employee would buy an inexpensive, catastrophic-type policy which would cover medical expenses above $2,000 per year. For medical expenses up to the $2,000 deductible limit, the employee using his own discretion would use money from the savings account. Any savings account money not spent on health care that year would grow tax free in the employee's account and would accumulate year to year. At retirement, the money could be rolled over into an IRA or a pension, or could be used to pay for long-term care or other expenses. Thus, the individual has a strong incentive to become a cost-conscious consumer of medical care. He will demand quality care at competitive prices. The consumer will drive the market. The system will respond with better outcome measures and lower unit prices for health care.

In short, medical savings accounts will give American health care consumers strong incentives to change the way they consume health care services because they keep any money they don't spend.

We will potentially save billions of dollars in health care costs because individual patients will modify their health care purchasing habits to consume health care services prudently.

Medical savings accounts will potentially also save billions of dollars in administrative costs. In 1992 alone, administrative costs for health insurance exceeded $41 billion. With medical savings accounts, patients will deal directly with health care providers and eliminate many third parties.

Finally, and perhaps most importantly, the use of medical savings accounts will help maintain the high quality of care that Americans have come to know. While the Clinton administration would limit technology and force hospitals and doctors to ration care, medical savings accounts will put the individual back in charge of his or her own consumption of medical services.

Mr. President, in closing, we in America are fortunate to have the absolute highest quality health care in the world. When the leaders of the world become seriously ill, they don't go to Great Britain or Canada to seek treatment, they come to the United States. And while there are those who would like to stifle our technological advances and allow bureaucrats to tell us how much and what kind of health care we can receive, the American people have loudly and clearly rejected this notion.

No one can predict what will happen in medicine in the first 50 years of the 21st century. Fifty years ago, when my father was a young doctor in Tennessee making house calls, he could not have envisioned what medical practice today would be like. The technological advances are simply mind-boggling. Mr. President, the challenge for us is to maintain the highest quality health care in the world and to continue to make it available to all Americans. But this can only be done if we first change the basic framework through which medical services are consumed, and continue with a market-based system. I believe the use of medical savings accounts will be a major step in that direction. Individual patients will become part of the solution, instead of remaining part of the problem. For this reason, I hope that you and my other colleagues in the Senate will support my efforts to pass legislation later in this session to create medical savings accounts.

Thank you, Mr. President, I yield the floor.

TRIBUTE TO DR. ARCHIE HILL CARMICHAEL III

Mr. HEFLIN. Mr. President, I spoke earlier this month about the untimely death of Dr. Archie H. Carmichael III, a distinguished physician from the shoals area of Alabama, which includes Muscle Shoals, Sheffield, Florence, and my hometown of Tuscumbia.

Dr. Carmichael truly epitomized the high ideals which constitute the medical profession. He was a dear friend to

many, including his patients, who he served so diligently for over 30 years. He had a remarkable bedside manner and his patients highly respected him. In short, he was the type of rare individual who can never really be replaced. He had patients from all over northwest Alabama, northeast Mississippi, and southern Tennessee and will be genuinely missed.

Upon learning of his death, Tuscumbia mayor Ray Cahoon remarked that "Archie Hill had done a really great job of serving his community as a physician. He was really well-loved. He was already missed by many because he had to cease his practice due to his illness."

One of his medical colleagues said that he had always treasured his professional and personal association with Dr. Carmichael, and noted that he had loved his work and his patients and had always put them before his personal concerns. He was known as a very pleasant person to work with and a dedicated professional.

Archie Hill Carmichael was an all-state football player from Deshler High School who received a football scholarship to attend the Georgia Institute of Technology. Later, however, the young athlete gave up his football career due to his mother's urging, and finally his own decision, to pursue a career in the field of medicine. He subsequently took his bachelor of science and medical degrees from Vanderbilt University, to which he had transferred from Georgia Tech, and completed his residency in internal medicine at Bowman-Gray Medical School at Wake Forest University. He served in the U.S. Naval Medical Corps for several years. He practiced medicine in Sheffield, AL for 31 years and served as an adjunct professor of medicine at the University of Alabama Medical School for a while.

Dr. Carmichael married Ann Cothran, and they had two children, Lawrence Carmichael, M.D., and Beth Carmichael Riley. Ann Cothran Carmichael predeceased her husband by several years, and he then married Jean Pigford Cleveland. They had a son, Archie Hill Carmichael IV. He was a great family man, a dedicated father, and devoted husband

From a very distinguished family including his grandfather, former Member of Congress Archie H. Carmichael—Archie Hill III, added much to his family's legacy. His Congressman grandfather was succeeded in the House by my own predecessor in the Senate, the legendary John J. Sparkman.

Dr. Carmichael had retired due to a serious illness, and passed away on January 4, 1995. At the time of his retirement, he practiced as a specialist in internal medicine with his longtime partner, Dr. R. Winston Williams. He was a member of First United Methodist Church in Tuscumbia; the Colbert County Medical Society; the Medical Society of the State of Alabama, and the American College of Physicians.

I extend my sincerest condolences to Jean Carmichael and his entire family as they lament this tremendous loss.

TRIBUTE TO JAMES T. FLEMING

Mr. HEFLIN. Mr. President, many of you may have heard that James T. Fleming, a longtime administrative assistant to Senator WENDELL FORD passed away recently.

I had the opportunity to get to know Jim quite well after coming to the Senate. Because of his vast knowledge of the political field, many looked up to Jim and looked to him for advice on a host of issues. His boss stated Jim was "one of the smartest people [he'd] ever known." It is no wonder he achieved a great deal of success over his lifetime.

Jim's career began after graduating from Centre College. After graduating, he was commissioned a lieutenant in the Navy and served in the Pacific during World War II.

Jim then went on to get his master's in political science at the University of Kentucky. It was there that he developed his love for politics.

His political career got off to a start upon joining the legislative research commission staff in 1944. He later became the Kentucky General Assembly's top administrator and director from 1963 to 1972.

Jim served as staff director in the 1960's for Gov. Edward T. "Ned" Breathit. I believe this is worth mentioning since it was around this time the Governor tried to revise the State's constitution. Jim was one of the masterminds behind the project.

Just a few years later, Jim devised a plan on which the modern general assembly is based.

In 1973, Jim was in charge of reorganizing the executive branch of government. This is a noteworthy because it was the first time such an attempt had been made since 1936.

When WENDELL FORD won a Senate seat in 1974, Jim followed him to Washington as his administrative assistant. Here, he planned and coordinated Senator FORD'S legislative staff. The issues he focused on most while an AA were those involving energy and coal.

Up until his last days, he was an adviser to Senator FORD.

The Nation and our friend Senator FORD lost a very respected and intelligent man when James passed away.

My deepest condolences go to Jim's son Michael Fleming, and daughter, Dr. Barbara Fleming Phillips.

TRIBUTE TO DR. LUTHER FOSTER

Mr. HEFLIN. Mr. President, Alabama and the nation lost a prized citizen when Dr. Luther Foster, former president of Tuskegee University, passed away last November.

Luther was known for being intellectual, involved, and achievement-oriented. His hard work and dedication to his studies earned him several degrees and honors from several institutions. He was known by many through the numerous organizations with which he affiliated himself. His qualities led to the type of career and accomplishments many only dream of.

Dr. Foster received his bachelor's degree from Virginia State College, now known as Hampton Institute, his MBA from Harvard University, and his doctoral degree from the University of Chicago.

His honorary degrees include doctorates of civil law, humane letters, and public service.

Dr. Foster was a member of the American Revolution Bicentennial Commission; the Commission on Critical Choices for America; the Council on Financial Aid to Education; the National Advisory Committee on Black Higher Education and Black Colleges and Universities; the President's Advisory Commission on International Educational and Cultural Exchange; the President's General Advisory Committee on Foreign Assistance Programs; the President's Task Force on Priorities in Higher Education; Resources for the Future, and the U.S. Air Force Academy Advisory Council.

In addition, he directed the Center for Creative Learning; the March of Dimes; Norton Simon, Inc.; the Overseas Development Committee; Political and Economic Studies; the Retirement Equities Fund; the United Negro College Fund, and Sears, Roebuck and Co.

He also chaired the Association of American Colleges and the Race Relations Information center.

Dr. Foster served as the budget officer of Howard University from 1937–41. He later relocated to the Tuskegee Institute where he served as business manager from 1941–53. He was then named president of Tuskegee in 1953 and held this position for the next 28 years. At the time of his death, he was chairman and CEO of Robert R. Moton Memorial Institute.

Dr. Foster was a highly intelligent man who was not only known for his scholarly abilities, his many affiliations, or even his lifetime accomplishments. He was most known for his ability to touch the lives around him in meaningful ways.

My deepest condolences go out to his wife of 53 years, Vera Chandler Foster of Alexandria, and their entire family in the wake of this tremendous loss.

SENATE QUARTERLY MAIL COSTS

Mr. STEVENS. Mr. President, in accordance with section 318 of Public Law 101–520, I am submitting the summary tabulations of Senate mass mail costs for the fourth quarter of fiscal year 1994, which is the period of July 1,

1994 through September 30, 1994, to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING SEPT. 30, 1994

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Akaka				
Baucus	12,658	0.01536	$4,145.27	$0.00503
Bennett	13,800	0.00761	2,100.36	0.00116
Biden	325,048	0.47177	55,241.17	0.08018
Bingaman	143,925	0.09103	28,613.04	0.01810
Bond	11,530	0.00222	2,336.03	0.00045
Boren				
Boxer	916,897	0.02970	148,205.94	0.00480
Bradley	2,070,300	0.26580	303,998.16	0.03903
Breaux				
Brown				
Bryan	14,733	0.01110	11,264.42	0.00849
Bumpers		0.00000		0.00000
Burns		0.00000		0.00000
Byrd		0.00000		0.00000
Campbell		0.00000		0.00000
Chafee		0.00000		0.00000
Coats		0.00000		0.00000
Cochran		0.00000		0.00000
Cohen	60,900	0.04931	11,298.73	0.00915
Conrad		0.00000		0.00000
Coverdell		0.00000		0.00000
Craig	97,100	0.09100	17,230.87	0.01615
D'Amato	2,895,300	0.15979	450,881.81	0.02488
Danforth		0.00000		0.00000
Daschle	10,800	0.01519	1,614.20	0.00227
DeConcini		0.00000		0.00000
Dodd	9,132	0.00278	7,240.25	0.00221
Dole		0.00000		0.00000
Domenici		0.00000		0.00000
Dorgan		0.00000		0.00000
Durenberger		0.00000		0.00000
Exon		0.00000		0.00000
Faircloth	78,800	0.01152	14,979.50	0.00219
Feingold		0.00000		0.00000
Feinstein		0.00000		0.00000
Ford		0.00000		0.00000
Glenn		0.00000		0.00000
Gorton	158,265	0.03081	29,313.21	0.00571
Graham		0.00000		0.00000
Gramm	1,326,750	0.07514	237,287.80	0.01344
Grassley	313,000	0.11131	52,336.74	0.01861
Gregg		0.00000		0.00000
Harkin	296,000	892.8900	469.00	0.00017
Hatch		0.00000		
Hatfield	284,250	0.09548	44,964.94	0.01510
Heflin	841,000	0.20334	133,205.78	0.03221
Helms		0.00000		0.00000
Hollings		0.00000		0.00000
Hutchison		0.00000		0.00000
Inouye		0.00000		0.00000
Jeffords	22,843	0.04008	10,920.40	0.01916
Johnston	2,300	0.00054	507.98	0.00012
Kassebaum		0.00000		0.00000
Kempthorne		0.00000		0.00000
Kennedy		0.00000		0.00000
Kerrey		0.00000		0.00000
Kerry	857	0.00014	187.83	0.00003
Kohl		0.00000		0.00000
Lautenberg	2,100	0.00027	670.19	0.00009
Leahy	6,600	0.01158	1,407.07	0.00247
Levin		0.00000		0.00000
Lieberman		0.00000		0.00000
Lott	2,350	0.00090	520.19	0.00020
Lugar		0.00000		0.00000
Mack		0.00000		0.00000
Mathews		0.00000		0.00000
McCain	26,498	0.00691	20,452.71	0.00534
McConnell	393,750	0.10486	68,309.01	0.01819
Metzenbaum		0.00000		0.00000
Mikulski		0.00000		0.00000
Mitchell		0.00000		0.00000
Moseley-Braun		0.00000		0.00000
Moynihan		0.00000		0.00000
Murkowski		0.00000		0.00000
Murray	21,810	0.00425	4,647.34	0.00090
Nickles		0.00000		0.00000
Nunn		0.00000		0.00000
Packwood	66,850	0.02246	12,001.79	0.00403
Pell		0.00000		0.00000
Pressler		0.00000		0.00000
Pryor	1,550	0.00065	488.40	0.00020
Reid	37,200	0.02803	5,621.61	0.00424
Riegle		0.00000		0.00000
Robb		0.00000		0.00000
Rockefeller	14,600	0.00806	2,109.86	0.00116
Roth	46,100	0.06691	6,688.17	0.00971
Sarbanes		0.00000		0.00000
Sasser		0.00000		0.00000
Shelby		0.00000		0.00000
Simon	53,100	0.00457	8,089.17	0.00070
Simpson		0.00000		0.00000
Smith		0.00000		0.00000
Specter	987,000	0.08219	151,718.90	0.01263
Stevens		0.00000		0.00000

SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING SEPT. 30, 1994—Continued

Senators	Original total pieces	Pieces per capita	Original total cost	Cost per capita
Thurmond		0.00000		0.00000
Wallop		0.00000		0.00000
Warner		0.00000		0.00000
Wellstone	4,600	0.00103	8,594.80	0.00192
Wofford		0.00000		0.00000

Other offices	Total pieces	Total cost
The Vice President	0	0.00
The President pro-tempore	0	0.00
The majority leader	0	0.00
The minority leader	0	0.00
The assistant majority leader	0	0.00
The assistant minority leader	0	0.00
Secretary of majority conference	0	0.00
Secretary of minority conference	0	0.00
Agriculture Committee	0	0.00
Appropriations Committee	0	0.00
Armed Services Committee	0	0.00
Banking Committee	0	0.00
Budget Committee	0	0.00
Commerce Committee	0	0.00
Energy Committee	0	0.00
Environment Committee	0	0.00
Finance Committee	0	0.00
Foreign Relations Committee	0	0.00
Government Affairs Committee	0	0.00
Judiciary Committee	0	0.00
Labor Committee	0	0.00
Rules Committee	0	0.00
Small Business Committee	0	0.00
Veterans Affairs Committee	0	0.00
Ethics Committee	0	0.00
Indian Affairs Committee	0	0.00
Intelligence Committee	0	0.00
Aging Committee	0	0.00
Joint Economic Committee	0	0.00
Joint Committee on Printing	0	0.00
Joint Committee on Congressional Inauguration	0	0.00
Democratic Policy Committee	0	0.00
Democratic Conference	0	0.00
Republican Policy Committee	0	0.00
Republican Conference	0	0.00
Legislative counsel	0	0.00
Legal counsel	0	0.00
Secretary of the Senate	0	0.00
Sergeant at Arms	0	0.00
Narcotics Caucus	0	0.00
Subcommittee on POW/MIA	0	0.00

WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID YES

Mr. HELMS. Mr. President, as of the close of business on Thursday, January 19, the Federal debt stood at $4,795,323,651,745.86 meaning that on a per capita basis, every man, woman, and child in America owes $18,203.13 as his or her share of that debt.

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate, on January 20, 1995, during the recess of the Senate, received a message from the House of Representatives announcing that pursuant to the provisions of title 15, United States Code, section 1024(a), the Speaker appoints the following Members on the part of the House to serve as members of the Joint Economic Committee: Mr. SAXTON, Mr. EWING, Mr. QUINN, Mr. MANZULLO, Mr. SANFORD, Mr. THORNBERRY, Mr. STARK, Mr. OBEY, Mr. HAMILTON, and Mr. MFUME.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–141. A communication from the Director of the Office of Federal Housing Enterprise Oversight, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–142. A communication from the Chief of Staff of the Office of the Nuclear Waste Negotiator, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal years 1992 and 1993; to the Committee on Governmental Affairs.

EC–143. A communication from the Office of Special Counsel, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–144. A communication from the Director of the United States Information Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–145. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–146. A communication from the Chairman of U.S. Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–147. A communication from the Director of the U.S. Soldiers' and Airmen's Home, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–148. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–149. A communication from the Executive Director of the Marine Mammal Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–150. A communication from the President of the National Endowment for Democracy, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–151. A communication from the Chairman of the Nuclear Waste Technical Review Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–152. A communication from the Armed Forces Retirement Home (U.S. Naval Home), transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–153. A communication from the Executive Director of the Committee For Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–154. A communication from the Chairman of the Equal Employment Opportunity Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–155. A communication from the Staff Director of the U.S. Commission on Civil Rights, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–156. A communication from the Chairman of the National Credit Union Administration, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–157. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–158. A communication from the Chairman of the Consumer Product Safety Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–159. A communication from the Secretary of Labor, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–160. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1992; to the Committee on Governmental Affairs.

EC–161. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–162. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–163. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–164. A communication from the Executive Secretary of the Barry M. Goldwater Scholarship and Excellence In Education Foundation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–165. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–166. A communication from the Chairman of the Defense Nuclear Facilities Safety Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–167. A communication from the Chairman of the Board of the African Development Foundation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–168. A communication from the Acting Archivist of the United States, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–169. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–170. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–171. A communication from the Administration of the Environmental Protection Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–172. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–173. A communication from the Attorney General, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–174. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–175. A communication from the Chairman of the Federal Communications Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–176. A communication from the Chairman of the National Endowment For the Arts, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–177. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–178. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–179. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–180. A communication from the President of the James Madison Memorial Fellowship Foundation, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Governmental Affairs.

EC–181. A communication from the Secretary of Education, transmitting, pursuant to law, the report concerning surplus Federal real property; to the Committee on Governmental Affairs.

EC–182. A communication from the Board of Governors of the U.S. Postal Service, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. Res. 65. An original resolution authorizing expenditures by the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LOTT:

S. 252. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

S. 253. A bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Members of Congress, and for other purposes; to the Committee on Governmental Affairs.

S. 254. A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans Affairs.

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 255. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, Mississippi, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. SIMPSON):

S. 256. A bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes; to the Committee on Armed Services.

By Mr. DOLE (for himself, Mr. INOUYE, Mr. THURMOND, Mr. WARNER, Mr. MCCAIN, and Mr. CAMPBELL):

S. 257. A bill to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 65. An original resolution authorizing expenditures by the Committee on Armed Services; from the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. PRESSLER (for Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. GRAMM, and Mr. BYRD)):

S. Res. 66. A resolution to prevent the adoption of certain national history standards; considered and agreed to.

By Mr. PRESSLER (for Mrs. BOXER (for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, Mr. WELLSTONE, Mr. ROBB, Mr. KOHL, Mr. BRYAN, and Mr. KERRY)):

S. Res. 67. A resolution relating to violence at clinics; considered and agreed to.

By Mr. PRESSLER (for Mr. BRADLEY (for himself, Mr. CHAFEE, Mr. DORGAN, Mr. SIMPSON, Mr. ROBB, Mr. DOLE, Mr. NICKLES, Mr. LAUTENBERG, Mr. KEMPTHORNE, and Mr. WELLSTONE)):

S. Res. 68. A resolution relating to impact on local governments; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT:

S. 252. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

THE OLDER AMERICANS' FREEDOM TO WORK ACT

Mr. LOTT. Mr. President, today I am introducing the Older Americans Freedom to Work Act of 1995 to eliminate the Social Security earnings test for individuals who have attained retirement age.

As the Social Security Act is designed, the Government seems to give little thought to older Americans' ability to make an important contribution to our work force. Senior citizens are subject to taxes such as the Federal Contributions Act [FICA], even in situations where they are receiving Social Security benefits. They are also subject to various Federal, State, and local taxes.

This brings me to the biggest outrage: the Social Security retirement earnings limit. Presently, this limit reduces benefits to persons between ages 65 and 69 who earn more than $11,280 yearly. These reductions amount to $1 in reduced benefits for every $3 in earnings above the aforementioned limit—$1 for $3 withholding rate.

The earnings test is very unfair, but it also poses a serious threat to the labor work force. Demographers tell us that between the years 2000 and 2010 the baby boom generation will be in their retirement years. With fewer babies being born to replace them, this Nation is looking at a severe labor shortage. The skills and expertise of older workers is desperately needed.

An earnings limit for Social Security beneficiaries is an ill conceived idea and an administrative nightmare for the Social Security Administration [SSA]. SSA spends a great deal of money and devotes a full 8 percent of its employees to police the income levels of retirees. For beneficiaries, the income limit is a frustrating experience of estimating and reporting income levels to SSA.

In the 1930's, when the earned income limit was devised, encouraging the elderly to leave the workplace was seen as a positive act, designed to increase job opportunities for younger workers. Today, with our shrinking labor force, such a policy is absurd. We need the skills, wisdom, and experience of our older workers, and my proposal will encourage them to remain in the labor force.

In the 102d Congress, the Senate adopted an amendment to the older Americans reauthorization amendments to repeal the earnings test. While it was dropped from final passage, this legislation has perennial bipartisan interest and support.

It is a pleasure to again sponsor legislation in the Senate to abolish the onerous retirement earnings test. This begins the process of providing employment opportunities for older Americans without punishing them for their efforts. It is my understanding that the President supports lifting the earnings test for retirees, and I urge my colleagues to join me in supporting this vitally important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 252

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 "Older Americans' Freedom to Work Act of 1995".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act (42 U.S.C. 403(f)(8)(B)) is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act (42 U.S.C. (f)(8)(D)) is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years ending after December 31, 1995.

By Mr. LOTT:

S. 253. A bill to repeal certain prohibitions against political recommendations relating to Federal employment, to reenact certain provisions relating to recommendations by Member of

Congress, and for other purpose; to the Committee on Governmental Affairs.

POLITICAL RECOMMENDATIONS LEGISLATION

Mr. LOTT. Mr. President, today, I am introducing legislation to allow Member of Congress to once again make political recommendations on behalf of constituents who have applied for Federal civil service employment. We have all been asked or wished to support constituents and friends who seek Federal positions. My bill would simply restore the basic right to make recommendations that Members held previously and would repeal this unnecessary prohibition.

The Hatch Act reform bill passed during the 103d Congress, but it included an onerous amendment that keeps Senators and Representatives from making suggestions. This provision went into effect in February 1994 and has probably caused difficulties for virtually every Member as constituents often ask us for recommendations when they have applied for Federal jobs.

Contacting a Federal agency in the interest of a citizen is the most basic of constituent services. My bill would restore us the ability to recommend those constituents who we feel will do an outstanding job with the Federal civil service. The bureaucracy needs applicants from outside the beltway to effect a change in how the U.S. Government works today. Exceptional candidates recommended by Senators and Representatives can help make these changes.

I urge my colleagues to join me in supporting this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 253

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

SECTION 1. PROHIBITIONS AGAINST POLITICAL RECOMMENDATIONS RELATING TO FEDERAL EMPLOYMENT.

(a) IN GENERAL—Section 3303 of title 5, United States Code, is amended to read as follows:

"§ 3303. Competitive service; recommendations of Senators or Representatives

"An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The table of sections for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3303 to read as follows:

"3303. Competitive service; recommendations of Senators or Representatives.".

(2) Section 2302(b)(2) of title 5, United States Code, is amended to read as follows:

"(2) solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

"(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

"(B) an evaluation of the character, loyalty, or suitability of such individual;".

(c) EFFECTIVE DATE.—This Act shall take effect 30 days after the date of the enactment of this Act.

By Mr. LOTT:

S. 254. A bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II; to the Committee on Veterans' Affairs.

THE MERCHANT MARINERS FAIRNESS ACT

Mr. LOTT. Mr. President, today, it is my pleasure to reintroduce the Merchant Mariners Fairness Act.

My bill would grant veterans status to American merchant mariners who have been denied this status a well as veterans benefits. Similar legislation passed the House last year and related provisions were included in the Coast Guard authorization bill; however, these provisions were not included in the final conference report of that bill.

In 1988, the Secretary of the Air Force decided, for the purposes of granting veterans benefits to merchant seamen, that the cut-off date for service would be August, 15, 1945, V–J Day, rather than December 31, 1946, when hostilities were declared officially ended. My bill would correct the 1988 decision and extend veterans benefits to those merchant mariners who served from August 15, 1945 to December 31, 1946. It would extend eligibility for veterans burial benefits, funeral benefits, and related benefits for certain members of the U.S. merchant marine during World War II.

I urge my colleagues to join me in supporting this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 254

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

SECTION 1. MERCHANT MARINER BENEFITS.

(a) Part G of subtitle II, title 46, United States Code, is amended by adding at the end of the following new chapter:

"CHAPTER 112—MERCHANT MARINER BENEFITS

"Sec.
"11201. Qualified service.
"11202. Documentation of qualified service.
"11203. Eligibility for certain veterans' benefits.
"11204. Processing fees.

"§ 11201. Qualified service

"For purposes of this chapter, a person engaged in qualified service if, between August 16, 1945, and December 31, 1946, the person—

"(1) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transportation Service) serving as a crewmember of a vessel that was—

"(A) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

"(B) operated in waters other than inland waters, the Great Lakes, other lakes, bays, and harbors of the United States;

"(C) under contract or charter to, or property of, the Government of the United States; and

"(D) serving the Armed Forces; and

"(2) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

"§ 11202. Documentation of qualified service

"(a) The Secretary shall, upon application—

"(1) issue a certificate of honorable discharge to a person who, as determined by the Secretary, engaged in qualified service of a nature and duration that warrants issuance of the certificate; and

"(2) correct, or request the appropriate official of the Federal Government to correct, the service records of the person to the extent necessary to reflect the qualified service and the issuance of the certificate of honorable discharge.

"(b) The Secretary shall take action on an application under subsection (a) not later than one year after the Secretary receives the application.

"(c) In making a determination under subsection (a)(1), the Secretary shall apply the same standards relating to the nature and duration of service that apply to the issuance of honorable discharges under section 401(a)(1)(B) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

"(d) An official of the Federal Government who is requested to correct service records under subsection (a)(2) shall do so.

§ 11203. Eligibility for certain veterans' benefits

"(a) The qualified service of an individual who—

"(1) receives an honorable discharge certificate under section 11202 of this title, and

"(2) is not eligible under any other provision of law for benefits under laws administered by the Secretary of Veterans Affairs,

is deemed to be active duty in the Armed Forces during a period of war for purposes of eligibility for benefits under chapters 23 and 24 of title 38.

"(b) The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits that the Secretary of Veterans Affairs provides for an individual by reason of eligibility under this section.

"(c) An individual is not entitled to receive, and may not received, benefits under this chapter for any period before the date on which this chapter takes effect.

"§ 11204. Processing fees

"(a) The Secretary shall collect a fee of $30 from each applicant for processing an application submitted under section 11202(a) of this title.

"(b) Amounts received by the Secretary under this section shall be credited to appropriations available to the Secretary for carrying out this chapter.".

(b) The table of chapters at the beginning of subtitle II of title 46, United States Code,

is amended by inserting after the item relating to chapter 111 the following:
"112. Merchant Mariner Benefits 11201".

By Mr. LOTT (for himself and Mr. COCHRAN):

S. 255. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, MS, and for other purposes; to the Committee on Environment and Public Works.

NATCHEZ BLUFFS STABILIZATION LEGISLATION

Mr. LOTT. Mr. President, I rise today to introduce legislation to authorize the Corps of Engineers to stabilize sections of the Natchez Bluffs. The deterioration of these bluffs has created a profound danger to both life and property.

These bluffs overlook the Mississippi River and are formed by loess soil, a very fine powdery substance that practically liquefies when it gets wet. Water has infiltrated this soil causing numerous and unexpected mudslides and sloughing. This has put the historic homes on the bluffs and at their base in jeopardy.

Natchez has a long and distinguished history. Not only was this area the ancestral home for the Natchez Indians; it is the oldest settlement in my State. In fact, it is the oldest settlement on the Mississippi River, even older than New Orleans or St. Louis. When my State was a territory, Natchez was our capital, and during the antebellum times it was a major center for cotton trading. Natchez has been designated as a national historical park. The Natchez Trace, which was a major inland trade route during colonial days, historically started at these bluffs.

Last year the National Trust for Historic Preservation put Natchez on its list of America's "Eleven Most Endangered Historic Places." To quote Richard Moe, president of the National Trust:

> The National Trust strongly supports the authorization for the Army Corps of Engineers to stabilize the bluffs. These historic resources are some of the most outstanding in the United States, and they must not be lost when there is an available remedy to the threat.

In March 1980, there was a very serious slide at the Natchez Bluffs that killed two people and injured many more. Last year there was another slide which carried away a significant portion of the bluffs. Clearly, the bluffs are now past the point of makeshift repair measures which the State and the municipality have attempted. Now is the time to have the Government Federal engineer step in. The Corps of Engineers examined the current situation, and their most recent draft report characterizes the deteriorating condition as an emergency.

I encourage all my colleagues to support this bill and the idea behind it. Not just due to the imminent danger posed to life by the real possibility for additional slides, but also for preserving nationally recognized historic property. I introduced similar legislation last year as Senate bill 1492, that would do essentially the same thing.

I am pleased to be joined by Senator THAD COCHRAN, the senior Senator from my State, in cosponsoring this legislation to protect these historically significant properties and to prevent potential loss of lives.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 255

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

SECTION 1. STABILIZATION OF NATCHEZ BLUFFS.

(a) IN GENERAL.—In accordance with the recommendations of the reports prepared by the Army Corps of Engineers entitled "The Natchez Bluff Study", "The Natchez Bluff Study: Supplement I", and "The Natchez Bluff Study: Supplement II", dated September 1985, June 1990, and December 1993, respectively, the Secretary of the Army shall carry out such activities as are necessary to stabilize the portions of the bluffs along the Mississippi River in the vicinity of Natchez, Mississippi, designated in figure 4 of the December 1993 report as—

(1) Clifton Avenue, area 3;

(2) the bluff above Natchez Under-the-Hill, area 7;

(3) the bluff above Silver Street, area 6; and

(4) Madison Street to State Street, area 4.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out this section.

Mr. COCHRAN. Mr. President, I am pleased to join my colleague, Senator LOTT, in cosponsoring legislation which would authorize funds to stabilize the river bluffs at Natchez.

Two years ago, at my request, the Energy and Water Appropriations Subcommittee, in its fiscal year 1994 appropriations bill, asked the Corps of Engineers to undertake a technical study of the condition and possible stabilizing actions that could be taken. Last year, we asked the corps to prepare a second report focusing on updated cost estimates and, in light of more recent bad weather and deterioration, on the current severity of the situation. We have seen the corps' second report. In that report, the Corps of Engineers states what the Governor of Mississippi, the mayor of Natchez, and the people of Natchez have known and have been saying for some time: That the Natchez Bluff situation is an emergency.

Last October, the Natchez Democrat editorialized, "Each day that passes without a remedy, sections of the bluffs become more precarious, threatening homes and businesses." Natchez Bluffs is like a deteriorating health problem. Every day that goes by without action means that corrective action will be more complex and more expensive. And so, in this day when budget constraints are the watchword, it is even more imperative to move on truly important projects like this one without delay. More delay will mean more money. More delay will mean more hardship for the people of Natchez.

Therefore, I urge the Senate to approve this authorization for Corps of Engineers work in Natchez. Individuals homes, businesses, and important, historic sections of a grand old American city are at stake.

By Mr. DOLE (for himself, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. SIMPSON):

S. 256. A bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes; to the Committee on Armed Services.

MISSING SERVICE PERSONNEL ACT

Mr. DOLE. Mr. President, today I rise, with my colleagues, Senator SIMPSON, Senator LAUTENBERG, and Senator LIEBERMAN, to introduce the Missing Service Personnel Act of 1995. This legislation is similar to that which was introduced last year but which the Congress was unable to consider before adjournment. The legislation would reform the Department of Defense's procedures for determining whether members of the Armed Forces should be listed as missing or presumed dead. Legislation pertaining to those missing in action has not changed in the past 50 years. Since the Vietnam war, the Department of Defense and the U.S. Government have been criticized for their handling of the POW/MIA issue. Some of that criticism is legitimate. Some of it has been brought upon the Government by its own actions or inactions. This bill attempts to correct most of those problems and establish a fair and equitable procedure for determining the exact status of such personnel. At the same time, it is my hope that we might restore some of the Department's credibility on this issue and rebuild faith and trust between the public and our Federal Government.

This bill attempts to ensure that missing members of the Armed Forces or civilian employees accompanying them are fully accounted for by the Government and that they are not declared dead solely because of the passage of time. The legislation would establish new procedures for determining the whereabouts and status of missing persons. Additionally, the bill provides for the appointment of counsel for the missing persons, ensuring that the Government does not disregard their interests and affording them due process of law. The proposal also attempts to remove the curtains of secrecy which often seem to surround these

cases by ensuring access to Government information and by making all information available to the hearing officers. Additionally, the missing person's complete personnel file would be made available for review by the family members. Moreover, the legislation attempts to protect the interests of the missing person's immediate family, dependents, and next of kin, allowing them to be represented by counsel and to participate with the boards of inquiry. It is our hope that by allowing more participation by the family, requiring legal representation of the missing persons, and permitting Federal court review of all determinations, we will establish fundamental fairness for all concerned.

We recognize that the Department of Defense has concerns about this legislation. At the same time, we also realize that families of missing personnel raise legitimate issues. However, in my view, we need to look at this issue from the perspective of those brave men and women currently serving in our Armed Forces. As this bill moves through the legislative process, it is our hope that all of these issues and concerns will be addressed.

Mr. President, the men and women in uniform must know that this Nation will do everything possible to return them safely home in the event they become missing while serving in armed conflict. Additionally, we must assure them that a more open and fair procedure will be established to determine their exact status.

In closing, let me note the support that this legislation has already received. I have received letters encouraging the introduction of this bill from the American Legion, the Disabled American Veterans, the National Vietnam Veterans Coalition, and Vietnow.

Additionally, in just the short time between its introduction last year and our adjournment, this legislation gained a total of 23 cosponsors. I am pleased to again sponsor this important legislation with the distinguished Senator from New Jersey, and urge my colleagues to support it.

Mr. President, I ask unanimous consent that the text of the bill and letters from each of these organizations be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 256

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 "Missing Service Personnel Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to ensure that any member of the Armed Forces and any civilian employee of the Federal Government or contractor of the Federal Government who serves with or accompanies an Armed Force in the field under orders is fully accounted for by the Federal Government and, as a general rule, is not declared dead solely because of the passage of time.

SEC. 3. DETERMINATION OF WHEREABOUTS AND STATUS OF CERTAIN MISSING PERSONS.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end of the following new section:

"§ 1060b. Missing persons: informal investigations; inquiries; determinations of death; personnel files

"(a) INFORMAL INVESTIGATIONS.—

"(1) IN GENERAL.—After receiving factual information that the whereabouts or status of a person described in paragraph (2) is uncertain and that the absence of the person may be involuntary, the military commander of the unit, facility, or area to or in which the person is assigned shall conduct an investigation into the whereabouts and status of the person.

"(2) COVERED PERSONS.—Paragraph (1) applies to the following individuals:

"(A) Any member of the armed forces who disappears during a time or war or national emergency, or during a period of such other hostilities as the Secretary of Defense may prescribe.

"(B) Any civilian employee of the Federal Government (including an employee of a contractor of the Federal Government) who—

"(i) serves with or accompanies an armed force in the field during such a time or period; and

"(ii) disappears during such service or accompaniment.

"(3) FURTHER ACTIVITIES.—As a result of an investigation into the whereabouts and status of a person under paragraph (1), a commander shall—

"(A) place the person in a missing status;

"(B) submit a notice that the person has been placed in a missing status to—

"(i) in the case of a person who is a member of the armed forces, the officer having general court-martial authority over the person;

"(ii) in the case of a person who is a civilian employee of the Federal Government or contractor of the Federal Government, the Secretary of the department employing the person or contracting with the contractor;

"(C) retain and safeguard for official use any information, documents, records, statements, or other evidence relating to the whereabouts or status of the person that result from the investigation or from actions taken to locate the person; and

"(D) submit to the officer having general court-martial authority over the person, in the case of a member of the armed forces, or to the Secretary of the department employing the person or contracting with the contractor, in the case of a civilian employee of the Federal Government or contractor of the Federal Government, as the case may be—

"(i) not later than 48 hours after the date on which the absence of the person is officially noted, a report that—

"(I) contains information on the absence or disappearance of the person;

"(II) describes the actions taken to locate the person; and

"(III) sets forth any information relating to the whereabouts or status of the person not contained in any previous report;

"(ii) not later than 7 days after such date, a report that—

"(I) summarizes the actions taken to locate the person; and

"(II) sets forth any information relating to the whereabouts or status of the person not contained in any previous report;

"(iii) not later than 30 days after such date, a report that—

"(I) summarizes the continuing actions to locate the person; and

"(II) sets forth any information on the whereabouts or status of the person that results from such actions; and

"(iv) at any other time, a report that sets forth any other information that may be relevant to the whereabouts or status of the person.

"(b) INITIAL INQUIRY.—

"(1) IN GENERAL.—Not later than 7 days after receiving notification under subsection (a)(3)(B) that a person has been placed in missing status, the officer having general court-martial authority over the person, in the case of a person who is a member of the armed forces, or the Secretary of the department employing the person or contracting with the contractor, in the case of a person who is a civilian employee of the Federal Government or contractor of the Federal Government, shall appoint a board to conduct an inquiry into the whereabouts and status of the person.

"(2) SCOPE OF CERTAIN INQUIRIES.—If it appears to the official who appoints a board under this subsection that the absence or missing status of two or more persons is factually related, the official may appoint one board under this subsection to conduct the inquiry into the whereabouts or status of the persons.

"(3) COMPOSITION.—

"(A) IN GENERAL.—A board appointed under this subsection shall consist of at least one individual described in subparagraph (B) who has experience with and understanding of military operations or activities similar to the operation or activity in which the person or persons disappeared.

"(B) REQUIRED MEMBER.—An individual referred to in subparagraph (A) is the following:

"(i) A military officer, in the case of an inquiry with respect to a member of the armed forces.

"(ii) A civilian, in the case of an inquiry with respect to a civilian employee of the Federal Government or contractor of the Federal Government.

"(C) ACCESS TO CLASSIFIED INFORMATION.—Each member of a board appointed for an inquiry under this subsection shall have a security clearance that affords the member access to all information relating to the whereabouts and status of the missing person or persons covered by the inquiry.

"(4) ACTIVITIES.—A board appointed to conduct an inquiry into the whereabouts or status of a missing person or persons under this subsection shall—

"(A) collect, develop, and investigate all facts and evidence relating to the disappearance, whereabouts, or status of the person or persons;

"(B) collect appropriate documentation of the facts and evidence covered by the investigation;

"(C) analyze the facts and evidence, make findings based on the analysis, and draw conclusions as to the current whereabouts and status of the person or persons; and

"(D) recommend to the officer having general court-martial authority over the person, in the case of a person who is a member of the armed forces, or the Secretary of the department employing the person or contracting with the contractor, in the case of a person who is a civilian employee of the Federal

Government or contractor of the Federal Government, that—

"(i) the person or persons continue to have a missing status; or

"(ii) the person or persons be declared (I) to have deserted, (II) to be absent without leave, or (III) to be dead.

"(5) INQUIRY PROCEEDINGS.—During the proceedings of an inquiry under this subsection, a board shall—

"(A) collect, record, and safeguard all classified and unclassified facts, documents, statements, photographs, tapes, messages, maps, sketches, reports, and other information relating to the whereabouts or status of the person or persons covered by the inquiry;

"(B) gather facts and information relating to actions taken to find the person or persons, including any evidence of the whereabouts or status of the person or persons that arises from such actions; and

"(C) maintain a record of the proceedings.

"(6) COUNSEL FOR MISSING PERSON.—

"(A) IN GENERAL.—The official who appoints a board to conduct an inquiry under this subsection shall appoint counsel to represent the person or persons covered by the inquiry.

"(B) QUALIFICATIONS.—An individual appointed as counsel under this paragraph shall—

"(i) meet the qualifications set forth in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice); and

"(ii) have a security clearance that affords the individual access to all information relating to the whereabouts or status of the person or persons covered by the inquiry.

"(C) RESPONSIBILITIES AND DUTIES.—An individual appointed as counsel under this paragraph—

"(i) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

"(ii) shall observe all official activities of the board during such proceedings;

"(iii) may question witnesses before the board;

"(iv) shall monitor the deliberations of the board;

"(v) shall review the report of the board under paragraph (9); and

"(vi) shall submit to the official who appointed the board an independent review of such report.

"(D) TREATMENT OF REVIEW.—A review of the report of a board on an inquiry that is submitted under subparagraph (C)(vi) shall be made an official part of the record of the board with respect to the inquiry.

"(7) ACCESS TO MEETINGS.—The proceedings of a board during an inquiry under this subsection shall be closed to the public, including to any member of the immediate family, dependent, primary next of kin, or previously designated person of the person or persons covered by the inquiry.

"(8) RECOMMENDATION ON STATUS.—

"(A) IN GENERAL.—Upon completion of an inquiry into the whereabouts or status of a person or persons under this subsection, a board shall make a recommendation to the official who appointed the board as to the current whereabouts or status of the person or persons.

"(B) RECOMMENDATION OF STATUS AS DEAD.—

"(i) IN GENERAL.—A board may not recommend under subparagraph (A) that a person or persons be declared dead unless conclusive proof of the death of the person or persons is established by the board.

"(ii) DEFINITION.—In this subparagraph, the term 'conclusive proof of death', in the case of a person or persons, means evidence establishing that death is the only plausible explanation for the absence of the person or persons.

"(9) REPORT.—

"(A) REQUIREMENT.—A board appointed under this subsection shall submit to the official who appointed the board a report on the inquiry carried out by the board. Such report shall include—

"(i) a discussion of the facts and evidence considered by the board in the inquiry; and

"(ii) the recommendation of the board under paragraph (8).

"(B) SUBMITTAL DATE.—A board shall submit a report under this paragraph not later than 45 days after the date of the first official notice of the disappearance of the person or persons covered by the inquiry described in the report.

"(C) PUBLIC AVAILABILITY.—A report submitted under this paragraph may not be made public until 1 year after the date referred to in subparagraph (B).

"(10) ACTIONS BY APPOINTING OFFICIAL.—

"(A) REVIEW.—Not later than 15 days after the date of the receipt of a report from a board under paragraph (9), the official who appointed the board shall review—

"(i) the report; and

"(ii) the review submitted under paragraph (6)(C)(vi) by the counsel for the person or persons covered by the inquiry described in the report.

"(B) SCOPE OF REVIEW.—In conducting a review of a report under subparagraph (A), the official receiving the report shall determine whether or not the report is complete and free of administrative error.

"(C) RETURN.—If an official determines under subparagraph (B) that a report is incomplete, or that a report is not free of administrative error, the official may return the report to the board for further action on the report by the board.

"(D) DETERMINATION OF STATUS.—Upon a determination by the official concerned that a report reviewed by the official under this paragraph is complete and free of administrative error, the official shall make a determination of the status of the person or persons covered by the report.

"(11) REPORT TO INTERESTED PERSONS.—Not later than 90 days after the first official notice of the disappearance of a person or persons, the official who appoints a board of inquiry into the whereabouts or status of the person or person under this subsection shall—

"(A) provide an unclassified summary of the report of the board to the members of the immediate family, dependents, primary next of kin, and previously designated persons of the person or persons; and

"(B) inform the individuals referred to in subparagraph (A) that the Federal Government will conduct a subsequent inquiry into the whereabouts or status of the person or persons not earlier than 1 year after the date of the first official notice of the disappearance of the person or persons, unless information becomes available sooner that would result in a substantial change in the official status of the person or persons.

"(12) ADDITIONAL INVESTIGATION.—

"(A) IN GENERAL.—If information on the whereabouts or status of a person or persons covered by an inquiry under this subsection becomes available within 1 year after the date of the first official notice of the disappearance of the person or persons, the official who appointed the board to inquire into the whereabouts or status of the person or persons under this subsection shall appoint an additional board to conduct an inquiry into the information

"(B) CONDUCT OF INQUIRY.—The appointment and activities of a board under this paragraph shall be subject to the provisions of this subsection.

"(c) SUBSEQUENT INQUIRY.—

"(1) REQUIREMENT.—

"(A) IN GENERAL.—If as a result of an inquiry under subsection (b) an official determines under paragraph (10)(D) of that subsection that a person or persons retain or be placed in a missing status, the Secretary concerned shall appoint a board under this subsection to conduct an inquiry into the whereabouts and status of the person or persons.

"(B) DEFINITION.—For purposes of this subsection, the term 'Secretary concerned' means the following:

"(i) In the case of a member of the armed forces, the Secretary of the military department having jurisdiction over the armed force of the member.

"(ii) In the case of a civilian employee of the Federal Government or contractor of the Government, the Secretary of the department employing the employee or contracting with the contractor, as the case may be.

"(2) DATE OF APPOINTMENT.—The Secretary concerned shall appoint a board under this subsection to conduct an inquiry into the whereabouts and status of a person or persons on or about 1 year after the date of the first official notice of the disappearance of the person or persons.

"(3) SCOPE OF CERTAIN INQUIRIES.—If it appears to the Secretary concerned that the absence or status of two or more persons is factually related, the Secretary may appoint one board under this subsection to conduct the inquiry into the whereabouts or status of the persons.

"(4) COMPOSITION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a board appointed under this subsection shall consist of the following:

"(i) In the case of a board appointed to inquire into the whereabouts or status of a member or members of the armed forces, not less than three officers having a grade O–4 or higher.

"(ii) In the case of a board appointed to inquire into the whereabouts or status of a civilian employee or employees of the Federal Government or contractor of the Government—

"(I) not less than three civilian employees of the Federal Government whose rate of annual pay is equal to or greater than the rate of annual pay payable for grade GS–13 of the General Schedule under section 5332 of title 5; and

"(II) such members of the armed forces as the Secretary concerned and the Secretary of Defense jointly determine advisable.

"(B) PRESIDENT OF BOARD.—The Secretary concerned shall designate one member of each board appointed under this subsection as President of the board. The President shall have a security clearance that affords the President access to all information relating to the whereabouts and status of the person or persons covered by the inquiry.

"(C) REQUIREMENTS FOR OTHER MEMBERS.—

"(i) ATTORNEY.—One member of each board appointed under this subsection shall be an attorney, or judge advocate, who has expertise in the public law relating to missing persons, the determination of death of such persons, and the rights of family members and dependents of such persons.

"(ii) OCCUPATIONAL SPECIALIST.—One member of each board appointed under this subsection shall be an individual who has—

"(I) an occupational specialty similar to that of one or more of the persons covered by the inquiry; and

"(II) an understanding of and expertise in the official activities of one or more such persons at the time such person or persons disappeared.

"(iii) EXPERT IN TRANSPORTATION.—If the person or persons covered by an inquiry disappeared in transit, one member of the board appointed for the inquiry shall be an individual whose occupational specialty relates to the piloting, navigation, or operation of the mode of transportation in which the person or persons were travelling at the time such person or persons disappeared.

"(5) ACTIVITIES.—A board appointed under this subsection to conduct an inquiry into the whereabouts or status of a person or persons shall—

"(A) review the report under paragraph (9) of subsection (b) of the board appointed to conduct the inquiry into the status or whereabouts of the person or persons under subsection (b) and the determination under paragraph (10)(D) of that subsection of the official who appointed the board under that subsection as to the status of the person or persons;

"(B) collect and evaluate any documents, facts, or other evidence with respect to the whereabouts or status of the person or persons that have become available since the completion of the inquiry under subsection (b);

"(C) draw conclusions as to the whereabouts or status of the person or persons;

"(D) determine on the basis of the activities under subparagraphs (A) and (B) whether the status of the person or persons should be continued or changed; and

"(E) issue a report to the Secretary concerned describing the findings and conclusions of the board, together with a recommendation on the whereabouts or status of the person or persons.

"(6) COUNSEL FOR MISSING PERSON OR PERSONS.—

"(A) IN GENERAL.—The Secretary who appoints a board to conduct an inquiry under this subsection shall appoint counsel to represent the person or persons covered by the inquiry.

"(B) QUALIFICATIONS.—An individual appointed as counsel under this paragraph shall—

"(i) meet the qualifications set forth in section 827(b) of this title (article 27(b) of the Uniform Code of Military Justice); and

"(ii) have a security clearance that affords the individual access to all information relating to the whereabouts or status of the person or persons.

"(C) RESPONSIBILITIES AND DUTIES.—An individual appointed as counsel under this paragraph—

"(i) shall have access to all facts and evidence considered by the board during the proceedings under the inquiry for which the counsel is appointed;

"(ii) shall observe all official activities of the board during such proceedings;

"(iii) may question witnesses before the board;

"(iv) shall monitor the deliberations of the board; and

"(v) shall review the report of the board under paragraph (11); and

"(vi) shall submit to the Secretary concerned an independent review of the recommendation of the board under paragraph (10).

"(D) TREATMENT OF REVIEW.—The review of the report of a board on an inquiry that is submitted under subparagraph (C)(vi) shall be made an official part of the record of the board with respect to the inquiry.

"(7) PARTICIPATION OF CERTAIN INTERESTED PERSONS IN PROCEEDINGS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the members of the immediate family, dependents, primary next of kin, and previously designated persons of the person or persons covered by an inquiry under this subsection may participate at the proceedings of the board during the inquiry.

"(B) NOTIFICATION OF PERSONS.—The Secretary concerned shall notify the individuals referred to in subparagraph (A) of the opportunity to participate at the proceedings of a board not later than 60 days before the first meeting of the board.

"(C) RESPONSE.—An individual who receives notice under subparagraph (B) shall notify the Secretary of the intent, if any, of the individual to participate at the proceedings of a board not later than 21 days after the date of the individual's receipt of the notice.

"(D) SCHEDULE AND LOCATION OF PROCEEDINGS.—The Secretary shall, to the maximum extent practicable, provide that the schedule and location of the proceedings of a board under this subsection be established so as to be convenient to the individuals who notify the Secretary under subparagraph (C) of their intent to participate at such proceedings.

"(E) MANNER OF PARTICIPATION.—Individuals who notify the Secretary under subparagraph (C) of their intent to participate at the proceedings of a board—

"(i) in the case of individuals whose entitlement to the pay or allowances (including allotments) of a missing person could be reduced or terminated as a result of a revision in the status of the missing person, may attend the proceedings of the board with private counsel;

"(ii) shall have access to the personnel file of the missing person, to unclassified reports (if any) of the board appointed under subsection (b) to conduct the inquiry into the whereabouts and status of the person, and to any other unclassified information or documents relating to the whereabouts and status of the person;

"(iii) shall be afforded the opportunity to present information at the proceedings that such individuals consider to be relevant to the proceedings; and

"(iv) subject to subparagraph (F), shall be afforded the opportunity to submit in writing objections to the recommendations of the board under paragraph (10) as to the status of the missing person.

"(F) OBJECTIONS.—Objections to the recommendations of the board under subparagraph (E)(iv) shall be submitted to the President of the board not later than 24 hours after the date on which such recommendations are made. The President shall include the objections in the report of the board to the Secretary concerned under paragraph (12).

"(G) PROHIBITION ON REIMBURSEMENT.—Individuals referred to in subparagraph (A) who participate in the proceedings of a board under this paragraph shall not be entitled to reimbursement by the Federal Government for any costs incurred by such individuals in attending such proceedings, including travel, lodging, meals, local transportation, legal fees, transcription costs, witness expenses, and other expenses.

"(8) AVAILABILITY OF INFORMATION TO BOARDS.—

"(A) IN GENERAL.—In conducting proceedings in an inquiry under this subsection, a board may secure directly from any department or agency of the Federal Government any information that the members of the board consider necessary in order to conduct the proceedings.

"(B) AUTHORITY TO RELEASE.—Upon written request from the President of a board, the head of a department or agency of the Federal Government shall release information covered by the request to the board. In releasing such information, the head of the department or agency shall—

"(i) declassify to an appropriate degree classified information; or

"(ii) release the information in a manner not requiring the removal of markings indicating the classified nature of the information.

"(C) TREATMENT OF CLASSIFIED INFORMATION.—

"(i) RELEASE.—If a request for information under subparagraph (B) covers classified information that cannot be declassified, cannot be removed before release from the information covered by the request, or cannot be summarized in a manner that prevents the release of classified information, the classified information shall be made available only to the President of the board making the request and the counsel for the missing person appointed under paragraph (6).

"(ii) USE IN PROCEEDINGS.—The President of a board shall close to persons who do not have appropriate security clearances the proceeding of the board at which classified information is discussed. Participants at a proceeding of a board at which classified information is discussed shall comply with all applicable laws and regulations relating to the disclosure of classified information. The Secretary concerned shall assist the President of a board in ensuring that classified information is not compromised through board proceedings.

"(9) BOARD MEETINGS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the proceedings of a board under this subsection shall be open to the public.

"(B) EXCEPTIONS.—A proceeding of a board shall be closed to the public at the request of the following:

"(i) The counsel appointed under paragraph (6) for the person or persons covered by the proceeding.

"(ii) Any member of the immediate family, dependent, primary next of kin, or previously designated person of the person or persons.

"(iii) The Secretary who appointed the board, but only if such Secretary determines that a proceeding open to the public could jeopardize the health and well-being of other missing persons or impair the activities of the Federal Government to recover missing persons in the theater of operations or the area in which the missing person or persons are thought to have disappeared.

"(iv) The President of the board, but only for discussion of classified information.

"(10) RECOMMENDATION ON STATUS.—

"(A) IN GENERAL.—Upon completion of proceedings in an inquiry under this subsection, a board shall make a recommendation as to the current whereabouts or status of the missing person or persons covered by the inquiry.

"(B) RECOMMENDATION OF DEAD STATUS.—

"(i) IN GENERAL.—A board may not recommend under subparagraph (A) that a person or persons be declared dead unless—

"(I) conclusive proof of death is established by the board; and

"(II) in making the declaration, the board complies with subsection (f).

"(ii) DEFINITION.—In this subparagraph, the term 'conclusive proof of death', in the case of a person or persons, means evidence establishing that death is the only plausible explanation for the absence of the person or persons.

"(11) REPORT.—

"(A) REQUIREMENT.—A board appointed under this subsection shall submit to the Secretary concerned a report on the inquiry carried out by the board, together with the evidence considered by the board during the inquiry.

"(B) CLASSIFIED ANNEX.—The report may include a classified annex.

"(12) ACTIONS BY SECRETARY.—

"(A) REVIEW.—Not later than 30 days after the receipt of a report from a board under paragraph (11), the Secretary concerned shall review—

"(i) the report;

"(ii) the review submitted to the Secretary under paragraph (6)(C)(vi) by the counsel for the person or persons covered by the report; and

"(iii) the objections, if any, to the report submitted to the President of the board under paragraph (7)(F).

"(B) SCOPE OF REVIEW.—In reviewing the report, review, and objections under subparagraph (A), the Secretary shall determine whether or not the report is complete and free of administrative error.

"(C) FURTHER ACTION.—If the Secretary determines under subparagraph (B) that a report is incomplete, or that a report is not free of administrative error, the Secretary may return the report to the board for further action on the report by the board.

"(D) DETERMINATION OF STATUS.—Upon a determination by the Secretary that a report reviewed by the Secretary under this paragraph is complete and free of administrative error, the Secretary shall make a determination of the status of the person or persons covered by the report.

"(13) REPORT TO INTERESTED PERSONS.—Not later than 90 days after a board submits a report on a person or persons under paragraph (11), the Secretary concerned shall—

"(A) provide an unclassified summary of the report to the members of the immediate family, the dependents, the primary next of kin, and the previously designated persons of the person or persons covered by the report; and

"(B) in the case of a person or persons who continue to be in missing status, inform the members, dependents, kin, and persons of the person or persons that the Federal Government will conduct a further investigation into the whereabouts or status of the person or persons not later than 3 years after the date of the official notice of the disappearance of the person or persons, unless information becomes available within that time that would result in a substantial change in the official status of the person or persons.

"(14) RECONVENING OF BOARD.—

"(A) IN GENERAL.—If the Secretary concerned recommends that a person or persons continue in missing status, or that a missing person previously declared dead be given a missing status, the Secretary shall reconvene the board when information becomes available that would directly lead to a determination of status of the missing person or persons.

"(B) CONDUCT OF PROCEEDINGS.—The provisions of this subsection shall apply to the activities of a board convened under this paragraph.

"(d) FURTHER REVIEW.—

"(1) SUBSEQUENT REVIEW.—

"(A) IN GENERAL.—The Secretary concerned shall appoint a board to conduct an inquiry into the whereabouts or status of any person or persons determined by the Secretary under subsection (c)(12)(D) to be a person or persons in missing status.

"(B) FREQUENCY OF APPOINTMENT.—Subject to subparagraph (C), the Secretary shall appoint a board to conduct an inquiry with respect to a person or persons under this paragraph—

"(i) on or about 3 years after the date of the official notice of the disappearance of the person or persons; and

"(ii) not later than every 3 years thereafter.

"(C) DELIMITING DATE.—The Secretary shall not be required to appoint a board under this paragraph more than 12 years after the end of the time of war or emergency or period of hostilities in which the missing person or persons disappeared.

"(2) REVIEW OF PROBATIVE INFORMATION.—Upon receipt of information that could result in a change or revision of status of a missing person or persons, the Secretary concerned shall appoint a board to evaluate the information and make a recommendation as to the status of the person or persons to which the information relates.

"(3) CONDUCT OF PROCEEDINGS.—The appointment of and activities before a board appointed under this subsection shall be governed by the provisions of subsection (c).

"(e) PERSONNEL FILES.—

"(1) INFORMATION IN FILES.—Except as provided in paragraph (2), the Secretary of the department having jurisdiction over a missing person at the time of the person's disappearance shall, to the maximum extent practicable, ensure that the personnel file of the person contains all information in the possession of the Federal Government relating to the disappearance and whereabouts or status of the person.

"(2) CLASSIFIED INFORMATION.—

"(A) AUTHORITY TO WITHHOLD.—The Secretary concerned may withhold classified information from a personnel file under this subsection.

"(B) NOTICE OF WITHHOLDING.—If the Secretary concerned withholds classified information from the personnel file of a person, the Secretary shall ensure that the file contains the following:

"(i) A notice that the withheld information exists.

"(ii) A notice of the date of the most recent review of the classification of the withheld information.

"(3) WRONGFUL WITHHOLDING.—Any person who knowingly and willfully withholds from the personnel file of a missing person any information (other than classified information) relating to the disappearance or whereabouts or status of a missing person shall be fined as provided in title 18, or imprisoned not more than 1 year, or both.

"(4) AVAILABILITY OF INFORMATION.—The Secretary concerned shall, upon request, make available the contents of the personnel file of a missing person to members of the immediate family, dependents, primary next of kin, or previously designated person of the person.

"(f) RECOMMENDATION OF STATUS OF DEATH.—

"(1) REQUIREMENTS RELATING TO RECOMMENDATION.—A board appointed under subsection (c) or (d) may not recommend that a person be declared dead unless—

"(A) evidence (other than the passage of a period of time of less than 50 years) exists to suggest that the person is dead;

"(B) the Federal Government possesses no evidence that reasonably suggests that the person is alive;

"(C) representatives of the Federal Government have made a complete search of the area where the person was last seen (unless, after making every good faith effort to obtain access to such area, such representatives are not granted such access); and

"(D) representatives of the Federal Government have examined the records of the government or entity having control over the area where the person was last seen (unless, after making every good faith effort to obtain access to such records, such representatives are not granted such access).

"(2) SUBMITTAL OF INFORMATION ON DEATH.—If a board appointed under subsection (c) or (d) makes a recommendation that a missing person be declared dead, the board shall include in the report of the board with respect to the person under such subsection (c) or (d) the following:

"(A) A detailed description of the location where the death occurred.

"(B) A statement of the date on which the death occurred.

"(C) A description of the location of the body, if recovered.

"(D) If the body has been recovered, a certification by a licensed practitioner of forensic medicine that the body recovered is that of the missing person.

"(g) JUDICIAL REVIEW.—

"(1) IN GENERAL.—

"(A) JUDICIAL REVIEW.—A person referred to in subparagraph (B) may obtain review of a finding described in subparagraph (C) by the court of appeals of the United States for the circuit in which the person resides or in which the finding was made.

"(B) AVAILABILITY OF REVIEW.—Subparagraph (A) applies to any of the following persons with respect to a missing person subject to a finding described in subparagraph (C):

"(i) A member of the immediate family of the person.

"(ii) A dependent of the person.

"(iii) The primary next of kin of the person.

"(iv) A person previously designated by the person.

"(C) COVERED FINDINGS.—Subparagraph (A) applies to the following findings:

"(i) A finding by a board appointed under subsection (c) or (d) that a missing person is dead.

"(ii) A finding by a board appointed under subsection (h) that confirms that a missing person formerly declared dead is in fact dead.

"(D) COMMENCEMENT OF REVIEW.—A person referred to in subparagraph (B) shall request review of a finding under this paragraph by filing with the appropriate court a written petition requesting that the finding be set aside.

"(2) APPEAL AND FINALITY OF REVIEW.—The decision of the court of appeals on a petition for review under paragraph (1) shall be final, except that it shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

"(3) ADDITIONAL REVIEW.—

"(A) IN GENERAL.—Subject to subparagraph (B), upon request by a person referred to in paragraph (1)(B), the Secretary concerned shall appoint a board to review the status of a person covered by a finding described in paragraph (1)(C) if the court of appeals sets aside the finding and—

"(i) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed;

"(ii) the petition for certiorari has been denied; or

"(iii) the decision of the court of appeals has been affirmed by the Supreme Court.

"(B) DELIMITING DATE.—A person referred to in subparagraph (A) shall make a request referred to in that subparagraph not later than 3 years after the date of the event under that subparagraph that entitles the person to request the appointment of a board.

"(h) PERSONS PREVIOUSLY DECLARED DEAD.—

"(1) REVIEW OF STATUS.—

"(A) IN GENERAL.—Not later than 2 years after the date of the enactment of the Missing Service Personnel Act of 1994, a person referred to in subparagraph (B) may submit to the appropriate Secretary a request for appointment by the Secretary of a board to review the status of a person previously declared dead.

"(B) AVAILABILITY.—A board shall be appointed under this paragraph based on the request of any of the following persons:

"(i) An adult member of the immediate family of a person previously declared dead.

"(ii) An adult dependent of such person.

"(iii) The primary next of kin of such person.

"(iv) A person previously designated by such person.

"(C) APPROPRIATE SECRETARY.—A request under this paragraph shall be submitted to the Secretary of the department of the Federal Government that had jurisdiction over the person covered by the request at the time of the person's disappearance.

"(2) APPOINTMENT OF BOARD.—Upon request of a person under paragraph (1), the Secretary concerned shall appoint a board to review the status of the person covered by the request.

"(3) ACTIVITIES OF BOARD.—A board appointed under paragraph (2) to review the status of a person shall—

"(A) conduct an investigation to determine the status of the person; and

"(B) issue a report describing the findings of the board under the investigation and the recommendations of the board as to the status of the person.

"(4) SUBSEQUENT REVIEW.—If the Secretary concerned is apprised of any information which would directly lead to a determination of the status of a missing person, the Secretary shall reconvene a board to consider the information.

"(5) EFFECT OF CHANGE IN STATUS.—If a board appointed under this subsection recommends placing a person previously declared dead in a missing status such person shall accrue no pay or allowances as a result of the placement of the person in such status.

"(i) RETURN ALIVE OF PERSON DECLARED MISSING OR DEAD.—

"(1) PAY AND ALLOWANCES.—Any person in a missing status or declared dead under the Missing Persons Act of 1942 (56 Stat. 143) or by a board appointed under this section who is found alive and returned to the control of the United States shall be paid for the full time of the absence of the person while given that status or declared dead under the law and regulations relating to the pay and allowances of persons returning from a missing status.

"(2) EFFECT ON GRATUITIES PAID AS A RESULT OF STATUS.—Paragraph (1) shall not be interpreted to invalidate or otherwise affect the receipt by any person of a death gratuity or other payment from the United States on behalf of a person referred to in paragraph (1) before the date of the enactment of the Missing Service Personnel Act of 1994.

"(j) EFFECT ON STATE LAW.—Nothing in this section shall be construed to invalidate or limit the power of any State court or administrative entity, or the power of any court or administrative entity of any political subdivision thereof, to find or declare a person dead for purposes of the such State or political subdivision.

"(k) DEFINITIONS.—In this section:

"(1) The term 'classified information' means any information the unauthorized disclosure of which (as determined under applicable law and regulations) could reasonably be expected to damage the national security.

"(2) The term 'dependent', in the case of a missing person, mean any individual who would, but for the status of the person, be entitled to receive the pay and allowances (including allotments) of the person.

"(3) The term 'member of the immediate family', in the case of a missing person, means the spouse, adopted or natural child, parent, and sibling of the missing person.

"(4) The term 'missing person' means—

"(A) a member of the armed forces on active duty who is missing; or

"(B) a civilian employee serving with or accompanying an armed force under orders who is missing.

"(6) The term 'missing status' means the status of a missing person who is determined to be absent in a status of—

"(A) missing;

"(B) missing in action;

"(C) interned in a foreign country;

"(D) captured, beleaguered, or besieged by a hostile force; or

"(E) detained in a foreign country against his or her will.

"(6) The term 'primary next of kin', in the case of a missing person, means—

"(A) the principal individual who, but for the status of the person, would receive financial support from the person; or

"(B) in the case of a missing person for whom there is no individual meeting the requirement of subparagraph (A), the family member or other individual designated by the missing person to receive death gratuities.

"(7) The term 'previously designated person', in the case of a missing person, means an individual (other than an individual who is a member of the immediate family of the missing person) designated by the missing person as the individual to be notified of all matters relating to the status of the missing person.

"(8) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 53 of title 10, United States Code, is amended by adding the end the following:

"1060b. Missing persons: informal investigations; inquiries; determinations of death; personnel files.".

(c) CONFORMING AMENDMENTS.—(1)(A) Section 555 of title 37, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 10 of such title is amended by striking out the item relating to section 555.

(2) Section 552 of such title is amended—

(A) in the second sentence of the flush matter following paragraph (2) in subsection (a), by striking out "for all purposes," and all that follows through the end of the sentence and inserting in lieu thereof "for all purposes.";

(B) in striking out paragraph (2) of subsection (b) and inserting in lieu thereof the following:

"(2) that his death is determined under section 1060b of title 10."; and

(C) in subsection (e), by striking "section 555 of this title" and inserting "section 1060b of title 10".

(3) Section 553 of such title is amended—

(A) in subsection (f), by inserting "under section 1060b of title 10" after "When the Secretary concerned";

(B) by striking out "the Secretary concerned receives evidence" and inserting in lieu thereof "a board convened under section 1060b of title 10 reports"; and

(C) in subsection (g), by striking out "section 555 of this title" and inserting "section 1060b of title 10".

(4) Section 556 of such title is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (3);

(ii) by striking out the semicolon at the end of paragraph (4) and inserting in lieu thereof a period; and

(iii) by striking paragraphs (1), (5), (6), and (7) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by striking out subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively; and

(C) in subsection (g), as so redesignated—

(i) by striking out the second sentence; and

(ii) by striking "status" and inserting "pay".

(5) Section 557(a)(1) of such title is amended by striking out ", 553, and 555" and inserting in lieu thereof "and 553".

(6) Section 559(b)(4)(B) of such title is amended by striking out "section 556(f)" and inserting in lieu thereof "section 556(e)".

SEC. 4. SOLICITATION OF INFORMATION ON DEPENDENTS, FAMILY MEMBERS, AND OTHER DESIGNATED PERSONS.

(a) REQUIREMENT.—Chapter 31 of title 10, United States Code, is amended by adding at the end the following:

"§ 520c. Enlistments: information on dependents, family members, and other designated persons

"(a) The Secretary concerned shall, upon the enlistment or commission of a person in an armed force, require that the person specify in writing the dependents of the person, the members of the immediate family of the person, the primary next of kin of the person, and any other individual that the person shall designate for purposes of section 1060b of this title. The purpose of the specification is to ensure the notification of appropriate individuals in the event that the person is placed in missing status under that section.

"(b) The Secretary concerned shall, upon the request of a person referred to in subsection (a), permit the person to revise at any time the individuals specified by the person under that subsection. The person shall make any such revision in writing.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"520c. Enlistments: information on dependents, family members, and other designated persons.".

THE AMERICAN LEGION,
Washington, DC, January 17, 1955.

Hon. ROBERT J. DOLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: A new calendar year and the convening of a new Congress affords all Americans a unique opportunity to renew

their pledge to support all positive efforts to obtain the fullest possible accounting of American prisoners of war and those missing in action from past conflicts and the Cold War. The American Legion is especially appreciative of your personal efforts and concern for the plight of American POW/MIAs. Your introduction of the Dole-Lautenberg bill, The Missing Service Personnel Act of 1955, is both timely and welcome. It directly and substantially supports on-going Legion efforts to seek information about missing Americans from previous wars.

Your sponsorship of this bill is especially significant since it comes at a time when American contacts with foreign governments are more interested in making lucrative business arrangements than in obtaining a full and complete accounting of missing service personnel. With the lifting of the embargo against Vietnam early last year the U.S. lost its last major bargaining lever for POWs and MIAs from the war in Southeast Asia. Your bill, supported by the Senate in the 104th Congress will serve to provide a more equitable basis for making status determinations on missing service personnel from wars past and conflicts yet to be fought.

Sincerely,

JOHN F. SOMMER, Jr.,
Executive Director.

DISABLED AMERICAN VETERANS,
Washington, DC, January 17, 1955.

Hon. BOB DOLE,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DOLE: On behalf of the Disabled American Veterans (DAV), I take this opportunity to express our appreciation for your support last year for legislation to establish procedures for determining the whereabouts and status of missing American service members and to require the keeping of certain records on these persons. I understand that you intend to reintroduce a similar bill in the near future, and I therefore also write to express the DAV's full support for your efforts.

Your actions are a recognition of this nation's most important obligation to resolve questions about the fate of those missing-in-action. As a nation, we must do everything possible to account for those who have not returned, those that were captured or killed in the service of their country. Anything less would be an abandonment of our solemn responsibilities to these courageous defenders and would be a concession of defeat in the struggle to recover those who sacrificed so much for our benefit.

The members of DAV are deeply concerned for the nearly 100,000 of our fellow servicemen and women still unaccounted for in the aftermath of World War II, the Korean War, the Vietnam War, and subsequent military engagements, and we hope for a means to better account for our service members in any future conflicts. The delegates to our 1994 annual National Convention adopted a resolution supporting legislation to establish new procedures for determining the status of missing service members. We are confident that our nation's citizens share the DAV's concern and will also fully support any measures designed to improve our ability to account for our missing-in-action.

The DAV commends you and offers its support for your efforts. Please let us know if we can be of assistance to you in this matter.

Sincerely,

DONALD A. SIOSS,
National Commander.

VIETNOW,
Rockford, IL, December 23, 1994.

Senator ROBERT DOLE,
Hart Senate Office Building, Washington, D.C.

DEAR SENATOR DOLE: We, as Veterans of the Armed Forces of the United States of America, realize the importance and the immediate need for "The Missing Service Personnel Act", which is long over due.

The practice of changing the classification of those listed as Prisoner of War or Missing In Action to Killed In Action based on the presumption of death, due solely to the passage of time, is an outrage! In the proposed "Missing Service Personnel Act", "conclusive proof of death" is required to be established and based upon evidence that death is the only plausible explanation for the absence of the missing person.

Important provisions of this legislation, are the inclusion of family members in the review process, their access to information gained during the investigation and a set time frame for the review process.

Passage of the "Missing Service Personnel Act" is vital and will restore a sense of confidence not only to those effected by previous wars, but to those who may become Prisoner Of War or listed as Missing In Action as a result of future wars.

Senator Dole, we thank you for your past efforts and strongly support and encourage you to reintroduce the "Missing Service Personnel Act" as one of the first items to be introduced before the 104th Congress.

Sincerely,

RICH TEAGUE,
VietNow National POW/MIA Chairman.

NATIONAL VIETNAM VETERANS COALITION,
Washington, D.C, January 3, 1995.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Re: Missing Service Personnel Act.

DEAR SENATORS DOLE AND LAUTENBERG: The National Vietnam Veterans Coalition, a federation of seventy-eight (78) Vietnam veterans organizations and veterans issue groups, is pleased to support your efforts for long overdue reform of the Missing Persons Act.

The history of the law, as previously administered, has been one of arbitrary decisions based on incomplete information. The administration of the law has produced untold grief among the family members of the missing in action and has angered the Vietnam veteran community. The rote presumptive findings of death have contributed substantially to the ongoing failure of the POW/MIA bureaucracy to meaningfully resolve the issue.

The bill you are introducing provides considerable procedural protections to future MIAs. the provisions for appointment of counsel for the MIAs interests, the counsel's access to classified information, procedures for dealing with classified information, centralization of case information in the MIAs personnel file, the ability to reopen hearings for a period of time and effective reversal of the current de facto presumption of death reflexively applied in hearings mark tremendous progress. The encouragement to combine hearings in group disappearance cases would force hearing panels to weigh the evidence in a broader context.

The opening up of the process to include the right of participation of secondary next of kin is a welcome recognition of the fact that there is more than one person in each family who cares about the fate of a missing relative.

We are proud to endorse this much needed piece of legislation.

Sincerely,

J. THOMAS BURCH, Jr.
Chairman.

• Mr. LAUTENBERG. Mr. President, I am pleased to again join Senator DOLE in an effort to improve the way our government treats military service members and their families by reintroducing the Missing Service Personnel Act of 1995. It is perhaps fitting that two veterans of World War II join together to sponsor this legislation. Senator DOLE and I collaborated in writing this bill in a spirit of bipartisanship. We believe there is no room for politics when it comes to how the Government treats its missing personnel.

Mr. President, The Missing Service Personnel Act of 1995 updates existing law, last written by Congress in 1942. It focuses on how the U.S. Government deals with military personnel and Federal employees who are classified as "missing in action." Our bill also makes some improvements in the way the Federal Government deals with the families of missing persons. They suffer when a loved one is missing and they deserve to have their interests protected and their needs met by their government.

Congressional interest in the issue is extensive, Mr. President. When the Senate Select Committee on POW/MIA Affairs—ably led by Senator KERRY and Senator SMITH—reported its findings to this body, it concluded there has been serious U.S. Government neglect and mismanagement in dealing with missing servicemembers. That's why we're here today—we want to rid the government of neglect and mismanagement in its treatment of Americans who are missing in action.

Having served in World War II, both Senator DOLE and I know first-hand the tremendous sacrifice service men and women make when they face c ombat. We know the terror soldiers face when they consider the prospect of being captured. We also know the anguish our loved ones suffer when a soldier goes into harm's way.

Over the past 25 years, the credibility of the Department of Defense on MIA/POW issues has been seriously questioned. Without substantial reform of its procedures, the American people will continue to question the credibility of DOD in future military operations. Americans expect Pentagon officials to care for our soldiers and their families. They expect DOD officials to do the right thing when a servicemember is reported missing. There should be no curtain of secrecy. There should be no perception of incompetence. There should be no unfair treatment of families.

Our uniformed men and women serve proudly in the Armed Forces on behalf of all Americans. In return for their sacrifice, American servicemembers

should be able to expect fairness, honesty, and support from the Department of Defense.

Unfortunately, Mr. President, when we look at recent history concerning the treatment of families of those missing in action, we see a troubling picture. No one in Congress should be content with what has happened in the past. We have seen families become outraged by the treatment they receive from the Government. We have witnessed their disgust toward elected officials. And, we have heard their calls for more information, more interest, and more action to recover their loved ones.

Today, we have an opportunity to respond, to provide better treatment. I believe the time is right to correct the Pentagon's flawed management practices. The cold war is over. The United States is not engaged in a major war, although we still have American men and women serving faithfully around the globe. They are ready for conflict if necessary. And, I suggest to my colleagues that the Pentagon must be ready as well.

Let's take a look at the problems we face now.

Mr. President, existing U.S. law concerning how the Government deals with missing persons is over 50 years old. That law is inadequate—it deals primarily with financial aspects of missing personnel and their dependents. That law is outdated—it doesn't address new issues that have emerged over the past 25 years. And that law is incomplete—it doesn't protect missing servicemembers from bureaucratic inaction.

Perhaps most troubling is the fact that existing law does not protect the rights of missing persons. Right now, missing persons do not have counsel in Government hearings. No one represents their interests. In addition, missing persons lose due process after 1 year. They just go into administrative limbo. They stay there until someone says they're dead. No wonder so many families think Government decisions are arbitrary and capricious.

Another problem deals with access to information. Right now, hearing officers can be denied information about missing persons. In addition, hearing officers can be excluded from reviewing classified information. And further, Government officials can willfully withhold relevant information without penalty. I believe these practices are the root cause for the curtain of secrecy that surrounds Government decisions.

The lack of specified rights for families is another problem with existing law. The Americans with the greatest stake in Government action have the least involvement in those decisions. Moreover, families have no right to appeal. No wonder many families make charges of "cover-up" and "smokescreen." I believe we should have procedures that guarantee families of missing servicemembers honest, fair, and just treatment.

Finally, Mr. President, the old law doesn't create the opportunity for good, just decisions. Right now, officials assigned to conduct hearings may not be qualified. Further, they may have no guidance about making determinations of death. So today, what we have are poor decisions: Missing persons are pronounced dead . . . merely with the passage of time. I believe such determinations constitute disloyalty to our service men and women.

Mr. President, when you look at the problems with existing law in the aggregate, you can see why we've had so many problems over the years. Families are mad. Service men and women are wary. Government officials are frustrated. Senator DOLE and I wrote this bill to correct, once and for all, all these problems.

Unfortunately, Mr. President, when the Pentagon looks at these problems they see a rosy picture. Over the last 5 years, Pentagon officials have reported to Congress that everything is just fine. They have dragged their feet in upgrading government procedures. And despite our efforts to reform existing law, the Pentagon has not come forward with a reform proposal. Mr. President, there seems to be a general lack of will within the Pentagon to update its management procedures regarding missing persons.

In Congress today, there are several POW/MIA legislative initiative that address problems of past wars and conflicts. These initiatives attempt to resolve problems for World War II, Korea, and Vietnam. These are all worthy and should be pursued by both the Congress and the administration.

However, Mr. President, we have only one initiative that looks to the future—to the wars and conflicts not yet fought by Americans. In passing the fiscal year 1995 National Defense Authorization Act, the Senate took the first step in establishing new procedures for the future. In that legislation, we required the Department of Defense to review its procedures and recommend changes to Congress.

I remain skeptical about the Pentagon's response. I haven't seen any enthusiasm to update their procedures. Those in Congress who have dealt with these problems have seen little Pentagon interest in reform. Indeed, last year, an Assistant Secretary of Defense wrote to us with regard to the Pentagon's procedures . . . and I quote:

> I believe that the existing legislation provides adequate protections and venues for participation of all parties with legitimate interest.

Now Mr. President, I ask my colleagues: What should we expect from a Pentagon review of existing legislation? Does anyone in this body believe the Pentagon will come forward with reform legislation? I will tell you I am very skeptical.

This is why we are reintroducing this bill today. I want to lay on the table a proposal with real reform. I want the Pentagon to know that this Senator does not believe existing procedures are adequate. And I suggest the Senate needs to take the lead on this critical issue.

Mr. President, when we wrote this legislation, Senator DOLE and I took a new approach. We asked a simple question: How would a missing soldier want the U.S. Government to respond to his or her situation? What would a missing person want from his government? We wrote this bill from the point of view of American service men and women. When we finished, we had created wholly new procedures—procedures that, for the first time, are designed to serve those who are missing in action.

This legislation accomplishes four goals. First, it corrects management deficiencies for dealing with missing service members. Second, the bill safeguards the rights of missing personnel. Third, our legislation reestablishes a sense of trust between the U.S. Government and the families of missing personnel by raising what many people consider to be a "curtain of secrecy" surrounding Government decisions. And finally, Mr. President, our bill assures fundamental fairness to missing servicemembers by requiring timely Government action and specifying the rights of families and the Government's obligations to them. We hope that families of missing persons are treated fairly in all proceedings.

Let me discuss some of the provisions we are proposing in more detail.

First, the Act will establish new procedures for determining the whereabouts and status of missing persons. These procedures accelerate official action in order to recover the missing. They may even lead to the recovery of some servicemembers.

Moreover, the new procedures will afford missing persons due process well after the first year of their disappearance. Our service men and women should never believe that our Government will abandon them if captured. This legislation guarantees that the Government won't write them off merely with the passage of time.

The second important provision of the Act is that qualified counsel will be appointed for missing persons. This is new. Never before have missing persons been represented by counsel. Our service personnel should not have to worry about their rights, even if they are missing in action. This legislation assures that the Government does not ignore issues and evidence. It assures that the Government affords the missing in action due process of the law.

Third, the act will assure access to Government information. It removes

the "curtain of secrecy." It makes all information available to hearing officers. Also, the bill carefully provides access to classified information. And, it makes complete personnel files available for review. These measures guarantee that the Government doesn't make ill-formed decisions about the statute of missing personnel.

The act also specifies the rights of the missing person's immediate family, dependents and next of kin. It ensures that our field commanders will give families updated, accurate information concerning the incident in which their loved one disappeared. The bill assures family participation in Government hearings. They will have access to the personnel file of the missing. They can be represented by private counsel. They can object in writing to a board's recommendations. And last, but not least, they can appeal a Government ruling. These are the basic rights of families—and no one can argue with putting them into law.

The last major provision of the act states criteria for making just decisions about the status of missing servicemembers. It gives guidance to officials about that factors they must consider before making a determination of death. The bill specifically prohibits declaring someone to be dead merely by virtue of the passage of time. I believe these provisions are important as an expression of Government loyalty to all persons who serve in the Armed Forces.

Mr. President, let me close by saying that there remains a strong bipartisan consensus across America in support of this bill. It has been building over the last 3 years. It started partly as a grassroots initiative from New Jersey and elsewhere. And it continues to enjoy the support of several major veterans organizations across the United States.

Mr. President, the good intentions of many Americans, who truly care about the welfare of the men and women in the Armed Services, have been combined into this initiative. They believe it is the right thing to do.

I urge my colleagues to join Senator DOLE and me in supporting this reform legislation when it is considered by the Senate.●

● Mr. LIEBERMAN. Mr. President, I am pleased to be an original cosponsor to the Missing Service Personnel Act of 1995 as I was when this legislation was first introduced in the 103d Congress. I commend the distinguished majority leader for his leadership on this issue and am proud to join him, Senator SIMPSON, and Senator LAUTENBERG in this important effort. This legislation is long overdue and is an important step toward providing the men and women who have served and will serve in our Armed Forces in conflict the protection and rights they and their families deserve, and we as a country owe them.

The current law which governs personnel who became missing in action was written in 1942 in the midst of World War II. We have now had over 50 years of experience with that law and the procedures it established to determine the status of people who became missing, captured, or presumed killed in a conflict. The experiences of MIA's and their families during and long after the Vietnam war provides clear evidence that the existing law is inadequate and revisions are sorely needed.

American citizens in uniform and in civilian clothes are serving our national interests in hostile places around the world even as we speak today. The end of the cold war has not brought an end to the valid need for Americans to serve abroad and sometimes to be placed in harm's way. The legislation we introduce today is an effort to address the legitimate concerns and needs of the men and women and their families who may one day find themselves missing in action because of their service to their country.

This legislation recognizes that a man who becomes missing in action does not surrender their legitimate rights as an American and that we must do everything we can to determine their true status. They will not break faith with America and America must not break faith with them or their families. Thus, the legislation prevents presuming that a missing service man or woman is dead simply because of the passage of time. It places a greater burden on the Government which commits our sons and daughters to conflict to persist in determining the truth about every one of those who became missing. Some may argue that this burden is too great. The mothers and fathers, husbands and wives, sons and daughters of those who are missing will reply that this is not too great a burden to bear for those who have answered the call of their country.

I hope and expect that this legislation will be given a thorough and fair examination both in committee and when it comes to the floor for passage. It is already supported by many veterans groups and organizations of families of the missing in action from the Vietnam war. Those in the Department of Defense who will have to implement this legislation should provide us their counsel on ways to improve it and to make it more effective. We welcome such constructive efforts. But let there be no mistake about out intentions or goals—the clock cannot be turned back. We cannot just tinker at the margins with policies and procedures which have failed in the past to live up to the covenant which must exist between the Government and those it sends off to defend its national interest.

We must never forget those who have served, are serving, or will serve their country. We owe it to them and their loved ones to commit ourselves to a full accounting of all who become missing in action. This legislation is an important step in the direction of returning faith and trust in this important covenant. I invite my colleagues to join us in cosponsoring this legislation and to work for its speedy enactment.●

By Mr. DOLE (for himself, Mr. INOUYE, Mr. THURMOND, Mr. WARNER, Mr. MCCAIN, and Mr. CAMPBELL):

S. 257. A bill to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea; to the Committee on the Judiciary.

THE VFW CHARTER LEGISLATION

Mr. DOLE. Mr. President, as a life member of the Veterans of Foreign Wars of the United States, I am particularly honored today to introduce legislation which will amend the congressional charter of the VFW to make those veterans who have served in South Korea eligible for membership.

Since the 1953 armistice, the 170-mile demilitarized zone [DMZ] which separates North and South Korea has been the source of extreme and serious tension. According to the VFW, 89 Americans have been killed and 132 wounded in clashes with North Korea since the armistice was signed.

Across this no-mans-land, North Korea has maintained 70 percent of its 1.2-million-man armed forces. Those forces are in forward deployed attack positions along the entire DMZ, only 30 miles from the South Korean capital of Seoul.

Since the end of the Korean war, the United States has pledged to the Republic of Korea to deter any renewal of the conflict. To fulfill our commitment, we have positioned a 37,000-man force consisting of the U.S. 8th Army, including the 2d Infantry Division and the Air Force's 314th Air Division. The record and performance of our military men and women during the past four decades in meeting that commitment, and in spite of constant danger, has been exemplary.

I wish to commend the leadership of this great veterans service organization, the Veterans of Foreign Wars, for their recognition of those members of our Armed Forces who have served in Korea since 1949. I am honored to introduce this legislation and provide my full support for its consideration and quick passage by my colleagues.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in

Congress assembled, That section 5 of the Act of May 28, 1936 (36 U.S.C. 115), is amended to read as follows:

"SEC. 5. A person may not be a member of the corporation created by this Act unless that person—

"(1) served honorably as a member of the Armed Forces of the United States in a foreign war, insurrection, or expedition, which service has been recognized as campaign-medal service and is governed by the authorization of the award of a campaign badge by the Government of the United States; or

"(2) while a member of the Armed Forces of the United States, served honorably on the Korean peninsula or in its territorial waters for not less that 30 consecutive days, or a total of 60 days, after June 30, 1949."

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 32

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 32, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for the production of oil and gas from existing marginal oil and gas wells and from new oil and gas wells.

S. 33

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 33, a bill to amend the Oil Pollution Act of 1990 to clarify the financial responsibility requirements for offshore facilities.

S. 159

At the request of Mr. BREAUX, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 159, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for contributions to individual investment accounts, and for other purposes.

S. 234

At the request of Mr. CAMPBELL, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 234, a bill to amend title 23, United States Code, to exempt a State from certain penalties for failing to meet requirements relating to motorcycle helmet laws if the State has in effect a motorcycle safety program, and to delay the effective date of certain penalties for States that fail to meet certain requirements for motorcycle safety laws, and for other purposes.

AMENDMENT NO. 179

At the request of Mr. DORGAN the names of the Senator from Connecticut [Mr. DODD] and the Senator from Iowa [Mr. HARKIN] were added as cosponsors of amendment No. 179 intended to be proposed to S. 1, a bill to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations; and for other purposes.

SENATE RESOLUTION 65—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. THURMOND, from the Committee on Armed Services, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 65

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel; and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $2,948,079.

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $3,015,532.

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations".

SENATE RESOLUTION 66—TO PREVENT THE ADOPTION OF CERTAIN NATIONAL HISTORY STANDARDS

Mr. PRESSLER (for Mr. GORTON, for himself, Mr. LIEBERMAN, Mr. GRAMM, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 66

Resolved, That it is the sense of the Senate that—(a) the National Education Goals Panel should disapprove, and the National Education Standards and Improvement Council should not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to February 1, 1995;

(b) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Educate America Act should not be based on standards developed primarily by the National Center for History in the Schools prior to February 1, 1995; and

(c) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (b), the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.

SENATE RESOLUTION 67—RELATING TO REPRODUCTIVE HEALTH CLINICS

Mr. PRESSLER (for Mrs. BOXER, for herself, Mrs. MURRAY, Mr. FEINGOLD, Mr. KENNEDY, Mr. CAMPBELL, Mr. SIMON, Mr. LAUTENBERG, Mr. DODD, Mr. BAUCUS, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. INOUYE, Ms. MIKULSKI, Mrs. FEINSTEIN, Mr. REID, Mr. WELLSTONE, Mr. ROBB, Mr. KOHL, Mr. BRYAN, and Mr. KERRY) submitted the following resolution; which was considered and agreed to:

S. RES. 67

SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

Whereas there are approximately 900 clinics in the United States providing reproductive health services;

Whereas violence directed at persons seeking to provide reproductive health services

continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

Whereas organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

Whereas there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

Whereas the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

Whereas violence is not a mode of free speech and should not be condoned as a method of expressing an opinion; and

Whereas the President has instructed the Attorney General to order—

(1) the United States Attorneys to create tasks forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

(2) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence.

Resolved, it is the sense of the Senate.—That the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

SEC. 2.—Nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution.

SENATE RESOLUTION 68—RELATIVE TO LOCAL GOVERNMENTS

Mr. PRESSLER (for Mr. BRADLEY, for himself, Mr. CHAFEE, Mr. DORGAN, Mr. SIMPSON, Mr. ROBB, Mr. DOLE, Mr. NICKLES, Mr. LAUTENBERG, Mr. KEMPTHORNE, and Mr. WELLSTONE) submitted the following resolution; which was considered and agreed to:

S. RES. 68

IMPACT ON LOCAL GOVERNMENTS.

Whereas the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

Whereas cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

Whereas increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in safe, secure community: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

ORDER OF BUSINESS

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. I thank the Chair.

(The remarks of Mr. DOLE pertaining to the introduction of S. 256 and S. 257 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. The Senate is in morning business. The Senator from Idaho is recognized for up to 15 minutes.

Mr. CRAIG. I thank the Chair for clarifying that.

(Mr. INHOFE assumed the chair.)

REAUTHORIZE THE ENDANGERED SPECIES ACT

Mr. CRAIG. Mr. President and fellow Senators, I think the American public and even we here in the Congress recognize that the November elections was a profound statement on the part of this country to speak to change.

Since that time, all eyes have been focused on Washington, as we saw the changing of the guard in the House after 40 years of single-party rule, and certainly the change that has occurred here that has resulted with Republicans being in the majority, leading the Senate and chairing the committees. That has also resulted in a very aggressive legislative agenda that has focused most of the attention of the American people on what is going on in Washington. Whether it was the rule changes in the House or the debate on the unfunded mandates bill that still is before this Senate, directed by my colleague from Idaho, DIRK KEMPTHORNE, or whether it is the growing debate that will soon come to the floor on a balanced budget amendment, all eyes remain focused on Washington.

But while that is going on, something very tragic is still happening across America. And that is that there still remains business as usual on the part of the Federal Government and our Federal agencies and our Federal regulators—as was going on and has been going on long before the elections of last November— the treading on the private citizen, the taking away of rights, a Federal Government that is unconcerned, or demonstrating at least little concern, about the impact of their decisions and their activities on the economies of local communities.

So for just a moment this afternoon, I thought I would once again focus on something that is now occurring in my State of Idaho and try to once again impress upon the Congress, and certainly those who might be watching, the magnitude of the job we have before us and the tragedy of this administration failing to be responsive and allowing their agencies to run amok in an unwillingness to be concerned about the human being—the citizen, the taxpayer—but to be all concerned about the Federal regulations and to make sure that every letter of the law is complied with, even laws that no longer work for the American people or demonstrate their fairness or their equity.

Last Thursday, in Boise, ID, Judge David Ezra, with a sweep of his pen, Mr. President, shut down 14 million acres in the State of Idaho. What does that mean? That means that in an area the size of Massachusetts and Connecticut and Maryland combined, this judge said, "Under the auspices of the Endangered Species Act, there will be no logging, no mining, no grazing, no road building or any human activity until the Forest Service can convince me and convince national marine fisheries that all of their activities fit within the confines of the Endangered Species Act," even if not one of those activities can scientifically be proven to harm a species of fish that is now listed as endangered within the watersheds of that region of the State of Idaho.

As a result of that, 56 timber stations, 82 mining operations, 3 road construction projects, and 395 livestock grazing operations—better known as ranches—have been told to cease and desist. Thousands of miners will be out of work as of Monday morning, next Monday morning, not because the mine played out, not because the market for minerals dropped, but because the Federal Government said you can no longer mine, and a Federal judge, again, said last Thursday, with the sweep of his pen, "Walk away. Pull your paycheck. We are not worried about your children and your homes and your families and your communities. We are worried that the law which is now clearly in question be complied with."

Well, Mr. President, you can well imagine, chaos reigns supreme in my State of Idaho at this moment; that in six of the eight Federal forests in my

State, amassing over 14 million acres, all human activity, which is a major part of the economic base of that region of my State, has just been told to shut down, awaiting the action of a Federal bureaucracy that is now days behind in what it should have been doing days ago.

That is why it is so imperative that the Environment and Public Works Committee look at the reauthorization of the Endangered Species Act now—not next year, not 3 years from now, but now—to make sure that these kinds of silly bureaucratic activities can no longer go on and put the average man and woman and small business people in my State or any other State arbitrarily out of business.

We saw it go on in Oregon, with the spotted owl—30,000 loggers in the State of Oregon. Now, in my State of Idaho, thousands—yes, thousands—of people, small businesses that have existed in one family for over 100 years, are being threatened with their very existence.

It is clearly a call to arms. And I think the people of my State recognize that. It is clearly the responsibility of this Congress to change the law, to make it more compatible, to make it more sensitive, to put the human species back into the blend of the Endangered Species Act so that we at least give some credence to the human species, that is the steward of the land, instead of arbitrarily saying to that human being—that mother, that father, that worker, that logger, that miner, that rancher, that small business person—"Step aside. You are no longer important. Step aside to a plant or an animal."

Since when did this Government become so insensitive to the rights of the human being? Since we have ignored our responsibilities to reauthorize the Endangered Species Act, and do these kinds of things that the American people finally in November of last year rose up and said to the Congress of the United States: "Become responsive to our needs or step aside and we will find somebody who will."

Well, I certainly hope this Senate recognizes that call and will become increasingly sensitive to their responsibility to the taxpayer, to the citizens, the law-abiding citizens, of our country.

Let us start with reauthorization of the Endangered Species Act, so that what is going on in Idaho today and next week and throughout this coming year, and what has gone on in the State of Oregon and other places around our country will not be repeated again; that we, as Senators, who agree to take an oath to uphold the Constitution of the United States, will do that constitutional duty to put people back into the equation of being responsible for the stewards of our land.

I yield back the remainder of my time.

ORDERS FOR MONDAY, JANUARY 23, 1995

Mr. CRAIG. Mr. President, under the order entered last night, the Senate will convene at 9:30 a.m. on Monday, January 23, 1995.

I ask unanimous consent that when the Senate convenes on Monday, the time for the two leaders be reserved and there then be a period for the transaction of morning business not to extend beyond the hour of 10:30, with Senators permitted to speak for not to exceed 5 minutes each, with the exception of the following Senators: Senators GRASSLEY and PRYOR, for 15 minutes equally divided; Senator CONRAD, for up to 30 minutes. I further ask that at the hour of 10:30 a.m. the Senate resume consideration of S. 1, the unfunded mandates bill.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Mr. President, reserving the right to object, the only change I believe the Senator is making, so that we all understand it, instead of getting on S. 1 at 10 it will be at 10:30, and we are authorizing three Senators to speak in that time. Instead of 10 it will be 10:30, so that our colleagues know.

Mr. CRAIG. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENTING THE ADOPTION OF CERTAIN NATIONAL HISTORY STANDARDS

VIOLENCE AT CLINICS

IMPACT ON LOCAL GOVERNMENTS

Mr. PRESSLER. Mr. President, I ask unanimous consent that it be in order for me to send to the desk three resolutions and that they be considered en bloc, agreed to and the motion to reconsider be laid upon the table.

For the information of my colleagues, the three resolutions are the texts of the Gorton amendment, Bradley amendment and Boxer amendment that were offered to the unfunded mandates bill and voted on Wednesday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. And without objection, where appropriate, the preambles are agreed to.

Mr. PRESSLER. Mr. President, I send the three resolutions to the desk.

So the resolutions (S. Res. 66, S. Res. 67, and S. Res. 68) were agreed to, as follows:

S. RES. 66

Resolved, That it is the sense of the Senate that—(a) the National Education Goals Panel should disapprove, and the National Education Standards and Improvement Council should not certify, any voluntary national content standards, voluntary national student performance standards, or criteria for the certification of such content and student performance standards, on the subject of world and United States history, developed prior to February 1, 1995.

(b) voluntary national content standards, voluntary national student performance standards, and criteria for the certification of such content and student performance standards, on the subject of world and United States history, established under title II of the Goals 2000: Educate America Act should not be based on standards developed primarily by the National Center for History in the Schools prior to February 1, 1995; and

(c) if the Department of Education, the National Endowment for the Humanities, or any other Federal agency provides funds for the development of the standards and criteria described in paragraph (6) the recipient of such funds should have a decent respect for the contributions of western civilization, and United States history, ideas, and institutions, to the increase of freedom and prosperity around the world.

S. RES. 67

SENSE OF THE SENATE CONCERNING PROTECTION OF REPRODUCTIVE HEALTH CLINICS.

Whereas, there are approximately 900 clinics in the United States providing reproduction health services;

Whereas, violence directed at persons seeking to provide reproductive health services continues to increase in the United States, as demonstrated by the recent shootings at two reproductive health clinics in Massachusetts and another health care clinic in Virginia;

Whereas, organizations monitoring clinic violence have recorded over 130 incidents of violence or harassment directed at reproductive health care clinics and their personnel in 1994 such as death threats, stalking, chemical attacks, bombings and arson;

Whereas, there has been one attempted murder in Florida and four individuals killed at reproductive health care clinics in Florida and Massachusetts in 1994;

Whereas, the Congress passed and the President signed the Freedom of Access to Clinic Entrances Act of 1994, a law establishing Federal criminal penalties and civil remedies for certain violent, threatening, obstructive and destructive conduct that is intended to injure, intimidate or interfere with persons seeking to obtain or provide reproductive health services;

Whereas, violence is not a mode of free speech and should not be condoned as a method of expressing an opinion; and

Whereas, the President has intructed the Attorney General to order—

"(A) the United States Attorneys to create task forces of Federal, State and local law enforcement officials and develop plans to address security for reproductive health care clinics located within their jurisdictions; and

"(B) the United States Marshals Service to ensure coordination between clinics and Federal, State and local law enforcement officials regarding potential threats of violence: Now therefore, be it

Resolved, That it is the sense of the Senate that the United States Attorney General should fully enforce the law and protect persons seeking to provide or obtain, or assist in providing or obtaining, reproductive health services from violent attack.

(c) Nothing in this resolution shall be construed to prohibit any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the constitution.

S. RES. 68

IMPACT ON LOCAL GOVERNMENTS.

Whereas, the Congress should be concerned about shifting costs from Federal to State and local authorities and should be equally concerned about the growing tendency of States to shift costs to local governments;

Whereas, cost shifting from States to local governments has, in many instances, forced local governments to raise property taxes or curtail sometimes essential services; and

Whereas, increases in local property taxes and cuts in essential services threaten the ability of many citizens to attain and maintain the American dream of owning a home in a safe, secure community: Now therefore, be it

Resolved, That it is the sense of the Senate that

(1) the Federal Government should not shift certain costs to the State, and States should end the practice of shifting costs to local governments, which forces many local governments to increase property taxes;

(2) States should end the imposition, in the absence of full consideration by their legislatures, of State issued mandates on local governments without adequate State funding, in a manner that may displace other essential government priorities; and

(3) one primary objective of this Act and other efforts to change the relationship among Federal, State, and local governments should be to reduce taxes and spending at all levels and to end the practice of shifting costs from one level of government to another with little or no benefit to taxpayers.

RECESS UNTIL MONDAY, JANUARY 23, 1995 AT 9:30 A.M.

Mr. PRESSLER. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 1:35 p.m., recessed until Monday, January 23, 1995, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Friday, January 20, 1995*

The House met at 10 a.m.

PRAYER

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

We remember, O gracious God, those who need a special measure of Your grace and protection. We recall the needs of those who do not benefit from the support and love of family and must find their own way through the uncertainties of life. We pray for those whose lives are disrupted and torn apart by the conflicts in our world even as we support all those who work for reconciliation and peace. We remember those whose days are filled with struggles for the basic essentials of life and for those who have little hope. Fill their lives, O God, with the fullness of Your spirit that they may be blessed by Your presence and receive new hope by Your Word. This is our earnest prayer. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from North Carolina [Mrs. CLAYTON] lead us in the Pledge of Allegiance.

Mrs. CLAYTON led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that consistent with clause 9 of rule XIV, statements and rulings of the Chair appearing in the RECORD will be a substantially verbatim account of those words as spoken during the proceedings of the House, subject only to technical, grammatical, and typographical corrections.

Without objection, the permanent RECORD of January 18 at pages 301 and 303 will reflect this policy.

There was no objection.

CONTRACT WITH AMERICA

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

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

We have done that.

In the next 84 days, we will vote on the following 10 items:

No. 1, a balanced budget amendment and line-item veto;

No. 2, a new crime bill to stop violent criminals;

No. 3, welfare reform to encourage work, not dependence;

No. 4, family reinforcement to crack down on deadbeat dads and protect our children;

No. 5, tax cuts for families to lift Government's burden from middle income Americans;

No. 6, national security restoration to protect our freedoms;

No. 7, senior citizens' equity act to allow our seniors to work without Government penalty;

No. 8, Government regulation and unfunded mandate reforms;

No. 9, commonsense legal reform to end frivolous lawsuits; and

No. 10, congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair announces that today we will have 10 1-minutes per side. Any further 1-minutes will be at the conclusion of business today.

GUILTY UNTIL PROVEN INNOCENT

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

Mr. TRAFICANT. Mr. Speaker, if you are arrested for mass murder and the FBI has videotapes of your mass murder and the FBI has 100 nuns as eyewitnesses and the FBI has the Mormon Tabernacle Choir as eyewitnesses and the FBI has the Waltons and Mr. Rogers as eyewitnesses and they said you killed 100 people, you are innocent until proven guilty. But if you and your grandma and your grandpa go to court on a tax difference of $5,000, they have to prove they are innocent because they are guilty under the laws of this country. Unbelievable.

H.R. 390 that the Republicans helped last year will change that. If it is good enough for the Son of Sam, it is good enough for mom and dad. And let me say this, JOHN, more Americans support H.R. 390 than any other bill before the Congress.

I am asking for your help to cosponsor H.R. 390. If it is good enough for the Son of Sam, it is good enough for grandma and grandpa. Think about it.

A HISTORIC JUNCTION

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

Mr. CHRISTENSEN. Mr. Speaker, this Nation is at a historic junction. Either we can follow the same course we have followed for the last 40 years, a course of tax and spend, a course of rocketing deficits, or we can steer this flagship America into a new direction, a direction of fiscal responsibility, lower taxation and limited Government.

But in order to avoid the rocks of higher taxation and the shoals of bigger deficits, we must have a balanced budget amendment with a provision that requires a three-fifths super majority of both the House and the Senate to raise taxes. A balanced budget amendment without a tax limitation is like a ship without a rudder, at the mercy of the prevailing winds which may blow.

The three-fifths provision is the rudder that will steer America back in the right direction. For the sake of our children, for the sake of our grandchildren and this Nation, let us set a new course. Let us pass the balanced budget amendment with the three-fifths tax provision. Let us make the magic number 290 instead of 214 to raise taxes in the future.

THE WORKPLACE SAFETY AMENDMENT

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

Mrs. CLAYTON. Mr. Speaker, throughout yesterday's debate, the sponsors of the unfunded mandates legislation told us one thing but in the bill they said something different. They told us that the bill continues to protect workplace safety, yet they do not say that in the bill. They told us in

the bill it continues to protect the environment, the air we breathe and the water we drink. Yet they do not say that in the bill. Protection against child labor, insurance against workplace firetraps, and security from hazardous equipment on the job are very serious matters. Yet does it mean what it says? Why do they not say it.

We need to say that in the bill. Clean air and safe drinking water are precious to the lives of American citizens. The sponsors of the bill have a duty to explain in clear, unambiguous, and concise language where in the bill do they provide for the vital protection of the health and welfare of American workers.

I intend to sponsor an amendment which in express language will ensure minimum Federal workplace safety standards, will not be abandoned and will be precise.

I urge my colleagues to support my amendment. If they mean what they say, say it in the bill and support the amendment.

THE ONCE MIGHTY PARTY

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

Mr. CALVERT. Mr. Speaker, the once mighty party that helped found the Nation now embarrasses itself on station after station. This party of Jefferson, born of ideas, lofty and grand, have been reduced to whining about a book and a man. This party that helped through the Great Depression now fumes and fusses in session after session.

This great party that brought us victory in wars today fights about a book which is not in the stores.

While the American people look to us for inspiration, the party whines on and on about an imaginary publication. The party that for a long this Congress led now acts as if it has gone completely brain dead.

It is sad, Mr. Speaker, but it is easy to see why this once great party is now in the minority.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 38

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 38.

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

IN OPPOSITION TO H.R. 5, A BILL TO OPPOSE UNFUNDED MANDATES

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

Ms. PELOSI. Mr. Speaker, I rise today to oppose H.R. 5, the legislation regarding unfunded mandates. I believe this is necessary for us to defeat this legislation because it gives benefits to all Americans.

These Federal mandates give benefits to all Americans. Included in these Federal mandates is the Clean Water Act, which is important for us as far as the food we eat, the water we drink, and to millions of Americans whose livelihood depends on working on the waterways in America.

In addition, the Safe Water Act protects the water we drink from the tap. And in addition to that, the Clean Air Act protects the health of every American who lives in the cities. But as we know, pollution knows no geographic bounds. So it is very important for us to have national minimum standards. This is very important for every American, at least every American who eats food, drinks water, and breathes air. I urge my colleagues to oppose H.R. 5.

□ 1010

SUPPORT TRANSPORTATION TRUST FUNDS

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

Mr. SHUSTER. Mr. Speaker, David Broder of the Washington Post recently wrote a column in which he quoted a lifelong Democrat shipyard worker who switched to be a Republican. Here is what that shipyard worker said.

He said, "Except for roads, everything government has done in the last 20 years has degraded our society," except for roads.

Yes, Mr. Speaker, building infrastructure for America's future is something that Government can do. It is something that Government should do. As we tighten our Government belt, we should be very careful not to weaken our rightful commitment to building assets for the future.

Our population continues to grow. People travel more. Highway travel has more than tripled since the interstate was proposed. Air travel has more than doubled in just the last 12 years. Spending highway aviation and trust fund dollars to build America is absolutely essential to the future of our country. Support the transportation trust funds.

MEMO PUTS SPEAKER'S INTERESTS ABOVE NATIONAL INTERESTS

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

Mr. SCHUMER. Mr. Speaker, in a memo to the White House last night, a senior Republican linked our right to raise important and valid questions about the Speaker's book deal to passage of vital legislation. The memo actually seems to put the personal interests of the Speaker above our national interest. It shows that Republicans would rather do the Speaker's bidding than the people's business.

We seem to have crossed a very troubling line. The Speaker's book deal is no longer merely a personal ethical issue. It is now threatening the vital interests of this country. What is more important for America, the North American economy, or a $4.5 million check for the Speaker?

After the election, many pundits told President Clinton he should take a page out of Harry Truman's book and call us the do-nothing Congress. At the rate it is going, he is going to call this Republican group the Keystone Cops Congress.

KEEP THE SUPER MAJORITY PROVISION IN THE BALANCED BUDGET AMENDMENT

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

Mr. HAYWORTH. Mr. Speaker, it has been interesting to hear the arguments by the keepers of the old order with reference to a super majority provision in a balanced budget amendment. Some point out that even when it comes to treaties in the other body, a super majority is required there, but that is a very, very special case.

Taking into account that treaties are quite properly the purview of the other body, let me ask this, Mr. Speaker: What is a treaty, after all, if not a compact or a contract?

I humbly propose that our Contract With America is in essence a peace treaty with the hard-working, taxpaying men and women of this country, saying that a super majority should be required to increase taxes. Let us move forward on the balanced budget amendment and enact the Contract With America.

THE IMPERIAL SPEAKERSHIP GOES TOO FAR

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

Mr. FRANK of Massachusetts. Mr. Speaker, having worked very hard this weekend, having made a special round trip here to interrupt my weekend in my district to work on the Mexico loan bill, trying in cooperation with other Members to put together a set of conditions that would allow us to respond to a potential crisis in a way that met Members' concerns, I was appalled to see a memorandum from the chairman of the Committee on Banking and Financial Services on the Republican

side threatening us that if we did not desist in our speaking about disagreements with the Speaker of the House, this would jeopardize the Mexico loan bill.

Members on the other side have said that we must do the people's business. There is no inconsistency between vigorous debate where we disagree and working together where we agree. This effort to threaten us into silence by telling us that if we continue to express our views on the unrelated issues we have about the Speaker, we will therefore have them pull the plug on negotiations over the Mexico loan, makes it clear who it is that is interested in blocking things. The imperial speakership is being taken much too far.

REPUBLICANS WANT TO CHANGE CONGRESS; DEMOCRATS WANT TO CHANGE THE SUBJECT

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

Mr. EVERETT. Mr. Speaker, unfortunately, events on the House floor the last few days may have caused some viewers to think that the people's House is the most expensive day care center in the world. It, of course, is not. The planned disruption by those with no ideas will not keep Republicans from changing the culture of Washington.

Mr. Speaker, the American people elected a Republican majority in November. They sent a clear message: Clean up the way Congress conducts its business.

We promise to bring to the floor issues that the American people want to see, including unfunded mandate legislation and a balanced budget amendment. We are working to change the culture of Washington to bring discipline to Congress.

Mr. Speaker, it is time to get on with the business at hand. I want to change Congress, while some Democrats just want to change the subject.

CALLING FOR OPENNESS AND AN END TO CLOSED DOOR MEETINGS

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

Mr. TORRES. Mr. Speaker, following this past week's events regarding the Speaker's book deal it has become clear to us here in Congress that the Republicans do not want the American people to know about the details.

I ask, is it coincidence that Republican members of the House Commerce Committee met yesterday in a closed door session with the CEO's of major telecommunications companies—among them multimillionaire publishing magnate Rupert Murdoch?

And today's Washington Post reports that Speaker GINGRICH addressed the group at a closed dinner last night.

Is it coincidence that Democrats are being silenced and ruled out of order when questioning the book deal?

The Republicans have stated that they want a more open House—should the American people be shut out from knowing what happened last night behind closed doors?

What happened to letting the sunshine in?

Mr. Speaker, the American people want to know.

CONGRESS MUST STOP QUIBBLING AND GET TO WORK

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

Mrs. SMITH of Washington. Mr. Speaker, I think what we are seeing here today is majoring in minors. The American people want to hear about the business of this House. They want to hear about the promises we kept, or are keeping, that we have made. They are tired of quibbling.

I went home for a few days and found that they go, "why are you guys fighting? Why aren't you working?" I want to tell the Members, the bill before us today, the most important bill, is unfunded mandates. That bill needs to be passed. We need to get to it.

The simple fact is the Safe Drinking Water act is costing one of my little towns nearly $2 million, and their water already tests clean. Their total budget is less than $3 million. That is what they care about. They are sick and tired of ignoring what is important. That is getting about the people's business, not listening to book deals.

Let us get to work and stop quibbling. They are starting to ask if we are children, and really, I do not think we are.

CHILDISHNESS IN PROTECTING AN IMPERIAL SPEAKERSHIP

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

Mrs. SCHROEDER. Mr. Speaker, I would just like to make the record straight on this, whether or not we are being childish. This morning I read a woman in Vienna was sent to prison for 3 months for criticizing Maria Teresa, who has been dead for 131 years, because the Austrians will not tolerate anyone picking on their royalty, dead or alive.

We all say "Aren't we glad we are Americans? That cannot happen here," except we now have a memo from the other side of the aisle saying they are going to stop all business here if we do not stop pointing out there are some really troubling conflict of interest issues that we have with the Speaker and his continuing fox hunt as he looks to what he is going to do with this book deal.

That, to me, sounds like it is being childish. That sounds like a tantrum. It looks like a tantrum. I think there is a real question about who is being childish in protecting this imperial speakership.

□ 1020

TIME TO END WELFARE AS WE KNOW IT

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

Mr. FUNDERBURK. Mr. Speaker, when Bill Clinton campaigned for President as a new Democrat he promised to end welfare as we know it. But, unfortunately, he talked right and governed left. His first so-called reform expanded welfare spending by $110 billion and jettisoned what was left of workfare.

Mr. Clinton isn't the first liberal to promise reform. Since 1965 we have spent over $5 trillion on welfare and all we have to show is disintegrating families, children having children, burned out cities, and a 30 percent illegitimacy rate.

Last November, the American people said, "enough is enough." They want to stop the vicious cycle of dependence which has morally bankrupted three generations of Americans. Entitlements are not rights. Assistance, if needed, must be temporary—2 years and you're out. We need workfare now. If you can work—but won't—don't ask the taxpayer for help. We can no longer afford a government which subsidizes single mothers who continue to have more children. Unwed mothers must identify the fathers of their children and we must rein in deadbeat dads who refuse to support their families.

Mr. Speaker, time is running out, we must act quickly and forcefully to end the liberal welfare state. For the sake of every American, it really is past time to end welfare as we know it.

CONGRESS SHOULD QUIT BICKERING AND GO TO WORK

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

Mr. BALLENGER. Mr. Speaker, yesterday I received a call from a very angry constituent who had the unfortunate experience of watching yesterday's House proceedings. His message to me was simply: "Quit your bickering and get on with it."

Mr. Speaker, my constituent is right on the money. We do need to get on with it and that is why the renewed

conviction I call on my fellow Members to join me in passing a balanced budget amendment.

Because Congress has for years proven incapable of fiscal discipline, only a strong tax limitation balanced budget amendment will force Congress to kick the habit of reckless spending.

I do recognize that Congress has tried in the past to restrain its voracious spending, but somehow these efforts always prove to be in vain. This must not and cannot continue.

The American people have spoken. They want a leaner and less intrusive government. They want us to put our financial house in order. And, finally, they want us to end politics as usual that leads to partisan bickering and gridlock.

NOT ALL MANDATES ARE CREATED EQUAL

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

Mrs. LOWEY. Mr. Speaker, unfunded mandates have gotten out of control. State and local governments have every reason to be frustrated. They do need relief. But we were elected and have a responsibility to do this right. Too much is at stake to just pass a bill without adequate hearings, without really listening to the people and say it is the answer and just ignore the consequences.

Not every mandate is the same, but this bill paints them all with the same brush. Under this bill, a mandate to prevent communities from dumping toxic chemicals into rivers that then destroy bodies of water like Long Island Sound and an absurd requirement that New York City has to wash its jail cells three times a day are treated alike. Likewise, the authors of this bill make no distinction between mandates to protect our children from abuse and requirements on the format of government reports.

Not all mandates are created equal, and this bill should not treat them the same. Over the next few days, we are going to discuss this issue.

ME TOO, BUT

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

Mr. HOKE. Mr. Speaker, there are some strange new creatures roaming the Halls of Congress these days. I am going to call them Metoobuts because of the peculiar sound they make. We just heard one.

Let me tell you how to spot a Metoobut. Their habitat is on the minority side of the aisle. To flush them out, just make a statement of Republican principle, for instance, "We want to end unfunded mandates." The Democrats, who have never met a mandate they didn't like, will say, "Me too, but * * *."

Or say that we Republicans want to balance the budget. The Democrats, who approved all the spending that led to the mess we are in, will say, "Me too, but * * *."

We want to shrink the size of Government. "Me too, but * * *."

We want a middle-class tax cut. "Me too, but * * *."

It is not just a case of the tiger changing his stripes, it is more like the tiger has become a vegetarian.

Mr. Speaker, the American people won't buy this phony conservative conversion by the Democrats and after the American people witness the extraordinary effort we are making to change the Congress and keep our promises, I think the Metoobuts may become an endangered species around here.

NO MEMBER IS ABOVE CRITICISM

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

Ms. WATERS. Mr. Speaker, this morning I awakened to a national news report that a Republican chairman of a major committee has threatened the President of the United States of America. That chairman, Chairman LEACH, threatened that Republicans will withdraw their support for the bipartisan provision to bail out the peso in Mexico if Democratic Members do not stop criticizing the Speaker.

No Member is beyond criticism. No Member should be placed in a special position where we cannot unveil to the American public what we think is going on. The truth must be unveiled. Instead of threatening us, we need an independent investigation.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore (Mr. MCINNIS). Pursuant to House Resolution 38 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1027

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, with Mr. EMERSON in the chair.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, January 19, 1995, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in House Report 104–2 is considered by titles as an original bill for the purpose of amendment. Each of the first four sections and each title are considered as read.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as read.

The Clerk will designate section 1.

The text of section 1 is as follows:

H.R. 5

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unfunded Mandate Reform Act of 1995".

The CHAIRMAN. Are there any amendments to section 1?

The Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to strengthen the partnership between the Federal Government and States, local governments, and tribal governments;

(2) to end the imposition, in the absence of full consideration by Congress, of Federal mandates on States, local governments, and tribal governments in a manner that may displace other essential State, local, and tribal governmental priorities;

(3) to assist Congress in its consideration of proposed legislation establishing or revising Federal programs containing Federal mandates affecting States, local governments, tribal governments, and the private sector by—

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and House of Representatives before the Senate and House of Representatives votes on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance;

(5) to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal mandates;

(6) to assist Federal agencies in their consideration of proposed regulations affecting States, local governments, and tribal governments, by—

(A) requiring that Federal agencies develop a process to enable the elected and other officials of States, local governments, and tribal governments to provide input when Federal agencies are developing regulations; and

(B) requiring that Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon States, local governments, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process;

(7) to establish the general rule that Congress shall not impose Federal mandates on

States, local governments, and tribal governments without providing adequate funding to comply with such mandates; and

(8) to being consideration of methods to relieve States, local governments, and tribal governments of unfunded mandates imposed by Federal court interpretations of Federal statutes and regulations.

The CHAIRMAN. Are there any amendments to section 2?

□ 1030

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

Mr. Chairman, I think we are right now working on an arrangement under which my amendment would be withdrawn to this section. I ask unanimous consent to take my amendment out of order at a later time.

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

Mr. CLINGER. Mr. Chairman, reserving the right to object, I did not quite hear the gentleman's unanimous-consent request.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. FATTAH] asked that his right to offer his amendment be protected. He is not quite ready for section 2 and wishes to preserve his right to offer his amendment.

Mr. CLINGER. Mr. Chairman, I withdraw my reservation of objection.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 2?

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. LOFGREN: In section 2(7), before this semicolon insert the following: ", and that congress shall not impose any Federal mandate on a State (including a requirement to pay matching amounts) unless the State is prohibited under Federal law from requiring, without consent of a local government, that the local government perform the activities that constitute compliance with the mandate".

Mr. CLINGER. Mr. Chairman, I reserve a point of order against the amendment.

Ms. LOFGREN. Mr. Chairman, I have three amendments that are really very similar in three different sections of the bill. For efficiency's sake only, I ask unanimous consent to consider all three at one time, en bloc.

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

Mr. CLINGER. Mr. Chairman, reserving the right to object, I do so to find out which amendments the gentlewoman proposes to offer en bloc.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

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

Ms. LOFGREN. The three amendments were printed in the RECORD. It is an amendment to section 2(7) to give rights to local government vis-a-vis State governments on Federal matching programs, an amendment to section 102(a)(1) that does the same thing for the Commission study, and an amendment in section 301 that provides for the same rights of local governments.

Mr. CLINGER. Mr. Chairman, I think I would really prefer that they be offered separately because we are dealing there with three different sections, and one of them actually, I understand, was to title III, and we are presently dealing with section 2.

The CHAIRMAN. Objection is heard.

Ms. LOFGREN. Mr. Chairman, I have been a Member of this body for 16 days, but I served in local government for 14 years and understand from that experience the real problems posed by unfunded mandates.

One of the things I hoped to do as a Member of this body was to support some relief from unfunded mandates. I hoped to be able to vote for a well-crafted bill that would, in a thoughtful and targeted manner, provide relief. Unfortunately, the bill before us today needs further work. The definitions of what is covered as a mandate and who is protected needs clarification. It is my hope that after considering various proposed amendments that will be offered to this bill I will be in a position to enthusiastically support it. The amendments which I am offering are part of the effort to improve this bill.

In all honesty, while Federal mandates that were unfunded did sometimes create problems for the local government in which I served, even greater problems were caused by unfunded mandates imposed by the State of California upon county government. The phenomena is the same as that which has sparked the movement to curtail unfunded mandates at the Federal level.

It is easy to posture and look good if you don't have to assume the responsibility for actually paying for what you do.

While we may all condemn Governors and State legislators who engage in such behavior, for State programs this behavior is beyond the jurisdiction of the Congress to curtail.

However, our jurisdiction is clear when the programs being off-loaded to local governments are Federal programs.

Take for example the AFDC program. Much has been said about a Federal-State partnership on welfare. but in California it is counties who administer the AFDC program, hamstrung as they are by State and Federal bureaucratic rules. The non-Federal share of AFDC is not entirely paid for by State government but is instead shifted to county government as an unfunded mandate. Over the years, the county share has increased without additional revenues provided by State government. The State is now discussing shifting the entire non-Federal share to county government. Mr. Chairman, this is exactly the type of action we seek to avoid in this bill.

Let me share some examples of the magnitude of the existing problem. In Santa Clara County, California's fourth largest, less than 5 percent of the county budget is available for local priorities. In Erie County, NY, of comparable size, only 27 cents of every tax dollar raised locally is available for local priorities.

Counties and cities are at the bottom of the political food chain. Under the unfunded mandates bill before us, States could agree to enter into large Federal matching funds in the future by allowing the non-Federal shares to be foisted off on local governments. When this occurs the problems of unfunded Federal mandates will remain unresolved. And, frankly, given the magnitude of change and potential budget cuts looming in our future, it is reasonable to assume that this problem for local governments will get much worse.

The amendment I am proposing would give some protection to local governments from unfunded Federal mandates. It would allow local governments the same rights in dealing with State government as the bill before us give States in dealing with the Federal Government when Federal matching programs are at issue.

All of the polling data I have reviewed indicate that the most popular level of government is local government. There is a reason for this. The average citizen cannot saunter down to the State House or the House of Representatives. They can easily go down to the city council or board of supervisors and be heard. Action can be immediate. There is another reason why the American people have more confidence in the government that is closest to them.

If we are to ameliorate the terrible problems that face our country, we will need to engage the creativity and energy of communities across this great Nation. This cannot be done from Washington and it cannot be done from a State capital. It has to happen right in a community with local leadership. The American people understand this and so should we.

If we allow Federal mandates to travel down the political food chain to local governments we will help to insure that the local creativity we need to deal with problems never has a chance to get moving. We cannot allow local governments to be saddled with the cost and bureaucracy of federally mandated programs that miss the

mark when we need them to be creatively and effectively innovating change.

The committee report says that H.R. 5's purpose is to "strengthen the partnership between the Federal Government and State and local governments." Unless we adopt the amendment which I have proposed, we will fail in this mission. There will be no effective partnership with local government created by H.R. 5. That would be a sad mistake and a disappointing missed opportunity. For true partnership, all parties need both responsibilities and rights. This amendment would give rights along with responsibilities to local governments when Federal matching-fund programs are at issue. I urge passage of the amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] insist on his point of order?

Mr. CLINGER. Mr. Chairman, I do not. I withdraw my point of order.

The CHAIRMAN. The gentleman withdraws his point or order.

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

Mr. Chairman, just briefly I would say I certainly am sympathetic with what the gentlewoman is trying to do. I think we have all been frustrated with the fact that the Federal Government has sort of willy-nilly imposed requirements, mandates on States who in turn pass them through to State and local governments. But I do think that this is in effect giving the States a veto power in effect over what we can do here. I think we have extended the reach of what we are trying to do in this legislation much further than I think the intent is, which is not certainly to give the States veto powers in this instance.

So for that reason I would have to oppose the amendment.

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

Mr. Chairman, one of my concerns is in dealing with the coalitions that put this together, including State governments and local governments together, and this of course cuts right through that coalition and breaks it up. There is a huge problem with States mandating on localities, and a number of States in fact have moved to rectify this over the last years, the State of Florida being one, where by referendum the citizens there have stopped the unfunded mandate flow to local governments.

□ 1040

The commission is going to be able to look at this under this legislation, come back and report to Congress, and at that point, I think we will have a basis on which to operate.

I think although the purpose is good here, this is probably premature at this point, and for that reason I think it should be defeated.

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

Again, Mr. Chairman, I think all of us are very sympathetic to this purpose in the amendment.

I would point out, however, to the gentlewoman from California that this is in the purposes clause, and I think if we were to accept it it would be, in a sense, misleading in the sense this legislation, of course, H.R. 5, does not, indeed, do what this amendment would state. It does not insure that the States do not pass along those costs to the local government.

So I would think that it would be inappropriate to make such a misleading statement in the purposes clause.

Ms. LOFGREN. Mr. Chairman, will the gentleman yield?

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

Ms. LOFGREN. My intent in offering it in the purposes clause has to do with making later amendments germane and, secondarily, in the entire committee report and hearings we talked about creating partnerships between States, local governments, and the Federal Government, and my point is, and I understand this is a new proposal, and I was not here to work on the old bill, but unless we give some rights to local government on Federal matching fund programs, we will not create a true partnership.

I think it would be a terrible mistake.

Mr. PORTMAN. Reclaiming my time, again, I think those purposes are noble, and I think some of the gentlewoman's concerns will be addressed in a later amendment that she may well offer with regard to the commission in looking at this issue.

I would say again the purposes of this legislation are to deal with unfunded Federal mandates at every level including at the local level, of course, and I think it would be unwise for us to put into the purposes clause that this legislation insures that States cannot do what is within their purview and not within the purview of Congress which is their dealings, their own partnership, as it were, with the local governments.

I would say this would not be the appropriate place to deal with it. I do plan to support the amendment later, I believe, later that the gentlewoman may offer with regard to having the commission look at this issue.

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

I, too, am very sympathetic with the statements made by my new local elected official background colleague from California. But I, too, am concerned, as my friends have said, that this could actually be perceived as the Federal Government imposing a mandate, and it strikes me that as we look at the mandates which have been imposed from the State level into local governments, it is true that they have been very onerous, and it is obvious that local elected officials want to do everything they possibly can to dramatically reduce the imposition of those constraints on local governments.

But it seems to me that for Washington to actually dictate that in any way to the State level would be a mistake. While I am sympathetic with the goal, I do not believe that relying on the Federal Government is the proper place to do that.

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

I yield to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. I would just answer to my colleague from California that I think there is a legitimate Federal issue here. The proposed amendment would deal only with Federal programs where a matching requirement is in place.

Under the bill, mandates that are matching are really not covered as mandates, and so we can see a phenomenon in the future such as occurred in the past in California and other States where a State will agree to enter into a program; there is a Federal purpose which is why we are discussing it here today, and agree to assume a share of the cost, because it is a helpful program. That is all well and good so long as that State accepts the responsibility for actually paying their share.

If, however, State government is allowed to essentially dump that burden off to local governments, then really the intent of H.R. 5, which is to have the people who are making decisions be accountable, responsible for what they do will be frustrated. We will not achieve the goal which we seek, and that is why the amendment is limited only to Federal matching programs.

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

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

Mr. DREIER. I thank the gentlewoman for yielding.

I will simply say that I do have concerns about what would be still interpreted as the Federal Government being involved, even though these are Federal programs imposing what would be interpreted as a mandate at the State level, and it is for that reason that I am inclined to oppose the amendment, although, as I said, I am very sympathetic with it.

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

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

Mr. MILLER of California. Mr. Chairman, I just want to thank the gentlewoman for yielding.

I rise in support of this. I think this amendment really highlights one of the concerns that we have, and that is to some extent some of the duplicity of the Governors who have come here and talked about unfunded mandates and the burdens that the Federal Government pushes on to the Governors, even if it is for a local purpose and a Federal purpose, and then those very same Governors turn around, do the same to local government in their States. They accept responsibility. Then they decide they cannot handle the financial aspects of it, they turn around to the counties.

In our own State of California, in this last year, we have watched the Governor come and scoop up local revenues, take them to the State level, and then tell the counties that they had an additional burden for mental health and health care of individuals and for probation and all these other programs. They said you have to take care of it, but the money has now gone to the State. That historically has happened in State after State after State. Yet these Governors come to the Federal legislature somehow wanting us to believe that they have clean hands when they come before us and suggest they would never think of such a thing as an unfunded mandate. Yet everybody here who has worked in local government knows it happens to you each and every day.

In California they are so brazen, when the legislature passes an unfunded mandate, they pass boilerplate language that says, "Under S.B. 90, this is not an unfunded mandate, and do it anyway." And that is the situation that the gentlewoman from California is trying to get at is that it is not good enough, if you believe in this arrangement that you are talking about in this legislation.

All you have really done now is made things more difficult for the most local forms of government as they continue to receive these State unfunded mandates, if you will, as the States continue to agree with the Federal Government about the purposes of these programs.

Mrs. COLLINS of Illinois. I would urge all of my colleagues to support this amendment, because if we are really writing this bill to lower the costs of mandates for localities, we just have to recognize that much of these costs are really State mandates, and when States mandate that localities do certain kinds of services without providing those kinds of funds, you do have the passthrough effect that just simply does not make a lot of good sense.

If we are serious about having mandates not imposed on people that are unfunded, then support the gentlewoman's amendment.

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

POINT OF ORDER

Mr. VOLKMER. Mr. Chairman, point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. VOLKMER. Mr. Chairman, has the gentleman previously spoken on the amendment?

The CHAIRMAN. The gentleman is correct.

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

I rise in opposition, and I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just one additional point with regard to the comments of the gentlewoman from California.

I think the logical extension of this amendment would then be to say to the counties, for example, that the counties cannot, under Federal law, pass along any mandate to the townships, as an example, and so forth.

I think this gets into an area that is well beyond the scope of the legislation in the sense it is the Federal Government, Congress, mandating what the States do and mandating what the counties do and mandating what the townships do and so on.

I would also say the gentlewoman's amendment would go well beyond this legislation, perhaps beyond at least the way it was described by the sponsor of the legislation, by the sponsor of the amendment, in the sense it prohibits, as I read it, any mandate being imposed on a State. It is a flat prohibition.

As will be discussed later at length in this legislation, this legislation is not a flat ban on all mandates. This legislation sets up a process and provides for a thoughtful debate and then accountability and a majority vote on a waiver of a point of order on a mandate. In other words, there is discussion and informed debate. That is the purpose of the legislation.

Again, I think this amendment in the purposes clause would be misleading at the least, probably more so it would be inconsistent with the rest of the legislation as I read it.

Mr. GOSS. Reclaiming my time, I yield to the distinguished colleague, the gentlewoman from California.

Ms. LOFGREN. I would just say that I think local governments throughout our country place their hopes on us to stand up for them today.

I will offer later today an amendment to ask the commission that is proposed to review this, and I am hopeful there will be support for that and ultimately there will be relief for the cities and counties of America.

□ 1050

But I would argue as well that in the interim we do need to take steps, especially considering the cuts that are likely to occur in this Congress and the very high probability that the budget of those cuts will be shifted to local government and not assumed by the State government and the citizens themselves will be distressed. We will fail in our mission to provide mandates, really which I am very much in favor of after my 14 years on the board of supervisors in Santa Clara County.

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

Mr. GOSS. Reclaiming my time, Mr. Chairman, I yield to the gentleman.

Mr. VENTO. Mr. Chairman, I thank the gentleman from Florida, my friend, for yielding.

Mr. Chairman, I would just point out I think this is one of the pitfalls with the legislation that we have before us. It sort of is the blame game in terms of one unit of government, local, the county governments, and States blaming the other for the challenges and unpleasantness and dilemmas that they face. I think that is one of the problems inherent in this legislation that we have before us with regard to mandates.

I was listening to a debate on public television which my colleague from California was involved in, Mr. MILLER, with the Governor of Ohio, and all of the problems of taxation issues in that State were basically left at the doorstep of the Federal Government, the U.S. Congress. Inherent in this is some of that same aspect. I think, clearly as we deal with Federal law, as States deal with State law, as ordinances in counties deal with the various laws that they have, the issue is there has to be a consideration of the requirements, the expectations that we have, realistically at all of these levels. Quite candidly, as I had stated yesterday on the floor, I think too often the representation is one of confrontation rather than cooperation.

Inherent in our basic documents in the form of Government that we have is the understanding that there is cooperation between the States, between the Federal Government, between the various counties and local governments that make up the response and service to the people that we represent. Unfortunately, I think that this legislation does not, as it is now drafted, come to grips with that. I think it puts in place unrealistic expectations and requirements that simply add layer after layer of bureaucracy. It is as if we are now going to have, instead of working through the local police and State police powers, we are going to have Federal marshals reoccur in these instances. I think it offers real problems.

I think this amendment in the purposes clause is coherent and appropriate. I am surprised the major sponsors of this are reluctant to accept this as one of the purposes, because one of the purposes is, obviously, to try to develop this cooperative attitude, to have a two-way street with regard to the type of responsibilities and roles of

local governments as they relate to the States.

We all understand in our Constitution the unique difference between powers reserved to the States, solely reserved to the States, and the local governments really are not even recognized in that. They are an artifice, in fact, of the States themselves. And, of course, they differ from State to State.

The CHAIRMAN. The time of the gentleman from Florida [Mr. GOSS] has expired.

(On request of Mr. VENTO and by unanimous consent, the gentleman from Florida [Mr. GOSS] was allowed to proceed for 3 additional minutes.)

The CHAIRMAN. The gentleman may proceed.

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

Mr. GOSS. I will yield briefly to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding further.

Mr. Chairman, I wanted to summarize by saying that I think that accepting this as a purpose in terms of recognition and really the complaint and the growth of this has been from the grassroots. It has not—the States are late to this particular process, and I think, in most instances, wrong when we are talking about grants in aid, talking about entitlements, the sort of extraordinary basis. Most of those programs are, in essence, voluntary.

In any case, I think this points up the nature of the problem. I am, you, know stunned that there is no recognition or acceptance, at least in the purposes of this, as a problem, and I think the gentlewoman has a good point here, and I hope the Members would agree.

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

Mr. GOSS. I am very happy to yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Just briefly to say that the objection here is not the intent of what the gentlewoman is trying to accomplish. It is beyond what we have in this bill, which is a point of order would lie against this. This is an absolute veto over the power of us to do anything in this regard. So it is an extension.

Let me assure the gentlewoman, though, that in the proposal I think she is going to offer later in the day relating to the same issue, I think we could be very helpful in that regard, and I think that makes better sense than what we are dealing with here.

Mr. GOSS. Reclaiming my time, I think the chairman has laid it out well. I, too, am a mayor and former county chairman, and I understand the problem of these mandates. I think we have crafted a way here, and we are going in the right direction to get the desired result.

I am particularly mindful of the two very great benefits we are going to get out of this legislation when we are through with it after this very open debate that we are having, is we are going to start having price tags and start having accountability. Both of those are tremendous pluses. We are also going to have trouble with what are the priorities and how much are we going to spend? I think that is the essence of democracy. I think we set up a pretty good system.

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

Mr. Chairman, 2 weeks ago I was elected to represent the Committee on Economic and Educational Opportunities with the Republican Governors on welfare reform. The No. 1 issue among the Governors, Republicans and Democrats, was unfunded mandates.

They went through—there are 366 welfare programs, and under the programs—AFDC, of course, is covered by Ways and Means, then food stamps by the Committee on Agriculture, and work programs and so on by the Economic and Educational Opportunity Committee.

Each one of those organizations has got mandates which go down, and we are trying to block grant those. I understand what the gentlewoman is trying to do. The Governors would have us just give them the money without any accountability or responsibility for what the money is used for. That is why I sympathize, but we do it in a little better direction. We do have to hold them accountable for certain areas. We do have to have accounting for the dollars.

But what the problem is, when we give the State unfunded mandates, we blame the States because they are giving unfunded mandates, they have to literally give State mandates because of our mandate. I mean it is a vicious circle. That is what the Governors, Republicans and Democrats, vowed to eliminate because they can be much more efficient in this process.

We look at well-meaning mandates, that we have given, say, for our States, for California, I say to the gentlewoman from California: The Brady bill, the motor-voter bill, endangered species, clean air, clean water, and, yes, even illegal immigration mandates that we fight. We have got to kill these intrusive mandates and focus. For example, in education we only get 23 cents out of every dollar to the classroom. Why? Because of bureaucracy and the burdensome mandates.

I appreciate what the gentlewoman is trying to do, but I have to oppose the amendment because I think there is a better way to do it and we will come up with the amendment. I will support the gentlewoman's further amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. LOFGREN].

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

RECORDED VOTE

Ms. LOFGREN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. So many as are in favor of taking this vote by recorded vote will stand and be counted.

Mr. WISE. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WISE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Does the gentleman from West Virginia [Mr. WISE] insist on his point of order?

Mr. WISE. Mr. Chairman, I withdraw the point of order.

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute maximum vote.

The vote was taken by electronic device, and there were—ayes 157, noes 267, not voting 10, as follows:

[Roll No. 22]

AYES—157

Abercrombie	Green	Pallone
Ackerman	Gutierrez	Pastor
Baesler	Hall (OH)	Payne (NJ)
Baldacci	Hastings (FL)	Payne (VA)
Barrett (WI)	Hefner	Pelosi
Becerra	Hilliard	Pickett
Beilenson	Hinchey	Pomeroy
Bentsen	Holden	Poshard
Berman	Hoyer	Rahall
Bishop	Jackson-Lee	Rangel
Bonior	Jacobs	Reed
Borski	Jefferson	Richardson
Boucher	Johnson, E. B.	Rose
Brown (CA)	Johnston	Roybal-Allard
Brown (FL)	Kanjorski	Rush
Brown (OH)	Kaptur	Sanders
Bryant (TX)	Kennedy (MA)	Schroeder
Clay	Kennedy (RI)	Schumer
Clayton	Kennelly	Scott
Clyburn	Kildee	Serrano
Collins (IL)	Kleczka	Sisisky
Collins (MI)	Lantos	Skaggs
Conyers	Lewis (GA)	Slaughter
Costello	Lipinski	Spratt
Coyne	Lofgren	Stark
Danner	Lowey	Stokes
de la Garza	Maloney	Studds
DeFazio	Manton	Stupak
DeLauro	Markey	Tejeda
Dellums	Martinez	Thompson
Deutsch	Mascara	Thornton
Dicks	Matsui	Thurman
Dingell	McCarthy	Torres
Dixon	McDermott	Torricelli
Doggett	McHale	Towns
Doyle	McKinney	Traficant
Durbin	McNulty	Tucker
Engel	Meek	Velazquez
Eshoo	Menendez	Vento
Evans	Mfume	Visclosky
Farr	Miller (CA)	Volkmer
Fattah	Mineta	Ward
Fazio	Mink	Waters
Fields (LA)	Moakley	Watt (NC)
Filner	Mollohan	Waxman
Foglietta	Montgomery	Williams
Ford	Nadler	Wilson
Frank (MA)	Neal	Wise
Frost	Oberstar	Woolsey
Gejdenson	Obey	Wyden
Gephardt	Olver	Wynn
Gonzalez	Ortiz	
Gordon	Owens	

NOES—267

Allard
Andrews
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Archer
Ehrlich
Flake
Gibbons
Levin
Lincoln
Reynolds
Smith (MI)
Smith (NJ)
Yates

□ 1117

The Clerk announced the following pair:

On this vote:

Mr. Levin for, with Mr. Ehrlich against.

Messrs. SALMON, COLEMAN, LIGHTFOOT, KLINK, McINTOSH, and PETERSON of Florida changed their vote from "aye" to "no."

Mr. THOMPSON, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. VISCLOSKY, McHALE, and TEJEDA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1120

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

Mr. Chairman, I would like to thank the gentleman from Virginia [Mr. DAVIS] and the gentleman from Pennsylvania [Mr. CLINGER] and also the ranking member from the minority party, the gentlewoman from Illinois. We have come to an arrangement whereby I will be withdrawing amendment No. 12. I would like to then move amendment No. 13. That amendment has been agreed to by all sides.

AMENDMENT OFFERED BY MR. FATTAH

Mr. FATTAH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FATTAH: In section 102(a), after paragraph (1) insert the following new paragraphs (and redesignate the subsequent paragraphs accordingly):

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

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

At the end of section 102, add the following new subsection:

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

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

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

Mr. FATTAH. Mr. Chairman, we have a lot of work in front of us so I will not debate this.

I would like to thank the parties on both sides of the aisle for this amendment being agreed to and would ask for its favorable consideration.

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

Let me thank the gentleman from Pennsylvania [Mr. FATTAH] for offering this. Mr. Chairman, we accept this amendment.

This amendment will allow the Commission that is overseeing to make a report to the Congress within 1 year, to come back and look not only at the effect of Federal mandates on State and local governments but also be able to look at the mandates that States can put on local governments and local governments put on individuals. That would be part of their overall report, as they come back to us.

This will allow that Commission the opportunity to address those issues, which I think is very important.

Mandates that are crippling localities today do not all emanate from the Federal Government. A lot of this is trickled down from the States to local governments as well. This amendment really will allow the Commission to report and give us a data base where we can proceed accordingly.

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

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

Mr. FATTAH. Mr. Chairman, I do think it is important that we not be opposed to the tyrant but that we be opposed to the tyranny and that if we want to look at this issue that we have, we do it in a broad brush.

I thank the gentleman for his cooperation.

Mr. DAVIS. Mr. Chairman, this addresses many of the concerns of the gentlewoman from California that she had raised on the first amendment. But instead of putting these into the purpose clause, where I do not believe it belongs, it puts it where the Commission can look at that and study these matters and report back to us.

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

I seek recognition to speak on behalf of the comments that were made from the gentleman from Virginia.

I do think it is terribly important to set up a structure where we do have constant communication with States and localities. There will be an amendment coming up subsequently where we will ask the Advisory Commission on Intergovernmental Relations to set up that structure.

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

Mr. MORAN. I yield to the gentleman from Virginia, if he sees this as consistent with the points that he was just making.

Mr. DAVIS. Mr. Chairman, I think it is consistent with the points.

Mr. MORAN. Mr. Chairman, I certainly support that. I think it is terribly important, with all of these issues that come before us, that we not

operate in a vacuum, that we in fact be guided by State and local leaders to tell us what is working and what is not and how we might make some of these programs work better.

The real motivating force behind this whole unfunded mandate legislation is existing law and existing regulations. So we could accomplish the most by communicating with the people who are most adversely impacted, working with the executive branch to figure out how to most efficiently carry out the original intent of the legislation, not to apply a cookie-cutter approach, not to be unreasonable, not to be unilateral in our decisionmaking up here in Washington without communicating to States and localities.

If we can do that, and I think the Advisory Commission on Intergovernmental Relations is the ideal group to do that because it is bipartisan, it is fully representative of States and localities, then I think we will have accomplished the principal objective of this legislation, which is that kind of communication within the context of federalism.

□ 1130

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

Mr. MORAN. I am pleased to yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I would state that I am very sympathetic to the gentleman's concern about the Commission and the ACIR as being the proper receptacle. There will be an amendment offered in this regard. The Senate has already made that change. I think this will be an addition to the bill which will be very helpful.

Mr. MORAN. Mr. Chairman, I am pleased to hear that.

Mr. Chairman, let me just respond to the chairman of the committee, the gentleman from Pennsylvania. When title I of this bill comes up, Mr. Chairman, I plan to, and in fact I think the gentleman from New Mexico [Mr. SCHIFF], the gentleman from Virginia [Mr. DAVIS], and several others, I am one of the sponsors as well of an amendment that will clarify that ACIR would carry out that function.

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

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

Mr. VOLKMER. Mr. Chairman, I want to take the time very briefly to commend the gentleman from Virginia [Mr. MORAN] for his input into this type of legislation for these good many past years. The gentleman is recognized as a former mayor of Alexandria, who did an outstanding job while mayor of Alexandria, and has through the years worked with these kinds of problems and is very knowledgeable and to the impact that Federal mandates, State mandates, and others have on local government.

Mr. Chairman, I want to commend the gentleman from Virginia for all the work that he has done on this type of legislation.

Mr. MORAN. Mr. Chairman, that is very nice of the gentleman from Missouri, and I appreciate it.

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

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

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding for a brief minute.

Mr. Chairman, as we try to sort out the federalism, the different functions of the State, the Federal Government, and the local governments, I believe that the Advisory Council on Intergovernmental Relations will play a more crucial role as a result of this amendment offered today. I think this goes for all of us in government working together.

In that regard I think we are prepared to accept the amendment.

Mr. MORAN. Mr. Chairman, I thank the gentleman, and agree with his comments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. FATTAH].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the terms "agency", "Federal financial assistance", "Federal private sector mandate", "Federal mandate" (except as provided by section 108), "local government", "private sector", "regulation" or "rule", and "State" have the meaning given those terms by section 421 of the Congressional Budget Act of 1974; and

(2) the term "small government" means any small governmental jurisdiction as defined in section 601(5) of title 5, United States Code, and any tribal government.

The CHAIRMAN. Are there any amendments to section 3?

If there are no amendments to section 3, the Clerk will designate section 4.

The text of section 4 is as follows:

SEC. 4. LIMITATION ON APPLICATION.

This Act shall not apply to any provision in a Federal statute or a proposed or final Federal regulation, that—

(1) enforces constitutional rights of individuals;

(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

(6) the President designates as emergency legislation and that the Congress so designates in statute; or

(7) pertains to Social Security.

The CHAIRMAN. Are there any amendments to section 4?

AMENDMENTS OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer amendments 131 and 132, and ask unanimous consent that they be considered en bloc. Mr. Chairman, I understand Nos. 41 and 42 have been changed to 131 and 132 since last night.

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

There was no objection.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. TAYLOR of Mississippi: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert ", or", and after paragraph (7) add the following new paragraph:

(8) provides for protection of public health through effluent limitations (as that term is defined in section 502(11) of the Federal Water Pollution Control Act (33 U.S.C. 1362(11)).

In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or,", and after paragraph (7) add the following new paragraph:

(8) provides for protection of public health through effluent limitations (as that term is defined in section 502(11) of the Federal Water Pollution Control Act (33 U.S.C. 1362(11)).

Mr. TAYLOR of Mississippi. Mr. Chairman, let me begin by thanking the Committee on Rules and the chairman, the gentleman from Pennsylvania [Mr. CLINGER], for bringing this bill to the floor under an open rule so all points of view could be heard as we try to perfect this legislation. I think that is the key word, is that we are trying to perfect this legislation, not to defeat it, because it is a good bill.

We are here today discussing unfunded mandates because in previous years Congress has hastily passed laws without regard to their effect on State and local governments. Laws that we thought would help people actually hurt them, because we did not take the time to see them through. We appear to be doing that again today.

I offer an amendment to H.R. 5, the Unfunded Mandate Reform Act of 1995, to help prevent this mistake from recurring. This amendment will provide for the protection of public health by including sewage treatment regulation in the language of the bill.

Our citizens pay taxes and they want to see positive results. They receive instant gratification when local governments pave the streets, improve the

quality of the drinking water, or increase police protection to provide a highly visible deterrent to crime.

Mr. Chairman, wastewater is a different matter. While sinks, showers, and commodes are draining properly, people do not care where it goes as long as it goes away. Therein lies the problem. It does not go away. It is discarded into streams, lakes, rivers, and oceans that carry the stench, the germs, the filth, to some other community downstream.

The Mississippi River drainage basin services 41 percent of the mainland United States. This includes 31 States as well as two Canadian Provinces, an area of 1.5 million square miles. It is the largest drainage basin of the country and is inhabited by 80 million Americans and over 2 million Canadians. This means that any untreated waste, waterborne disease or filth which enters any body of water in dozens of States will eventually flow past my State and many of your States.

Mr. Chairman, surface filth flows past cruise ships and waterfront recreational areas in towns like Natchez and Vicksburg. Waterborne diseases end up in the drinking water of hundreds of cities who rely on the Mississippi River for their water supply. Small towns, cities, and even large metropolitan areas like New Orleans rely on the Mississippi River for their drinking water.

However, closer to home, those of us who live in Alexandria, VA, should be aware that our drinking water is one tidal cycle away from the wastewater discharge of the city of Washington, DC. If Washington, DC, chooses not to treat its sewage because the mandates have been lifted, it is going in our drinking water tomorrow.

It does not stop there, Mr. Chairman. The most productive commercial shrimping, fishing, and oystering industries in the world are found in the Mississippi River basin. Oysters, for examples, are filter feeders. They pump gallons of water through their bodies every day, and they retain any pollutants in that water. The crabs and shrimp and oysters that are harvested in front of my home town in Bay St. Louis, MS, live in those waters, but they end up on your dinner plates.

As Members can see, there are some things that originate locally but affect us nationally. Just as our Nation should never force its unfunded and unsolved problems on the local communities, nor should the local communities pass their unsolved problems on to communities downstream, and in turn, back to our Nation.

□ 1140

I agree that we have to get a handle on Federal mandates, but to throw them all out makes no sense at all. After all, we could have chosen to be city councilmen, we could have chosen to be State senators, but we chose to be national lawmakers because there is a time and a place for this Nation to make laws to help all of us, to see to it that some of us do not hurt all of us.

The unfunded mandates bill is wise in that we should always know the cost of these laws, but there is a time and a place. After all, when you think about it, the Ten Commandments is an unfunded mandate.

My concern is that since there were no hearings on the bill, clear and concise language needs to be included to ensure that we are not undoing present laws.

These laws exist for a good reason. I was a city councilman when Federal revenue sharing funds were cut back.

The CHAIRMAN. The time of the gentleman from Mississippi [Mr. TAYLOR] has expired.

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

Mr. TAYLOR of Mississippi. Mr. Chairman, I was a city councilman when Federal revenue sharing funds were cut out. The biggest issue we faced back then was upgrading the Bay St. Louis sewage treatment plant. Had it not been for Federal mandate, that all-Democratic board would never have voted to clean up our city's wastewater treatment. It is just that simple. The citizens do not see the reward. The problem is passed downstream.

It is just not fair that my city should poison any other city's drinking water, and it is just not fair that some other city like New York should poison New Jersey and that Connecticut should poison the folks downstream from them.

Chicago's drinking water ends up in the Mississippi River. It goes to Natchez, it goes to New Orleans, and when the spillway is open, it flows in front of my house.

I have made what I think is a reasonable request of the chairman of this committee, to see to it that when the Clean Water Act is finally reauthorized, because it has not been reauthorized, that this somehow does not be considered a new mandate, and because Federal funds are going to be cut, and they will be cut when we pass the balanced budget amendment, that the provisions of the bill that say when we cut back on Federal fundings, that the locals no longer have to abide by the law, do not apply to this law, because this is the kind of law that we need to keep on the books.

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

I do so reluctantly, because the gentleman from Mississippi and I have had discussion about this problem that he faces, and it is a real one, but I think that the point needs to be made here that on many of the items we are going to be dealing with this morning and this afternoon asking for exemptions for various statutes from the provisions of this legislation are all well-intentioned. In fact, many of these are programs that clearly are very valuable programs, ones that provide for the health, safety, and environment of the country. But what we are saying here is we are not saying they should be exempt from consideration as to the cost.

What is the cost of imposing a mandate, implementing this legislation, and that is what we are asking for, an analysis of the cost.

To exempt out an entire program, meritorious as it may be, should not exempt it from a fair consideration of the cost involved in a mandate involved in connection with that legislation. That I think has to be stressed.

This is not a bill that is retroactive. It is not going to in any way abrogate any of the provisions of the Clean Water Act.

The gentleman does point out the Clean Water Act is in limbo. It has not been reauthorized. It is going to be reauthorized. The chairman of the committee, the gentleman from Pennsylvania [Mr. SHUSTER], has indicated that that is an early subject for reauthorization.

In an attempt to respond to the gentleman from Mississippi's concern, we did adopt an amendment to the bill which we think does address the concerns that he had, and is concern was that where you have legislation where the authorization has expired, that there be recognition that any mandates included in that legislation when it is reauthorized, if there is a gap between the time it expires and the time it is reauthorized, that any mandates included in that would not be affected by the reauthorization, would not, in other words, be treated as new mandates. They would be considered as a carryover from the existing legislation.

Our intent there was to make it very clear that we are in no way trying to look back and eliminate mandates that were imposed in previous legislation. That was not the intent, and we hope that the language in 425(e) which does represent that adjustment would address the concern.

We think the gentleman's concerns are well-founded, but we do think that this language addressed those concerns and says the Clean Water Act and the mandate that are imposed under the Clean Water Act and will be imposed again when the Clean Water is reauthorized in the next month or so would continue, and the same restrictions that exist on upstream communities now will continue and not be affected.

For that reason, Mr. Chairman, I must reluctantly oppose the gentleman's amendment. And I must indicate that I am going to probably oppose most of these statute-specific amendments to this bill because again I would say most of them are very valuable pieces of legislation, but they

should not just because of that, because they are so meritorious, be totally exempt from consideration as to the costs that they impose on local governments. I must oppose the amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. If I have time, I would be happy to yield.

Mr. TAYLOR of Mississippi. Mr. Chairman, again I want to thank the gentleman from Pennsylvania [Mr. CLINGER] for bringing this bill to the floor under an open rule. That in itself is certainly a step in the right direction.

We have had this discussion both in publicly and privately. I remain unconvinced that the language that you inserted is clear enough to keep a high-priced lawyer from going to the different cities and different States and saying, "If you fix your sewage treatment plant, you're going to spend millions of dollars. Why don't you put me on a retainer for $10,000 and I'll keep this tied up in court for so long that it will be past your administration. It will be someone else's problem until you get it fixed."

But we all know it is not someone else's problem. It is someone downstream's problem.

I ask the gentleman from Pennsylvania [Mr. CLINGER] for the sake of the people in this room to read the language that he thinks addresses the problem. Because I think they are going to find it as ambiguous as I did.

Mr. CLINGER. Reclaiming my time, the language that we refer to and which was adopted specifically as a result of your concerns is 425(e), which says that "Subsection (a)2 shall not apply," that is, the unfunded mandate, shall not apply to any bill, joint resolution—I mean the point of order would not lie against "any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out"——

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

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

Mr. CLINGER. "That reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

"(1) would not result in a net increase in the aggregate amount of direct costs of Federal intergovernmental mandates; and

"(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

"(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result from such enactment, would reduce the duties imposed by the Federal intergovernment mandate by a corresponding amount."

I think our intent here was clearly to make it as crystal clear as we can that we are not intending in this way to abrogate or undercut existing mandates in the legislation whether or not it was reauthorized or not.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

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

Mr. TAYLOR of Mississippi. I am not questioning your intent. We are a nation of law. It is not our intentions that count.

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

(At the request of Mr. TAYLOR of Mississippi and by unanimous consent, Mr. CLINGER was allowed to proceed for 5 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman continue to yield?

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

Mr. TAYLOR of Mississippi. Mr. Chairman, I am not questioning the intent of the gentleman form Pennsylvania [Mr. CLINGER] because I know his intent is correct. But we are a nation of law and it is what is in the law books that count. That language is ambiguous, and there will be reductions in Federal funding in the future just as there have been in the past.

In 1980 approximately, the Federal Government was paying 90 percent of the cost of upgrading wastewater treatment plants locally. Today it is 55 percent where and when those communities are lucky enough to get it.

We are going to pass a balanced budget amendment, I will vote for it, and we will then have to reduce the amount of money we give to the States and cities. It is going to happen.

I think it is very important that since you have a provision in there that says this does not count, if funds are reduced, well, then, we know right off the bat that within a short period of time, funds will be reduced, it will not count, and I think it is important that we have clear and concise language on this one issue.

□ 1150

Mr. CLINGER. Reclaiming my time, the problem is there are many Members who want exemptions from this legislation for a variety of reasons and they are all concerned about the implication of this act on it. But if we exempt everybody's concerns, we will have basically exempted the entire, all of the legislation from the impact of this legislation.

I think none of these programs should be exempt from a consideration of what are the costs that are being imposed. It may well be that the concerns that the gentleman has raised rise to a level where the mandates should indeed be passed throughout the funding, because it is of such overwhelming concern. But I do not think we should exempt anybody from a honest analysis of what are the costs involved.

We are not saying we are going to prohibit this; we are just saying it needs to be considered.

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

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

Mr. MORAN. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding.

The problem is not only what the gentleman from Mississippi has raised that there really will be no more money for any new activity at the Federal level with the balanced budget amendment, pay as you go, et cetera, but that the Clean Water Act, which will shortly be reauthorized, will in fact include new activities. So it will fall under this unfunded mandate legislation.

So the provision that says that if it is simply a reauthorization, that will not apply, and in fact I do now know of any reauthorization that has been a strict, pure reauthorization of the existing activity. So the likelihood is all of these new environmental laws will in fact be applicable to unfunded mandates.

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

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

Mr. PORTMAN. Mr. Chairman, I guess we need to make clear in this debate that what we are talking about is a point of order that could be raised against a new mandate, a new mandate in a reauthorization bill. This legislation does not apply retroactively, it only applies prospectively.

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

Mr. CLINGER. Reclaiming my time, I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, first of all I come from a city, Albuquerque, NM, in which the Rio Grande runs right through the middle of our city, so I understand the issues that are raised by the gentleman from Mississippi.

But I think this amendment should be the place that we emphasize as strongly as possible that the gentleman from Mississippi's statement that we should not do away with all unfunded mandates is in fact not what we do in this bill.

What we do is to allow for a point of order to be raised so that Members of Congress can be made responsible to identify the cost, and to vote on the

record with respect to imposing any unfunded mandate on the States, whether it is with regard to effluent into rivers or any other subject. So there simply is nothing in this bill that prohibits the Congress from imposing an unfunded mandate. So all of the references to certain health protections will not take place because there is no money to fund them and so forth, simply does not ring true. We are just saying in this bill that Congress should justify up front and on the record the actions that it is taking.

Mr. CLINGER. Mr. Chairman, reclaiming my time, let me just say it is my view that the substitute language that we put in here basically protects the concern the gentleman has. It will not be subject to a consideration of the cost, and this is my view. But if that is not the case, it still is not true that the concerns the gentleman had would come to pass because we would then consider the cost as against the benefit, and it very well could be that given the high degree of importance of this legislation that we would not pass it through.

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

(On request of Mr. WAXMAN, and by unanimous consent, Mr. CLINGER was allowed to proceed for 2 more minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield on this very point?

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

Mr. WAXMAN. Mr. Chairman, what the gentleman is arguing is prospective legislation could have provisions in it that would deal with this problem. But I do want to point out that the existing legislation before us today says that under existing laws if EPA adopts a regulation to enforce the law that regulation has to be pursuant to an analysis as well, and then the agency would go forward with the regulation, and that can be tied up in court.

So what the gentleman has argued and the gentleman from New Mexico [Mr. SCHIFF] has argued ideally does not apply to that kind of circumstance. Under the existing clean water law, under the existing Clean Water Act, Safe Drinking Water Act, whenever we have an interstate problem, whenever we have a regulation that is promulgated to enforce that law that is already on the books, that could be tied up in courts by the polluter, who would then not want the regulations to go into effect, and they would tie it up on the basis of perhaps the analysis was not done as thoroughly as it may otherwise have been done. They do not even have to have a lot of merit on their side to tie something up in court for a long time, during which a great deal of damage would be done.

Mr. CLINGER. I hear the gentleman's concerns, but what we are talking about is no title II regulatory concern. New regulations would indeed be subject to that provision, but looking back at existing regulations promulgated to carry out the intent of the Clean Water Act.

Mr. WAXMAN. New regulations would not come back to this institution on a point of order. New regulations to be issued by an agency would follow an analysis by the budget people as to the cost, and of course that analysis is only one sided, it is only the cost, not the benefits.

Mr. CLINGER. Regulations that have an impact of over $100 million.

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

Mr. Chairman, we have gotten into the guts of our greatest concern over this legislation, so I would like to pursue this a bit.

I think the gentleman from Mississippi [Mr. TAYLOR] may have the most extreme case. Being at the bottom of the Mississippi Delta and having every other State's sludge flow into his district is of understandable concern.

We know how responsible our Representatives are from Missouri and Ohio, for example, but it is entirely conceivable, given the fiscal priorities, that they may not attach as much concern to cleaning waste water and storm water upstream as Mississippi would.

So we can understand the disparity in responsibility. But I would like to use as an example another one that my friend from Mississippi used of the Potomac River, because we almost all of us cross the Potomac twice a day. Many of us drink, in fact I think everybody in the entire Capitol Hill complex drinks water from the Potomac River.

That water is purified at the Dalecarlia plant. We would like to privatize that plant. This legislation will preclude us from being able to do that, because where there will be an option whether or not to abide by Federal regulations for States and localities, in other words the public sector, all those laws and regulations will apply to the private sector, so it precludes our ability to privatize out that function to a private utility.

But even more importantly, let us consider the Potomac River. I see the gentleman from Fairfax County, VA [Mr. DAVIS], who I know realizes that 10 years ago if one fell into the Potomac River they had to get an immediate tetanus shot and probably resign themselves to some disastrous illness, but that is no longer the case. This is an example where clean water, Federal law and regulation worked. In fact they have beavers; you can fish for bass there. It is relatively clean water. I would not suggest we drink from it without it going through the water filtration plant.

□ 1200

But the fact is that fish and animals can live in the Potomac River. That is a result of Federal law, Federal regulation, and an interstate compact.

Now, under this legislation, since the Clean Water Act will authorize new activities, there will not be enough money under any circumstances to fully fund the cost of implementation of the Clean Water Act. It will become optional to localities.

Now, I will address the point of the gentleman from Ohio [Mr. PORTMAN] and the point of the gentleman from New Mexico [Mr. SCHIFF] in a moment.

But assuming that we abide by the intent of this legislation and we do not impose that unfunded mandate on States and localities, then West Virginia, and we all know how clean the water is from that, and the senior Senator from West Virginia would be the first to tell us that, the fact is it would not have worked if West Virginia had not fully participated, but West Virginia had very little incentive. It was extremely expensive for them.

It would not work for the District of Columbia unless Virginia contributed an enormous amount of money, likewise with Maryland. It only works if there is a Federal requirement that every jurisdiction contribute equally according to their respective responsibility.

Now, what you are going to tell me is that do not worry about this, that in fact knowing this, the logic, the compelling arguments will be strong enough that we reauthorize the Clean Water Act regardless of the fact that it is an unfunded mandate, that we, in fact, do not trigger this option. Jurisdictions can decide whether or not they want to abide by it.

Quite frankly, I think it is entirely likely that there will be an effort on the part of States and localities to get Members of this body to commit that when there is a point of order raised on an unfunded mandate that we will vote against imposing unfunded mandates on States and localities regardless of the issue, and we are going to get a large number of the proportion of this body committed to do that.

We do not want to restrict ourselves in that way.

I think it is entirely appropriate, in fact, it is the only responsible thing to do, to know what the cost is we are imposing on States and localities as well as the private sector. We should do it for the private sector, too.

But we should give ourselves the option of exercising the judgment we were elected to do.

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

Briefly addressing the concerns of my friend, the gentleman from Virginia, first of all, the gentleman from Mississippi who offered this amendment has been an ally generally in the unfunded mandate debate, and I think he would understand that to begin to exempt major pieces of legislation from this bill would, in fact, gut its purpose.

Let me be very clear as to what this bill does. With regard to reauthorizations, existing mandates would continue to be exempt from the bill. Only new mandates, and by that, I mean new mandates in a reauthorization context, where there is not funding available.

Let me give you an example. The gentleman from Virginia [Mr. MORAN] has spoken about the possibility of reauthorization of clean air and inappropriate funding. You get credit for any existing funds that are in the system. In other words, you may have a situation where there is a 50-percent cut in funding for a specific mandate. That mandate will only be reduced commensurate to that funding.

Let me be very clear as to what this does. More importantly, all we are saying is that the Clean Water Act, just like every other piece of legislation, should be subject to this same discipline of getting that cost information, getting an informed debate, then Congress can work its will.

The Clean Water Act is not perfect. I happen to represent 100 miles of the Ohio River, so I am very sympathetic to the concerns described by the gentleman from Mississippi and the gentleman from Virginia.

I see in this morning's paper, it talks about mandate overboard. Rockville, MD, in particular, is complaining about lack of flexibility in the Clean Water Act and some regulations that simply do not apply appropriately to their situation and have resulted in increased costs which are all passed along to the State and local taxpayer.

The Clean Water Act is not perfect, nor is the Clean Air Act, nor are other pieces of legislation.

Why not subject them all prospectively, and remember, this is all prospective, to this same discipline? It seems to me again if we are to open up this bill to all kinds of exemptions, Clean Water Act, wastewater treatment, and so on, we have gutted the whole purpose of this bill.

This is an informational bill and it is an accountability bill.

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

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

Mr. MORAN. Using this example, some bodies of water we have cleaned up. The commitment has been made by the Federal Government, the State, and to some extent local and regional governments. Those bodies of water were cleaned up.

You are saying it only applies to additional efforts. But we are talking about other bodies of water that are not cleaned up.

So, in other words, there are different levels of effort being expended by different jurisdictions.

The Clean Water Act is going to not apply to the Potomac River in the way that the original authorization did, but it will apply to a whole lot of other bodies of water I am not familiar with, but where there will have to be increased levels of effort, expenditures, on the part of States and localities to accomplish what we did for the Potomac River, and all of that will fall under unfunded mandate legislation.

If there is not adequate funding, you do have that provision that the executive branch can then determine what it wants to implement, but we are giving over that power to decide what part of this legislation should be implemented, giving it to another branch of government to choose which priorities, which are not necessarily State and locality priorities.

Mr. PORTMAN. Reclaiming my time briefly, this will be done, of course, at the direction of the committees. That is another issue perhaps for another title.

But the point is well taken. I know the gentleman is concerned about unfunded mandates. This a classic example of where we ought to have these mandates looked at carefully. We ought to have a cost-benefit analysis done. We ought to have an informed debate on the floor of the House, and, yes, we ought to have accountability. We ought to have a vote up or down. That is all we are saying.

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

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

Mr. KASICH. I wanted to take a second here this morning, or this afternoon now, and point out to the House and point out to the American people that this work that has been done on this issue, the first substantive and real substantive and meaningful effort to stop unfunded mandates, constructed by the great gentleman from Pennsylvania [Mr. CLINGER], my colleague from Ohio [Mr. PORTMAN], the gentleman from California [Mr. CONDIT], who has worked tirelessly, a Democrat; I know there are more involved on both sides of the aisle. I mean, you think about that today we are going to pass unfunded mandates legislation that gives that committee and the Committee on the Budget the ability to come to this floor and stop the passing of unfunded mandates onto State and local governments.

It is not about talk anymore. It is about doing, and we are doing it with Republicans and Democrats.

They would be the first ones to tell you that this is a big step. We may do more things. We may have to fix this.

But, you know what the bottom line is? We are keeping our word, and we are delivering exactly what our Governors and mayors and the people across the country have been calling for.

Without CLINGER and PORTMAN and CONDIT and DAVIS and JIM MORAN, it would not have gotten done.

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

Mr. Chairman, just trying to reflect on my own experience of having served 8 years in local government, including one term as mayor of a city where we grew that city from 400,000 in population to 560,000 in a 4-year period, as well as having had the privilege of serving as chair of the Committee on Public Works and Transportation in the 103d Congress, let me at this point rise in support of the amendment offered by our very fine colleague, the gentleman from Mississippi [Mr. TAYLOR].

As the gentleman from Mississippi has already illustrated very effectively, the impacts of water pollution know no political boundaries, nor should the solutions to continued water pollution in this country be limited by partisan boundaries.

We are all well aware of various situations where Members have already talked, where sewage that is discharged into a river, lake, or a stream adversely impacts citizens of downstream or adjacent localities and States. For example, New York and New Jersey have received national attention surrounding New York's sewage that shows up on New Jersey's shores; sewage discharges from Detroit, MI, into the Detroit River have impacted Lake Erie and residents in adjacent New York, Pennsylvania, and Ohio, and discharges of sewage from combined sewer overflows in the District of Columbia impact the Anacostia and Potomac Rivers and citizens of Maryland and Virginia.

But these are not isolated problems. Half the people in this great country get their drinking water from surface waters, meaning rivers and lakes. For most communities who draw their drinking water from rivers and lakes, there are other communities upstream discharging their sewage into that same water.

How much one community treats their sewage has a very direct impact on many other communities.

The American people want water that is safe to drink, water that is safe to fish in, and water that is safe to swim in, and water that will not make them sick when the tide comes in.

The American people whose jobs depend on water want that water to be of a quality that will continue to support their jobs. H.R. 5, without the Taylor amendment, would limit the Government's ability to continue protecting public health through ensuring adequate wastewater treatment.

□ 1210

For example, even though H.R. 5 is not intended to apply to current laws, by all accounts it would apply to new requirements. So, for example, it would apply to new requirements on municipal discharges that are necessary to

protect downstream residents against significant health impact.

If we have a new outbreak of problems such as the cryptosporidium in Milwaukee, which caused over 100 deaths, we would find it more difficult to respond and to respond quickly.

Now, the Taylor amendment would help preserve the benefits that the American public has realized under the Clean Water Act as a result of more than 20 years of hard work and commitment to improving the quality of our lives through cleaning up the Nation's waters and would allow the country to continue to move forward.

This amendment also points out a fundamental flaw in the reasoning behind this bill. This bill is based on the idea that all so-called mandates, including provisions that impose minimum national standards to protect public health, are bad things for State and local governments. Notwithstanding the lengthy new analyses required by this bill, title III does not provide that the benefits to local governments from mandates should be considered.

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

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

The CHAIRMAN. Without objection, the gentleman is recognized for an additional minute.

Mr. MINETA. Many Members on the other side have to talk in other contexts about how we should always fully consider the cost versus the benefits before we proceed. But in this bill they would require an analysis of everything except the benefits.

Now, Mr. TAYLOR's amendment is a case in point on how mandates often create enormous benefits for local government. A requirement that my city threat its sewage may be a burden, but the fact that the 400 cities upstream also have to treat their sewage is an enormous benefit to my city and to my citizens, and their bill ignores that benefit.

So from my perspective, I have to protect both our cities and our citizens from those who would discharge sewage upstream. I urge all of my colleagues to vote for the Taylor amendment.

The CHAIRMAN. The time of the gentleman has expired.

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

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. DAVIS. I thank the Chairman.

Mr. Chairman, clean water is a noble purpose, and the current act and its current regulations are grandfathered under this bill. The reauthorization will be grandfathered.

To the extent that the level of funding in the reauthorization or new mandates come in that exceed $50,000,000, they would be subject to the provisions of this act.

Now should that be covered, though, I want to remind my colleagues we still have the flexibility to pass that legislation. We have the flexibility to pass those unfunded mandates.

Nobody is taking away that authority from this Congress. However, we would do this, first, knowing what the costs are going to be, and, second, taking responsibility for sending those costs back down to the States and localities. That is what this act does. But we do not lose the flexibility, the right to do that at all. It is just simply going to be costed out.

It seems to me we will still have the authority to pass the legislation that the gentleman from Mississippi spoke about, but we will know the costs first. More importantly, the cities and the towns in the gentleman's district, my district and other Members' districts are also going to have a preview of what these costs are going to be on them.

Before we shift the burden of paying for these mandates from the Federal Government to local property taxes, we need to understand what those costs are.

What is wrong with making the State and local governments part of the dialogue as we move through this; that is, they look at their respective costs as well?

That is what this does. We do not lose any flexibility to move ahead.

We pass the bill traditionally, and then we pass the buck. There is nothing wrong with any one or two of these mandates taking effect, but what has happened, as the Vice President's National Performance Review showed, in 1992 over 172 unfunded mandates have been taken down to the States and localities.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. FOX of Pennsylvania. I thank the gentleman for yielding.

Mr. Chairman, as I understand the unfunded mandates proposal, the existing Clean Water Act to protect the public will not be diminished in any way, and the fact that this bill is only prospective in nature, if we come back to have any more expenses in this Congress, whether it is clean water or other items that we come back here, this would not diminish in any way the existing strong laws that we have.

Mr. DAVIS. The gentleman is correct.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

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

Mr. TAYLOR of Mississippi. I thank the gentleman for yielding.

Mr. Chairman, would either of the gentlemen be willing to pay the cost incurred to the Federal Government out of their pocket, should this be brought to the court by some city that does not want to fulfill its obligation to clean up its own mess? Do the gentlemen feel that strongly about the bill? Will the gentlemen tell the American public right now that they personally will incur those costs rather than the taxpayers of the United States? If the gentlemen feel that confident about it, I will not offer my amendment, but I do not feel that the gentlemen feel that confident about it. I certainly do not feel that confident about it.

I am trying to protect the people of this country from facing enormous legal expenses that the loopholes in this bill will create.

Mr. FOX of Pennsylvania. Mr. Chairman, can we retake the time?

The CHAIRMAN. The gentleman from Virginia [Mr. DAVIS] controls the time.

Mr. FOX of Pennsylvania. Mr. Chairman, may we——

The CHAIRMAN. The gentleman from Virginia controls the time.

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

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

Mr. FOX of Pennsylvania. I thank the gentleman for yielding.

The fact of the matter is every Member of this Congress, Mr. Chairman, wants to make sure we have clean drinking water, and the fact is we have strong clean drinking water laws in the United States that all of us want to see protected. The fact also is that the American citizens do not want us to continue putting onto the States and local governments mandates of great things that we want to do without paying for it. All we are saying, under this new law that is being proposed, is if we are going to have stronger drinking laws that require funding, and some of them do not, we want to make sure that we come back to the Congress and vote on them so the States and localities will not have it passed on to their backs.

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

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

Mr. CONDIT. I thank the gentleman for yielding in order to clarify a point one of my colleagues from California made, trying to be presumptuous enough to tell us what the bill does, that this bill eliminates all unfunded mandates.

Let me assure you this bill does not eliminate all unfunded mandates.

What this bill does is it requires us to have some accountability, for us to have the courage to come to the floor and to waive a point of order if we think it is important enough to do. It also requires us to attach a cost to this stuff.

So you could have an unfunded mandate, you have just got to take some

accountability for it. When EPA says something, you have to take the responsibility back home that you passed it. That is what this bill does.

You can have some unfunded mandates if we think it is a national priority, and we probably should. But for someone to tell us that this absolutely says that all unfunded mandates are bad is incorrect and it is a betrayal of this bill.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. DAVIS] has expired.

(By unanimous consent Mr. DAVIS was allowed to proceed for an additional 30 seconds.)

The CHAIRMAN. The gentleman is recognized for an additional 30 seconds.

Mr. DAVIS. I thank the Chairman.

Mr. Chairman, the gentleman from California [Mr. CONDIT] is correct, this does not eliminate, in fact, one unfunded mandate. In point of fact, we are simply getting the costs before us. We are once again starting a dialog with the people, the State and local governments, the local taxpayers who are paying for these through local property taxes, which are much more regressive than the Federal income tax when it comes to paying this. We will have that in mind, we will have that on the record before we proceed.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. DAVIS] has expired.

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

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. I thank the Chairman.

Mr. Chairman, I rise in strong support of this amendment offered by the gentleman from Mississippi [Mr. TAYLOR]. Mr. TAYLOR is a fine member of the Committee on Government Reform and Oversight, and he has given considerable investigation to this matter. He has looked into it, he has done studies that reach all across this Nation. As a matter of fact, he has discovered, as we all have, that wastewater treatment is fast becoming one of the most important issues facing every State in this country.

In its most recent survey, EPA estimated that the needs of States for wastewater treatment funding have increased from $83.4 billion in 1990 to $137.1 billion in 1992.

□ 1220

This is an increase of $53 billion over just a 2-year period. This increase is due to population changes, deterioration of old sewers, and better water-quality standards.

I ask my colleagues, "Do any of you realistically believe that, with a balanced-budget amendment looming over us, that Congress will be able to continue funding for wastewater treatment at this current level?" The answer is absolutely no. Unfortunately the States are going to have to pick up an increasing share of these very expensive costs.

H.R. 5 in its current form will mean that Congress will be unable to require States to absorb almost any part of this increasing cost for wastewater treatment. We do not have to be rocket scientists, or any of us, to figure out what this means. It means that people at every district will be helpless to do anything at all about wastewater that is generated by these States.

This bill effectively ties the hands of Congress to do anything about this very, very serious problem. The polluting States will have no incentive to improve the wastewater treatment because Congress will not be able to mandate improvements in wastewater treatment without full funding. This is an absolute outrage.

The amendment of the gentleman from Mississippi [Mr. TAYLOR] will solve this problem by exempting wastewater treatment and other limitations on this bill. I say to my colleagues, "If we can't clean up our watewater, why are we here?"

I think that everybody ought to support the amendment of the gentleman from Mississippi [Mr. TAYLOR].

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

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

Mr. MORAN. Mr. Chairman, to give a specific example, and the gentleman from Virginia [Mr. DAVIS] is the last to raise the point, so let me direct it at him, and he is particularly familiar with the situation that affects all of us in this body because he represented a lot of constituents last year when we had a boiled-water alert. We could not use the drinking water in this area. The Members of Congress that were here last year remember we had to get bottled water. Well, that is because we had excess turbidity in the water.

That problem was not adequately covered by the existing Clean Water Act. It has to be covered by the new authorization. It was due to a runoff upstream, not in the District of Columbia that was affected, not in Fairfax County, who had to drink the water, and it was the District of Columbia and Fairfax and Arlington who had to drink the water, but the problem was in another jurisdiction that really has no particular vested interest in spending the money to prevent that runoff. But that runoff meant that we could not use drinking water in this jurisdiction.

That is the problem, and it was not adequately addressed by the Clean Water Act. It has to fall under the new unfunded-mandates legislation because it is new activity, and we do not have the money to fully fund it. That is what we are trying to get at.

I do not argue with the need for unfunded mandates, and the one argument that we keep hearing is, "Don't worry. When you have a situation like this, the Congress is going to do the responsible thing. We're going to ignore this legislation. There will be a point of order, but don't worry. We'll all vote against the point of order because you can trust us."

We do not want to set up a situation where the American people have to accept that. Trust us. Let us pass this legislation, and then we will ignore it when it is important, when the legislation applies to important things that are in our best interests. We are trying to avoid that situation.

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

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

Mr. DAVIS. Mr. Chairman, let me just say to the gentleman from Virginia [Mr. MORAN], my friend and colleague, that there is nothing in this that will prohibit us from going ahead, going ahead with the authorization just discussed, but we are going to know those costs ahead of time, and there is nothing wrong with that. The local match on that, we will know what that is ahead of time. There is nothing wrong. I think that really is basically adding some truth and some sunlight to the way we do business before the people who pay these bills down the stream get sent the bill, which we so often do.

The CHAIRMAN. The time of the gentlewoman from Illinois [Mrs. COLLINS] has expired.

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

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], my good friend.

This amendment would create a huge loophole in the bill's protections against unfunded mandates.

I support the Clean Water Act. As chairman of the authorizing committee I can tell my colleagues it has been a very successful Federal environmental program. But we should not exempt the Clean Water Act from this important legislation. In fact, the Clean Water Act is one of the prime examples of unfunded Federal mandates.

The Conference of Mayors tells us that the mandates in place will cost over $29 billion over the next several years, and the Association of Counties says another $6.5 billion will be levied upon them.

Let me make it very clear that the Committee on Transportation and Infrastructure is moving a clean water authorization bill in the coming months. We will have that bill on the floor. That will be the place to have this kind of a debate, and it is very important to emphasize that we may well decide in our deliberations in the committee that there are additional mandates required, and we may well bring

those additional mandates to this floor.

But what this legislation today will do for us is it will say that we have got to have a vote. We simply cannot impose upon the American people other unfunded mandates without a vote, and so if in the committee we decide that something is so important that we need an additional mandate, it will be our responsibility to come to this floor and to make that case, and, if we can make that case, then there will be an unfunded mandate, and, if we cannot make that case, we deservedly will be defeated.

So, it is very important that we defeat this amendment, and it is also very important to emphasize that we are only talking in this legislation before us today about future mandates. We are not reaching back and dealing with the mandates that are already on the book. Now some of us think maybe we should be doing that, too, but we are not, and it is very clear to emphasize that we are only talking about future mandates, and indeed there can be future mandates, but only if this House votes in favor of them.

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, I say to the gentleman, "Mr. SHUSTER, you are a gentleman, and I know that you would in no way ever intentionally mislead anyone. The amendment that I offered does not use the words 'Clean Water Act' because I also am not totally in favor of everything that's in the Clean Water Act. That's why I didn't use the words. I used the words 'effluent limitation.' I made it very specific because there are some things in the Clean Water Act that I would love to see taken out. So when you say"——

Mr. SHUSTER. Reclaiming my time, Mr. Chairman, I would say to my good friend that——

Mr. TAYLOR of Mississippi. I hope you would stand corrected on this.

Mr. SHUSTER. I would say to my good friend, "That is that the effluent limitation; those terms are terms that are established under the Clean Water Act. Therefore, while you may not use the words 'Clean Water Act' in your amendment, by the very definition of effluent terms this will bring the Clean Water Act under this."

That is what the experts tell me, and, therefore, we should be very careful that we do not put this further unfunded mandate on the American people without a vote of this House at the time we bring clean-water legislation to the Congress.

□ 1230

Mr. TAYLOR of Mississippi. That is not correct, I will say to the gentleman from Pennsylvania.

Mr. SHUSTER. I would tell my good friend that we then have a disagreement here.

Mr. TAYLOR of Mississippi. No. As a matter of fact, with the amendment——

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SHUSTER] controls the time. Does the gentleman yield to the gentleman from Mississippi?

Mr. SHUSTER. Mr. Chairman, I will say further that my staff on the floor here is indicating that—and these are the experts on clean water, this is the staff that advised us when we wrote the clean water legislation—these experts are confirming to me right now that if this amendment were to pass, then the clean water bill would indeed come under it, and for that reason we should defeat this well-intentioned amendment.

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

(On request of Mr. TAYLOR of Mississippi, and by unanimous consent, Mr. SHUSTER was allowed to proceed for 2 additional minutes.)

Mr. TAYLOR of Mississippi. Mr. Chairman, will the gentleman yield?

Mr. SHUSTER. I am happy to yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Chairman, let me make this perfectly clear. I do not want this done in a confrontational manner. You are a gentleman. But I do believe some of the things you said would mislead the Members of this body, and I know you would never intentionally do it. So I would like to point out to the body that as very clearly stated in the amendment, we refer to the Federal Water Pollution Control Act, and this is only a very narrow portion of that, which was also sent to every Member's office, so that no one could be misled into thinking that this is the entire Clean Water Act.

Mr. SHUSTER. Mr. Chairman, reclaiming my time, I would say to the gentleman that I thank him for the respect he gives me, and I give him that same respect. He certainly would not intentionally want to mislead anybody either.

I can only report that the experts on our staff, the ones who have advised us as we have written this legislation, because it is the legislation that came from our committee, have advised us that the Clean Water Act would come under this amendment. So I must rely on the advice from those experts, and I very much respect my friend, the gentleman from Mississippi. We simply have a disagreement here.

Mr. TAYLOR of Mississippi. We have a disagreement, and I think those experts also would not accept any challenge, too, where they would personally incur the costs from the flood of lawsuits that the lack of this language would cause.

Mr. SHUSTER. Mr. Chairman, reclaiming my time, my staff points out to me that the Federal Water Pollution Control Act, which the gentleman referred to, is the Clean Water Act.

Mr. KANJORSKI. Mr. Chairman, I move to strike the commensurate number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Mississippi [Mr. TAYLOR].

One of the reasons I think we are having this debate on the floor today is the haste with which this legislation was written. Although Mr. KASICH came to the floor and indicated this bill would not be here except for the movement of this committee, I do not know, but I think the gentleman from California [Mr. CONDIT], the gentleman from Mississippi [Mr. TAYLOR], and the gentleman from Virginia [Mr. MORAN] in previous Congresses have worked to provide for some coverage of unfunded mandates. I think most of the membership on the minority side of the aisle agree that we should do something on unfunded mandates.

What I think is happening here is because of the drafting of this bill, we in the minority are trying to call the majority's attention to the fact that the loose drafting of this could work havoc on existing and future legislation that is unrealized or unrealizable at this time. One of the elements we are all talking about—and this is why it is important—first of all, let me say that this is not a bill that just hands out a procedural rule of the House here to make a point of order. If that is what we are doing, we could have amended the rules to accomplish that.

We are passing a statute into the laws of the United States, one of which affects regulatory accountability and reform, as contained on page 16 of the bill. That provides certain mechanisms that can be undertaken by the public sector and the private sector if they feel the standards we are requiring in this bill have not been met by the Federal regulatory agencies. If we are dealing with the EPA or the Clean Water Act, any individual or any governmental entity can hire an attorney and ask for a Federal injunction and argue the case that they have not met the standards required under the statements that have to be laid out in the promulgation of rules and regulations which affect all types of legislation from clean water to clean air.

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

Mr. KANJORSKI. Yes, in one moment I will yield to the gentleman when I have finished.

We tried in committee to strike out the idea that we would not have judicial review. We have an amendment coming up on that. If we knew that we were going to have a denial of judicial review here and we were not going to

make it the Lawyers' Relief Act of 1995, we would be a lot saner and satisfied on this side because we were not going to work havoc on the American regulatory system. Unfortunately, we do not have that assurance that that amendment will pass. We have not had the cooperation with the majority that they will address judicial review, and as I understand it from a simple reading of this statute, if there is a regulatory agency involved charged under this law to put out statements as to the cost factor, regardless of whether they are absolutely and meticulously correct in meeting that standard, anyone can go to court and ask for injunctive relief dealing with that issue.

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

Mr. KANJORSKI. I certainly will yield.

Mr. PORTMAN. Personally, I would say that speaking for the majority I am absolutely sure we are going to address that issue, and I am confident that when we get to title II, the gentleman and others will raise that issue, and we look forward to that debate on judicial review. This is probably not the time for it. But let me say also, to make it very clear, that judicial review is of the agency requirement here. It is a very limited requirement. It is for regulations after enactment of the legislation, over $100 million, and it asks for a written statement on costs and benefits.

Mr. KANJORSKI. Mr. Chairman, reclaiming my time, if the city of Philadelphia is mandated to put in a waterworks or cleaning system under existing law and in the future a law is passed that would require the standards to be used by the regulatory agency in the enforcement of that order, and it did or did not comply with the standard, it would allow any corporation or any municipality affected by more than $100 million to move into the Federal court system to bring an injunction. We are faced with the problem over here of trying to find out how large an effect this would have and what the ramifications are.

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

Mr. VENTO. Mr. Chairman, will the gentleman yield? I asked the gentleman to yield earlier.

Mr. KANJORSKI. I will take a very quick question, because I promised the gentleman from Minnesota [Mr. VENTO] I would yield to him.

Mr. PORTMAN. Mr. Chairman, does the gentleman agree that the cost-benefit analysis is a good idea for the agency?

Mr. KANJORSKI. Absolutely. There is no question about it.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield for a further question?

Mr. KANJORSKI. Yes, I yield to the gentleman.

Mr. PORTMAN. Mr. Chairman, is the gentleman aware of the fact that the current executive order issued by President Clinton would require even more agency information to be provided and that information is not regularly provided?

Mr. KANJORSKI. We have no problem with forming intelligence and factual information to be good legislators or good regulators. Our problem is that we do not want to establish the Lawyers' Relief Act of 1995 by giving any American an opportunity to go to this section of the statute and then go and apply it to environmental law or any other law that would require the application of the statute.

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

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

Mr. VENTO. Mr. Chairman, I think the gentleman from Pennsylvania makes a very good point with respect to the existing laws as opposed to the prospective application of this particular amendment.

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

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

Mr. VENTO. Mr. Chairman, if the gentleman will yield, I think he makes a very good point about what happens to existing law. It is one thing for the executive to revise the rules and regulations process. It is another thing to put this into the law. That is exactly what is being proposed here, 11 or 12. or 13 separate steps in terms of intergovernmental mandates and some 13 or 14 steps with regard to the private sector.

I might say that I do not see dollar limits with regard to the intergovernmental mandates that are in this section that my colleague, the gentleman from Pennsylvania, is pointing out. So these rules and regulations as they apply to the Clean Water Act or the other title that my friend, the gentleman from Mississippi, points out are that we are constantly modifying those. Microcryptosporidium may not have been a problem at one point, but regulations are constantly evolving. In fact, of course, the regulations are the very basis on which the executive implements the laws. Without them, you cannot implement the laws. That is the charge of the administration and the executive branch. As a matter of fact, of course, we are constantly modifying laws.

To suggest that existing laws and existing precepts will be held in place is, I think, either a misunderstanding or misleading to what the effect of what this law and what the effect of this new process is that you are setting up. If this were merely a study—the gentleman has to continue to stand, and I appreciate his yielding—if you were just dealing with existing law and it was static, that would be one thing, but they are constantly evolving, because we do not have perfect knowledge. I think most of us who have worked on this bill have noted that we do not have perfect knowledge.

So in effect you are really setting in place a new framework, and I might say we do not know how it will work. I do not know how CBO is going to fulfill this particular requirement. I think it is extended. I think it needs to be revised, but I do not think it is at all clear that the system you are putting in place is going to develop the type of information effectively.

Mr. Chairman, I thank the gentleman for yielding.

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

Mr. Chairman, when we have an interstate pollution problem, it is a uniquely Federal responsibility. You cannot ask a government-owned water system, a government-owned incinerator system, or a government-owned powerplant to want to impose more costs on themselves if the pollution is not going to affect them that affects somebody in another State.

□ 1240

They are not going to want to spend that money. Therefore, as a National Government we have to establish the rules. We establish that through legislation, and if legislation places this burden to install pollution control devices of one sort or another, or take measures to reduce pollution, that will require the expenditure to do so. And if it is government-owned, then they have to spend the money and it is called an unfunded mandate, because this legislation deals with government-owned enterprises.

Well, what does that mean in terms of legislation? We have had a lot of discussion about that. CBO will have to go through an evaluation of the costs. That evaluation, by the way, is all one-sided. It is an evaluation of the costs, but not the benefits. They will have to look at anticipated costs to the States, the effect on the national economy, the effect on productivity, the effect on economic growth, the effect on full employment, the effect on creation of productive jobs, the effect on international competitiveness of the United States, future costs of the Federal mandate, disproportionate budgetary effects on particular regions of the country, disproportionate budgetary effects on urban or rural or other types of communities, and disproportionate budgetary effects on particular segments of the private sector.

That is a hell of an analysis. That is an extensive obligation by CBO, which the head of CBO has already indicated to us they do not think they can accomplish.

Well, they will do the best they can. And if it is legislation, someone can make a point of order, and the argument has been well, we can always overturn that point of order by a majority vote. The reality is it is going to require spending money or overturn it by a majority vote, and a lot of people are not going to want to vote for any overturning of the points of order to impose an unfunded mandate, even though it is a clear Federal responsibility because we have an interstate pollution problem.

This same analysis has to be done if it is a regulation to enforce the law. Agencies have to do this instead of CBO. Agencies will not be able to do this adequately. In some way or other they are going to do something improper, or somebody can claim it is improper. And if it is an entity that does not want to control the pollution because they do not want to spend the money, they will hire a lawyer to go into court, and they will say this agency regulation, even though they have done this analysis, is pursuant to an analysis that is not rigorous enough, extensive enough.

The gentleman from Pennsylvania [Mr. KANJORSKI] made an excellent point, if you allow judicial review to question the analysis of the agency, they can be tied up for years, maybe to the point where all the pollution will continue across interstate boundaries.

My point is, whether it is through legislation or through a regulation of existing law, to require that what is an interstate pollution problem be covered by this bill does not make sense. The proposal before us deals with the Water Act alone, and that would exclude anything in terms of effluents affecting one State versus another. That ought to be exempted from both the requirement that it be considered an unfunded mandate if it is new legislation, or through regulation, especially if we are going to have this ability of regulations to be tied up in court.

At least if it is legislation you can argue, I think a weak one, but an argument, that the House can overturn it by a majority vote. If a regulation is adopted by an agency, there is no majority vote anywhere. That is going to be up to the courts, where we are inviting litigation on any agency regulation as long as there is judicial review.

The best way to deal with these problems, which are uniquely Federal responsibilities because we have interstate pollution problems, is to exclude it. Exclude it from being considered an unfunded mandate.

I think it was an interesting argument that we heard a while ago from the gentleman from Virginia. Many people would argue why should Government agencies and entities be running powerplants? Why should they be running drinking water systems? Let that be privatized.

There is not going to be an incentive to privatize them if the rules are going to be if it is a government-run enterprise the government will have to pay for the costs for that enterprise to reduce pollution.

So I urge support of this amendment. And to keep this in perspective, this should not be covered the way that we would look at other unfunded mandates.

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

Mr. Chairman, either this bill is not on the level, or we desperately need the amendment of the gentleman from Mississippi [Mr. TAYLOR]. Because the suggestion is, somehow, when we bump up against the hard question of whether or not we are going to regulate and bring in as a matter of national policy, that effluent be cleaned up from our rivers and our waterways, we will simply overrule the point of order and go on with a majority vote and we will go on about our way, because we recognize national important issues when we see them.

Well, then you cannot have all of the rhetoric about stopping unfunded mandates. Because, in fact, the process that we go through today, the way that we arrived at the Clean Water Act and the 10 years we spent in the reauthorization of the Clean Air Act, is exactly that process. We went through 10 years of hearings, 10 years of combat, 10 years of acrimony, 10 years of scientific studies by the National League of Cities, by the great city mayors, by rural America, by the League of Counties or Organization of Counties. All of these organizations came in and said this is what it is going to cost, you are only paying a part of this, not all of this, back and forth.

But we also knew something else: None of those cities could do it by themselves, and none of them were willing to do it without Federal money. And they also wanted protection from being sued by their neighbor if they could not do it immediately.

So when you look at the Sacramento River or look at San Francisco Bay or the immense problems of the Mississippi, it would make little difference if my hometown of Martinez decided to clean up its sewage before it discharged it into the bay, if the city of Sacramento was not doing that or a huge city like San Francisco was not doing it.

So we wanted to know that if we made this effort, we would benefit from the effort, we would end up with a cleaner bay, as opposed to a cleaner effluent into the bay.

That is why we have national laws that bind us together for this obligation. But we knew and the mayors knew and the county people and the State knew that this was never about the Federal Government paying 100 percent. This was about the Federal Government collecting the taxpayers' money to help these cities meet what was a political problem, an environmental problem in their localities, to clean up the rivers and waterways. And had not the Federal Government provided both the catalyst in terms of the mandate and the catalyst in terms of grants for wastewater cleanup or development block grants that provided additional money or the earmarks in Federal legislation, the rivers and the waterways of this country simply would not have been cleaned up because they were not prepared to go to their local taxpayer and say "We will pick up 100 percent of the cost."

What they were prepared to say to the taxpayer was if you will put up some money, we got a way to get some Federal money. You used to call it free, free Federal dollars for wastewater. What we found out is, they are not free. They are coming out of the same taxpayer's pocket. But let us not suggest there is some attempt here to erase history. This is the process. This is the legislative agenda. This is how it works.

We weighed these competing interests, we balanced them out, and in the case of clean air, in the case of clean water, we determined that it was in the national interest to embark upon a program over several decades to clean up our waterways, to keep them clean, and to be able to respond to advantages in technology and knowledge and threats to the safety of our air supply and our water supply.

Now, under this legislation, the suggestion is you could not really do that by regulation, that that would be an unfunded mandate or certainly be challenged such that you would be back in court. The overruling of the point of order only helps you with respect to the legislation. But that is the process.

What you are telling us is you are going to go through that same process, because you are going to weigh that, have the competing studies, have the reports from the agencies, we will put it all on the table, and we will still make a determination.

So the legislation, what the legislation does is dramatically drag out the process and make it far more complicated rather than stopping unfunded mandates.

Now, the other possible thing to do is simply return it all, add up what we spent, the $60 or $70 billion, give it back to the taxpayers over the next 10 years, and let the mayors and city governments make their own decisions about whether or not they think they should do it. But that is obviously unacceptable to them, and it is unacceptable to the Nation as a matter of national policy.

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

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

□ 1250

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

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding. I just wanted to point out that 30 years ago or so, when the Federal Government came to this issue of dealing with clean water and clean air and some of the other issues, we had had 200 years of history of States not coming together as compacts in terms of dealing with these issues. Not just that they needed the Federal Government to tell them what to do, but they need us as a framework around which to build the solutions to these particular problems.

As I said yesterday, so often, and again today, so often this is referred to as confrontation as opposed to cooperation. It very much is that. If there was another way to solve this, we are not looking out here, and I do not think this Congress, in the past, has looked for problems that do not exist. They are there. The river, the lake area was on fire. There are problems with the Mississippi River, I know, at the headwaters of it. Even there, there are problems that needed to be dealt with and built around this Federal framework.

What you are doing in this particular legislation is putting special impediments in place. I would further point out that there are numerous exceptions already in this legislation that you find necessary for national security, for accounting purposes. There are seven of them in there, some sort of exclusion for Social Security, whatever that means.

But the fact is, actually presenting this when there is a real history of problems here I think is consistent. I certainly would support the Taylor amendment and thank my friend for his statement and for yielding.

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

Mr. Chairman, the problem with the supposition on behalf of the Taylor amendment is that it is a supposition that the subject matter is reducing effluent into rivers and streams; therefore, it is automatically good legislation and good policy and not subject to any kind of practical, including financial, review.

As I have indicated, the Rio Grande runs through the middle of Albuquerque. I am entirely sympathetic to what the gentleman from Mississippi is raising, but there have even been other experiences with our location.

Several years ago the Congress of the United States gave native American tribes in pueblos the power essentially to enact the water standards for water that passes along their shores to be enforced by the Federal Environmental Protection Agency. A pueblo just south of Albuquerque said the standard they wanted for the Rio Grande was drinking water standards that you ought to be able to drink the water right out of the Rio Grande, and it ought to be healthy and safe.

According to experts I have talked to, the water in the Rio Grande has never been up to that standard, even before any kind of industrialization or buildup in the area occurred, there would be natural contaminants in the river that would make it unsafe, unsafe to drink raw right out of the river. Nevertheless, the Federal Environmental Protection Agency, based upon its understanding of the law that Congress passed, was prepared to enforce that kind of standard on everybody upstream from the pueblo.

What this comes down to is that this is not a subject, because it is an important issue still does not make it a subject that ought to be beyond the scrutiny of Congress, what is being proposed here, what will be gained and what will the cost be.

If the Congress determines in the area of reducing effluents into rivers, a very important subject, that the Congress ought to move here, it is still free to do so, but only after Congress has been made properly responsible and accountable on the issue.

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

Mr. Chairman, I rise in strong support of the amendment of the gentleman from Mississippi [Mr. TAYLOR] today, and I do share his concerns about the effects on the sewage-flow laws.

While he talks about the one-third of the continental United States flowing through the home State of the gentleman from Mississippi [Mr. TAYLOR], by way of the Mississippi River, I have to tell you, my home State of Florida is the southernmost State in the continental United States. So like Mississippi, we depend heavily on its natural resources to support our tourism, which is our State's No. 1 industry.

Let me give my colleagues an example of some concerns that I have that potentially has an effect on us in this area. In the Big Bend region, the Suwannee River, which flows south into Florida, is the life source for this region's fish nurseries and any kind of degradation would result in the loss of some of Florida's most important areas of salt water fishing, oysters, which many of us enjoy and like, and are known for, as well as, I might add, our water supply. In fact, some of the counties to the south of me are now even looking at the Suwannee River as a source for their water supply.

I would like to just suggest to my colleagues that I think this debate has been a very good debate, and I think we all realize that this is an issue that the Federal Government needs to make sure that we protect ourselves and our citizens. Even though I still would like to reiterate my support for ending unfunded Federal mandates on our State and local governments, but I am acutely aware of what this does, but there are just some responsibilities that we all must share.

There are some mandates that each State should follow to protect every citizen. And by passing this amendment, we will provide an important safeguard for our American citizens.

Mr. Chairman, I yield to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Chairman, I thank my colleague for yielding to me. I, too, stand in strong support of the Taylor amendment. I think this is logic. This is the real world.

Virtually every community in the United States is downstream from somebody. And we in Florida are downstream from virtually everybody. And it has cost the State of Florida a great deal. In fact, we have funded for many years, through the Subcommittee on Energy and Water of the Committee on Appropriations, a very special project called the Tri Rivers project, in which we are trying to accommodate the problems that exist within three States, Georgia, Alabama, and Florida, as it applies to three major rivers that ultimately end in Florida, into a very pristine ecosystem that would in fact destroy a large part of north Florida in this case, if we do not find some solutions to this.

The problem is thus, the city of Atlanta is essentially wishing to draw off more water off the Apalachicola River than will allow the sustaining of that ecosystem. So we have to look at this from the standpoint of making sure that we do not end up with a huge judicial problem with the courts loaded up with problems between the various states fighting out who is in charge.

I think this amendment takes us into a solution to that, and we have got to spend some time in making sure that this is heard, that all the questions are answered and that we do not end with something that we cannot change ultimately.

I want to make a point though. This is the problem with a lot of water questions. These are not systems that are being worked on without Federal money. A great deal of Federal money is being used to correct the problems we have in the water problems of the United States in general. In fact, what it takes us to is the pertinent setup of partnerships, local, State, and Federal Government working together to solve a national problem. That is what my friend from Mississippi is really focusing on.

We have to, I think, in the process of being Representatives of the United

States, to look after the needs and the welfare of the entire United States and not just one small constituency.

So I say to the gentleman from Mississippi [Mr. TAYLOR], I applaud the gentleman for spending his time on this, and I thank the gentlewoman for yielding to me.

The CHAIRMAN. The time of the gentlewoman from Florida [Mrs. THURMAN] has expired.

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

I yield to the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, let me begin by complementing our chairman pro tempore on his extremely judicious use of his authority today. It really was refreshing to have a bill come to the floor under an open rule and let Members talk about it. I am saying that as a Democrat.

I am asking my colleagues to judiciously use their authority. This is not an attempt to kill the bill. I am going to vote for the bill. This is an attempt to perfect it, an attempt to perfect it that I made in committee, an attempt to perfect it that I have made privately with the gentleman from Pennsylvania [Mr. CLINGER], an attempt to perfect it in conversations I had with the gentleman from Ohio [Mr. PORTMAN], and in conversations with the gentleman from California [Mr. CONDIT].

□ 1300

It is important, Mr. Chairman, that no one community poisons another community. That is the only point we are trying to make.

The point is that the Clean Water Act was not reauthorized. Because it was not reauthorized, it will have to be reauthorized. When it does, it becomes new language. It there creates, in my mind and in a lot of people's minds, the question: Does that mean the wastewater effluent standards for our Nation go out the window, a very fair question to ask.

All we want to do is put language in the bill that says, "Yes, they will still apply, and all you lawyers out there who would love to sue the Federal Government and get into the taxpayers' pockets by suing them and holding us up in court forever, do not even apply for the funds, because we have made a statement of intent that as far as wastewater is concerned, we will continue to live by the same standards that we have had for about a decade now," a very good standard, a standard that has cleaned up the water in front of my home, in front of the home of the gentleman from Florida [Mr. PETERSON], and in front of homes all across the country.

Wastewater is something that starts locally but affects us nationally, and therefore it is a national issue. It is something that we need to point out. I have brought to the attention of reasonable people a problem that reasonable people should solve before it costs us a heck of a lot of money.

Mr. Chairman, I am asking that the chairman will accept this amendment. I hope he will. Should he not do so, I will ask for a recorded vote.

Mr. PETERSON of Florida. Mr. Chairman, the point being made by the gentleman from Mississippi [Mr. TAYLOR] is that reasonable people must sit down and find reasonable solutions, but we must also be very clear in answering all the questions associated with this. I am very concerned with the rapidity with which we are trying to move something as important as this bill through this body. I do not think we are giving this the due process which the American people desire and deserve.

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

Mr. Chairman, I will speak briefly, and then I will yield to the distinguished gentleman from Pennsylvania [Mr. CLINGER], hopefully to close out this argument.

Mr. Chairman, I would like to congratulate the gentleman from Mississippi [Mr. TAYLOR]. His amendment is a good one, one which should not be accepted, but I congratulate him for initiating one of the greatest arguments on federalism I have heard on the floor in the time I have been here or seen anyplace.

Mr. Chairman, there is a basic fairness doctrine and issue that I think we have to address as we look at this particular amendment, and as we look at a succession of amendments which are going to deal with the environment, which are going to deal with health care, which are going to deal with a variety of issues which people are going to try to exempt from an unfunded mandate statute and say this should not have gone through it because of the importance of the subject, because it is interstate, or whatever it may be.

The bottom line is that this Congress for many, many years, particularly in the last 25 or 30 years, has used the methodology of unfunded mandates to hand back to the State governments in particular, sometimes other governments, certain responsibilities without sharing the burden of paying for them or only sharing it in part. The local governments have said, A, we cannot afford it, and B, in some instances it does not apply where we are.

State governments are responsible, too. They have handed it back to the counties and municipalities as well, and they also have to deal with this particular issue.

The bottom line is this has been going on for far too long. We could argue the exception of any one of these issues if we wished, but we really need to start addressing it in this particular piece of legislation, which essentially is information and accounting which will put before us and the public, and particularly the Governors and the county executives and mayors and those who are concerned about it, what the costs are and what the issues are. Then we can decide do we move forward in that direction or do we come back and say perhaps we cannot afford to fund this, and it is an unfunded mandate, and we should not go forward, and the public would be better served if we did not.

It makes it a fair argument. It is basically fairness and soundness in government. That is what it is all about.

Unfortunately, an amendment like this, which is extremely well intended, which has some good functions, cannot fall any differently than any other aspects of this. Everything should fall into the same category of being examined.

Therefore, no matter how beneficial the arguments are, no matter how strong and compelling the so-called logic may be, we really need to address unfunded mandates in the Congress of the United States. It is my hope that this amendment would be defeated, and any subsequent amendments would as well.

Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Mississippi [Mr. TAYLOR] indicated he hoped I would accept this amendment. Unfortunately, I am unable to do so. This, I think, is a serious gutting, frankly, of what we are trying to do here.

It has already been indicated if this amendment were to pass we would then move on to consider all pollution, all interstate pollution. It would open a floodgate that I think we would be very wrong to do. This is a prospective only bill. It will not affect anything on the books now.

Second, we dealt with the reauthorization problem. We may disagree on whether that answers the gentleman's problem. I think it does.

Third, this act in no way is going to prevent important national laws from being enacted. They will be enacted. We may well pass on some of the mandates without funding, but there will be an analysis of the cost and the benefits that are involved in that.

Finally, I would just say our partners in this effort, the big seven, the National Governors Association, the Conference of Mayors, the National League of Cities, all of these agencies strongly would oppose this amendment, so I must urge a "no" vote on this amendment.

LEGISLATIVE PROGRAM

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

Mr. GEPHARDT. Mr. Chairman, I yield to the gentleman from Texas [Mr. ARMEY], the distinguished majority leader, to inquire about the schedule for next week.

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, we will try to rise today at 3 o'clock. I know Members are anxious to get home to their districts.

On Monday the House will meet at 12:30 for morning hour. Business will begin at 2 o'clock. Any votes ordered on Monday will be postponed until 5 o'clock.

At 5 o'clock the House will resume consideration of amendments to H.R. 5, unfunded mandates legislation. Members should be aware that the House will work late into the night on Monday night.

On Tuesday the House will meet at 9:30 a.m. for morning hour. At 11 a.m. the House will resume consideration of amendments to H.R. 5, and will hopefully complete consideration of the legislation. We will recess at 6 o'clock on Tuesday and reconvene at 9 o'clock for the President's State of the Union Message.

On Wednesday the House will convene at 11 o'clock and we will begin consideration of House Joint Resolution 1, the balanced budget amendment, subject to a rule being adopted.

Mr. Chairman, on Thursday and Friday, if necessary, the House will meet at 10 o'clock in the morning to continue consideration of the balanced budget amendment.

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

Mr. Chairman, I would first ask whether or not the gentleman believes there will be votes on Friday. I heard the gentleman say that the balanced budget consideration would go into Friday. If it does not go into Friday, if we are able to finish on Thursday, would there be other legislation that would be brought up on Friday?

Mr. ARMEY. If the gentleman will continue to yield, if we finish the BBA on Thursday, we would expect to go pro forma on Friday, with the possible exception of what is currently unexpected emergency legislation that could come up. I think we need to hold that possibility out. However, at this point we would expect that if we complete on Thursday, we would be pro forma on Friday.

Mr. GEPHARDT. Another question, Mr. Chairman, to the gentleman with regard to the loan guaranty on Mexico.

Mr. Chairman, would the gentleman tell me if that is scheduled for next week, or if not, when it might be scheduled? Is there any general idea?

Mr. ARMEY. If the gentleman will continue to yield, Mr. Chairman, as the gentleman knows, this is a very sensitive legislative issue. There are ongoing negotiations where we are trying to arrive at the language that would make it possible for us to act on that. We have not brought these to the point where we can make an announcement at this time. We will, of course, let Members know as soon as we know something.

Mr. GEPHARDT. Mr. Chairman, two additional questions on the balanced budget amendment.

On the balanced budget amendment, could the gentleman let us know the majority's intention with regard to making amendments in order on the balanced budget amendment?

Mr. ARMEY. Mr. Chairman, if the gentleman will yield further, again, as the gentleman knows, tonight is the deadline for filing. The Committee on Rules intends to meet Monday morning, I believe, and draft a rule. It is our intention, certainly, to grant a rule that is more open and fair than any we have seen on this subject for a long time, but the details of the rule, of course, could not be completed until the Committee on Rules has every request to consider on Monday.

Mr. GEPHARDT. Finally, Mr. Chairman, on the last couple of days the 1-minute speeches have been limited at the beginning of the day. Does the gentleman expect this to continue, or can he tell us if there is a policy?

Mr. ARMEY. Mr. Chairman, if the gentleman will continue to yield, that is, of course, something important to the Members. It is something we are reluctant to do. Our only interest in ever limiting them is only in the interest of getting us quickly to the legislative schedule for the day's work, in the interest of getting Members out as soon as possible. So only when we think it is necessary to facilitate the movement of the day's work for the Members' convenience would we make such a limitation.

Mr. GEPHARDT. I thank the gentleman.

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

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

Mr. VENTO. Mr. Chairman, it was not clear from the statement of the majority leader concerning whether we would be taking amendments on H.R. 5 starting at 2 or shortly thereafter. I think he spoke and said 5 p.m. that he was going to take amendments on H.R. 2. We are not clear on that. I would like clarification. I thank the Democratic leader for yielding to me.

□ 1310

Mr. ARMEY. As the gentleman knows, you cannot postpone or delay votes when you are in Committee of the Whole. If in fact we can work out some understanding regarding the acceptability of amendments that might be offered between 2 p.m. and 5 p.m., we could proceed with that work.

But in the interest of our Members who will be traveling on Monday, we cannot take under consideration an amendment that would require a vote before 5 p.m.

Mr. GEPHARDT. One additional question. Could the gentleman make a prediction on whether or not there might be late votes on Wednesday and Thursday into the evening, or do you know that at this point?

Mr. ARMEY. We will expect to adjourn at a normal hour. I understand there are important time conflicts. I see no reason for us to have any expectation other than a normal adjournment at around 6 p.m. on both those evenings.

Mr. CLINGER. Mr. Chairman, will the minority leader yield?

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

Mr. CLINGER. If I may address a question to the majority leader, you indicated that you anticipate that we would be in pro forma session on Friday. In the hopefully unlikely event that we have not concluded action on H.R. 5, would there be any possibility that we would return to H.R. 5 on Friday?

Mr. ARMEY. It is our intention to conclude H.R. 5 before we go to BBA. As we see, there are a great many amendments offered. There are enormous amounts of time being used on each amendment. We stretch out the hours of the working day wherever we can to try to accommodate that.

With the cooperation of the Members, though, it is still our hope and our belief that we can get this matter concluded in a timely fashion, so that it will not postpone our days for consideration of House Joint Resolution 1.

Mr. SOLOMON. Mr. Chairman, will the minority leader yield?

Mr. GEPHARDT. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

I would just like to point out to the membership that the Committee on Rules will be starting the hearing on the balanced budget amendment at 1 p.m. on Monday. I will just point out that already there are more than two dozen substitutes that have been prefiled with the Clerk. That means the hearings are going to last for quite some time. We intend to finish the hearing on the balance budget amendment on Monday, even if we go until midnight.

I would just forewarn the Members about that, because we intend to take up the rule on the balanced budget amendment on Tuesday.

Mr. GEPHARDT. Does the distinguished chairman of the Committee on Rules have any idea at this point of how the rule will be structured, or is that left to the committee?

Mr. SOLOMON. As the Speaker has, I think, confided to you, we want to be as open and as fair as we possibly can. There are almost, I think, two dozen

Democrat substitutes. There are six or seven Republican, I believe, and certainly we would like to take you into consultation and determine what would be a fair rule for the House. We would expect cooperation on both sides.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Taylor amendment.

I was listening very closely to my colleague from Pennsylvania. He has not assured me of the concerns that I have on some very important environmental issues affecting my State.

One issue that has been particularly important to the people of this region has been the work that we have done in trying to reclaim the Chesapeake Bay. The Chesapeake Bay has been the work of many States. The State of Pennsylvania, the State of Virginia, the State of Maryland, and the District of Columbia have all been involved in efforts to try to reclaim the water quality of the Chesapeake Bay. It has involved local governments, it has involved the private sector. There is a lot of cooperation.

But with this legislation, we run the risk of stepping backwards in our efforts to reclaim the bay and all of the work that we have done.

Let me just give an example. The nutrient level in the bay is one of our major problems. Water treatment facility plants directly affect the nutrient level in the bay. The Susquehanna River is a major tributary to the Chesapeake Bay.

Unless we have controls on water treatment that affect the Susquehanna, the work that is done by Maryland could be negated. It is only reasonable that we have certain national standards as it relates to multiple jurisdictional waters, such as the bay.

The bay is absolutely critical to the economic life of my State of Maryland, and it is extremely important to the quality of life of the people who live in this region.

I would hope that my colleagues would not want to do anything that would jeopardize the progress that we have made through sacrificing on land use, on fishing in the bay in order to try and bring back the quality of the bay.

Let us not make a mistake. Let us support the Taylor amendment.

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

Mr. Chairman, I rise to support and emphasize as a representative from the State of Texas the value of some very serious efforts that we have made in our community in Houston, TX, dealing with the broader viewpoint of safe water as well as the ability to maintain a healthy condition as relates to wastewater and sewage.

It is not a popular effort for local government to engage in the monumental task of dealing with the repair and rebuilding and the correcting of sewage or sewer problems. It is not something that our constituents care to hear about. But it impacts greatly the broad view of public health and public safety.

We in the broader community of Houston-Harris County have faced the constant need to clean our water and to provide a kind of system that allows for the treatment of sewage and to provide the adequate wastewater system.

I support an effort to avoid unfunded mandates. I have seen firsthand the burdens on towns and cities and county government. But each time that I have spoken to constituents as it relates to the question of public safety and the wastewater efforts that have been made on behalf of citizens, it is one that they support and advocate, for it clearly is an investment in the long-range improvement of local government and that physical structure.

I would ask the support of excluding those particular needs relating to wastewater, relating to sewage treatment which tend to go unattended to, not because local governments do not care about it because of the multitude of burdens that we have to face, but yet can have long-range negative impact if you have a situation of a violent overrun of sewage in a very poor and improper wastewater system.

Mr. Chairman, let me ask my colleagues to recognize that what we do in this House is long lasting. It remains in place. Let us support being responsive to the issue of unfunded mandates. Let us recognize that there are clear issues that need our special interest and concern.

Mr. BORSKI. Mr. Chairman, I wish to express my strong support for the amendment offered by the gentleman from Mississippi.

This amendment is badly needed and will make this bill work much better.

It is absolutely essential that we give consideration to the damage that can be caused by pollution of the Nation's waters.

The amendment offered by the gentleman from Mississippi would make sure that the health of our Nation's citizens is protected from water pollution.

The health of our citizens is not an issue that should be snarled in legislative wrangling and parliamentary debates.

Instead of subjecting water pollution laws to additional points of order, we should be directing our efforts to make sure that the health of all of our citizens is protected to the greatest extent possible.

Protection from pollution is a basic function of government—all levels of government.

The gentleman from Mississippi deserves congratulations for moving to protect our Nation's citizens from health problems associated with water pollution.

This is an important amendment that has a widespread national impact.

If we fail to adopt this amendment, we will have restricted the ability of Congress—our national legislature—to take action on water pollution. I do not believe the American people want less protection from water pollution.

The Clean Water Act has successfully controlled pollution and cleaned up many of our waterways during the past two decades. We should not be attempting to roll back the clock to the days when many of our Nation's major waterways were dying from pollution.

This amendment means we won't be reducing the protection that has been given to the health of the American people.

Mr. Chairman, I urge support of the amendment of the gentleman from Mississippi.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Mississippi [Mr. TAYLOR].

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. This is a strict 17-minute vote.

The vote was taken by electronic device, and there were—ayes 173, noes 249, not voting 12, as follows:

[Roll No. 23]

AYES—173

Abercrombie
Ackerman
Baesler
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield

Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—249

Allard
Andrews
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—12

Archer
Callahan
de la Garza
Dicks
Johnston
Lincoln
Livingston
McCollum
Reynolds
Stokes
Walsh
Yates

□ 1334

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. McCollum against.

Mr. BARCIA and Mr. BALDACCI changed their vote from "aye" to "no."

Mr. LAFALCE changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

□ 1340

AMENDMENTS OFFERED BY MR. TOWNS

Mr. TOWNS. Mr. Chairman, I offer two amendments, Nos. 133 and 134, as printed in the RECORD, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments is as follows:

Amendments offered by Mr. TOWNS: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) regulates the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of residents of other States, local governments, or tribal governments, respectively.

In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) regulates the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of residents of other States, local governments, or tribal governments, respectively.

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

There was no objection.

Mr. TOWNS. I thank the Chairman.

Mr. Chairman, let me begin by first commending Chairman CLINGER, the ranking member, the gentlewoman from Illinois [Mrs. COLLINS] and all of those who have been involved in this issue. And of course we were involved in this issue last year. But I would like to first point out that what we are doing this time is very different than what we did last year. So what I would like to do is to offer the amendments that I think strengthen the bill because I am trying to find a way to support the bill.

This en bloc amendment is designed to remedy a serious flaw. It would exempt from the coverage of this bill any Federal law or regulation that regulates States and local governments regarding interstate matters that significantly impact the health or safety of the residents of other States or local governments.

The problem is very simple. Suppose one State is dumping raw sewage from a treatment plant into a water supply that is endangering the health of the residents of an adjoining State. Under this bill, if the Federal Government ordered the polluting State to stop dumping the sewage into the water and orders the polluting State to clean up the mess it created, if the cost of the cleanup was a billion dollars, the polluting State would not have to fully clean up the water unless Congress gave them a billion dollars. This is outrageous.

This is not the kind of law that we should be identified with or sending out to other States or municipalities. If the State is deliberately endangering the health of the residents of another State, why should the Federal Government have to pay for that? Why should not it be the responsibility of the polluting State to pay for the mess it created?

As currently written, this bill contains a perverse incentive for the polluting State not to pay for the pollution and health and safety hazards it creates.

It is a disincentive. I think that is the last thing that we should try to create. We highlighted this problem last year. It is not a hypothetical situation. It is real. Interstate health and safety problems exist now, today, all over this country.

In fact, in Oklahoma they had to get a Supreme Court ruling to protect its water standards against downstream pollution from Arkansas.

Just a few years ago, New Jersey residents rightfully expressed concern about New York's hospital wastes washing up on New Jersey's shores. There is also a problem with incinerators blowing toxic smoke across State lines and adversely affecting the health of citizens in adjoining jurisdictions. States like New Hampshire, Massachusetts, Connecticut, and Rhode Island are constantly complaining that their air quality is negatively affected by air pollutants from New York and Philadelphia.

In conclusion, the State that should be held accountable for the creation of the burden is relieved of their responsibilities. They should have the responsibility and should not be allowed to walk away from it. We should not reward States for wrongdoing.

This amendment would prevent an interstate catastrophe. I would urge its adoption.

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

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

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

First of all, I would indicate to the gentleman from New York [Mr. TOWNS]

that we have discussed this amendment, we are very cognizant of the problems the gentleman is raising.

Mr. Chairman, we come back to what we were discussing on the previous amendment. That is that this would represent an exception, a broader exception, frankly, than the one we were discussing in the last amendment, because this basically, as I understand it, would apply to any legislation, any existing statute or any new statute that affected the public health and safety. That is a broader exemption than would have been contained in the previous Taylor amendment.

I just would make the same points again.

This does not represent in any way an invasion or abrogation or undercutting of existing legislation having to do with public health, safety, environment, or anything else. It is strictly prospective in application.

Second, it is clear that the sort of unique situations that the gentleman from New York talks about could well be the justification for an exception when the matter is debated.

I would come back to what the core of this is; the core of this is to try to establish a new relationship, a new partnership, if you will, between Federal, State, and local governments. There is no intent here in any way to undermine existing health or environmental or safety legislation. There is a provision where a point of order lies against a mandate that does not provide funding. That does not preclude Congress from passing that mandate through to the local governments, but it would require a debate on that, something we never have had before.

In the earlier debate, this does not take into account any of the benefits that might be derived from the mandate. I suggest at this point the only thing we do take into consideration at this point, what the benefits might be; we do not take into account what the costs on local and State governments have been. What this will do is require the costs to be a part of that mixture.

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

Mr. CLINGER. I yield to the gentleman from California [Mr. DREIER].

Mr. DREIER. I thank the gentleman for yielding to me.

I would simply like to associate myself with the remarks of the distinguished chairman of the Government Reform and Oversight Committee and say what we are creating here in fact is accountability. In the past we have seen the Congress regularly slip provisions into all kinds of legislation, which has imposed a very detrimental—had a very detrimental impact on State and local governments; we in the Congress have no longer been accountable.

As the gentleman says, it is quite possible that this could happen again, but the difference is that we have to say whether we are for it or against it, we have to go on record so that we as an institution and as individuals are accountable to the American people.

I thank my friend for yielding, and I am very supportive of his remarks.

Mr. CLINGER. I thank the gentleman for his contribution.

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

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

Mr. DAVIS. I thank the gentleman for yielding.

Mr. Chairman, I just heard a statement that when one State dumps pollution into another State, the polluting State would not have to clean up unless Congress gave them a billion dollars. That is not accurate, is it, under this legislation?

Mr. CLINGER. That would clearly be an overstatement of what might happen.

Mr. DAVIS. It could happen.

Mr. CLINGER. It could.

Mr. DAVIS. That could happen now, could it not?

Mr. CLINGER. Indeed.

Mr. DAVIS. Even without this act.

Mr. CLINGER. Exactly.

Mr. DAVIS. All we are doing here is accounting and that the individuals, whether they be States or localities, would have to pay and we would know what the costs are.

Mr. CLINGER. Yes; that does not come into the equation now. We do not have any requirement under existing law to enter into—to have any consideration of the costs. I would stress this is not about the merits or demerits of any program that we are talking about. The programs that the gentleman is addressing on this matter are all meritorious programs.

□ 1350

All we are saying is they should not be exempt from, or excluded from, a consideration of what the cost is, and that may well be that the benefits will be so persuasively presented by those that are promoting it that we would, in fact, pass the mandate through without the funding, but it would require us to be—in a judicious way to look at these proposals and make a determination up or down.

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

Mr. CLINGER. I yield to the gentleman from New York.

Mr. TOWNS. I ask, "Didn't this bill say that full funding, in terms of from Congress, in terms of the mandate, is supposed to be full funding? So, if it's full funding, then a State could very easily say, 'I will not move to clean this up unless the Federal Government gives me the money.'"

I think that is what the bill actually says, so my amendment would help to correct that, to say, "If you are killing people in another State, then it becomes the responsibility of you to stop doing that," and I think that is what we are talking about.

There are a lot of situations out there like that, so it is not just one isolated situation. We are talking about situations all over this Nation where this exists, and this bill would prevent that from being dealt with.

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

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

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Ohio [Mr. PORTMAN].

Mr. PORTMAN. Mr. Chairman, first let me say to the gentleman from New York I appreciate all the input he has made to this issue. We would not be here today on the floor if it was not for the gentleman from New York [Mr. TOWNS]. Chairman TOWNS last year in his subcommittee held three hearings on this subject, two field hearings, one in Pennsylvania, one in Florida, and a hearing here in Washington, and in those hearings we flushed out a lot of the issues we are now discussing.

Just addressing quickly the notion of full funding. It is true that if there is not full funding, it is subject to a point of order on the floor. Congress can always waive that point of order by a majority vote, and Congress can work its will in that way and give partial funding, or even no funding, to an important national priority.

Mr. TOWNS. Mr. Chairman, will the gentleman yield one more time?

Mr. CLINGER. I yield to the gentleman from New York.

Mr. TOWNS. I say to my colleague, "You know, what you're saying, and I think that we are talking about a health issue here, and I think that's the reason why I become very sensitive; you are saying, 'Trust us.' But you know I don't think we can go totally on 'Trust us,' because if you have a State that's doing harm to people that reside in another State, you know there is no real incentive for them to do anything about it."

So, I think that is the situation we are talking about. So, yes, we would like to trust, but we are talking about people dying, and that is what this issue is all about.

So I would like for the gentleman to think very seriously about adding this amendment because I think it strengthens the bill. I would like to vote for this, but I cannot vote for it knowing that we have this issue out there that could affect a lot of lives if we do not correct it here now.

Mr. CLINGER. I thank the gentleman. I would say to the gentleman that, as the gentleman from Ohio indicated, there is flexibility in the application of this point of order. And I

think that the sorts of situations the gentleman talks about could very well be unique situations that would require us to make the kind of decision at the Federal level that he indicates. But at least it would require us, as we are not required to do now, to really look at what we are doing, what the costs are going to be.

That is all we are saying. This is an information vehicle more than anything else.

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

Mr. Chairman, the Constitution assigns to Congress a unique responsibility for regulating affairs among the States. The Founding Fathers correctly anticipated that without a singular Federal power to regulate commerce, travel, and other interstate affairs, this country could not exist as a united nation.

That rational was the genesis of the commerce clause and the supremacy clause in the Constitution. It is also the underpinnings of this amendment. Once Congress abandons its responsibility to protect the health and safety our residents the integrity of our Federal system is jeopardized.

This is why I vigorously support the amendment of the gentleman from New York [Mr. TOWNS]. Under this bill a point of order can be raised against intergovernmental mandates that are not fully paid for by Congress. Thus, a premise behind H.R. 5 is that it is the Federal Government's responsibility to pay States not to pollute.

Under this bill, no State would pay for new requirements mandating it to clean up the air, the water or the environment unless Federal taxpayers foot the entire cost of the cleanup. This turns federalism on its head.

Let me give you a personal observation: The health of my constituents in the seventh district in Chicago was severely effected recently because the city of Hammond, IN, was polluting Lake Michigan, and that polluted water was filtering into the Chicago water supply. If this bill were law, the city of Hammond and the State of Indiana would have no incentive to assist in cleaning up Lake Michigan because sooner or later the Federal Government would mandate a cleanup, requiring full Federal funding.

I for one will not go back to my constituents in Chicago and tell them that I voted to remove my ability to protect them against the polluted water in Lake Michigan.

The supporters of this bill are fond of saying that there is no need to worry about health, safety, and environmental issues since existing mandates on State and local government will not be covered by this bill, but that is only, partially, true. If Congress decides to change essential parts of say our Superfund law to make environmental cleanup more effective, my reading of this bill is that these changes could trigger the bills coverage. The States could then refuse to comply with these changes until Congress pays them to do so.

Let us look at another matter of grave concern in our society. The breast cancer rates in certain cities and areas around the Long Island Sound are some of the highest in the Nation. Studies are now underway to determine the cause. If it turns out, as many believe, that these increases in breast cancer are caused by the deliberate dumping of toxic waste by municipal governments, this bill will severely limit our ability to provide a meaningful remedy. How can we tell women that our hands are tied and cannot help because the Federal Government cannot foot the entire cost of the cleanup. How do we tell pregnant women, like those living at Love Canal, who are still concerned that their unborn children may have birth defects caused by the intentional dumping of toxic waste, that we have legislated away our ability to remedy their problem?

H.R. 5 says that this bill will not apply to laws that are necessary for the ratification of international treaties. Implicitly, this bill says that interstate pollution is less important than treaty ratification. I defy anyone in this House to argue that the ratification of international treaties is more important to the American people than laws designed to protect them from the deliberate dumping of toxic waste from neighboring States.

H.R. 5 exempts from this bill laws that require compliance with accounting and auditing procedures with respect to grants or other money or property. What insane values are we imparting to our children when we say that auditing standards are more important to us than the health or safety of our constituents?

For those of my colleagues who are trying to decide whether to support this amendment, ask yourself this simple question: "Would your constituents want Congress to stop a neighborhood State from deliberately endangering their health?" If the answer is yes, then they should support this amendment.

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

Mr. Chairman, I have heard a number of scary stories told here that really do not apply to this legislation, if my colleagues take a look at what we are asking here. First of all, what this legislation is about is it forces Congress to finally be honest with the American people about the programs and the regulations it creates. Taxpayers deserve to know the price of a program or a regulation before they are forced to buy into it. This bill for the first time ever will force us to honestly determine the cost of mandates before we push them off onto local taxpayers.

Also this bill is about accountability. What are we afraid of here? Are we afraid to cost out what these new mandates are going to cost our State and local governments? Are we afraid of being accountable for the costs that then go on in terms of local taxes, raises in property taxes that we end up mandating? This bill for the first time is going to hold us accountable for the decisions we make, but we still have the flexibility, and I think we will exercise it in many of the cases proscribed by the other side of the aisle in terms of these interstate problems that are going to need some kind of Federal direction, some kind of Federal mandate, but at that point we will have the costs in front of us. The individuals are going to be able to pay for this downstream, are going to be aware of this and be part of the dialog. This is really true federalism.

Finally, this bill is about accountability and making Members of Congress stand up and cast recorded votes on substantial mandates with the full mileage of their costs by requiring extensive, extensive information on the costs of these mandates. This legislation is going to make us accountable for what we are too often explained as unintended consequences downstream of these actions.

Taxpayers in my jurisdiction are sick and tired of routinely paying for unintended consequences that should easily be foreseeable by Federal lawmakers. These will put this up front, and we will have the flexibility then to make the right decisions in a more cost-accountant manner.

□ 1400

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

Mr. Chairman, this is a part of a pattern which is rapidly becoming clear to all. We are hearing now on the floor legislation which has not been properly considered in the committees, because of an extraordinary level of haste on the part of all who are together in bringing these matters to the floor.

The amendment offered by the distinguished gentleman from New York [Mr. TOWNS] deserves support. The bill as it is drawn, again upon which no hearings have been held, would simply require that the Federal Government would pay States and municipal units of government for cleaning up their pollution which flowed across the boundary lines of States or municipalities into other States.

For example, California. California would be paid under this for cleaning up its pollution which affects people in Arizona, New Mexico, in Oregon, and other adjacent States.

In New York, New York has been complaining for a long time about the

fact that they are affected by acid rain and sulfur emissions from States in the Midwest.

Pennsylvania, from which enormous amounts of pollutants flow into the State of New Jersey, would be paid under this because of Federal requirements compelling it to clean up.

The amendment which we have here simply recognizes a number of important facts. The first is that the Governors of the several States over the years have suggested and insisted to the Congress that this be the practice under which we handled our environmental laws, that we set up Federal standards, and then allow and require the States to apply those standards. Nothing is wrong with that. And indeed all we are compelling is the States and the local units of government to do that which the ordinary duties of citizenship require.

We have prevented the bidding of one State against another for industry and jobs and opportunity by cutting corners on environment, by establishing Federal standards.

This amendment says that you do not have to have the Federal Government pay a State for doing that which it should. I have a letter which I will insert later into my remarks from the Governor of Wisconsin pointing out this same problem. I would remind my colleagues that the problem continues to exist today, that the western part of Michigan, a clean air area, is afflicted by the pollution which is coming from Gary and Chicago and from Wisconsin, from States just across the lake.

This amendment says that the Federal Government may protect the afflicted, may address the problems of the transfer across State borders of pollutants to water, groundwater, to air, or to the environment from one State to another.

I believe that is good policy. Failure to adopt this amendment assures that we will have to readdress this amendment again under the same kinds of irresponsible pressure that we confront today; that we will have to try to undo something which has totally rent the fabric of cooperation which we have built since the 1950's on clean air and clean water; and the protections we have had for the environmental protections of the people of this country.

It is not too much to expect that States will clean up their mess without being paid by the Federal Government. We do not require that the Federal Government compensate industry for that kind of action. Why is it that we would then say a State may set up a municipal waste dump, a hazardous waste dump, an electrical utility generating system, or a nuclear facility, without requiring the Federal Government to pay for them to take the steps that they should take simply as good citizens, and as we would impose on any ordinary person, or as we would impose upon any corporation?

I see over there on that side of the aisle many who were supporters of the Clean Air Act in times past. They would come to me and say "DINGEL, why don't you support a stronger piece of legislation in the Committee on Energy and Commerce?" I said because I want to be careful about how we proceed. I want to be sure as we go through this legislation, that we are not going to impose excessive or unwise burdens that are going to impair the competitiveness or the well-being of this country or its industries. But to take the opposite step and say now we are going to compel the Federal Government to pay for this kind of irresponsible conduct on cleanup, is unwise, unnecessary, and establishes a dangerous precedent.

GOVERNOR TOMMY G. THOMPSON,
STATE OF WISCONSIN,
December 15, 1989.

Hon. JOHN DINGELL,
Chair, House Energy and Commerce Committee, Washington, DC.

DEAR CONGRESSMAN DINGELL: I strongly support Congress' efforts to pass Amendments to the Clean Air Act which will improve air quality throughout the nation. However, I have some concerns about the impact of some of the proposed Clean Air Act provisions currently before Congress on Wisconsin.

Achieving equity and fair treatment for Wisconsin is my primary concern. This underlies many of the concerns I have with H.R. 3030. For example:

1. Proposals regarding measures to attain ambient air standards do not take into account ozone and volatile organic compound transported into Wisconsin from out of state;
2. Toxic substances provisions would, in effect, "penalize" our state for moving ahead with state-mandated control strategies; and
3. Acid rain reduction proposals do not consider Wisconsin's early, independent and substantial acid rain controls.

In addition, I have enclosed a report prepared by the Wisconsin Inter-Agency Clean Air Act Working Group which more fully describes my concerns, the potential impacts of these provisions on Wisconsin, and recommendations for changes. They are as follows:

I. ATTAINMENT OF AMBIENT AIR STANDARDS

1. Congress should formally establish a Lake Michigan Airshed Interstate Transport Commission and require EPA to abide by strategies unanimously agreed by Interstate Transport Commissions.
2. Congress should make EPA promulgation of Federal Implementation Plans mandatory when a state fails in its state plan development and delete the provisions from HR 3030 which would render all previous Federal Implementation Plan agreements moot.
3. Congress should make allowances in mandated ozone reduction requirements for downwind nonattainment areas, such as Southeastern Wisconsin, which are being impacted by transport from more severe upwind areas, such as Illinois.
4. Congress should adopt the Senate version of the volatile organic compound reduction requirements through the year 2001. Congress should also discontinue the annual percent reduction requirements after the year 2001. Instead, based on specific area needs, they should establish emission reduction requirements through the state implementation process.
5. Congress should adopt the Waxman/Dingell compromise language which sets up a two phase tailpipe standard and provides for a 2003 revision based on technical and economic reasonableness. Congress should also adopt provisions for full useful-life emissions control equipment warranties and strengthened new vehicle certification test procedures for evaporative emissions.

II. TOXICS PROVISIONS

1. HR 3030 should be amended to expand the access to alternate emission limits to sources previously required to reduce hazardous emissions under state or local mandate as well as those who voluntarily reduce emissions.
2. HR 3030 should be consistent with the Council of Great Lakes governors Substances Control Agreement. In particular, the listing criteria should be expanded to include the impacts of pollutants on plant and animal life, in addition to human health impacts.

III. ACID RAIN PROVISIONS

1. Congress should not adopt provisions which would require cost-sharing or emission taxes by all states to finance clean up in some states.
2. HR 3030 needs to recognize and make allowances for those utilities which had reduced SO_2 emissions far below 1.2 pounds SO_2 per MMBTU (British Thermal Unit) by 1985. The White House has indicated they are considering changes to address this issue, while maintaining a permanent emissions cap.
3. Provisions on repowering should be broadened to include non-pulverized coal boilers (e.g., cyclone boilers). The White House has indicated they will seek to correct this error before enactment.
4. Language should be added to HR 3030 to provide incentives, including emission allowances, or use of alternate fuels (such as wood), energy conservation, and renewable energy sources as methods to reduce sulfur dioxide and other air emissions, as long as they do not result in a permanent increase in allowable emissions.
5. HR 3030 should clearly delineate the extent to which industrial sources, independent power producers and co-generators are included. Emission restrictions for non-utility sources (if any) should only be considered if cost-effective as compared to other reduction alternatives.

If you have any questions or would like additional information, please contact any of the state agency personnel listed in the enclosed report or fee free to contact Mary Sheehy in my Washington office at 202/624-5870.

Thank you for your consideration of this matter.

Sincerely,

TOMMY G. THOMPSON,
Governor.

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

Mr. Chairman, I yield to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Chairman, I wanted to applaud the gentleman from Pennsylvania, Chairman CLINGER, and the members of the committee for the great work they have done in bringing this important bill to the floor. And I want to pay special tribute to a couple of Ohioans who have played a critical role in bringing the issue of unfunded mandates to the attention of the American people, our great Governor, George Voinovich, and my colleague

and very good friend, the gentleman from Cincinnati, Mr. PORTMAN. With his usual skill, insight and diligence, ROB PORTMAN has made this crucial reform possible.

As a former city councilman and county commissioner, I can tell you that for far too long the Federal Government has imposed its regulatory whims on the State and local governments. Like it or not, fiscally battered or not, our State and local governments have been forced to comply.

Let us be frank: Federal politicians have loved unfunded mandates because they are a way of putting huge new regulatory programs in place while secretly passing the tab along to the States and local governments. They have been taxing and spending while keeping the taxing part hidden.

Local officials know the story all too well. Too often they find that they must reprioritize local spending needs because Washington has given them another mandate that they just cannot afford.

Mr. Chairman, with H.R. 5, the party is over. Congress finally takes a giant step in the right direction. Congress finally takes responsibility for its actions and begins to treat State and local governments like partners, not like subordinates.

If we are going to impose new costs, we ought to at least be honest about it, and we ought to be on the record, and usually we ought not to do it at all.

I urge adoption of the legislation.

Mr. DREIER. Mr. Chairman, I would like to congratulate my friend from Cincinnati for his excellent remarks and to say as we listen to a number of people talk about the Clean Air Act, there is a sense that we are going to be doing absolutely nothing here. That is baloney. Between now and 1988 we are going to be spending $3.6 billion dealing with this, and this level of spending is obviously going to be proceeding. So the sense we are ignoring it is way off base. What we are trying to do is increase the level of accountability.

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

Mr. Chairman, I rise in strong support of the Towns amendment, which I believe will preserve the proper Federal role in regulating actions by one State that harm another State. Like so many of my colleagues, I strongly believe that the Federal Government should not impose unnecessary mandates or burdens on State and local governments without clear benefits, but the Federal Government should set standards in areas such as health and in safety and environmental protection that prevent one State from doing harm to another State. Without some national standards we would be helpless to prevent powerplants from dirtying the air of States downstream or to prevent polluters in upstream States from contaminating downstream waters.

I know the critical role that the Federal Government plays in meeting interstate environmental challenges from my work to protect the Long Island Sound. For years so many communities along the sound could not afford the modern sewage treatment plants that they needed to stop polluting the sound. With the Clean Water Act, and especially the National Estuaries Program, the Federal Government shared the cost for cleanup efforts with local communities, and we began to get the job done. That is a partnership, that is not a mandate.

But under this bill there is no room for partnership. Either the Federal Government picks up the whole tab, or the Federal Government stays out and lets local communities fend for themselves, even if it means that they keep polluting the air and water, they cannot afford to clean up alone.

□ 1410

Under this bill, the communities along the Long Island Sound would still be waiting to build the sewer plants that they needed. We ought to be expanding opportunities for partnership, as the gentlewoman from New York [Mrs. LOWEY] and I have tried to do with our wastewater protection program. As we learned, these partnerships do much more than help to protect our environment and our quality of life. It is not only the environment. They also help communities to expand local economies, to create jobs. That is an investment and not a mandate.

Yes, we need to reduce unnecessary Federal burdens, but we also need to expand the opportunities for Federal, State, and local partnerships and investment.

The Towns amendment will do just that. I urge a "yes" vote.

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

Mr. Chairman, I happen to represent an area of the world that has been impacted by pollution for over 14 years. My constituents have lived with the impact of pollution from foreign countries. I do have a problem with the position that somehow the Federal Government has protected the citizens of this country from pollution. It exists today and continues to exist with the oversight of the Federal Government.

I oppose the amendment and support the chairman's position for a lot of reasons. One reason, Mr. Chairman, is because I have served as a member of the State Air Resources Board for the State of California, a small intimate group of 32 million people, and have also served as a member supervising the environmental laws pertaining to hazardous waste for 2.5 million people.

Let me tell you, the biggest problem in protecting the public's health out in the real world, out there in America, is not the fact that we do not have enough Federal mandates but the mandates that are placed down are not based on protecting the public health. Many times the mandates care more about the procedure than the protection.

If my colleagues who have raised this issue that the Clean Water Act has done such great things, frankly, if they think the Clean Water Act is a perfect document, I would debate that to the end. We today have pollution that is flowing, that is federally allowed. I think that one of the things I would ask you to look at is that all we are asking for is we look at the cost-effectiveness, we look at the benefits the public is either getting or not getting and that the well-intentioned and misguided strategies of the past need to be put under the light, the light of reason, to be able to see if they really did do what you mean them to do. Did they accomplish the protection and would the dollars being spent on these programs be better spent on programs that could truly help the public and protect the public health?

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

Mr. Chairman, I wish to express my strong support for the important amendment offered by the gentleman from New York.

I compliment the gentleman from New York for recognizing the serious problems that could result if we restrict the Federal Government's ability to take action on pollution that crosses interstate lines.

This issue goes to the very heart of what a national government should stand for.

The Federal Government must have the ability to take positive action to prevent the residents of one State from being devastated by the pollution from another State.

There are numerous and repeated examples of disputes between States about the discharge of pollutants into the water and into the air.

If the Federal Government is stripped of the ability to step into the fray, the result will be total chaos.

Without adoption of the Towns amendment, there will be a strong incentive for upstream States to take every action they can to avoid reducing pollution.

They can save their money on pollution control that does not affect their own residents but hits directly at the residents of downstream States.

My own State of Pennsylvania has been a leader in reducing the nonpoint run-off that has degraded the Chesapeake Bay.

Without passage of the Towns amendment, there is absolutely no incentive for the other bordering States to join us in this effort.

In another well-known case, it was only through the continued enforcement of Federal environmental laws that the beaches of New Jersey were protected from sewage discharged in New York.

These are well-known examples but these problems exist throughout the country—in the Mississippi Valley, in the South, in the West.

If we fail to adopt the Towns amendment, we will be setting State against State. We will be inviting chaos and conflict.

Worst of all, we will be sacrificing the need to protect our environment and all of our citizens from the ravages of pollution.

Mr. Chairman. I urge a "yes" vote on the Towns amendment.

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

Mr. Chairman, I rise in passionate support of the Towns amendment. I think everybody ought to be for this amendment, if they believe that water flows and wind blows.

Now, no one has proved to me that water does not flow and wind does not blow. And I do not know anywhere where it honors State boundaries. And I must say, for Members saying, oh, wow, but we would not want the big heavy Federal Government to come in and tell States and localities what to do, let us just think about that in another context.

States and localities are all citizens together under this great republic. That flag behind me has a star for each of those States. And I hope that star means each State is trying to be a good citizen.

Now, if we turned it and put it into a family context and we said, this country is also made up of many families and some families do not want to take care of their families, we would not want to have a Federal mandate to do that. What are we talking about? Everybody is supposed to be a good citizen. And this bill is saying, look, we are not going to give excuses to States and localities to pollute.

And then what happens is, someone says, well it just costs too much to clean it all up. You throw up your hands. It would be like child support enforcement. We tell people they ought to pay their child support, but if they do not, we will pay it, the Federal Government will pay it, because we would not want to have an unfunded mandate on a runaway. Oh, no. Why? What do you mean? This is their responsibility. The responsibility of the States and local governments represented by the stars on that flag are that they be good citizens. That is what this whole republic is built on.

I think we all have horror story after horror story. The only Members I can see that vote against this amendment are Members who are at headwaters so they can pollute everybody else and then just say, hey, this is great, have a nice day. Or Members whose wind, they are at the top. They never are downwind. Anybody who is ever downwind of anyone else or downstream of anyone else is crazy not to insist that all of the States sharing either the air or the water behave themselves.

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

Mr. MILLER of California. Mr. Chairman, the gentlewoman makes a very important point. We are now the recipients of a vast amount of knowledge that is imparted to use because of the advances in photography and in the satellite monitoring. And obviously what we see and what we show our schoolchildren and our families and others and the citizens of this country is the ramifications of local actions that spread far beyond the borders. The areas of Arizona and Colorado and New Mexico receive most of their pollution out of the southern California air basin. The people who travel and spend their hard-earned money to go visit the Grand Canyon cannot see across the rim not because of what happened in Arizona or in the Grand Canyon but what happened hundreds of miles away in southern California.

If you look at the satellite photos and you see the pollution that comes out of Alabama, out of Georgia, moves down to the Florida Bay, moves around into the Florida Keys, and up the other side of Florida, and if it is not treated. And what this legislation says, if those same mayors and those same Governors that do not like unfunded mandates, do not like the cost, do not like timetables and do not like standards prevail, then everybody goes their own way. You put in the pollution at the top of the Ohio River or you put it in in the Mississippi River and then other people who want to try to clean up their water, either because they want to use it or they are responsible in putting it back into the river, find that it is far more expensive for them to do that.

That simply is unacceptable. That is not a nation. That is not a united nation. That is not about citizenship. That is about making individual, little decisions about how you can push it off onto somebody else. Because as we advance, as we find out more about air pollution and water pollution, then if we do not, as a Federal Government, agree to pay that and they can prevail on the point of order, and we do not waive that, I understand the mechanism here.

I also understand this is a democracy. If they prevail on the point of order, then we simply lose the ability to put that technology out there for the benefit.

□ 1420

Let us look at what we have achieved in this country. Under this great burden we have achieved the highest standard of living in the world. We have achieved the cleanest air and the cleanest water in the world.

The point is that those are the ramifications of when 220 million people try to live together. We can look everywhere else in the world and see the ramifications.

The CHAIRMAN. The time of the gentlewoman from Colorado [Mrs. SCHROEDER] has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, just as we do not allow families or members of families to be dysfunctional, we cannot allow cities, States and counties to choose not to do what is socially responsible for the good of the people of this Nation. We have had these basic fights.

We have had the people of New England fight against the people in the Ohio Valley about scrubbers on coal plants and obligations and fuels to be burned. We have had the struggles between the automobile companies and the manufacturers of gasoline in cities, and in the city of Denver the gentlewoman has been through this.

Why do we do this? Because it is our social responsibility. I thank the gentlewoman for raising this point.

Mrs. SCHROEDER. I thank the gentleman from California for pointing this out, because this amendment is about good citizenship. I think what we should be doing here is encouraging good citizenship in this Republic. This goes right to the core of this; not "Ha, ha, we are upwind, we can do this to you," or "We are upstream, we can do this to you."

There is nothing that makes us angrier in my State of Colorado, where we think we are the lungs of the Nation, to get off the plane and be coughing frantically because stuff is blown in from another State that we cannot do anything about. Now that we know environmentally how interconnected we are, we all must work together through our local governments and through the Federal Government to figure out how to do it. No one can pay for all of it.

We all have to do our fair part. There is blame that goes everywhere for having gotten where w e are, but there is also some blame-sharing and some payment-sharing we are going to have to do, because we just do not have the money to clean it up.

Just to say to the American public "So go buy bottled water, so go get an air mask," that is not a good excuse.

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

Mrs. SCHROEDER. I am happy to yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, I appreciate the gentleman from California [Mr. MILLER] altering his statement regarding the point of order.

I think the point needs to be made, because there were some misleading statements earlier, both by the gentleman from Michigan [Mr. DINGELL], the former chairman of the Committee on Energy and Commerce, the gentlewoman from Colorado [Mrs. SCHROEDER], and the gentleman from California [Mr. MILLER] that somehow we could never have national standards again after this bill was passed.

As we know, it does not apply retroactively, only prospectively. Then it simply requires that Congress, through a considered judgment, with information we do not currently have, make a judgment with a 51 percent vote, a constitutional majority. The gentleman talked about——

Mr. MILLER of California. That is the current law.

Mrs. SCHROEDER. That is the current law.

Mr. PORTMAN. That is not the current law.

Mrs. SCHROEDER. Reclaiming my time, Mr. Chairman, coming from a small State, we know how rapidly one could get rolled in this body. If the Members remember, we assign each State the number of Representatives by their population. When we get dirty water from larger States or when we have people taking stuff away from us, or they are blowing air in on us, they could have many more numbers and say "We do not want to spend the money to clean it up, thank you very much."

What I am saying, Mr. Chairman, is the gentleman is putting another barrier in and really not encouraging good citizenship.

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

Mr. Chairman, I would just say again, to reiterate the point that has been made several times in these debates over potential exemptions to this legislation, this is not a debate about the merits of individual mandates. This is a debate about whether we have the cost information that we do not currently have.

I would disagree with my colleague from California as to the costs of legislation. This forces CBO, the Congressional Budget Office, to do a detailed accounting of what the costs are.

The committees, incidentally, also have to do a detailed analysis of costs and benefits of the legislation. That legislation then comes to the floor.

We have something in this legislation that is not currently guaranteed, which is a debate, an informed debate on the issue. Can the Members imagine that, in the U.S. Congress actually debating the unfunded mandate issue, and then someone can raise a point of order and that point of order can be waived by a majority vote.

The gentlewomen from Colorado [Mrs. SCHROEDER] may some day be in the other body, and in that case the smaller State would be more represented, but in our current situation, of course, we each represent the same number of constituents, and by majority we constantly enact legislation.

We enacted the Clean Air Act. The Clean Air Act could be enacted again, or similar legislation. All we are asking is that that be an informed decision. That information is not currently available.

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

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

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

Mr. Chairman, I would like to compliment the gentleman on his statement, and then just underscore, my friend, the gentleman from Martinez, CA [Mr. MILLER], talked about the great advances that we have been through environmental legislation which has emanated from this institution.

However, what we are saying is, "Hey, he may be right in some areas, but let us be accountable, and let us make sure that we know exactly what the cost will be to those items as we look toward improving environmental standards and a wide range of other areas," rather than having these things surreptitiously stuck into legislation and then as amazing cost burden passed on to State and local governments.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, one of the problems, again, coming from a smaller State where we have often received the dregs of what other States did not want, one of the groups that I can think of that would be against this amendment would be a group like Mutants for Radioactive Waste, because if you look at Nevada and Colorado and New Mexico, that is where everybody wants to dump radioactive waste. That is where everybody is perfectly willing to dump dirty water or salt water. We have trouble with salinization of water.

Mr. Chairman, let me say that if we take the State of California and the State of Nevada, how much money do Members think the State of California is going to be willing to spend to clean up air for the State of Nevada.

Mr. PORTMAN. Reclaiming my time, Mr. Chairman, I would just say to the gentlewoman that the situation has not changed from the current situation. We passed a Clean Air Act. It affected some States more than others. We did it by constitutional majority. We could do the same thing with regard to the unfunded mandate legislation.

Mr. Chairman, this legislation does not change that. That is a reality in this body, and should be a reality in this body. I would say also that it was interesting listening to the analogies made earlier. Our State and local government partners were being termed to be part of our family, but they were the children. And somehow we had to tell our children what to do and what not to do.

I think we should view them as our true partners. That is the whole idea of this. Let us give them the benefit of having an informed debate on the costs and the benefits of legislation, and the costs and benefits of whether a mandate makes sense. That is all this legislation asks for. It is a very reasonable, balanced approach.

Many people had talked last year and many people had cosponsored legislation that would have banned all unfunded mandates. That is not what this legislation is about. That point has been made several times during the debate over the last 3 or 4 hours. Basically, we have had the same debate.

It needs to be made clear to the people who are watching and other Members of this body, this is about providing cost information. It is about having a debate on the issue and then, yes, accountability, having a vote up-or-down on the issue of the unfunded Federal mandate.

Mrs. SCHROEDER. Will the gentleman continue to yield?

Mr. PORTMAN. Mr. Chairman, I do not have much time, but I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in my part of the country, partners pay their fair share. They cannot say, "Let us be partners, and then you pay." That is not a partnership. Actually what we are talking about, if we do not pass this amendment, is denying that equal partnership where we all sit down and all have the same star in the flag, carrying our same load.

Mr. PORTMAN. Reclaiming my time, Mr. Chairman, I would say that is a debatable point. I would say our partners in local and State government feel they are paying far more than their share.

I would say that the citizens of the United States who are paying hidden taxes, where we take the credit for imposing mandates on State and local government, they pay the taxes, whether it is property taxes at the local level, State income taxes, or State sales taxes, that is not a fair system. That is the current system. I think more than their fair share is being paid at that level.

We need to have an informed debate on the issue. That is all this legislation does. Whether it is health and safety, whether it is environmental issues, we are just asking for the information and a debate on the issue.

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

Mr. Chairman, I have been supportive of this type of legislation. I have voted for it when I was in the State legislature. I have been supportive since I have been in Congress.

What is in front of us right now, though, is specifically the Towns amendment, and what it deals with in terms of interstate pollution.

Mr. Chairman, as has been pointed out previously, for Members here who are from upwind States or upriver States, it is not quite the same type of intensity that it has in States like Florida. Florida in many ways is the ultimate downriver state. As far as I am aware, we have no rivers that flow into other States. We are the repository of downstream pollution from other States, whether it be Georgia or Alabama or Mississippi.

In a State like Florida, and in a district like my own, which is the downstream end of the downstream State representing the south end, the tip of the State, Florida Bay and the Everglades area, where it is the downstream end of the downstream State, we have very little control over what occurs upstream.

Specifically, again, Mr. Chairman, if we focus on what this amendment is about, in parts of this country like Florida, without this amendment passing a very well-intentioned bill and a very good bill will have some exceptionally bad results.

Just as we see progress being made, particularly again, in my State, in my district in Florida Bay, some of that progress, and the law is changing on it, and the regulations are changing on a yearly basis, some of that progress will clearly be a detriment.

There are other areas in the country that have similar concerns.

□ 1430

There are other areas in the country that have similar concerns, and what I would hope is that Members on the other side of the aisle who are in communities and in districts and in States that have these unique type problems focus on their district concerns more than their leadership concerns in the vote when it comes up this afternoon.

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

Mr. Chairman, I know that our debate has been moving along and we are trying to get to a vote before our time runs out, but I want to make a point. In listening to the debate from those who are opposing this piece of legislation, I do not believe that disclosure is against the public interest. That is what this bill is all about. It is about disclosure. When we bring this information forward so Members understand what they are voting for, the cost, how much it is going to cost and how that is going to be allocated among the States, I do not think it is bad. In fact, I think it benefits the public interest.

I come from a State legislature where, when legislation came before us, we understood what that piece of legislation was going to cost because we had some estimates before us. We not only understood how it was going to affect our State general fund, but we understood how it was going to impact potentially the special districts that were within the State, to understand what it was going to cost the cities and the school districts. When we became better informed, we began to understand how best to apply the piece of legislation.

In some instances where it may have become too expensive for small communities, then we would provide an exemption. When we looked at what the benefits were to be accrued and what it was going to cost a small community, then we could begin to apply the knowledge to come up with a better piece of legislation.

I am standing here today to support this piece of legislation because I happen to believe that disclosure benefits the public interest. That is what this bill is all about.

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

Mr. Chairman, I rise in strong support of the Towns amendment. The flaw in this legislation which he is attempting to correct is at the heart of our Federal system of government. There are responsibilities that clearly must be directed by the Federal Government and which, to be effective, must be complied with by State and local governments as well as the private sector.

We should not forget that our Constitution, including the interstate commerce clause, was written in the context of the shortcomings of the Articles of Confederation. Turning to the words of Alexander Hamilton in the Federalist Papers:

> Not to confer in each case a degree of power, commensurate to the end, would be to violate the most obvious rules of prudence and propriety, and improvidently to trust the great interests of the Nation to hands, which are disabled from managing them with vigor and success.

We should not create today, more than 200 years later, the same disability to effectively address compelling interstate problems that the framers of the Constitution intentionally worked to avoid.

In discussing this point, Madison referred to the case of one State disrupting the shipment of goods destined for another State and rightly pointed to the need for the Federal Government to have authority over such matters. Today, the same need exists in many instances where the actions of one State or locality impact on residents of another State. We can all think of instances in our own communities where it only makes sense that Federal policy must be implemented to protect the citizens of our own State against the harmful acts outside our own State's borders.

I have talked before during this debate about the problems confronting the Long Island Sound. The deterioration of that body of water has had a clear harmful effect on the people of New York. The degradation has hurt our economy, costing jobs. It has destroyed a valuable recreational resource. It has undermined property values. And that deterioration has been caused not only by New York, but by activities in Connecticut, Massachusetts and beyond.

If this Congress does not have the authority to require State and local governments in all of those States to bear shared responsibility to address this problem, we will have no choice but to abdicate our constitutional responsibility to achieve a remedy. This is certainly not the answer those I represent would want.

Some of my colleagues might say that this legislation will not stop us from addressing such problems, but will simply require the Federal Government to cover the costs of our mandated policies. But I ask my colleagues, does that indeed make sense? A simplistic answer might be yes, but on reflection we can all see that clean water requirements not only have interstate benefits but also have important and valuable local benefits. In light of that, while Federal help is totally appropriate, a local contribution is justified as well.

As this amendment is considered, I urge my colleagues to reflect on the words of our Founding Fathers about the shortcomings of the Articles of Confederation and to think about problems facing their own constituents. As we work to address legitimate concerns about intergovernmental relationships, the experiences of our Nation's early experience with the Articles of Confederation should not be ignored.

As I have said before, Mr. Chairman, reforms are needed to bring about an end to the senseless unfunded mandates which we all know exist and which can be cleared away. But we should not destroy our Government's ability to effectively fulfill its responsibilities to protect the citizens of one State from harm caused by unwise policies in another State.

As the Articles of Confederation prove, these interstate issues can only be sensible, effectively and fairly resolved at the Federal level.

I urge my colleagues to support the Towns amendment.

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

Mr. Chairman, this is one of those "I had not intended on making a speech" speech. But it seems to me as I listened to the debate between the gentleman from Ohio [Mr. PORTMAN], the gentlewoman from Colorado, and the gentleman from California in regard to this partnership effort that we have in trying to establish safeguards for clean water and clean air and all of the things that we must do to ensure our country have the cleanup and the safety of every consumer and every citizen.

I think the remark was made about a partnership effort in children as being part of the family. The gentleman from Ohio [Mr. PORTMAN] touched on this just for a moment, but I think it bears some amplification, more especially as it applies to this amendment.

An example I would like to bring is that of a small community in Kansas in my district by the name of Pretty Prairie. Now, Pretty Prairie has under 1,000 people. It has been in a growing dispute with the EPA for the last 4 or 5 years.

The EPA in their infinite wisdom has reduced the level of nitrates in regard to what is safe and not safe from 20 parts per million to 10. And all of a sudden the EPA through the State agency informed this small community that they were out of compliance.

Some 600 to 800 people were forced to try to come up with some kind of a plan to address the EPA dictate, or the mandate. We are talking nearly a million bucks. A million bucks to develop a new waterworks or face all sorts of fines and problems.

This community asked the EPA whether or not bottled water would substitute. Now, why do we have a change in the nitrate level moving from 20 parts per million to 10? That is to prevent the blue baby syndrome. Except there is one problem here that nobody seems to understand from the EPA. Nobody was sick. No child was sick. There has never been a case in Kansas in regard to the blue baby syndrome.

But all of a sudden here is Pretty Prairie having to come up with a million bucks to change their entire waterworks.

□ 1440

So the community said, fine, we will use bottled water, but that does not suit the EPA. We are still in discussion after 4 or 5 years with this mandate that is about to put this town out of business.

That is the kind of parent-child relationship it seems to me is what is wrong about this. This has happened all over my district. I can give case after case after case where there is a growing rebellion in regard to the partnership effort that should be established with all of the alphabet soup agencies that come down with these mandates. In Kansas today in 105 counties, all of the county commissioners have to spend at least half of the budget on these mandates, and in many cases they are counterproductive, they do not apply and they are just downright silly.

Let me give one other example I am worried about in regard to the Towns amendment. I have great admiration of the gentleman. But in St. Francis, KS many senior citizens came to me and signed a petition and said why are you increasing our trash fee three or four times as much as the current fee. These are senior citizens who are now living on fixed income. And the EPA there, through the landfill regulations and through the State agency, said from date certain last October you are going to have to have all of your trash hauled to a regional landfill. There are two problems. One, there was no regional landfill, and there were not any trucks to haul the trash.

There was a suggestion made that we would go to Denver, but Denver did not want it. That would simply go across the State line. The Towns amendment obviously would simply prevent us from really trying to focus on that kind of a mandate.

So here are the senior citizens on fixed income in St. Francis, KS saying to the gentleman from New York [Mr. TOWNS], the gentlewoman from Colorado [Mrs. SCHROEDER], and the gentleman from California [Mr. MILLER], why are we paying for this mandate. I will tell my colleagues what will happen. Every senior citizen there will get the neighbor boy to come and take the trash and put it in a pickup truck and they will dump it in a ditch, and we will have trash blowing all over the Great Plains as a result of this damn fool mandate, and it is interstate.

Let me give one other example if I might. Some time ago the EPA proposed 65 mandates to help clean up all of rural and small-town America.

The CHAIRMAN. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

(Mr. ROBERTS asked and was given permission to proceed for 2 additional minutes.)

Mr. ROBERTS. Mr. Chairman, –I was very interested in number 16 or 17 in that list. It was an effort by the EPA to control something called rural fugitive dust, rural fugitive dust. So we called down to the EPA and said what on Earth are we talking about and we could not get an answer. It was one of those things where you call one person after another person after another person. Obviously, with the interstate amendment that the gentleman has proposed, rural fugitive dust would go from one State to another.

We finally reached somebody who was able to explain it to me, and I said what is the problem. She indicated to me, "Well, Congressman, you've got a lot of rural dust out there and it is dangerous to your health." I said, "You're telling me that and I am from western Kansas." She said, "Yes, sir." I said, "Well, what do you plan on doing about it?" "Well, we can simply mandate that water trucks go out in the morning and afternoon and spray the country roads, and then you won't have the rural fugitive dust."

This person was serious. If Members do not think that that mandate was a little specious or a little silly, we have mandates like that. What on Earth would the Towns amendment do in regards to preventing us from exposing this kind of ridiculous mandate to force many of our communities to get in water trucks and spray every rural road in Kansas? That is ridiculous.

If in fact this whole entire effort is vague according to the other side who is opposed to this, my word, the gentleman's amendment is as vague and as wide as a barn door.

I urge the defeat of the gentleman's amendment. We should proceed. We should not pass this exemption. This is a killer amendment, and in case if in fact there is any State that is worried about a very pristine and marvelous lake or area or whatever we are trying to protect, all we have to do is come to the floor like we are doing today, debate the issue, waive the point of order, and protect it. All we are asking for is a debate.

So, in that regard I respect the gentleman. I think his amendment should be defeated, and I think we should proceed, especially at this late hour.

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

Mr. Chairman, I rise in strong support of Mr. TOWNS' amendment.

I believe that this amendment addresses a glaring flaw in H.R. 5 as it is now written. The flaw is that the bill, without the Towns amendment, could deprive our constituents of the protection they may need against significant impacts on their health and safety which emanates beyond their borders, and therefore is beyond the control of their State and local governments.

H.R. 5 could strip from our constituents these basic protections, by making it more difficult for the Federal Government to perform its fundamental function of protecting the health and safety of our citizens.

While there is room for legitimate difference of opinion as to the appropriate functions of the Federal, State, and local governments in many arenas, I believe that with respect to at least one matter this issue is well settled:

That the Federal Government does have a role in protecting citizens downstream States from serious health impacts caused by pollution from upstream States and localities.

Water pollution knows no political boundaries.

Without the provisions of the Clean Water Act that place obligations on States and local governments, many downstream States would never have the possibility of clean water.

We have all heard of situations where pollution from one State or locality adversely impacts citizens in downstream or adjacent States.

Many of these examples involve discharges of sewage by municipal governments. For example:

Residents of New York and Connecticut are familiar with interstate pollution of the Long Island Sound caused by discharges of sewage.

Residents of Mississippi and Louisiana have seen the effects of being downstream from dischargers of inadequately treated sewage.

The conditions that gave rise to the boil water advisory in the District of Columbia a little over a year ago were in part the result of conditions in upstream States.

Lakes in upstate New York such as Lake Champlain are being impacted by pollution from Vermont as well as New York.

Even though H.R. 5 is not intended to apply to current laws, it still would make it more difficult and more cumbersome for the Federal Government to fulfill its duty to protect the citizenry from significant health and safety consequences of transborder pollution.

It could do so by limiting the Government's ability to add new requirements where necessary to protect human health, and reducing or excusing those requirements where Federal funding is reduced.

I noted earlier that we should call H.R. 5 The Law of Unintended Consequences. The Towns amendment provides a perfect example of what I can only assume was an unintended consequence of H.R. 5—that the bill restricts the Federal Government's ability to protect downstream citizens from significant health and safety impacts that their State and local governments may be powerless to prevent.

A vote against the Towns amendment is a vote to make it harder to protect the citizens of your State against significant health and safety impacts from upstream State and municipal sources.

I urge my colleagues to support the Towns amendment.

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

Mr. MINETA. I am pleased to yield to my colleague, the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, what I understand from all this debate and the Towns amendment and also the one that preceded it by the gentleman from Mississippi especially is that it appears to me that this legislation, although well-intended, and having a good goal and a good purpose, still has, like the gentleman says, unintended consequences potentially within it. That concerns me, that there has not been really sufficient development in this legislation.

What I mean by development is I would like to ask the gentleman what various agencies of the Federal Government or of any State government came and testified on this legislation.

□ 1450

Mr. MINETA. On this legislation specifically, as a member of the Committee on Public Works and Transportation, and now the Committee on Transportation and Infrastructure, we have held no hearings on this issue.

Mr. VOLKMER. There have been none whatsoever. And, therefore, we do not have any idea of the possible impact except for those who are proponents of the legislation, what it may actually do.

Mr. MINETA. My good friend from Missouri is correct.

Mr. VOLKMER. But as far as those people who are working with it day in and day out and have done so for years, there has been no input whatsoever?

Mr. MINETA. My good friend from Missouri is correct.

Mr. VOLKMER. I have one other question I would like to ask to me that is something I have thought about ever since this legislation. I am one of those again who believes in States' rights. I do not believe in unfunded mandates necessarily.

But I see consequences of what this legislation may do.

Let us assume that instead of this Congress having this legislation, that 30 years ago another Congress had passed this legislation, what would we have today with our streams and our cities as far as pollution and water and all of these other type of things?

I can remember back when, and I am sure there are other Members in this body who can remember back before we had wastewater treatment facilities and a lot of raw sewage was going right into the streams. Now, if the Federal Government had been required to go out and pay the total amount for all of those and not have the present law, but we had to pay for the total amount of all of those, I question whether that would have been done. The same thing with all of the antipollution that went on.

But was it the Federal Government that caused the pollution? Was it the Federal Government that was causing all of the raw sewage to go into the streams, was causing the chemicals to go into the streams, was it the Federal Government that was causing all of the pollution to go into the air? I do not believe so. I do not believe so, that the Federal Government——

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

(At the request of Mr. VOLKMER and by unanimous consent, Mr. MINETA was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. So what we are saying is that the Federal Government should pay for what other people, whether it is private industry, whether it is communities, should pay to do what they should have done anyway, what they should have done on their own without the Federal Government telling them what to do, unless proponents of this bill really believe that we should not do anything on safety, health, as far as pollution itself, and that we should just let the local communities do what they want to do, and if they or the industries, they want to pollute, they can go ahead and pollute, and it is only when the Federal Government says, "We will pay for what you should not do anyway," that it is going to be cleaned up.

So I think this legislation needs a heck of a lot more time than it is getting.

Ms. NORTON. Mr. Chairman, will the gentleman yield?

Mr. MINETA. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. I thank the gentleman for yielding.

I appreciate that you raised the incident affecting every Member, the water crisis here in the District of Columbia as an example of interstate problems created by this bill.

The Towns amendment, in a real sense, gives us the best case for an exception, because it cures a federalist defect in this bill, and that is interstate wrongdoing.

In a real sense, it is why we created the Federal Government in the first place. The Articles of Confederation left us with no way to deal in an equitable fashion among the States, and we created this federalist system.

I want to say a word about motivation here, because all day we have heard that the point of this bill is information only. Well, let me remind my colleagues that we have had to fix this bill so that there was more than a point of order, so that there will be a point of order vote.

I really wonder why that was not in the bill to begin with, if the point was to provide Members with information before they voted—when you did not even provide a way to vote in the first place. If it was for information only, then why is it not the case that the information would come out in debate, my colleagues?

Are people so afraid of mandates, which they should be, then the kind of debate we are having here today would surely have been enough to deter Members from voting to put mandates on their own people in the States and cities.

I will tell you that you are disguising, and not very well, the real motivation of this bill. You want to now force

to have a vote, to have an isolated vote, on costs, because you know that that is the heart of——

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

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

Ms. NORTON. Because you know that that is the most difficult vote; having been forced now to vote, you want to have an isolated cost vote, a vote that will force debate on cost alone when we could have had the kind of debate we had here anyway highlighting cost and getting the same result, if that is all you want.

Moreover, the fact is that you are forcing a vote on full funding. You have got a full funding standard in this bill. The fact is that in the federalist system, we have always been about shared funding. We always think that if there is dirty water or dirty air that the State or the city ought to take some part of that cost.

Why have you not put a provision for shared funding in the bill, if that is, in fact, what you mean? You put full funding in the bill, because, again, you want to make it almost impossible to support new bills, and some of you have said as much, have said you want these bills repealed.

This is an interstate compact, my friends. By ignoring or opposing the Towns amendments, you are giving a direct incentive for the States to commit wrongdoing, one against the other. You are creating disputes among the States that will carry them into the courts. You are wiping out a central feature of federalism.

You ought to own up to it.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New York [Mr. TOWNS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 252, not voting 29, as follows:

[Roll No. 24]

AYES—153

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

NOES—252

Ackerman
Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—29

Archer
Barton
Bliley
Burton
Collins (MI)
de la Garza
Diaz-Balart
Dicks
Fowler
Frost
Gephardt
Houghton
Johnston
Lincoln
McCollum
McCrery
McNulty
Menendez
Metcalf
Neal
Ortiz
Quillen
Reynolds
Seastrand
Tauzin
Velazquez
Visclosky
Walsh
Yates

□ 1511

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Quillen against.

Mr. FOGLIETTA changed his vote from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

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

Mr. Chairman, this bill is about unfunded mandates, and one of the mandates that we have in our country is to educate all of our children who wish to attend public schools. This mandate includes the children of military personnel living on military bases all around our country. Their children, like all other children, are entitled to attend local public schools.

The difficulty is that their parents pay no taxes to support those schools, and we have had since 1950 in our law provisions under a program called Impact Aid that provides direct Federal payment in support of local schools that provide and meet the educational mandate for children on military bases. This is a mandate, Mr. Chairman, that has been vastly underfunded. This, to me, is an obligation of the Federal Government, very much like a contractual obligation that the Federal Government must pay to insure that it is paying a fair share of the costs of educating these children.

Mr. Chairman, we have people in my own party who are suggesting that Impact Aid be zeroed out, and I might say, Mr. Chairman, that if Impact Aid were zeroed out, it would create a huge

unfunded mandate, and it seems to me that would be totally inconsistent with our policy of not putting unfunded mandates on State and local government. The cost of this unfunded mandate would approach a billion dollars, and I can say to my colleagues in the House that even today, under the Impact Aid program that we have, there are schools in the United States, and those in my own district, that are going bankrupt because we do not provide sufficient support for the education of children of military families. Outside of the Great Lakes Naval Training Facility in north Chicago, IL, in the 10th Congressional District, School District 187 struggles to provide education to children there. Forty-five percent of them come from families at Great Lakes, and the Federal Government provides only 27 percent of the cost of educating each of those children, leaving 73 percent for the local tax base. The difficulty is the local tax assessment base cannot support that mandate.

□ 1520

So we already have an underfunded mandate, not only in that school, but in schools like it all around the country. I can assure my colleagues that if we were to zero out Impact Aid and have the Federal Government walk away from its obligation to help at least to pay for those children, we would be having school districts going bankrupt everywhere in this country. We would have lawsuits filed against the Federal Government everywhere in this country.

My school district went bankrupt last year, and luckily the State of Illinois came through with funds to help. But if this happens, if we stop funding Impact Aid or reduce our support for Impact Aid, we will have created the greatest unfunded mandate around, and it will lead to chaos in our public education systems in cities and towns all around this country.

Mr. Chairman, I would ask that people understand that there are programs that are ongoing, that there are mandates that already exist, which if they are not fully and responsibly funded, will create the greatest unfunded mandates you have ever seen.

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

Mr. Chairman, I would like to congratulate the new chairman of the committee that I chaired and served on so well, the gentleman from Pennsylvania [Mr. CLINGER], and to also congratulate the ranking minority member, the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Chairman, the so-called unfunded mandates legislation before us today offers no real protection to the States or local units of government in the event a balanced budget constitutional amendment is adopted. Evidently, this is why the Republican leadership has resisted the efforts by Democrats on the Judiciary Committee and throughout the House to provide an explicit statement about unfunded mandates in the text of any proposed constitutional amendment to balance the budget. By keeping the constitutional amendment and the unfunded mandates statute on separate tracks, we have reached the height of obfuscation of true intent very early, indeed, in the new Congress.

The balanced budget amendment approved by the Judiciary Committee last week places State and local taxpayers at severe risk by allowing State and local governments to bear the brunt of the costs of balancing the Nation's budget through increases in unfunded mandates. Further Congresses would find it much easier to simply override the legislation being considered today and increase unfunded mandates rather than to make painful cuts or increase taxes, the latter of which would require a three-fifths vote of Congress.

It is because of these concerns that the National League of Cities testified in opposition to the balanced budget amendment at hearings last week. Mayor Jeffrey N. Wennberg of Rutland, VT, testified that "any balanced budget amendment would almost certainly increase unfunded mandates on cities and towns as well as decrease what little Federal assistance currently remains to fund existing mandates." He also noted that the "pressure to order State and local spending will grow geometrically under a balanced budget amendment unless an equally powerful restriction on [unfunded] mandates is enacted [in the Constitution]." Mayor Wennberg's concerns have been echoed by representative KAREN MCCARTHY, past president of the National Conference of State Legislatures, and Vermont Governor Howard Dean, chairman of the National Governor's Association.

The projected impact of the balanced budget amendment on the States would indeed be staggering. A recent Treasury Department study concludes that in order to balance the budget by the year 2002, "Federal grants to States would be cut by a total of $97.8 billion in fiscal 2002." Other Federal spending that directly benefits State residents would be cut by $242.2 billion in fiscal year 2002. My own State of Michigan would face a loss of $2.5 billion in Federal funding, which would require more than a 13-percent increase in State taxes.

The only way to protect the State and local governments from the threat of increased unfunded mandates would have been to include a constitutional prohibition in the text of House Joint Resolution 1. Representative FRANK sought to do precisely this at the committee markup, but his amendment was defeated by the Republicans in a 15 to 20 party-line vote.

The Governors, the mayors, the police and other local officials should not be misled. Unfunded mandates legislation will not protect them when the Federal Government is forced to make draconian budget cuts to balance the budget. The only real safeguard would be to include such a prohibition in a constitutional amendment to balance the budget, because then, the States would have such a promise before them in determining whether to ratify such an amendment. But so far, that option has been blocked by the new Republican majority. While a clever ploy, that sleight-of-hand has already been seen for what it really is: A failure of resolve to descend from soaring rhetoric to making a real promise to the States and the American people.

Mr. DINGELL. Mr. Chairman, since late in 1993, State and local government officials have trumpeted a call for Congress to enact legislation to curb the imposition of so-called unfunded mandates on State and local governments, and to ensure that Federal taxpayer funds pay the costs of complying with such mandates, both large and small.

It is worth reviewing some history and some examples.

In the 1970's, there was a considerable public outcry by buyers of used motor vehicles that odometer readings, which consumers use as an index of the condition and value of the car, did not reflect the true mileage. Unscrupulous sellers often turned the odometer back by thousands of miles and States did not uniformly police this fraud. Under the commerce clause of the Constitution, the Congress enacted odometer fraud legislation that imposed duties on the States in the transfer of vehicle titles. Most States complied immediately, though California only recently complied. But all recognized that there was a national need the States were not filing.

Similarly, in the late sixties and early seventies, the public was outraged by oil spills in the Gulf of Mexico and Santa Barbara, CA, and by the pollution of our great and small waterways, such as the Great Lakes, the Hudson, the Potomac, the Mississippi, and many more. One waterway in Ohio caught fire from pollution. Again, it was recognized that this was an interstate problem. National standards were needed so as not to create pollution havens in some States, to the detriment of others. Congress enacted the Federal Water Pollution Control Act, which included mandates on State and local governments, some of which were unfunded. The result has been positive, and clearly the public is now enjoying cleaner waterways.

Last year, as part of the crime bill, Congress heard the concerns of women who were being stalked because of easy access to motor vehicle records that reveal the addresses of threatened women. To address this problem, Congress enacted the Drivers Privacy Protection Act of 1994, patterned after the odometer law with duties imposed on the States. It too is an unfunded mandate. It was needed because all the States were not adequately addressing this serious threat to women.

Another law cited as an unfunded Federal mandate is the Clean Air Act Amendments of 1990.

Congress passed that law in October 1990, by a vote of 401–25 with the support of such prominent Republicans as the Speaker, the Rules Committee chairman, the Appropriations Committee chairman, and many others.

The 1990 amendments culminated a struggle started in 1981 by the Reagan administration. Many of the provisions were recommended by the State and local air administrators with the support of the National Governors Association, mayors, and other local officials. In fact, on December 15, 1989, the Governor of Wisconsin, Tommy G. Thompson, wrote to me saying:

I strongly support Congress' efforts to pass Amendments to the Clean Air Act which will improve air quality throughout the Nation.

Governor Thompson made several recommendations for change, but he never mentioned a concern about the bill's mandate. In fact, he said:

Congress should make EPA promulgation of Federal Implementation Plans mandatory when a State fails in its State plan development and delete the provisions from H.R. 3030 which would render all previous Federal Implementation Plan agreements moot.

The Governor noted that Wisconsin had turned to the courts to force a cleanup in Illinois and Indiana and feared that without this authority, these States would shirk their duty.

Congressman KIM has introduced H.R. 304, along with Congressman DREIER, to prohibit EPA from promulgating a Federal implementation plan in California. In 1989, it was good Republican policy, according to President Bush and Governor Thompson, to impose Federal mandates on State and local governments and on the business sector.

Today, the Republican policy is to reverse the Bush-Thompson policy of 1989 for State and local governments, but not the private sector. Today, they want to curb Federal mandates for State and local officials, so, as reported a few days ago, by the Washington Post, the Governors, like Governor Wilson of California, can give tax breaks to their citizens.

However, in the case of private business, which generates jobs for taxpayers, they merely want to provide information on the cost of Federal mandates on the private sector.

In 1989, the Republican Governors did not want to offend environmentalists. They supported all kinds of mandates, whether funded or not. They wanted to be green and closed their eyes to the costs. Today, they think the public is no longer on the green side. They champion reduced costs and tax reductions, not environmental quality. However, their concern does not extend equally to the private sector. Nor do they explain how environmental quality will be improved—or even just maintained—if mandates only extend to the business community.

H.R. 5 is hastily conceived and unfair. It is a political document, not sound public policy. Sure, we must cut costs. Sure, there are mandates that may not be wise, but they affect the private sector as well as State and local governments. We should take more time, hold hearings, fashion a more equitable and sounder bill. Remember, in the case of clean air, State and local governments operate—directly or indirectly—landfills, tunnels, powerplants, airports, vehicles, incinerators, and many other activities that pollute. If they are freed of mandates, who will pick up their slack? Competing private businesses, of course.

Now, H.R. 5 ignores these important considerations. Mr. Speaker, its only focus is on costs to State and local governments. It sets up a legislative hurdle to navigate around if future Congresses are to address the national problems I described, without even considering the reasons for a mandate or its need to be implemented. It is, in essence, designed to give States and local governments veto power over congressional action in either House. The only criterion is costs to these governments. The needs of the consumer or general taxpayer, and the benefits to society, are subsumed.

Those who favor H.R. 5 are apparently oblivious to the very negative consequences of trying this important legislation to a partisan document. Congress owes every government, every business, and every taxpayer a better piece of legislation than a political plank which cannot easily, or quickly, be translated into the public interest.

Mr. RADANOVICH. Mr. Chairman, this is a day for which we have long waited. Those of us who have served at the local level of government have held out hope that one day Congress would awaken to the damage done by unfunded mandates. That day is today.

When I first began public service as a member of a county planning commission, I carried into office what turned out to be a naive notion. I thought that our community's elected officials were free to do what they best believed served the citizenry.

In some respect, that was—and is—the case. However, what I failed to factor was Uncle Sam's ability to determine what's best and to make us pay for it—like it or not. Imposing obligations on local government from distant beltway bureaucracies, but without Federal dollars to pay for them is wrong, wrong, wrong. H.R. 5 will right it.

Mr. Chairman, I have been a county supervisor. My chief of staff here on the Hill, John McCamman, has been the chief administrative officer of two California counties. My constituents and former county government colleagues urge us on every day to end the mandate madness.

Here is what my friend, Garry Parker, chairman of the Board of supervisors of Mariposa County, CA, says:

One of our most pressing needs in getting to the point that our government structure makes sense to the public is in the area of unfunded mandates. It is very difficult to explain and justify to our constituents that the County cannot afford a service for which there is a well established local need, because we are obliged instead to provide funding for a much lower local priority, simply because it is a federal or state unfunded mandate. We view ourselves as partners with our state and federal counterparts and we need to operate on a much more equal footing. We need to establish sufficient trust between us that some of the more egregious oversight and overkill is eliminated, so that we can move more collaboratively ahead on our common agendas.

I am grateful to another friend, Mike Coffield, county administrative officer of my home and native county of Mariposa for providing my office with Chairman Parker's expression.

From the California State Association of Counties, Steve Keil, its legislative representative, writes from Sacramento:

It is vital that this legislation pass at once. As you know, the increasing costs of unfunded Federal mandates have imposed an enormous drain on our limited resources. If relief is not granted soon by enacting strong legislation, we fear at some point we will not be able to provide adequate vital services such as fighting crime and illegal drugs, education, jails and corrections, health care and social services for children and the elderly.

In 1993, Price Waterhouse conducted a survey of unfunded mandates affecting county governments. Based upon that study, 1993 costs for counties for just 12 mandates are $4.8 billion. For the 5-year period 1994–98, $33.7 billion of county costs for unfunded Federal mandates will be incurred. Just the 12 surveyed mandates consume an average of 12.3 percent of locally raised revenues.

Unfunded mandates are, in reality, a hidden burden on taxpayers. Whether it is water testing, architectural accommodation, sewage treatment, soil contamination, wetlands regulation, petroleum problems, or farm chemicals, when the Federal Government reaches out, it doesn't touch—it tyrannizes.

Lest we forget, the Founders fought to rid themselves of royal agents who would tax them while denying them any electoral say as to the who and where of that levy.

Today we are considering a reform of the Federalist system itself; a return to a relationship between the Federal Government, and the various State and local governments that reflects a partnership in the activity of governing. A relief from additional Federal mandates on State and local government will take a long stride toward correcting the imbalance of this relationship and conform our system of governance to the system outlined in the Federalist Papers and in the Constitution itself.

It becomes again our opportunity to continue the reform begun when this 104th Congress convened. Our opening day showed the way as we changed rule after rule improving the way the House does business. Now, by lifting the burden of unfunded mandates, we are changing the business Congress does.

The Contract With America continues to be performed, as we keep faith with the 10th amendment in the Constitution's Bill of Rights, reserving to the States and the people all those public powers except those delegated to the Federal Government.

Mr. POSHARD. Mr. Chairman, I rise in strong support of H.R. 5, the Unfunded Mandates Reform Act. I am proud to be a member of the Congressional Caucus on Unfunded Mandates, and thank the gentleman from California [Mr. CONDIT] for his leadership.

My legislative background prior to coming to Congress was 4 years of service in the Illinois State Senate. Before that, I was the administrator for educational programs across a multicounty area in southern and central Illinois. I think I have a pretty good idea of why it's necessary to have standards and regulations which govern the use of our tax dollars. But I also have first-hand experience with being told to do something but not being given the resources to follow through.

That is what we seek to correct through this legislation. We recognize that there are legitimate reasons for making States and local governments carry out certain obligations. And, in turn, we say that if it's a program of priority nature, then we have to come up with the way to pay for it.

I represent a large, mostly rural district, dotted by small villages and communities of a couple hundred people each. Their ability to raise funds on a local level to comply with the growing number of regulations which are being imposed is severely limited. This bill will help ease those burdens.

I have letters in my files from Decatur, Herrin, Flora, Coles County, Shelby County,

and units of government across my district in support of this effort. This is a bipartisan effort which I strongly support.

Mrs. FOWLER. Mr. Chairman, as a member of the Jacksonville City Council for 7 years, I saw first hand the impact of unfunded Federal mandates and regulations. There are many here today in Congress who bring similar past experiences to the floor. The House membership contains former mayors, county supervisors, State senators and representatives, and other elected officials in both county and State government. In those roles, we all saw first hand the impact of unfunded Federal mandates on the State and local governments.

One of the underlying premises of the Contract With America is that less Federal Government is better. In carrying out that premise, it is necessary to reduce the burden of unfunded Federal mandates on the States and localities. We simply cannot expect our hometown and State officials to bear the burden of Federal laws and regulations without providing the necessary funding to implement them. The legislation we are considering here today, H.R. 5 enforces that view.

One of the worst examples I know of an unfunded mandate occurred in the town of Neptune Beach in my district. Neptune Beach is a small town with a population of 6,500 people. This small town had saved and scrimped to put together the funds necessary to make corrections to their water system. Unfortunately, an EPA safe drinking water fine was handed down and has cost the city $100,000.

The gist of this problem is that the city still has the need for improvements to the water system but cannot afford the cost due to the Federal fine penalizing them for not fixing the problem. This simply makes no sense. Instead of fixing the problem and providing the necessary cure, the Federal Government is actually exacerbating the problem.

Mr. Chairman, as Federal legislators, we can do a lot of good. Unfortunately, as a former local official, I know that the enactment of unfunded Federal mandates can do more harm than good. We cannot continue to pass laws and mandates on to the people back home and refuse to back them up with the necessary resources to get the job done. I strongly support this bill and the beneficial effects it will have on our constituents back home.

Mrs. COLLINS of Illinois. Mr. Chairman, many Democrats favor the concept of treading carefully in placing additional responsibilities on States and localities without providing full funding. In fact, in the 103d Congress, the Committee on Government Operations reported a bill on unfunded mandates by a vote of 35 to 4. It was developed in a bipartisan fashion with the support of both the chairman and ranking member of that committee, and every major organization representing State and local government.

The process by which the bill was considered in this Congress was the antithesis of last year's efforts. There were no public hearings on the bill. The bill was drafted in secret with no consultation with the minority. It was introduced on Wednesday, January 4, and available in print on Friday, January 6. The markup was held 4 days later.

The haste in which this bill was considered left a number of substantive issues unaddressed, which even the authors conceded at markup that they would like to address on the floor. The minority views contained in the report on H.R. 5 detail the procedural faults that took place during the markup, and I encourage all Members to read these views before the bill is on the floor later this week.

Before detailing the substantive issues raised at the markup, we want to establish a few points about unfunded mandates. First, we are keenly sensitive to the issue of unfunded mandates. Governors and mayors are rightfully concerned that efforts such as a balanced budget amendment and other more immediate efforts to reduce Government spending not be a disguised effort to shift the costs of Government programs to States and localities. We concur.

At the same time, we do not necessarily agree that many previously enacted laws that may be characterized as unfunded mandates are necessarily wrong. Indeed, the authors of the bill insist their legislation is intended to be prospective only—although we have concerns that the objective has not been achieved by the statutory language.

Many previously enacted statutes that do impose costs on States and localities were passed only after years of consideration with the broad support of those governmental bodies. Support was based on several concepts. First, many States wanted to do their share, but needed the Federal Government to insure that their neighbors did theirs. Environmental laws dealing with air, water, and sewage, for example, were designed to protect States from potential damage caused by their neighbors.

Second, States were often prepared to assist in solving problems such as developing national databases of child molesters or doing background checks on child care center operators. The benefits from these programs far outweighed any burdens.

Third, in return for certain unfunded mandates, States also received large financial benefits. Cleanups of harbors, construction of bridges, roads, and sewage treatment facilities were largely funded with Federal dollars and greatly improved the lives of American citizens.

Fourth, many of the unfunded mandates placed on localities and the private sector were enacted by State governments. Localities have also imposed unfunded mandates on the private sector. Like Congress, both States and localities have found mandates a convenient way to achieve important goals with limited funds. Thus, resolution of the unfunded mandated dilemma can only be achieved with the cooperation of State and local governments.

While Congress should carefully scrutinize any unfunded mandate, and must be required to evaluate both the costs and benefits of such laws, we must not totally hamstring our ability to pass laws that need to be passed. Unfortunately, the bill as drafted may do just that.

Why shouldn't the bill be made effective upon date of enactment? The bill's effective date is October 1, 1995. Over the coming months, the Congress is likely to consider numerous bills which could drastically cut funds available to States and localities to pay for various Federal programs. These bills, which could likely be considered unfunded mandates, could have exactly the consequences that the bill's authors are attempting to avoid. We can find no explanation for the delay in the effective date.

Why did the sponsors exclude certain mandates, such as national security, but not others? Section 4 of the bill, and the new section 422, of the Budget Act of 1974 list certain mandates, such as those necessary for the national security, as excluded from the application from the bill. Yet during the course of consideration of the bill, only an amendment to exclude Social Security was adopted. Among the amendments that were not adopted were:

An amendment by Representative MALONEY to exclude laws protecting the health of infants, children, pregnant women, and the elderly;

Amendments by Representative KANJORSKI to exclude laws relating to securities regulations, such as the sale of derivatives, and laws establishing data bases that identify child molesters, child abusers, persons convicted of sex crimes, persons under restraining orders, or persons who fail to pay child support;

An amendment by Representative TAYLOR to exclude laws relating to sewage treatment;

An amendment by Representative SANDERS on laws relating to minimum standards for labor protections;

An amendment by ranking member COLLINS of Illinois to exclude laws relating to airport security;

Amendments by Representative SPRATT to exclude laws relating to Medicare and nuclear regulation; and

An amendment by Representative BARRETT to exclude sentencing guidelines.

It is difficult to see the logic in excluding laws which would seek to transfer the burden for our national defense to the States from the application of the bill, but not exclude laws which are designed to protect all Americans such as those described above. During the course of debate, it was contended the law merely requires an affirmative vote for unfunded mandates, but as the discussion above indicates, unless the law is amended, protections of average Americans, children, seniors, pregnant mothers, and others could be jeopardized.

Extending the bill's provisions to laws of general applicability to the private sector could lead to undesired consequences. The definition of an intergovernmental mandate is so broad that many laws directed at the private sector could be thwarted because of their indirect effect upon the public sector. In addition, in cases which the private sector competes with the public sector in enterprises such as power generation, the private sector enterprises could be placed at a competitive disadvantage.

Some examples of these laws were brought up at the hearing. An increase in the minimum wage law could be defeated by a point of order if funds were not provided to pay for the increased costs for State and local employees, unless the law exempted State and local employees.

Laws designed to protect investors in derivatives could be thwarted if they were made applicable to municipal purchasers if it could be found to be an unfunded mandate.

Laws which establish various protections for workplace safety would either have to fund State or local government costs of compliance or exempt those governments from compliance.

These results seem directly contrary to two principles that have broad support in the Congress. First, the House approved H.R. 1, the Congressional Accountability Act to make a variety of private sector laws applicable to Congress. Why are we now passing a law that would provide one set of protections to private sector workers and fewer protections to public sector workers?

Second, why are we giving public sector enterprises, such as power generators, natural gas pipelines, and waste treatment facilities a competitive advantage over private sector enterprises? If this unequal treatment is not resolved, it is foreseeable that private sector enterprises will over time be converted to public sector enterprises.

Mandates designed to protect States from harmful effects caused by neighboring States should be excluded from this act. An amendment by ranking member COLLINS of Illinois was defeated that would exclude from the application of the bill laws that regulated the conduct of States, local governments, or tribal governments with respect to matters that significantly impact the health or safety of residents of other States, local governments, or tribal governments, respectively.

Certain Federal laws that place costs on governments are designed to protect residents of neighboring States. For example, as Representative TAYLOR of Mississippi described during the markup, the people of his district located at the base of the Mississippi River are deeply affected by the ways in which States along the Mississippi treat their sewage. Unless the Federal Government was willing to pay the polluting States for the cost of their waste treatment, the Federal Government could not protect the victims of this pollution in neighboring States.

Why shouldn't the polluter pay? Why should this be the responsibility of the victimized State's residents?

This is not a hypothetical situation. All over the country, there is dumping of raw sewage and hospital wastes. Incinerators are blowing toxic smoke over State lines. Unless the Federal Government can act to protect citizens from the pollution caused by their neighboring States, the health and safety of the American people will be jeopardized.

Why are appropriations acts excluded from the application of the bill? One of the more likely examples of an unfunded mandate is an appropriations bill that fails to fully fund a Federal mandate. Yet the bill excludes appropriations acts from the applicability of the legislation.

It is unclear why we would want to exempt this broad category of laws. To the contrary, Members should receive a full accounting from the Appropriations Committee and the Congressional Budget Office concerning the level to which the appropriations fail to adequately fund mandates on State and local governments.

Why should we create a new Federal bureaucracy to study unfunded mandates? Title I of the bill establishes an entirely new commission with funding of $1 million to study the costs of unfunded mandates. Americans have expressed an interest in less Government, not more Government, yet the first bill that our committee reports establishes another new Government body.

After an amendment by Representative MEEK to eliminate this new commission was defeated, she offered a second amendment to transfer the functions to the already existing Advisory Committee on Intergovernmental Relations. At the request of Chairman CLINGER, Representative MEEK withdrew this amendment.

The new commission would also establish a troubling precedent. The bill calls for the Speaker and Senate majority leader to each appoint three members of the commission, after consultation with the minority leaders. An amendment offered by Representative WAXMAN to have the Speaker and Senate majority leader each appoint three members, and the minority leaders to each appoint one member, as current laws operate, was defeated.

SUMMARY

As described above, many Democrats favor increased scrutiny of unfunded mandates. Particularly at a time, when the Federal Government is seeking to reduce its deficits, the lure of cost shifting to the States must be resisted.

However, in fashioning a responsible bill on mandates, there are important details that have not been carefully addressed. It must be understood that Americans do not wish to see many programs that are designed to protect their health and safety dismantled because they have now been labeled an unfunded mandate.

In the end the advisability of passing any law cannot be solely determined by a cost estimate by the Congressional Budget Office. Not only are such estimates difficult to make, as the Director of CBO has pointed out, but the other side of the equation must be addressed: namely, the benefits that the legislation will yield.

We must legislate responsibly, particularly in this field. We, not the Director of CBO, must ultimately take responsibility for our actions. While we should require as much information as possible in making our decisions, legislation on this subject must be carefully drafted to avoid unanticipated consequences.

One of the purposes of H.R. 5 is "to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance." Unfortunately, in their haste to enact provisions of the Contract With America, the majority has precluded the kind of informed and deliberate decisionmaking process it professes to promote.

Mr. CUNNINGHAM. Mr. Chairman, I want to discuss H.R. 5, the Unfunded Mandates Reform Act and share with the House the observations of San Diego Mayor Susan Golding. Recently, I had the pleasure to meet with Mayor Golding to discuss this bill and other issues before the Congress.

Mayor Golding provided me with a partial list of current Federal mandates placed on the city of San Diego. She said that besides the up-front costs, each mandate contains a hidden burden of paperwork, record keeping, and reporting. Each of these mandates has some Federal agency reviewing compliance. Moreover, most of these mandates carry penalties for noncompliance.

The most egregious example involves the requirements imposed by the Environmental Protection Agency that the city of San Diego move toward secondary treatment of wastewater. The problem is that the regulations were designed to protect rivers and lakes—fresh water. San Diego, however, has a deep discharge into the Pacific Ocean. The world renowned Scripps Institute of Oceanography has concluded that secondary treatment is unneeded in San Diego. Yet the Federal Government still insists that the city of San Diego expend some $1.4 billion to upgrade to secondary treatment, no matter what the best scientists say. After years of litigation, the stalemate continues.

The list of mandates ranges from the obvious to the obscure. To comply with the Americans with Disabilities Act, the city must spend $100,000. Swimming pool operator training costs $1,500. The level of sand in sandboxes at city-run tot centers is monitored by the U.S. Consumer Product Safety Commission, costing San Diego taxpayers $75,000 a year. Reporting requirements for the CDBG program add $20,000 in costs. Monitoring of groundwater at city landfills costs $130,000 annually; gas monitoring adds another $34,000.

No one questions that some Federal regulations are needed. Federal standards for health and safety have saved lives and improved the quality of life for all Americans. If an issue is important enough to demand action by the Congress, then by definition, it ought to be important enough to be funded by the Congress.

The city would meet many of these health and safety standards anyway. The problem arises when the Federal Government issues these mandates, burdening the city with record keeping, paperwork, and the potential for litigation and fines.

We know that H.R. 5 won't solve the problem of existing mandates alone. But it is still vital that Congress pass this legislation. The commission established by H.R. 5 will be chartered to review existing mandates and report recommendations for change to Congress. Further, this bill sends a clear message to our beleaguered cities, counties, and States that this Congress will no longer conduct business as usual.

The experience of San Diego is typical. I know from my discussions with other mayors and local officials that they also shoulder these burdens. In some cases, smaller communities are hit even harder than cities, as they lack the resources and staff to comply with Federal mandates.

Mr. Speaker, as an original cosponsor of the bill. I urge prompt passage of H.R. 5. This bill does nothing to threaten the health and safety of the American people. It is a significant step toward reforming our attitude here in Washington.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LINDER) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the

Union, reported that that Committee, having had under consideration the bill (H.R. 5), to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, had come to no resolution thereon.

ADJOURNMENT TO MONDAY, JANUARY 23, 1995

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 on Monday next.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 259

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of H.R. 259, a bill to amend title 49, United States Code, to eliminate provisions of Federal law that provide special support for, or burdens on, the operation of Amtrak as a passenger rail carrier, and for other purposes.

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

There was no objection.

STATES ARE BEING SHORTCHANGED ON MEDICAID

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

Mrs. THURMAN. Mr. Speaker, all of us in this Congress should be dedicated to making sure that our scarce resources go to those Americans most in need of assistance.

However, this is not what is happening with Medicaid.

That is right, Mr. Speaker. When it comes to the Medicaid Program, many of our States, including my own home State of Florida, are being shortchanged. We are being shortchanged because the Medicaid funding formula, which is 30 years old, is neither fair nor accurate. Under the formula in use since the Medicaid Program was created, a State's need is based solely on per capita income.

In 30 years, we have developed much more accurate ways to measure true need and we should use them.

The General Accounting Office has recognized the shortcomings of the current formula. In a report the GAO recommended a new formula that takes into account the rate of poverty as well as per capita and corporate income. The GAO has said this will be a much more accurate reflection of a State's ability to finance Medicaid benefits. It would also ensure that assistance went where it is most needed.

The Fairness in Medicaid Funding Act of 1995, which I am introducing today puts in place the GAO's recommendation.

I would urge my colleagues to join me in correcting the Medicaid funding formula.

Mr. Speaker, as is often the case in Washington, the Federal Government does not always target its resources to those individuals who need them the most. Unfortunately, when it comes to how the Federal Government calculates the Medicaid matching fund formula, the existing Federal formula creates an unfair distribution of Medicaid funding to the States.

I am committed to continue the debate over the inequity until we arrive at a fair remedy. Therefore, I rise today to reintroduce the Fairness in Medicaid Funding Act of 1995.

My bill would update the Federal Medicaid funding formula and result in a fair and accurate disbursement to the States. The General Accounting Office [GAO] has evaluated the existing Medicaid formula and has concluded that it does not meet the objectives established by Congress in 1965. The GAO examined the objectives Congress was attempting to achieve and developed an alternative formula to meet these stated goals. My bill, the Fairness in Medicaid Funding Act of 1995, would use the GAO formula not to change policy but only the process by which Medicaid dollars are allocated.

The essence of the existing Medicaid formula has been unchanged for 30 years. Congress had two intentions when they created the formula. First, that Federal matching funds should reflect a State's ability to pay benefits to those in need. And, second, Congress wanted to determine how many residents of each State needed Medicaid benefits.

At the time, the best information available to measure these objectives was an estimate of each State's per capita income. Thirty years ago this information was the best available to Congress. But during the last two decades, the Federal Government has collected more and better economic data.

Mr. Speaker, today there are much better measurements available, and we should use them.

A significant weakness of the current formula is that it does not adequately reflect a State's ability to pay its share. The money a State can pay in Medicaid benefits should also reflect the income its residents and businesses produce. However, a measurement of per capita income reflects only part of the total income produced by a State's residents and businesses.

Per capita income does not include corporate retained earnings, which is a significant share of a State's business income. Therefore, two States with the same per capita income may actually have significantly different capacities to fund Medicaid benefits.

Furthermore, the per capita income formula does not adequately measure the total number of people in need of Medicaid benefits. That need is determined by the number of residents with incomes low enough to qualify for Medicaid. Again, two States with roughly equal per capita incomes can have dramatically different percentages of residents qualifying for Medicaid. Yet, both States would receive the same matching rate from the Federal Government. This just does not make sense any more and it needs to be changed.

My proposal, based on the GAO's recommendations, would base the Federal share for Medicaid on: First, per capita income plus corporate income produced within a State. This is a much more accurate measure of a State's ability to finance Medicaid benefits. Second, the State's poverty rate, which generally indicates the number of persons who are potentially in need of Medicaid benefits.

All these statistics are already complied for other purposes by the Federal Government. Moreover, this proposal does not cost the Federal Government one dollar—it is budget neutral.

Mr. Speaker, the passage of the Fairness in Medicaid Act of 1995 will ensure that States receive, not only what they need, but what they deserve from Washington. This plan is based upon a fair, objective, and contemporary evaluation of each State's needs and capacity.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

REMARKS ON WELFARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MARTINEZ] is recognized for 5 minutes.

Mr. MARTINEZ. Mr. Speaker, as a member of the Committee on Economic and Educational Opportunities, formerly the Education and Labor Committee, and one who has chaired a subcommittee with jurisdiction over the Job Opportunities and Basic Skills Program, I have spent much of my congressional career dealing with the issue of welfare and the various means this body and that committee has considered for reforming that system.

The welfare system in this country is clearly not achieving the purposes for which it was designed.

When it was originally designed, it was a program designed to protect children from the ravages of poverty that

are likely outcomes of the death of the family breadwinner—which in 1935 meant the father.

Since the mid 1960's, when it was reformed under President Lyndon Baines Johnson, it has been extended to cover the children of those whose personal circumstances—whether as a result of a death of the breadwinner, a family breakup or desertion of the family by the breadwinner, the lack of jobs for any adult in the family, or because of an out-of-wedlock birth—prevented them from being economically self-sufficient.

The object was, and continues to be, the children, who are our future.

Welfare in the form of Aid to Families With Dependent Children is based on the belief that our children are our future, and caring for those children so that they can reach adulthood with the necessary education, nurturing, and social skills that will enable them to become productive members of society.

Welfare systems, whether private charities or government support programs, cannot eradicate poverty solely through making monthly payments to poor people.

The eradication of poverty has confounded leaders since before the time of Christ.

Even Christ admitted "You will always have the poor with you." But, while I do not believe that we will ever totally eradicate poverty, that is no reason to give up on the fight to make the lives of poor children safe and supportive.

And that is why I believe in the Federal Government's role in the welfare system, because it is our national duty to ensure that programs are truly supportive of children and that related programs, including nutrition, employment and training, education, child care and housing act in concert with welfare programs to provide the hand up to those in poverty that will enable them to achieve a better life.

There are those who say that our welfare system is not working, and I wholeheartedly agree with that assessment.

Clearly our welfare system needs reform.

I believe that there are a number of things about welfare reform and the current issues being debated in the context of welfare reform on which we can all agree—and I would like to list some of those:

First, the fact that 15 million people in 5 million families have to rely on Aid to Families With Dependent Children is a national disgrace.

Second, most of the recipients of Aid to Families With Dependent Children—in fact 9.6 of the 15 million recipients, have no alternative to AFDC on their own—because they are children.

Third, one of the major failings of the welfare system is that it rewards behavior that it wishes to change, and provides significant barriers to change for the better.

These are things that I see printed in speeches and pronouncements by my colleagues of all political persuasions.

These are what we can agree on.

What I am afraid we do not have as much agreement about is the basic question of how we solve the problems inherent in the system.

H.R. 4, the Personal Responsibility Act, is, I am told, the Republican welfare reform that was promised in the Contract With America.

Well, I have read this bill, and I find absolutely nothing in it that addresses the causes for welfare dependency, nothing that deals with the lack of skills, inadequate education, or other barriers that prevent the welfare parent from achieving economic self sufficiency.

In fact, title 1—dealing with illegitimacy, is even worse.

After determining that the cause for this problem is the breakup of the family and the lack of moral values in society, some of which I can support, we find that the solution is not to deal with preventing these out-of-wedlock births, but rather is to deny benefits to the children produced by these unions.

That is something like arresting the victim because she was robbed.

We must look at the causes for behavior, not the outcomes of that behavior, in fashioning solutions.

This bill does not do that.

I am also interested in the various proposals to pay for this reform—and, of course, achieve deficit reduction at the same time.

Title 4—denying Federal program access to legal aliens—now there is an interesting idea.

After all, these people who pay their taxes, keep up their homes, educate their children, and live next door—in short act like nearly all Americans.

But they suffer from a really serious lack—they are not citizens and, consequently, do not vote to elect the Members of this body.

Why not go the whole way and say to these people who we invite to come to America and to continue to build our country as immigrants have done for over 300 years—fine join us, but if you do not choose to become a citizen—go back home—and then deport them.

The fact that they decide to stay and do not elect to become citizens means that they do not wish to become fully American.

That, I suppose, is reason enough to say—"pay the freight but don't take the ride."

Then, why not deny Federal program benefits to all Americans who failed to vote in the last two elections?

Sixty five percent of the electorate failed to vote last November, we are told.

If they do not care enough to vote—if they do not care enough to become a citizen—they do not deserve to participate in these programs.

It is not like they will vote us out of office.

That makes about as much sense and is about as defensible.

Then we come to title five—which certainly represents a variation on enlightened thinking—nutrition programs should be combined into a one size fits all block grant.

Just last week in the Economic and Educational Opportunities Committee, we heard witnesses talking about our labor laws and assailing the Congress and the Labor Department for failing to recognize that different size businesses have different problems and needs and our one-size-fits-all labor policies need to be changed.

But this week we learn that it would be better to develop a one-size-fits-all nutrition program.

Let us review some of the programs that would be lumped into this block grant:

The Women, Infants and Children Nutrition Program came about because of a national policy to ensure that our children, who are our future, receive the kind of nutrition that starts them on the healthy road of life, ensures that they are not hungry in school, and enables them to learn.

The National School Lunch Program provides nutritious meals at low or no cost to needy children—not just AFDC recipients but also the children of the working poor.

The Older American Act, in its title III nutrition programs, ensures that older Americans, especially those who are economically dependent or otherwise unable to cope with the difficulty of making their own meals can receive nutrition in either a congregate setting, at senior centers, or through a home delivered program, regardless of their status as welfare recipients.

These and the other programs that would be lumped into this gigantic block grant have their separate identities because the nutritional needs of these populations are different and the methods of meeting those needs are different.

Yet, the drafters of H.R. 4 would lump them all into one program.

And then they would allow the States to use the funds for purposes which have nothing to do with nutrition—to fund jobs under the so-called work program for the welfare parent, and provide a bounty of $20-per-head for every one the State does put into these programs.

I see no merit in that proposal.

Beyond what is contained in the bill that would allegedly solve the welfare problem, let me speak briefly about what is not in the program.

First—there are no jobs.

Parents on welfare are required to go to work—but there are no provisions that would stimulate jobs either in the public or private sector.

Thirty-seven percent of the people on welfare are there because of unemployment.

Does that not indicate that jobs must be there if those people are to get back into productive employment?

Even if welfare mom finds a job, there are no provisions for child care.

In hearings I conducted in the 103d Congress, witnesses stated categorically that the single most important barrier to seeking, finding and keeping a job was the lack of safe, affordable, and relatively stable child care.

One member of the Economic and Educational Opportunities Committee, the Honorable LYNN WOOLSEY of California, a former welfare mother herself, has told us that, in the first year that she returned to the work force, she had 13 separate child care situations.

And the situation is worse now than it was then.

Nearly one-half of the women on welfare in 1991 were there not because of the presence of an illegitimate child—they were there because of the breakdown of a marriage and the failure or inability of the father to pay child support.

Yet this bill contains nothing in the way of child support enforcement.

And child support enforcement could raise, we are told by HHS, $32 billion in 1 year.

Oh, I know that the Republicans have another bill that addresses this issue—but why not include it in the right context—welfare reform?

Yes, I have read the Personal Responsibility Act, and I find it wanting.

I hope that the entire House, on both sides of the aisle, will consider the plight of the welfare mother, and the welfare father as well, not as a pest that is to be eradicated, but as a symptom of our failure to provide the hand up that will enable them to get that job and raise their children in dignity and safety.

INVESTMENT IN PUBLIC INFRASTRUCTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia [Mr. WISE] is recognized for 5 minutes.

Mr. WISE. Mr. Speaker, next week the House will most likely take up the balanced budget amendment to the Constitution. This is not an argument for or against the balanced budget amendment. I have supported versions of it in the past. It is an argument, though, an appeal that this House consider the role of investment in many of the economic decisions that it must make in the upcoming months, investment particularly in our public infrastructure. Because many have said that they feel that there needs to be a balanced budget amendment to the Constitution because the Federal Government ought to have to balance its budget like families do. That is a fair analogy. Families do balance their budgets. But we also know that families borrow because there are certain things that they know they need and they consider capital investment.

We all, most of us at least, borrow to buy or build a home. Very few of us can afford to lay out in one year what it costs for this kind of investment. So we figure into our monthly budgets at home how much we have to take out in debt service, in that mortgage payment. That is reflected in our family budget.

We usually borrow for a car. Very few of us, particularly with today's prices, can afford a car, to pay for it cash on the barrel head.

We borrow for probably the most important investment that a family will make, and that is the family's children's education. We know that that is the ticket to success for families in this country. And so American families borrow for that. So there is borrowing that occurs for the mortgage, for the car, for the college education. We know that we get into trouble if we borrow for consumption, to borrow to go to the grocery store, borrow to buy the toys, borrow to go to a game, for instance, borrow for leisure or recreation. So what families do is they put together their family budget with their basic expenses and then they put together as well in that budget the debt service to, against the debt service to cover the cost that they have to borrow for long-term capital expenditures.

I wish the Federal budget did that. It does not. What the Federal budget does instead is to not recognize that one dollar is not the same as another dollar. The Federal budget does not make a difference between the dollars spent for infrastructure for a road or bridge and the dollars spent in immediate consumption. And so what I have urged, and many others, last year, the gentleman from Pennsylvania [Mr. CLINGER] and I cosponsored a bill that would permit capital budgeting for physical infrastructure for the Federal Government.

My hope is that in the discussion of the balanced budget amendment and in the discussion of the various economic moves, economic policies that this country will adopt, in the discussion of budget policy, that we recognize this key role in investment. The fact of the matter is that this country has seen a decline in public infrastructure investment and correspondingly has seen a decline or a flat line at least in productivity increases.

A chart I saw yesterday was quite illustrative. Of the seven major industrial nations in this world, the United States trailed in productivity gains over the past decade and yet also trailed in investment in our public infrastructure as a percentage of gross domestic product.

In other words, the more a country has put into their public infrastructure, their roads, their bridges and so on, the more they gained in productivity increase, almost direct correlation.

It makes sense, but it also is being borne out now by statistics. And so that this is a necessary factor.

Some argue you do not need a capital budget for the Federal Government because physical construction, roads and bridges and so on, is such a small part of the budget. That is a self-fulfilling prophecy. It is that because we have made it that way. And one reason is because our accounting system does not reward investment.

Mr. Speaker, I yield to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, would the gentleman agree, for those of us who have served in State legislatures, who have served on county councils, who have dealt with budgets at the local level and the State level, that members of county councils, boards of supervisors, State legislators are used to dealing with a capital budget and an operating budget.

Mr. WISE. I thank the gentleman for making the point. He is absolutely correct. In my understanding, every State has a form of capital budget, every county, every State and local government, of course, as well as every business.

Mr. ABERCROMBIE. Would the gentleman further agree, for the enlightenment of those who may be listening in or observing our proceedings and trying to very sincerely take into account the implications of the balanced budget, that in their own local districts, in their own local areas, that over the years, whether through revenue-sharing programs or grant programs, demonstration programs.

Mr. WISE. I think I agree, but our time is up.

Mr. ABERCROMBIE. Thank you very much.

ON MEXICO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. HORN] is recognized for 5 minutes.

Mr. HORN. Mr. Speaker, good relations with Mexico are essential for this Nation. Mexico now faces a crisis, a financial crisis. We are being asked by the administration to authorize a $40 billion loan guarantee in order to cover the run which has occurred on the peso.

Mr. Speaker, I would like to include the column by Paul Gigot that appeared in last Friday's Wall Street Journal: "On Mexico, U.S. Firemen Play With Matches." I think it outlines what has happened in the administration's thinking over the last several weeks, and I think it is essential to the facts of this case.

[From the Wall Street Journal, Jan. 13, 1995]

ON MEXICO, U.S. FIREMEN PLAY WITH MATCHES

Maybe President Clinton is lucky that Washington is transfixed by Newt Gingrich. It means no one's noticed how his administration has botched the biggest foreign crisis of his presidency.

That crisis is in Mexico, which only last year he could tout as a foreign-policy success. Nafta has been his singular triumph, at home or abroad. Now the collapse of the peso has tarnished even that good news, with wider fallout than anything that's happened in Somalia, Bosnia or even Boris Yeltsin's tumultuous Russia.

This week Mr. Clinton roused himself from his Tony Robbins tapes to assert that he is "committed to doing what we can to help Mexico." This, plus a promise of more U.S. cash, helped to calm financial markets through yesterday, though only after two more days of market carnage in Latin America.

We can hope the worst is over, but the peso remains some 35% below where it was before its December devaluation. In human terms, this means that what used to be a dollar of Mexican purchasing power now buys only 65 cents; expect more Mexican sons and daughters to arrive in San Diego soon.

In political terms, Mexico's crash has begun an ebb tide in global confidence, threatening other currencies, raising doubts about stability in Mexico and inviting Nafta-bashers to stage a comeback. It has also cost American mutual-fund holders billions of dollars. All in just three weeks.

While Mexico's new Zedillo government made the awful call, the Clinton team can't escape blame. At its best the U.S. should be the world's financial fire department dousing crises before they get out of control. This is especially true for Mexico, where turmoil ends up on our front porch. Let's examine Clinton crisis management:

Fire Prevention. It's now clear the peso ran into trouble after the U.S. Federal Reserve abruptly tightened money last year. With the peso pegged to the dollar, Mexico's central bank should have followed suit. But in the middle of an election campaign, it printed pesos instead of mopping them up.

U.S. officials never turned on their Mexican smoke detector. That's the job of Larry Summers, the Treasury international aide who is to humility what Madonna is to chastity. He has more to be humble about now.

Firefighting. The U.S. can't seem to find the hydrant, much less the fire hose. At first, on Dec. 20, Treasury even blessed devaluation; its press release said a cheaper peso "will support the healthy development of the Mexican economy."

Two days later amid market chaos the Clinton Treasury was less thrilled, offering a $6 billion credit line to Mexico while asserting that its "economic fundamentals remain sound." Thus reassured, markets again whacked the peso. This earned them a Dec. 27 lecture from Mr. Summers about "excessive depreciation," which didn't work either.

So on Jan. 3 Treasury increased its credit line to $9 billion, only to see markets raise the bar again until Mr. Clinton promised even more money this week. To be fair, Treasury was vacant at the top, awaiting new Secretary Robert Rubin. But that doesn't explain State, where Warren Christopher is rumored to still be in charge.

The same tail-chasing has taken place at the International Monetary Fund, which is supposed to be the lead fireman. On Dec. 22 it too endorsed devaluation—which it called, in IMF-speak, a mere "exchange rate action."

But after markets pummeled the peso, IMF boss Michael Camdessus took his turn as King Canute lecturing the financial tides. "The depreciation of the peso is bigger than justified by economic conditions," he said on Jan. 3, only to see the peso take another pasting.

Playing With Matches. While incompetence explains a lot, economic policy may explain more. Clinton firemen didn't anticipate the financial firestorm because they've got nothing against devaluation.

Like Mr. Summers, both IMF first deputy managing director Stanley Fischer and the Fed's Ted Truman favor devaluations to correct current account deficits. While history shows this almost never works, these three amigos were undeterred.

Before Mr. Clinton installed Mr. Fischer at the IMF, he was a professor at MIT calling for a peso devaluation. "I don't have second thoughts." Mr. Fischer told me this week. So why the continuing peso rout? "It's a puzzle," he replies, citing "the fact that markets did believe there would not be a devaluation" before it took place. Thus it may take a little longer to restore investor confidence in Mexico, he says.

He's certainly onto something there. As hard-money economists understand, a currency is a contract between the government and its people. When government betrays that contract, trust goes to zero. Especially if a government then compounds the problem by printing more money or imposing wage and price controls. Yet this is the Mexican policy the U.S. Treasury and IMF now endorses as a way out of the mess.

To cover up for these markets, the Clinton team is now seeking a multi-billion dollar loan guarantee for Mexico from Congress. This certainly puts Republicans on the spot, since they won't want to be blamed for further turmoil in Mexico but can expect attacks from their populist right.

If Republicans cooperate, their price in policy, and maybe personnel, deserves to be steep. Hearings would be educational, especially a panel featuring the three amigos of devaluation. Any taxpayer money that goes to Mexico might be deducted from the IMF's next replenishment. Helping a neighbor in need makes sense; subsidizing bad advice is crazy.

That issue will soon be coming before this House and the other body. There are two conditions that are absolutely essential on that loan agreement, if this Representative is to support it.

To the average citizen, $40 billion is a lot of money. And it is also to the average Member of this and the other body. It is essential that American interests also be protected while we are trying to help our friend and neighbor to the south, the Government and people of Mexico.

It is essential that Mexico begin to help us at our border on their side of the border. Every night in the 20-mile sector of San Diego, CA, 2,000 illegal aliens come over the border. Most of them are from Mexico. Some are coming over both the Canadian and the Mexican border and arriving and smuggled in on the east and west coasts, they come from 49 other source countries, in Asia, in Africa, South America, Central America, and North America, and Eastern Europe, among others.

□ 1540

Therefore, the Mexican Government needs to help us at our border, and they should tighten up their border going north as much as they tighten up their border with Guatemala for people going north.

Second, Mr. Speaker, the Mexican Government should agree to what I have described last year, and this year as an agreement on the Criminal Alien Transfer and Border Management Enforcement Act of 1995, where we would help train the Customs officers, the Border Patrol officers, the Border management officers from their country with those in our country, if they agree that the criminal aliens—illegal criminal aliens who are convicted in the State and Federal courts of the United States—would be able to serve out their sentences in the country from which they illegally came.

Mexico provides about 50 percent of the illegal immigrants to this country. However, other countries in Latin America are also substantial in the numbers that are sent to the United States. It is essential that we have that provision, because right now the incarceration of the illegals is costing American citizens, taxpaying American citizens, billions of dollars.

These are underestimates, but the Federal Bureau of Prisons estimates that $1.2 billion a year is being spent to house illegal aliens. The State of California estimates that $350 million a year is being spent to house illegal criminal aliens in our prisons after they have been sentenced by the courts of California. $350 million for California! $1.2 billion nationally!

We need to grapple with that, and we need to have this exchange of prisoners convicted in the United States. I would hope my colleagues would agree, and as I have said, I cannot support the proposed loan agreement unless it takes into account the conditions of this country in this area which have been long overlooked.

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

Mr. HORN. I am glad to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I want to commend the gentleman for his statement. I also would like to inquire of the gentleman, there have been published reports, and I can't remember whether it was last night or this morning on one of the television stations, the honorable gentleman from Iowa who is chairman of the Committee on Banking and Financial Services used words, and I'm not going to try and quote his exact words, but words to the effect that if the Democratic Members did not desist from speaking out on the Speaker's book deal, that he would be loathe to bring the bill to the floor, the bailout bill for Mexico to the floor. Is that correct?

Mr. HORN. I have never heard of that until just now.

THE PLANNED MEXICAN BAILOUT INVOLVES BACK ROOM DEALS AND BUSINESS AS USUAL

The SPEAKER pro tempore (Mr. LINDER). Under a previous order of the

House, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, many seem to think that the $40 billion bailout of Mexico has gone from the business page to the obituary page. If only that were true. We need very much to be on our guard and watch out.

As I speak here on the floor, all across this Capitol and around Washington backroom deals are being cut to put American taxpayers on the line to bail out investment houses on Wall Street, banks, and other speculators that were very lucratively involved in the Mexican market. They were getting 20 percent and more interest.

Don't you think maybe if someone is paying you 20 percent interest or 25 or 30 percent interest, there is a little bit of risk that flows with that investment? Wall Street doesn't think so, nor do other speculators. They think the American taxpayers should bail them out.

Of course, they are not going to give us any of the 20 or 25 percent interest that they collected, thank you very much. They want it all.

Whose money is at risk? Whose money is at risk? A very, very senior administration official yesterday, in a closed door meeting of the Democratic Caucus, laughably tried to tell us that it was middle-income people's money at risk. Their pension funds are invested in Mexico, he said.

Pension funds? Any pension administrator who is investing in junk bonds in Mexico—and that is what these things are, junk bonds that pay 20 to 40 percent interest, from a country that defaulted on all of its loans just 12 years ago, no one thinks they are a good risk. Any pension administrator who has any substantial amount of money down there, there is a cause of action against him by the holders of that pension fund. I don't believe that is true.

If it is true, let's disclose it. We have sent a letter to the Secretary of the Treasury asking "Whose money is at risk here? Who are we bailing out?" There has been no response.

I don't know that we will ever know who we are bailing out, because apparently no hearings will ever be held on this bailout legislation. The largest bailout since the savings and loan crisis, and no hearings are to be allowed.

Mr. Speaker, I have heard my Republican colleagues around here chortling a little bit because Bill Clinton is so closely identified with this issue. At least, although I disagree with him, President Clinton has the guts to go out and say he thinks this needs to be done.

However, remember, the Republicans have an absolute stranglehold on both the House and Senate. Any bill that moves through here has to have their permission, has to have their votes. It is not a Democratic Congress or a Democratic Senate, so they do not want to hold hearings.

No, they do not want to hold hearings. They do not want to be identified with it. They do not want people to really know what is going on. They do not want possibly to upset some of those people on Wall Street who so handsomely provided for their elections.

It is business as usual here in Washington, DC, folks, despite all the hoopla about the contract, despite all the hoopla about the new majority, business as usual, back room deals, $40 billion, U.S. taxpayers on the line, and no hearings. That is even worse than the worst abuse I can think of of my own party in the last Congress.

Now we have even drug in the book deal. Today or yesterday the chairman of the House Committee on Banking and Financial Services, the gentleman from Iowa [Mr. LEACH], sent a note to White House Chief of Staff Leon Panetta tying Republican support of the Mexican $40 billion bailout to the need to get guarantees, guarantees, of kinder treatment by Democrats of House Speaker NEWT GINGRICH of Georgia, so there you have it, folks. If you think this isn't business as usual, in fact it is even worse than business as usual, a $40 billion bailout, for whom, putting the American taxpayers on the line, and the Republican-controlled Congress is going to refuse to hold a single hearing on this, and will try and jam this thing through in the dark of the night some night next week or the week after.

THE SECOND REVOLUTION RETURNS AMERICA TO ITS BASIC VALUES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, I am excited to be a part of what I believe is the second American Revolution, because this year I truly believe that the American hour is upon us. It is time for this country and this Congress to decide once and for all which direction we are going to turn.

Are we going to continue down the same failed path of LBJ and FDR, where we turn to bigger and bigger government to answer every question? Or are we instead going to turn back to those simple, basic values that our Founding Fathers laid at the foundation of this great country, values like family and faith and hard work and personal responsibility?

Thomas Jefferson wrote that the government that governs least governs best. James Madison said:

"We have staked the entire future of the American civilization not upon the power of government, but upon the capacity of each of us to govern ourselves, control ourselves, and sustain ourselves according to the Ten Commandments of God."

But Washington has ignored these values for too long. Because of it, we find ourselves $4 trillion in debt in a country were we have, as the Speaker has pointed out, 12-year-olds that are having babies and 15-year-olds that are shooting each other and 18-year-olds that are graduating from high schools with diplomas they cannot even read.

So what is the answer? The answer, Mr. Speaker, lies in many of the proposals that the Republican Party has set forth in the Contract With America, but beyond that, we have to go back to the original Contract With America, the Constitution of the United States, and read the amendments, read the 10th amendment in particular, which states that all powers not specifically given to the Federal Government are reserved to the States and to the individuals.

If we start doing that, then we can return back to what our Founding Fathers intended this country to be, and that is a nation of communities, a nation of communities where families and individuals decide what is best for them, instead of turning to Washington for every single answer, and instead of having Washington dictate what doctor they are going to choose and how they are going to teach their children and how they are going to protect their family.

That is what this unfunded mandate debate is all about. It is about restoring power to States and families and individuals to once again take control of their lives and take control of their families and take control of their business and take control of their communities, without interference from Washington.

□ 1550

We are not trying to jam anything through that every single State and family and individual has not begged for for years, and, that is, to once and for all take the chains off of them and get the Federal Government out of the way.

But when we talk about unfunded mandates, and the fantastic bill that has been put forward that is going to be voted on next week, and when we talk about balancing the budget and finally making the Federal Government do what middle-class families have had to do forever, we are told that we are going to somehow going to make my 91-year-old grandmother go without, or somehow we are going to harm my 7-year-old boy and his education.

We do not need a Department of Education bureaucracy in Washington, DC to teach my child how to read and write and get along in this world. And yet we continue turning back to Washington for bigger and bigger government. That is why I am excited to be

part of a reform movement, excited to have signed the Contract With America, excited to be on board with the unfunded mandate bill that should pass, and excited to be supporting the balanced budget amendment with a three-fifths tax limitation.

Let me tell you something. You are going to be hearing a lot of talk about this next week. You can call it what you want, but in the end, that three-fifths requirement is the taxpayers' protection plan, and that is why I am excited about supporting it. That is why I am excited about supporting this unfunded mandate bill. That is why I have not wasted time listening to these charges about GOPAC or hearing these claims about Nazi historians, or hearing this talk about the book deal.

Let me tell you something. It is a sad day when the party of F.D.R. and Harry Truman can bring forth no other proposals other than attacking Members personally.

Mr. Speaker, I ask that we all get together as a country and support the unfunded mandate bill and support the taxpayer protection plan.

ELECTION OF REPUBLICAN MEMBERS TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. HASTERT. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 41) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 41

Resolved, That the following named Members, be, and they are hereby, elected to the Committee on Standards of Official Conduct of the House of Representatives:

Mrs. Johnson of Connecticut, Chairman; Mr. Bunning; Mr. Goss; Mr. Hobson; and Mr. Schiff.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF DEMOCRATIC MEMBERS TO COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. VOLKMER. Mr. Speaker, by direction of the Democratic Caucus, I offer a privileged resolution (H. Res. 42) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 42

Resolved, That the following named Members, be, and they are hereby elected to the Committee on Standards of Official Conduct of the House of Representatives:

Mr. McDermott; Mr. Cardin; Ms. Pelosi; Mr. Borski; and Mr. Sawyer.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LET US STRESS CRIME PREVENTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, the one thing that the Thirteen Colonies knew was that we were all in this together. One of the things that my constituents in the 18th Congressional District of Texas have asked is that I would come to this office and deliberate, cooperate, and consider the concerns of the Nation, but most of all represent them.

I hope that we will have an opportunity to deliberate and consider as we look toward H.R. 3, the take-back-your-streets bill that offers to the American people the suggestion of going forward, but actually it takes us back.

The 1994 bipartisan crime bill spoke to all of the people of America. It provided dollars for law enforcement, some $13 billion, it answered the questions for overcrowded prisons by providing for $9.8 billion and, yes, for the first time historically we committed to prevention. We recognized that we are in this together—hamlets and towns and cities and counties and States.

Rennie Click, the chief of police of Dallas, TX, recognized it when he testified how extensively he supports law enforcement, support of police but he realizes how important it is to address the social needs of those who perpetrate crime. And at the same time the chief of police from the city of Houston, Chief Nuchia, indicated that he is a strong advocate of law and order, like all of us, like I am, and he believed that we must protect ourselves like I had to do as a council member working with local law enforcement, as a former judge. But he was convinced that we could not arrest ourselves out of this situation. It was his belief that adequately funded community-based programs are an important component of the American goal of achieving a healthier, safer society.

What is wrong with prevention? What is wrong with supporting boys clubs and girls clubs? What is wrong with acknowledging the importance of in-school and after-school programs, acknowledging that there are latch-key children who are subject to abuse and or subject to inspiration by others that would not follow the way of law-abiding citizens?

One of our witnesses indicated that most people living in our communities are law-abiding and work every day to help assist the community to stay on a straight-and-narrow track. But yet, now we have a bill that wants to take away the prevention dollars, when a bipartisan Congress put together a package that talks about cops on the streets. No more in this new bill. It talked about prisons, it talked about prevention. No more in this new crime bill.

It is interesting that we would all support prenatal care, immunization, which has helped our children and helped this Nation be a healthier nation. We even joined Nancy Reagan and said, "Just say no to drugs" and there are so many youngsters who can talk about that, but live it every day because the message was pounded in. And how many of us grew up with Smoky Bear? "Only you can prevent forest fires," so we know what not to do in our Nation's precious forests.

But yet do we treat crime differently? We do not want to prevent? We throw the baby out with the bathwater.

I simply ask the Nation to deliberate and consider that we are all in this together, that we are all crimefighters. But if we are going to go into the 21st century, we must focus on the prevention to be able to make this community, for police officers and sheriffs and constables and citizens and children and the elderly and all the towns and hamlets and counties and States and yes, our cities, to make them a safer place, we must have prevention. We must continue to go forward.

Let us go forward and enhance what we are doing. Reaffirm the omnibus crime bill of 1994. Let us have prevention.

COMMENTARY ON HOUSE PROCEEDINGS OF THIS WEEK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Missouri [Mr. VOLKMER] is recognized for 60 minutes as the designee of the minority leader.

Mr. VOLKMER. Mr. Speaker, on Wednesday of this week, the gentlewoman from Florida attempted to give a 1-minute speech in regard to the book deal of the Speaker of the House. During that speech, the gentlewoman was interrupted by the gentleman from Pennsylvania who asked that her words be taken down, the last two paragraphs of that 1-minute speech.

Following that taking down, the Chair at the time, the gentleman in the chair from Florida, ruled that the words were out of order and that they should be stricken.

Following that discourse, the following day in regard to that ruling, the Chair in its ruling on Thursday morning, the gentleman from California who was in the chair at the time, acting as Speaker pro tem, said:

> The Chair must reiterate that the principles of decorum in debate relied on by the Chair yesterday with respect to words taken down are not new to the 104th Congress.

Then it goes on, during that, which we can all find in the CONGRESSIONAL RECORD, where the Chair says:

On occasion, however, the Chair has announced general standards of proper reference to Members, as was the case on June 15, 1988.

□ 1600

There, in response to a series of 1-minute speeches and special order debates focusing on the conduct of the Speaker as the subject of an ethical complaint and on the motives of the Member who filed the complaint, the Chair states as follows:

Thus, the Chair would caution all Members not to use the 1-minute period or special orders, as has already happened, to discuss the conduct of Members of the House in a way that inevitably engages in personalities.

But the Chair did not rule in that ruling on that date that such language was not in order but cautioned the Members.

Then the Chair continuing on Thursday, the gentleman from California, stated that:

Third, longstanding precedents of the House provide that the stricture against personalities has been enforced collaterally with respect to criticism of the Speaker even when intervening debate has occurred. This separate treatment is recorded in volume II of Hinds' Precedents, at section 1248.

I have reviewed that, Mr. Speaker. At a later time I will ask that that be part of the CONGRESSIONAL RECORD following my comments.

Then the acting Speaker pro tempore continued on Thursday:

Finally, a complaint against the conduct of the Speaker is presented directly for the action of the House and not by way of debate on other matters. As Speaker Thomas B. Reed of Maine explained in 1897, criticism of past conduct of the presiding officer is out of order not because he is above criticism but, instead, because of the tendency of piecemeal criticism to impair the good order of the House.

Speaker Reed's rationale is recorded in volume 5 of Hinds' Precedents section 5188 from which the Chair now quotes as follows:

and the Chair made a quotation.

But the problem, Mr. Speaker, is that the Chair would lead us to believe that the following quote, which I will read that he quoted from Thursday morning, applied to actions by the Speaker similar to actions of our present Speaker, that was that Speaker Reed's actions were similar to those of Speaker GINGRICH's.

It said:

The Chair submits to the House that allusions or criticisms of what the Chair did at some past time is certainly not in order not because the Chair is above criticism or above attack but for two reasons; first, because the Speaker is the Speaker of the House, and such attacks are not conducive to the good order of the House; and, second, because the Speaker cannot reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them. For these reasons, such attacks ought not be made.

Then the Chair on Thursday said:

Based on these precedents, the Chair was justified in concluding that the words challenged on yesterday were in their full context out of order as engaging in personalities.

Mr. Speaker, Members of the House, general public, press, anybody else who cares to listen, I have a copy of Hinds' Precedents right before me, and the incident that occurred on May 13, 1897, did not have anything to do with conduct of Speaker REED outside the Chambers of this body. It only had to do with conduct of Speaker Reed's acting as Speaker. They are two different things. The comments that were made by the gentlewoman from Florida on Wednesday in regard to Speaker GINGRICH were because of his conduct outside of this Chamber, actually preceded his becoming Speaker, before he was ever Speaker, when he was still just a member of the delegation of the delegation from Florida in a previous Congress.

I would like to read, and then I will ask that it be put in the CONGRESSIONAL RECORD, the full context of the Hinds' precedent.

On May 13, 1897, the question before the House was the approval of the Journal, and Mr. Jerry Simpson, of Kansas, having the floor, was proceeding to comment upon the fact that the Speaker had not appointed the committees, and to discuss the general observance of the rules of the House.

Mr. Nelson Dingley, of Maine, having raised the point of order that the debate was not proceeding in order, the Speaker sustained it, saying that the question before the House was the approval of the Journal, not obedience to the rules; and under the rule directed the gentleman from Kansas to take his seat.

Mr. James D. Richardson, of Tennessee, moved that the gentleman from Kansas be allowed to proceed in order, and the House agreed to the motion.

Mr. Simpson was proceeding, when again, on a point of order made by Mr. Dingley, he was called to order; and the House voted that he be allowed to proceed in order.

Again Mr. Simpson was proceeding, discussing the alleged arbitrary way in which Members were deprived of their rights in the House and reflecting upon the Speaker, when Mr. Dingley again called him to order.

The Speaker, in ruling, said:

"The Chair desires to say to the House in regard to this matter that when an appeal is made to him on a question or order, it becomes his duty to make a ruling upon the question as he understands it. So far as the Chair is concerned, he has only requested the gentleman from Kansas to confine himself to the subject that is under discussion. The Chair submits to the House that allusions or criticisms of what the Chair did at some past time is certainly not in order."

Then it goes on and Members can continue the quotes given to this House by the Speaker on Thursday. That is a lot different. That is when the Speaker was in the chair, operating the House as the Speaker. His actions were actions as Speaker that were questioned by a Member. It had nothing to do with actions of Speaker Reed. Speaker Reed never did anything wrong. Speaker Reed never wrote a book and got a million dollars for it. Speaker Reed never took any money and put it in his back pocket for his actions as Speaker. Speaker Reed never desired to be a millionaire. Speaker Reed was only being criticized for his actions as Speaker, and what he was doing in his job as Speaker.

The gentlewoman from Florida in her 1-minute speech on the floor of this House was only discussing what our present Speaker had done prior to his being Speaker in accepting a book deal, and now alleging that as a result of that book deal was going to get millions of dollars, and he very well may get those millions of dollars.

Before I forget, at this time I will include in the CONGRESSIONAL RECORD the Hinds' Precedents that I have alluded to and that were alluded to by the Speaker pro tempore on Thursday.

The documents referred to are as follows:

5188. When a Member is called to order for violation of the rules of debate, it is the practice to test the opinion of the House by a motion "that the gentleman be allowed to proceed in order."

Complaint of the conduct of the Speaker should be presented directly for the action of the House and not by way of debates on other matters.

The Speaker remained in the chair and ruled as to the relevance of language criticizing his conduct as Speaker.

On May 13, 1897,[1] the question before the House was the approval of the Journal, and Mr. Jerry Simpson, of Kansas, having the floor, was proceeding to comment upon the fact that the Speaker had not appointed the committees, and to discuss the general observance of the rules of the House.

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Again Mr. Simpson was proceeding, discussing the alleged arbitrary way in which Members were deprived of their rights in the House and reflecting upon the Speaker, when Mr. Dingley again called him to order.

The Speaker, in ruling, said: The Chair desires to say to the House in regard to this matter that when an appeal is made to him on a question of order, it becomes his duty to make a ruling upon the question as he understands it. So far as the Chair is concerned, he has only requested the gentleman from Kansas to confine himself to the subject that is under discussion. The Chair submits to the House that allusions or criticisms of what the Chair did at some past time is certainly not in order. Not because the Chair is above criticism or above attack, but for two reasons: First, because the Speaker is the Speaker of the House, and such attacks are not conducive to the good order of the

[1] First session Fifty-fifth Congress, Record, pp. 1067, 1068.

[2] Thomas B. Reed, of Maine, Speaker.

House; and, second, because the Speaker can not reply to them except in a very fragmentary fashion, and it is not desirable that he should reply to them. For these reasons such attacks ought not to be made.

If there be any complaint of the conduct of the Speaker it ought to be presented directly for the action of the House, but this continual making of attacks with no proper opportunity for reply every Member must see, whatever may be his relation to the pending question, is not suitable and ought not to be indulged in. If there be any objections to the acts of the Speaker they are not above criticism.

1248. A Member having used words insulting to the Speaker, the House, on a subsequent day and after other business had intervened, censured the offender.

An insult to the Speaker has been held to raise a question of privilege not governed by the ordinary rule about taking down disorderly words as soon as uttered.

When the House was considering a resolution censuring a member for an alleged insult to the Speaker, the Speaker called another Member to the chair.

On July 9, 1832,[3] during debate on a question of order, Mr. William Stanbery, of Ohio, in criticising a ruling of the Chair, said: I defy any gentleman to point me to a single decision to the contrary, until you presided over this body. And let me say that I have heard the remark frequently made, that the eyes of the Speaker are too frequently turned from the chair you occupy toward the White House.

Mr. Stanbery being called to order by Mr. Franklin E. Plummer, of Mississippi, sat down; and the debate proceeded.

The pending question being disposed of, Mr. Thomas F. Foster, of Georgia, moved that the rules be suspended in order to enable the House to consider[4] the following resolution: *Resolved*, That the insinuations made in debate this morning by the honorable William Stanbery, a Member of this House from Ohio, charging the Speaker of the House with shaping his course, as presiding officer of the House, with the view to the obtainment of office from the President of the United States, was an indignity to the Speaker and the House, and merits the decided censure of this House.

The vote being taken there were yeas 95, nays 62; so the House refused to suspend the rules.

On July 10,[5] when the States were called for the presentation of resolutions,[6] Mr. James Bates, of Maine, presented the resolution again, with the slight modification of "words spoken" instead of "insinuations made."

Mr. Charles F. Mercer, of Virginia, made the point of order against the resolution that the words of the gentleman from Ohio, were not taken down at the time they were spoken, nor at the close of the speech of the Member; because other business had occurred since the imputed insinuations were made; and because a day has elapsed since the words were used, without any action or proceeding of the House in relation thereto. Jefferson's Manual was quoted in support of this contention.[7]

The Speaker pro tempore[8] decided that the resolution was in order. This was a question concerning the privileges of the House; therefore the rules of ordinary debate did not apply.

Mr. Mercer appealed; but pending the discussion the hour expired, and although Mr. George McDuffie, of South Carolina, insisted that the pending question had precedence, because it related to the dignity and privileges of the House, the House voted to proceed to the orders of the day. On the next day, however, when the question arose again, the Speaker pro tempore corrected his decision of the day before, and decided that a question of order involving the privileges of the House took precedence of all other businesses.

On July 11[9] debate on the appeal of Mr. Mercer was resumed. Mr. John Quincy Adams, of Massachusetts, said that this seemed to be a case of punishment for disorderly words spoken in debate. But in such a proceeding the words should be taken down, which had not been done in this case, although the Manual specifically provided such a course of procedure. That course was founded in reason and justice, and was, as expressly declared, "for the common security of all."

The decision of the Chair, on Mr. Mercer's appeal, was finally sustained, yeas 82, nays 48.

The question recurring on agreeing to the resolution of censure, Mr. Stanbery justified what he said as parliamentary by quoting Lord Chatham's words, which had passed without a call to order in open Parliament, "the eyes of the Speaker of that House were too often turned toward St. James's."

Mr. Samuel F. Vinton, of Ohio, raised a question as to whether or not interrogatories should not be propounded by the Chair to the Member about to be censured, to ascertain whether he admitted or denied the fact charged in the resolution; but the Speaker declined to do so.

The question being taken,[10] the resolution of censure was agreed to, yeas 98, nays 44.

Several Members asked to be excused from voting, on the ground that they had not heard the words spoken by Mr. Stanbery, but the House declined to excuse them. Mr. Adams, however, refused to vote.

1249. A Member in debate having declared the words of another Member "a base lie," the Speaker declared the words out of order and the House inflicted censure on the offender.

The Speaker having, by order of the House, censured a Member, the words of censure were spread on the Journal.

On January 26, 1867,[1] during debate on the bill (H.R. 543) for restoring to the States lately in insurrection their full political rights, Mr. John W. Hunter, of New York, was called to order by Mr. Ralph Hill, of Indiana, for the use of the following words: "I say that, so far as I am concerned, it is a base lie," referring to a statement by Mr. James M. Ashley, of Ohio.

The Speaker[2] decided the words out of order.

Thereupon Mr. Hill submitted the following resolution:

Resolved, That the gentleman from New York, Hon. Mr. Hunter, in declaring during debate in the House, in reference to the assertions of the gentleman from Ohio, Hon. Mr. Ashley, "I say that, so far as I am concerned, it is a base lie," has transgressed the rules of this body, and that he be censured for the same by the Speaker.

The resolution having been agreed to—yeas 77, nays 33—Mr. Hunter appeared at the bar of the House and the Speaker administered the censure. This censure by the Speaker appears in full in the Journal.

1250. A Member having explained that by disorderly words which had been taken down he had intended no disrespect to the House, a resolution of censure was withdrawn.—On June 1, 1860,[3] on the request of Mr. John Sherman, of Ohio, the following words spoken in debate were taken down:

By MR. CHARLES R. TRAIN, of Massachusetts: "I am not in the habit of troubling the House much, and I never insist upon speaking when I am clearly out of order. I should consider myself guilty of gross impropriety, not only as a Member of the House, but as a gentleman, if I insisted upon addressing the Chair, and interpolating my remarks when I had no right to the floor."

By MR. GEORGE S. HOUSTON, of Alabama: "I wish to know if the gentleman from Massachusetts applied that remark to me?"

By MR. TRAIN: "I mean exactly what I did say, and I stand by what I said."

By Mr. HOUSTON: "I mean to say that if he applied that remark to me, he is a disgraced liar and scoundrel."[4]

Mr. Sherman submitted this resolution: *Resolved*, That the gentleman from Alabama, Mr. Houston, be censured for disorderly words spoken in debate.

During the discussion of the resolution the point of order was made that the gentleman from Ohio did not call the gentleman from Alabama to order before asking that the words be taken down.

The Speaker[5] overruled the point of order.

So I want everybody in the House to know that the precedent that was cited was only for actions of the Speaker while in the House, and, therefore, was not for actions of the Speaker outside the House, and what he had done on a question of ethics as it applies to him or any other Member.

My perusal of all of the precedents of the House, not only Hinds' but Cannons', Deschler's, Deschler-Brown, Jefferson, all the way back, there has never been an instance when a person such as the gentlewoman from Florida's words were taken down and ruled out of order for discussing activities of any Member, not just the Speaker, any Member in the past, in over the 200-year history of this House. And what that tells me and other Members is that we now have a rule, new ruling and a new way of deciding what you can say in this body and what you can say about other Members. And what it tells me is that another Member can do a completely illegal activity that is

[3] First session Twenty-second Congress, Journal, p. 11113; Debates, pp. 3876, 3877, 3887.

[4] The pressure of business had at this date become such as not to permit the regular order to be interrupted except by unanimous consent or by a vote to suspend the rules; but the system had not been instituted yet of admitting such resolutions as matters of privilege—or at least not in cases of this kind.

[5] Journal, p. 1118; Debates, pp. 3888–3891.

[6] In the order of business at that time an hour was devoted to the presentation of resolutions, etc., before passing to the Speaker's table and the orders of the day.

[7] See Chapter XVII of Jefferson's Manual.

[8] Clement C. Clay, of Alabama, Speaker pro tempore. Mr. Speaker Stevenson had left the chair from motives of delicacy. Debates, p. 3898.

[9] Journal, pp. 1134, 1135; Debates, pp. 3899–3903.

[10] Journal, p. 1141; Debates, p. 3907.

[1] Second session Thirty-ninth Congress, Journal, pp. 271–273; Globe, pp. 785–787.

[2] Schuyler Colfax, of Indiana, Speaker.

[3] First session Thirty-sixth Congress, Journal, pp. 972–981; Globe, pp. 2546, 2548, and 2554.

[4] Those words appear in full in the Journal as taken down.

[5] William Pennington, of New Jersey, Speaker.

freely reported in the press, outside of these Chambers, and you cannot comment on it here.

□ 1610

You cannot talk about it. We cannot discuss it. I do not see why not.

This is to me, in my many years here, is something that I believe that we should preserve and protect and maintain as a body in which all Members are above reproach.

We serve the public. We are not here to serve ourselves. We are not here to become millionaires as a result of our actions in this body.

We get a salary, and that should be enough for anybody. And I think it is wrong for any Member who uses his office, any Member who uses this office, this, to me, most sacred office, office of the public, to make himself wealthy.

But we are seeing that happen, and yet we are told we cannot comment on it.

I say to you, Mr. Speaker, I believe that if a Member feels that the criticism that comes from other Members of this body as a result of that Member's activities, whether on this floor, in the committees or outside of this, whether back in his home State or anyplace else, he has the opportunity to come down to this body and say anything he wants to say. If it calls for information, he can provide that information. He should feel free to do so.

If it means that there is a contract, let the contract, hold it out, let everybody see it. We owe that much to the public.

I will now yield to the gentleman from New York.

Mr. SOLOMON. Well, I thank the gentleman, and I am going to try to stay nice and calm.

Mr. VOLKMER. I have been nice and calm.

Mr. SOLOMON. Like the gentleman has.

But, you know, sometimes when I hear, you know, this continuation of this issue, it really does get me upset, because, you know, this Congress over the years has done everything in its power to drive businessmen out of this Congress, businessmen like me.

And, you know, I really do resent it. I can recall, you know, when I came here 16 years ago, and I owned an insurance firm, a stock brokerage firm and a real estate firm, and because all of those firms gained their revenue from commissions, I was forced to sell my businesses, and I had to sell them to junior partners at a reduced sum, about half what they were worth, just to come here so I could serve the people.

But you know, it was regulations like that that keeps people from coming into this Congress, people who have been successful in life and who can deal with the Mexican peso issue and know what it is all about.

But getting back to the other point, you know, you seem to be picking on our Speaker, and I really resent that, because when I look at the people that are picking on him, it is the same people that said it was all right to take book royalties 4 or 5 years ago when the now-Vice President of the country, and a former Senator, receives royalties. We have Republican Senators, as well. That happened to be a Democrat over in the Senate. We are not supposed to talk about the other body. He receives royalties. I think he is from Maine. We have my own Senator from the State of New York, PATRICK MOYNIHAN, a real decent guy. He receives royalties.

And the minority whip, the gentleman from Michigan [Mr. BONIOR], when he was a majority whip, served on a committee that was appointed by your Speaker, the Democrat Speaker, that said it was OK to accept royalties, you know, so all of a sudden because this is a large amount of money, all of a sudden you and others want to make issues about it.

Now, I am not impugning your integrity at all. You know that you and I side on a number of issues, especially some that are most important, and I have deep respect for you.

In no way would I impugn, you know, your integrity of why you are doing it. It just seems to me the continuing to let this go on is really just hurting the work of this House.

We have important work to do. We have got the second Reagan revolution to undertake where we are going to shrink this Federal Government, we are going to take away the power of this Federal Government, we are going to put it back into the hands of the people, back into the States, back into local governments and into the hands of the people. We are going to get this Government off the backs and out of the pockets of the American people, and when we see all of this going on, all of this nitpicking, all this does is slow it down.

We have seen it today. When I put out an open rule with the help of the acting Speaker in the chair, so that we could debate unfunded mandates, lo and behold, what do we end up with, 151 amendments were filed to this bill, most of them duplicative and here we spent all day on two or three amendments.

Now, how are we ever going to accomplish the successful passage of that bill if we continue to see these kinds of nit-picking delays take place?

So I again have deep respect for the gentleman from Missouri, but it is about time we got down to business and stopped this foolishness and get on with the people's work.

I really do thank the gentleman for yielding. I just had to get that off my chest.

Mr. VOLKMER. I might answer as far as, and I did not want to discuss the unfunded mandate bill. I had not planned to do that today. But my comment to that is that if the bill had been worked, what I call worked properly, and time had been spent on it in committee that should have been, we would not have all of these amendments.

Now, that is my answer as to why you got all of the amendments. It is in a rush to get here, and it got here, and now you have got all of these amendments. What else did you expect?

You have got people that did not get to offer those amendments in the committee. That is that.

I do not have all day, I will tell you, the gentleman from New York, that I want to finish up. I have got another matter to talk to; if you want to stay, if I have time, I will yield some more.

The gentleman is a friend. We do agree on many things.

But a little difference between the previous book deals. I know of no book deal that he has alluded to where you have a question, and I say a question, and that is why some of us are talking about it, because we do not know the answer, but I think it necessarily needs to be addressed.

The question is: There is a gentleman named Rupert Murdoch and how much influence did Rupert Murdoch have as far as the book deal is concerned in return, in return for possible legislation that would be favorable to Mr. Murdoch. Now, that is little bit different than writing a book and selling it out on the street. That is a heck of a lot different.

Now, if you say, now, wait a minute, that is going too far, well, I suggest that the gentleman from New York go back and look in the CONGRESSIONAL RECORD back in 1988 and see when the gentleman from Georgia who now is our Speaker was talking about Rupert Murdoch and what had to be done and what was being done to Rupert Murdoch, why that was being unfair, all of these other things, I suggest to the gentleman that he look into it a little bit further than just taking on carte blanche that everything is aboveboard.

Mr. SOLOMON. Would the gentleman yield on that point?

Mr. VOLKMER. Very briefly.

Mr. SOLOMON. You know, in other words, we have the rules of the House provide for an ethics committee which we are trying to get appointed.

Mr. VOLKMER. That was done today, done today, done today.

Mr. SOLOMON. That is an issue for the ethics committee to look into it, not for us to waste our time on the floor of this body. We have more important issues to take care of.

Does the gentleman agree?

Mr. VOLKMER. Now that we have the ethics committee and a formal complaint can be filed, I hope it will be done.

And wait a minute though, we have got another little problem, because

those of us who see how the ethics committee is structured with the same amount of numbers that—and who appointed the ethics committee on your side? The speaker.

Now, are those people going to find against the Speaker?

Maybe we ought to have an outside counsel, independent outside counsel.

Mr. SOLOMON. The Speaker did not appoint those people.

Mr. VOLKMER. Pardon?

Mr. SOLOMON. The Speaker did not appoint anybody.

Mr. VOLKMER. Yes, but it was done today. It was done today.

Mr. SOLOMON. But it is the same old Members. He has not added anybody to it.

Mr. VOLKMER. Either way, I just say that if we get an independent counsel, I will be feeling a heck of a lot better about it all.

Now, the other thing I want to talk about, and I think it is another thing that again comes back to our Speaker, but this has nothing to do with ethics, and it has nothing to do with personalities. It has to do with a little thing called Social Security and income taxes.

Now, we all know that the Contract on America and that the Speaker says that we are going to exempt Social Security from any cuts; we are not going to raise anybody's taxes.

But then I find that just the other day when I read a newspaper, day before yesterday, that there is an article in there about the CPI.

□ 1620

Now, that is the Consumer Price Index. And that the Speaker, and your floor leader, Mr. ARMEY, especially, says we have got to hold down the CPI, we are going to hold it down. We are going to cut it. We need to get it down at least 1 or 1 percent. And do you know why, folks? Do you know what happens when the CPI goes down and is not at its normal rate? Then the people on Social Security do not get the increases that they are entitled to by law. Yes. And guess what happens to your income tax, because the personal exemption does not go up as much as it should by law and your income taxes go up because you do not have as much of a deduction?

And who does it hit the worst? Well, folks, as far as the family-friendly people, children, families with children, have to pay more taxes because you are getting an exemption for each child. So your taxes, if you make $50,000 or $20,000 and you are by yourself, your taxes will not go up as much as if you have got a wife and four kids or three kids or two kids or 1 kid.

Mr. SOLOMON. I have five.

Mr. VOLKMER. Your taxes will go up. That is the same thing I want to talk about very briefly: When you all talk about in the rules that you are going to make a change, make it three-fifths before you can raise taxes. That is what I kept hearing over there on taxes, before we can raise income taxes. Well, that is not true, folks; here is an example of how you do it. You just change the CPI. It has nothing to do with raising income tax rates, that is what you are saying, three-fifths to raise income tax rates. And here is the Speaker and here is your floor leader saying we change the CPI, reduce Social Security payments to our elderly, and we raise income taxes on everybody, and especially those with children. The more children you have the more you pay.

Mr. SOLOMON. Will the gentleman yield so I can discuss it with him?

Mr. VOLKMER. Surely, in just a moment.

Now, this is just another way by the back door. Where did this idea come from? This idea came from a guy named Greenspan, yes, Chairman Greenspan. He is the one giving the idea. It would save about $200 billion over about 5 years. Now, that is about the amount that you need for the tax cuts for the wealthy.

So we are going to take away Social Security from the recipients, we are going to cut them, we are going to make people who make $25,000, $30,000, who have got two or three kids, pay more taxes. Then for people who make over $200,000, we are going to give them a tax break. Hey, folks, no way do I think that is very fair. That does not sound like a very good Contract With America to me.

Now I will read along that line—and I have one more thing to comment on. I am reading now from an article in just yesterday's USA today.

House Republicans are considering a plan to pay for $200 billion in tax cuts by taking the biggest amount of cash from programs for the poor and elderly, like Medicare.

The document being circulated quietly among Republicans—is only one of several options. But it indicates the areas the GOP have targeted to pay for tax cuts promised in the GOP Contract with America:

$125 billion would come from programs known as entitlements—Medicare, Medicaid, welfare, food stamps and student loans.

$75 billion would come from programs requiring annual appropriations, such as defense, education, housing and transportation.

So the vast majority is going to come from the elderly, going to come from the poor, and who are they going to give it to? The wealthy.

That is Robin Hood in reverse.

The gentleman earlier said that he wants to get on with Reaganomics II, he wants to get on with Reaganomics. That is old-hand Reaganomics. Take from the poor and give to the wealthy.

Gentleman, ain't no way I am going to agree with you on that one.

Mr. Speaker, I yield to the gentleman from New York.

Mr. SOLOMON. You know what? I think the gentleman is going to agree with me, and I thank him for yielding. I am reading from the Contract With America now as it deals with senior citizens. The Senior Citizens Equity Act will raise the earnings ceiling for recipients of Social Security benefits and lower the portion of benefits that they can be taxed. That is what the senior citizens I represent want.

You know, I come from the Adirondack Mountains in upstate New York, where, incidentally, unemployment is as high as 15 percent today. That is problems, my friend.

You know, those senior citizens want me to do everything in my power to keep inflation down, not to raise it up so they get a little bit more in their Social Security check. They want to take the earnings that they have and they want to be able to at least survive on them. That is what they want.

Here is what Reaganomics is—let me just finish. It will take 3 minutes.

Reaganomics is eliminating 150 programs like the Interstate Commerce Commission, privatizing Government agencies like the Federal Aviation Administration, consolidating 35 Government functions like the Bureau of Indian Affairs, downsizing the Department of Education, which has not done anything to increase education in this country; abolishing the Department of Energy, with 16,000 employees who have never produced a gallon of oil; convert the Department of Commerce down to a bureau, eliminate those 36,000 employees, which has not done anything for the economy of this Nation, and make them a consulting body for business and industry.

We are going to means test things like Medicare, school lunches, and wheat and dairy programs.

This is Reaganomics, this is what the first part of the Reagan administration never could accomplish because we did not have the votes. Now we are going to attempt it.

I will bet you that the gentleman is going to vote for a lot of it.

Mr. VOLKMER. I doubt very much if I vote for some of that, especially if I go back to letting the senior citizens work and still draw their Social Security. Not a bad idea.

But I will tell you why, the reason the gentleman from New York and the Republicans are proposing it, it is very simple: All you have to do is go back and look at what they are proposing to do in the budget, because they are going to cut Medicare. Senior citizens are going to pay more for their health and hospital bills. Where are they going to get the money? They are not going to get it from Social Security, they will have to go out and work for it.

What they are saying is, "Hey, we are not going to help you anymore because we are going to cut you back and you had better go out and work for that minimum wage in order to pay for your

own health care." That is what they are saying to you. They are going to make you work in order to get—in order to get paid for what you are now getting paid for.

Mr. SOLOMON. But those are only for people with incomes over $100,000, that is the only Medicare that we are going to cut.

Mr. VOLKMER. Not according to this.

Mr. SOLOMON. Yes, according to that. I have the same thing.

Mr. VOLKMER. Well, I doubt very much if you are only going to cut Medicare expenses for people over $100,000, even though I might agree with that——

Mr. SOLOMON. I thought the gentleman would.

Mr. VOLKMER. And that would be all if those people would pay their full share of Medicare part B. That would be a little better.

I still do not see cutting the rest from the poor and the elderly, especially my students.

You know, I think one of the best benefits we have had in this country over the past few years—the gentleman degrades the Department of Education as not having educated anybody. I agree that it is true they do not go out and educate people. It is not an educational system. but we do have student loans, we have student grants, we have work study.

Now, work study is one of the programs which support the most because I think it is the best because it does not put anybody into debt like a student loan does. It is different from a grant.

But all three of those programs have enabled many Members, I know, in my opinion, and I say there are probably Members of this body right here today who have benefited from a student loan, grant, or work study program who would not have been able to get the higher education elsewhere. I have in my district many people in business, farmers——

Mr. SOLOMON. Those are good programs.

Mr. VOLKMER. Everybody, that is a good program. Why do they want to cut it?

Mr. SOLOMON. We do not.

Mr. VOLKMER. You are talking about Reaganomics now. Reagan's first budget and the second budget, way back in 1981-82, zeroed out, zeroed it out. Oh, yes, yes, go look at it, go look at it. I well remember it because I know what it would have done. What that does, when you cut those student loans, you are telling our young people you get a high school education—unless you are wealthy, and you are the only one that does get a higher education—you get a high school education, you have got to live with it. You try to make a living today with it, you cannot do it. The gentleman from New York would agree with that.

Mr. SOLOMON. I would agree, yes, because some of those are good programs and we would not want to hurt those programs, we would want to continue those programs. And that was all we wanted to do in Reaganomics, that was to take all those categorical aid programs where we here in Washington, big brother government in Washington, was micromanaging education and saying to the local school districts back home, "If do you this, we will give you the money."

We did away with those. We folded all those categorical grant programs into a block grant, gave it to the State of Missouri, and said, "State of Missouri, you will give 80 percent of that money to your local school districts, and you, local school districts, will set the curriculum because you know what is best for the people in the Missouri school districts," just like I know best about the schools in upstate New York school districts.

□ 1630

That is Reaganomics. That is what we are going to do now. We do not want to bounce those programs, turn it into a block grant, give it to the States, or that the State of Missouri—and your Governor, who I debated on "Good Morning America" the other day, agrees with that. He can do it better he says, and I agree with him.

Mr. VOLKMER. At this time I still say that I guess the proof will be in the pudding when we see the budget as proposed by the majority in the future. I understand, and perhaps the gentleman from New York [Mr. SOLOMON] can correct me; is it going to be two budgets, one budget to make room for the money so you can do the tax bill, and then another budget to do the 5-year budget? Or are you going to try and do it all at one time?

Mr. SOLOMON. I say to the gentleman, "The main thing is to develop a budget that will balance the budget over 7 years. Now, whatever that takes. Then, if there are going to be tax cuts in addition, then there ought to be additional spending cuts beyond that. It takes $800 billion to balance the budget over that 7-year period."

Some of us on the balanced-budget task force that I am the chairman of introduced a budget last year, you know, back in March, that did just that. It balanced the budget. We did not get very many votes for it at the time, but we are going to have the same budget available, and we hope that the majority will accept that budget, and then, if there are going to be tax cuts, make additional spending cuts to go along with it to pay for the tax cuts. That is being fiscally responsible.

Mr. VOLKMER. There will not be any tax cuts without spending cuts; is that correct?

Mr. SOLOMON. Over my dead body will that happen, absolutely.

Mr. VOLKMER. I mean over your dead body there will be spending cuts?

Mr. SOLOMON. There will be no tax cuts without any spending cuts to go with them.

Mr. VOLKMER. I say to the gentleman, "Thank you. We agree on something else."

THE COURAGEOUS RESPONSE TO THE FLOODS IN CALIFORNIA

The SPEAKER pro tempore (Mr. LINDER). Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, I rise today to commend the residents of Sonoma and Marin Counties in California for their courageous response to the floods which ravaged our communities and much of California last week. Law enforcement, county workers, emergency and rescue crews, and the National Guard worked double duty. Businesses, like the Bank of America and Safeway, donated space, clothing, and food, and finally volunteers and neighbors came together in a breathtaking effort to protect homes, streets, stores, and farms, and, most importantly, to save lives.

Mr. Speaker, nobody better exemplifies the spirit of the people of any district than John Alpin, a Red Cross volunteer and manager of the Sebastopol emergency shelter. John spent his first morning away from work after several 24-hour workdays setting up another shelter in Santa Rosa.

Mr. Speaker, the floodwaters may have risen quickly in my district in northern California, but they could not outpace the rapid and generous response of the brave people of Sonoma and Marin Counties.

WHAT WE HAVE ACCOMPLISHED AND WHAT WE WILL ACCOMPLISH

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Virginia [Mr. DAVIS] is recognized for 60 minutes as the designee of the majority leader.

Mr. DAVIS. Mr. Speaker, I think what the American people have seen over the last 2 weeks is a Congress that has made some promises and has kept those promises. In the first day this institution instituted many reforms that have been talked about for a number of years but have never been acted on. I always said, "Actions speak louder than words." I think the American people are starting to see some actions, and I am going to talk a little bit today and with some of my colleagues about the unfunded-mandates legislation before this House, but I think it is important that we go back and look back over the last couple of weeks and see what we already have accomplished together.

The reforms of this institution, the first day, included forcing Congress to live under the same laws that everybody else lives under. This is something that has been talked about in the previous Congress but the Shays Act has now been passed by both bodies and sent to the President for signature, and for the first time Congress and its employees are going to live under the same laws: OSHA, the Americans With Disabilities Act, and a number of other laws that we had specifically exempted ourselves from in the past. So, we have accomplished this. We have cut the committee staffs, as we promised, by one-third. We have opened up committee meetings to the general public. No longer are meetings going to be held in private, behind closed doors, where appropriations are going to be zeroed out, where tax bills are going to be marked up, without the full view of the American public and the press. Now there are going to be opened up to the people. Proxy voting is now abolished, so from now on Members are going to have to be there listening to the debate and the arguments before they cast their vote in committee, a recommendation that have been made in the past that has never been brought to fruition until we did this changing our rules in the first day of the Congress.

Over the coming weeks many issues that the American people want considered, but for so long have been blocked from even coming to the floor in many cases, are going to be considered and open to debate in this body:

A balanced budget amendment hopefully will be coming before this body next week with many different amendments and options, open for Members to debate and vote on before we vote on it here and send it to the other body; line-item veto, something that the administration endorses, and many of us in Congress want to work with the administration to being this needed change about, and for once the executive will have the opportunity to look at items of pork and appropriation bills and line those out, and I think this will be a needed check on spending and some of the excessive spending that has actually originated in this body in the past. We will see a real crime bill come before this body, something the American people badly want. Legal reforms are going to be coming before this body in the next couple of months, and congressional term limits, something that we have never brought to the floor of the House before for a recorded vote, will be coming here in several different versions of that.

But today and next week this body, in conjunction with actions in the other body, are considering H.R. 5, the Unfunded Mandate Reform Act. This bill is simply a modest effort to cost out the effects of decisions that we make here in Congress, in Washington, that mandate that State and local governments carry out, force those State and local governments to use local dollars to cost out and spend on our Federal priorities.

Now the opposition has responded with numerous horror stories, scare tactics, and inaccuracies in an effort to portray this legislation as an assault on environmental and health legislation. In point of fact it is nothing of the kind. This bill does not eliminate one current Federal program, but it will force Congress to assess the costs of such programs before we impose them on State and local governments. Many local governments today have to raise their real estate taxes, have to cut their local police, have to cut their school and education funding to comply with mandates that we are putting upon them, priorities that are set in Washington. The last Congress refused to act on this legislation, which is bipartisan once you get beyond the halls of Congress. The groups from the Governors' Association, the National Conference of State Legislators, the National Association of Counties, where I am chairman of their unfunded-mandates task force, but my cochairman, Yvonne Burke, a former Member of this body and a supervisor in Los Angeles County, was just as strong for this legislation when we argued and testified in hearings last year before both bodies of Congress. The National League of Cities, National Conference of Mayors, even the Chamber of Commerce and the National Federation of Independent Businesses [NFIB] have all come together to endorse this legislation which is now before Congress and will be—we have acted today in enacting some amendments, defeating others, and we will be doing this Monday afternoon and evening and Tuesday and, hopefully, wrap this up next week, and the Senate—excuse me, the other body—will be working on this at the same time, will go to conference, and hopefully have this out in the next month or so.

At this point I yield to the gentleman from Oregon [Mr. COOLEY] I think who has some remarks to make on this.

Mr. COOLEY. I thank the gentleman from Virginia [Mr. DAVIS].

Mr. Speaker, in light of the many amendments that have been offered to the Unfunded Mandate Reform Act, I rise at the request of my colleagues to quickly explain my amendments prior to their consideration next week. Briefly I would be offering two amendments that will strengthen this worthy legislation.

My first amendment would strike the mandated grandfather provision, and my second amendment would afford the private sector the same protection States will be given subsequent to intergovernmental mandates that are considered. The grandfather provision, found in section 2425(a), was added during the consideration of the Committee on Rules of the bill to protect all past mandates as long as they do not increase the mandate or decrease the resource allocated to fund it.

□ 1640

In other words, the Clean Water Act, Clean Air Act, Immigration Act, and Endangered Species Act, to name a few, are all protected from the procedural strictures this bill imposes on future mandates.

Quite simply, this is a mistake. The very reason we are addressing this issue is because the pain inflicted by unfunded mandates upon the States has reached critical mass. The support for the GOP Contract With America is a clear sign that, among other things, the people are tired of mandates, especially unfunded ones.

We have other matters to attend to, but passing a stronger version of this bill will send a clear message that this is an active Congress that is attentive to the will of the people and the needs of the States.

If we as a Congress do not address the problem of current unfunded mandates, we will be negligent in our duty. Compliance with just 12 of the most well-known unfunded intergovernmental mandates will cost the States $34 billion over the next 5 years and will continue to strangle nearly every aspect of our economy.

Mr. DAVIS. If the gentleman will yield on that point, I would just note in my own county of Fairfax, we costs out just 10 of those mandates and are paying over $30 million annually in local taxes, that is 6 cents in our local tax rate, and if you total that up, that is over $100 a house just to comply with just those mandates you mentioned. In addition to that, there are over 100 other unfunded mandates from the Federal Government that apply to local governments.

It is exactly this kind of problem, these unfunded trickle down taxes that emanate from Congress, but are foisted, that have to be paid by people at the local level, taxpayers at the local level, that Congress has not fessed up to its responsbility in that.

I think it is important that we take responsibility for that. There is certainly going to be actions, there is certainly priorities that need to be set from the Congress of the United States, and the costs are going to be passed down. But we should have an accounting of that, we should be aware of these, and we should affirmatively say we think this is important enough that we are going to put this mandate on State and local governments. We are not doing that now. It is hidden from view right now. This will be full accountability.

Mr. COOLEY. Thank you for your comments. I would like to say something other than what I prepared to

tell you just about how bad this has become in my State of Oregon. I have a small community on the east side by the name of Haines. It has about 120 residents in that community, and it was founded over 150 years ago.

They have had their water checked, and it is clean and has been forever. And yet under the Federal mandate, Clean Water Act, they are going to be compelled to put in a $40,000 system for 120 residents. The people of Haines cannot afford it. Most of the people there live on less than $1,000 a month.

The Mayor of Haines came to the Oregon State Legislature, in which I served as a senator, and told the legislature, come and take the city. We will will you the city. We will deed the property back to the State, and you fill out these Federal mandates.

Of course, the State backed off immediately. But the thing is that this puts a hardship on small communities that they just financially can't afford.

I offer this amendment so that Congress will be forced to address the crucial questions that surround unfunded mandates. When we attempt to achieve the goals of clean air, clean water, a society accessible to the handicapped, and a just immigration policy, we have forgotten to ask "at what cost?"

Like any commodity or service we purchase, the benefits that are derived from the unfunded mandates are subject to the principle of diminishing marginal returns. In other words, the more we receive of a particular item, whether it be clean water or protection of endangered species, the less valuable that final degree of cleanliness or protection becomes.

We can have too much of a good thing.

If you don't believe me, imagine this: Someone offers you a plate of your favorite food. You eat and they give you another. This continues and, depending on your girth and metabolism, sooner or later you are ill.

Water can be clean and safe and still not be pure H_2O—yet certain policies demand prevention and purity where they are neither necessary nor possible. I can't see the rationale and neither can the American people.

It is important to note that laws affecting civil and constitutional rights will remain unaffected by my amendment. Additionally, my amendment will not make the bill retroactive—Congress will address each reauthorization as it comes up for consideration.

Removing the grandfather clause will ensure that as mandates are reauthorized, Congress will reevaluate the real questions that must be answered. I urge my colleagues to carefully consider what I have said and support this and all measures that force Congress to consider the wisdom or folly or our predecessors.

My second amendment is aimed at protecting private industry and the heart of our economy, small businesses.

As written, the bill will subject new intergovernmental mandates to points of order here in the House when those mandates exceed $50 million. While a point of order is not an insurmountable hurdle, it gives the House a moment to pause and consider the magnitude of its actions.

In fact, the point of order may be raised, voted upon, and passed by a comfortable margin without Congress turning aside from its consideration of such a sizable mandate. The heart of the matter, though, is that our bias will be against mandates. More importantly, we will indicate our intention by incorporating this into our procedures.

I seek the same protection for the private sector. If my amendment passes, private sector mandates that exceed $100 million will be subject to this same point of order. We will then be forced to stop and consider our actions in light of the fairness we are trying to impart to the States by passing this bill.

We pride ourselves as a nation on our fairness. When I offer my amendment, I ask that you carefully consider the fairness of the bill as written. Will we erect a double standard or will we protect the private sector as well?

We started this process with the resolve to end unfunded mandates. Let us not lose that resolve by hesitating to protect the private sector in the same manner.

I thank the Speaker and yield back the balance of my time.

Mr. DAVIS. Thank you very much. Let me just ask the gentleman one question if I may. Is it not a fact that the same individuals that elect local and State officials are the same ones who elect us? Is that not correct?

Mr. COOLEY. That is correct.

Mr. DAVIS. Basically they are looking to us to fill different levels of government to work together in the most efficient way to try to take care of their concerns and their problems. And one of the problems it seems to me with the unfunded mandates is we have it all backward. The priorities are set from a group that are not paying for those priorities. That leads to a whole different and inefficient way of doing business than if you are setting the priorities and paying for them. Do you agree?

Mr. COOLEY. We have both served in legislature and in government prior to coming to Congress, and as State legislators and a State senator, we mandated many things which we were forced to pass on to the small communities which we were forced to pass on to the small communities which we knew would not be able to financially afford them. But we had to pass those down. Because in that process, if we didn't, the Federal Government, as you know through the mandate process, has a compromise system, and if you do not follow mandates, sometimes you are penalized by not receiving other returns on Federal funding. So the system is more a system I would say of blackmail than it is of cooperation and spirit, and it should be done in cooperation and spirit, and not in the system that forces people to do it when they really truly want to, but maybe financially cannot, nor is it necessary.

Mr. DAVIS. I thank my distinguished colleague for those remarks. I just would at this point like to yield to the gentleman from Kentucky.

Mr. LEWIS of Kentucky. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 5, the Unfunded Mandates Reform Act.

Mr. Speaker, people across the country sent this institution a message last November. They said we are sick and tired of big Government telling us how to run our lives. I believe the Unfunded Mandate Reform Act is a vital step toward showing we heard what the people had to say and that we are doing something about it.

If we are serious about reducing the size and intrusiveness of the Federal Government, we should pass this bill. We have to stop passing the cost of our big ideas back to our State and local governments. I don't doubt that many of the unfunded mandates passed by this institution were well-intended.

The American people do need and they do deserve clean air, clean water, and a healthy environment. But it is well past time the Federal Government begins to get a little more honest about the cost of the laws we pass. Our mayors, our county judge executives, our Governors, have been pleading with us to quit passing the buck for many years now.

□ 1650

Yet the House of Representatives, the people's House, has all too often refused to listen. We need to remember that our actions have an impact on the folks back home. New laws and regulations cost money, and it is not our money we are spending. It is the people's money. And if we are going to spend the people's money, they deserve to know what it is for and why.

Mr. Speaker, it is time to clean up our act. If we need to pass new laws and regulations, let us be honest about their cost. Let us provide the money so that folks back home do not pay higher taxes and user fees. Let us show the leadership that the people sent us here to provide. Let us listen to the people.

Mr. DAVIS. Mr. Speaker, let me, if I could, just sum up for a minute. Mr. Speaker, I just note that one of the issues that came up today during the course of the debate, Members were saying, well, if one State dumped pollution into another State, the polluting

State would not have to clean up unless Congress gave them a billion dollars and funded the mandate. That just is not so.

All we are asking for is a cost accounting to find out what the costs are of imposing these mandates onto the State and local government. Then we can get a clear picture, enter into a dialog with Senate and local governments so that we can act appropriately to make sure that the will of the people is carried out.

The 1991 Intermodal Surface Transportation Efficiency Act, ISTEA, included a provision requiring that highway asphalt in federally funded projects contain a certain percentage of recycled tire rubber, starting with 5 percent in 1994 and increasing incrementally to 20 percent by 1997 and beyond. Governors note that not a single State transportation department, nor the Federal Department of Transportation, nor any engineering trade association endorsed the rubberized asphalt provision when it was proposed here in this body.

They further point out that the requirement had no supportive evidence of any ostensible environmental benefits and potentially disrupts a common State practice of recycling asphalt by introducing an additive without testing its effects on the reclamation process and imposes a requirement that is terribly costly and inefficient.

That came from the Congress. The cost impact is most easily measured. States with effective tire-disposing programs found that disposing of used tires and asphalt was the most expensive method of disposal. The Ohio Department of Transportation, which normally pays $38 per cubic yard of asphalt, discovered that the average cost per cubic yard of rubberized asphalt is $108, almost three times the cost.

The Governor estimates that a 20-percent crumb rubber requirement will cost the State $50 million annually.

My question to my colleagues during this debate has been, what are we afraid of? Are we afraid to cost out these new mandates, to be accountable for the costs that we allocate to State and local governments and they, in turn, pass on to their taxpayers at the local level? Or are we willing to stand up and say, there are going to be measures, many of them environmental measures, that in point of fact call for Federal interference and mandating these costs. But we are not too afraid to face up to these costs up front, to have a dialog with the localities that are being asked to pay for this and then work in the most efficient way we can possibly to clean up the environment and to do whatever health and safety or whatever mandate we feel is so required.

I think that is the issue that is going to be before this body over the next week. I look forward to continued dialog with my colleagues on this, and I think the American people are waiting for action.

RULES OF PROCEDURE FOR THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FOR THE 104TH CONGRESS.

(Mr. CLINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLINGER. Mr. Speaker, pursuant to and in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I submit for publication in the CONGRESSIONAL RECORD a copy of the rules of the Government Reform and Oversight Committee for the 104th Congress as approved by the committee on January 10, 1995.

I. RULES OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT, U.S. HOUSE OF REPRESENTATIVES, 104TH CONGRESS

Rule XI, 1(a)(1) of the House of Representatives provides:

The Rules of the House are the rules of its committees and subcommittees so far as applicable, except that a motion to recess from day to day, and a motion to dispense with the first reading (in full) of a bill or resolution, if printed copies are available, are nondebatable motions of high privilege in committees and subcommittees.

Rule XI, 2(a) of the House of Representatives provides, in part:

Each standing committee of the House shall adopt written rules governing its procedures. * * *

In accordance with this, the Committee on Government Reform and Oversight, on January 10, 1995, adopted the rules of the committee:

RULE 1.—APPLICATION OF RULES

Except where the terms "full committee" and "subcommittee" are specifically referred to, the following rules shall apply to the Committee on Government Reform and Oversight and its subcommittees as well as to the respective chairmen.

[See House Rule XI, 1.]

RULE 2.—MEETINGS

The regular meetings of the full committee shall be held on the second Tuesday of each month at 10:00 a.m., unless when Congress has adjourned. The chairman is authorized to dispense with a regular meeting or to change the date thereof, and to call and convene additional meetings, when circumstances warrant. A special meeting of the committee may be requested by members of the committee following the provisions of House Rule XI, 2(c)(2). Subcommittees shall meet at the call of the subcommittee chairmen. Every member of the committee or the appropriate subcommittee, unless prevented by unusual circumstances, shall be provided with a memorandum at least three calendar days before each meeting or hearing explaining (1) the purpose of the meeting or hearing; and (2) the names, titles, background and reasons for appearance of any witnesses. The ranking minority member shall be responsible for providing the same information on witnesses whom the minority may request.

[See House Rule XI, 2(b).]

RULE 3.—QUORUMS

A majority of the members of the committee shall form a quorum, except that two members shall constitute a quorum for taking testimony and receiving evidence, and one-third of the members shall form a quorum for taking any action other than the reporting of a measure or recommendation. If the chairman is not present at any meeting of the committee or subcommittee, the ranking member of the majority party on the committee or subcommittee who is present shall preside at that meeting.

[See House Rule XI, 2(h).]

RULE 4.—COMMITTEE REPORTS

Bills and resolutions approved by the committee shall be reported by the chairman following House Rule XI, 2(l).

Every investigative report shall be approved by a majority vote of the committee at a meeting at which a quorum is present. Supplemental, minority, or additional views may be filed following House Rule XI, 2(l)(5). The time allowed for filing such views shall be three calendar days (excluding Saturdays, Sundays, and legal holidays) unless the committee agrees to a different time, but agreement on a shorter time shall require the concurrence of each member seeking to file such views. A proposed report shall not be considered in subcommittee or full committee unless the proposed report has been available to the members of such subcommittee or full committee for at least three calendar days (excluding Saturdays, Sundays, and legal holidays) before the consideration of such proposed report in subcommittee or full committee. If hearings have been held on the matter reported upon, every reasonable effort shall be made to have such hearings available to the members of the subcommittee or full committee before the consideration of the proposed report in such subcommittee or full committee.

Only those reports approved by a majority vote of the committee may be ordered printed, unless otherwise required by the Rules of the House of Representatives.

RULE 5.—PROXY VOTES

In accordance with the Rules of the House of Representatives, members may not vote by proxy on any measure or matter before the committee or any subcommittee.

[See House Rule XI, 2(f).]

RULE 6.—ROLL CALLS

A roll call of the members may be had upon the request of any member upon approval of a one-fifth vote.

[See House Rule XI, 2(e).]

RULE 7.—RECORD OF COMMITTEE ACTIONS

The committee staff shall maintain in the committee offices a complete record of committee actions from the current Congress including a record of the rollcall votes taken at committee business meetings. The original records, or true copies thereof, as appropriate, shall be available for public inspection whenever the committee offices are open for public business. The staff shall assure that such original records are preserved with no unauthorized alteration, additions, or defacement.

[See House Rule XI, 2(e).]

RULE 8.—SUBCOMMITTEES; REFERRALS

There shall be seven subcommittees with appropriate party ratios that shall have fixed jurisdictions. Bills, resolutions, and other matters shall be referred by the chairman to subcommittees within two weeks for consideration or investigation in accordance with their fixed jurisdictions. Where the subject matter of the referral involves the jurisdiction of more than one subcommittee or does not fall within any previously assigned jurisdiction, the chairman shall refer the

matter as he may deem advisable. Bills, resolutions, and other matters referred to subcommittees may be reassigned by the chairman when, in his judgment, the subcommittee is not able to complete its work or cannot reach agreement therein. In a subcommittee having an even number of members, if there is a tie vote with all members voting on any measure, the measure shall be placed on the agenda for full committee consideration as if it had been ordered reported by the subcommittee without recommendation. This provision shall not preclude further action on the measure by the subcommittee.

[See House Rule XI, 1(a)(2).]

RULE 9.—EX OFFICIO MEMBERS

The chairman and the ranking minority member of the committee shall be ex officio members of all subcommittees. They are authorized to vote on subcommittee matters; but, unless they are regular members of the subcommittee, they shall not be counted in determining a subcommittee quorum other than a quorum for taking testimony.

RULE 10.—STAFF

Except as otherwise provided by House Rule XI, 5 and 6, the chairman of the full committee shall have the authority to hire and discharge employees of the professional and clerical staff of the full committee and of subcommittees.

RULE 11.—STAFF DIRECTION

Except as otherwise provided by House Rule XI, 5 and 6, the staff of the committee shall be subject to the direction of the chairman of the full committee and shall perform such duties as he may assign.

RULE 12.—HEARING DATES AND WITNESSES

The chairman of the full committee will announce the date, place, and subject matter of all hearings at least one week before the commencement of any hearings, unless he determines that there is good cause to begin such hearings sooner. So that the chairman of the full committee may coordinate the committee facilities and hearing plans, each subcommittee chairman shall notify him of any hearing plans at least two weeks before the date of commencement of hearings, including the date, place, subject matter, and the names of witnesses, willing and unwilling, who would be called to testify, including, to the extent he is advised thereof, witnesses whom the minority members may request. The minority members shall supply the names of witnesses they intend to call to the chairman of the full committee or subcommittee at the earliest possible date. Witnesses appearing before the committee shall, so far as practicable, submit written statements at least 24 hours before their appearance.

[See House Rules XI, 2 (g)(3), (g)(4), (j) and (k).]

RULE 13.—OPEN MEETINGS

Meetings for the transaction of business and hearings of the committee shall be open to the public or closed in accordance with Rule XI of the House of Representatives.

[See House Rules XI, 2 (g) and (k).]

RULE 14.—FIVE-MINUTE RULE

A committee member may question a witness only when recognized by the chairman for that purpose. In accordance with House Rule XI, 2(j)(2), each committee member may request up to five minutes to question a witness until each member who so desires has had such opportunity. Until all such requests have been satisfied, the chairman shall, so far as practicable, recognize alternately based on seniority of those majority and minority members present at the time the hearing was called to order and others based on their arrival at the hearing. After that, additional time may be extended at the direction of the chairman.

RULE 15.—INVESTIGATIVE HEARINGS; PROCEDURE

Investigative hearings shall be conducted according to the procedures in House Rule XI, 2(k). All questions put to witnesses before the committee shall be relevant to the subject matter before the committee for consideration, and the chairman shall rule on the relevance of any questions put to the witness.

RULE 16.—STENOGRAPHIC RECORD

A stenographic record of all testimony shall be kept of public hearings and shall be made available on such conditions as the chairman may prescribe.

RULE 17.—TV, RADIO, AND PHOTOGRAPHS

An open meeting or hearing of the committee or a subcommittee may be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, unless closed subject to the provisions of House Rule XI, 3.

RULE 18.—ADDITIONAL DUTIES OF CHAIRMAN

The chairman of the full committee shall:

(a) Make available to other committees the findings and recommendations resulting from the investigations of the committee or its subcommittees as required by House Rule X, 4(c)(2);

(b) Direct such review and studies on the impact or probable impact of tax policies affecting subjects within the committee's jurisdiction as required by House Rule X, 2(c);

(c) Submit to the Committee on the Budget views and estimates required by House Rule X, 4(g), and to file reports with the House as required by the Congressional Budget Act;

(d) Authorize and issue subpoenas as provided in House Rule XI, clause 2(m), in the conduct of any investigation or activity or series of investigations or activities within the jurisdiction of the committee; and

(e) Prepare, after consultation with subcommittee chairmen and the minority, a budget for the committee which shall include an adequate budget for the subcommittees to discharge their responsibilities.

(f) Make any necessary technical and conforming changes to legislation reported by the committee upon unanimous consent.

RULES OF PROCEDURE FOR THE COMMITTEE ON HOUSE OVERSIGHT FOR THE 104TH CONGRESS

(Mr. THOMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. THOMAS. Mr. Speaker, pursuant to and in accordance with clause 2(a) of rule XI of the Rules of the House of Representatives, I submit for publication in the CONGRESSIONAL RECORD a copy of the rules of the Committee on House Oversight for the 104th Congress as approved by the committee on January 11, 1994.

RULES OF PROCEDURE OF THE COMMITTEE ON HOUSE OVERSIGHT, ONE HUNDRED FOURTH CONGRESS

RULE NO. 1—GENERAL PROVISIONS

(a) The Rules of the House are the rules of the committee so far as applicable, except that a motion to recess from day to day is a motion of high privilege in committees.

(b) The committee is authorized at any time to conduct such investigations and studies as it may consider necessary or appropriate in the exercise of its responsibilities under House Rule X and (subject to the adoption of expense resolutions as required by House Rule XI, clause 5) to incur expenses (including travel expenses) in connection therewith.

(c) The committee is authorized to have printed and bound testimony and other data presented at hearings held by the committee, and to distribute such information by electronic means; information distributed by electronic means shall also be printed. All costs of stenographic services and transcripts in connection with any meeting or hearing of the committee shall be paid from the appropriate House account.

(d) The committee shall submit to the House, not later than January 2 of each odd-numbered a year, a report on the activities of the committee under House Rules X and XI during the Congress ending at noon on January 3 of such year.

(e) The committee's rules shall be published in the Congressional Record not later than 30 days after the Congress convenes in each odd-numbered year.

RULE NO. 2—REGULAR AND SPECIAL MEETINGS

(a) The regular meeting date of the Committee on House Oversight shall be the second Wednesday of every month when the House is in session in accordance with Clause 2(b) of House Rule XI. Additional meetings may be called by the chairman as he may deem necessary or at the request of a majority of the members of the committee in accordance with Clause 2(c) of House Rule XI. The determination of the business to be considered at each meeting shall be made by the chairman subject to Clause 2(c) of House Rule XI. A regularly scheduled meeting need not be held if there is no business to be considered.

(b) If the chairman of the committee is not present at any meeting of the committee, or at the discretion of the chairman, the vice chairman of the committee shall preside at the meeting. If the chairman and vice chairman of the committee are not present at any meeting of the committee, the ranking member of the majority party who is present shall preside at the meeting.

RULE NO. 3—OPEN MEETING

As required by Clause 2(g), of House Rule XI, each meeting for the transaction of business, including the markup of legislation, of the committee, shall be open to the public except when the committee, in open session and with a quorum present, determines by rollcall vote that all or part of the remainder of the meeting on that day shall be closed to the public because disclosure of matters to be considered would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House: *Provided, however*, That no person other than members of the committee, and such congressional staff and such departmental representatives as they may authorize, shall be present in any business or markup session which has been closed to the public.

RULE NO. 4—RECORDS AND ROLLCALLS

(a) The result of each rollcall vote in any meeting of the committee shall be transmitted for publication in the Congressional Record as soon as possible, but in no case

later than two legislative days following such rollcall vote, and shall be made available for inspection by the public at reasonable times at the committee offices, including a description of the amendment, motion, order or other proposition; the name of each member voting for and against; and the members present but not voting.

(b) All committee hearings, records, data, charts, and files shall be kept separate and distinct from the congressional office records of the member serving as chairman of the committee; and such records shall be the property of the House and all members of the House shall have access thereto.

(c) House records of the committee which are at the National Archives shall be made available pursuant to House Rule XXXVI. The chairman of the committee shall notify the ranking minority party member of any decision to withhold a record pursuant to the rule, and shall present the matter to the committee upon written request of any committee member.

RULE NO. 5—PROXIES

No vote by any member in the committee may be cast by proxy.

RULE NO. 6—POWER TO SIT AND ACT; SUBPOENA POWER

(a) For the purpose of carrying out any of its functions and duties under House Rules X and XI, the committee, is authorized (subject to subparagraph (b)(1) of this paragraph)—

(1) to sit and act at such times and places within the United States, whether the House is in session, has recessed, or has adjourned, and to hold such hearings; and

(2) to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents; as it deems necessary. The chairman of the committee, or any member designated by the chairman, may administer oaths of any witness.

(b)(1) A subpoena may be authorized and issued by the committee in the conduct of any investigation or series of investigations or activities, only when authorized by a majority of the members voting, a majority being present. The power to authorize and issue subpoenas under subparagraph (a)(2) may be delegated to the chairman of the committee pursuant to such rules and under such limitations as the committee may prescribe. Authorized subpoenas shall be signed by the chairman of the committee or by any member designated by the committee.

(2) Compliance with any subpoena issued by the committee may be enforced only as authorized or directed by the House.

RULE NO. 7—QUORUMS

No measure or recommendation shall be reported to the House unless a majority of the committee is actually present. For the purposes of taking any action other than reporting any measure, issuance of a subpoena, closing meetings, promulgating committee orders, or changing the rules of the committee, the quorum shall be one-third of the members of the committee. For purposes of taking testimony and receiving evidence, two members shall constitute a quorum.

RULE NO. 8—AMENDMENTS

Any amendment offered to any pending legislation before the committee must be made available in written form when requested by any member of the committee. If such amendment is not available in written form when requested, the chair will allow an appropriate period of time for the provision thereof.

RULE NO. 9—HEARING PROCEDURES

(a) The chairman, in the case of hearings to be conducted by the committee, shall make public announcement of the date, place, and subject matter of any hearing to be conducted on any measure or matter at least 1 week before the commencement of that hearing unless the committee determines that there is good cause to begin such hearing at an earlier date. In the latter event the chairman shall make such public announcement at the earliest possible date. The clerk of the committee shall promptly notify the Daily Digest Clerk of the Congressional Record as soon as possible after such public announcement is made.

(b) Unless excused by the chairman, each witness who is to appear before the committee shall file with the clerk of the committee, at least 48 hours in advance of his or her appearance, a written statement of his or her proposed testimony and shall limit his or her oral presentation to a summary of his or her statement.

(c) When any hearing is conducted by the committee upon any measure or matter, the minority party members on the committee shall be entitled, upon request to the chairman by a majority of those minority members before the completion of such hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearings thereon.

(d) Committee members may question witnesses only when they have been recognized by the chairman for that purpose, and only for a 5-minute period until all members present have had an opportunity to question a witness. The 5-minute period for questioning a witness by any one member can be extended only with the unanimous consent of all members present. The questioning of a witness in committee hearings shall be initiated by the chairman, followed by the ranking minority party member and all other members alternating between the majority and minority. In recognizing members to question witnesses in this fashion, the chairman shall take into consideration the ratio of the majority to minority members present and shall establish the order of recognition for questioning in such a manner as not to disadvantage the members of the majority. The chairman may accomplish this by recognizing two majority members for each minority member recognized.

(f) The following additional rules shall apply to hearings:

(1) The chairman at a hearing shall announce in an opening statement the subject of the investigation.

(2) A copy of the committee rules and this clause shall be made available to each witness.

(3) Witnesses at hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

(4) The chairman may punish breaches of order and decorum, and of professional ethics on the part of counsel, by censure and exclusion from the hearings; and the committee may cite the offender to the House for contempt.

(5) If the committee determines that evidence or testimony at a hearing may tend to defame, degrade, or incriminate any person, it shall—

(A) afford such person an opportunity voluntarily to appear as a witness;

(B) receive such evidence or testimony in executive session; and

(C) receive and dispose of requests from such person to subpoena additional witnesses.

(6) Except as provided in subparagraph (f)(5), the chairman shall receive and the committee shall dispose of requests to subpoena additional witnesses.

(7) No evidence or testimony taken in executive session may be released or used in public sessions without the consent of the committee.

(8) In the discretion of the committee, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The committee is the sole judge of the pertinency of testimony and evidence adduced at its hearing.

(9) A witness may obtain a transcript copy of his testimony given at a public session or, if given at an executive session, when authorized by the committee.

RULE NO. 10—PROCEDURES FOR REPORTING BILLS AND RESOLUTIONS

(a)(1) It shall be the duty of the chairman of the committee to report or cause to be reported promptly to the House any measure approved by the committee and to take or cause to be taken necessary steps to bring the matter to a vote.

(2) In any event, the report of the committee on a measure which has been approved by the committee shall be filed within 7 calendar days (exclusive of days on which the House is not in session) after the day on which there has been filed with the clerk of the committee a written request, signed by a majority of the members of the committee, for the reporting of that measure. Upon the filing of any such request, the clerk of the committee shall transmit immediately to the chairman of the committee notice of the filing of that request.

(b)(1) No measure or recommendation shall be reported from the committee unless a majority of the committee was actually present.

(2) With respect to each rollcall vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, the total number of votes cast for and against, and the names of those members voting for and against, shall be included in the committee report on the measure or matter.

(c) The report of the committee on a measure which has been approved by the committee shall include—

(1) the oversight findings and recommendations required pursuant to House Rule X, of clause 2(b)(1) separately set out and clearly identified;

(2) the statement required by section 308(a)(1) of the Congressional Budget Act of 1974, separately set out and clearly identified, if the measure provides new budget authority or new or increased tax expenditures;

(3) the estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of such Act, separately set out and clearly identified, whenever the Director (if timely submitted prior to the filing of the report) has submitted such estimate and comparison to the committee; and

(4) a summary of the oversight findings and recommendations made by the Committee on Government Reform and Oversight under House Rule XI, clause 2(1)(3)(D) separately set out and clearly identified whenever such findings and recommendations have been submitted to the committee in a timely fashion to allow an opportunity to consider such findings and recommendations during the committee's deliberations on the measure.

(d) Each report of the committee on each bill or joint resolution of a public character

reported by the committee shall contain a detailed analytical statement as to whether the enactment of such bill or joint resolution into law may have an inflationary impact on prices and costs in the operation of the national economy.

(e) If, at the time of approval of any measure or matter by the committee, any member of the committee gives notice of intention to file supplemental, minority, or additional views, that member shall be entitled to not less than 3 calendar days, commencing on the day on which the measure or matter(s) was approved, excluding Saturdays, Sundays, and legal holidays, in which to file such views, in writing and signed by that member, with the clerk of the committee. All such views so filed by one or more members of the committee shall be included within, and shall be a part of, the report filed by the committee with respect to that measure or matter. The report of the committee upon that measure or matter shall be printed in a single volume which—

(1) shall include all supplemental, minority, or additional views which have been submitted by the time of the filing of the report, and

(2) shall bear upon its cover a recital that any such supplemental, minority, or additional views (and any material submitted under subparagraphs (c)(3) and (c)(4) are included as part of the report. This subparagraph does not preclude—

(A) the immediate filing or printing of a committee report unless timely request for the opportunity to file supplemental, minority, or additional views has been made as provided by paragraph (c); or

(B) the filing of any supplemental report upon any measure or matter which may be required for the correction of any technical error in a previous report made by the committee upon that measure or matter.

(f) If hearings have been held on any such measure or matter so reported, the committee shall make every reasonable effort to have such hearings printed and available for distribution to the members of the House prior to the consideration of such measure or matter in the House.

(g) The chairman of the committee may designate any member of the committee to act as "floor manager" of a bill or resolution during its consideration in the House.

RULE NO. 11—COMMITTEE OVERSIGHT

The committee shall conduct oversight of matters within the jurisdiction of the committee in accordance with House Rule X, clause 2 and clause 4(d)(2). Not later than February 15 of the first session of a Congress, the Committee shall, in a meeting that is open to the public and with a quorum present, adopt its oversight plans for that Congress in accordance with House Rule X, clause 2(d).

RULE NO. 12—REVIEW OF CONTINUING PROGRAMS; BUDGET ACT PROVISIONS

(a) The committee shall, in its consideration of all bills and joint resolutions of a public character within its jurisdiction, insure that appropriation for continuing programs and activities of the Federal Government and the District of Columbia government will be made annually to the maximum extent feasible and consistent with the nature, requirement, and objectives of the programs and activities involved. For the purposes of this paragraph a Government agency includes the organizational units of government listed in clause 7(c) of Rule XIII of House Rules.

(b) The committee shall review, from time to time, each continuing program within its jurisdictions for which appropriations are not made annually in order to ascertain whether such program could be modified so that appropriations therefor would be made annually.

(c) The committee shall, on or before February 25 of each year, submit to the Committee on the Budget (1) its views and estimates with respect to all matters to be set forth in the concurrent resolution on the budget for the ensuing fiscal year which are within its jurisdiction or functions, and (2) an estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within its jurisdiction which it intends to be effective during that fiscal year.

(d) As soon as practicable after a concurrent resolution on the budget for any fiscal year is agreed to, the committee (after consulting with the appropriate committee or committees of the Senate) shall subdivide any allocation made to it, the joint explanatory statement accompany the conference report on such resolution, and promptly report such subdivisions to the House, in the manner provided by section 302 of the Congressional Budget Act of 1974.

(e) Whenever the committee is directed in a concurrent resolution on the budget to determine and recommend changes in laws, bills, or resolutions under the reconciliation process it shall promptly make such determination and recommendations, and report a reconciliation bill or resolution (or both) to the House or submit such recommendations to the Committee on the Budget, in accordance with the Congressional Budget Act of 1974.

RULE NO. 13—BROADCASTING OF COMMITTEE HEARINGS AND MEETINGS

Whenever any hearing or meeting conducted by the committee is open to the public, those proceedings shall be open to coverage by television, radio, and still photography, as provided in Clause 3 of House Rule XI, subject to the limitations therein.

RULE NO. 14—COMMITTEE STAFF

The staff of the Committee on House Oversight shall be appointed as follows:

A. The committee staff shall be appointed, except as provided in paragraph (B), and may be removed by the chairman and shall work under the general supervision and direction of the chairman;

B. All staff provided to the minority party members of the committee shall be appointed, and may be removed, by the Ranking Minority Member of the committee, and shall work under the general supervision and direction of such Member;

C. The chairman shall fix the compensation of all staff of the committee, after consultation with the Ranking Minority Member regarding any minority party staff, within the budget approved for such purposes for the committee.

RULE NO. 15—TRAVEL OF MEMBERS AND STAFF

(a) Consistent with the primary expense resolution and such additional expense resolutions as may have been approved, the provisions of this rule shall govern travel of committee members and staff. Travel for any member or any staff member shall be paid only upon the prior authorization of the chairman. Travel may be authorized by the chairman for any member and any staff member in connection with the attendance of hearings conducted by the committee and meetings, conferences, and investigations which involve activities or subject matter under the general jurisdiction of the committee. Before such authorization is given there shall be submitted to the chairman in writing the following:

(1) The purpose of the travel;

(2) The dates during which the travel will occur;

(3) The locations to be visited and the length of time to be spent in each;

(4) The names of members and staff seeking authorization.

(b)(1) In the case of travel outside the United States of members and staff of the committee for the purpose of conducting hearings, investigations, studies, or attending meetings and conferences involving activities or subject matter under the legislative assignment of the committee, prior authorization must be obtained from the chairman. Before such authorization is given, there shall be submitted to the chairman, in writing, a request for such authorization. Each request, which shall be filed in a manner that allows for a reasonable period of time for review before such travel is scheduled to begin, shall include the following:

(A) the purpose of the travel;

(B) the dates during which the travel will occur;

(C) the names of the countries to be visited and the length of time to be spent in each;

(D) an agenda of anticipated activities for each country for which travel is authorized together with a description of the purpose to be served and the areas of committee jurisdiction involved; and

(E) the names of members and staff for whom authorization is sought.

(2) Requests for travel outside the United States shall be initiated by the Chairman and shall be limited to members and permanent employees of the committee.

(3) At the conclusion of any hearing, investigation, study, meeting or conference for which travel outside the United States has been authorized pursuant to this rule, members and staff attending meetings or conferences shall submit a written report to the chairman covering the activities and other pertinent observations or information gained as a result of such travel.

(c) Members and staff of the committee performing authorized travel on official business shall be governed by applicable laws, resolutions, or regulations of the House and of the Committee on House Oversight pertaining to such travel.

RULE NO. 16—POWERS AND DUTIES OF SUBUNITS OF THE COMMITTEE

The chairman of the committee is authorized to establish appropriately named subunits, such as task forces, composed of members of the committee, for any purpose, measure or matter; one member of each such subunit shall be designated chairman of the subunit by the chairman of the committee. All such subunits shall be considered ad hoc subcommittees of the committee. The rules of the committee shall be the rules of any subunit of the committee, so far as applicable, or as otherwise directed by the chairman of the committee. Each subunit of the committee is authorized to meet, hold hearings, receive evidence, and to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary, and to report to the full committee on all measures or matters for which it was created. Chairman of subunits of the committee shall set meeting dates with the approval of the chairman of the full committee, with a view toward avoiding simultaneous scheduling of committee and subunit

meetings or hearings wherever possible. It shall be the practice of the committee that meetings of subunits not be scheduled to occur simultaneously with meetings of the full committee. In order to ensure orderly and fair assignment of hearing and meeting rooms, hearings and meetings should be arranged in advance with the chairman through the clerk of the committee.

RULE NO. 17—OTHER PROCEDURES AND REGULATIONS

The chairman of the full committee may establish such other procedures and take such actions as may be necessary to carry out the foregoing rules or to facilitate the effective operation of the committee.

RULE NO. 18—DESIGNATION OF CLERK OF THE COMMITTEE

For the purposes of these rules and the Rules of the House of Representatives, the staff director of the committee shall act as the clerk of the committee.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today on account of family illness.

Mrs. LINCOLN (at the request of Mr. GEPHARDT) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Mr. MARTINEZ, for 5 minutes, today.

Mr. WISE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

(The following Members (at the request of Mr. LATHAM) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. DINGELL.

Mr. HOYER.

Mr. ACKERMAN.

Mr. JACOBS.

Mrs. COLLINS of Illinois in two instances.

Mr. MENENDEZ in two instances.

Mr. SABO.

Mr. WYDEN.

Mr. OLVER.

Mr. PASTOR.

Ms. JACKSON-LEE.

Mr. RAHALL.

(The following Members (at the request of Mr. LATHAM) and to include extraneous matter:)

Mr. HORN in two instances.

Mr. ROBERTS.

Mr. PACKARD.

Mr. CRANE.

Mr. DAVIS.

Mr. GUNDERSON.

Mr. GINGRICH.

Mr. STUMP.

Mr. ROTH.

Mr. RADANOVICH.

Mr. SMITH of New Jersey.

Mr. SCHAEFER.

Mr. NEY.

(The following Members (at the request of Mr. DAVIS) and to include extraneous matter:)

Mr. SKAGGS.

Mr. DORNAN.

Mr. GALLEGLY.

Mr. DAVIS.

ADJOURNMENT

Mr. DAVIS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 54 minutes p.m.) under its previous order the House adjourned until Monday, January 23, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

188. A letter from the Under Secretary of Defense, transmitting a report of a violation of the Anti-Deficiency Act which occurred in the Department of the Army, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

189. A letter from the Secretary of Commerce, transmitting the Bureau of Export Administration's annual report for fiscal year 1994 and the 1995 report on foreign policy export controls; to the Committee on International Relations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS:

H.R. 597. A bill to amend the Agricultural Trade Act of 1978 to establish a condition on the provision of assistance under the export enhancement program for the export of durum wheat; to the Committee on Agriculture.

By Mr. BREWSTER (for himself, Mr. DELAY, and Mr. FIELDS of Texas):

H.R. 598. A bill to guarantee the ability of licensed pharmacists to conduct the practice of pharmacy compounding and to ensure their right to the necessary supply of bulk drug products, subject to applicable State and Federal laws; to the Committee on Commerce.

By Mr. DEFAZIO (for himself, Mr. BUNN, Mr. DICKS, and Mr. WILLIAMS):

H.R. 599. A bill to provide for the reconstitution of outstanding repayment obligations of the Administrator of the Bonneville Power Administration for the appropriated capital investments in the Federal Columbia River Power System; to the Committee on Resources.

By Mr. WYDEN:

H.R. 600. A bill to allow States to use funds to develop a system which increases the extent of consequences for juveniles repeatedly found guilty of offenses and to construct, develop, expand, modify, operate, or improve youth correctional facilities; to the Committee on the Judiciary.

By Mr. FRANK of Massachusetts:

H.R. 601. A bill to amend the Higher Education Act of 1965 to revise certain provisions relating to audits of vocational institutions; to the Committee on Economic and Educational Opportunities.

By Mr. GALLEGLY:

H.R. 602. A bill to reform the laws concerning territories and possessions; to the Committee on Resources, and in addition to the Committees on Economic and Educational Opportunities, the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR:

H.R. 603. A bill to authorize States to regulate certain solid waste; to the Committee on Commerce.

H.R. 604. A bill to amend section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985—relating to fees for certain customs services—to create an exemption from fees for certain small aircraft traveling short distances; to the Committee on Ways and Means.

By Mr. GREENWOOD:

H.R. 605. A bill to amend the United States Housing Act of 1937 to require certain legal aliens to reside in the United States for a period of 5 consecutive years to be eligible for a preference for occupancy in public housing or for the provision of rental housing assistance; to the Committee on Banking and Financial Services.

By Mr. HALL of Ohio (for himself, Mr. HOBSON, and Mr. REGULA):

H.R. 606. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992, and for other purposes; to the Committee on Resources.

By Mr. KLUG (for himself, Mr. BLUTE, Mr. QUINN, Mr. EWING, Mr. RAMSTAD, Mr. ZELIFF, Mr. BILBRAY, and Mr. CONDIT):

H.R. 607. A bill to amend title 23, United States Code, to eliminate penalties for noncompliance by States with requirements relating to the use of safety belts and motorcycle helmets, the national maximum speed limit, and the national minimum drinking age, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MEEHAN (for himself and Mr. HILLIARD):

H.R. 608. A bill to amend the Public Health Service Act to revise the filing deadline for certain claims under the National Vaccine Injury Compensation Program; to the Committee on Commerce.

By Mr. MEEHAN (for himself, Mr. ACKERMAN, Mr. MCDERMOTT, Mr. MILLER

of California, Mr. FILNER, Mrs. MALONEY, and Mr. BROWN of California):

H.R. 609. A bill to establish the National Commission on Gay and Lesbian Youth Suicide Prevention; to the Committee on Commerce.

By Mr. MEEHAN:

H.R. 610. A bill to prohibit States from discriminating in the admission to the practice of law of graduates of accredited and certified law schools; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. LIVINGSTON, Mr. TORRICELLI, Mr. LANTOS, Mr. BURTON of Indiana, Mr. ENGEL, Mrs. MEEK of Florida, Mr. SMITH of New Jersey, Mr. WYNN, Mr. ZIMMER, Mr. GUTIERREZ, Mr. WILSON, Mr. HASTINGS of Florida, Mr. ANDREWS, Mr. ROMERO-BARCELÓ, Mr. DEUTSCH, and Mr. KING):

H.R. 611. A bill to provide for assistance to the people of Cuba once a transitional government is in power, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Banking and Financial Services, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MENENDEZ:

H.R. 612. A bill to amend title XVI of the Social Security Act to require supplemental security income benefits to be provided in the form of vouchers in the case of a disabled child who is not institutionalized and whose disability is determined solely on the basis of an individualized functional assessment; to the Committee on Ways and Means.

By Mr. MENENDEZ:

H.R. 613. A bill to amend the Internal Revenue Code of 1986 to impose penalties on self-dealing between certain tax-exempt organizations and disqualified persons, and for other purposes; to the Committee on Ways and Means.

By Mr. MINGE:

H.R. 614. A bill to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility; to the Committee on Resources.

By Mr. RAHALL:

H.R. 615. A bill to amend the Black Lung Benefits Act to provide special procedures for certain claims due to pneumoconiosis, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. RANGEL:

H.R. 616. A bill to require the Secretary of the Treasury to redesign the $1 coin to commemorate Dr. Martin Luther King, Jr.; to the Committee on Banking and Financial Services.

H.R. 617. A bill to provide for a program established by a nongovernmental organization under which Haitian-Americans would help the people of Haiti recover from the destruction caused by the coup of December 1991; to the Committee on International Relations.

By Mr. ROBERTS (for himself, Mr. DE LA GARZA, Mr. EWING, and Mr. ROSE) (all by request):

H.R. 618. A bill to extend the authorization for appropriations for the Commodity Futures Trading Commission through fiscal year 2000; to the Committee on Agriculture.

By Mr. SABO:

H.R. 619. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

H.R. 620. A bill to increase the minimum wage and to deny employers a deduction for payments of excessive compensation; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS:

H.R. 621. A bill amend the act of January 26, 1915, establishing Rocky Mountain National Park, to provide for the protection of certain lands in Rocky Mountain National Park and along North St. Vrain Creek and for other purposes; to the Committee on Resources.

By Mr. STUDDS (for himself and Mr. YOUNG of Alaska):

H.R. 622. A bill to implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries; to the Committee on Resources.

By Mr. STUMP (for himself, Mr. MONTGOMERY, and Mr. SOLOMON):

H.R. 623. A bill amend the charter of the Veterans of Foreign Wars; to the Committee on the Judiciary.

By Mr. THOMAS:

H.R. 624. A bill amend section 8 of the United States Housing Act of 1937 to permit the Secretary of Housing and Urban Development to reduce the maximum monthly rents in effect for certain projects receiving assistance under such section to eliminate material differences in the rents charged for similar assisted and unassisted units in the same area; to the Committee on Banking and Financial Services.

By Mrs. THURMAN (for herself, Ms. BROWN of Florida, Mr. CANADY of Florida, Mr. DEUTSCH, Mr. FOLEY, Mrs. FOWLER, Mr. GOSS, Mr. HASTINGS of Florida, Mr. JOHNSTON of Florida, Mrs. MEEK of Florida, Mr. PETERSON of Florida, Mr. SCARBOROUGH, Mr. SHAW, Mr. STEARNS, and Mr. WELDON of Florida):

H.R. 625. A bill to amend title XIX of the Social Security Act to improve the Federal medical assistance percentage used under the Medicaid Program, and for other purposes; to the Committee on Commerce.

By Mr. GUTIERREZ:

H. Con. Res. 15. Concurrent resolution expressing the sense of Congress that a Member of Congress should be treated to no special retirement benefits than those afforded to any employee of the Federal Government; to the Committee on Government Reform and Oversight.

By Mr. HASTERT:

H. Res. 41. Resolution designating majority membership to the Committee on Standards of Official Conduct; considered and agreed to.

By Mr. VOLKMER:

H. Res. 42. Resolution designating majority membership to the Committee on Standards of Official Conduct; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. McDERMOTT:

H.R. 626. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *L.R. Beattie*; to the Committee on Transportation and Infrastructure.

H.R. 627. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Tecumseh*; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. SHAW and Mrs. LINCOLN.

H.R. 13: Mr. BONO, Mr. CHRYSLER, Mr. FOLEY, Mr. FRANKS of Connecticut, Mr. SAM JOHNSON, Mr. MCKEON, Mr. MICA, and Mr. SCHAEFER.

H.R. 26: Mr. SANFORD, Ms. LOFGREN, Mr. LIGHTFOOT, Ms. PRYCE, Ms. DANNER, Ms. RIVERS, Mr. JOHNSTON of Florida, Mr. SAXTON, Mr. MARTINEZ, and Mr. KLUG.

H.R. 28: Mr. SAXTON, Mr. PACKARD, and Mr. CANADY.

H.R. 52: Mr. FALEOMAVAEGA, Mr. OBEY, and Mr. MFUME.

H.R. 58: Mr. FORBES, Mr. KNOLLENBERG, Mr. MCHUGH, Mr. PETE GEREN of Texas, Mr. HILLIARD, Mr. ROYCE, Mr. BARTLETT of Maryland, Mr. EMERSON, Mr. SAXTON, and Mr. FOX.

H.R. 62: Mr. LAHOOD, Ms. MOLINARI, Mr. FORBES, Mr. MCCRERY, Mr. SAXTON, Mr. SENSENBRENNER, Mr. PACKARD, and Mr. PARKER.

H.R. 70: Mr. ENGLISH of Pennsylvania.

H.R. 77: Mr. WELDON of Florida, Mrs. SEASTRAND, and Ms. ESHOO.

H.R. 104: Mr. SOLOMON, Mr. FATTAH, Ms. PRYCE, and Mr. ZIMMER.

H.R. 118: Mr. DORNAN, Mrs. MYRICK, Mr. HOLDEN, Mr. FOX, Mr. PETE GEREN of Texas, Mr. PAXON, Mr. STUMP, and Mr. QUINN.

H.R. 120: Mr. KING and Mr. UNDERWOOD.

H.R. 123: Mr. GOODLATTE, Mr. WELLER, Mr. ROYCE, Mr. OXLEY, Mr. PAYNE of Virginia, Mr. BLILEY, Mr. BEREUTER, Mr. TAYLOR of Mississippi, Mr. HASTERT, Mr. BARTLETT of Maryland, Mr. WELDON of Pennsylvania, Mr. NORWOOD, Mr. BAKER of California, Mrs. VUCANOVICH, Mr. SHAYS, Mr. CALLAHAN, Mr. QUINN, Mr. COX, Mr. HALL of Texas, Mr. MCKEON, Mr. SPENCE, Mr. MOORHEAD, Mr. CHRYSLER, Mr. BATEMAN, Mr. COBLE, Mr. COLLINS of Georgia, Mr. HEINEMAN, Mr. LUCAS, Mr. LAHOOD, Mr. SENSENBRENNER, Mr. PAXON, Mr. MCHUGH, Mr. ROHRABACHER, Mr. SCARBOROUGH, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. FOLEY, Mr. ROGERS, Mr. SHUSTER, Mr. INGLIS of South Carolina, Ms. PRYCE, and Mr. BURR.

H.R. 125: Mr. BALLENGER, Mr. DOOLITTLE, Mr. THORNBERRY, Mr. MCINNIS, Mrs. MEYERS of Kansas, and Ms. DANNER.

H.R. 127: Mr. HOLDEN, Mr. TRAFICANT, Mr. GEJDENSON, Mr. COYNE, Mr. ACKERMAN, Mrs. MORELLA, Mr. ROMERO-BARCELÓ, Mrs. MEEK of Florida, and Mr. KLINK.

H.R. 139: Mr. SMITH of New Jersey.

H.R. 142: Mr. NEY and Mr. MONTGOMERY.

H.R. 216: Mr. DOOLITTLE, Mr. PACKARD, Mr. POSHARD, Mr. EMERSON, Mr. TORKILDSEN, Ms. PRYCE, Mr. NEY, Mr. ROYCE, Mr. FOX, Mr. FORBES, Mr. SAXTON, and Mr. DORNAN.

H.R. 218: Mr. ALLARD and Mr. CHRYSLER.

H.R. 240: Mr. RAHALL.

H.R. 259: Mr. ALLARD and Mr. CHRYSLER.

H.R. 304: Mr. GALLEGLY, Mr. BONO, Mr. BAKER of California, Mr. MCKEON, Mr. BILBRAY, Mr. HORN, Mr. RADANOVICH, Mr. LEWIS of California, Mr. RIGGS, Mr. MOORHEAD, Mr. DOOLEY, Mr. ROHRABACHER, Mr. CONDIT, and Mr. THOMAS.

H.R. 311: Mr. RAMSTAD and Mrs. THURMAN.

H.R. 338: Mr. CUNNINGHAM, Mr. GEJDENSON, and Mr. KLECZKA.

H.R. 339: Mr. BEILENSON, Mr. CUNNINGHAM, and Mr. EMERSON.

H.R. 341: Mr. CUNNINGHAM, Mr. EMERSON, and Mr. HANCOCK.

H.R. 357: Mr. KANJORSKI, Mr. GENE GREEN of Texas, Mr. ACKERMAN, Mr. BARRETT of Wisconsin, Mr. HALL of Ohio, and Mr. SABO.

H.R. 359: Mr. CONDIT, Mr. PARKER, Mr. PETE GEREN of Texas, Mr. TORRES, Mr. KNOLLENBERG, Mr. SMITH of Michigan, Mr. CANADY, and Mr. MURTHA.

H.R. 370: Mr. EVERETT, Mr. WELLER, MR. CANADY, Mr. LIGHTFOOT, Mr. SAM JOHNSON, Mr. PACKARD, Mr. BLILEY, Mr. BAKER of California, Mr. HANCOCK, Mr. CRANE, Mr. SKEEN, Mr. POMBO, Mr. BURTON of Indiana, Mr. COX, Mr. BUNNING of Kentucky, Mr. TAYLOR of North Carolina, Mr. MCKEON, Mr. SOLOMON, Ms. DUNN of Washington, Mr. LEWIS of California, Mr. HERGER, Mr. COMBEST, Mr. GILCHREST, Mr. GALLEGLY, Mr. SAXTON, Mr. BARTON of Texas, Mr. HASTERT, Mr. COBLE, Mrs. CUBIN, Mr. CALLAHAN, Mr. HANSEN, Mr. YOUNG of Alaska, Mr. SALMON, Mrs. VUCANOVICH, Mr. DOOLITTLE, Mr. HUTCHINSON, Mr. DELAY, Mr. ROBERTS, Mr. HYDE, Mr. HOBSON, Mr. TALENT, Mr. WAMP, Mr. HEFLEY, Mr. MOORHEAD, Mr. HAYWORTH, Mr. MYERS of Indiana, Mr. CHAMBLISS, Mr. GRAHAM, Mr. HUNTER, Mr. STEARNS, Mr. SPENCE, Mr. COOLEY, Mr. LEWIS of Kentucky, Mr. COLLINS of Georgia, Mr. HORN, Mr. BALLENGER, Mr. DUNCAN, Mr. PORTMAN, Mr. KINGSTON, Mr. JONES, Mr. SHADEGG, Mr. FIELDS of Texas, Mr. WALKER, Mr. LIVINGSTON, and Mr. CRAPO.

H.R. 385: Mr. BARRETT of Wisconsin.

H.R. 387: Mr. WELLER and Mr. DOOLITTLE.

H.R. 388: Mr. DELLUMS, Mr. HILLIARD, and Mr. FILNER.

H.R. 390: Mr. ROBERTS, Mr. CLINGER, Mr. RAHALL, Mr. SCHAEFER, Mr. LIGHTFOOT, Mr. GILMAN, Mr. COBLE, Mr. GILLMOR, Mr. DUNCAN, Mr. HOBSON, Mr. STEARNS, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. SKEEN, Ms. DUNN of Washington, Mrs. ROUKEMA, Mr. HANCOCK, Mr. HAYES, Mr. WILSON, Mr. ROHRABACHER, Mr. JONES, Mrs. SCHROEDER, Mr. HAYWORTH, Mr. HOLDEN, Mr. THOMPSON, Mr. BOEHLERT, Mr. PETERSON of Minnesota, Mr. WYNN, Mr. LINDER, Mr. DAVIS, Mr. PAXON, Mr. SHAYS, Mr. UPTON, Mr. WAMP, Mr. CLYBURN, Mr. DICKEY, Mr. CHRISTENSEN, Ms. ESHOO, Mr. BARRETT of Nebraska, Mr. BROWN of Ohio, Mr. DEFAZIO, Mr. HEFNER, Miss COLLINS of Michigan, Mr. MORAN, Mr. HUNTER, Mr. COOLEY, Mr. ZELIFF, Mr. LARGENT, Mr. BONO, Mr. DOYLE, Mr. KLINK, Mr. TORRICELLI, Mr. NADLER, Mr. MURTHA, Mr. PARKER, Ms. ROYBAL-ALLARD, Ms. PELOSI, Ms. WATERS, Mr. TORRES, Mr. COSTELLO, Mr. KANJORSKI, Mrs. MEEK of Florida, Mr. POMBO, Mr. ABERCROMBIE, Mr. RICHARDSON, Mr. MONTGOMERY, Mr. DORNAN, Mrs. CHENOWETH, Mr. QUILLEN, Mr. TAUZIN, Mr. CALLAHAN, Mr. LIVINGSTON, Mr. WATT of North Carolina, Mr. BURTON of Indiana, Mr. CONDIT, Mr. VOLKMER, Mr. SOLOMON, Mr. WALKER, Mr. MCINNIS, Mr. TAYLOR of Mississippi, Mr. EMERSON, Mrs. CLAYTON, Mr. TOWNS, Ms. BROWN of Florida, Mr. MASCARA, Mr. KINGSTON, Mr. CHAMBLISS, Mr. BARTON of Texas, Mrs. THURMAN, Mr. STUPAK, Mr. MILLER of California, Mr. BLILEY, Mr. MARTINEZ, Mr. ENGEL, Mrs. COLLINS of Illinois, Mr. MFUME, Mr. ACKERMAN, Mr. TANNER, Mr. ROSE, Mr. HASTINGS of Florida, Mr. RUSH, Mr. ROEMER, Mr. VISCLOSKY, Mr. STENHOLM, Mr. PALLONE, Mr. LIPINSKI, Mr. MINETA, Ms. MCKINNEY, Mr. RIGGS, Mr. BORSKI, Mr. ORTIZ, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 450: Mr. THORNBERRY, Mr. BARCIA of Michigan, Mr. BARTLETT of Maryland, Mr. GALLEGLY, Mr. HOSTETTLER, Mr. PETE GEREN of Texas, Mr. BAKER of Louisiana, Ms. DANNER, Ms. PRYCE, Mr. INGLIS of South Carolina, Mr. SENSENBRENNER, Mr. SKEEN, and Mr. LATOURETTE.

H.R. 452: Mr. LIPINSKI.

H.R. 481: Mr. WELDON of Florida.

H.R. 485: Mr. ROHRABACHER, Mr. SAXTON, and Mr. PACKARD.

H.R. 488: Mrs. MEYERS of Kansas, Mr. MCHALE, and Mr. STUPAK.

H.R. 495: Mr. NEY, Mr. DELAY, Mr. MCHUGH, Mr. SENSENBRENNER, and Mr. PACKARD.

H.R. 519: Mr. FORBES.

H.J. Res. 6: Mr. TATE, Mr. ZIMMER, Mr. ENGLISH of Pennsylvania, Mr. BONO, Ms. MOLINARI, and Mr. DELAY.

H.J. Res. 14: Mr. BURTON of Indiana.

H.J. Res. 53: Mr. BARCIA of Michigan, Mr. BORSKI, and Ms. ESHOO.

H.J. Res. 55: Mr. LIPINSKI and Mr. STUPAK.

H. Res. 15: Mr. OLVER and Mr. ENGLISH of Pennsylvania.

H. Res. 33: Mr. SAWYER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. HILLIARD, Mr. MARTINEZ, Mrs. MALONEY, Mr. FATTAH, Mr. SANDERS, Mr. FARR, and Mr. LANTOS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 38: Mr. MONTGOMERY.

H.R. 259: Mr. RANGEL.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5

OFFERED BY: MR. FIELDS OF LOUISIANA

AMENDMENT NO. 151: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) establishes standards for the education or safety of students in elementary or secondary public schools.

H.R. 5

OFFERED BY: MR. FIELDS OF LOUISIANA

AMENDMENT NO. 152: In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

"(8) establishes standards for the education or safety of students in elementary or secondary public schools.

H.R. 5

OFFERED BY: MR. GREEN

AMENDMENT NO. 153: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) regulates the licensing, construction, or operation of nuclear reactors or the disposal of nuclear waste.

H.R. 5

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 154: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) is necessary to protect against hunger or homelessness.

H.R. 5

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 155: In section 4, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

(8) pertains to Medicaid.

H.R. 5

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 156: Amend title I to read as follows:

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

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

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

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

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

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

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

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

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

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

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

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

and tribal governments with which they compete.

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

(b) CRITERIA.—

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

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

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

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

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

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

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

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

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

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

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

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

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

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

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

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

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

SEC. 103. DEFINITION.

In this title:

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

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

H.R. 5

OFFERED BY: MR. SANDERS

AMENDMENT NO. 157: Insert the following new paragraphs at the end of the proposed section 424(a) of the Congressional Budget Act of 1974:

"(5) CONSIDERATION OF COST SAVINGS FROM FEDERAL MANDATES.—For each bill or joint resolution of a public character reported by any committee that establishes, modifies, or repeals a Federal mandate, the Director shall prepare and submit to the committee a statement describing the cost savings that would accrue to the private and public sectors from such Federal mandate, including long and short term health care and environmental cost savings. Such statements shall include a quantitative assessment of such cost savings to the extent practicable.

"(6) CONSIDERATION OF BENEFITS OF FEDERAL MANDATES.—For each bill or joint resolution of a public character reported by any committee that establishes, modifies, or repeals a Federal mandate, the Director shall prepare and submit to the committee a statement describing the benefits of such Federal mandate, including benefits to human health, welfare, the environment, and the economy. Such statement shall include a quantitative assessment of such benefits to the extent practicable.

H.R. 5

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 158: In paragraph (4) of section 202(a), insert before "the effect" the following: "estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of".

H.R. 5

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 159: At the end of title II add the following:

SEC. 206. DEFINITION.

As used in this title, the term "Federal mandate" does not include a Federal intergovernmental mandate which imposes an environmental standard upon the activities of a State, local, or tribal government and which imposes the same standard on any similar activities of the private sector.

H.R. 5

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 160: Paragraph (4)(A)(i) of the proposed section 421 of the Congressional Budget Act of 1974 is amended by striking "or" at the end of subclause (I) and by adding after subclause (II) the following new subclause:

(III) an environmental standard which applies to the activities of a State, local, or tribal government and which applies equally to any similar activities of the private sector; or

H.R. 5

OFFERED BY: MR. VENTO

AMENDMENT NO. 161: In section 301(2), in the matter proposed to be added as a new section 422 to the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and at the end add the following new paragraph:

(8) applies to life threatening public health and safety matters.

H.J. RES. 1

OFFERED BY: MR. BARTON OF TEXAS

AMENDMENT NO. 22: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. CONYERS

AMENDMENT NO. 23: At the end, strike the closing quotation marks and the periods and insert the following as a perfecting amendment to whichever substitute version may be adopted:

, if Congress agreed to a concurrent resolution setting forth a budget plan to achieve a balanced budget not later than that fiscal year as follows:

"(1) A budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues.

"(2) A detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change.

"(3) Reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.".

H.J. RES. 1

OFFERED BY: MR. CONYERS

AMENDMENT NO. 24: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 3. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which become law.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal. Total receipts shall not include receipts (including attributable interest) for the financing of benefits and administrative expenses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or any successor funds, and total outlays shall not include outlays for disbursements of the Federal Old-Age and Survivors Insurance Trust Fund for benefits and administrative expenses and the Federal Disability Insurance Trust Fund for benefits and administrative expenses, or any successor funds. The receipts and outlays referred to in the preceding sentence shall be limited to receipts and outlays that provide old-age and survivor cash benefits for individuals based upon their earnings and dependents of such earners or provide disability cash benefits for disabled individuals based upon their earnings and dependents of such earners.

"SECTION 5. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the hole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 6. All votes taken by the House of Representatives or the Senate under this article shall be roll-call votes.

"SECTION 7. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 8. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later, if Congress agreed to a concurrent resolution setting forth a budget plan to achieve a balanced budget not later than that fiscal year as follows:

"(1) A budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues.

"(2) A detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change.

"(3) Reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.".

H.J. RES. 1

OFFERED BY: MR. CONYERS

AMENDMENT NO. 25: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification.

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which a majority of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 3. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal. Total receipts shall not include receipts (including attributable interest) for the financing of benefits and administrative expenses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or any successor funds, and total outlays shall not include outlays for disbursements of the Federal Old-Age and Survivors Insurance Trust Fund for benefits and administrative expenses and the Federal Disability Insurance Trust Fund for benefits and administrative expenses, or any successor funds. The receipts and outlays referred to in the preceding sentence shall be limited to receipts and outlays that provide old-age and survivor cash benefits for individuals based upon their earnings and dependents of such earners or provide disability cash benefits for disabled individuals based upon their earnings and dependents of such earners.

"SECTION 5. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 6. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 7. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later, if Congress agreed to a concurrent resolution setting forth a budget plan to achieve a balanced budget not later than that fiscal year as follows:

"(1) A budget for each fiscal year beginning with fiscal year 1996 and ending with that first fiscal year (required by this article) containing—

"(A) aggregate levels of new budget authority, outlays, revenues, and the deficit or surplus;

"(B) totals of new budget authority and outlays for each major functional category;

"(C) new budget authority and outlays, on an account-by-account basis, for each account with actual outlays or offsetting receipts of at least $100,000,000 in fiscal year 1994; and

"(D) an allocation of Federal revenues among the major sources of such revenues.

"(2) A detailed list and description of changes in Federal law (including laws authorizing appropriations or direct spending and tax laws) required to carry out the plan and the effective date of each such change.

"(3) Reconciliation directives to the appropriate committees of the House of Representatives and Senate instructing them to submit legislative changes to the Committee on the Budget of the House or Senate, as the case may be, to implement the plan set forth in the concurrent resolution.".

H.J. RES. 1

OFFERED BY: MR. FATTAH

AMENDMENT NO. 26: At the end of section 4 add the following:

"The provisions of this Article may also be waived for any fiscal year in which the United States experiences a disaster from natural causes or from causes resulting from the decay of the nation's fiscal or social infrastructure and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law."

H.J. RES. 1

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 27: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal. Total receipts shall not include receipts (including attributable interest) for the financing of benefits and administrative expenses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or any successor funds, and total outlays shall not include outlays for disbursements of the Federal Old-Age and Survivors Insurance Trust Fund for benefits and administrative expenses and the Federal Disability Insurance Trust Fund for benefits and administrative expenses, or any successor funds. The receipts and outlays referred to in the preceding sentence shall be limited to receipts and outlays that provide old-age and survivor cash benefits for individuals based upon their earnings and dependents of such earners or provide disability cash benefits for disabled individuals based upon their earnings and dependents of such earners.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. FOGLIETTA

AMENDMENT NO. 28: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. No bill making appropriations for any fiscal year that would reduce the level of funding for any low-income program, project, or activity respecting subsistence, health, education, or employment below the level for the preceding fiscal year shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. GEPHARDT

AMENDMENT NO. 29: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which a majority of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 3. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States

except those for the repayment of debt principal. Total receipts shall not include receipts (including attributable interest) for the financing of benefits and administrative expenses of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or any successor funds, and total outlays shall not include outlays for disbursement of the Federal Old-Age and Survivors Insurance Trust Fund for benefits and administrative expenses and the Federal Disability Insurance Trust Fund for benefits and Administrative expenses, or any successor funds. The receipts and outlays referred to in the preceding sentence shall be limited to receipts and outlays that provide old-age and survivor cash benefits for individuals based upon their earnings and dependents of such earners or provide disability cash benefits for disabled individuals based upon their earnings and dependents of such earners.

"SECTION 5. All votes taken by the House of Representatives or the Senate under this Article shall be roll-call votes.

"SECTION 6. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 7. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. HILLIARD

AMENDMENT NO. 30: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal. For purposes of this Article, outlays shall not include any sums to carry out the Civil Rights Act of 1964 or the Americans with Disabilities Act of 1990.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriatse legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. HILLIARD

AMENDMENT NO. 31: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consisted with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal. For purposes of this Article, outlays shall not include any sums for grants to States for aid to families with dependant children.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. ISTOOK

AMENDMENT NO. 32: Strike all after the revolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

"SECTION 6. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 7. This Article (except section 8) shall take effect for fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.

"SECTION 8. From the date of ratification of this Article until the close of fiscal year 2004 or for the fourth fiscal year beginning after its ratification, whichever is later, no bill to increase revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. Thereafter, no bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.".

H.J. RES. 1

OFFERED BY: MR. NADLER

AMENDMENT NO. 33: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. This section shall not apply to any bill providing for more effective measures to enforce the tax laws.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES 1

OFFERED BY: MR. NADLER

AMENDMENT NO. 34: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. This section shall not apply to any bill repealing or reducing exemptions, deductions, or credits available to corporations.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. NADLER

AMENDMENT NO. 35: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. This section shall not apply to any bill providing for withdrawal of most favored nation trading status from a foreign nation because of human rights abuses.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. ORTON

AMENDMENT NO. 36: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that fiscal year.

"SECTION 2. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 3. For any fiscal year in which actual outlays exceed actual receipts, the Congress shall provide by law for the repayment in the ensuing fiscal year of such excess outlays. If Congress fails to provide by law for repayment, within fifteen days after Congress adjourns to end a session, there shall be a sequestration of all outlays to eliminate a budget deficit.

"SECTION 4. The provisions of this article may be waived for any fiscal year only if

Congress so provides by law by a majority of the whole number of each House. Such waiver shall be subject to veto by the President.

"SECTION 5. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government, except for those for repayment of debt principal.

"SECTION 6. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. ORTON

AMENDMENT NO. 37: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 3. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION 6. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 7. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. SAXTON

AMENDMENT NO. 38: Strike all after the resolving clause and insert the following:

"ARTICLE —

"SECTION 1. For each fiscal year, Congress and the President shall ensure that total outlays do not increase by a rate greater than the rate of increase in national income the second prior year and that total outlays do not exceed total receipts.

"SECTION 2. Congress may provide for a larger increase in total outlays by a vote directed solely to that subject, in which two-thirds of the whole number of each house agrees to a bill providing for such specific additional outlays, and such bill has become law.

"SECTION 3. Congress may provide for a specific excess of outlays over receipts by a vote directed solely to that subject, in which a majority of each house agrees to a bill providing for such specific excess of outlays over receipts, and such bill has become law.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing, and total outlays shall include all outlays of the United States except for the repayment of debt principal.

"SECTION 5. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. SCHAEFER

AMENDMENT NO. 39: Strike all after the enacting clause and insert the following:

Proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 40: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. For any fiscal year for which this Article is in effect, receipts and outlays for any trust fund of the United States shall be subject to the provisions of this Article in the same manner as total receipts and total outlays of the United States (except that if a trust fund has an accumulated surplus from prior years, then that surplus may be counted as a receipt for purposes of the statement required by section 1 for the fiscal year to which the statement applies).

"SECTION 3. The limit of the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 4. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 5. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 6. The Congress may waive the provisions of this article for any fiscal year in which a declaration of was is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 7. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 8. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 9. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 41: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intends and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than

total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. Neither the judicial power of the United States nor of any State shall extend to any case arising under this Article.

"SECTION 10. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 42: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of was is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation,which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. Neither the judicial power of the United States nor of any State shall extend to any case arising under this Article.

"SECTION 9. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 43: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provide revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. No bill to increase tax revenue shall become law unless approved by a three-fifths majority of the whole number of each House of Congress. No bill to decrease social security payments shall become law unless approved by a three-fifths majority of the whole number of each House of Congress.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

"SECTION 8. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 9. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.".

H.J. RES. 1

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 44: Amend H.J. Res. 1 as reported by striking Section 2 as follows:

1. Page 5, strike "SECTION 2." and renumber accordingly.

EXTENSIONS OF REMARKS

GUN VIOLENCE ECONOMIC EQUITY ACT OF 1995

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, in recent weeks the GOP leadership has been leading the charge to slash social spending in America, place poor children in orphanages, and punish welfare recipients for their underprivileged status. Many among the Republican ranks would like to eliminate the Departments of Education and Housing and Urban Development, washing their hands of Federal responsibility in these areas. In addition, there is a GOP attack being waged on the vital prevention dollars that my Democratic colleagues and I fought so hard to keep intact in last year's crime bill. My friends on the opposite side of the aisle seem to believe in building walls around our inner-city communities rather than building futures for the youth that are struggling to succeed in those neighborhoods.

The attitude from the GOP and its Contract With America seems to be que será será, whatever will be, will be. Let's let market forces work and we'll hope for the best. Well, I've got quite a surprise for you Mr. Speaker. Given that approach, you and your Republican friends will probably want to join my Democratic colleagues in cosponsoring a bill of mine, H.R. 174, the Gun Violence Economic Equity Act of 1995.

I think we can all agree in this body that the gun violence plaguing our Nation is way past epidemic proportions and threatens to wipe out the hopes and dreams of all our future generations. Last Congress I was elated that, finally, after years of prolonged struggle with the "just say no" gun lobby, we were able to pass the Brady bill, along with a ban on 19 different types of assault weapons. These commonsense measures should have been in the books years ago and their passage serves the "Not Really Attuned" NRA with a loud wake-up call that the American people no longer stand for their attempts to block any and all rational gun control legislation.

Our children are at risk and we must continue to bring some sanity to our gun regulatory framework. In 1992 alone, in my city of Chicago, 741 youths 19 years of age and under were victims of gun injuries and early reports for 1993 and 1994 indicate rising numbers. At Children's Memorial Medical Center in Chicago, the number of children 16 and under treated for gunshot wounds skyrocketed 250 percent from 1988 to 1993. This is disgraceful tragedy. More can and must be done. I believe H.R. 174 would greatly assist us in our long-running quest to end the madness on our streets.

Mr. Speaker, I still believe the best way to control handguns is to ban them outright. However, if we have decided that gun ownership has some value in our society, then we should allow market forces to dictate the true cost of that ownership. This is the rationale behind the Gun Violence Economic Equity Act.

H.R. 174 would make manufacturers, dealers, and importers of handguns and assault weapons strictly liable for damages resulting in injury and death from the use of these weapons to the victims and survivors of victims.

By holding these parties liable for the damages caused by their products we will make certain that they share their appropriate culpability in the mayhem and destruction that their products inflict in both my congressional district and other communities all throughout America. These gun peddlers should understand that they must also take responsibility for their part in perpetuating the violence we have become all too accustomed to reading about in the daily papers.

This legislation in no way decreases or diminishes the responsibility of individuals who own or use guns in cities and towns. Undoubtedly the appropriate laws or civil actions still apply and should be taken. A person who directly commits an act of violence is responsible for his or her actions, but the manufacturers and sellers of handguns and assault weapons are also partners in these acts and must be viewed as such under the law.

Holding these parties liable also places the heavy economic cost of violence on the appropriate groups. Every one of us pays for gun violence in a myriad of ways. We pay in support to public hospitals whose trauma centers become overburdened with uncompensated care to victims of gunshot wounds. We pay in increased hospital insurance costs. We pay by having to subsidize the costs of increased security measures employed by businesses which we patronize. This list goes on and on.

Successful suits by victims against gun manufacturers and distributors will increase the manufacturer's cost of doing business. In turn, manufacturers will pass on the cost by increasing the price of guns sold in order to be able to cover future court awards. The more injuries a particular weapon causes, the more a strict liability rule will increase the price and reduce the quantity demanded of that type of gun. Hopefully, an increase in the cost of doing business will make a manufacturer think twice about producing dangerous and needless weapons for our communities.

Since there are many different models of guns, a strict liability rule would cause variable pricing of these guns according to the gun's history of being used to cause injury and death. The guns that cause the most net loss would show the sharpest declines in quantities sold. Guns that are safer, or because of type or selective marketing are rarely used in violent acts, would experience a smaller increase in price and a smaller decline in sales.

Mr. Speaker, if we had a strict liability rule in place a long time ago maybe we wouldn't have to argue about the epidemic level of gun violence that we face in the United States today. Maybe we wouldn't have to watch scenes of children attending funerals of their classmates on the evening news or read about police officers killed because they were outgunned by thugs and felons.

The American people are extremely anxious for the 104th Congress to take significant action to confront the most pressing problems facing our society, foremost of which continues to be gun violence. I urge my colleagues, therefore, to join me in supporting the Gun Violence Economic Equity Act of 1995 and signaling to the American people that we are committed to taking decisive and immediate action to bring down the number of deadly weapons in our streets and in our lives.

END SSI ABUSE

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. MENENDEZ. Mr. Speaker, today I am introducing a bill to end an outrageous abuse of a program designed to aid our most vulnerable citizens: the aged, blind, and disabled. Reports by the General Accounting Office and the Inspector General of the Department of Health and Human Services tell us that some families teach their children to feign mental illness or retardation so that the parents can collect SSI checks once the children are diagnosed as being unable to function in an age-appropriate manner. Parents are not required to spend these checks to assist their disabled children.

These parents abuse the SSI program's flexibility in the case of a child whose condition does not match one on the published list of medical impairments considered severe enough to preclude any gainful activity.

Yesterday's Washington Post reports bipartisan concern about these abuses by parents who can increase their welfare checks from $6,204 to $11,652 for a single parent with two children, when one child is enrolled in SSI. The Republican plan is to take a meat ax to all SSI checks for disabled children. This is not reform, but a mindless attack on families already under severe stress caring for seriously ill children. We must not solve this problem by eliminating the modest support we pay to parents who are poor because they stay at the bedside of a dying child.

The bill I am introducing today would preserve SSI benefits for disabled children, but in the case of children who become eligible as a result of the alternative process so many are now abusing, the benefits would come in the form of vouchers for services needed by the child in connection with the disability. I urge my colleagues to join with me in enacting a

humane way of eliminating abuse of the SSI program by unscrupulous parents.

THE DEVALUATION OF THE MEXICAN CURRENCY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. CRANE. Mr. Speaker, in recent weeks opponents of the NAFTA have tried to use the devaluation of the Mexican currency as a way to revive their efforts to undermine this historic trade initiative. To be sure, the devaluation of the peso is of great concern to our country because of the economic dislocation it is causing in Mexico. The devaluation will have the unfortunate effect of raising the price of United States exports to Mexico, and will tend to reduce the trade surplus the United States built up with Mexico during 1994, the first year of the NAFTA.

The current situation facing Mexico is unfortunate, but the United States has a strong interest in helping Mexico weather this downturn in its economy. The United States shares a 2,000-mile border with Mexico and our economies are closely linked. Total trade between the United States and Mexico is in the range of $70 billion a year.

Without NAFTA the current economic situation would be much worse for U.S. businesses and workers. As a comprehensive bilateral free-trade agreement, NAFTA obligates Mexico to solve its economic crisis in ways that ensure that United States products and services will not be shut out of Mexico's market. In the past it was not unusual for Mexico to try to address its currency problems and fiscal difficulties by nationalizing banks and other industries, and otherwise closing the Mexican market to United States goods and services. Because the NAFTA obligates Mexico to maintain an open market, the agreement will serve as a stabilizing force to minimize the effect of Mexico's economic problems on the United States.

United States trade policy towards Mexico as symbolized by the NAFTA, helps to steady a volatile situation for U.S. businesses and workers. NAFTA ensures that President Ernesto Zedillo will address the current situation through greater, not less liberalization of the Mexican market. NAFTA is by no means a cure-all, but it is a highly advantageous agreement for U.S. workers and businesses in this current climate of uncertainty in the economy of our southern neighbor.

REAUTHORIZING THE COMMODITY FUTURES TRADING COMMISSION

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. ROBERTS. Mr. Speaker, today I am introducing by request legislation that reauthorizes the Commodity Futures Trading Commission through the year 2000 at unspecified annual appropriations. I am joined by Messrs. DE LA GARZA, EWING, and ROSE.

The CFTC is the independent agency charged with regulating the Nation's 10 active commodity futures exchanges, the professional brokerage community of futures commission merchants and introducing brokers, commodity trading advisers and pool operators. Futures exchanges for years have met the vital economic needs of price discovery and risk management to U.S. agriculture. And, during the last 20 years, we have seen an explosion of trading in exchange derivative products on industrial and precious metals and energy commodities as well as financial instruments. Interest rate and stock index contracts continue to show phenomenal growth trends as more and more commercial and industrial enterprises understand the benefits of hedging economic risks in the futures and options markets.

Within the past decade, useful off-exchange markets have developed in individually negotiated instruments with characteristics of traditional futures and option contracts.

The CFTC is there to make sure the designated exchanges continue to promote fair and orderly trading, to police legitimate over-the-counter markets and to prosecute with State law enforcement authorities illegal boiler room activities that have operated for years in the gray areas of the Commodity Exchange Act.

My colleagues and I believe a simple, 5-year authorization is appropriate at this time, since the Commission's regulatory activities were thoroughly debated during the last reauthorization, which was concluded in October, 1992. The Commission operated without authorization during fiscal years 1990 through 1992 while the Congress debated several issues of crucial importance to our financial markets. The CFTC has been without an authorization so far in this current fiscal year, and this committee must assume its legislative responsibilities. There still are outstanding issues and questions about competitiveness and regulatory intrusions, but I would hope that we could deal with them, if necessary, in separate legislation.

In that regard, the Futures Trading Practices Act of 1992 required the precise, independent and unalterable recordation of all trade executions to be an industry standard by October 1995. The Congress rightly understood the technological problems involved in attaining this mark and provided some flexibility. I might add here that the House committee report making appropriations for fiscal year 1995 concluded that the exchanges had made good faith efforts to meet the audit trail requirements. The Appropriations Committee said it expected the Commission to grant an extension to the exchanges beyond the 1995 deadline. Although I, as one Member, have not concluded whether or not the Commission should grant the extension, it is up to the Committee on Agriculture to deal with this matter.

Finally, Mr. Speaker, off-exchange derivatives trading has been making headlines recently. Procter & Gamble, Gibson Greeting Cards, and other private companies as well as several public funds, including the now famous fund controlled by Orange County, CA, have lost large sums of money through derivatives investments. Many of these transactions may have been made without adequate understanding of the risks involved in highly leveraged instruments. There may have been breaches of fiduciary responsibilities in some of these cases. At any rate, so far the regulators have held their fire in requesting new authorities. I understand the SEC is asking for some voluntary restrictions of certain unregulated subsidiaries of SEC registrants, but, beyond that and other administrative actions taken recently by banking regulators, I would hope the Congress moves cautiously in this area of financial regulation.

Derivatives are not new even though a casual reading of the business press would lead you to a different conclusion. There is little the Congress can do to legislate against poor judgement. In those instances where fraud is found, then there are appropriate laws to deal with the problem. To restrict the legitimate uses of derivatives—and few doubt their legitimacy whether they are exchange-traded futures and options or over-the-counter hedging and investment instruments—would be a profound error.

TELECOMMUNICATIONS LEGISLATION TO OPEN THE INFORMATION SUPERHIGHWAY TO ALL AMERICANS

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, in the last 2 weeks I have introduced a pair of legislative initiatives that are of paramount importance if we in this body are to adequately ensure that all Americans have a genuine opportunity to participate in the information revolution that is now rapidly progressing in our Nation. As we are all well aware, every day in the morning papers another story appears announcing a new telecommunications merger or plans for the development of a new telecommunications technology. The pace of change in this arena is absolutely striking.

But with change comes challenges Mr. Speaker. While we should all look forward to the opportunities presented by new, emerging technologies, we cannot disregard the lessons of the past and the hurdles we still face in making certain that everyone in America benefits equally from our country's maiden voyage into cyberspace.

It is a very well-documented fact that minority and women-owned small businesses continue to be overwhelmingly under-represented in the telecommunications field. In the cellular industry, which generates in excess of $10 billion per year, there are a mere 11 minority firms offering services in this market. Overall, barely 1 percent of all telecommunications companies are minority-owned. Of women-owned firms in the United States, only 1.9 percent fall within the communications category.

Therefore, I have introduced two separate pieces of legislation, H.R. 187 and H.R. 503, the Telecommunications Economic Opportunity Act of 1995, that seek to remedy the

aforementioned inequities. It is imperative that minorities and women are drivers, not simply passengers, in the superhighway fast lane. As the statistics point out, too often in the past these groups have been left standing on the shoulder, only to watch the big guys and gals cruise down the road, leaving them in the dust.

I must note that both of these measures passed the full House by a landslide last year as part of H.R. 3626, the Antitrust and Communications Reform Act of 1994, and I look forward to the same bipartisan support for my initiatives in the 104th Congress.

H.R. 187 would require a rulemaking on the part of the Federal Communications Commission, after consultation with the National Telecommunications and Information Administration, on ways to surmount barriers to market access, such as undercapitalization, that continue to constrain small businesses, minority, women-owned, and nonprofit organizations in their attempts to take part in all telecommunications industries. Underlying this amendment is the obvious fact that diversity of ownership remains a key to the competitiveness of the U.S. telecommunications marketplace.

H.R. 503, which is intended to increase the availability of venture capital and research and development funding for both new and existing small, women, and minority-owned companies, would require all telecommunications providers to annually submit to the FCC their clear and detailed company policies for increasing procurement from business enterprises that are owned by minorities and women in all categories of procurement in which these entities are under-represented. The FCC would then report to Congress on the progress of these activities and recommend legislative solutions as needed.

Mr. Speaker, last year Congress fell short in its attempts to pave the roads of the information superhighway with increased competition and, thereby, assist in promoting greater economic opportunities for more Americans as we head into the 21st century. This year we can ill afford to repeat our past mistakes.

While my measures do not completely solve the long-standing problems that confront so many forgotten entities and enterprises in our communities, their passage will ensure that minorities and women will have a strong role in the fantastic industries of the future as both users and providers of services. Because of this, we all stand to benefit.

I strongly urge my colleagues to support both H.R. 187 and H.R. 503.

STOP ABUSES OF CHARITIES' TAX EXEMPTIONS

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. MENENDEZ. Mr. Speaker, Amercians are the most generous people in the world, yet charlatans abuse tax exemptions designed to support worthy charities. Today, I am introducing a bill to stop such abuse of American generosity.

The Tax Exemption Accountability Act would stop self-dealing by the managers of tax exempt organizations and put teeth into requirements that they file accurate annual returns with the IRS and make them readily available to the public. It also creates a national clearinghouse offering copies of returns for a reasonable fee.

The bill also would cap the compensation of officers and directors at the level of U.S. Cabinet members. Churches would continue to be exempt from filing IRS returns and from caps on pastors' salaries, and hospitals could still pay high-cost professionals.

We need greater accountability by tax exempt organizations because they control substantial public wealth that offers a temptation some have been unable to resist.

The share of national revenues going to tax exempts has nearly doubled in the past 15 years, growing at 8 percent per year in constant dollars. The IRS reports that the revenues of tax-exempts rose from 5.9 to 10.4 percent of U.S. gross domestic product from 1975 to 1990. Revenues totaled $578 billion in 1990.

These are substantial revenues. To put them into context, in 1990, taxable service industries had receipts of $1,174 billion. The tax exempts had revenues of just half that amount.

The assets of tax exempt organizations totaled nearly $740 billion in 1990, with real growth at an average annual rate of 7.7 percent over the previous 8 years. These assets accounted for 4.5 percent of private net worth in the United States in 1990, up from 2.9 percent in 1979.

INCOME EQUITY ACT OF 1995 AND MINIMUM WAGE ENHANCEMENT ACT OF 1995

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. SABO. Mr. Speaker, I believe that an increase in the minimum wage is needed to restore equality to salaries for millions of Americans. For that reason, today I am introducing the Minimum Wage Amendments Act of 1995. This legislation will increase the Federal minimum wage to $6.50 an hour—an increase that will help nearly 5 million Americans better provide for themselves and their families.

In today's economy, minimum-wage workers are often unable to support themselves for one simple reason—the minimum wage has not kept up with the cost of living. In the 1960's and 1970's, for example, a full-time year-round worker making the minimum wage earned enough to keep a family of three above the poverty line. Today that same worker falls nearly $3,500 below the poverty line. To supplement their minimum wage, workers are often forced to seek assistance from taxpayer-financed Government programs such as food stamps, housing subsidies, and medical assistance.

Congress has tried to help. In June 1989, Congress passed legislation increasing the minimum wage. Under that legislation, The 1989 Fair Labor Standards Act, the minimum wage was raised from $3.35 to $4.25 per hour.

Still, the minimum wage has not kept pace with the rising cost of living. In fact, the current $4.25 per hour falls almost $2.25 short of the real value of the minimum wage in 1968. This failure to increase the minimum wage to a level that provides a living puts enormous pressure on social programs. In my judgment, all full-time workers should make enough money to live off their wages.

From the time of President Roosevelt, a fair minimum wage helped ensure a responsible relationship between workers and management. Today, a fair minimum wage is critical to millions of working Americans. More than two-thirds of minimum-wage workers are adults, and it is estimated that one in five minimum-wage workers live below the poverty line.

When working Americans are unable to support themselves and their families, they are left scrambling to pay their bills and put food on their tables. Today's minimum wage is too much minimum and not enough wage. We can not be content with an economy that helps those at the top of the economic ladder climb further up while those at the bottom slip further down.

Mr. Speaker, today I am also introducing the Income Equity Act of 1995.

One of the most disturbing trends of the past decade has been the increasing polarization of income in this country. To use a familiar phrase: "The rich have gotten richer and the poor poorer." In fact, the gap between rich and poor families is now larger than at any time since the Government began compiling those statistics.

Put another way, average income of the poorest fifth of the population has fallen from 93 percent of the poverty line in 1973 to 83 percent in 1987. The next poorest fifth has an average income of twice the poverty line. On the other end of the spectrum, the richest fifth has an income that is almost nine times higher than the poverty line. Clearly, the income gap continues to widen.

More single-parent, female-headed households are stuck in the bottom end of the wage scale. Wages for low-income and young workers have been stagnant. These trends have helped contribute to a growing class of working individuals who are having a tough time making ends meet. This poverty is especially damaging because it hits children so hard. Today, an alarming one in five children live in poor families. Poverty and the problems associated with it—malnutrition, inadequate health care, disadvantages at school, and crime—impair a child's ability to perform later in life. Those basic problems erect barriers that make it tough for children to ever achieve. We need to reverse the trend toward growing income inequities.

My bill, the Income Equity Act, would not only raise the minimum wage to $6.50 an hour, but it would also limit the tax deductibility of executive compensation to 25 times that of the lowest paid worker in the same firm. For example, if the lowest paid worker of a business is the clerk who makes $10,000 a year, the business will only be allowed to deduct $250,000 in salary and bonuses for senior employees. This provision simply draws attention to the incredible income gap present in most businesses. Business owners will be forced to

take a long, hard look at how they compensate both those at the bottom and those the top of the income ladder.

The bottom line is that Americans who work full time should be able to provide for themselves and their families without turning to the Federal Government for assistance. Both Democrats and Republicans alike want to see individuals excel in the workplace. We want to see families living well and doing so independent of Government intervention. A liveable minimum wage is an essential extension of the work ethic—it tells individuals that work is important and should be rewarded appropriately.

Mr. Speaker and Members of the House, I hope you will join me in supporting an increase in wages for working Americans.

NORTH ST. VRAIN PROTECTION ACT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. SKAGGS. Mr. Speaker, today, I am again introducing a bill to protect North St. Vrain Creek, the largest remaining roadless canyon along Colorado's Front Range. This bill was almost enacted last year when it was approved by the House and reported by the Senate Committee on Energy and Natural Resources. Unfortunately, the full Senate did not have time to consider the bill before the end of the session.

This legislation will prevent construction of new dams on the North St. Vrain Creek as it flows through Rocky Mountain National Park and the Roosevelt National Forest, and will clear up public land ownership along the creek. The North St. Vrain should be kept free of additional dams and impoundments for all times. This is some of the best meeting of land and water we have in Colorado—and that is saying a lot.

The bill incorporates the recommendations of a citizens' advisory committee, which I appointed in conjunction with the Boulder County Commissioners, and which spent over 5 years developing a consensus proposal on how to protect the creek and canyon while protecting local property and water rights.

This bill represents an astonishing amount of work by Coloradans—especially the 50 people who took part in 103 advisory committee meetings and performed over 300 hours of independent research. Another 600 people attended 12 public hearings on the proposal. With the work that is already been done by all these people to produce this consensus, I hope it will be possible to move this bill through Congress quickly and early in this session and not disappoint them again.

The legislation would prohibit any Federal agency from approving a new dam or reservoir on the North St. Vrain Creek or its tributaries in Rocky Mountain National Park, or on the main stem of the creek below the park and above Ralph Price Reservoir, in the Roosevelt National Forest.

The advisory committee originally recommended prohibiting dams just on the stretch of the creek below the park. However, at a special town meeting I held in Allenspark, CO, to hear comments on the advisory committee's recommendation, I received suggestions that the prohibition on dams also apply within the national park. After getting agreement from advisory committee members, I agreed that the change is an improvement.

To some, I suppose this prohibition might appear to be redundant to existing national park protection. However, dams are not currently prohibited in the national park, just as they are not in the national forest. With the inevitable pressure to supply more water for the Denver metropolitan area, it is possible that there will be new proposals for smaller water supply projects all along the Front Range to meet future urban water needs. As recently as 1979, the city of Longmont considered building a dam on the North St. Vrain Creek that would have inundated part of Rocky Mountain National Park. And, in the early 1980's, we had to deal with the proposed Coffintop Dam on the South St. Vrain. That is why it is important to prohibit dams on this wild stream.

The bill also would direct the National Park Service to negotiate with the city of Longmont to acquire the city lands that would have been used for the city's now-abandoned plan for a dam. The lands are located within the park boundaries but not owned by the Federal Government. Another provision of the bill would direct the Forest Service to pursue negotiations for a proposed land exchange involving other Longmont lands in Coulson gulch, along a tributary of the creek in the adjoining national forest.

This legislation itself is the heart of a larger package of policies and agreements that will protect the distinctive natural features of this area, while assuring the continued enjoyment of privacy and productivity by local landowners and water users. I will again seek to win committee approval of report language, recommended by the advisory committee, to clarify various points.

The North St. Vrain Creek is located 20 miles northwest of Boulder. It is the primary stream flowing from the southeastern portion of Rocky Mountain National Park, arising in snowfields near Longs Peak, and tumbling through waterfalls and cascades in the Wild Basin area of the park. After leaving the park, the creek cuts a narrow, deep canyon until it reaches Ralph Price Reservoir. To watch and listen to the creek's falls, either in the park or downstream in the forest, is to stand silent in wonder—not just because it is difficult to be heard above the roar, but also because just watching and listening to the water is the best of conversations.

The watershed includes habitat for bighorn sheep, deer, elk, peregrine falcons, flammulated owls, and mountain lions. It also provides popular hiking, fishing, and hunting terrain relatively near some of Colorado's larger cities.

I introduce this legislation not only with a belief in the importance of protecting the North St. Vrain, but also with a firm conviction that the hundreds of Coloradans who have worked on its protection have crafted a sound and effective consensus. this is a good bill, a clear and simple proposal, which has strong support among the people in the area.

SPEECH BY HEATHER HIGGINS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. GINGRICH. Mr. Speaker, this speech by Heather Higgins was delivered at the Progress and Freedom Foundation's Conference on Democracy in Virtual America, held on January 10, 1995. Heather Higgins is a senior fellow at the Progress and Freedom Foundation and the executive director of the Council on Culture and Community in New York. I commend it to my colleagues.

Regarding the balanced budget amendment, I would commend to all of you a piece that Milton Friedman had in the Wall Street Journal earlier this week, pointing out that not all balanced budget amendments are equal, that some are singularly pernicious, if they do not have the necessary constraints attached.

I would hope that we would have a balanced budget, and a balanced budget amendment, if it is so written, should be part of a shift in the underlying philosophical premise—one of several that I expect we will see—to accompany this change in thinking, this third wave.

We are rediscovering the understanding that it is not ethical to expect some future generation to pay for you, that the moral thing to do is to pay your own way as you go. And so, within that context, I expect that we will be balancing our budget.

There are other ethical and philosophical shifts which I think will accompany that. Another thing that I think you'll see increasingly discussed in line with this is a flat tax proposal. The reason being that I think that you're going to see a redefinition of what constitutes fairness. Fairness will no longer be taking more money from some people that you do from others because they have more, but fairness will be that all dollars are taxed the same, and it is up to you to decide how much you're doing to earn, and therefore, how much you're going to pay.

That goes hand in hand with another idea: judge programs by their results, not by their intentions. The intentions of a progressive tax, for example, are well-intended, but the results are not necessarily, in terms of revenue, what one would hope.

Similarly, in terms of most of our welfare programs, we have judged people by the policy of good intentions, and the politics of good intentions. In part, I think it is because the left has always assumed that with sufficient will, anything can be changed. And so, it becomes a question of having enough will, enough good intention. And that's part of the reason that people who don't share that will and that intention are castigated and vilified so thoroughly. They are clearly obstructing the progress that is inevitable.

A third area where you could see real change in the underlying philosophy, and I certainly hope that we will, is that you will see that all Americans are treated first as Americans, not as members of groups, not as members of economic classes or particular races or genders. But we have to go back to the idea that we are all Americans, and that this is a land of possibility. And it is stupid to have higher taxes on one group than on another, because ultimately, we are not a static society.

And we need to return to that notion that we are all equal as citizens.

That all falls within the context of a reemphasis on the civil society. I think that you're going to find that reemphasis taking place, in large part, because the understanding is going to come about that capitalism can never have a human face. No economic system can. No government can. Only human beings can have human faces. And that radically will shift how we structure our activities and our organizations.

So, for example, I think that one of the most exciting facets of this change to a third wave is the Jeffersonian vision which required a small community to function when he was writing, now becomes technically possible in a much larger society.

You also will find, for example, within that vision, a shift away from the ideas of entitlements and rights, which are not, and never have been rights at all, to an idea of moral obligation, which is a much higher calling. And I think that that is where your human face will start to come in.

And you will find, too, that compassion will be properly defined as an individual activity, not as a societal or governmental activity which, by definition, becomes a contradiction in terms, and as far from compassion as one can possibly get.

TURKEY'S ASSAULT ON HUMAN RIGHTS CONTINUES

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. SMITH of New Jersey. Mr. Speaker, over the years the Helsinki Commission has closely monitored human rights developments to Turkey. I have supported Commission efforts and have joined my colleagues in speaking out about suppression of free speech, torture, and fundamental human rights questions concerning Turkey's Kurdish citizens. As the new Chairman of the Commission, I will continue to speak out on these and other such developments.

I rise today to protest the arrest of seven leaders of the Human Rights Association of Turkey's Diyarbakir branch. Prosecutors want to jail these individuals for no less than 10 years on charges that a publication they produced which documented human rights cases constitutes "separatist propaganda." One of those detained, Neymetullah Gunduz, an attorney and association leader, had met with members of a Helsinki Commission delegation last October. Just weeks ago, several other human rights leaders were acquitted of similar charges. Mr. Speaker, international scrutiny has and should continue to focus on these draconian speech restrictions and other human rights problems which continue to tarnish Turkey's democratic credentials.

For years now, Human Rights Association members throughout Turkey, but especially in the southeast, have been harassed, gunned down, and have had their offices forcibly closed. The Diyarbakir branch was the last allowed by authorities to function in the region, and now, it too has been silenced. Mr. Speaker, the deteriorating human rights situation facing residents of southeast Turkey can only be described in terms of fear and violence. The freedoms and liberties of all citizens have been stripped in an effort to fight terrorism, and residents are victimized by both terrorist and security forces.

Mr. Speaker, Turkish leaders have expressed dismay at efforts to slow Turkey's integration into the European Union, and yet that Government has continued to pursue policies contrary to accepted international human rights norms. Their protests about congressional conditioning of U.S. aid on human rights performance ring equally hollow given the flagrant disregard for Turkey's stated human rights commitments, including those undertaken with the Organization for Security and Cooperation in Europe.

Mr. Speaker, I call upon the Government of Turkey to immediately drop its case against the seven activists and to release all those political prisoners who presently languish in Turkish prisons simply for expressing their opinions.

TUCSON'S WOMAN OF THE YEAR

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. PASTOR. Mr. Speaker, I would like to take this opportunity to congratulate Ms. Sarah R. "Sally" Simmons who was recently chosen Tucson's Woman of the Year for 1994. This award, given by the Tucson Metropolitan Chamber of Commerce, recognizes outstanding individuals who have selflessly helped others.

Through her career and dedication to the community, Sally Simmons is both a role model and an inspiration to those around her. In 1993, she became the first Tucson woman and second woman ever to become president of the Arizona Bar Association. She is also a partner in the firm of Brown & Bain, where she specializes in real estate law.

In addition to her thriving career, Ms. Simmons contributes her personal time to various boards and community organizations. She serves on the Board of Directors for Southern Arizona Legal Aid, D–M 50, Lawyers Against Hunger, and is on the advisory board of Tucsonians for a Drug Free Workplace. Ms. Simmons is a charter member of the Arizona Women Lawyer's Association and has served on the board of the Alcoholism Council of Tucson.

Again, I would like to take this opportunity to congratulate Ms. Simmons and especially to thank her for all she is doing to improve the lives of the people of Tucson and throughout Arizona.

PROCLAMATION CONGRATULATING THE STEUBENVILLE MASONIC LODGE NO. 45

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, the Steubenville Masonic Lodge #45 F. & A.M. has contributed untold volunteer hours in building character, citizenship, and leadership in this community; and,

Whereas, the Steubenville Masonic Lodge #45 F. & A.M. is celebrating 175 years of service to the area's Masons and community; and,

Whereas, members have made in kind contributions of service, financial contributions to the Steubenville area, contributions to the Special Olympics, and to other important needs of the community; and,

Whereas, the local Masonic Lodge has extended the interest of the Masonic Order within this community; and,

Whereas, the members of schools, churches, service clubs, union organizations, and others have been members of the Masonic Order; and,

Whereas, the city of Steubenville and all the surrounding areas of Ohio are better places to live because of Steubenville's Masonic Lodge #45, we join in the celebration of their 175 year anniversary on the twentieth day of January in 1995.

HOLDING OUR FEET TO THE FIRE—THE BALANCED BUDGET AMENDMENT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. PACKARD. Mr. Speaker, several months ago I joined my Republican colleagues to sign a contract with the American people to give them less government, less taxes, and less spending. As part of our new covenant we also promised the American people a more open and accountable Government.

We have invited radio talk show hosts to the Capitol to communicate to their listeners exactly what it is we are doing to keep our promises. I am excited to report that they are taking us up on our invitation.

I want to welcome southern California radio talk show host Roger Hedgecock and almost 200 of his listeners who traveled at their own expense, more than 3,000 miles to hold our feet to the fire and make sure that we work to pass the Barton balanced budget amendment.

I am heartened to see such a devoted group of citizens travel so far to enjoy a more open and accountable Congress committed to keeping its word.

They understand a balanced budget amendment will fundamentally change the way Government works. They know that this amendment is the only way to ensure that their children and grandchildren will not be saddled with a Federal debt which is currently tipping the scales at more than $4.5 trillion.

The American people know that it is time for the Federal spending beast to change its eating habits. As with any healthy diet, discipline is key. The balanced budget amendment imposes just that kind of control.

Anyone who has ever been on a diet knows that the key to success is resisting the temptation to cheat. The three-fifths rule in the Barton amendment will help Congress resist the temptation to cheat by making it more difficult to raise taxes on hard working Americans. It will make it tougher for Congress to continue its unhealthy spending habits.

I urge my colleagues to support the Barton amendment and Roger Hedgecock's listeners to continue holding our feet to the fire.

TRIBUTE TO EDDY JASON

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. ROTH. Mr. Speaker, last weekend one of our communities lost a vibrant personality and talented broadcaster. Eddy Jason, whose radio program was an important part of daily life in Green Bay, WI, passed away at the age of 92.

For 47 years, Eddy entertained, comforted, and informed listeners on WGEE radio with his daily show, "Partyline." He was a lifeline to people in the community, who counted on him for news, information, and just plain old advice. He possessed an amazing amount of common knowledge and common sense. There wasn't any question he couldn't answer.

He played a special role for many seniors in the area, who turned to him every weekday at 9 a.m. for the latest word on current events and happenings around town.

His off-the-air personality was also geared toward helping his community. He was a regular participant in my annual senior seminar, kicking off the proceedings with the Pledge of Allegiance or a brief presentation.

He was a household name in the Green Bay area and enjoyed the recognition. On the street, he was probably more recognizable by his voice than his face, but people felt like they knew him. Eddy was an exercise walker, and his routine consisted of walking one way and busing back. He said he took the bus because he enjoyed getting to know people.

A native of New York, he loved Green Bay and always spoke highly of its friendly, hard-working people. In 1941, Eddy spent 6 years as a military instructor in the Army. He returned to Green Bay in 1947 as a young actor, whose profession had already led him to Chicago and Hollywood, where he starred in a number of silent films.

Eddy made his mark in Wisconsin in the Town Hall Players, an acting group based in LaCrosse that made more than 300 appearances across the State. Eddy fondly remembered the job's best fringe benefit—the free meal offered at many of the engagements.

Eddy broke into Green Bay radio with a noon-time program called "The Farm Hands" that broadcast from the top of the Bellin Building. Every day the show was kicked off by a live, barking dog. It was less than glamorous but he reveled in radio.

"Partyline" debuted in November 1948 on WBAY Radio. With partner Roger Mueller, Eddy began a Green Bay tradition of on-the-air storytelling, joking, and reporting.

Eddy Jason had no plans to retire. He loved his job and his coworkers. He didn't even consider his radio show work. He called it a hobby.

He was on the air 5 days a week and never missed a wedding anniversary or birthday announcement.

Eddy Jason will be remembered by many as not just a broadcasting pioneer, but as an outstanding human being who cared deeply about the community where he lived and worked.

Our thoughts and prayers today are with his son, Wallace McDonald, his six grandchildren, and 16 great-grandchildren.

After 47 years, the airwaves will seem a little empty without Eddy Jason's kind voice. For years to come, the people of Green Bay will not be able to turn on their radios without thinking of him. He will be fondly remembered and sincerely missed.

VFW CHARTER AMENDMENT

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. STUMP. Mr. Speaker, today I am introducing legislation to amend the Congressional Charter of the Veterans of Foreign Wars of the United States [VFW]. My good friends SONNY MONTGOMERY, and JERRY SOLOMON, former chairman and former ranking Republican member of the House Committee of Veterans' Affairs respectively, join me in introducing this bill. It provides that veterans who have served in the Republic of Korea for not less than 30 consecutive days, or a total of 60 days after June 30, 1949, would become eligible for VFW membership.

Now, only veterans of Korea who served during the war itself are eligible to belong to the VFW. The VFW's congressional charter requires its members to have received a campaign medal or badge to be eligible for membership. However, many veterans have served in Korea but did not receive the requisite campaign medal or badge because of narrow DOD eligibility criteria. Consequently, those service men and women are not eligible to join the VFW.

The VFW believes, and I agree, that those veterans who would be covered by this legislation should be eligible to enjoy membership in the VFW. Only Congress can make this change, because the VFW's congressional charter must be amended.

Mr. Speaker, the realities of the United States military presence in Korea, and the current dangers there provide compelling reasons to support the VFW's desire to amend its charter, I strongly urge all Members to cosponsor and support this bill. Thank you, Mr. Speaker.

REFORM OF THE FEDERAL BLACK LUNG PROGRAM

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. RAHALL. Mr. Speaker, today, I am reintroducing legislation that I have sponsored for several Congresses now to form the Federal Black Lung Program.

This legislation reflects the frustration of thousands of miners and their families with the extremely adversarial nature of the current program as administered by the Labor Department.

As it now stands, disabled miners who suffer from the crippling effects of black lung disease are faced with a Federal bureaucracy so totally lacking in compassion to their plight, that it appears intent upon harassing their efforts to obtain just compensation at every single step of the claim adjudication process.

In fact, today, we are witnessing less than a 10-percent approval rate on claims for black lung benefits.

This figure does not attest to any reasonable and unbiased comportment of the facts.

Rather, it represents nothing less than a cruel hoax being perpetrated against hard working citizens who have dedicated their lives to the energy security and economic well-being of this Nation.

The original intent of Congress in enacting legislation to compensate victims of black lung disease was for this to be a fairly straightforward program. This intent has been defeated by years of administrative maneuverings aggravated by some extremely harmful judicial interpretations. Under this bill, we will return to a program that reflects the statutory commitment Congress, and indeed, the Nation, made to compensate these coal miners and their families.

Make no mistake about it. Victims of black lung disease are not people who are looking for a handout.

They are people who worked their lives in one of the most dangerous occupations in this country.

They are people who were promised compensation by their Government. And they are people who now see their Government break that promise.

It is time, indeed, long past the time that Congress move legislation on behalf of the thousands of miners, their widows and families who are being victimized by this program, the very program that was intended to bring them relief.

In general, this measure contains the following proposals:

First, new eligibility standards. A miner would be presumed to be totally disabled by black lung if the miner presents a single piece of qualifying medical evidence such as a positive x ray, ventilatory or blood gas studies, or a medical opinion. The Secretary of Labor could rebut the presumption of eligibility only if he can show that the miner is doing coal mine work or could actually do coal mine work.

Second, application of new eligibility standards. The new standards would apply to all claims filed after enactment of the Black Lung Benefits Act of 1991. All pending claims, and claims denied prior to enactment of the Black Lung Benefits Act of 1991 would be reviewed under the new standards.

Third, elimination of responsible operators. All claims would be paid out of the coal industry financed black lung disability trust fund. The purpose of this provision is to eliminate coal operators as defendants in black lung cases and the advantage they have over claimants by being able to afford to pay legal counsel.

Fourth, widows/dependents. A widow or dependent of a miner would be awarded benefits if the miner worked 25 years or more in the

mines; the miner died in whole or in part from black lung; the miner was receiving black lung benefits when he died; or medical evidence offered by the miner before he died satisfies new eligibility standards. Widows who are receiving benefits and who remarry would not be disqualified from continuing to receive the benefits; and, a widow would be entitled to receive benefits without regard to the length of time she was married to the miner.

Fifth, offsets. The practice of offsetting a miner's Social Security benefits by the amount of black lung benefits would be discontinued.

TURKEY: HERE WE GO AGAIN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. HOYER. Mr. Speaker, last October, the Chairman of the Helsinki Commission, Dennis DeConcini, led a delegation to Turkey to examine human rights issues in that country. While in Diyarbakir, the largest city in the predominantly Kurdish southeast, delegation members visited the offices of the local Human Rights Association [HRA] branch. The delegation had met with HRA leaders in Ankara and the Helsinki Commission has often worked with the HRA and has found its publications extremely useful and reliable.

While meeting with the Commission delegation, HRA leaders explained how the organization's members operated at great risk to their personal safety. HRA members around the country, but especially in the southeast, face constant danger and persecution. Dozens of activists had been threatened, kidnaped, murdered and disappeared. The Diyarbakir HRA branch was the only office in 10 state of emergency provinces allowed to remain open. HRA leaders believed authorities wanted to use the open office to demonstrate their tolerance of human rights organizations. Now, even that Potemkin village has been pulled down by authorities bent on eradicating all criticism of Kurdish polices.

Mr. Speaker, last Tuesday, seven leaders of the HRA chapter in Diyarbakir were arrested and charged with disseminating separatist propaganda. Prosecutors are seeking jail sentences of more than 10 years for these activists because of their publication which detailed human rights cases in 1992. One of those now in prison awaiting trail is Neymetullah Gunduz, an attorney who met with members of Chairman DeConcini's delegation and who visited the Helsinki Commission in 1993 while on a USIA grant. Mr. Gunduz is highly regarded and is considered a dedicated human rights lawyer and reliable source of information concerning rights abuses by both the Government and the PKK.

Mr. Speaker, just recently the Government abandoned a similar case brought against a group of well known Turkish activists. The move was widely hailed as a positive development in an otherwise bleak human rights picture. What this new case seems to indicate is that the recent acquittal stands merely as an aberration as opposed to a genuine effort to dismantle restrictions on free expression. I have said it before, and I reemphasize it now, Turkey cannot be considered a truly democratic nation as long as individuals like Neymettulah Gunduz, Mehdi Zana, Halit Gerger, former parliamentarians and others are jailed for exercising their rights to free expression.

Mr. Speaker, a recent commentary in a large Turkish daily purports that the Government has spent five times more money fighting terrorism than on the giant GAP water project supposed to be the cornerstone of development in southeast Turkey. Tens of billions of dollars have been used to institute policies which have left the region more devastated than ever and its population more resentful than ever. Meanwhile, Turkey continues to face mounting economic and political crises tied directly to failed Kurdish policies. Unless Turkish leaders bite the bullet and seek political approaches to the Kurdish situation, there can be no hope for peace, prosperity or democracy in Turkey. As a friend and ally of Turkey, such a dismal prognosis can bring no happiness to anyone in this country either.

SALUTE TO A CIVIL RIGHTS PIONEER—ERNEST McBRIDE OF LONG BEACH, CA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. HORN. Mr. Speaker, I rise today, during this week in which we commemorate the life and legacy of the Reverend Dr. Martin Lurther King, to honor a gentleman from my District, California's 38th, Mr. Ernest McBride, whose life and work embody the spirit and intent of Dr. King's message. Throughout his half century of residency in our community, Mr. McBride has been a crusader for civil rights and racial justice—and our community is a much better place for his dedication.

Mr. McBride, who is now 85 years of age, moved to southern California when he was 21 to seek a better life for himself and escape the racism and prejudice of his native South. Unfortunately, as an African-American, he did not find the California of the thirties much better. Arriving in a nearby community, he saw a sign that read, "We don't serve coloreds here". But instead of traveling on, Mr. McBride chose to remain. He recently told a Los Angeles Times reporter, "I decided I had to stop and fight somewhere. And I decided Long Beach was where I was going to stop."

Mr. McBride's determination to stay in Long Beach turned out to be a decision which has benefited many people. He fought prejudice and injustice wherever he saw it—not through violence and hatred, but with an attitude of determination and dignity. In 1932, he was hired as a grocery store janitor. Over the 8 years that he worked there, his requests for a raise were continually turned down—until he organized his fellow workers and eventually won a raise and a shorter workweek.

In the early 1940's, when a union at the Long Beach Naval Shipyard refused to allow African-Americans to join, Mr. McBride rounded up 180 people to petition President Franklin D. Roosevelt. The President responded by ordering the union to allow minorities to join or face losing its status as a bargaining agent.

As Dr. King began garnering national attention with his nonviolent efforts to end discrimination and prejudice, Mr. McBride led picketing against local grocery stores that refused to hire blacks and pressured Long Beach city leaders to open up more jobs for African-Americans. He organized a student revolt at a Long Beach high school that forced school officials to abandon minstrel shows and to drop a textbook that depicted African-Americans only as slaves.

Mr. McBride cofounded the Long Beach chapter of the National Association for the Advancement of Colored People [NAACP], and his house was often the chapter's gathering place where members discussed strategies for desegregating housing, ending discriminatory hiring practices, and ridding local schools of racially-biased textbooks.

Recently, Mr. McBride's home of many years—a modest bungalow which he purchased in the 1940's despite racially restrictive covenants and neighbors who petitioned to keep him out—was declared a historical landmark by the city council in honor of Mr. McBride's dedicated efforts to make our community a place that welcomes and encourages peoples of all races.

After the city council's unanimous vote, Long Beach City Council Alan S. Lowenthal, said, "It's certainly too bad we can't designate Ernie and his late wife Lilly as a historic monument. He really is the landmark."

Today I honor Mr. McBride and thank him. He stands as a model of the good that one man—with dedication and compassion—can accomplish for the generations to come.

OUR FOREIGN POLICY REQUIRES BIPARTISAN CONSENSUS BASED ON SOUND INTELLIGENCE

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. GUNDERSON. Mr. Speaker, our foreign policy must be bipartisan. However useful or inevitable our internal debates or expressions may be for domestic issues, we simply cannot continue to apply many voices to foreign affairs. Our goal in foreign affairs is to positively influence and shape foreign situations to our benefit. That is so whether it is a trouble spot in Chechnya, North Korea, Bosnia, or Iraq. It is so for whatever type of situation—be it impending trouble or opportunity—that may arise somewhere else.

That influence cannot serve U.S. interests, however, if it is founded on, and bespeaks, divisive and often petty partisan agendas. This is especially so when those agendas derive from domestic interests having little relevance to the situation. So doing confuses us. It confuses our constituents. It confuses foreign leaders who look to what we say and do to formulate their own policies and reactions. Confusion about what we are doing, or are likely to do, simply from too many voices, can

itself harm the situation, can increase the dangers. Ultimately, many voices confuse—and dissipate—our ability to shape our national future relative to other countries. I submit to you that the more we cast about in the eddies and swirls of partisanship, blown hither and yon by polarization and parochialism, the more we will seem to lack any overarching, unifying vision at all for what we want our own future to be. A ship that has no clear port of embarkation, no compass, no rudder, and no articulated destination—how can it ever arrive? How can we even begin to advance on our national goals of peace and security when they are not what we have set before us?

Colleagues, we must get beyond our partisan differences. Our higher order national interests and visions—spoken with one voice—must guide. Random undertow denies our choices, traps us. Our foreign goals, policies, strategies and objectives—indeed the effects of all those on our future national security—simply cannot be left to such chance. We cannot permit our end points to forever recede.

Instead, we must together do the hard work of shaping foreign policy, and decide our strategy, for the reasons that are relevant to the specific situations at hand. We must begin the process with accurate and expert estimates of those situations, and how they might be affected by various events and courses of action. Our support for this work must come not from vested parochialism, but from U.S. intelligence agencies that we fund for this very purpose.

An additional point may pertain here. These agencies, as we speak, are reviewing and adaption their own visions, goals, and the organizations and processes that should flow from those. They are doing so to more effectively meet requirements that we and others place before them. In envisioning their future uses, purposes, character, and attributes, these agencies surely are telling themselves "if we don't know where we are to be, then we won't get there." Clearly, in better defining their place in the coming decades, they are bound between funding realities and the quickly changing global situations we need them to monitor ever more astutely. Their leadership surely knows that to do this, any mere perpetuation of vested bureaucratic interests can no longer justify them. Circumstances are compelling them to thoughtfully chart their future. They must now navigate with the compass of a clear, overarching, well-articulated, and broadly understood vision of what they will be and what they will do to serve national security. They recognize that their success at relating their means to that end is the standard by which we ultimately will judge them.

My colleagues, can we fairly ask less of ourselves? I submit there is a lesson in some of this for how we carry out our own tasks in foreign affairs and national security. As is true for our intelligence agencies, our efforts must rise above our own bureaucracy. We must look beyond the affiliations and vested interests that are poised to cast us about without aim, reduce our successes, invite failures, trap us. So for us too, the context of our foreign policy pursuit can only be—must be—our larger, enduring goals. These are what unite us as one country. I submit that bipartisanship is absolutely essential to furthering those goals and attaining those attributes that make us one.

CONGRESSIONAL ACCOUNTABILITY ACT

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Ms. JACKSON-LEE. Mr. Speaker, I rise in support of this legislation. We all agree that Congress can no longer exempt itself from the legislation it passes. Compliance with such legislation by the rest of this Nation's citizens is mandatory. This congressional body moved forward to pass H.R. 1 on the opening day of legislative business for the 104th Congress by an overwhelming vote of 429 yeas. Now we are left to consider the Senate-passed version of this same bill. What a great opportunity for reform.

But do not let the Republican leadership fool you into thinking that the Congressional Accountability Act is a pillar of Republican reform. As a freshman Member, I must continually do my homework. I am fully aware that this reform effort was attempted in the 103d Congress. This legislation passed the House but was held up by the Republicans in the Senate. Why would the Senate block passage of this legislation in the 103d and pass it without reservation in the 104th? Because they did not want President Clinton to sign this reform into law, giving Democrats the credit for reform-oriented policies. We now know that the Republicans were working hard for 2 years to build a platform for the 1994 mid-term elections by halting action on important pieces of legislation in the Senate. Let us give credit to good ideas where credit is due.

And while we are revisiting this corrective measure, why not look more closely at a provision the Senate has added for itself concerning frequent flier miles? This issue has not received enough attention from this congressional body. I urge further dialog and consideration of these reform measures as well.

SUBMISSION OF BIPARTISAN BALANCED BUDGET AMENDMENT FOR PRINTING

HON. DAN SCHAEFER

OF COLORADO

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. SCHAEFER. Mr. Speaker, in anticipation of the debate on the balanced budget amendment next week, we are submitting the text of House Joint Resolution 28, the bipartisan, bicameral balanced budget amendment that we have introduced with 143 other Members, to be printed in the RECORD for Members to review. House Joint Resolution 28 is identical to Senate Joint Resolution 1 introduced by Senate Majority Leader BOB DOLE. We are submitting our language both in the form of a substitute to House Joint Resolution 1, the balanced budget amendment reported by the House Judiciary Committee—authored by Representative SCHAEFER—and as a freestanding bill—House Joint Resolution 28.

This language is the product of years of hard work by numerous Members of the House and Senate on both sides of the aisle. Senator LARRY CRAIG had an instrumental role in developing this amendment when he was a Member of the House, and continues to play a leadership role in the Senate. Former Representatives Bob Smith of Oregon, Tom Carper, Jon Kyl, Jim Moody, Olympia Snowe, Jim Inhofe, as well as current House Members JOE KENNEDY, MIKE CASTLE, L.F. PAYNE, and NATHAN DEAL have made contributions to the effort. On the Senate side, Senators ORRIN HATCH and PAUL SIMON have provided leadership on this amendment. Senators STROM THURMOND, PHIL GRAMM, HOWELL HEFLIN, and PETE DOMENICI, as well as former Senator Dennis DeConcini have also been actively involved in developing this amendment.

The amendment has been improved over the years based on the advice of constitutional scholars, budget experts, other Members of Congress, and others. Changes were made in the amendment to address criticisms that were raised in the numerous hearings on the amendment. This review process has produced an amendment that is workable, flexible, and enforceable.

House Joint Resolution 28 meets the constitutional standards of simplicity and support by a broad consensus of the American public. It would require the President to submit and Congress to enact a balanced budget beginning in 2002, unless three-fifths of both Houses vote to authorize a deficit. A three-fifths vote would be required to raise the debt limit. The amendment would make it more difficult to raise taxes by requiring a constitutional majority to pass bills increasing taxes. The amendment would be waived in the event of a declared war, and could be waived in the event of a military conflict that posed an imminent and serious threat to national security. The amendment would allow Congress to use estimates in planning budgets, but would require a balance of actual outlays against actual receipts.

We understand that Rules Committee Chairman GERALD SOLOMON has indicated that the Rules Committee report a rule bringing House Joint Resolution 1 to the floor under a "queen of the hill" process in which the substitute that receives the most votes in the Committee of the Whole would be reported to the House. For this reason, Representative SCHAEFER is submitting the text of the bipartisan, bicameral amendment in the form of a substitute. We understand the Rules Committee may also consider reporting a rule that provides for consideration of House Joint Resolution 1 and House Joint Resolution 28 as separate freestanding bills. This process would ensure clean votes on both proposals without forcing Members to choose between two popular amendments and maximize the chances of passing a balanced budget amendment. In this event, we are submitting the text of House Joint Resolution 28.

We look forward to the debate on the balanced budget amendment next week. We encourage all members to participate in this debate and vote to send the balanced budget amendment to the Senate and the States.

H.J. RES. 28

Resolved by the Senate and House of Representatives of the United States of America in

Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

ARTICLE —

SECTION 1.—Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

SECTION 2.—The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

SECTION 3.—Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

SECTION 4.—No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

SECTION 5.—The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

SECTION 6.—The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

SECTION 7.—Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

SECTION 8.—this article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

HONORING DR. JAMES GLOVER SITES

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. DAVIS. Mr. Speaker, it gives me great pleasure to rise today to honor a man who has given so much for his community, Dr. James Glover Sites. Dr. Sites was born in Gladstone, VA, attended Appomattox High School, American University, and earned an M.D. from the George Washington University in 1947.

He has been a practicing physician in many Washington area hospitals including Gallinger Hospital, D.C. General, and the George Washington University Hospital. He has authored and coauthored over 38 papers covering gynecology and obstetrics, been instructor, assistant professor, and later as chairman of obstetrics and gynecology at Fairfax Hospital.

While chairman, he oversaw the growth of their OB–GYN department: from 3,000 deliveries in 1977 to over 9,000 deliveries in 1994. His vision took the department into the development of subspecialities such as perinatology, endocrinology, infertility, and gynecological-oncology.

Perhaps his greatest contributions, however, was presiding over the construction and opening of the Women's and Children's Center at Fairfax Hospital, combining total care for women, infants, and small children. This combined facility is one of the premier facilities of its type, in the country.

On Sunday, January 20, 1995, many of Dr. Sites' friends and colleagues are joining with him to celebrate his many accomplishments and honor him.

Mr. Speaker, I ask my colleagues to join me in honoring Dr. James Glover Sites for his many contributions to the families of northern Virginia, and for future beneficiaries of his handiwork.

TRIBUTE TO CHARLES W. "BILL" DINN—THE 1995 GRAND MARSHALL HOLYOKE ST. PATRICK'S DAY PARADE

HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. OLVER. Mr. Speaker, I rise today to pay tribute to Mr. Charles W. "Bill" Dinn of Holyoke, MA on being named the 1995 Grand Marshall of the Holyoke St. Patrick's Day Parade.

Mr. Dinn and his wife Patricia have been married for over 30 years. They have five children, Carol, Kathleen, Paul, William, and Michael.

He is a graduate of the Holyoke public schools and is a recent inductee to the Holyoke High School Hall of Fame.

Mr. Dinn is a well respected member of the community and successful businessman. Bill and his brother Paul started Dinn Brother Trophies in 1956 and have led it to become a major retailer of awards both locally and internationally.

Bill is a veteran of the U.S. Army and is a reserve police officer. He is a member of the Elks, trustee of Peoples Bank, and has been honored by Jericho with a Humanitarian Award.

Mr. Speaker, on Friday the 20th of January a reception will be held in honor of Mr. Dinn and I would ask that my colleagues join me in saluting, Mr. Charles W. "Bill" Dinn as the 1995 Grand Marshall of the Holyoke St. Patrick's Day Parade.

CONSEQUENCES IN SENTENCING FOR YOUNG OFFENDERS ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. WYDEN. Mr. Speaker, in searching for a strong, practical strategy for reducing crime, both Democrats and Republicans have given short shrift to the growing problem of violent crime perpetrated by juveniles.

The growth rate of violent crime committed by juveniles now exceeds that of adults. For example, in my home State of Oregon on May 24, 1994, The Oregonian reported that "adult crime statistics have flattened out, but the number of violent juvenile crimes increased by 80 percent between 1988 and 1992."

Nationally, according to a 1994 Department of Justice report, youth arrests for murder increased 85 percent, while adult arrests only increased 21 percent between 1987 and 1991. More generally, the violent crime index for juveniles increased 50 percent over the same period, while the adult violent crime index only increased 25 percent.

Despite the dramatic increase in violent crimes by juveniles, both the 1994 crime bill and the crime provisions in the Republican Contract With America are business as usual with respect to juvenile crime.

The 1994 crime bill allocates $7.9 billion for correctional facilities and a relatively paltry $150 million for alternative juvenile correctional facilities. The Republican Taking Back Our Streets Act contains nine law enforcement titles but doesn't once address the issue of violent juvenile crime.

To their credit, the Clinton administration is trying to fill the gaps in the 1994 crime bill provisions. Despite controversy, they have interpreted the Violent Offender Incarceration and Truth in Sentencing Act to be applicable to juveniles. However, the clear thrust of the violent offender provisions in the 1994 crime bill is to reform the adult system and guarantee that our communities are safe from violent adult offenders. In fact, the bigger law enforcement challenge for our country is to reduce juvenile crime.

My legislation, the Consequences in Sentencing for Young Offenders Act, pursues a fresh strategy against juvenile crime and sends a straight-forward message: young people who commit a crime will face real consequences for each criminal act and those consequences will increase each time they commit an additional offense.

At present, juvenile criminals face few if any consequences. For the first offense—and often many thereafter—there is likely to be probation at best. A bit of history is in order.

At the turn of the century, States began to separate the juvenile system from the adult system because of a belief that children who committed crimes could be rehabilitated. The States introduced the concept of parens patriae or a system that might act in the interests of the child. By 1925, all but two States had juvenile courts separate from adult courts. As long as this system was dealing with kids who used bad language and shoplifted, the system got by.

In the 1960's and 1970's, with escalating rates of juvenile crime, new standards for juvenile justice were developed with an emphasis on placing juveniles in the least restrictive situation and on counselling instead of punishment. This system was based on a medical model approach grounded in the theory that young people could be cured of their criminal habits. However, little convincing evidence has emerged to show that programs based on the

idea of rehabilitation have been effective in reducing recidivism and in protecting our communities.

In reality, the understandable anger Americans direct at the juvenile justice system stems from the fact that the medical model has often ended up putting our communities at serious risk from young offenders.

Several cases from Portland, OR illustrate what is wrong with the medical model: In 1993, 9 months after being convicted of raping a 4-year-old and facing absolutely no penalty for this crime, a 15-year-old youth and another juvenile who also had a record of violent crime and had faced few penalties, assaulted an Oregonian who was left permanently brain-damaged by the attack. In another case, described in The Oregonian, a child committed 50 crimes, 32 of which were felonies, before the juvenile justice system took action to protect the community.

Nationally, only 50 percent of juvenile cases even go to juvenile court. Most cases are handled by some form of social services division. The majority of juveniles who do go to court are given probation. Incredibly, there is little follow up: many jurisdictions do not collect data on what happens to youths referred to the local juvenile services division.

In Portland, until recently it was common practice for a juvenile to commit three crimes before being referred to juvenile court. When an offender was diverted from court they were required to sign a contract specifying what they would do to help themselves change their ways. This contract included such basic elements as attending drug or alcohol counselling programs, community service or restitution, or participating in a Big Brother/Big Sister Program.

An audit of this system found that only 40 percent of the juveniles ever completed their contracts. Ten percent partially completed them, and the other 50 percent just slipped through the cracks. The major reasons for nonparticipation given were that the families were not responsive, or they just refused to participate.

This system in Oregon was actually profiled in 1990 as being a model for the Nation by the Federal Office of Juvenile Justice and Delinquency Prevention!

According to New York Magazine, the situation in the Empire State is far worse. Thirty thousand juveniles picked up for misdemeanors in 1993 were issued youth division cards and then released—essentially the paperwork was filed and the child walked out.

The Consequences in Sentencing Act that I introduce today seeks to address the glaring shortcomings in juvenile justice by giving incentives to States to adopt a new philosophy of juvenile justice—one built on a system of meaningful sanctions that increase with each juvenile offense.

This concept has been endorsed by the likes of James Q. Wilson from the University of California at Los Angeles who states that "the juvenile courts ought to manage the young people brought before them by a system of consistent, graduated sanctions that attach costs to every offense, beginning with the first." Dr. Wilson has been good enough to counsel me with respect to the legislation I offer today, and I would like to thank him for his suggestions and years of outstanding scholarship.

Additionally, I have worked closely with Oregon's attorney general, Ted Kulongoski who chairs the National Attorney General's Association task force on juvenile justice, and prosecutors, judges, law enforcement, and juvenile services directors both in Oregon and across the country. I would especially like to commend and thank Attorney General Kulongoski, Portland district attorney Michael Schrunk, Bend juvenile services director Dennis Maloney, Judge Stephen Herrell, and Portland Police Chief Charles Moose for their commitment to juvenile reform and their assistance in drafting this legislation.

Under the first part of my bill, I would amend the 1994 crime bill to give States with a system of graduated sanctions preference in receiving discretionary grants under the violent offender incarceration provisions. Additionally, these States would be able to access unused truth-in-sentencing funds for juvenile correctional facilities. The second part of the bill allows States with graduated sanctions the option to use any future funds allocated for adult correctional facilities for juvenile facilities.

This approach gives States willing to put new accountability in their juvenile justice systems the opportunity to secure additional Federal resources. States are given considerable flexibility as to how they devise their own systems, but must show that they have adopted a system of meaningful graduated sanctions with the following characteristics:

First, every offense carries a sanction of at least reimbursing the victim for the crime and for the bureaucratic cost of dealing with the crime.

Second, juveniles will move up a scale of increasingly severe sanctions if they break probation or commit a repeat offense.

Third, violent juveniles should be efficiently remanded to adult court.

Fourth, all juveniles who enter the juvenile justice system should answer to the court.

Fifth, to the extent practicable, parents should be held responsible for their child's conduct.

Sixth, the juvenile system should be periodically audited for its effectiveness in protecting the community safety, reducing recidivism and ensuring compliance with sanctions.

For the most part, there is a consensus among judges, prosecutors, police and people working in youth services, that any new philosophy of juvenile justice should place emphasis on community safety, individual accountability, work, restitution to victims and community, parental involvement and responsibility, certainty and consistency of response and sanctions, zero-tolerance for noncompliance and the highest priority given to community safety.

My sense is that some States are beginning to integrate these objectives in their juvenile justice systems—the Federal Government needs to provide States with the incentives and resources to continue in this direction. Incentives and resources for these purposes is what my bill is about, and I hope others will join me and the police, prosecutors, judges and juvenile services directors in a national effort to rethink our juvenile justice systems' philosophy and priorities.

WHY WE NEED THE "NATIONAL SECURITY REVITALIZATION ACT"

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. DORNAN. Mr. Speaker, I strongly recommend to my colleagues and all the citizens of our country the following testimony given yesterday to the House National Security Committee. Norm Augustine's comments are right on target regarding the direction we should be taking with defense spending.

STATEMENT BY NORMAN R. AUGUSTINE, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MARTIN MARIETTA CORP.

Mr. Chairman and Members of the Committee:

I am Norman Augustine, chairman and chief executive officer of the Martin Marietta Corporation. I appreciate the opportunity to present views on several critical defense issues related to legislation which this Committee is considering and which will directly impact the nation's ability to achieve both defense and budgetary objectives in the years ahead.

Today, I represent a consortium of 13 associations whose members comprise a broad cross section of companies and individuals with experience in many different aspects of America's defense needs. THe organizations are the Aerospace Industries Association, the Air Force Association, the American Defense Preparedness Association, the American Electronics Association, the Association of Naval Aviation, the Association of the United States Army, the Association of Old Crows, the Contract Services Association, the Electronic Industries Association, the National Security Industrial Association, the Navy League of the U.S., the Professional Services Council, and the Security Affairs Support Association.

Needless to say, it is not possible to speak on behalf of so large and diverse a group of organizations on other than rather broad, generic issues. This I will do, but I can also tell you that there is in fact wide agreement among these organizations on the most critical issues relating to the National Security Revitalization Act. With regard to more specific matters, I will share with you views that I must characterize as my own. In this latter regard, I speak from the personal perspective of one who has spent a decade in five different assignments in the Pentagon serving under Presidents from both parties, and another 25 years in various defense-oriented companies in the private sector. Over the course of these assignments, I have seen enormous changes in the defense establishment—but nothing like the tectonic shifts we are facing today.

Having observed from both the private and public perspectives the way America funds, equips and fields its armed forces, I can say with some degree of authority that somehow it works. In the last decade alone, America's defense apparatus helped stimulate the favorable conclusion of the Cold War, helped crush a well-equipped aggressor in the Persian Gulf, and contributed to America's reign today as the world's only "full-service" superpower. Indicative of this success, our military hardware is sought by virtually every nation in the world.

In short, America's defense establishment—its armed forces and the industry that underpins them—has served the people of the

United States successfully and with distinction. This establishment is, in my judgment, well led today by both the civilian and military leadership in the Pentagon. Nonetheless, the very fact that we are here points to the fact that there are serious issues facing all of us, and if we fail to address these issues in a timely fashion, we will surely pay a price in terms of opportunities lost in the future. These issues generally focus on the adequacy of resources we devote to our military and to the manner in which we expend these resources.

Let me observe at the outset that in my opinion—and it is strictly my own opinion—this nation owes nothing to its defense contractors with regard to future business or prosperity. We as a nation can set forth a variety of alternative defense strategies that might require small, medium or large defense industrial bases to underpin them. The choice among these alternatives is a policy decision to be made by government leaders and not by industrial executives, and should be made on the basis of national objectives, the price we are willing to pay in meeting those objectives, and the degree of risk we are willing to accept in so doing.

But I do believe that once this choice has been made, it behooves our government to make certain that its policies affecting the defense industrial base are consistent with the national security objectives which have been established. To do otherwise is in fact to *maximize* risk . . . and brings us not the best but the *worst* of all possible worlds. And I further believe that, whatever may be our established set of national security objectives, we should maintain a *balance* of force structure, readiness and modernization.

Finally, I believe that we should view the capability of the defense industrial base much as we view the need to provide capable armed services. A nation cannot prevail, or at least not prevail without heavy casualties, in modern warfare without a strong defense industrial base. Such an industrial base, as I will discuss further, is not self-generating . . . it must be consciously nurtured.

There are two general points I would like to make this morning—the first relating to the private sector participants I represent and how they have been responding to the new realities of the post-Cold War defense environment. The second point has to do with the government's reaction to the same circumstances, both in Congress and in the Department of Defense.

Let me begin by briefly reviewing the events that have brought us to this committee room today. More than five years after the fall of the Berlin Wall, rapid and fundamental changes continue to ricochet throughout the world political order. Ironies abound: Consider, for example, that among the differences today between the United States and many of the former Warsaw Pact states is that the U.S. has a legal Communist party. Or that each of the recent times I have visited Moscow there were longer lines at McDonald's than at Lenin's tomb. Or that in one trip to what was then Leningrad, I met a very distraught politician who was exceptionally curious about the democratic political system. It turned out that he had just run for re-election unopposed—and lost. And a former Soviet state archivist recently observed, "The state property being privatized most rapidly is KGB files—and they're not for sale."

The new world order—or disorder—could perhaps be summed up by Saudi Arabian General Khalid bin Sultan bin Abdul-Aziz, who said, "If the world is going to have one superpower, thank God it is the United States of America."

But now that we've reached this almost unimaginably hopeful end of a wrenching period in the history of mankind, another almost equally wrenching question emerges: Where do we go from here?

Sometimes it seems that the principal effect of the end of the superpower conflict has been to make the world safe for smaller wars—"smaller," that is, except for those who happen to fall in their path.

Less than 10 days ago, the Director of Central Intelligence testified before a Senate hearing that "[E]thnic, religious, or national conflicts can flare up in more than 30 countries over the next two years." Such a plethora of current and potential conflicts poses an excruciating dilemma as we as a nation seek to balance America's aversion to human suffering with the impracticality of becoming "911-America."

Added to this volatile mix are the sobering facts that states that formerly were part of the Soviet Union still have an estimated 26,000 nuclear weapons in their arsenals, that three other nations have publicly confirmed they have "atomic devices," and an estimated nine additional countries either covertly have or are working to develop their own nuclear capabilities. A reminder of the world we are entering was suggested by the Indian Minister of Defense in his comment a few years ago that the real lesson which many may learn from Desert Storm is: "Never fight the Americans without nuclear weapons."

With the end of the Cold War, America embarked on a path that markedly scaled back our defense expenditures and the forces they support, for example, reducing the size of our army to the point where it will soon be the ninth largest in the world. Let me add that this reduction in defense expenditures has made it possible for our nation to reap a long-sought peace dividend. One measure of this dividend is that by a conservative calculation more than $400 billion in real purchasing power has already been diverted from defense budgets to other purposes since the fall of the Berlin Wall.

Disappointment over what some have characterized as the seemingly modest impact of this reduction on the overall federal budget stems from the fact that non-defense government spending is now growing at a rate which far outstrips any plausible reductions in defense spending. The entire defense budget is now only slightly larger than the interest on the national debt or about one-fourth of the cost of health care. America should, of course, spend no more on national security than it needs, but America can afford whatever national security resources it does need. Today, we spend more on legalized gambling than we do on defense, more on beer and pizza than we do on the Army, more on tobacco and soft drinks than we do on the Navy.

The budgetary reductions that have already taken place have had a substantial impact on the defense industry. The overall Department of Defense budget has been reduced by some 35 percent in real terms from its peak in the mid-1980s. But that part of the defense budget that underwrites equipping our military forces and has provided the underpinning of the defense industry—the procurement budget—has been reduced by 68 percent, thus far. The research and development budget—while experiencing much less of a reduction—has been scaled back well in excess of what had been planned just a few years ago. But a major concern is that the cost of defense infrastructure has not been curtailed accordingly.

One of the complicating factors in defense budgetary planning is that the time horizons are so distant. It is useful to recall that the systems that performed so well in the Persian Gulf largely represented the technology of the 1960s, the development of the 1970s, and the production of the 1980s—all utilized by the people of the 1990s. That is, decisions made in the 1970s to a considerable extent determined the casualties suffered in the Persian Gulf. Similarly, the decisions we make today will to a considerable extent determine the casualties we will suffer in carrying out our national security objectives in the early part of the next century. This is a very great responsibility for each of us.

That America's defense industrial base is becoming increasingly tenuous is becoming increasingly evident. The major firms making up that industry sell at a 30 percent discount to the S&P 500 index, and the discount was closer to 80 percent until a few mergers raised hopes that part of the industry might yet survive and provide viable. The combined market value of the top four aerospace firms is less than that of McDonald's, meaning that Big Macs and Egg McMuffins are judged by the market to have greater immediate reward than stealth aircraft and "smart" weapons.

Current plans call for the defense budget to decline to less than three percent of GDP in 1999, half of what it was in the mid-'80s, and the lowest level since immediately prior to Pearl Harbor. Of course, these reductions are not news to the members of this Committee. But there may not be wide understanding of the challenges that rapidly declining U.S. military procurement budgets are posing to the defense industrial base as well as to the military forces themselves.

In the middle of this century, our armed forces were called upon to perform a clear mission—to fight and win a global war. For most of the latter half of this century, the American public looked to our forces to successfully prepare for war—and by so doing to deter war. Today, and for the foreseeable future, the public is looking to our military to "wage peace"—that is, to deter small wars as well as big ones—a challenge that is turning out to be daunting. Nonetheless, this is the challenge the American people have given the defense establishment in the last decade of the 20th century. And, properly, those entrusted with the management of this establishment are expected to carry out the challenge efficiently and with the minimum required funds.

This brings me to the very important point which I alluded to earlier: I believe, and the evidence seems to support, that the private sector—the defense industrial base which I represent today—has moved deliberately and decisively to respond to the challenge of "waging peace." Just as America's commercial industry has been undergoing a wrenching realignment and downsizing over the past decade, prompted by the presence of Japan on the world scene, I believe America's defense industry is experiencing a similar process of realignment and downsizing, prompted by the absence of the Soviet Union on the world scene. The defense supplier base has imploded; some numbers suggest a shrinkage from about 120,000 firms a decade ago to 30,000 today. Whatever may be the precise numbers, the impact is being felt far beyond the board rooms of America's defense companies. The basic fabric of the defense industrial base is undergoing profound change as corporations restructure, consolidate or altogether depart the industry.

I have noted on previous occasions that the one-millionth defense industry job was eliminated on about July 4th of last year, including direct employment only. We will lose at least another half million jobs before the bottom is reached. Many of these were well-paying scientific and technical jobs which employed some of the most talented and motivated people in our national work force. The disruption of the lives of these individuals has been deep and wide and unrelenting * * * but the inescapable fact is that the threat to America has changed and downsizing of the industrial base was mandatory.

Our industry has been closing plants and selling properties at an unprecedented pace. In the case of the company I serve, we have already shuttered five million square feet of plant space and another wave is yet approaching. But by so doing, we will have saved the taxpayer next $2 billion over the next five years alone.

The private sector has thus responded to the changing needs of the nation. We have taken the painful actions and made the difficult decisions. And we are not yet finished: More wrenching decisions lie ahead. But I believe we have faced the tough challenge given us by the American people in a disciplined and pro-active way.

Drawing upon my service in both the government and in the private sector, I am acutely aware of how much more difficult it is to reduce infrastructure in government. Anyone who has watched the courageous but prolonged deliberations of the Base Closing and Realignment Commission can grasp the difficulties of reducing the physical plant of the Department of Defense. When I worked in the Pentagon I observed the extraordinary difficulty of "rightsizing" the public sector, how many impediments were encountered with every proposed job reduction. Companies in the private sector consistently have made such reductions quickly as an understandable necessity of remaining in business. The market forces are working in this regard.

This, then, leads to the other important point I wanted to make today: namely, that whatever may be the correct size of our military establishment, we are in fact creating a highly unbalanced force by neglecting to maintain that force in a modern condition. The same temptation exists in business where one can for a time neglect to buy new machines for the factories or new equipment for the laboratories or replace obsolescent buildings. But the trap is that sooner or later this practice catches up with itself in an avalanche of future costs which must be met near-simultaneously.

I mentioned before that the defense procurement budget has been reduced by 68 percent in real purchasing power in less than a decade. This contrasts with an overall defense budget reduction of 35 percent. Infrastructure costs associated with operations and maintenance have only been reduced by about 18 percent. The consensus within the industry is that the elements of the defense budget have fallen out of balance.

If one takes today's asset value of equipment owned by the Department of Defense and divides that number by the annual investment in modernization—namely the procurement budget—one derives a number that indicates we are now on a replacement cycle of about 54 years. Stated otherwise, the average item of equipment provided our armed forces has to last 54 years. This is in a world where technology generally has a half-life of anywhere from two to 10 years. I believe that no private company pursuing such a policy would long survive.

We saw in the Gulf War the consequences of modern military technology—for example, precision guided weapons delivered within inches of their targets, stealth, the ability to see at night and to navigate within a few meters even on a desert. The result was that the war was won quickly, decisively and with relatively few American casualties.

What is so often overlooked is the fact that in today's era of the "come as you are" war, where outcomes can be decided in a matter of days or even hours, the only equipment available to our troops will be that which was planned for and acquired during the decades before the actual conflict occurred.

As I stated at the outset, it is not the role of those of us from the private sector to prescribe the size—that is, force structure—of our armed services. But it is within our competence to suggest that whatever that force structure may be, it should be balanced in terms of both readiness and modernization. To the great credit of those bearing the grave responsibility of providing for America's armed forces, the nation has, in this recent downsizing, to a considerable extent avoided the trap of building a so-called "hollow force" in terms of its readiness to fight. But what we must also assure ourselves is that we do not gradually build a force engendering a new kind of hollowness, namely the lack of modernization needed to fight effectively.

Thus, we must be concerned both with readiness and with modernization. Lack of attention to the former produces near-term casualties, to the latter produces future casualties

Given these considerations, what steps are appropriate to assure the adequacy and efficiency of America's defense forces? I would like to offer six suggestions for your consideration.

First, the defense budget should be stabilized. The recent Administration initiative to add $25 billion over several years to the DoD budget is a constructive step, but does not address the full range of the challenge the nation's defense establishment faces nor does it significantly do so in the near term. It should be noted that the lag time between authorizations and outlays in the procurement budget virtually assures several more years's erosion in the defense industrial base.

Second, the balance among procurement, R&D and O&M funding must be restored. We must provide greater funding for exploratory development and prototyping—particularly high-risk/high-payoff pursuits of the type which helped make American defense technology the best in the world and which is central to our stated defense strategy. And in so doing, we must be prepared to accept the occasional failure that necessarily accompanies any effort to push the edges of the state of the art. We must invest more in procurement so that our forces are well equipped to protect themselves and our national interests. This is important not only for the active forces but also for the Reserve and National Guard since they are shouldering more and more of the burden for achieving national security objectives.

Third, we must continue the effort to reform the acquisition process. Secretaries Perry and Deutch and the Congress deserve broad acclaim for the first successful initiative in memory to reform the much-maligned defense acquisition process. The Federal Acquistion Streamlining Act of 1994 demonstrates that it is possible to revise the acquisition process which for many years has been needlessly complex, inefficient and resilient to change. We must now turn our attention to assuring that the regulations implementing this new act carry out the legislation's intentions. In so doing, we need to reform the entire acquisition culture, and having done so, we must recognize that the recent legislation is barely a first step toward full procurement reform.

Fourth, we must eliminate the turbulence in the acquisition process. The principal cause of inefficiency in the acquisition process is not the infamous coffee pot, hammer or even toilet seat; it is the perpetual motion of requirements, people, schedules, and funding. What is needed is to make it much more difficult to start new programs, but once started, to grant very few people the authority to change them. In this regard, the time has come to appropriate funds by the project, not by the year. A true biennial budget cycle would be a reasonable first step.

Fifth, we need to restore fidelity to the defense budget. The American public might be genuinely surprised by the findings of the Congressional Research Service, which noted that the defense budget is being used more and more to underwrite programs—sometimes very worthwhile programs—that have little or nothing to do with national defense. General Dennis Reimer of the U.S. Forces Command recently told a Senate Subcommittee, "We spend more on environmental programs than we do training the 1st Cavalry Division."

Additionally, U.N. operations and other types of peacekeeping and "nation-building" costs should be budgeted incrementally as they occur—some perhaps even under the Department of State budget. Contingency military operations should be separately funded under the Department of Defense budget as such activities take place. Further, restoring "firewalls" in the DoD budget would allow more disciplined allocation of costs to national defense.

Sixth, we should reverse the trend of shifting work from the defense industry to government facilities. Any expansion of the government in maintenance and repair operations only intensifies the decline of the defense industrial base. This trend, minor at first, has accelerated in recent years as military installations seek funds to sustain infrastructure. Maintenance and repair operations increasingly are being conducted by the government itself at the expense of the private sector. This trend toward greater government involvement in functions generally allocable to the private sector flies in the face of trends almost everywhere else on earth.

In summary, Mr. Chairman and members of the Committee, I believe that both the armed forces and the defense industrial base warrant fresh attention by our national leadership. America may be the only surviving "full-service" superpower, but the future is still extraordinarily difficult to predict. General Schwarzkopf, toward the end of this autobiography, included the following passage: "If someone had asked me on the day I graduated from West Point where I would fight for my country during my years of service, I'm not sure what I would have said. But I'm damn sure I would not have said Vietnam, Grenada and Iraq."

And that's the problem in trying to forecast the need for national defense and the industrial base that underpins it, a problem which is exacerbated by the 10-to-20-year lead time for most products of the defense industrial base. For in this age of "come-as-

you-are wars," the casualties we suffer in combat may depend more on our preparedness prior to the initiation of combat than on anything we do during combat—a point writ bold in contrasting the initial battles in, say, Korea and the Persian Gulf.

America is blessed with the finest men and women in its Armed Forces of any nation on earth. It has been my privilege to have personally accompanied them—from Berlin to Saigon, from Panama to Panmunjom—from the ocean's depths in submarines to the surface of the sea in attack carriers—from the dusty heat of Abrams tanks on the desert to the cockpits of jet aircraft in the sky. I have seen for myself just how capable these people are—and this is reflected in public opinion polls which show the high level of confidence America today holds in its military.

Our opportunity as a nation is to build upon this advantage, an to underpin it with a right-sized, high-quality defense industrial base. This will require considerable effort on the part of those of us who bear a fiduciary responsibility for America's military capability; because as marvelous as is the free enterprise system, there are no forces in that system to assure the preservation of an adequate defense industrial capability. This is the underlying dilemma of the defense industry.

Thank you for your attention. I would welcome the opportunity to answer any questions you might have.

TRIBUTE TO MYRA SELBY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, January 20, 1995

Mr. JACOBS. Mr. Speaker, the important thing about Myra Selby is not that she is a woman and is not that she is an African-American. The important thing is that she is one of the most competent citizens ever placed on the Indiana Supreme Court. And she carries on a tradition of the Evan Bayh administration which, in a word, is excellence.

[From the Indianapolis News, Jan. 5, 1995]

IN HISTORIC MOMENT, STATE COURT WELCOMES NEW JUSTICE

In a brief but historic ceremony, the five justices of the Indiana Supreme Court recessed, then returned with a new member—Myra C. Selby, the first woman and first black justice to serve on the court.

"I'm a little bit nervous today," Selby said Wednesday in her first minutes on the bench. "I hope that means I'm ready."

The 102 justices who have served on the high court since Indiana became a state in 1816 have all been white males.

Mindful of her role in Indiana history, Selby said she did not seek to be distinguished as a jurist by her race or gender.

"What I did seek was the opportunity to serve the citizens of the state of Indiana on this esteemed court," she said moments after taking her place on the Supreme Court bench in the north wing of the Statehouse.

The courtroom was jammed with hundreds of well-wishers, including members of Selby's family, friends, law and government colleagues and state lawmakers in the capital for the first 1995 working day of the General Assembly.

Selby, a former law firm partner and government lawyer, pledged that her service on the court would be marked by "diligence, thoughtfulness, fairness and patience . . ."

She replaced Richard M. Givan, who retired after serving two days short of 26 years, including 13 years as chief justice.

"It's been a lot of fun," said Givan, gesturing to Selby seated in the audience below the bench before the swearing-in and adding, "Myra, I wish you well."

At 39, Selby is the third youngest justice to serve, after Justice Roger O. DeBruler, who joined the court in 1968 at 34, and Chief Justice Randall T. Shephard, who was a few months younger than Selby when he joined the court in 1986.

Selby was formally introduced by state Budget Director Jean S. Blackwell, who attended law school with her at the University of Michigan in the 1970s. Blackwell spoke to the fact of Selby's "firsts" as a woman and black on the court. "Some feel this shouldn't matter, but it really is a giant step for Indiana," she said.

Harry T. Edwards, a federal appeals judge in Washington who once was Selby's law professor, said the new justice's career has been characterized by "intellect, experience and commitment."

"She will be a wonderful addition to this distinguished court," he said.

Selby was appointed by Gov. Evan Bayh, who administered the oath of office with a Bible held by her husband, Bruce Curry.

Her father, attorney Ralph Selby, and mother, Archie, of Bay City, Mich., and her 9-year-old daughter, Laureen, helped Selby don the black robes of a justice.

The five-member court then stood in recess. When the justices returned to the courtroom a few minutes later, Givan was absent and Selby sat to Shephard's left.

[From the Indianapolis News, Dec. 22, 1994]

SELBY WINS HIGH COURT SEAT

Congratulations are in order to Myra C. Selby, the first woman and first African-American to be appointed to serve on the Indiana Supreme Court.

Selby, 39, who has served as Gov. Evan Bayh's director of health care policy since July 1993, was one of three female finalists for the seat. The other two women were Indiana Court of Appeals Judge Betty A. Barteau and Charlestown attorney Anne M. Sedwick.

Selby said she hopes her historic appointment will help all children "reach for that highest star" and dream of lofty accomplishments.

"I hope to be able to become a symbol for young girls and boys of all colors, shapes and sizes," added Selby, who, before working for Bayh, served at Ice Miller Donadio & Ryan for 10 years as a private attorney specializing in health care cases.

Selby will replace Justice Richard M. Givan, scheduled to retire at month's end. She will be the youngest justice on the five-member court.

Some have criticized the governor for choosing for the third time in as many appointments a close aide as an Indiana Supreme Court justice. Bayh appointed his personal attorney, Jon Krahulik, to the high court in 1990. When Krahulik resigned, Bayh appointed Frank Sullivan Jr., his executive assistant for fiscal policy, to take his place.

But Bayh said he selected Selby for the $81,000-a-year post because of her record of excellence in academics, intellect, practice of law and ethics. Additionally, he long has expressed his intent to diversify the all-white, male court.

We particularly applaud Selby's sentiment that the Indiana Supreme Court should hear more oral arguments of cases and better educate the public about its role in state government.

We welcome the opportunity she will have to promote this philosophy and wish her a successful term in office.

[From the Indianapolis Recorder, Dec. 24, 1994]

SELBY WANTS TO SET EXAMPLE ON HIGH COURT

(By Stephen Thomas)

Traditions pertaining to culture and gender have been erased and diversity has been injected into Indiana's highest court.

Gov. Evan Bayh appointed attorney Myra C. Selby to fill a vacancy on the Indiana Supreme Court, Monday. Selby has become the first woman as well as the first African American to serve on the high court, as the replacement for retiring Justice Richard M. Givan.

The 39-year-old Selby said she has understood the ground-breaking significance of her appointment and that she would hope to set a shining example for young people who have dreamed of venturing into high-prestige career paths.

"I hope to become a symbol for young children, girls and boys (of) all colors, shapes and sizes," Selby said, "so they, too, can reach for that highest star that they might dream of."

Selby has exemplified excellence in the legal profession, as evidenced by her consideration by the Indiana Judicial Nominating Commission, which named Selby one of three finalists for the governor's contemplation. Selby has started her judiciary career at the top of the state's ladder, for she has not served as a judge hitherto her historic appointment.

"Two elements that have impressed me most about Myra would be her intelligence and her thoughtful, considered demeanor," said Bayh, "I'd even go so far as to say her judicial demeanor. I believe she is the kind of person who will hear all parties, weigh all the evidence and look to the law and do what is just."

Selby, the 103rd justice and youngest member of the high court, has been the governor's health care policy director for more than a year. Professional skepticism for her lack of bench experience, her political ties to the governor who appointed her as well as attention magnified by her race and gender would not become performance obstacles, Selby said.

"I hope I'll handle it well," Selby said. "I think that anticipating that it will occur will make it a little easier. Whenever one is in public life, one realizes that one has a responsibility to the public for the role that you're in. I'm fully aware of that and appreciate it."

Selby would not necessarily be remembered solely for her appointment's obvious diversification of the high court. Bayh was impressed with Selby's zeal to be recognized for those aspects of her life over which she has had control, notably her accomplishments as a lawyer.

"I want to be chosen for anything I accomplish because of what I am and because of my accomplishments and my abilities," Bayh said Selby once told him. "It seems to be that that is what we honor (in Selby's appointment).

"The fact that she agreed to an enormous cut in pay to step down as the partner of one of the most prestigious law firms, not only in our state but in the country, to serve the people of Indiana is not something that should be held against her."

Selby was a partner in the law firm of Ice Miller Donadio and Ryan, a position she

took after serving as an associate in the Washington-based law firm of Seyfarth Shaw Fairweather and Geraldson. She has specialized in health care law and labor law.

Selby in 1993 and '94 has served as an associate professor of health sciences at the Finch University of Health Sciences, Chicago Medical School, one of her several academic positions.

The 1980 University of Michigan Law School graduate has written articles for numerous legal journals, also. She earned a bachelor's degree in 1977 from Kalamazoo College.

Selby, perhaps prophetically, was honored as "A Breakthrough Woman" in 1990 by the Coalition of 100 Black Women.

Selby, her husband of 16 years Bruce Curry and their daughter Lauren reside in Indianapolis.

[From the Indianapolis Star, Jan. 5, 1995]

NEWEST JUSTICE TAKES HER PLACE, BREAKS BARRIERS

Ever since Indiana became a state in 1816, the Supreme Court has looked very much the same: all white and all male. On Wednesday, Myra C. Selby changed all that.

Selby, a former law firm partner and government lawyer, took the oath of office to become the 103rd justice to sit on the high court—and its first woman and first black member.

While mindful of her role in Indiana history, Selby said she did not seek to be distinguished as a jurist by her race or gender.

"What I did seek was the opportunity to serve the citizens of the state of Indiana on this esteemed court," she said moments after taking her place on the Supreme Court bench in the north wing of the Statehouse.

The courtroom was jammed with hundreds of well-wishers, including members of Selby's family, friends, law and government colleagues and state lawmakers who had come to the Capitol for the first 1995 working day of the Indiana General Assembly.

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The five-member court then stood in recess. When the justices returned to the courtroom a few minutes later, Givan was absent, and Selby sat to the left of Shepard. "I'm a little bit nervous today," she said. "I hope that means I'm ready."