United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

SENATE—*Tuesday, January 31, 1995*

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

** * * love is the fulfilling of the law.*—Romans 13:10.

Father in Heaven, when pressure becomes heavy between those who hold opposing views, we are less inclined to concentrate on issues and more inclined to think personally. Our reason tells us we are united in one purpose for the common welfare, but our emotions incline us to see those who oppose us as enemies. We thank Thee for Senate tradition which respects political adversaries and for Senate language which never fails to recognize each other as distinguished.

Grant, O God, that this tradition will always be taken seriously and this language will always be more than polite rhetoric. Keep us mindful that we debate a point not because we are stubborn and inflexible, but because we are strongly convinced that our position is the best for that objective to which we all are dedicated.

Help us to keep our cool in the realization that "* * * love is the fulfilling of the law," that the two great commandments are comprehended in love for God and neighbor. Never allow us to feel that love is unbecoming the dignity and decorum of this powerful body. Gracious, loving Lord, help us to conduct all our business on this floor, as well as in our offices and homes, in love.

In the name of Him who is incarnate in love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. LOTT. Thank you, Mr. President.

RESERVATION OF LEADER TIME

Mr. LOTT. Mr. President, time for the two leaders has been reserved.

SCHEDULE

Mr. LOTT. Mr. President, there will be a period for the transaction of morning business not to extend beyond 10 a.m. with Senators permitted to speak for not more than 5 minutes each with the following Senators to speak for up to the designated times of 15 minutes: Senator DOMENICI and Senator BREAUX.

The Senate will then resume consideration of House Joint Resolution 1 at 10 a.m., the balanced budget amendment to the Constitution.

There will be a recess between the hours of 12:30 p.m. and 2:15 p.m. for the weekly policy luncheons to meet.

Mr. President, I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Mississippi is recognized.

FARM AND NUTRITION PROGRAMS

Mr. COCHRAN. Mr. President, I ask unanimous consent to insert in the RECORD a copy of an article written by Mr. Neely Mallory in the Commercial Appeal of Memphis, TN, on Sunday, January 29, dealing with the importance of agriculture and nutrition programs.

It is a cautionary signal and call to the Congress to recognize the importance of these programs as we work through the efforts for reform, reduction in spending, balancing the budget, and the other important challenges that we are considering now in the Congress.

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Commercial Appeal, Jan. 29, 1995]

A PROUD HARVEST

(By Neely Mallory)

The new year is barely out of the bag but the debate concerning the new farm bill already has begun in earnest. Every five years, Congress must decide whether to reauthorize a set of farm and nutrition programs that have been in place for about 60 years.

An editorial in this newspaper Jan. 2 lent its voice to a group that wants farm programs to be either abolished or significantly changed. In so doing, this newspaper has done a disservice to the thousands of Mid-South farmers who read it, the needy who benefit from food assistance programs and the American public.

As the editorial stated, there are far fewer farmers today than there were 60 years ago—but there are many more mouths to feed and bodies to clothe. The importance of food and fiber to every person on this planet has not declined one iota over these many years. Research, huge capital investments, advancing technology and successful farm programs have made this incredible jump in efficiency possible—without for one moment jeopardizing our nation's supply of reasonably priced food and fiber.

Agriculture and related businesses contribute more than $40 billion annually to the Mid-South economy alone. Farming may not be the nation's principal occupation, but it is, nevertheless, an important one. About one job out of six in the United States is somehow farm or food related. Certainly, the jobs and economic activity created by farmers drive this region's economy.

Farm programs are not the relics critics would lead the public to believe. Farm programs have changed, evolved with every farm bill and with changing economic conditions. In the 1930s, those programs were designed to keep farmers in place and to prevent shortages of food and fiber for a hungry nation. In the 1990s, these programs are a crucially important component of industrial policy that enables U.S. agriculture to remain viable in a world market where its comparative advantage is taken away by foreign subsidies.

Today's commercial farm is a high-tech, capital-intensive enterprise. The implications of this evolution in farm organization and management are not understood nearly as well as they should be. The relatively large gross sales of farming operations lead many people to believe that farmers have no need for government programs. The truth of the matter is that the narrow margins on sales of agriculture commodities are simply not adequate to compensate for the tremendous risk associated with today's capital-intensive farming. Neither a prudent farmer nor his banker would consider making the kind of investment currently necessary for

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

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commercial agriculture production in the absence of either a farm program that provides the producer with a safety net or much higher market prices that are commensurate with the investment and risk involved.

There is a rather badly misplaced belief that the new General Agreement on Tariffs and Trade will do away with agriculture subsidies around the world, after which U.S. agriculture should be able to take advantage of its competitive edge. If, in fact, GATT did away with subsidies, U.S. agriculture would be generally well positioned, with its vast agriculture land resources, favorable climate, unequalled technology and excellent processing, handling and transportation infrastructure.

The United States offered during the early stages of GATT negotiations to end agriculture subsidization, but no other country would hear of it. They cannot compete with us without government help. The final agreement requires very minimal changes in the subsidy programs of other nations. So U.S. agriculture will continue to be confronted with a system of foreign subsidies that undermines our comparative advantage in agriculture production and marketing.

It is no accident or quirk of fate that every American enjoys the lowest-cost and best available supply of food and fiber in the world. This prized result came about because of American ingenuity and successful farm programs that have enabled U.S. farmers to compete worldwide and produce an abundant supply of food and fiber for domestic consumption. And it has happened in spite of foreign subsidies, tremendous natural disasters and the huge financial risk associated with farming.

The agriculture reforms suggested in this newspaper's editorial already have been set in motion. A massive reorganization and downsizing of the U.S. Department of Agriculture and the total revision of the federal crop insurance program are but two examples. Farm program spending (which makes up less than 1 percent of the entire federal budget) has been cut by two-thirds since 1986. This is not "trimming," as the editorial suggests; this is slicing and dicing. If the rest of this nation's federal spending had been reduced by half as much as agriculture, we would be running a federal surplus.

A review of farm programs is certainly in order during 1995 as Congress considers new farm legislation. We would be the first to admit that farm programs are not perfect, and that some farmers have taken improper advantage of them. But on balance, it is safe to say that farmers are no more or less likely to cheat than any other person. Responsible lawmakers should not ignore the plain success of U.S. farm and nutrition programs. Abolition or weakening of programs whose success can be measured every day does not qualify as needed reform. It would be imperiling a 21-million-job industry.

I believe the new secretary of Agriculture and those in Congress responsible for writing the laws will know the difference between so-called reform and preserving an industry-government partnership that returns enormous benefits to the American public.

Mr. COCHRAN. Mr. President, I thank my good friend for permitting me to make that unanimous-consent request.

Mr. DOMENICI. The Senator is welcome.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized for up to 15 minutes.

Mr. DOMENICI. Will the Chair advise me when I have used 10 minutes?

The PRESIDING OFFICER. The Chair will so advise.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 298 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PROTECTION OF MEDICARE

Mr. KENNEDY. Mr. President, yesterday the Speaker of the House addressed the American Hospital Association. His comments should be reviewed by every Member of the Senate and by the American people as well, because they are an unmistakable preview of what we can expect if the constitutional amendment before us is enacted and of what the Republican Contract on American really means.

The Speaker said that Medicare would be "rethought from the ground up." He said that he would "make every decision within the context of getting to a balanced budget."

I am not surprised by the Speaker's words, because the fact is that you can't balance the budget, protect defense spending, and provide billions in tax cuts for the rich without savage cuts in the Medicare Program. If Social Security is kept off limits, the Treasury Department estimates that Medicare would have to be cut by $77 billion by 2002—an almost unthinkable 31 percent of projected program outlays. If Social Security is also cut, the reductions would still be 21 percent of program costs—nearly $2,000 less Medicare for every senior citizen.

Speaker GINGRICH and the other authors of the Republican contract don't seem to know or care how dependent senior citizens are on Medicare. Even without any Medicare cuts, senior citizens spent an average of $2,800 out of their own pockets for health care last year. This is four times what nonelderly Americans spent. Just 7 years ago, in 1987, senior citizens had to spend 15 percent of their income for medical care—and that was too much. Today, that proportion has soared to 23 percent—almost $1 in every $4 of limited incomes that are already stretched to pay for food, housing, heat, clothing, and other essential expenses of daily living. Senior citizens should be paying less for medical care, not more.

A word we are hearing more and more from our friends on the other side of the aisle is restructuring the Medicare Program. All of us are interested in improvements in Medicare, but restructuring is a barely disguised euphemism for forcing seniors into managed care and cutting benefits. Senior citizens should have the opportunity to join managed care plans—as many do today. They should be entitled to share in any savings from managed care in the form of better benefits and lower premiums—as many do today. But we should vigorously oppose any scheme to balance the budget by cutting Medicare and forcing senior citizens into managed care programs that deny them the freedom to go to the doctor of their choice.

When Speaker GINGRICH and his allies talk about a balanced budget, they don't seem to be very concerned about the budgets of American families—and particularly the limited budgets of our senior citizens. When they talk about freedom from big Government, they don't seem to be very concerned about the freedom of senior citizens to go to the doctor of their choice. But I say those are the budgets and the freedoms that we ought to be protecting, not attacking.

The distinction between Medicare and Social Security is a false one, because Medicare is a part of Social Security. Social Security and Medicare are the twin pillars of retirement security for millions of senior citizens. Like Social Security, Medicare is a sacred compact between the Government and the people. It says, "Work hard all your life, pay your dues, and we will guarantee you security in your old age." We have an obligation to protect that compact, not only for today's senior citizens but for their children and their grandchildren, for all of us, if we are fortunate, will some day be old.

When Republicans in other years tried to break the promise of Social Security, senior citizens and their families all over this country told them that the answer was "no." And the Congress responded. Today, it is time to say to NEWT GINGRICH and his friends that, when it comes to breaking the promise of Medicare, the answer is just as resounding and just as unequivocal. And once again, the answer is "no."

The PRESIDING OFFICER. Under the previous order, the Senator from Louisiana [Mr. BREAUX] is recognized to speak for up to 15 minutes.

WELFARE REFORM SUMMIT

Mr. BREAUX. I thank the Chair. Mr. President, I would like to take this time to comment on the event that occurred this weekend on Saturday and congratulate the President of the United States for calling, for the first time, a bipartisan summit on the issue of welfare reform.

The President of the United States, President Clinton, spent almost 5 hours sitting in an all-day meeting at the Blair House, and in that meeting were Republican Governors, Democratic Governors, Republican Members of the House, Democratic Members of the House, Democratic Members of the Senate, as well as Republican Members of the Senate. It was truly a bipartisan effort to discuss, I think, one of the most pressing problems that is facing

this Congress today; that is, how do we fundamentally reform a system that I think everybody agrees is fundamentally flawed.

I think everyone in that room agreed that welfare as we know it today does not serve well the people who are on it nor does it serve very well the people who are paying for it, the taxpayers of the United States.

I think that we found in that meeting that there was a great deal of common agreement about some of the things that we should embark upon to try to fundamentally reform welfare. I think the Governors said essentially, "We would like to have more responsibility. Let us be innovative. Let us try to suggest things that work in a particular State," like my State of Louisiana that may not work in Vermont or in Mississippi or in California or any other State in the country. "Let us be innovative. Let us come up with solutions to welfare that fit the people in our respective States."

I think there is a common sense of agreement around that particular proposition.

There was also, I think, common agreement that there should be time limits; that people should not be able to be on public assistance forever if, in fact, they are able to perform work in the private sector or even in the public sector.

But I think, Mr. President and my colleagues, that something has happened, particularly since the November election. I think we have lost the proper focus of what welfare reform should concentrate on.

We have heard wonderful speeches about illegitimacy and the problem that it is, and it is. We have heard speeches about crime related to welfare. We have heard speeches about the breakup of the family which is a result of welfare programs. We have heard speeches about teen pregnancy and what we should do to try to eliminate it in the problem areas in which we see it occurring.

But I think the fundamental focus of welfare reform should be work. The fundamental focus should be how do we get a person who is a welfare recipient into a job, because I believe that the best social program that we could ever write is a good job.

You could talk about how to solve the problems of illegitimacy and crime and breakup of the family and all of these other very important issues, but the fundamental focus, I think, has to be on how do we refocus our attention on work and how do we get that person from dependency into the work force.

Now, the President's first proposal in this area was a good start. He said, "Look, there should be a time limit on welfare. It should be no more than 2 years. And then we should increase the opportunities for education and training." But he did not provide the missing link, which is: How do we, after we reach that point, get the person from welfare into the work force?

One of the first Republican proposals really just suggested a time limit—2 years, and that is it—but it did not address the fundamental problem of getting the person on welfare after that 2 years into the work force.

The latest Republican proposal seems to say, "Let's have block grants and give it to the States."

I addressed the Governors Conference this weekend, both the Democratic Governors and the National Governors Conference. I suggested to them to be careful. Do not let Congress put all of the welfare problems in a box and send the box to the States and say, "Here, it's yours." And then, when the Governors and the legislators on the State level open up that box, they see a lot of problems, but they do not see any solutions and they do not see any money to help them solve the problems. I suggest that is not a solution. That is passing the buck through a block grant to the States.

What I think we have to do is recognize that we on the Federal level who raise taxes to pay for these programs have a fundamental responsibility to see to it that these tax dollars are used in a way that truly improves welfare as we know it, that provides real answers and suggestions on what should be done. Yes, of course, maximize the flexibility to the States. I support that very strongly. But also work with the States. Do not walk away from our responsibility as Federal legislators, who have a responsibility to the Federal tax dollar to see that it is used wisely and not wasted, who have a real responsibility to come up with some ideas and suggestions as to what needs to be done.

Let me suggest one approach that has been developed by myself, along with others, including the Progressive Policy Institute of the Democratic Leadership Council, which spent a great deal of time working on this effort, together with Republicans who have commented on it. The Hudson Institute, essentially a Republican think tank, is one, I believe, that likes this idea.

I have discussed this with my colleague from Colorado, Senator HANK BROWN, who I believe will hopefully be joining with me as a cosponsor of this effort.

Here it is: I suggest that there is a missing part of the puzzle, there is a missing link, if you will, between the welfare recipient and the job. How do we get this person into this position, which I happen to think is the best social program that we could ever devise. I suggest that we consider taking existing welfare subsidies and use them to create job placement vouchers.

When a welfare recipient comes into his State welfare office seeking assistance, he enters into a contract arrangement with the State welfare office and receives a voucher that is good for payment. He gets a list of organizations, both public and private, that are in the job placement business. That welfare recipient enters into a contract arrangement with one of these corporations to help them find a job.

Some of these organizations will interview this welfare recipient and say, "They are ready to go into the workplace right now. They have the training. They are just down on their luck. We can find this person a job tomorrow." And they put that person in that job the next day.

Others will look at a welfare recipient and say,

> No, this person needs more training or education or on-the-job training. We know just the job that fits this person's ability. We are going to put them in it because that job has on-the-job training, on-the-job skill training and education that will fit this particular welfare recipient's needs. We can put them in this job next week.

Others will look at the welfare recipient and say,

> No, this person really needs to brush up on reading and writing and arithmetic and basic English skills. They are going to have to have 6 weeks or 6 months of training, but then I know exactly where I can place that person after that particular period of time.

Now, the essential feature of this is that we are talking about privatizing the job placement portion of finding a welfare recipient a job. There are a number of institutions that are doing this right now.

Let me refer you to America Works, which has programs in New Jersey and New York. Let me talk about Cleveland Works, which has a similar program in the city of Cleveland. The Goodwill Industries work program in the State of Florida and also in the State of Louisiana is this type of program.

Here is the good feature about this particular suggestion. That private sector corporation, when they enter into that contract with the welfare recipient and receive a voucher to find them a job, only is going to get paid when that welfare recipient gets the job, No. 1, and stays in that job, No. 2, for a certain period of time. Somewhere between 7 months to 1 year has been suggested.

Let me tell you what that does to both parties. It creates a tremendous incentive for that job placement service to find that welfare recipient a job that is a good job and one that they stay in, because they know they do not get paid unless they put that person in a job situation that meets their skills and allows them to stay in it for a year or more.

Many of our welfare recipients will take a job, they will stay there 2 days or 2 weeks, and they quit. They are back on welfare, because they have not been put in the right circumstances that meets their ability to perform.

But this job placement voucher system, really, I think, provides the missing link or the missing part of the puzzle between a person who is on welfare and the job they need to be put into.

If you tell a company that they are only going to get paid if they find that welfare recipient a job that they stay in for a year, then one important thing happens. They pay a lot of attention to getting that person into the right job, because they know if they put them in the wrong job and that only lasts for 1 week, they are not going to get paid. So they make sure that the person has the proper skills and training to fit into a particular job that will allow them to stay in that job for a year or more.

I would suggest, Mr. President, that in places where this type of program has been tried, a number of good things have happened. No. 1, we have saved the State a lot of money, because if a person gets into a job position, he is earning a salary, paying taxes and is no longer on welfare. The State who has contracted with these private placement centers are paying the private placement center a lot less than they are paying the welfare recipient when he or she is on welfare.

Therefore, the concept of privatizing the missing link between the welfare recipient and the job that he or she needs is provided by this concept that we are suggesting today.

Mr. President, I think that welfare should not and cannot be a partisan issue. If it is, we will never solve it. We have to reach out to our Republican colleagues, and they to us, to sit down and come up with real solutions to a very serious problem in this country.

All of these other problems that I talked about—illegitimacy and teen pregnancy and breakup of the family, the increase in the crime rate—I think if we resolve the welfare issue in this country we will have created the best social program that we could ever create: That is, a good job. And a good job brings about responsibility and creates opportunities and helps solve the other tangential problems which are very, very serious indeed.

I am suggesting that the missing part of the puzzle can be replaced with a job placement voucher. We will be introducing such legislation that still allows the State maximum discretion that they need to tailor the needs of their respective State. I think if we move in this direction, we will have taken a giant step toward doing what the American people would like Members to do.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I see the distinguished manager of the bill rising. What I was going to do, I will tell the Chair, I was going to speak on the balanced budget, but I see the distinguished Senator from Minnesota. I was going to speak a few minutes and yield to him, to accommodate a scheduling problem I have. I do not want to interfere with the prerogatives of the chairman. I have to be at another place in about 6 or 7 minutes.

Mr. HATCH. Mr. President, are we on the amendment?

The PRESIDING OFFICER. I have not called for House Joint Resolution 1 yet. The manager can do that at this time. The hour has arrived.

Mr. HATCH. I move that we move to it.

Mr. LEAHY addressed the Chair.

Mr. HATCH. Mr. President, would the Senator yield for a short statement without losing his right to the floor.

Mr. LEAHY. I would yield.

Mr. HATCH. I was hoping we could go back and forth, and then go to the distinguished Senator from Arizona. I hope we will have comity here, can speak and then whoever is next. If we can go back and forth, I think it would be a good thing.

Mr. LEAHY. Then I ask, Mr. President, unanimous consent that when I am finished, I be able to yield to the Senator from Arizona and then be able to yield to the Senator from Minnesota.

Mr. REID. Could someone restate this unanimous-consent request?

The PRESIDING OFFICER. The unanimous-consent request was that after the Senator from Vermont is finished the Senator from Arizona would be recognized and then the Senator from Minnesota.

Mr. HATCH. We may be able to solve this problem. The distinguished Senator from Arizona has 3 minutes unrelated. He wanted to do it in morning business. We have kind of jumped the gun.

Mr. LEAHY. Mr. President, I was trying to accommodate the distinguished manager and I thought this might do it. I think we are going to do it quickly. If we went on this we would probably take less time than asking for the unanimous consent.

Mr. REID. Mr. President, it is my understanding that the Senator from Arizona wants to speak 3 or 4 minutes in morning business, is that right, and then we would go to the constitutional amendment?

The PRESIDING OFFICER. That would be the regular order of the unanimous-consent request.

Mr. REID. I just want to understand what is going on.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, an objection to 4 minutes of morning business, and then going to the bill, is that the question?

The PRESIDING OFFICER. That is the request.

Without objection, it is so ordered.

Mr. KYL addressed the Chair.

The Senator from Arizona is recognized for 4 minutes.

Mr. KYL. Mr. President, I thank the Chair and the Senator from Vermont for accommodating my request.

(The remarks of Mr. KYL pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

TRIBUTE TO KEN L. LOTT, JR.

Mr. HEFLIN. Mr. President. I want to pay tribute to one of my longtime friends, Ken L. Lott, Jr., who passed away on January 16.

A native of Selma, and longtime resident of Mobile, Ken was known to many as a leader and a friend.

Ken received a bachelor's degree in commerce from Auburn University, where he was an Army ROTC cadet.

The leadership skills he learned while a cadet helped him rise to the position of a field artillery captain in the 29th Infantry Division. His service to his country led to him receiving the Bronze Star and Purple Heart.

After Ken's enlistment in the Army ended, he began a professional career in the banking industry.

His professional affiliations included memberships with Southland Bancorporation and the International Division of First Alabama Bancshares, Inc. He was also the former chairman of Merchants National Bank.

Although Ken was very involved in his professional career, he still found time to devote to his community. He was cofounder of the Community Foundation in 1975 and served as its first president.

Additionally, his community involvement can be seen through the directorships and affiliations he once had. These included the Mobile Kiwanis Club, the Country Club, Goodwill Industries, and the chamber of commerce.

His community and State showed great appreciation to Ken by inducting him into the Alabama Senior Citizens Hall of Fame in 1991.

The Mobile community is highly grateful for what Ken gave it over the years. He will be greatly missed by those fortunate to have known him. My deepest condolences are extended to his family and loved ones.

TRIBUTE TO MUSICIAN VERNON RAINES

Mr. HEFLIN. Mr. President, conductor Vernon Raines is one of those rare individuals who has been truly blessed with a divine talent for music, and who has worked effortlessly to spread musical enlightenment to the citizens of south Alabama. It is as if the music has always been in his heart, as if it were his destiny.

At the age of 6, Vernon had already written his first violin composition,

and had begun to play the piano by ear. By the time he was 18, he had become the musical director of the Mobile Chamber Orchestra and had begun a career that included over 28 years as conductor and musical director of the Meridian Symphony Orchestra. He also served for 3 years as the conductor of the University of Southern Mississippi symphony, opera, and ballet; and was the associate professor of music and the chairman of the music department at Livingston University, in Livingston, Alabama for nearly 8 years.

In addition, Mr. Raines was an organizer of the Mobile Chamber Orchestra, was a key facilitator of the Mobile Symphonic Society, and served as the guest conductor of the Kwangju Philharmonic of Korea in 1987. He has also performed many times on public radio and television, and has made five guest appearances at the Mobile Opera Guild Workshop.

Mr. Raines graduated from Murphy High School in Mobile, and received his bachelor of music degree from the University of Alabama. He then went on to receive his master of music degree from Florida State University, studied at the American Symphony Orchestra League's Eastern Institute of Orchestral Studies, and studied privately under such noted conductors as Leo Mueller and Ernst von Dohnanyi.

It is my sincere pleasure and honor to commend and congratulate Mr. Vernon Raines on his outstanding career as a musician and conductor. He is truly a guiding force in the Greater Gulf Coast musical scene, and is an inspiration to the young musicians of Alabama. May he continue to enlighten the hearts of Alabamians with the beautiful music of our past.

TRIBUTE TO DR. JOHN M. LONG

Mr. HEFLIN. Mr. President, I rise today to pay tribute to the accomplishments of musician Dr. John M. Long, who recently was inducted into the National Band Association's Hall of Fame. When looking back at John's accomplishments, one can see why he has had such an impact on the music industry.

John's phenomenal career began while directing the Robert E. Lee High School Band in Montgomery, AL. This band set several records and became the envy of many others.

John later went on to Troy State University to even greater achievements. In the 29 years he directed the Troy State band, it made numerous recordings; appeared at four U.S. Presidential inaugurations, and played for the President twice. His accomplishments have obviously made his coworkers and students think highly of him. In fact, they named the band room at Troy State in his honor.

While directing his various bands, he has received numerous honors. In 1977, he was the first active director to be elected to the Alabama Bandmasters Hall of Fame. Later on in 1984, he was the first person to receive the Alabama Music Educator of the Year award. This is a great accomplishment because no one has been the recipient of this award for 40 years. There is no question in my mind that School Musician magazine made the right choice in choosing him as one of the 10 outstanding band directors in the United States.

Additionally, the hard work he has put forth for the love of his job and music can be seen through the various music-related organizations he has associated himself with. They are the American Bandmaster's Association; the College Directors Association; the National Band Association.

Dr. Long's influence on students, musicians, and the public truly make him a legend in the music industry. His accomplishments in the field have opened up a whole new world for many people, young and old alike. It is my pleasure to congratulate Dr. Long on all of his achievements and wish him much happiness for the future.

TRIBUTE TO LT. GEN. ROBERT B. JOHNNSTON, U.S. MARINE CORPS, ON RECEIVING THE MARINE CORPS RESERVE OFFICERS ASSOCIATION "NON SIBI; SED PATRIAE" AWARD

Mr. NUNN. Mr. President, on Saturday, February 4, at Camp Lejeune, NC the Marine Corps Reserve Officers Association will bestow upon Lt. Gen. Robert B. Johnston its highest award. The award is "Non sibi, sed patriae, which is Latin for "Not for self, but for country."

Lieutenant General Johnston, currently commander of U.S. Marine Corps Forces, Atlantic, headquartered at the base the marines call "The Home of Expeditionary Forces in Readiness" richly deserves this award. Nothing better characterizes this man than his selfless service to his country. Commissioned a second lieutenant in 1961, he ended up 30 years later as Chief of Staff of the U.S. Central Command during Operation Desert Shield and Operation Desert Storm.

Along the way, General Johnston completed two tours of duty in Vietnam, where he was decorated for valor in combat. He then went on to perform a host of other assignments with great distinction.

Mr. President, it is most fitting that Robert Johnston was in the eye of the American military hurricane that swept the Iraqi Army from Kuwait. General Johnston's association with Desert Storm was no mere coincidence. He was born in Edinburgh, Scotland, and we know the Scots are a fighting people. This is clearly true when they become U.S. citizens and marines. Moreover, General Johnston has more than a few items in common with Scotland's Robert Bruce, later King Robert the First, who gained Scotland's independence from the English in 1314 by handing them a defeat in battle that Sir Charles Oman, the great historian of the Middle Ages, called "the most lamentable defeat which an English army ever suffered." In the Battle of Bannockburn, which was as cleverly planned as Desert Storm, Robert Bruce, lured an English army half again the size of his own into a well-disguised trap, and managed to destroy it, inflicting on it four times the number of casualties as his own army suffered.

Robert Bruce devoted his life to creating a country; Robert Johnston has devoted his to defending one. Neither Robert is known for self-promotion or loquaciousness, which may explain why both names are associated with country, not self.

Mr. President, I commend the Marine Corps Reserve Officers Association for selecting Lieutenant General Johnston to receive this award, and I add my congratulations and thanks to Lieutenant General Johnston for his outstanding service to our Nation.

TRIBUTE TO KENTUCKY FIRST LADY MILDRED WATKINS CHANDLER

Mr. McCONNELL. Mr. President, I rise today to honor the memory of former Kentucky First Lady Mildred Watkins "Mama" Chandler, who passed away on January 23 at her home in Versailles.

Over the course of her 95 years, Mrs. Chandler's strength of spirit and keen intellect were clearly evident in every facet of her life. For Kentuckians, her legacy begin in 1925 when she wed Mr. Albert B. Chandler and soon became his most accomplished campaigner and political supporter. The grace of Mrs. Chandler's musical talents and attentive demeanor provided invaluable support to her husband Albert's distinguished service as Kentucky's Governor, U.S. Senator, and commissioner of major league baseball.

Politics did not embody her whole life, however. Mrs. Chandler developed strong career interests of her own. She taught piano and voice prior to her marriage. During her husband's term in the U.S. Senate, she worked as a writer for 20th Century Fox in Hollywood. At home in Kentucky, her award-winning weekly column for the Woodford Sun was enjoyed by many. Above all, she most cherished her time as mother and mentor to her children and grandchildren.

Mr. President, I ask that my colleagues join me in sending this Chamber's sincere condolences to the family of Mrs. Mildred Watkins "Mama" Chandler. Kentucky will remember

Mrs. Chandler as one of our most beloved first ladies, and I am confident that her breadth of accomplishment and strength of character will remain a standard of excellence for generations to come.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have that little pop quiz one more time: How many million dollars are in a trillion dollars? When you arrive at an answer, remember that it was Congress that ran up a debt exceeding $4.8 trillion.

To be exact, as of the close of business yesterday, Monday, January 30, the Federal debt, down to the penny, at $4,803,795,968,326.50—meaning that every man, woman, and child in American now owes $18,235.29 computed on a per capita basis.

Mr. President, to respond once more to the pop quiz question—how many million in a trillion: There are a million million in a trillion, and you can thank the U.S. Congress for the existing Federal debt of $4.8 trillion.

OPPOSE EFFORTS TO ROLL BACK MOTOR-VOTER LAW

Mr. WELLSTONE. Mr. President, the National Voter Registration Act of 1993, often called the motor-voter bill, was one of the most important pieces of bipartisan legislation approved by the 103d Congress. Recently, several Senators have suggested they intend to try to delay final implementation of motor-voter, or to repeal it outright. Today a hearing was to be held on these issues in the Rules Committee. That hearing has now been postponed indefinitely, I hope as an indication of waning enthusiasm for this proposal. We must resist any efforts to weaken or to delay final implementation of this landmark measure, which is providing access for so many Americans to one of their most fundamental rights: the right to vote.

Most States have moved forward quickly, responsibly, and effectively to implement the motor-voter bill at very low cost, with only a few States resisting. States which have recently implemented the motor-voter provisions have seen tremendous increases in the number of people registering to vote. For example, since the first of the year Florida has been averaging over 3,000 new voter registrations per day from people getting driver's licenses. Approximately 3,700 voters were registered in Washington State in the first week of motor-voter operation through the combined use of motor-voter procedures, registration by mail, and agency-based registration. In Georgia, over 18,000 people have been registered since the new procedures went into effect on January 1, 1995. In Kentucky, in the first 10 days of implementation of the act, over 10,000 new voters were registered, and over 15,000 changes of address for voters were completed through the motor-voter procedures. Since Minnesota implemented its own motor-voter process in 1987, our Secretary of State estimates that we have registered over 700,000 voters using those procedures. We must not reverse this extraordinary progress, which is allowing many more people to participate in our political system.

In order to protect the fundamental right to vote of all U.S. citizens regardless of their State of residence, the U.S. Justice Department has filed suit against three States—California, Illinois, and Pennsylvania—which have so far refused to implement the motor-voter procedures. As Attorney General Reno observed in the complaints against these three States, when Congress enacted the motor-voter bill we were exercising our constitutional right to regulate Federal elections under article I, section 4. States cannot simply ignore the direct statutory directives of Congress as the Attorney General said just after the law suits were filed:

> Congress has the authority to regulate Federal elections, and it used that authority when it passed the law. We now must use the authority that Congress gave us to enforce it.

The motor-voter law enacted last year was designed to protect potential voters in all States, and not just in States where elected officials choose to obey properly enacted Federal laws. It is in our national interest to ensure access to the voting both for all, whether you live in Minnesota, California, or Alaska.

In light of the importance of the Motor-Voter Act, and the support it is receiving from around the country, I ask unanimous consent that the following editorial appearing in the Washington Post on January 25, 1995 be reprinted in the CONGRESSIONAL RECORD, along with the full text of my statement.

The 1993 National Voter Registration Act was passed with bipartisan support because many of our colleagues understood how important the right to vote is in our society. The motor-voter law is part of a long line of landmark protections for the right to vote, starting with the adoption of the 15th amendment to the Constitution, through the enactment of the 1965 Voting Rights Act, and culminating with its passage. We must not return to the days when access to the voting booths in our country was limited by serious barriers to registration. We must stand up for the fundamental right to vote. I urge my colleagues to join me in opposing any effort to undermine the motor-voter law, or to delay its full implementation.

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

WHY RESIST THE 'MOTOR VOTER' LAW?

On Monday the Justice Department filed suit against California, Illinois and Pennsylvania for refusing to comply with the National Voter Registration Act, popularly known as the "motor voter law." The 1993 law requires that states allow people to register to vote when they get their driver's licenses, when they apply for social service and other government benefits, and by mail. The law was a good idea. Its purpose was to streamline the U.S. voter registration system, which is unusually cumbersome by the standards of most other democracies.

What are the arguments being made against the law? A group of Republican governors that includes California's Pete Wilson, who has already sued to have the law overturned, objects on four principal counts: (1) that voter registration is a state responsibility and the federal government has no right to impose prescriptions as specific as those contained in the new law; (2) that the law is another unfunded mandate requiring states to spend their own money to achieve a purpose dictated by Congress; (3) that it is also a ploy by Democrats to strengthen the party's electoral chances, since many of those whom easier registration might add to the voter pool are groups inclined to vote against the GOP; and (4) that the law could facilitate voter fraud.

The issue of the power of the federal government on this particular matter will now be settled by the courts, but Attorney General Janet Reno made a plausible point when she argued that "Congress has the authority to regulate federal elections, and it used that authority when it passed this law." As for the mandates argument, it's true that the Congressional Budget Office estimated the new law would have a cost, though less than an average of $1 million in each state annually. This has not bothered most states. On the third point (that the GOP would be hurt and the Democrats helped), the evidence is not so clear. Back in 1989, for example, Newt Gingrich urged his party to support eased voter registration "not only because it's good policy but also because it's good politics." Since young people are disproportionately unregistered and since many in their ranks lean Republican, he said, the party might actually gain from an expanded electorate. Mr. Gingrich is not a fan of this law, but that was a good point. As for fraud, registration at motor vehicle offices and by mail already works fine in many parts of the country, including in the District.

Both political parties should want to take their chances with the broadest possible electorate. The governors ought to reconsider.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise to announce to the Senate that during the past week, 14 people were killed with firearms in New York City, bringing this year's total to 58.

A recent national study released by the Centers for Disease Control and Prevention indicated that homicide is the second leading cause of death among teenagers aged 15 to 19. If current nationwide trends continue, it is

estimated that annual deaths from gunshot wounds will surpass annual deaths from automobile accidents by 2003. In New York State, as in the District of Columbia and five other States, this has already occurred. In 1992, there were 2,345 gunshot-related deaths in New York State, compared with 1,959 motor vehicle-related deaths.

By the middle of the century, we recognized that traffic accidents constituted perhaps the greatest of the Nation's public health problems. So we did something about it. We passed the Motor Vehicle Safety Act in 1966 and increased the use of seatbelts, padded dashboards, and, more recently, airbags. As a result, traffic death and injury was reduced by 30 percent, even as the number of miles driven by Americans increased dramatically. Estimates suggest that we prevented as many as 250,000 deaths.

We should apply our experience in reducing traffic fatalities to reducing the death rate by gunshot. There are certainly ways we could achieve this: by establishing stricter requirements for gun ownership, by restricting access to the guns used most often to commit crimes, by making guns themselves safer, and by teaching people to use them safely. However, I propose that we can best reduce the incidence of firearm-related deaths not by restricting the supply of guns, but by restricting the supply of ammunition, particularly those rounds used disproportionately in violent crime. Even if we were able to resolve the intense conflicts surrounding the gun control debate, we would still have enough guns on the street to last us more than a century. Our current supply of ammunition, on the other hand, might well last only 3 or 4 years.

We must heed the lessons of the past. Clearly we cannot change the behavior of criminals overnight, as we could not change the behavior of drivers. But there are other ways to control the escalating death rates. I believe that ammunition control is the best way, and I hope my colleagues will agree.

FUNDING FOR PUBLIC BROADCASTING

Mr. SARBANES. Mr. President, today we find ourselves in the midst of an information services technological revolution. At no time in our history has access to information and information services been more important. In light of this, I am concerned about recent proposals to reduce drastically or to eliminate Federal support for public broadcasting, a primary source of information for millions.

As we consider the future of public broadcasting, let us not forget that cable television, which many have suggested can fill the gap, currently reaches only 60 percent of U.S. households. Forty percent of American households do not have cable television primarily because it is cost prohibitive or because cable service is simply unavailable in their communities. While cable television has given millions of Americans remarkable access to information and entertainment, it is not an adequate substitute for public broadcasting. Mr. President, currently on no other network can you find the variety of programming which public broadcasting offers.

Children's programming on public broadcasting provides parents with a guaranty of quality without violence. Programs such as "Ghostwriter," "Reading Rainbow," "Bill Nye the Science Guy," "Sesame Street," and "Where in the World is Carmen Sandiego" educate and entertain our children without bombarding them with commercials. In addition, from "Wall Street Week With Louis Rukeyser" to "MacNeil/Lehrer NewsHour," from "Austin City Limits" to "Live From Lincoln Center," millions of adult Americans turn to public broadcasting for exposure to cultural events, news and commentary, documentaries, and instructional programming. Public broadcasting has brought our Nation unparalleled historical and political documentaries such as "Eyes on the Prize" and "The Civil War." For a little less than $1 per American annually, we make an investment in our children and in the preservation and dissemination of our culture and our history.

I am proud that my own State of Maryland has a State public broadcasting network, Maryland Public Television [MPT], with an unequalled commitment to State historical and educational programming. Maryland Public Television produces more local documentaries than any other local station in the State. Marylanders can study for their GED or earn college credit through MPT. MPT has also been one of the leaders on the information superhighway. Through its electronic classroom, MPT has made it possible for students to see and talk to scientists at the South Pole. MPT is just one example of the many superb public broadcasting networks across the Nation which, on very limited budgets, manage to serve viewer needs while keeping up with the technological advancements currently sweeping the telecommunications industry.

We have recently heard claims that public broadcasting is elitist. I would suggest, Mr. President, that it is in fact anything but elitist. Public broadcasting is the one network available to Americans regardless of where they live or how much money they earn. There are communities in my State, both rural and urban, in which a public broadcasting station is one of perhaps two or three stations accessible without cable. In fact I grew up in one of those towns, Salisbury, MD, and my mother still resides there. Corporation for Public Broadcasting [CPB] statistics show that 48 percent of Americans who listen to National Public Radio [NPR] have household incomes of $40,000 or less annually. Public broadcasting is often one of the tools used by rural America to attract businesses and residents. The presence of a public broadcasting radio or television station assures prospective businesses and residents that they will not be cut off from cultural events and access to news and information.

Often when we discuss the future of public broadcasting we talk only about television. We forget the importance of public radio. How will cable compensate for the loss of public radio? Nearly 90 percent of all Americans have access to a public radio signal. Public radio provides its listeners with local community-oriented programming while also linking them to the Nation and the world. Public Radio International [PRI] and National Public Radio [NPR] are the two major distribution services for public radio. PRI's mission of operation is to engage listeners with distinctive radio programs that provide information, insights, and cultural experiences essential to understanding a diverse, interdependent world. PRI distributes to public radio stations across the Nation such widely popular shows as Garrison Keillor's—"A Prairie Home Companion" and the "Baltimore Symphony Orchestra," jointly produced by WJHU of Baltimore and WETA in Washington, DC. NPR is known nationwide for producing outstanding programs such as "All Things Considered" and "Morning Edition." Individual public radio stations can be affiliates of both PRI and NPR. This assures public radio stations of access to the broadest possible range of programming regardless of their location.

Many public radio stations serve rural communities which would otherwise be entirely without radio service. Over 90 percent of public radio's share of public broadcasting funds goes directly to local stations serving local communities. These radio stations respond directly to the needs and wants of their communities. Many of these communities and ethnically disparate, therefore requiring a commitment to diverse programming. Commercial radio has declared many of these areas commercially inviable. These communities are often too small and too far flung to support stations on their own. In my own State of Maryland, public radio stations such as WESM on the Eastern Shore play an important role in supporting the goals of education, literacy, volunteerism, and in working to combat youth violence. Are we now prepared to tell these communities that at a cost of 29 cents per taxpayer, the Federal Government is also declaring them unworthy of radio access to news, information, and entertainment?

Mr. President, throughout its history public broadcasting has set the standard against which we have measured the quality of commercial programming, and with the advent of the information superhighway public broadcasting is needed now more than ever. Millions of Americans will find themselves on byroads instead of the superhighway without public broadcasting. In my view, we should protect the access of all Americans to reliable educational programming and quality entertainment. I look forward to working with all of my colleagues in affirming the contributions of public broadcasting to our society and in ensuring that public broadcasting continues to enhance our lives and enlighten our minds.

TRIBUTE TO FRANK E. RODGERS

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Mayor Frank E. Rodgers, who may well have set a record that will stand forever as the longest serving mayor in the history of the United States.

Mayor Rodgers has 58 years of experience in public service. He served for 48 years as the mayor of Harrison, NJ. That set the record for the longest successive tenure as a mayor in the history of the United States.

That would be impressive enough by itself. But even while he was serving as mayor, Frank Rodgers also found the time to hold several other pubic service appointments. He served as secretary to the New Jersey Racing Commission between 1963 and 1964. He served as clerk to the Board of Chosen Freeholders of Hudson County from 1964 to 1982. And he served as a member of the New Jersey Highway Authority from 1976 to 1978.

In 1978, he was elected to the New Jersey State Senate where he served until 1983. And from 1984 to 1994, Mayor Rodgers served as a commissioner of the New Jersey Turnpike Authority.

Mr. President, who could help but be in awe of this committed public servant? Who could help but wonder how he stayed so popular for so long?

The answer is actually quite simple.

Mayor Rodgers has devoted his life to the people of New Jersey. He has doggedly pursued our vital interests, although in the time he served as mayor, those interests have changed dramatically.

When Mayor Rodgers was first elected in 1946, America had just won World War II. Mayor Rodgers was swept into office on a veteran's ticket, and he focused, in his first term, on post-war concerns.

Over the years, Mayor Rodgers continued to respond to the needs of his constituents, whether they were young or old, veterans or new immigrants.

More recently, he has proved adept at tackling more contemporary issues, including transportation, crime, and economic development.

Mr. President, I believe that we can all learn a great lesson from Mayor Rodgers, a gracious statesman who faced Harrison voters 29 times without a defeat.

Over the last five decades, Mayor Rodgers has developed a close working relationship with the people of Harrison. He did so by listening to their concerns, responding to their needs, and always sticking to his word.

Those are characteristics that all of us, in the private and public sectors, could learn a lot from.

I yield the floor.

IN MEMORY OF ROSE KENNEDY

Mr. KERRY. Mr. President, I rise to honor the memory of a woman and a mother from Massachusetts. Not just any woman, not just any mother, but a most extraordinary example of both.

Rose Fitzgerald Kennedy's long life will be remembered by a grateful Nation as a legacy of parental strength and family leadership.

To those of us who remember images of her campaigning with her sons, or mourning in quiet dignity, she shall always reflect a moment in time when we believed in ourselves, in our families, in our faith, and in our ability to survive.

She lived through incredible victories and wrenching tragedies, but through it all her resolve, her deep religious devotion, and her profound belief in family and community, gave this Nation a vision of who we could be.

To my generation she defined faith, courage, and dignity, and once said, "A mother should be a bulwark of strength." And in her courageous response to sorrow, and in her reflections on how good life can be, and on how lucky we are, she was that bulwark of strength for all of us.

During good times and bad times that touched the hearts and lives of every American, we looked to her for guidance and for a mother's perspective, and she gave us both.

She set a standard of parental leadership that will live long after those of us lucky enough to have shared God's Earth with her are gone.

I remember being invited to Hyannis, and meeting Rose Kennedy for the first time. And I remember being moved by her intensity and concern, by a warmth and graciousness that recalled a proud time when our belief in ourselves demanded that we accept what God has bestowed upon us, and that we bare the burden and share the bounty.

Rose Kennedy was an extraordinary woman and mother. Now it is time we pay tribute to her for what she sacrificed for service to the community.

Mr. President, I know I speak for every member of this institution and for the people of Massachusetts in offering my deepest and most sincere condolences to my friend and colleague, the senior Senator from Massachusetts, and the entire Kennedy family.

I say to Senator KENNEDY and to his family that we will always remember Rose Fitzgerald Kennedy, and that we are a better people for having had her among us for over a century.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that the eulogy delivered by the senior Senator from Massachusetts be printed in the RECORD.

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

TRIBUTE TO ROSE FITZGERALD KENNEDY

On my office wall, there is a note from Mother, reacting to a comment I once made in an interview. "Dear Teddy," she wrote in the note, "I just saw a story in which you said: 'If I was President * * *'. You should have said, 'If I were President * * *', which is correct because it is a condition contrary to fact."

Mother always thought her children should strive for the highest place. But inside the family, with love and laughter, she knew how to put each of us in our place. She was ambitious not only for our success, but for our souls. From our youth, we remember how, with effortless ease, she could bandage a cut, dry a tear, recite, from memory the "The Midnight Ride of Paul Revere," and spot a hole in a sock from a hundred yards away.

She sustained us in the saddest times—by her faith in God, which was the greatest gift she gave us—and by the strength of her character, which was a combination of the sweetest gentleness and the most tempered steel.

She was indomitable for all her days. Each summer for many years, we would gather 'round at night, and sitting at the piano, Mother would play "Sweet Rosie O'Grady," the song that became her own special ballad:

Just around the corner of the
street where I reside,
There lives the cutest little girl
that I have ever spied.
Her name is Rosie O'Grady,
and I don't mind telling you,
That she's the sweetest little Rose
the garden ever grew.
I love sweet Rosie O'Grady,
and Rosie O'Grady loves me.

When she finished, her voice would lilt, and her eyes would flash, and she would ask if we would like to hear it one more time. And we always would.

All her life, Mother also loved learning, and she was an excellent student herself. We still have her report card from Dorchester High School. In her 3 years there, she received 71 A's, 22 B's, and 1 C. I asked her about that C, which was in geometry. She said there must be some mistake. She didn't remember anything but A's.

One spring some years ago, when she was in her nineties, I took her on Good Friday to the Three Hours devotion. But the nurse warned me in advance that Mother had to eat, so we would have to leave after only an hour.

At one o'clock, I whispered: "Mother, it's time to go." She looked at me and sternly said: "Not yet, Teddy." So I asked a second time, and her answer came in a tone that was distinctly not a whisper: "Teddy, the service is not over yet."

By now, the congregation was discreetly staring at us and clearly thinking: See, he's

trying to get out of Church early, but that sainted Mother of his—isn't she wonderful?—just won't let him.

Later that night, of course, Mother and I said the Rosary, as she did every night, by herself or with any of her children or grandchildren who happened to be home. In the Kennedy family, you learned the glorious Mysteries at an early age.

You learned just as early how to catch a pass, sail a boat or serve a tennis ball. All her life, Mother was interested in our games. The summer she turned 101, I went into her room and showed her my tennis racket. She said, "Are you sure that's your racket, Teddy? I've been looking all over the house for mine."

Jack once called her the glue that held the family together. We learned a special bond of loyalty and affection, which all of us first came to know in the deep and abiding love that Mother shared with Dad for 57 years.

From both of them together, we inherited a spirit that kept all their children close to each other and to them. Whatever any of us has done—whatever contribution we have made—begins and ends with Rose and Joseph Kennedy. For all of us, Dad was the spark, and Mother was the light of our lives. He was our greatest fan; she was our greatest teacher.

She was born in 1890, the year of the Battle of Wounded Knee, when Benjamin Harrison was in the White House. And she never let us forget that she had lived so much of the history that we only read about. Our dinner table was her classroom, and the subject was the whole world of human events.

One evening early in 1984, when mother was 93, she asked if we thought President Reagan would run again. One of our guests replied, "Of course he'll run, Mrs. Kennedy. After all, he's very young. He's only 73." Mother looked at the guest for a second and then answered him with a twinkle in her voice: "You're just trying to flatter me. I know that he's the oldest President in American history." Unless it came from her, there was no blarney when Mother was around.

So what now secures for Rose Fitzgerald Kennedy the high place in history that she will have? I think it is most of all the warm place she holds in the hearts of so many people everywhere, from Boston to Dublin, from Berlin to New Delhi to Buenos Aires. Millions who never met her sensed the kind of rare and wondrous person she was, a shining example of the faith that sustained her through even the hardest sorrow. She had an inner strength that radiated from her life. She was a symbol of family in this country and around the world.

She cared for a retarded child as much as for the most powerful statesman. She truly did believe that we are all, royalty and disability alike, created in the image and likeness of God.

She was the granddaughter of immigrants who saw her father become the first Irish-Catholic Congressman from Boston, and her son and grandson succeed him. She saw three sons serve in the Senate—actually she was sure that it was her campaigning that put us there—and we all thought that as usual she was right. She saw the son who proudly carried her Fitzgerald name become the first Irish-Catholic President of the United States.

And she was just as proud to see a new generation of her family carrying on her belief in public service.

But Mother also taught us that you do not have to run for office to make a difference. She was equally proud of her daughters and the contributions they have made. Jean—the founder of Very Special Arts and now, like our father before her, the Ambassador. Pat, for the pioneering support she has given to young writers. Eunice, founder of Special Olympics and the leader of a global revolution of human rights for the retarded and disabled.

And Mother had a special place in her heart and prayers for our sister Rosemary, for her bravery and the things she taught us all.

Mother gave not only to her children, but she gave her children, fired with her own faith, to serve the Nation and the earth. To us, she was the most beautiful Rose of all the roses in the world. Her life shows us the truth and the way.

Mother knew this day was coming, but she did not dread it. She accepted and even welcomed it, not as a leaving, but as a returning. She has gone to God. She is home. And at this moment she is happily presiding at a heavenly table with both of her Joes, with Jack and Kathleen, with Bobby and David.

And as she did all our lives, whether it was when I walked back through the rain from school as a child, or when a President who was her son came back to Hyannis Port, she will be there ready to welcome the rest of us home someday. Of this I have no doubt, for as they were from the beginning, Mother's prayers will continue to be more than enough to bring us through.

Not long ago, I found a beautiful poem that symbolizes what all of us feel today. Its title is "The Rose Still Grows Beyond the Wall:"

Near a shady wall a rose once grew,
Budded and blossomed in God's free light,
Watered and fed by morning dew,
Shedding its sweetness day and night.

As it grew and blossomed fair and tall,
Slowly rising to loftier height,
It came to a crevice in the wall,
Through which there shone a beam of light.

Onward it crept with added strength,
With never a thought of fear or pride.
It followed the light through the crevice's length
And unfolded itself on the other side.

The light, the dew, the broadening view
Were found the same as they were before;
And it lost itself in beauties new,
Breathing its fragrance more and more.

Shall claim of death cause us to grieve,
And make our courage faint or fail?
Nay! Let us faith and hope receive;
The rose still grows beyond the wall,

Scattering fragrance far and wide,
Just as it did in days of yore,
Just as it did on the other side,
Just as it will for evermore.

THE BIOMATERIALS ACCESS ASSURANCE ACT

Mr. McCAIN. Mr. President, I am pleased to be the primary cosponsor of the Biomaterials Access Assurance Act of 1995 to ensure the availability of raw materials and component parts for implantable medical devices. This bill, which we introduced as S. 2215 last year, is necessary for Americans to have continued access to a wide variety of life-saving devices, such as brain shunts, heart valves, artificial blood vessels, and pacemakers.

Currently, the manufacturers and suppliers of materials used in implantable medical devices are subject to substantial legal costs and possibly liability for selling small amounts of materials to medical device manufacturers. These sales generate relatively small profits and are often used for purposes beyond their direct control. Consequently, some of the manufacturers and suppliers of these materials are now refusing to provide them for use in medical devices.

It is absolutely essential that a continued supply of raw materials and component parts is available for the invention, development, improvement, and maintenance of medical devices. Most of these devices are made with materials and parts that are not designed or manufactured specifically for use in implantable devices. Their primary use is in non-medical products. Medical device manufacturers use only small quantities of these raw materials and component parts, and this market constitutes a small portion of the overall market for such raw materials.

While raw materials and component parts suppliers do not design, produce or test the final medical implant, they have been sued in cases alleging inadequate design and testing of, or warnings related to use of, permanently implanted medical devices. The cost of defending these suits often exceeds the profits generated by the sale of materials. This is the reason that some manufacturers and suppliers have begun to cease supplying their products for use in permanently implanted medical devices.

Unless alternative sources of supply can be found, the unavailability of raw materials and component parts will lead to unavailability of life-saving and life-enhancing medical devices. The prospects for development of new sources of supply for the full range of threatened raw materials and component parts are remote, as other suppliers around the world are refusing to sell raw materials or component parts for use in manufacturing permanently implantable medical devices in the United States.

The legal concerns that are causing the unavailability of raw materials and component parts for medical implants are part of a larger product liability crisis in this country. Immediate action is necessary to ensure the availability of such materials and parts for medical devices so that Americans have access to the devices they need. Addressing this problem will solve one important aspect of our broken medical product liability system.

This issue initially came to my attention when I was contacted by one of my constituents, Linda Flake Ransom, about her 7-year-old daughter, Tara, who requires a silicon brain shunt. Without a shunt, due to Tara's condition called hydrocephalus, excess fluid would build up in her brain, increasing pressure, and causing permanent brain

damage, blindness, paralysis, and ultimately death. With the shunt, she is a healthy, happy, and productive straight-A student with enormous promise and potential.

Tara has already undergone the brain shunt procedure five times in her brief life. However, the next time that she needs to replace her shunt, it is not certain that a new one will be available due to the unavailability of shunt materials. This situation is a sad example of a medical liability system that is out of control. It is tragic, but not surprising that manufacturers have decided not to provide materials if they are subject to tens of millions of dollars of potential liability for doing so.

It is essential that individuals such as Tara continue to have access to the medical devices they need to stay alive and healthy. Enacting the Biomaterials Access Assurance Act of 1995 would help to ensure the ongoing availability of materials necessary to make these devices. It would not, in any way, protect negligent manufacturers or suppliers of medical devices, or even manufacturers or suppliers of biomaterials that make negligent claims about their products. However, it would protect manufacturers and suppliers whose materials are being used in a manner that is beyond their control.

Mr. President, we must act quickly to pass the bill to ensure that the lives of Tara and thousands of other Americans are not jeopardized.

LBJ AND THE BALANCED BUDGET

Mr. HOLLINGS. Mr. President, I would like to include in the RECORD an article by Jack Valenti that appeared in the Los Angeles Times on Jan. 20 on the Presidency of Lyndon B. Johnson.

Mr. Valenti enumerates many of President Johnson's accomplishments, including his fight for civil rights and voting rights for all Americans, the initiation of the Medicare and Head Start programs and the passage of the Elementary and Secondary Education Act, which helps provide Federal loans, scholarships, and grants to all American college students.

Indeed, President Johnson's accomplishments are many. And I would emphasize one more, which no President since has matched. Lyndon Johnson not only balanced the Federal budget, but gave Richard Nixon a surplus. In this era of a $4.8 trillion debt, that is one heck of an accomplishment.

Mr. President, I urge my colleagues to read this article and ask that it be printed in its entirety in the CONGRESSIONAL RECORD.

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

[From the Los Angeles Times, Jan. 20, 1995]

RECALLING A MAN WHO STAYED THE COURSE

(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He had been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. He came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting-rights bill because, as he declared, "every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you." He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate "a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again." He determined to pass what he called "Harry Truman's medical-insurance bill." And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted. "We're going to make it possible for every boy and girl in America, no matter how poor, no matter their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant," And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own "War on Poverty," giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, "If you don't risk, you never rise."

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find "an honorable way out" other than "hauling ass out of there."

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.

COMMENDING TOMAS JICINSKY

Mr. LIEBERMAN. Mr. President, I rise today to honor the exemplary and commendable efforts of Tomas Jicinsky to bring about democracy in the former Czechoslovakia. Mr. Jicinsky was instrumental in orchestrating and supplying democratic forces with information within the former Czechoslovakia. I salute the effort of Glenn Piasecki of Southington, CT, in recognizing Tomas Jicinsky's tireless struggle.

Mr. Jicinsky supplied democratic forces with information within the former Czechoslovakia, and organized underground meetings to begin the eventual downfall of the Communist regime. He worked with Charter 77, an organization dedicated to initiating and sustaining democratic principles throughout the world. I salute Mr. Jicinsky for his dedication to bring about democracy in the former Czechoslovakia.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I may speak as if in morning business.

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

Mr. FEINGOLD. I thank the Chair.

EMERGENCY SPENDING CONTROL ACT OF 1995

Mr. FEINGOLD. I rise today to join with my good friend, the Senator from Arizona, Senator MCCAIN, to discuss the measure we recently introduced, the Emergency Spending Control Act of 1995.

I want to just first relate how Senator MCCAIN and I came to work together on this.

After the election, of course, the results were not particularly happy for those of us in the minority party at this point, but the Senator from Arizona [Mr. MCCAIN], even though he is now in the majority, was kind enough to call and say he wanted to work together on a number of reform items

during the 104th Congress and that he wanted to do so on a bipartisan basis.

We talked about the revolving door issue, the issue of Members of Congress and staff leaving this institution and going to work for some of the interests that they have worked with and regulated in the past. We talked about the gift ban legislation. We also talked about the issue of what happens sometimes when we have a piece of emergency spending, a disaster bill, that comes before us and sometimes things are added to those bills that have very little to do with the disaster and sometimes have very little at all to do with what is being addressed.

So the Senator from Arizona and I decided to join together and introduce a piece of legislation that would limit the abuse of the emergency legislation. I am happy to say we also have some good bipartisan support in the form of cosponsorship by the Senator from Kansas [Mrs. KASSEBAUM]; the Senator from California [Mrs. FEINSTEIN]; and the Senator from Colorado [Mr. CAMPBELL].

The goal of our bill is simple. It is to limit the consideration of nonemergency matters in emergency legislation.

Mr. President, I think this is the right time for this legislation for many reasons but especially for two. The first is, of course, that once again we have the tragic reality of yet another disaster in this country, in particular in the State of California. This time it is floods, and there is a possibility of another bill arising out of the sympathy and concern and need to help the people of California.

Let me be clear. Even though this legislation is about preventing abuses on these disaster bills, my feelings and concerns for those who have suffered from that disaster are very real, and I know that is true of the Senator from Arizona and everyone who is involved in this legislation.

This follows after bills that have had to do with California earthquakes, floods in the Midwest, hurricanes, fires, droughts, you name it. We have had a terrible rash of these disasters in this country so there could, unfortunately, be more vehicles coming through the Congress that would allow the attachment of extraneous matter to this must-pass type of legislation.

So that is one reason. The other is, this is a very good time to bring this up because what we are discussing here in the Chamber, is the balanced budget amendment, the fact that we have got to find a way, whether we agree with the balanced budget amendment or not we have got to find a way to clean up our budget process here. And the balanced budget amendment is one approach. There are other examples of where the American people have seen what they believe to be an abuse of process, the insertion of pork items into pieces of legislation. That means money being spent that probably would not have been approved by the majority of Members if they were subjected to a separate vote and held up to the plain light of day.

So I think it is very important, in looking at the need to achieve a balanced budget and ways to do this, we find a way to stop this practice of funding some of these questionable items. Whether it be the Lawrence Welk thing or the tea-tasting board, these are the things that, even though they might not amount to a whole lot of money, stick in the craw of the American people as symbols of perhaps a fear that the folks out here are not always keeping their eye on the ball and worrying about the tax dollars they have to work so hard to raise and send to the Federal Government.

It is these types of things that wind up on the prime time type of shows, these types of things that cause other pieces of legislation that would otherwise be worthy types of legislation to get names like "Christmas trees" or "gravy train," and this becomes particularly unpleasant when the purpose of legislation is to show the compassion of the Federal Government, in particular the American people, for those who have suffered horrible unnatural disasters in their States.

So these are good reasons to bring this legislation forward at this time. The provisions of the bill limit emergency spending solely to emergencies by establishing a new point of order. The point of order lies against nonemergency matters if they are not rescissions of budget authority or reductions in direct spending. A point of order would apply to any emergency bill that contains a non-emergency measure or any amendment to an emergency measure or a conference report that adds nonemergency matters to the emergency measure.

Mr. President, there are also additional enforcement mechanisms. We prohibit the Office of Management and Budget from adjusting the caps on discretionary spending or from adjusting the sequester process for direct spending for any emergency appropriations bill if that bill includes the type of extraneous items that we have been discussing.

Mr. President, those are the main provisions of the Emergency Spending Act. I think they are timely also because of the progress that has been made in the last couple of years in reducing the Federal deficit by almost half, by almost $100 billion. It is encouraging but unfinished progress that has been made that has come from a willingness to identify and follow through on making specific spending cuts and certain revenue increases. I realize that simply creating a point of order is not going to be sufficient to help us make the hard choices out here that we have to make in order to balance the budget. I would say, though, Mr. President, that those points of order and the other rules we have and the rules that we have imposed upon ourselves in terms of caps are some of the effective things that buttress the efforts to identify specific spending cuts.

In terms of the progress in the last 2 years, I think we can very honestly say that we made a downpayment on reducing the Federal deficit, but we have a lot more ground to cover. The rules do help stop it, but no particular procedure, statute or even a constitutional amendment can replace specific policy action, making the hard choices that we must. I think this new point of order can assist us, at least, when it comes to emergency legislation.

The reason I rise on this issue and on this particular bill is that it is these exceptions that cause the people to feel we are not serious about everything we do here.

I am also worried that if we do not go forward with cleaning up the process by which emergency legislation is considered, in the end it is possible people will not look kindly on the idea of having emergency legislation at all—just let people fend for themselves in these places if there is a possibility this will be used to circumvent the fiscal discipline that is needed.

What I do suggest is emergency legislation that has to recognize the urgency but not allow the circumventing of the normal budget process. There are two ways that this process has been circumvented in the past. One way is to declare something an emergency and then have it attached to the emergency bill. That is possible. You do not have to have it be the same set of circumstances or the same natural disaster. If an emergency designation is made, these bills can be put together. The other possibility is the adding of explicit nonemergency items to emergency legislation to get expedited consideration.

Mr. President, our bill does not take care of the first problem. It does not take care of the problem where somebody has actually declared an emergency that may not, in fact, be a real emergency. And I think that is something we have to look at in the future.

Last year, on the California earthquake bill, I recall the Department of Defense managed to call an emergency a $1.2 million expenditure that was supposed to be for peacekeeping operations, ongoing, continuing peacekeeping operations that we knew about for the operations in Somalia, Bosnia, Iraq, and Haiti. Unfortunately, in my view, that was designated an emergency and suddenly attached to the California earthquake bill. And even though I tried to stop it with an amendment, that amendment was rejected, in part, out of fear that somehow this would derail the California

earthquake bill. So I think this is a problem. I think it needs to be addressed. But at this point the problem that I think we can actually address correctly is to establish new rules when it comes to attaching specifically nonemergency items to emergency legislation.

Mr. President, let us look at the California earthquake bill. What was it originally set up to do? Well, it had $7.8 billion for the L.A. earthquake. It had $1.2 billion for the peacekeeping missions which I just mentioned and which I think should not have been in there. It had $436 million for the Midwest floods and $315 million as a result of the continuing problems from the 1989 California earthquake.

Mr. President, that was the status as the bill came into the Congress. But by the time it left, these additional extraneous items had been tossed on to the California earthquake bill: A $1.4 million expenditure to fight potato fungus, a $2.3 million item to give the FDA people pay raises, $14.4 million for the National Park Service, $12.4 million for the Bureau of Indian Affairs, $10 million for a new Amtrak station in New York, $20 million for a fingerprinting lab, $500,000 for the U.S. Trade Representative's travel office, and finally $5.2 million for the Bureau of Public Debt.

All of this was thrown onto and became part of the gravy train pulled by the California earthquake bill. Under current law, if these nonemergency items are on a bill and they are still under the spending caps, then the legislation can go forward. And that is exactly what happened. In the case of the California earthquake bill, the caps had actually been reached but the rescissions had been used, a group of rescissions had been used essentially to offset the cost of these additional items. That, I suppose you could say, is paying for what you want to do.

But, the fact is, those rescissions could have been much better used to reduce our Federal deficit, to do a little bit about the problem we are going to be talking about so much here in the next couple of weeks on the floor of the Senate. How do we specifically find ways to eliminate the Federal deficit? So this process was an unfortunate one. These items, of course, could have been considered separately in an appropriate appropriations bill and in a more honest and direct manner.

So this issue of emergency spending and preventing nonemergency items from being attached to emergency spending is part and parcel of the overall goal of budgetary sanity and the goal of stopping the abuse that so many Americans like to call putting pork into bills.

I think it could also help make sure that our bills that have to do with disasters have some credibility as they go through the process. They should not be the subject of laughter or derision or prime time shows. The disaster bills should be the expressions of the American people's compassion for those who have been unlucky and subject to disasters that they had nothing to do with creating.

This identical legislation passed the House, the other House, last session, the 103d Congress, on a bipartisan vote as a substitute amendment, 322 to 99, and then finally, as amended, 406 to 6.

I now urge my colleagues to join me and the Senator from Arizona, in supporting this measure. As we engage in this very intense debate on the balanced budget amendment, let us at least join together on a bipartisan basis to get rid of the abuses that have to do with emergency legislation.

Mr. President, I ask unanimous consent that the text of the bill and an editorial from The Washington Post dated August 22, 1994, on this type of legislation be printed in the RECORD.

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

S. 289

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 "Emergency Spending Control Act of 1995".

SEC. 2. TREATMENT OF EMERGENCY SPENDING.

(a) EMERGENCY APPROPRIATIONS.—Section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not adjust any discretionary spending limit under this clause for any statute that designates appropriations as emergency requirements if that statute contains an appropriation for any other matter, event, or occurrence, but that statute may contain rescissions of budget authority.".

(b) EMERGENCY LEGISLATION.—Section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new sentence: "However, OMB shall not designate any such amounts of new budget authority, outlays, or receipts as emergency requirements in the report required under subsection (d) if that statute contains any other provisions that are not so designated, but that statute may contain provisions that reduce direct spending.".

(c) NEW POINT OF ORDER.—Title IV of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"POINT OF ORDER REGARDING EMERGENCIES

"SEC. 408. It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution, or amendment thereto or conference report thereon, containing an emergency designation for purposes of section 251(b)(2)(D) or 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 if it also provides an appropriation or direct spending for any other item or contains any other matter, but that bill or joint resolution, amendment, or conference report may contain rescissions of budget authority or reductions of direct spending, or that amendment may reduce amounts for that emergency.".

(d) CONFORMING AMENDMENT.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 407 the following new item:

"Sec. 408. Point of order regarding emergencies.".

[From the Washington Post, Aug. 22, 1994]

EMERGENCIES ONLY

The House voted 322 to 99 the other day in favor of a new budget rule that's a good idea. The Senate should concur in it. If not, the House leadership should find some other way of putting it into effect, for Congress's own good.

The revolutionary notion is that emergency appropriations bills should be limited to * * * emergencies. There tends to be at least one of these bills almost every year. They are used not just to provide emergency funds, but often as vehicles for funding lesser projects of a much more ordinary kind. What better place for a little something for the folks back home than in the fine print of a bill intended to rescue a region from a natural disaster? Who would sink so low as to complain about a minor extra favor in a bill with as generous a purpose as that?

The emergencies-only rule—no hitchhikers in the ambulance—is one of a series that have been proposed by Reps. Charles Stenholm, Tim Penny and John Kasich to tighten up the budget process. We've opposed some of the other changes. This one is called for.

For the sake of the spending that matters, Congress ought to learn to lay off the pork. You see the bad effects of doing otherwise, of lapsing into self-indulgence, all the time. The crime bill is only the latest example of a measure in which critics have been able to use questionable spending to tar and hold up constructive spending as well.

In fact, the amount of pork in the budget each year is greatly exaggerated—and of course what seems to one man to be pork may genuinely seem to another to be spending for an essential public purpose. There's no magic line. But there is some line—and some things seem to be pretty clearly on the porky side of it. Those are the things that people remember, the indefensible examples that come to typify all spending. If only they'd cut out the pork, the public is led to believe, there wouldn't be a deficit. It isn't true, and some of the greatest critics of pork are also among the greatest porkers on the side—but that doesn't matter.

The spenders ought to clean up their act. In this case, the anti-spenders are helping to point the way. The leadership should disarm them by doing as they suggest. Emergencies-only in emergency bills makes sense.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. FRIST). Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

The PRESIDING OFFICER. Under the previous order the Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, we are now, really, beginning debate on the proposed amendment to the Constitution of the United States.

I think before we propose to alter our fundamental charter of freedom, in fact, the blueprint for our representative democracy, I believe that we need to each step back from the political passions of the moment. We are debating a constitutional amendment, not just a political slogan or plank of a campaign platform or partisan win or loss or something that is supposed to fit on a bumper sticker. This is the Constitution. This is the bedrock of 200 years of the greatest democracy history has ever known. This is the standard set for the most powerful Nation on earth, the most powerful democracy ever imagined in history.

And even though we have very, very carefully amended this Constitution over the past 200 years—rarely amending, because we know that our whole democracy is built on it—suddenly the floodgates open. We have in the first 3 weeks of this new Congress 75 proposed amendments to the Constitution—75 proposed amendments. Can you imagine what the Founders of this country would think if they actually thought that in 1 year 75 proposed amendments would be here? Seventy-five.

The Founders of our country assumed that maybe once every several generations there might be some huge matter so necessary to amend the Constitution. Nobody ever assumed 75 proposals would come rushing in.

The House has passed one. It is not the extreme version supported by the House Republican leadership, but they still passed one. The Senate Judiciary Committee sent a companion measure to the full Senate for consideration.

Indeed, we have a backlog of proposed constitutional amendments in the Judiciary Committee. After a single day's hearing, we have two constitutional amendments to limit congressional terms on the committee's next agenda. There was also a hearing on another important topic, line-item veto, on which are pending four more constitutional amendments.

The proposals for constitutional amendments already introduced in this Congress range from the so-called balanced budget amendments—incidentally, there are at least three Senate versions, six versions considered by the House—to congressional term limit amendments, line-item veto amendments, school prayer amendments, retroactive tax amendments, and we are about to receive a proposed amendment to the first amendment regarding the American flag.

I have not seen an amendment to rewrite the taking clause of the fifth amendment, but when you look at the revised name of the subcommittee, the Subcommittee on the Constitution, Federalism and Property Rights, you have to assume it is not far away.

Some of these constitutional amendments call for proposed ratification through the State legislatures, but others demand a constitutional convention be convened.

There is a feeling, I guess, that we can do far better by convening one than those who wrote the original Constitution—Madison, Hamilton, Franklin, Morris, and Washington—that we can now do much better. They did not have the advantage of radio talk shows, I guess, or multi-million-dollar political consultants.

I have to ask, with a new majority in both the House and the Senate, what are their plans for rewriting our Constitution? Why the sudden need to change our 200-year Constitution? Do they want to have a host of constitutional amendments come forward or one, two, or five or six? Enough.

The Constitution is a good document. It is not a sacred text, but it is as good a law as has been written. That is why it survived as the supreme law of this land for over 200 years with few alterations. It is binding us together rather than tearing us apart.

Look at the great compromise in the Constitution that allowed small States and large States to join together in a spirit of mutual accommodation and respect, an amazing step, not done because of the passions of the moment, but by great thinkers in this country. And it has stood the test of time. It gives meaning to our inalienable rights to life, liberty, and the pursuit of happiness. It requires due process, it guarantees equal protection under the law, it protects our freedom of thought and expression, our freedom to worship or not to worship as we choose, and our political freedoms as well. It is the basis for our fundamental right of privacy and for limiting Government's intrusions and burdens in our lives.

I worry that we are so bent on moving so rapidly, as though we are passing some kind of an amendment to a minor bill, that we can not fully debate this amendment. That is not the way the Constitution should be amended.

I have to oppose what I perceive to be a growing fascination with laying waste to our Constitution and the protections that have served us well for over 200 years.

The first amendment—the separation of powers, the powers of the purse—these should be supported and defended. It is the oath we all swore when we entered service in this great and historic Chamber. That is our duty, not only to the Senate and the American people today, but to those who forged this great document, our responsibility to those who sacrificed to protect and defend our Constitution, often times laying down their lives to do it, and our commitment to our constituents today, and our legacy to those who will succeed us in this body.

In this constitutional amendment to try to balance the budget, there is added irony. The Republican Party has assumed majority status in both the House of Representatives and the Senate. They control the legislative agenda. They can pass any budget they want. We are talking about a two-thirds vote amendment, a constitutional amendment to balance the budget in the year 2002. It only takes 50 percent plus 1 to pass a balanced budget today. There are far more Republicans than that. There are a majority of Republicans in the House and the Senate. They could pass a balanced budget tomorrow if they wanted and not have to fiddle with our Constitution and say, "Maybe in the next century, the next millennium, in the year 2002, whoever is standing will do it for us."

They want to balance the budget, eliminate the deficits, start paying off the debt, including the huge debt of the Reagan years. The Republican majority could do that by a simple majority vote in both Houses of Congress in a matter of days.

I think that would show the leadership necessary. Instead, having taken over the majority, they propose a constitutional amendment which basically says we cannot trust the majority in the House and the Senate. There is somewhat of an irony here, Mr. President. If they really trust themselves, let us pass one right now.

I am concerned that we are too ready to seek what appears to be the quick fix. The Constitution cannot be amended by sound-bite. Supermajority requirements undercut our constitutional democracy. They evidence distrust not only of our Constitution but of the people who sent us here.

Proposed amendments to our fundamental charter require consideration whether they are, in the language of article V of the Constitution, constitutionally necessary. I hope that we are not going to burden the public or the States with a hodgepodge of poll-driven, popular-sounding constitutional amendments at some helter-skelter pace to beat some artificial deadline.

I hope that we will fulfill our responsibilities, not only in our individual committees, but in the bodies of both the House and the Senate, to have fair and open discussion.

I have studied the so-called balanced budget amendment. I have summarized 10 reasons to oppose the proposed constitutional amendment in my supplemental minority views contained in the Senate Report No. 104-5. I will have occasion to speak to these and other

reasons during the course of our debate.

I urge my colleagues to consider the views of Senators BIDEN, HEFLIN, and KYL; the minority views, including those of Senators KENNEDY and FEINGOLD; the hearings of Senators BYRD and HATFIELD on this last year. These are, in my view, essential background for this debate.

Let us take a look at this. Let us turn away from what appears to be a closed shop on this issue. Let us turn back from this path before partisan bickering and legislative gridlock overwhelm us to the detriment of the American people. In the U.S. Senate, of all places, we should not be afraid to have ideas debated, openly debated and voted on. Let us not resort to tabling motions on amendments, which allow you to be on both sides of an issue; but let us vote straight up or down. You do not come here to vote maybe, you come to vote yes or no. That is what we should do.

Our distinguished Judiciary Committee chairman has called this the most important matter that we will consider this year. I agree with him, but let us offer amendments and vote on their merits instead of engaging in procedural shortcuts.

There will be much more said. But, Mr. President, I come from a family that has revered the Constitution. I grew up with a father who told me how important it was because it protected the rights of not only the majority but of the minority.

I came from a family that found itself in the early part of this century in a religious minority and most of its life in a political minority in our State. But we knew the protections were always there. We knew they were always there for everybody. We knew we had a Constitution that stood the test of time. That was strong, that could be changed only by great effort, and only when there was an extreme need in the Nation to do so.

Mr. President, that is the philosophy with which I grew up. It is neither a liberal nor conservative philosophy. It is an American philosophy. I hope we hold to it.

I yield the floor, and I understand under the previous order that it would go to the Senator from Minnesota.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that as soon as I finish my short remarks, the next person to be recognized be the distinguished Senator from Minnesota.

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

Mr. HATCH. I thank the Chair.

Now, there is nothing more important we can do than improve the general welfare of all the American families and reduce the national debt that is eating away like a swarm of termites on a log. The way to do that is to pass the balanced budget amendment to the Constitution. To me, unless we do this, we are going to be in real trouble in this country. This past week, the House of Representatives answered the question: If you have to balance your checkbook every month, should not the Federal Government have to balance its books every year?

Their answer was "yes," 300 to 132. They answered the question: Has Washington spent your tax dollars wisely? And their answer was "no"—228 Republicans and 72 courageous Democrats bit the bullet and did the right thing. What a victory for all of us.

Right now, our debt is a staggering $4.8 trillion. That means that each and every one of us in this country, including every child, owes a whopping $18,500, and it keeps going up every day.

We can no longer saddle our children with decade after decade of unbalanced budgets. We have not balanced this budget in 26 years, and it appears to me that we have not balanced it but a few times in the last 60 years.

Current interest on the national debt is $300 billion a year and rising. Believe it or not, that is more than the total revenues that came to the Federal Government back in 1975. If the current trends in Federal spending continue, the Federal Government will double in size and consume nearly half of our gross domestic product in the next 35 years, where today it is consuming a lot less than that although more than it should.

The annual deficit causes untold damage to our economy. It hurts our wages. It raises our interest. It reduces the number of job opportunities for all of us. For those Americans who are retired, the biggest threat to Social Security is the Federal Government's fiscal responsibility—fiscal irresponsibility, I should say—because they are making the Federal dollar less and less important, and actually we will reach a point where it will be worthless. If we do not stop the spending binge, it will kill Social Security.

Instead of supporting the balanced budget amendment, the administration points to its so-called deficit reduction plan as the solution to our problems, but in fact President Clinton's deficit reduction plan was his 1993 tax increase, the largest in history. If you think raising taxes is the way to solve our budgetary problems, then hang onto your hats. You had better hang onto your wallets and pocketbooks as well.

Under the President's plan, the national debt will increase by $1 trillion in the next 5 years alone, even if all of his optimistic economic assumptions turn out to be true.

It is ironic that while many oppose the Balanced Budget Amendment Act because, they argue, it is nothing but a gimmick, the special interests are out in full force to protect their favorite, expensive, pork barrel spending programs. But whatever happened to the national interests? What about protecting the economic well-being of America and the future economic well-being of our children and grandchildren? We have to make these decisions now, and that is why this debate is important.

Personally, I do not like to amend the Constitution, but we have reached a point of no return where, if we do not amend the Constitution of the United States, we do not put this fiscal mechanism into the process, and we do not adopt a mechanism that forces Members of Congress to make priority choices among competing programs, this country will not be able to maintain its strength as the greatest country in the world and everybody, including every special interest in this country, will suffer in the process.

I have taken enough time this morning. I know my dear friend from Minnesota is about to speak, and I will yield the floor at this time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my good friend and colleague from Utah for his graciousness, Mr. President. And he is, agree or disagree, a good friend. It feels good for me to say that.

MOTION INTENDED TO BE SUBMITTED

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have a motion printed in the RECORD which I intend to make at some time while House Joint Resolution 1 is pending.

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

MOTION TO REFER HOUSE JOINT RESOLUTION 1

Mr. WELLSTONE. Mr. President, I move to refer House Joint Resolution 1 to the Budget Committee with instructions to report it to the Senate accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by 2002.

Mr. WELLSTONE. Mr. President, I will in the course of my remarks respond to some of what my colleague from Utah had to say, but first, so that my other colleagues in the Senate are aware of what I intend to do on the floor of the Senate at the right time, let me summarize this motion.

I intend at some time to move to refer this resolution, House Joint Resolution 1, to the Budget Committee with instructions to report it back to the Senate, accompanied by a report containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Mr. President, I ask unanimous consent that a piece by Al Hunt in the Wall Street Journal of Thursday, January 12, be printed in the RECORD at this point.

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

[From the Wall Street Journal, Jan. 12, 1995]

THE BALANCED BUDGET AMENDMENT: A CONTRACT WITH EVASION

"We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why, in this era of official evasion and posturing, we offer instead a detailed agenda. * * *"—The House Republicans' Contract With America.

"The fact of the matter is once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get to a balanced government [sic], their knees will buckle."—House Majority Leader Richard Armey on "Meet the Press" last Sunday, justifying GOP plans to pass a balanced budget constitutional amendment without specifying how it'd be achieved.

Dick Armey probably remembers House consideration last year of a real balanced budget measure offered by Rep. Gerald Solomon (R. N.Y.). It proposed huge cuts in health care, agriculture and income security for the poor, while completely eliminating all aid to Russia and subsidies for Amtrak and air service to remote areas.

The Solomon proposal got a grand total of 73 votes; Republicans, by more than a 2-to-1 margin, voted against it. Passing a balanced budget amendment may be easy; getting a balanced budget isn't.

In a reasonable path to balance by 2002, the budget would have to be cut by more than $1 trillion. This would be almost 30% larger than the 1990 deficit reduction legislation and more than 40% bigger than the 1993 measure.

The Republicans have excluded Social Security and defense, and discretionary domestic spending already is frozen. Thus a huge burden would be borne by the budget's fastest growing area, health: Medicare and Medicaid now are about 3.8% of gross domestic product; by 2002, without congressional action, these entitlements would soar to 6% of GDP.

The public is solidly behind a constitutional amendment; that's why it's featured in the Contract With America. But, as the Wall Street Journal/NBC News poll revealed last month, voters dramatically turn against it if that means 20% cuts in Medicare, Medicaid and veterans benefits. Thus, Dick Armey & Co. find evasion and posturing more attractive.

(Ironically, in contrast to this duplicitious measure, Senate Budget Committee Chairman Pete Domenici genuinely worries about deficits and wants to atone for the fiscal sins of the early 1980s. His House counterpart, John Kasich, is as knowledgeable and honest as he is earnest on these matters.)

It's outrageous that the GOP's self-proclaimed foes of the old politics whine that it's political suicide to address Social Security now. Last year two old dinosaur Democrats, Dan Rostenkowski and Jake Pickle, specifically proposed to trim cost of living increases for Social Security, raise the retirement age and cut benefits for more affluent recipients. Is it too much to ask the supposedly fiscally responsible Republicans to be as serious?

The $69 billion current trust fund surplus disappears in less than 20 years when the baby boomers start retiring. To suggest, as some Republicans do, that it'll be more politically palatable to address Social Security when more of these baby boomers are closer to actually retiring is, to be charitable, illogical.

Under a constitutional amendment, even if unfunded federal mandates are abolished, the states will take it on the chin. Governors will embrace a 10% reduction in the 600 categorical grants if they are turned into bloc grants with fewer strings attached. But a balanced budget amendment would necessitate more reductions. The big entitlements for the states—Medicaid, food stamps and welfare—would be cut drastically. Vermont's Democratic governor, Howard Dean, calculates that state funding would be reduced by 40% over seven years; on a state-by-state basis, it's calculated that New York, for example, would lose $11.225 billion in fiscal 2002, two-thirds of that from Medicaid.

At least those would be real cuts and there would be real debates. More commonplace would be gimmicks such as increased use of loan guarantees or unrealistic assumptions. (The measure doesn't require a balanced budget; it only requires that actual outlays don't exceed projected outlays.) Look for a huge increase in the use of regulatory instead of budgetary measures to meet demands for action, affecting state and local governments and business.

Conservative legal expert Robert Bork, an eloquent opponent of this amendment, has noted that "government need spend nothing on a program if it can find groups in the private sector that can be made to spend their own funds." He also envisions that unelected judges would be dealing with hundreds of suits to enforce—or not enforce—the amendment, as does Ronald Reagan's solicitor general, Charles Fried, who warns that the litigation would be "gruesome, intrusive and not at all edifying." (When House Republicans follow their speaker's advice to read the Federalist Papers, they may glance at number 78, where Alexander Hamilton proclaims that the judiciary should have "no influence over either the sword or the purse.")

Remember, the Gramm-Rudman legislation specifically promised to eventually balance the budget; instead the deficits soared. Democratic Rep. David Obey of Wisconsin sees that pattern re-emerging: "The cycle which quadrupled the deficit in the 1980s will be repeated. The amendment says we need 60 votes to pass a budget that's not balanced." When that horse trading starts, Rep. Obey ventures, all the pressures will be to add spending to attract votes. "In all my years as a legislator I don't think I've ever seen a member say I'll vote for something if you take things out. If this baby passes, I'll make a flat prediction: Three years after it is passed we still have a deficit well over $100 billion."

More than adding to public cynicism, that will debase the Constitution. Imagine a decade from now a businessman trying to collect $100,000 because the state has unconstitutionally taken part of his property for governmental use. When the country is violating the Constitution by $100 billion or $200 billion, who's going to worry about a paltry $100,000 constitutional offense?

Mr. WELLSTONE. His piece begins with an interesting quote:

We propose * * * to restore the bonds of trust between the people and their elected representatives. That is why in this era of official evasion and posturing, we offer instead a detailed agenda * * *.

This is a direct quote from the House Republicans' Contract With America. And the following comes from House Majority Leader DICK ARMEY, on Meet the Press:

The fact of the matter is that once Members of Congress know exactly, chapter and verse, the pain that the Government must live with in order to get a balanced budget, their knees will buckle.

Mr. President, yesterday, in Minnesota, I called on the legislative leadership in our State to put together a task force to assess the impact of a balanced budget amendment on the State of Minnesota. I did this, Mr. President—and this has been met with a positive response by legislative leadership—because last week I came to the floor with an amendment based upon a resolution from my State of Minnesota. This resolution was passed unanimously by the State Senate, Democrats and Republicans alike, almost unanimously by the House of Representatives, and signed by our Republican Governor, Governor Carlson, on January 20.

What this resolution said was, "when"—I changed my amendment to "if"—the constitutional amendment passes the Congress, Congress should send to the States, send to Minnesota, an analysis of the impact of this balanced budget amendment on State and local government and on the people in our State.

That amendment was defeated by essentially a party-line vote. I think I received 45 votes for that amendment. Talk about the right-to-know: my amendment simply said that if we pass a balanced budget amendment, before we send the amendment to the States we should provide an analysis of its impact on the people of the different States. I think every single one of my Republican colleagues voted against it. Talk about the importance of being straightforward, stepping up to the plate, being direct with the people we represent. Talk about the importance of the right to know—people should have the right to know what the impact of this balanced budget amendment will be on their lives before we pass it. Talk about the sort of crazy proposition that before you buy a used car you shouldn't lift up the hood and look at the engine. I was really dismayed that this amendment was defeated.

What I am now saying is very consistent with, I think, responsible public policy. My fundamental disagreement with some of my colleagues on the other side of the aisle is that I think we owe it to people in this country to lay out a detailed 7-year plan as to where we are going to make these cuts before we pass this. I think the reason my colleagues do not want to do this is because they do not want to lay out their plans.

Let me give some context, which I think really gets to the heart of this. Using conservative estimates, the Congressional Budget Office estimates that the interest savings that would come from the cuts—let us factor that in, let

us be fair—even taking that into account we are talking about a little over $1 trillion worth of cuts between now and 2002. To get to a balanced budget —$1 trillion worth of cuts. Where are we going to make the cuts?

On the next graph, Mr. President, is illustrated some real numbers. People in the country have a right to know where we are heading. By the way, I think the analysis I am about to make is in many ways irrefutable, just in terms of the basic commitments that some of my colleagues have already made. If you add the defense increases, and you also add tax cuts—I think the defense increase was, roughly speaking, $80 billion over 5 years and I think the tax cut was, roughly speaking, $360 billion over 5 years—now we are not talking about $1 trillion, we are talking about $1.481 trillion.

Now we are no longer talking about $1 trillion, we are talking about $1.481 trillion that we are going to have to cut between now and 2002. That is why I am going to move at the appropriate time that we refer this resolution to the Budget Committee with instructions to the Budget Committee that it bring to the Senate a report that contains a detailed description of a 7-year budget plan as to how we are going to cut $1.481 trillion.

Do we not at least owe that to people in the country? Is that not called truth in budgeting? Is that not called being straightforward? Is that not called stepping up to the plate and being clear and being honest about what we intend to do? Mr. President, $1 trillion says CBO, and in addition we have a bidding war to raise military expenditures, and in addition we have a bidding war for more tax cuts. Now we are talking about $1.481 trillion.

Let me turn to the next graph. Here is what I believe my colleague, Senator CONRAD from North Dakota called—and I say this to you always in good grace, "the Republican credibility gap." So far the spending cuts we have heard detailed in the Republican Contract is about $275 billion. We have seen specifics of $277 billion of budget cuts. Mr. President, $1,481 billion is what we have to cut to get to this balanced budget by 2002. So far my Republican colleagues have laid out budget cuts totaling $277 billion. There is a long ways from $277 billion here to $1,481 billion. That is truly the Republican credibility gap. And that is why at the appropriate time I will move to refer this resolution to the Budget Committee with instructions to the Budget Committee that it lay out a detailed plan as to exactly where we are going to make these cuts. We are not going to do well with people in this country once they realize we are quite unwilling to specify where we are going to make the cuts. People are going to begin to see this as a shell game, shifting burdens to the States, to personal income, property, and sales taxes of the states.

When I was back in Minnesota yesterday I said one of the reasons why it was so important to have some truth in budgeting—so important that people have a right to know where we are heading—is because of the likely impact on my State.

The Center on Budget and Policy Priorities issued a report yesterday, and I have some preliminary figures from that report. By 2002, in that 1 year alone where will we in Minnesota be? We will have $143 million less in Federal education. Where will we be: $1 billion, in 1 year, less in Medicaid; about $3 billion of cuts over the next 7 years.

This is another part of what I consider to be, really, a shell game. The cuts accelerate. They are less over the first 2 years and then they get deeper and deeper. When I say in the State of Minnesota we could very well be faced with $1 billion of cuts in Medicaid in 1 year alone, I want my colleagues to understand that half of Medicaid expenditures go to older people for nursing home expenditures. These are our parents and our grandparents. I think the figures on Medicare go even higher.

What do these figures mean? The Children's Defense Fund estimates that such cuts in 2002 would result in almost 30,000 Minnesota babies, preschoolers, and pregnant women losing WIC nutrition supplements; over 351,000 children losing food stamps; over 154,000 children losing free or subsidized lunches; over 2,004 blind or disabled Minnesota children losing SSI; and over 24,000 children losing access to remedial education.

I have heard my colleagues talk about our children and our grandchildren and the debt. I have voted for deficit reduction. I have voted for several years in a row for the deepest cuts we have seen in deficit reduction in decades and I will continue to do so. But for many children, the future is now. We keep talking about our children and the future, and I bring an amendment to the floor of the Senate 2 weeks ago asking the U.S. Senate to go on record saying that nothing we shall do by way of spending cuts or legislation will increase the number of homeless or hungry children in America and I cannot get a majority vote for that.

Let me repeat that. My colleagues talk about our children and our grandchildren. Maybe our children and our grandchildren are doing well now. We have fairly high salaries, and do well economically. But a lot of our children and grandchildren are not doing well now. For them the future is now. And I came to the floor 2 weeks ago with a reasonable sense-of-the-Senate amendment that we would go on record saying we are not going to do anything that would increase hunger or homelessness among children in America.

Mr. President, did you see the report today that one out of every four children in the United States of America are poor? One out of every four children under the age of 6. What about those children now? I could not get my colleagues to vote for that amendment. I think I understand why.

Let me go back to the chart on the credibility gap for a moment, if I could. Let me tell you why, Mr. President, the two amendments I have introduced in the last 2 weeks have failed with every single Republican voting against it. The first amendment, we will not do anything that will increase homelessness or hunger among children. The second amendment said we will at least provide States with financial analysis of the impact of the balanced budget on them before we send it to them for ratification. Why were those amendments voted down? What is it that my colleagues do not want people in Minnesota or Tennessee or Utah or anywhere else in the United States to know about the implications of this balanced budget amendment? It is the credibility gap.

These are the parameters. We are talking about, roughly speaking, $1.481 trillion worth of cuts, and so far my colleagues have specified $277 billion. That is a big credibility gap. And after you raise the Pentagon budget, and after you do more by way of tax cuts—and then we are saying that we are not going to be cutting Social Security; there seems to be strong agreement on that—in addition you pay interest on the debt. Do we think people do not see through this charade? It is clear where we are going to be making the cuts. Mr. President, I do not know about other States, but I will tell you one thing. When we cut the WIC Program, the Food Stamp Program, subsidized lunches, remedial education, law enforcement, environmental protection, higher education, and any number of other key areas, either our States will walk away from the people or our States will end up having to assume the costs.

These burdens are going to go back to the States. And I can predict what is going to happen. Just as we now, unfortunately, have moved to several tiers—people on the top and many people on the bottom—either we are going to have States that are going to pick up the costs—I can tell you, I will speak for Minnesotans. We are not going to let children go hungry. We are going to make sure that our young people can afford higher education. We are not going to break our contract with veterans. If there are going to be deep cuts in Medicaid and Medicare, we are going to make sure that people continue to have health care when they need it.

So we are going to end up having to pay for it. That is the shell game to this. That is why my colleagues are unwilling to specify what we are going to do. My colleagues are unwilling to step forward and say what we are going to do.

Mr. President, for myself I have never signed on to the notion of a balanced budget in the year 2002 because I think it is so political—and because it would depend on the economic circumstances at the time. For example, we wouldn't want to do huge spending cuts if we were in a recession. Of course, we have to continue with deficit reduction. Of course, we have to balance the budget. But the question is, What gets taken off the table and what gets put on the table? I have not heard a word so far about cuts in the military budget.

Mr. President, Senator BUMPERS, Senator BRADLEY, and I and several other Senators 2 or 3 weeks ago had a press conference looking at a lot of analysis that has been done on defense needs and potential defense and other related cuts. We essentially made the argument that here are some military expenditures that are just simply not necessary when we have to make these difficult choices, and we had cuts totaling $33 billion over the next 5 years; $114 million from 1996 to 2010. There are a lot of different programs listed. I will not itemize them today. I will later on in the debate.

Some of these are worthy programs. For example, let me say the space station has many exciting possibilities. But I would far prefer to feed children on Earth in the United States of America than to send a station into space. We have to start making these difficult choices. But I do not hear people talking about any of these big military contractors having to sacrifice. Oh, no. Oh, no. It is the children, a quarter of whom are poor, who do not have lobbyists, who do not have political power. So what we are going to do—which is why we are unwilling to specify the cuts beforehand—is we are going to make cuts based upon the path of least political power.

It is interesting. Again, I borrow from the fine work of Senator BUMPERS. When I hear my colleagues say we have to raise the Pentagon budget. But we will cut the School Lunch Program, we are going to do it. The arithmetic is compelling. We are not coming anywhere close to telling people how we are going to cut $1.4 trillion. We know where we are going to cut. That is why we are unwilling to be clear about it. That is why we are unwilling to specify before we pass the balanced budget amendment. I have not heard any discussion about cutting military contracts.

Just a couple of interesting figures on this chart. If we take the U.S. defense budget and you add NATO and other allies, altogether we are spending about $530 billion. Russia, China, and all the rest of our potential adversaries combined, total potential adversaries combined, only spent $121 billion. The United States alone has a larger defense budget—$280 billion—than all of our potential adversaries combined, which is $121 billion. Yet some are talking about raising the Pentagon budget. We are talking about a little more to cut taxes for people, and then we say we are going to have deficit reduction through a balanced budget amendment, but we are unwilling to specify where we are going to make the cuts. We are unwilling to tell people in Minnesota, Tennessee, and Utah, all across the country where they are going to be at 2002 and what they are going to be faced with.

There are, of course, other choices to be made. I will be on the floor later on with Senator FEINGOLD and others talking about this. But it does strike me as odd and politically troubling, if you look at the Republican contract, if you look at the Contract With America, there is no mention of anything that asks large corporations, or large financial institutions, or any other wealthy interests, to sacrifice at all.

They say we are going to cut nutrition programs for children. There is no question about that. We are going to cut child care. We are going to cut higher education. We are going to cut Medicaid. We are going to cut Medicare—deep, deep cuts that will accelerate as we approach the year 2002. We will likely not do much the first year, before the elections. It is all carefully designed. It has to happen. The arithmetic is clear. But we are not going to touch oil company subsidies at all. We are not going to go after bloated military contracts. We are not going to deal with some of the other loopholes and deductions that a variety of different large, powerful financial institutions are able to take. We are not asking them to sacrifice at all.

That is the reason, Mr. President, we do not want people to know where we are going to make the cuts. We are likely going to go forward and pass a balanced budget amendment without even being willing to be straightforward and clear with the citizens we represent as to what this means for their lives, as to what kinds of cuts we are going to make, in what kinds of programs and how it is going to affect them and their children.

That is why I intend, at an appropriate time, to move to refer this resolution to the Budget Committee with instructions to report it to the Senate accompanied by a report from the Budget Committee containing a detailed description of a 7-year budget plan that would achieve a balanced budget by the year 2002.

Should we not be honest with people and straightforward with people? Why do we not do that? The answer is, we do not want to tell people where we are going to make these cuts. We want to pass perhaps the most important piece of legislation that has been passed in decades, with far-reaching consequences for the people we represent, for the lives of people we represent, and we do not want to, before we pass the balanced budget amendment, lay out the plan as to where we are going to make the spending cuts and other policy changes required, and how they are going to affect our States and counties and our cities, how they are going to affect the people we represent.

Mr. President, it is interesting, I want to make this clear that this is not just an urban issue. I was this past weekend in Jackson County in southern Minnesota meeting with corn and soybean growers. I say to my colleague from Utah that I will bet you the vast majority of the people there are for a balanced budget amendment; I think that is true. But what they are worried about is that they want to know where the cuts are going to take place. When we hear that subsidies are going to be eliminated, we are all for it if we know where they are and if you give us a fair price in the marketplace. For those of you who know this language—and if you come from Minnesota, you certainly do—they are talking about the loan rate and Commodity Credit Corporation. Give us a fair price, that is all we ask for. Then they say: We have not heard people talk about the fair price and about cutting back on the conservation program, not giving us a fair price. If you do that, you are taking a good percentage of farm income of people who are barely hanging on.

Mr. President, under a balanced budget amendment there are going to be deep cuts and a lot of people are going to be hurt. My colleagues say, well, we have to do all this, it is in the national interest. It is in the national interest to continue to reduce the deficit. It is in the national interest to move toward a balanced budget. It is in the national interest to do it by the same standard that every single family in this country lives by when they balance their budget, which is a standard of fairness, not just targeting those with the least amount of political clout, or going after health care and education, or children and leaving all sorts of other subsidies untouched. That is the way we should do it.

But, Mr. President, we are not going to do it that way. Let me be crystal clear. We are not going to do it that way. Instead, we are going to make deep cuts, we are likely going to pass a balanced budget amendment, and ultimately we may not, because I think the longer this debate goes on and the more people pay attention to this debate, they are going to say wait a minute.

Back to the chart on the credibility gap one more time. They are going to say, wait a minute, Senators, we heard there was going to be a trillion dollars in spending cuts, and then we hear that there are those saying they want to increase the Pentagon budget by $80 billion over 5 years; then we hear everybody is in this bidding war to cut more

taxes which means less revenue, which has to be offset somewhere. Now we hear that the estimate, conservatively speaking, is $1.481 trillion. So far, proponents of the amendment have only specified $277 billion worth of cuts they are willing to make. We would like to know, Senators, Democrats and Republicans alike, where are you going to make the cuts? How is it going to affect us? Is it going to be according to some standard of fairness? Are we going to have to pick it up at the State level? Is it going to be the property tax or sales tax that now we are going to get hit with?

Well, people have every right to ask those questions. In fact, there is overwhelming support in the United States of America for the right-to-know proposition: Recent polls show over 85 percent in favor. Last week, I came to the floor with an amendment that I thought would pass. It was so reasonable. It said if we pass a balanced budget amendment, let us send it to the States with a detailed analysis of how this will affect Minnesota or Tennessee, and the people who live in our States. It was voted down, essentially a straight party vote.

Mr. President, over the weekend, I have been thinking long and hard about this. I have decided, before we get too far into this debate, I should come to the floor before we get too far into the amendments and move to refer this resolution to the Budget Committee, with instructions for the Budget Committee to come back with a report that contains a detailed description of the 7-year budget plan. That is reasonable. It is consistent with being accountable. It is consistent with being straightforward with people and with the people of the United States of America knowing exactly what we are going to do. I think that is exactly what people believe in strongly.

So I have filed this motion, and a little later on I will go forward with this motion. I thank my colleague from Utah.

I yield the floor.

Mr. HATCH. Mr. President, I have listened to my distinguished friend from Minnesota. As usual, he is an advocate for those who are poor and have difficulty in our society. I admire him for that. On the other hand, I do not think there is a person in America who thinks for one second that this voracious, money-eating, money-grubbing Federal Government does not eat up an awful lot of this money right here in the bureaucracy. In fact, there are many authorities who seem to indicate that of all the billions of dollars taxpayers are spending for the poor, welfare, food stamps, AFDC, you name it, and the thousands of programs that we have, some believe that only 28 percent of all of that money we pay actually gets to the poor.

Mr. WELLSTONE. Will the Senator yield for a minute?

Mr. HATCH. I will be happy to.

Mr. WELLSTONE. I want to make it clear that I know everything the Senator says he says in good faith, and he is always rigorous in his analysis. When I hear the Senator talk about how there are all sorts of overly centralized programs and bureaucratized programs and there are cuts we can make, I say to the Senator: Fine, the only thing that I am going to do in this motion is to say to the Budget Committee, before we vote, let us be clear about where we are going to make the cuts.

I do not necessarily disagree with what the Senator is saying. I have to see the numbers. But let us lay them out. If the Senator and other members of the Budget Committee can tell me how we get from $277 billion to over $1 trillion in cuts and where they are going to be, that is what we should do.

Mr. HATCH. I will get into that in just a minute. I want to make this point, and I am glad the Senator recognizes there may be some merit to this point. We, in the interest of controlling everybody—we liberals back here in Washington—and that is what you have to call us—we have built such a bureaucracy that we are robbing everybody, and very little of that money actually gets to the people that my friend is worried about. And I too worry about those less fortunate than most.

I am the author of the child care bill, along with Senator DODD. He and I were there at the last minute of that particular Congress making sure it went through. Nobody in America was more concerned about child care than I was, and I am a conservative. So I take second seat to no one on this problem. It is not an unknown fact that I was the person who helped to save the Job Corps Program, which is the only program for unemployed youth in our society. It is expensive. It costs over $20,000 per youth per year. On the other hand, if we just write them off, they are going to cost us better than a million dollars a person by the time they die. We will all have to pay for that.

I can name a number of other programs I have helped to save and have passed here that are very important. I have just as much feeling about the poor and the sick and the needy and our senior citizens as any Senator in this body, including the Senator from Minnesota.

But I know that this bureaucracy back here, that this liberal Federal Government which employs an awful lot of people here in Washington at pretty high rates of pay compared to the average citizen's salary, is eating us alive before the moneys get to those who really need it. And when the moneys finally get there, they are minuscule compared to what we taxpayers have paid.

I hear the distinguished Senator talking about how we have to cut the military so that children can eat. No, we have to cut the bureaucracy so both the military can be strong and children can eat. And we will never do it without a balanced budget amendment.

We get credit for these programs. We get a lot more credit for spending than we do for standing on the floor and conserving.

Having said that, I have been very intrigued by colleagues on the other side, almost none of whom is for the balanced budget amendment. Why? Because they like to spend. They do not want any hampering restrictions on their ability to do good. And I am not questioning their sincerity, but I do question whether they are doing good all the time, laundering the moneys to an all voracious eating Federal bureaucracy.

I would rather send those moneys to the States, where the States, who understand local problems, will do a far more efficient job than the Federal Government. Our Governors are begging us to send block grants for welfare to them. They do a better job. They will make it more efficient. They will get more help to people and in the end people will be better off.

When Reagan became President, I became chairman of the Labor and Human Resources Committee. That committee overviews between 2,000 and 3,000 Federal programs. President Reagan came to me and said, "Orrin, you have six of the seven block grants in your committee."

Now, it was an interesting thing, because I had a heck of a time getting any block grants passed. It was still a pretty liberal Congress, even though the Republicans had taken over control of the Senate. But the House was still controlled by Democrats.

I was having a rough time. One day President Reagan called me and said, "Orrin, what is the matter with you up there? Why can't you do what I have asked you to do?"

And I have to say that I was not quite as respectful to the President as I should have been—and I have always been. I said, "Wait a minute, Mr. President." I said, "Have you looked at the makeup of our committee?" There were seven total liberals on the Democrat side and two liberals on the Republican side. The committee was 9 to 7 in favor of what Senator KENNEDY wanted. I said, "How do I put through block grants with that kind of a lineup?"

I will be honest with you. We did. We fought for them and we were able to get some of them through. Some of them were pure block grants and they work magnificently. Some of them were hybrids. They were partly block grants and partly categorical programs. And some were called block grants but were not.

I give a lot of credit to Senator KENNEDY for working with me to do some

of the things that we did. And they worked. In fact, one of the leading liberals in the Congress came to me—in fact, I would say one of the three or four leading liberals in the Congress—came to me and said, "Now, don't ever quote me by name"—and I am not—"but those block grants work." They work. And the reason they work is because we do not go through this voracious grab by Federal bureaucracy for everything.

When I see the little bit of money that gets back to the poor from the programs advocated by those who share the viewpoint of my friend from Minnesota, who has been making these wonderful arguments about how deeply he feels about the poor—nobody feels more deeply about them than I do—when I see the little amount of money that gets back to them once it is laundered through the Federal bureaucracy, where we see all these sociologists, all these Ph.D.'s, and all these people who are paid pretty high wages as they manipulate, manage, fuss, and bother, and work on programs and come up with new ideas every time you turn around, when I see how little money gets to those people, I just shudder.

This balanced budget amendment will make the Federal Government more efficient. It help us help the poor more. It will make every dollar count. And I do not care how liberal you are; I do not care how conservative you are. You are going to have to work within a structure that requires us to live within our means, or at least go in that direction.

This amendment does not always necessarily require a balanced budget. It just puts on a fiscal mechanism which forces us to at least move in that direction. Because if you want to increase the deficit, you are going to have to have a three-fifths vote to do it. That means 60 Senators in the Senate would have to vote for any increase in spending. If you want to increase taxes, you are going to have to have a constitutional majority, which means you cannot do that with less than 51 actual votes in the Senate and 218 actual votes in the House. Most importantly, you are going to have to vote, where now we just hide it by voice votes. We just go along with business as usual.

We do not worry about these things. The fact is this amendment would make us worry about these things. It would make us a little more concerned about where all the moneys go.

If there is waste in the military, and we all know there has been—I do not think there are any more $600 toilet seats and $500 hammers or screwdrivers—but the fact of the matter is, if there is waste, we as Members of Congress can no longer blithely ignore that. We are going to have to look for it and we are going to have to get rid of it, because we are going to have to live within certain economic constraints, which is where we ought to be and what we ought to do.

(Mr. KYL assumed the chair.)

Mr. HATCH. The poor are being ripped off because, as the distinguished Senator from Illinois has said on many occasions, if we keep going in the direction we are going, we are going to have to monetize the debt. And once we do that, this country's power in the world, economic clout in the world, its stability in the world will be gone, because nobody will believe in the dollar after that, because we will have paid off all these debts with worthless dollars, or at least very, very much devalued dollars.

Now, that is where we are headed unless we do what is fiscally responsible, that which Thomas Jefferson indicated he thought we should have put in the Constitution from the beginning: That is, put in a fiscal mechanism in the Constitution that is not so tight that you cannot operate within it, but is not so tight that you cannot have unbalanced budgets if that is in the best interests of the country.

If military spending is not efficient or unnecessary, we ought to correct the military. But there are not the incentives or the pressures to do that today because we simply spend the money with virtually no restraint. We just spend the money.

If we are wasting money on social programs, we ought to correct those wastes. But we do not do it today because we just spend the money.

If there are other programs in the Federal Government that are not working and are not as valuable as some programs, we ought to bite the bullet and get rid of them. But today we just spend the money.

Now I have seen for 18 years those who are against the balanced budget amendment come on this floor time after time or speak in public time after time or on television shows or on the radio, and say, "We ought to have the guts to do what is right here. We ought to balance the budget and we ought to do it without a balanced budget amendment."

Well, we ought to. But the fact of the matter is, there are not the votes to do it. People will not do it because there is no fiscal mechanism in the Constitution that requires them to do it.

So when somebody comes on the floor and says, by the way, they have always been an opponent of the balanced budget amendment, and almost all of these who are critics are, the new game in town is to say, "Show us how you are going to the get to a balanced budget in 7 years." We have three or four plans around here that show that. The problem is, we do not have the votes for any one of those plans to do it. So nobody in this context can show exactly how we are going to get it in the year 2002 unless we have a mechanism that forces us to do it. That is what this is all about.

So when the new methodology to defeat the balanced budget amendment is, "Show us how you are going to get there in 2002," I can give them 20 plans that will show them that. The point is there is no incentive or power or force or mechanism to enact any of them in the current Congress without a balanced budget amendment forcing us to meet these problems.

So that is why this is important. We do not want to put the cart before the horse. We need to pass the amendment. That puts the mechanism in that makes Members of Congress make priority choices among competing programs.

I happen to believe that Members of Congress believe in the Constitution. I happen to believe that they believe in the oath of office that they have taken. I have seen a reverence for the Constitution no matter what the philosophy of people in the Congress. It is the same in the States. The State legislators revere their constitution. We revere ours.

I do not think it is a naive belief to say if we pass the balanced budget amendment and it is submitted to the States and it is ratified by three-quarters of the States, that we will do what has to be done; we will live within our budget limits; we will force ourselves to debate the implementing legislation and how we get to a balanced budget by the year 2002, if possible; or we will vote to either increase taxes or to increase the deficit, because it cannot be done. But that will never happen. But today that type of a debate will never happen—with any hope of fruition—unless we have the amendment mechanism in the Constitution to force Members to do it.

Government excess spending is our biggest threat, to our eyes on this side of the floor. To the distinguished Senator from Minnesota, failure to curtail excess spending in the military is one of the biggest threats. Military spending is now the third largest item in the Federal budget. The second is that interest against the national debt, that is over $300 billion and will approach $500 billion shortly after the first of the century if we do not do something now.

So, this call, to cut military spending without a balanced budget amendment, is a fruitless call. Nobody has been able to do it so far. We have tried through the statutory methodology. I was sitting right back there in 1978, and I remember when we passed the Byrd amendment that required the Senate to balance the budget in what I believe was 1980. Yet, an amendment was offered that required a 51-percent majority vote for a balanced budget. This completely subverted the very important Byrd measure that had previously just passed by an overwhelming vote

on the Senate floor. There was no constitutional force or requisite to meet that challenge that Harry Byrd made. It went down to defeat.

Then we came up with Gramm-Rudman-Hollings. I cannot say that it did not work at all. But in the end it was a simple statute that we did away with and changed its goal and timetables. Frankly, it never really worked well. And today we are right back where we started. True, with the largest tax increase in history, the deficit trend line has gone down and will go down until 1996, when it just shoots right straight back up again.

What are we going to do, raise taxes again and solve this problem that way? Or are we going to start working on priority choices between competing programs in the budget? The only thing that will get Members to do that is a balanced budget constitutional amendment. It is not because people in Congress are bad people or they do not want to do what is right. It is that there is so much pressure to spend here. There is so much pressure by every special-interest group in this country to cover their problems and solve their difficulties.

We are sincere. We want to do what is right. But right now we do not have to because there is no mechanism forcing Members to consider doing what is right. This amendment is a bipartisan consensus amendment that we have worked out over a period of almost 10 years now, since we passed the first balanced budget constitutional amendment through the Senate and lost in the House back in 1982.

A lot of us, somewhere, worked on it. It is important. A lot of Democrats have worked on this. A lot of Republicans have worked on this. Any one of us could write a tougher amendment, one way or the other. But this is a bipartisan consensus amendment. This is the only one that has a chance of passage. It will do the job because it does three things. It does more than three things, but three things I want to mention. It requires a recorded three-fifths vote to increase spending. To increase the deficit, you will have to get a recorded three-fifths vote to do so. Once you do that, everybody in America will know who voted that way. They may agree with it. But they may not, either. And everybody here will have the pressure on their backs to determine whether or not it is the right thing for them to do. Today, we generally lift the debt ceiling by a voice vote. Nobody wants a recorded vote on that issue, and thus raising the debt ceiling has become automatic because we do not have a recorded vote.

Second, if you want to increase taxes, you have to have a constitutional majority. That is important. Any legislation could be passed here by a vote of 26 to 25 because we have 51 Senators making a quorum. Anything else could be passed by less than 51 votes. Once this amendment becomes law, the only tax bills that could be passed through both Houses will be those bills that get an actual 218 Members to vote for them in the House, and an actual 51 in the Senate.

Third, and I have alluded to this before, we have a recorded vote to raise the debt ceiling and there is a three-fifths requirement to do so.

Those are three very important reasons why we should enact this balanced budget constitutional amendment.

Now, there are good worries on both sides of the aisle on almost every aspect of this. We can raise all kinds of hairy problems. The fact of the matter is that this is a bipartisan amendment, done by Democrats and Republicans, which is the only one in history that has a chance of passage and, for the first time in the history of this country, has passed the House of Representatives. Back in 1982, an amendment that was not quite as good as this one passed the Senate by 69 votes; in other words, 2 more than we need. We have to have 67 votes on a constitutional amendment in the Senate.

I believe this amendment is worthy of passage. I am fighting arm in arm with my fellow Democrats who are linking arms with me and with others on this side who have worked so hard to try to pass this amendment. We are fighting together, side by side, trying to get it through. I believe we have a chance at doing it if the American people really get on the backsides of their Senators and let them know that this is something that has to be done. Nothing short of that will get this done.

There are other things I would like to say, but I think there are others on the floor who would like to speak to this matter. I defer other remarks to a later time. I yield the floor.

Mr. GRASSLEY. Mr. President, I want to support House Joint Resolution 1. The significance of the No. 1 is very important. If Members go out and talk to people at the grassroots, they think, to have a balanced budget, there is a need for a constitutional amendment. They think this amendment is the first order of business of any Congress. I think the last election said that it ought to be the first order for this Congress. It is very simple, particularly for middle-class people in America, and the small entrepreneurs and to the farmers of America, that Federal spending must be controlled, the deficit eliminated, and the national debt brought down.

There are very important economic reasons to balance the budget, but more essentially, there are moral reasons to balance the budget. The moral issues, in fact, now, are more important than the economic reasons. Early on, I think we could justify the amendment on economic reasons, but now the immorality of our generation living high on the hog and leaving the bill to our children and grandchildren to pay makes it much less an economic issue. We are borrowing the future of our children and grandchildren through the bad fiscal policies. We must end this practice.

Because every other means has failed to produce a balanced budget, we must enact an amendment to the Constitution. Every other means has failed. Gramm-Rudman I and II. I even remember when I was a Member of the House of Representatives, I worked very closely with another person by the name of Byrd, Harry Byrd, who was a Member of this body, a Senator from the State of Virginia. He was very much a fiscal conservative. He thought, just pass a law that would say that Congress cannot expend more than the taxes raised.

I was in the House of Representatives at that time, and I worked very closely with former Senator Byrd of Virginia to make sure that amendment he passed in the Senate would get through the House of Representatives. I had to, in a sense, camp out in the Chamber of the House of Representatives for about a 2-week period of time to be there from gavel to gavel. I knew that the leadership of that body would want to avoid the membership being forced to vote upon the Byrd amendment when it came over to that body.

Finally, when they knew I was going to stay in the Chamber of the House and force a vote on a motion to instruct, they let it come to a vote, and it was overwhelmingly adopted. So in 1978—maybe it was 1979—we had a law on the books saying that Congress could not spend more than it took in.

But did it do any good? No. The theory is one Congress cannot bind a succeeding Congress, and I suppose that is good constitutional law. So when we passed the succeeding budget that was out of balance, it was then read as overriding the Byrd-Grassley amendment.

So after that and after Gramm-Rudman 1 and 2, we still did not have a balanced budget. Then there were several attempts on my part to merely freeze the budget across the board, and I was joined in that effort, let me say, by my good friend, Senator BIDEN of Delaware, and Senator KASSEBAUM. The freeze in and of itself would not have brought about a balanced budget in the first year, but in 2½ years we would have had a balanced budget. But we could not get a majority for that. After all those efforts, I have become a supporter and advocate for a constitutional amendment to require a balanced budget.

More so than what I have said is my rationale for the constitutional amendment is the fact that in my own State of Iowa we have a constitutional amendment requiring a balanced budget, and I have seen our State legislatures faithfully abide by that, whether

controlled by Democrats or controlled by Republicans. I think it works. So we must enact an amendment to the Constitution because nothing else has or nothing else will work. Irresponsible debt threatens our future, not just the future of the young people that are our future but the very form of our society and the freedom, both political and economic, that is an integral part of our society.

I think the reason we look at it the way we should, as a moral issue, is because it threatens our children's future. Our deficits have not occurred because Congress has not taxed the American people sufficiently. Rather, these deficits have developed because of runaway spending. And all you have to do is look at efforts to increase taxes to reduce the deficit—and we have had four or five of those in the period of time I have been in this body—and the deficit does not get smaller. It is still yet larger.

The reason for that is because the Government not only spends every dollar that comes in in taxes, but it borrows another 50 cents almost to spend in conjunction with it. So in fact I think lower taxes, less income, is one less dollar to have an excuse to borrow another 50 cents against to ratchet up spending and ratchet up the deficit.

Washington has not only been irresponsible, but I think this process of our fiscal irresponsibility fosters the wrong values in our society. Spending is increased, and the results of the spending have not been to accomplish what was promised. Programs which have a philosophy that all you have to do is tax and appropriate money and you are going to solve a social problem just have not worked.

We have to stop the immoral behavior of passing along increased debt to our children and future generations and get out of this time warp that we are in that somehow money spent through the Federal budget or the creation of some new program is going to solve our problems.

A balanced budget amendment fits appropriately within the design of the original document because, as the preamble says, the Constitution was adopted by,

> We the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.

"Posterity" is a word that we do not hear much anymore. We run our Government as if the only relevant considerations are what are in today's newspapers, what we do today. We, in elective office, tend to be more concerned about the next election just 2 years away than about the next generation. We consider the consequences of our acts in short timeframes. Rarely do we take account of the effects that our actions will have on posterity's ability to enjoy the blessings of liberty in the way that my generation has and the way that the preamble presumes that our future generations should be able to enjoy the blessings of liberty.

Among the blessings of liberty that our constitutional system has maintained is a standard of living that rises with each generation. Keys to this enhanced economy have been productivity, growth, and investment. In recent years, productivity, investment and savings rates have declined with the concomitant negative impact upon the economy.

The 26-year continuous string of unbalanced budgets has contributed to these poor economic results. I do not think it coincidental that the stagnation of average wages over the last 20 years has been accompanied by high budget deficits by our Government.

Moreover, economic growth in the last 26 years of counting deficits has fallen short of the prior 26 years. Budget deficits have been run up to fund current consumption. The effects of these deficits are already negatively affecting the budget. When we last balanced the budget—and that was in 1969—9 cents of every dollar of Federal spending went to payment of interest on the national debt.

Now, however, 26 cents of every dollar goes toward paying the interest on the national debt. We receive nothing for making these payments, but we will force future generations to pay an even greater proportion of the budget as interest unless we act to pass this constitutional amendment, because all the other acts in good faith that this body has taken have not produced the desired results of a balanced budget.

Moreover, we will have to tax future generations at incredibly high rates just to pay the interest on the national debt if nothing is done. The figures for that problem that lies ahead for future generations vary depending on the assumptions made.

Future generations will pay the vast majority of their lifetime earnings in Federal taxes. Various assumptions bring up various percentages of two-thirds or three-quarters or even 93 percent that future generations might have to pay in taxes just to pay interest on the national debt.

So it is unacceptable that we live high on the hog by masking the true costs of the programs while leaving future generations to pay the cost, meaning the principal plus the interest.

That was not done to us by our grandparents or parents or great grandparents or any of the 11 generations that we have had. It seems to me because it was not done to us, we have even more of a responsibility to make sure we treat future generations with the same respect that past generations have shown us.

I am concerned that some people think that the deficit and the national debt are issues of declining importance. While it is true that the deficit will fall this year, we cannot afford to declare victory and stop worrying about the deficit. The deficit will rise in the near future by the administration's own estimates.

Moreover, I believe that the administration's interest rate forecasts have been too low. Higher interest rates will only increase the portion of the budget spent on interest on the debt. Moreover, deficits themselves increase interest rates in the long run, and higher interest rates harm renters, home buyers, farmers, and small business people—maybe everybody who borrows. But it seems to me that it particularly hurts those people who have to borrow for need or those people who have capital-intensive industries and small businesses to create their own jobs.

Deficit spending has produced other negative consequences. Last year at the hearings held on the amendment in the Judiciary Committee, the former chief actuary for Social Security testified that deficit spending has led to lax Government accounting. If the balanced budget amendment were enacted this actuary testified that Congress would finally have to start examining Government accounting. Just the simple accounting procedures by the Federal Government are way off. There is no incentive to correct the procedures as long as the Government can borrow and borrow and borrow and not have to meet a legal, constitutional requirement of a balanced budget. According to his testimony, one account at the Department of Defense has been mismanaged for 30 years. The State Department has lost account of billions of dollars worth of property. And the Comptroller General has said that some Government bills have been paid twice.

A balanced budget amendment will force us to take a tough look at Government accounting as well as Government spending. This is all to the good. Rooting out wasteful spending is the best way to make headway against the deficit.

Yes, there is wasteful spending to cut.

Cutting spending does not have to mean that people will be hurt. We have spent trillions on social programs, and the problems remain. In many instances, the programs have made the programs worse. As Ronald Reagan said, "We fought a war on poverty—and poverty won."

Even when a program has good ends, it is frequently mismanaged. We all know how much of the money is wasted on too many bureaucrats, regardless of how well intentioned they are or how much work must be done. It may be true that there are now fewer Federal personnel than in the past 30 years. But does anyone miss the ones no longer there? Has anyone's life suffered as

these surplus employees have left and not been replaced?

I believe that the worthwhile and important programs could grow at a smaller rate, and could be just as effective, if they were critically examined and changes made. The programs that do not measure up should be eliminated. We can balance the budget this way under the proposed amendment. Cutting the Washington bureaucracy is the key.

Since the deficit itself is a significant problem, why not just cut the deficit now? Why enact a constitutional amendment to balance the budget? Because, as I hope I made clear, I see no other way. Congress has passed statutes to reduce the deficit. Congress has raised taxes supposedly to cut the deficit. But the deficit has risen. It rose after Gramm-Rudman. It rose after the 1990 budget deal. That was a Republican one.

And in a few years even by our President's own admission, and he is a Democrat, his 1993 tax bill and the budget agreement that went with it will still not keep the deficit from going up within 2 more years, and continue to go up unless we do something more.

We cannot ever eliminate the deficit if we continue on our present path.

If we are to reduce the deficit, we must put a binding obligation on Congress to balance the budget gradually until the deficit is eliminated soon after the passage of the amendment.

Those who believe we can cut the budget deficit down to zero without this amendment should offer an effective plan to accomplish the result. However I believe that they will not do it. Congress as an institution will not cut spending or reduce the deficit unless it is forced to do so. And the only force I know is through the Constitution. There is plenty of will in this body, but that will is directed toward spending, not cutting. It is toward deficits, not toward a balance of the budget.

We have heard it said that section 6 of the amendment which gives Congress the power to enforce the statute is inconsistent with the claim that statutes alone will not end the deficit. But there is no contradiction. As I have said, in 1978 I was a part of the Byrd-Grassley efforts by a statute that we got through and signed by the President to require a balanced budget. So I think I know. Many amendments are given life by provisions extending Congress the power to enforce them. This constitutional amendment gives us a basis for what was not there when the Byrd-Grassley amendment was law.

Implementing legislation is necessary to make the balanced budget amendment function fully. But the difference between statutes enacted under this amendment and Gramm-Rudman, or Byrd-Grassley is that the Constitution will demand that the new statutes be adhered to, unlike earlier legislation lacking the constitutional imperative.

Mr. President, we need to balance the budget. We can only do so if we pass a constitutional amendment. The American people are watching to see if we make this commitment. The quality of the existence of future generations is at stake. We cannot afford to fail again. We cannot afford to fail making tough decisions today to lighten the burden on our children and grandchildren. We must enact this constitutional amendment to balance the budget.

I think this is the fourth time—maybe the fifth time—since I have been in the Senate that this issue has come before us.

We have passed it at least once. It was by two votes. It was defeated once by one vote. Another time it was defeated by two or three votes, and then a couple of other times we could not get the votes to stop the filibuster. I hope this time we will be successful.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I am sorry. I did not see the Senator from Colorado. I yield time for the Senator.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, thank you. I thank the Senator from Delaware.

Mr. President, I too, rise to speak on the balanced budget amendment to the Constitution. As a person who has been a prime cosponsor of this legislation three different times and on the House side voted for it, I am very permanently committed to it. In fact, in the 102d Congress, as the Presiding Officer well knows since he was also a supporter when we served together over there, we missed it by just six votes. It was awfully close. A couple of times before that we both signed a procedure in which to take the amendment directly to the floor, and we could not even get it out of committee of the 101st Congress, as I remember.

So there have been a lot of efforts to move this along, and basically do what people are saying now—that is, save us from ourselves. I know in the course of this debate, which may last a week or even 2 weeks, there are going to be a lot of efforts to weaken it, lots of efforts to get us to succumb to the feeling by some Americans that we really do not need to balance the budget, and in fact will hurt jobs or hurt individuals. I do not subscribe to that, and would oppose weakening this in any way, shape, or form.

As better speakers before me have already alluded to on the floor, we are simply in a downward spiral. Last year, $200 billion was wasted on interest payments. As the Senator from Utah said, not one dime of that money helped build a square yard of highway, or helped build one cell for a hardened criminal, or helped one youngster in need of counseling. All we got for our efforts in the last few years was an $18,000 bill as they said for every man, woman, and child in America.

There is no question in my mind—and I think everyone knows—that balancing the budget will be perceived as hurting some people in the short run. But in the long run balancing the budget will raise the Nation's standard of living and the rate of savings. According to GAO, a balanced budget by the year 2001 would produce a 36-percent improvement in our standard of living by the year 2020.

OMB Director Alice Rivlin estimates that balancing the budget within 5 years would raise the national savings rate to 6.1 percent. Yet, if we fail to pass a balanced budget, the savings rate will be a mere 3.7 percent—that certainly means trouble for the United States in a competitive global economy where other nations save far more.

Our voters told us that it is time to draw the line. We know that we cannot pass a constitutional amendment to solve every problem. Certainly this is not an ordinary problem. This amendment is required because history has proven, as other speakers have said, that legislation simply will not work.

I remember very well the days of the Gramm-Rudman-Hollings act in which we ended up before we could finally get it passed exempting something like 72 percent of all spending and thereby trying to balance the budget on the remaining 28 percent of the revenues. And it simply will not work. If we make all kinds of exemptions to this legislation, this will not work either.

In an ideal world, this amendment will not be necessary. But, in the real world, it is necessary. I do not think that in fact the elected officials should take all the blame for it because I know my office, like many offices, is inundated with people who say in one breath, "Balance the budget, reduce my taxes, and get me $10 million more for my special project." Those special interests, which we sometimes called the third House around here, has had so much influence in protecting turf that we simply cannot balance the budget by legislation.

Just look at the recently disbanded Kerry-Danforth bipartisan entitlement commission. It spent $1.8 million but failed to come up with a unified proposal on where to cut entitlement spending, which is the largest sector of Government spending.

This amendment gives Congress and the public a constitutional reason to bite the bullet. Congress will have to bite the bullet—we will have plenty of tough choices. Clearly, popular programs probably will be cut, and in fact

some good programs may be cut. We must make our very best effort to concern ourselves with the most vulnerable in our society and make sure that they do not get unduly hurt.

According to most estimates, about $1.2 trillion of spending cuts are going to be needed to balance the budget in the next 7 years.

Already, nearly 50 percent of spending programs have been removed from the new leadership's deficit reduction plan—Social Security, defense, and net interest.

In addition, Congress will probably be required to find more cuts to offset the middle-class tax cut proposals, and other tax cut proposals, that are being circulated around the Capitol.

Certainly, the challenge is enormous. Congress has a responsibility to come up with spending cuts before it passes any tax cuts, and our eyes narrowly focused on a balanced budget in 7 years.

THE RIGHT TO KNOW

Congress also has a responsibility to tell the American people how it will accomplish a balanced budget before it passes one. That is why I support Senator DASCHLE and Senator EXON in their efforts in the right-to-know budget amendment.

Congress must be honest with voters because they have a right to know what we already know. Congress cannot allow its knees to buckle at the prospect of making spending cuts.

We have a duty to fill in the blank lines of the promise of a balanced budget, so that Americans can understand what it means for their lives.

THREE-FIFTHS TAX LIMITATION

Some have suggested that a provision be added to require a three-fifths approval for income tax increases. I oppose such a provision.

It would scare away many supporters of last year's version which almost passed. We have worked far too long to see this opportunity missed.

I also worry that this provision would allow a zealous minority to hijack our Nation's budgetary policies.

More importantly, I think a three-fifths requirement undermines the amendment's flexibility. The amendment should be flexible, able to last the ages, and not dictate the path to a balanced budget.

Congress will pass the balanced budget amendment this year. Passage of this amendment will not be the silver bullet to kill the deficit—only tough choices will do that. I hope we can work together in a bipartisan, responsible fashion for a balanced budget and the future of our Nation and our children.

Certainly, the challenge is enormous. Congress has the responsibility, and I am certainly willing to step to the plate, as many of my colleagues are.

I yield the floor, and just say in passing that I certainly commend both Senator SIMON and Senator HATCH, who are going to be spending an awful lot of hours here on the floor in the next week, for their leadership on this balanced budget amendment.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. CAMPBELL. Yes.

Mr. SIMON. Mr. President, I certainly want to commend the Senator from Colorado for being solid on this issue.

He mentioned the GAO report—which has been largely ignored around here—that says if by the year 2001 we balance the budget, by the year 2020 we will have an average increase, adjusted for inflation, in income of 36 percent per American.

Our choices are very, very striking. I happen to have that report here. I would just like to read this:

> Eliminating the budget deficit, and, if possible, achieving a budget surplus, should be among the Nation's highest priorities. Because of the accumulating burden of interest on the mounting public debt, it is important to move rapidly in this regard. Postponing action only adds to the difficulty of the task.

Again, I want to commend our colleague from Colorado for standing up so solidly on this. I really appreciate his leadership.

Mr. CAMPBELL. If I might say, too, in that report, it indicates that because of some severe actions we have taken in the last year or two the deficit is going down a little bit now. But, clearly in next few years, it is going to start to rise again. What we do legislatively is not going to amount to a hill of beans, but it is still going to go up without this constitutional balanced budget amendment.

I look forward to supporting this amendment, and thank the Senator for his nice comments.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I state the obvious. The Senate has begun debate on a proposed amendment to the Constitution. This is, as it ought to be, a solemn moment in the life of our Constitution, for what we debate today, and I expect in the following weeks, is whether to change, alter, or modify the basic document of governance that we have operated under.

Since 1791, the year the Bill of Rights was ratified, Members of Congress have introduced over 10,000 proposed amendments to the Constitution. Admittedly, the new Republican majority is making their weight felt here. We have not only this amendment, but I do not know how many more to amend the Constitution. But there have been over 10,000 proposed amendments to our Constitution. Of those 10,000 since 1791, we in Congress have approved just 22. And, of the 22, just 17 have been ratified by three-quarters of the States and have become part of the Constitution.

We stand here again this year confronting one of our most profound constitutional responsibilities as we consider a change in our fundamental charter. It is one of the glories of the U.S. Constitution that it has been so resilient. Its authors' insight into human behavior and political institutions have proved accurate from our early years as an outpost on the coast of the new world to our current status of a space-aged superpower.

Few changes have been necessary to permit the Constitution to keep pace with our social, economic, and technological revolutions that have transformed our Nation since its founding. But in recent decades, we have faced the problem that we do not seem to be able to solve. We cannot balance our budget, or, more correctly, we will not. And to put it in even sharper focus, I think it is much less important that our budget be balanced. There is nothing magic about the budget being balanced. But what is critically important is that our deficit continue to decline, and that we have a small deficit, if any deficit at all.

At the beginning of the Reagan administration, we swerved from the course that had, since the end of World War II, shrunk the national debt, and we turned onto a path that has led us to where we are today; the so-called Laffer curve. Speaking of "Laffers," it is probably the ultimate "Laffer"—the "Laffer curve." Many of us have worked to impose disciplines needed to restrain the temptation to spend beyond what we tax.

(Mr. GREGG assumed the chair.)

Mr. BIDEN. When the Reagan administration deficits began, I proposed, along with Senator GRASSLEY and Senator KASSEBAUM—and he mentioned this earlier—that we freeze every single solitary program in the Government, anything the Government had to do with, every single solitary one, that we not spend a penny more, not even accounting for inflation, than we spent the year before. Although I wrote the plan with my two Republican colleagues, we received very little support from either side of the aisle. I think our high-water mark 3 years later was 38 votes.

I also supported the Gramm-Rudman process that has been much maligned here in the Congress. It has not worked, but I argue that absent that things would even be worse than they are today. Gramm-Rudman put caps on the amount of deficits allowed and required a balanced budget. But the requirements changed every year, and the only constant in the process was the annual increase in the national debt and the guarantee of annual deficits.

Those are not the only things that we have tried. Over 10 years ago, I offered my own constitutional amendment to balance the Federal budget—and you might expect me to say, parenthetically, I think it was a superior document to the one we are about to vote

on this year. Up through my vote for Senator REID's balanced budget amendment last year, I have held that this is an issue worthy of constitutional consideration. Many suggest that this is not an issue worthy of constitutional consideration.

Well, the fact of the matter is, I think my friend from Illinois is correct when he keeps quoting and referencing Jefferson. If this is not worthy of constitutional consideration—how we are able to bind or not bind future generations—I am not sure what is worthy of constitutional consideration.

That in no way undercuts the opposing argument that writing fiscal policy into a constitution or into a document of governance is a difficult and maybe impossible thing. But the notion that this is not worthy of constitutional consideration, I think, is not accurate. The decision to encumber future generations with financial obligations is one that can rightly be considered among the fundamental choices addressed in the Constitution.

But from the first time the resolution before us here today was proposed, I have been concerned that it could bring with it problems that, taken together, could be almost as bad as the deficit problem that we are all worried about. In the Judiciary Committee, I have described some of those concerns. This year, in committee a number of amendments were offered to fix what I, at least, perceive to be problems in this constitutional amendment. Some of us tried to make this a better proposal. We tried to avoid tying up the courts with constitutional questions about such important details as the President's role in enforcing the balanced budget. We tried to keep the Social Security trust fund off budget, where it is now and where it should stay. We tried to assure that the real cost of the balanced budget amendment, and not just its surface lure, is known to the citizens who will be asked to ratify this amendment in the coming months. We tried to provide a capital budget to treat public investments the way families, businesses, and States treat their own investments.

These and other amendments were not accepted. The reason they were not accepted—and you will hear it repeatedly; my friend from Utah referenced it. It is the one thing that worries me most, as I am one of those undecided votes. I am told that there are five, six, seven, or eight of us in this place who do not oppose the notion that we have a mechanism in the Constitution to deal with deficits. But we are very unsure of this mechanism. The camps generally divide into two areas. One suggests that it is bad policy, period, to put anything in the Constitution. And there are those who suggest that this is the only answer. I am with that handful or maybe a couple of hands full of people here who find myself believing that it is not inappropriate but believing that what we have before us may not do the job. I have been here long enough to realize that there are often unintended consequences of our actions which are sometimes worse than the problem we have attempted to cure.

Where do we stand now? We have before us the balanced budget amendment, about which many of us have expressed serious reservations, the effects of which in both the short and the long term cannot be predicted with any degree of certainty, although we will find plenty of people on the floor who will predict with certainty how they think this will work. I think any reasonable person, though, will acknowledge that it is almost impossible to predict with a degree of certainty what will happen if this passes.

I hope we can improve the proposal by passing amendments. But there is a second refrain you will hear on the floor, I expect, time and time again: This is the best we could do. This is the best we could do. We have to pass exactly what the House sent to us, because we have never been so close before. We have to take what is before us. For example, I will, in my opening statement here, make reference to some Governors and others who have suggested that a capital budget is a good idea. When I ask people why it is a bad idea, the Senator from Illinois gives me his well-thought-out rationale why it is not necessary or why it is counterproductive. Most others look at me and say: "We cannot fool with this or tamper with this because it is the only game in town now. We are getting perilously close, and we cannot change anything at all."

I respectfully suggest that that is not a very enlightened way to deal with amending the Constitution. I cannot say that I am optimistic that the improvements, from my perspective, that I and others will suggest will be accepted. I fear that there are those who will believe that the mere fact that we will suggest improvements is really designed to kill the amendment. The truth of the matter is that these amendments are designed to make it better. I will speak to the specific changes I would like to see. But the changes I suggest will not in any way undermine the principle of this amendment and would make it more workable, not less workable.

Whether or not we amend this amendment, Mr. President, this balanced budget amendment, may in fact change our ways. Perhaps we will use the opportunity of a constitutional constraint and make the tough choices to restore sobriety to our budget process. I devoutly hope so.

Of course, it may be that we will decide that the economic and political cost of an annual budget balance are not worth the benefits. It may be that we will make use of both the legitimate escape clauses in this amendment, and other, unforeseen devices to evade the intent of the amendment. Mr. President, I hope we do not, if this passes.

We, quite frankly, cannot be sure that a vote for this amendment will have the effect the authors promise. But we can be sure that if we try nothing, we will remain on the path that we have been on for too many years now, with the notable exception of the last 3 years under the leadership of this President. I know the stereotype is that all Democrats are big spenders and that all Republicans are conscientious with the taxpayers' dollars. Obviously, history does not support that conclusion. If we had not had the Reagan budgets that we all voted on—and we could have stopped them—but had we not had the Reagan budgets and that unusual theory of the Laffer curve, we would have a budget in balance right now. It's out of balance just because of the interest accumulated on and the debt that has occurred as a consequence of the Reagan additional deficits—I should not say Reagan—the deficits produced by Reagan and the Democratic Congress both.

But we will hear a good deal of hyperbole on this amendment. Its supporters promise that it is a cure-all, and its opponents promise that, if it passes, we are going to go to hell in a hand basket rapidly and all our liberties will be taken from us. I hope we keep our eye on the ball here and at least have an open mind to the prospect that we can make this amendment better and still have an amendment.

We will continue to add every year to the debt burden of future generations. We will steal today from the future, squeezing out the savings and investments that could increase our future wealth if we do not do something about stopping the size of these deficits, even if we do not actually balance the budget, if we do not make a change.

The Senator from Iowa pointed out—I think I heard him say, and I stand to be corrected—that in 1969, the last time we balanced the budget, for every tax dollar collected, six cents, or thereabouts, went to pay interest on the debt, and every tax dollar collected in 1993 or 1994—I forget which year he used, maybe it was 1991—but anyway, every tax dollar collected in the last year or so, 29 cents, I believe was the number he gave, or 26 cents, goes to pay interest on the debt.

I am sure someone has looked out over the next 15 years and concluded that if we stay on the track, even the one predicted by the President of the United States, that we will be requiring an increasingly larger share of every tax dollar just to pay the interest on the debt.

And to me that is the driving force behind this amendment. To me, the beginning, middle, and end is not whether

there is a mechanism that guarantees a balanced budget amendment. It is not whether or not there is any magic about it being actually in balance. It is not whether or not we come close. It is about that increasingly larger proportion of the tax dollars collected going for the most useless investment of paying interest on the debt.

When I introduced my budget freeze proposal years ago, the liberals of my party said, "It's an awful thing you are doing, Joe. All the programs we care about, you are freezing them—money for the blind, the disabled, education and so on."

My argument then is one I make now, which is the strongest, most compelling reason to be for this amendment—or an amendment—that if we do not do that, all the things I care most about are going to be gone—gone. So what do we have? We end up with essentially a net reduction in the programs that I cared about over the last 10 years, a net increase in other programs, and a net increase in the portion of the budget that goes to pay interest on the debt.

So the people I care most about—the reason I ran for public office in the first place—are the people that got hurt the most in this process and are likely to get hurt the most because they are the weakest in our society. When an interest group like the PTA comes down here to support money for education, and other interest groups support money for tax expenditures for major businesses, I have no doubt who is going to win that fight. I have no doubt how that is going to turn out.

So if this debt continues to increase, we will continue to tie our hands and our ability—indeed, our responsibility—to set national priorities in our annual budget process because of the interest on the debt required to be paid every year.

This year, the interest on the national debt will cost us $235 billion. The entire domestic discretionary budget will be $253 billion.

Now we use phrases like that "discretionary budget," and my staff writes that stuff in. And I keep telling them nobody in the world but people in this Chamber and inside the beltway know what "discretionary budget" means.

Let me translate. The discretionary budget includes everything from the FBI to education, from help for the mentally retarded to the Library of Congress. That is everything. Everything out there that people think is the place where we are wasting money, that people think is the place we can cut to cut the deficit, does not include Social Security, does not include entitlement programs, does not include interest on the debt. The point is, it is all those things that everybody when I go home who says, "JOE, if you just cut the waste in Government"—if we shut down every department in the Government, we would in effect have an inability to balance the budget in the outyears because we are already talking about interest on the debt equaling almost the same amount of money of all the money we spend on the Government for what the average person thinks are Government expenditures. They do not usually think of Social Security as a Government expenditure. They do not think of the things we generally talk about as the big-ticket items here as expenditures.

By the time this amendment is intended to become law, in the year 2002, the interest on our debt will be $344 billion, larger than every other category in the budget except Social Security. That is just interest on the debt.

If we do nothing, our inability to control the growth of debt, and the cost of carrying that debt, will tie our hands, preventing us from shifting resources to meet changing needs, which is the essence, in my view, of responsible budgeting, responsible Government.

So, Mr. President, the question before us today and in the coming weeks is not the simple one: "Are you for balancing the budget or not?" Under most circumstances, everyone would agree we should balance our books.

No, it seems to me Mr. President the question is: "Does our repeated failure to balance the budget necessitate a response that all of us agree is extraordinary?" And that is amending the Constitution.

It is by no means that clear that the amendment before us will eliminate deficits. It certainly will make deficits more difficult—which in and of itself is a worthy undertaking—but with a three-fifths vote, we can in fact continue to borrow.

And I hope no one is under the delusion that by hook or by crook some future Congress, less virtuous than we, will not be able to find ways around the restrictions in this amendment.

With little faith in human nature, but a healthy respect for human ingenuity, we should have no delusions on that count.

I think both the supporters and the opponents of this amendment quite frankly overstate the case, though.

I expect the supporters of this balanced budget amendment will, as they already have, proclaim it as a panacea that will cure a structural defect in the way that a democratically elected legislature weighs fiscal responsibility against the demands of constituents. The supporters will proclaim its passage as the end of deficit spending.

The opponents of this amendment may agree that it will drastically change our Government, but, they will argue, for the worse. I expect they will describe the pain that the deep cuts will cause to the American people—the elderly, the poor, the military, the farmers, and the rest who depend on Government—and paint a bleak picture of life under a balanced budget regime.

I say to my colleagues on both sides of this debate that all these claims overstate the case.

This amendment will not magically cause deficits to disappear. The hard work of cutting must still be done—and it should be done by us.

This is hard work. Evidence the fact that everybody acknowledges that the President's budget package reduced the deficit, yet everyone went out last year and ran on this gigantic tax increase. It increased it only for the very wealthy. The middle-class taxpayers paid no more. In fact, they got reductions in some cases. And those who were low- or middle-class income taxpayers with children, they got an actual reduction in their taxes.

But yet this thing, this horrible thing we did, which touched the top 1 percent of all the taxpayers in America in any meaningful way, was so horrible and so bad—even though, by the way, in that same document the President said and we voted that we would freeze spending; we would freeze spending in all these other categories—it was so bad the other side could not even muster up the courage to give one single, solitary vote for reducing the budget deficit by a half-trillion dollars over the outyears. And the deficit went down. It actually went down.

Yet, if they could not muster the courage for that vote—which obviously cost a lot politically because if you notice there are fewer desks on this side of the aisle than there are on that side of the aisle; obviously they were right, politically anyway. If they could not muster the courage for that vote, how are we going to find over $1 trillion to cut?

I mean, this is incredible. It is incredible the degree of self-delusion you will see us all engage in over the next couple days, the next couple weeks. But this amendment will not magically cause deficits to disappear.

Nor will this amendment turn democratically elected officials in Congress, as the opponents say, into hardhearted authoritarians who will ignore the cries of their constituents. That is what my friends opposed to this amendment basically will say.

Even under this amendment, the economy will falter and need shoring up. That is going to happen no matter what we pass. I do not think anyone can tell me that this amendment is going to take us out of the cycles we have been in for the past 200 years, particularly the past 60 years. The economy will falter at some point and it will need shoring up.

Foreign dictators will rattle their swords and we will be called upon to respond by spending billions of dollars to send armies somewhere.

Rains will fall and plains will flood, and Federal disaster relief will be

called for, to the tune of billions of dollars. I remember when, in the section of the country of my friend from Illinois, he and others were in here pleading that we should continue to reroute the Mississippi and every other river in America and we should reimburse people for that disaster. And most Members stepped up to the ball and helped. Now our friends on the west coast are accurately pointing out that there are billions of dollars worth of damage because of earthquakes and fires and floods and rains. Are such natural disasters going to stop? Is anyone going to suggest that this balanced budget amendment will send a message to God, as well, and say, "OK, God, we balance our budget, now you hold off from here on."

Our population will age, and the need to support the medical and social needs of those who supported us when we needed it will not diminish. It will grow. Costs will grow. And on and on and on and on.

I predict that from time to time—perhaps more frequently—three-fifths of Members in Congress will agree that some need of our people is so great that we will agree that this year we will not balance the budget, or this year we will screw up the courage to have people pay for what they say they want through the Tax Code.

I realize, incidentally, that is a horrible thing to suggest. I always find interesting, everything that we hear about the balanced budget—with the notable exception of my friend from Illinois and a few others that are the chief sponsors of this—is always in terms of "cut spending."

Whatever happened to the old conservative discipline about paying for what you spend? Paying for what you spend. I thought that meant that if we spend, then we ought to tell people how much it will cost to spend. If they do not want Members to spend, then we should not spend. But if they want to spend, we should be honest, must tell them what it will cost.

Which brings me to the argument raised by some that before passing this amendment we should tell the American people how we intend to balance the budget. There are those who claim that this is just a sham on the part of the opponents of the balanced budget amendment. Well, I am not an opponent of that amendment, but I want to tell Members it does not seem to be unrealistic for someone to lay out in broad details at least how it will work. Those people say, "Wait a minute; if you are for the balanced budget amendment, you ought to say how to balance it." Most people who are against the balanced budget amendment are not saying that we have to balance the budget; they are saying that our budget should be somewhere around 19 percent of GNP, that we should not put ourselves in the position where we are out of whack. They argue, like many economists, that balancing the budget in and of itself is not a sacred undertaking and could be counterproductive.

It seems to me that we should tell the American people. I look at the polls out there. For example, I want to go on record, and I am up for re-election this year, and I will remind everybody what I did at home, which will cost me politically. When I argued that we should freeze Federal spending, I meant Social Security as well. I meant Medicare and Medicaid. I meant veterans benefits. I meant every single solitary thing in the Government. And I not only tried it once, I tried it twice, I tried it a third time, and I tried it a fourth time.

Somebody has to tell me in here how we are going to do this hard work without dealing with any of those sacred cows, some deserving more protection than others. I am not quite sure how you get from here to there. I am sure that we should tell the American people straight up that such an amendment is going to require some big changes.

The balanced budget amendment will not end our deficit in one fell swoop, nor will it cause our Nation to turn its back overnight on those who depend on us. All it means, as the Senator from Utah said, is that we will have to stand up more often and be counted on these things. I find that a good thing, not a bad thing.

As we begin this debate, let Members keep a decent perspective on the true consequences of this amendment. It is important that we not overstate nor overpromise what the amendment will do. Let Members debate this amendment with all the seriousness that a constitutional amendment requires, to ensure that the amendment we propose to the States and the American people merits the honor of being included in our most fundamental covenant of self-rule.

So what, then, are the concerns that many Members, those so-called undecided voters, bring to this debate?

First and perhaps foremost, it seems to me we must examine whether the amendment is likely to shift the balance of power between the branches of Government to an extent never experienced or expected by our forefathers. It was the wise position of the drafters of the Constitution in 1787 that the Congress, being the most representative branch, the most democratic, and the most sensitive to—and ironically that is why we are needing this amendment. Everybody should not lose sight of that. We say that Congress is not responsive, and that we should be more responsive to people; and then we are told the reason we need this amendment is we are too responsive to the people. Whatever they come and ask for we give to them in a painless way. Kind of fascinating how we sort of turn these arguments to whatever benefit the moment allows.

The fact is we are the most representative branch. We do respond to the people, and that is how we were supposed to respond based on what our Founders intended. And we are the most democratic and most sensitive to the public needs.

Because of all that, the drafters of the Constitution spent a lot of time debating this little point on the second floor in Philadelphia, because they did not want the debate to take place on the first floor. They were afraid people would eavesdrop and hear what is going on. This was before "Government in the sunshine." The delegates to the Constitutional Convention sat in the second floor so people could not walk by and eavesdrop. What they were saying on the second floor is, "Look, if we are going to give the power to tax and spend, we better give it to the outfit that will most directly respond to the people. Taxes, we will give that to those guys in the House that get elected every 2 years. We do not want the Senators—who were not popularly elected in those days—to do that. They can only respond to a tax bill proposed by the House."

So there was a real solid reason why, in setting out the balance of power, taxing and spending was put in the Congress. James Madison, who is recognized as the father of the Constitution, called this power of the purse "the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance and for carrying into effect every just and salutary measure."

That power of the purse has remained with the Congress for over 200 years. This amendment threatens to take away a good deal of that power and to share it with the President, a fundamental shift of authority that will irretrievably alter the balance of power established in the Constitution.

Senators might say, well, how, in fact, does this amendment threaten to shift the power to the President? Because, I am convinced, Presidents will seize on the language of this amendment to claim a constitutional power to impound; that is, to refuse to spend money that Congress has duly appropriated. This power to impound would give the President wide-ranging authority to undo or redo Congress' spending priorities without limits, or at least so a President would claim.

Now, you may say no President will do that, JOE, and as a Democrat I am happy that this guy downtown is of my party. I am sure he would not do that. But let me ask you, what do you think Nixon did? What do you think old Lyndon Johnson would have done? What do you think Franklin Roosevelt would have done with his power? Now, maybe

we are not going to have any more Roosevelts—I hope that is not true—or Johnsons or Nixons, but we just may very well.

What does it mean for a President to wield this power? It means the President could decide to change the way the Congress had allocated funding in spending bills; for example, taking away money that ensures that small States get their fair share. Let me be parochial for a moment. I am a Senator from Delaware, one of the smallest States in the Union, the fifth smallest population in the Union.

When we pass bills here to make sure that all persons benefit, whether they live in New Hampshire or Delaware or Utah or Wyoming or Alaska or other small States, we sit and we make sure the formulas we write into the bills do not let all of the money go just on a per capita basis. We usually get together—and there are probably somewhere between 18 and 20 of us, that is, States who find themselves in that position. Well, if the President gets to the end of the line here, the budget is not in balance, we have not passed a balanced budget—I might add we will not know whether or not this will be in balance as we go along because it is based upon predicted revenues. So we spend based on predicted revenues. That does not account for emergencies. That does not count significant downturns in the economy, or a lot of other things that come into play.

But if, at the end of the line, we pass a budget that we thought was in balance but, in fact, was out of balance, that means the President, under this amendment, arguably, could say, "That is my job. I will redo this." I know what I would do if I were President and I wanted to balance the budget. I would pick off the smallest States and cut the moneys that were allocated for them. They are the least powerful in Congress. They cannot do much. They do not have that many Representatives. Over here, because we make up a minority, we might find ourselves in difficulty.

Now maybe a President would not do that. But he would have that power, under the amendment. The President could change detailed policy set by Congress; he could conclude on his own that Congress put, for example, too many military bases in South Carolina or Kansas or was spending too much on medical treatment in Utah or Mississippi.

Do we really want to give the President that kind of power? I think not.

Along with this power to spend, according to Walter Dellinger, a noted constitutional scholar and now the President's top constitutional adviser, this amendment could even be construed to give the President the power to levy taxes, to raise needed revenues. I think that is much more unlikely, quite frankly, although it is arguably possible.

Do we want to give the President that kind of power? I do not think we do.

In committee, I supported Senator KENNEDY in offering an amendment to make it absolutely clear that the balanced budget amendment is not intended to shift to the President a major piece of Congress' historical power to tax and spend.

Not a single one of my colleagues that I am aware of disagreed with the point of the amendment. Nobody disagreed with the point of the amendment. Some said not to worry, it cannot happen, or it probably will not happen, or it is unlikely to happen. But everyone acknowledged that if it happened, it would be a bad thing. And yet a majority, all the Republicans and a couple of Democrats, voted en bloc to defeat this amendment claiming it was not necessary, that after-the-fact legislation could take care of the problem, the so-called enabling legislation.

I sure would like to know that before we pass this. I would like to know whether or not a President can do that. Why do we not just make it clear that Congress has the power to resolve any discrepancy between spending and revenues that is left at the end of the year—the Congress, not the President.

Now, maybe that is what the Congress will do. Maybe the President will not over-reach. But I have never seen, as a student of history, any time where there has been a vacuum in power created that the administration, Democrat or Republican, has not stepped in to fill. And I have seen very few times when the Congress on its own volition has stepped up to the ball to fill a vacuum when filling the vacuum would require them to make hard decisions. And so I do not think it is unreasonable to suggest that future Presidents may seek this authority to impound.

It's not necessary to spell out in the amendment that the President should not have this power? Well, I say that a principle as important as preserving the balance of power should be stated as plainly and boldly as possible in the balanced budget amendment itself.

Now, as we debate this, I will be happy to hear anyone say that the President should have that power. I suspect everyone is going to say he should not and this amendment does not give it to him.

Well, if that is true, what is the big deal of including it in the amendment? It is not inartful. It can be artfully done. It does not ruin the symmetry of the amendment. It does not go to the heart of whether we have to balance the amendment. It merely says we are not going to shift the balance of power, no doubt about it.

Our Constitution, that durable and flexible document, has endured for over 200 years. The chief reason it has endured is because the self-correcting checks and balances that have kept one branch from dominating the other have been maintained. In the days to come, I will support, if not offer, efforts to modify this amendment to ensure that in addressing this important issue we do not risk undoing 200 years of history.

The second concern that I have is not a constitutional one. It is a very practical one but no less important for that fact. The balanced budget amendment makes no provision for a capital budget to pay for long-term capital improvements. This amendment will require the Federal Government to pay for capital improvements—roads, bridges, schools, aircraft carriers, all of which are designed to last for decades—on a pay-as-you-go basis.

Now, this is not the way States or local governments or our families or businesses, for that matter, treat these sorts of long-term items. No. All of these recognize that it is permissible, even prudent, to go into debt to pay for long-term items such as a house, a factory, or a road or an aircraft carrier. State and local governments that are required to balance their budgets every year are permitted by their balanced budget rules to set up capital budgets. They are permitted to borrow money to pay for long-term capital items even though they must balance the rest of their budget.

Now, we hear the phrase used all the time: "States do this; why can't we do it?" States do not do this. If you look at the numbers, the total accumulated debt of the States over a comparable period for the Federal Government over the last two decades, the States have increased debt more rapidly than the Federal Government—almost a 2-to-1 margin.

So before you get on the floor and pound your chest about how your State balances its budget, say how would your State balance this budget if it had the same exact amendment as this.

Now, some States may. Mine does not. Mine is a little tighter, quite frankly, but we are smaller and we are more manageable. Most States that have balanced budget amendments do not, do not, in fact, balance their budgets. They have a capital budget which allows them to go in debt. I believe the Federal Government should have the same ability to borrow to pay for capital items as State and local governments do and that we should amend the balanced budget amendment to assure that we give proper weight to our long-term needs.

I am not alone in this view. The Wall Street Journal editorial page, that bastion of conservative thought, has criticized the balanced budget amendment because it lacks such a capital budget. Here is what the Wall Street Journal had to say.

To understand the economics, start here:

Referring to the balanced budget amendment.

Start here. If all American households were required to balance their budgets every year, no one would ever buy a house.

Of course, households don't think about their budgets that way; they figure 'balance' means meeting their mortgage payments. Similarly, State and local governments with a "balanced budget" requirement can still borrow money for capital improvements.

So I say to everyone here in the gallery as they walk out and say, "We balance our budget; why doesn't the Federal Government do it the way we do," well, unless you are a very wealthy person—even then it would not be good economics to do it this way—unless you are a very wealthy person and paid cash for your house and paid cash for your car, you do not balance your budget. You do not balance your budget like this amendment requires it to be balanced.

I want the Federal Government to have to balance their budget the way households have to balance their budgets, the way States have to balance their budgets. And that is with a capital budget. I have a capital budget—I have a mortgage on my house. I have a capital budget—well, I do not have a capital budget on my car, but most people, when they buy a new car, have a capital budget. I meet that by paying as everyone does and the States do, paying on it monthly, in my case, and the States yearly, the cost of that borrowing and the principal. We pay it down. We pay it off. But the Federal budget, under this amendment, would not allow that.

Now, Gov. Mike Leavitt of Utah, a prime supporter of enacting the balanced budget amendment, testified before the Judiciary Committee that his State has a capital budget provision and recommended that we look further into the question before enacting House Joint Resolution 1.

My own Governor, Gov. Tom Carper, former Congressman of 10 years here in Washington, the strongest supporter from my delegation for a balanced budget amendment, a Democrat, told our Constitutional Subcommittee the same thing last year.

But despite that good advice, this balanced budget amendment does not follow that almost universal practice of capital budgets because it fails to set up a separate capital budget for major physical improvements. It will surely mean less of those improvements, or we will make those improvements and we will further cut in other areas of the budget or raise taxes in other areas of the budget which will cause more great pain, when the more reasonable way to do it would be to do it the way the States and households do it. After all, if families could not borrow to pay for their houses, there would be many fewer homeowners. And if States could not borrow to build their roads, there would be many fewer roads.

Why enact a balanced budget amendment and fail to distinguish between projects that merit long-term financing and those that should be funded from year to year? Under this balanced budget amendment, the incentive will be to focus only on those spending priorities that have short-term payoffs, economically and politically. That is not good for rebuilding the infrastructure of this country, which we all say we have to do to compete internationally. Because that is where the political pressure will come.

If, in my State, they come to me and say why do you not vote to spend more money for the Corps of Engineers that will allow them to dredge the Delaware River and the Port of Wilmington, why do you not do that versus spending more money for drug treatment programs.

I know when I hear a mallet going down; I can tell it.

I yield to the President, obviously.

The PRESIDING OFFICER. Under the previous order the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15.

Mr. BIDEN. Mr. President, I ask unanimous consent, unless it is contrary to a standing rule, that I be able to take 10 more minutes to finish my statement, unless someone objects to that.

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

Mr. BIDEN. We used to do that in the bad old days when the Democrats controlled.

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

Mr. BIDEN. Without a capital budget provision, I fear, this amendment could skew the way we spend money, and in a way that could hurt the long-term future investments this country needs. It does not have to be this way.

In committee I offered an amendment to provide for a capital budget. It was modeled on the capital budget provisions in the States, including my own State of Delaware.

My amendment established a capital budget for major public physical capital investments. It limited that budget to 10 percent of total outlays—about what the Federal Government has spent on such items in recent years. It required a three-fifths vote of both Houses to place any item within that capital budget.

My amendment was not designed to build a loophole into a balanced budget amendment. Under my amendment, it would not be easier to treat an item as a capital budget item as opposed to a current item. It would be harder. It would require a three-fifths vote. But it would be right.

My amendment failed in committee. Without a capital budget provision, I fear that, not right away but as the years go by, this amendment may skew the way the country invests for the future and we may be able to balance our budget in the end, but we will not spend our money as wisely as we should.

A third concern about this balanced budget amendment relates to the way this amendment treats a program that is arguably the most important and most depended-upon program in the Federal Government.

I am talking about Social Security. As we all know, the Social Security trust fund is designed to spread costs over many years of caring for working people after they retire. We pay in today, so 10 or 20 or 40 or 50 years from now we can live out our lives, knowing that we have that minimum Social Security payment.

The Social Security fund is not supposed to be in balance every year or even every 10 years. It is meant to be balanced over the decades. As this generation of working people pays its Social Security taxes the Social Security trust fund is gathering in a surplus of tens of billions of dollars. Because the Presiding Officer and myself and others are of a generation that is the baby boom generation, or just before that generation, we pay in tens of billions of dollars in excess of what is drawn down by present Social Security recipients—my mom and dad and my uncles and aunts. So there is a surplus. A surplus of $100 billion will be paid in each year, more than is taken out, around the year 2000—$100 billion surplus.

Right now $60 billion more is paid in this year by those of us paying our FICA tax than is paid out to Social Security recipients—$60 billion. My mom and dad think that money goes into an account. They think that is over there for Social Security. A lot of people in my generation who in 15 years will be eligible for Social Security think that money is being put in an account. Guess what, folks? We are spending it. We are spending it now.

But before the year 2014, that Social Security trust fund will have generated a great surplus. But after 2014, we will have substantial deficits. The reason for that is that the baby boom generation will be collecting Social Security and my sons and daughter will be paying into it. There are fewer of them than there are of us. So fewer people will be paying in and more people will be taking out. It sounds like I am stating what is obvious to everyone but it is not obvious to everyone, obviously. The fact of the matter is, after the year 2014 we will be in deficit in the Social Security System.

The balanced budget amendment makes no provision whatsoever for the unique characteristics of the Social Security trust fund. Instead, it treats Social Security revenues and outlays as ordinary Federal budget.

This means in the years that Social Security is generating hundreds of billions of dollars in surplus revenues it will be used to cover hundreds of billions of dollars worth of deficits that

the rest of the Federal budget is creating.

After 2014, when the trust fund goes into deficit to the tune of tens or hundreds of billions of dollars a year, we in Congress will have to cut that much from the rest of the budget to make up for the deficit.

What does it mean? It means that for the next 20 years or so, revenues from the Social Security trust fund will make it look like we have balanced the budget when in fact we have not, and after that the huge outlays from the trust fund will force drastic reductions in the rest of Federal spending, or drastic reductions in Social Security. And that means the pain of cutting will be delayed by years from the effective date of this amendment, but it will be that much sharper when it comes.

So we should get Social Security out of this mix, make it clear that the balanced budget amendment does not deal with Social Security, it is not able to use the surpluses and not deal with the deficits. We should be more honest about it with people because Social Security is at stake, in my view.

For all the reasons I have stated I supported Senator FEINSTEIN's amendment in the Judiciary Committee to keep Social Security right where it is now: off budget. The Feinstein amendment recognizes Social Security is not designed to balance its budget every year but over the years, and it recognizes we cannot honestly balance the rest of our Federal budget if Social Security and its huge swings are included. It recognizes that Social Security is a unique institution that deserves unique protection.

The fourth concern I have is this amendment will shift power to the large States at the expense of small States. By imposing supermajority requirements of three-fifths on both Houses it permits a minority of two-fifths plus one to block an unbalanced budget, no matter how necessary for our fiscal and economic health it may be. This minority veto could be marshaled by representatives of just the five or six largest States in America. If the five or six largest States in America get together and agree on something that they need that the rest of the States do not want, they can prevent us from acting on a national emergency by all of them voting as a block—just six or even five of our 50 States.

The fifth and final concern is that nothing in this amendment forces Congress to begin the work of cutting the budget before the year 2002, the first year we require. What will happen when Congress tries to balance the budget all of a sudden in fiscal year 2002? I fear it will cause an economic disaster. This amendment ought to have some mechanism to guarantee our Government and our economy moves toward a balanced budget on a "glide path," a gradual descent in the deficit that will get us to a balanced budget without forcing a crash landing in the final year. But this amendment does not do that. It is possible it could be done by enabling legislation but I would sure like to see it.

In the days ahead I and my colleagues will be offering amendments to address these and other legitimate concerns. I hope these amendments receive the full debate they deserve. There are none in this body, I hope, who will argue that an amendment to the Constitution is not worthy to receive that full and open debate.

Under the watchful eyes of our forefathers and with the humility that this awesome task engenders, as the debate unfolds in the days to come I will listen to my colleagues, I will support amendments designed to improve this amendment, and I will urge my colleagues to do the same.

I hope at the end of the process I will be able to do what I intend on doing now, and that is to vote for a balanced budget amendment.

I thank the Chair for its indulgence and I yield the floor.

Mr. HATCH. Mr. President, I would like to respond to the comments of Senator BIDEN. Although Senator BIDEN has enunciated many reasons for and against the balanced budget amendment, I want to respond to an amendment he intends to proffer, one he made at the Judiciary Committee markup on Senate Joint Resolution 1.

This proposed exemption for so-called capital investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments. I confess that I am not certain of the purpose of the amendment as it is drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking it out of the balanced budget rule. But the last two sentences, seem to be designed to discourage capital investments.

I believe such an exemption raises real problems for five reasons.

First, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses which may choose among the competing programs to fund more capital investments than this limit would allow. With all the talk about the need for infrastructure investment from my friends on the other side of the aisle, I am surprised they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

Moreover, I do not understand what the three-fifths vote requirement adds to the amendment other than to make it procedurally harder for Congress to make any capital investments, regardless of their effect on the deficit. If a given capital investment were to create a deficit and had support of three-fifths of the Members of each House, it could be passed under the balanced budget amendment as it stands without this amendment. If a capital investment was paid for and did not increase the deficit, I do not know why the proponents of this amendment would want to require a three-fifths vote to make that investment. For what possible purpose would we want to discourage future Congresses from enacting such investments?

The proponents must think that a large part of our problem is that we spend too much on "major public physical capital investments" as opposed to simple transfer payments or social programs. Apparently, whatever three-fifths of the membership of future Congresses think, the proponents of this amendment believe that in no case should the United States invest more than 10 percent of its budget in "major public physical capital investments." Otherwise, I see no reason for this amendment. It is surely a mistake to put such limits on future Congresses.

Second, the loophole problem is aggravated by the fact that there is no standard definition of a capital budget. For example, in President Clinton's proposed fiscal year 1995 budget, OMB lists four broad categories of programs that may or may not be considered capital expenditures—OMB, Analytical Perspectives, Proposed fiscal year 1995 Budget, p. 114. Even within those four broad categories there are questions about what programs should be included. The amendment's attempt to cure the definitional problem only raises new definitional problems. The definition given is circular. And just what does "major public physical capital investment" mean? Each term is subject to substantial debate. It is particularly inappropriate to place capital budgeting in the Constitution when there is no agreement on what constitutes a capital budget.

Third, the Constitution is not the place to set budget priorities. The balanced budget amendment seeks to create a process in which programs compete for a limited pool of resources. A constitutional amendment should be timeless and reflect a broad consensus, not make narrow policy decisions. This exemption creates in the founding document a new constitutional budget subdivision with a percentage cap and a procedural limitation on using it. We

should not place technical language or insert statutory programs into the Constitution and undercut the simplicity and universality of the amendment.

Fourth, a capital budget exemption is unnecessary. Total Federal spending has generally been above 20 percent of GDP, and less than 4 percent of Federal outlays are for nondefense physical investment, one of the possible definitions of "capital investment". Given the relatively small and constant share that such capital expenditures have in a very large Federal budget, there is no need to remove capital expenditures from the general budget.

One example illustrates the lack of need for a capital budget. Although President Eisenhower initially proposed that the Federal Interstate Highway System be financed through borrowing, Congress decided to keep it on budget and finance it through a gas tax at the suggestion of Senator Albert Gore, Sr. We are unlikely to have a capital expenditure of this magnitude again. But if we do there is no reason to create an exemption for such investment or to limit the percent of the budget that goes for such investment.

Fifth, capital spending should compete in the budget like all other spending. The balanced budget amendment seeks to foster an atmosphere in which Congress prioritizes spending options. Senate Joint Resolution 1 does not prevent the creation of a separate operating and capital accounts, but any implementing legislation which creates such separate accounts must leave the total budget in balance, since implementing legislation cannot subvert the clear mandate of the amendment. And such accounting techniques should not subvert prioritizing function of the amendment. The proposed exemption allows the entire budget to be used for noncapital investment, like simple transfer payments, and then allows a 10-percent increase in Federal spending—and debt to fund it—for capital investments. The General Accounting Office saw the fallacy implicit in this exemption when it said, "The choice between spending for investment and spending for consumption should be seen as setting of priorities within an overall fiscal constraint, not as a reason for relaxing that constraint and permitting a larger deficit."

To the extent that the three-fifths vote requirement for capital investments replicates the general provisions of the balanced budget amendment, this amendment is simply pointless. To the extent it goes further, it is a meritless straitjacket on the competition between legitimate spending options in the overall budget process.

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2:14 p.m.

Thereupon, at 12:39, p.m., the Senate recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. STEVENS).

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

The PRESIDING OFFICER. The pending business is House Joint Resolution 1, the balanced budget amendment.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

Mr. President, in 1992, I campaigned for the Senate as a supporter of the balanced budget amendment. I was an original cosponsor of the amendment voted on in the last Congress, Senate Joint Resolution 41, and I am an original cosponsor of the amendment being considered today. Yet, despite my consistent, outspoken record on this issue, my backing of the balanced budget amendment surprises some people.

In fact, Mr. President, I would add that I went to mass on Sunday, and the social justice committee had:

> Senator Moseley-Braun is a possible "no." Please contact her to be against this amendment.

So I want to clarify the record, and I want early on to take this opportunity to tell those of you in this body and my constituents listening at home on C-SPAN why I so strongly believe it is imperative that Congress pass the balanced budget amendment and without delay.

I come from a working class family. My father was a Chicago police officer. My mother was a laboratory technician. We were not what you would call wealthy, or upper-middle class. We did not have a lot of material goods, and my parents couldn't afford to send us to fancy private schools. My parents had to keep track of every dollar to keep us fed, clothed, and housed. Yet, like hundreds of thousands of other children of working class families in this Nation, I was able to get ahead in life, to succeed, because the sacrifices my parents made provided me with the opportunity to do better.

I was able to get a first-rate education by attending quality public schools on the south side of Chicago. I got my first job when I was just 15 years old. To earn extra money for college, I worked as a clerk at the Chicago Post Office. I attended the University of Illinois at Chicago, and then the University of Chicago Law School, because student loans were available to help me pay the tuition. All of these opportunities—opportunities that would not have been available without local, State, and Federal Government assistance—gave me the tools I needed to achieve in life.

The fact that the public—through Government—helped broaden my opportunities is part of what led me to choose a career in public service. I ran for the Senate in 1992 for the same reason I ran for the State legislature in 1978—because I am fundamentally committed to ensuring that future generations have the same opportunities I enjoyed. Every child born in this country—whether black or white, whether rich or poor—should have the chance to achieve his or her dreams. Every person should have a chance to contribute to society, to the maximum extent their talent or ability will allow.

Government should play an active role in expanding people's opportunities. The Government should be able to invest in technology and infrastructure, in job creation and training, and in education, in order to raise the people's living standards. The Government should help unemployed Americans get back on their feet, it should help those who want to work to find jobs, it should ensure that high-quality, affordable health care is available to all Americans, and it should protect our environment. Government is not the enemy of society; it should be a partner, an instrument of the people's will, and a facilitator of our public interests. But if the Government does not get its fiscal house in order—if we don't act now to stop our runaway deficit spending—the Government will have little money left to provide for the public interest. Only the holders of the Treasury bonds will be assured of any Government assistance.

I am going to tell a story today that some in this body may have heard before. Back in 1991, when I was being urged by a number of people to run for the Senate, I sat down with my son, Matt, to discuss the issue. Matt is now 17. He was 15 at the time. As you know, Mr. President, running for office is a tremendous strain on a family; I did not want to make a decision that big without discussing it with Matt first. And, during the course of that conversation, he said something I will never forget. He said, "You know Mom, your generation is the first one that has left this world worse than you found it."

Now, as you can imagine, those words were like a knife to my heart. The thought that Matt might be right sent a chill down my spine and the notion that my generation would leave the world worse off than we found it gave me the push I needed to get involved in running for the Senate. And I am bound and determined to use my tenure in the Senate to prove Matthew wrong, to show him that his generation will have more opportunities and a better life than my generation. I want him to know that the American dream is alive and well—and that his future is a bright one. That is why I am fighting

to see that the balanced budget amendment becomes part of the U.S. Constitution.

Mr. President, I was privileged to have served as a member of the President's Bipartisan Commission on Entitlement and Tax Reform—the so-called Kerrey-Danforth Commission. Some might say that serving on the Entitlements Commission was more of a curse, but I welcomed the challenge. Serving on the Commission allowed me to take a close look at our current budget trends, and at how those numbers will affect our ability to meet important priorities, like retirement security, and health care security, not just for current recipients, but for Matt's generation and beyond.

The final report of the Commission, issued last December, confirmed what most of us already know: Unless we get the deficit under control, we will be leaving our children—and our children's children—a legacy of debt that will make it impossible for them to achieve the American dream of living a better life than their parents.

I would like to take a moment to discuss those numbers. There have been and there will be a great many facts and figures talked about here in the debate on the balanced budget amendment. I know, frankly, that numbers have a tendency to make people's eyes glaze over. I want to discuss some of the numbers because they are so profoundly important to our future as a country and to the kinds of opportunities that will be available to future generations.

Most Americans, or I hope most, know that, thanks to the 1993 budget approved by this Congress, the budget submitted by President Clinton, Federal budget deficits are declining in the short term. The deficit is projected to remain under $200 billion through 1998. That would place it at about 2.5 percent of the economy—its lowest level since the 1970's. We can and should be proud of that, Mr. President. The 1993 budget deal represented a serious attempt to attack the deficit, and our economy has benefited as a result of it.

What Americans do not know is that after 1998, unless we change course, the deficit will begin rising again rapidly, reaching $400 billion by 2004. As early as 2012—and again when you say 2000, it sounds like a long way off, but we are only talking 5 years from now, to the turn of the century. In 2012, entitlement spending and interest on the national debt alone will consume all tax revenues collected by the Federal Government, leaving nothing at all—nothing—for defense spending, housing, Head Start, education, protection to the environment, transportation, and science research. Nothing.

What is driving this trend, Mr. President? Despite what people would like to believe, frankly, the catalyst behind our growing budget deficit is not $600 toilet seats or Air Force generals taking $200,000 plane rides. There is no line item in this budget labeled "fraud, waste, and abuse" that we can line out and get rid of; nor is the deficit growing due to the amount the Congress spends for the Corporation for Public Broadcasting or for food stamps or anything else that seems to consume the conversation on talk radio.

What we spend at home is actually lower now as a percentage of our economy than it was 25 years ago. If you examine a brief snapshot of the 1994 budget, this becomes clear. In 1994, the Federal budget allocated approximately $270 billion for defense spending, $335 billion for Social Security spending, $155 billion for Medicare, and $95 billion for Medicaid. All other entitlement programs combined total $185 billion, while interest on the national debt consumed $210 billion.

Discretionary domestic spending, which is often blamed again in popular conversation with leading the country to the brink of financial ruin, accounted for approximately $250 billion.

Mr. President, I do not mean to imply that the $250 billion we spent on discretionary items in 1994 is not a lot of money or that there is not room in that figure for further discipline and cutting. But we have to be honest with ourselves and with the American people. In light of the amount of money and percentage of the Federal budget we are spending on all of the programs I listed above, discretionary spending alone cannot bear the sole blame for our budget deficits. If we want to get ourselves out of the hole we have dug ourselves into, we cannot focus exclusively, or even primarily, on discretionary spending.

So where are the problems? What drives this budget deficit? Why is it so persistent? In a nutshell, there are two major problems: The rapidly rising costs of medical care, and the changing demographics of the American population are the most important forces driving the Federal budget.

Based on current trends, Federal health care expenses will triple as a percentage of the economy by 2030. Federal health care costs, which consist primarily of Medicare and Medicaid, grew at rates exceeding 10 percent for 5 years in a row. While they are currently growing at slightly lower rates due to changes in the private sector, those rates, frankly, are still unaffordable. Due to the rapid growth, the Medicare hospital insurance trust fund will go broke by 2001.

Clearly, this is a far more serious problem than just welfare reform, which makes up 1 percent of the Federal budget. AFDC and food stamps are not growing anywhere near the rate Medicare and Medicaid are. In fact, AFDC benefits, again, have declined by more than 40 percent in real terms since 1970. That is not to suggest that we do not need to reform our welfare system; we do and we will. But anybody who suggests that the budget can be balanced by reforming welfare is being less than honest with the American people.

The Chicago Tribune recently ran an editorial on the subject of health care, underscoring the need to control health care costs if we are to get serious about the balanced budget. I would like to quote briefly from that piece.

It stated:

> But if this Congress is serious about bringing the Federal budget into balance, something must be done to stem the still-rising cost of health care. Health reform isn't mentioned in the Contract With America, but unless some changes are made, several of the GOP's other goals will prove beyond reach.

Mr. President, I think the first goal will prove to be out of reach. If we do not control health care costs, we will not be able to achieve a balanced budget.

Rising health care costs are not the only problem we have to contend with. We must also confront the second leg of this dilemma, which is the "graying" of America, due both to longer life expectancy and the aging of the baby boomers.

When the Social Security system was established, the average life expectancy was 61 years old; now it is 76 years old. We cannot ignore this because the Social Security benefits are funded primarily by payroll taxes on current workers. As our population ages and as the baby boom generation retires, there will be fewer workers to support more retirees. While in 1990 there were almost five workers for each retiree, in 2030 there will be less than three. What this means is that if current trends remain unchanged, the Social Security trust fund will begin to pay out more than it takes in by the year 2012. By 2029, the fund will have exhausted all of its previously accumulated surpluses.

Mr. President, there is simply no way to get around the fact that our present spending trends are not sustainable in the long run. In 1963, mandatory spending, which is the combination of entitlement programs and interest on the national debt, comprised 29.6 percent of the Federal budget. By 1983, that number had almost doubled, to 56.3 percent.

Ten years later, in 1993, mandatory spending was 61.4 percent of the annual budget. Let me underscore that. Today, mandatory spending—entitlements plus interest on the national debt—comprise almost two-thirds of the entire Federal budget.

What about the future? If we do not act now, by the year 2003, which is only 8 years from now—and again, these numbers sound further out than they are—mandatory spending will comprise 72 percent of the Federal budget, 58.2 percent for entitlement programs and 13.8 percent for net interest on the debt. Obviously, if we are spending 72

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percent of the budget on mandatory spending, there will not be much left over for defense, education, and infrastructure.

The budget deficit also has disastrous implications for our private savings. Countries that save at higher rates grow faster and have a more rapid increase in the standard of living than countries that save at lower rates. In the United States, as our budget deficits and national debt grow, our private savings decline, we limit our investments, our productivity, and our economic growth and, therefore, our job production.

Since the 1960's, private savings have dropped from more than 8 percent of the economy to around 5 percent of the economy. At the same time, Government deficits have risen from less than 1 percent of the economy to more than 3 percent of the economy. As a result, the supply of savings available for private investment—our net national savings—has dropped from more than 8 percent of the economy in the 1960's to less than 2 percent today. This is particularly harmful for us with regard to our international competitiveness in this new global economy.

In today's increasingly global economy, our major industrial competitors are saving and investing at a much greater rate than we are. Japan's national savings from 1983 to 1992 totaled approximately 18 percent of its gross domestic product, while the European Community's savings totaled around 8 percent. If we want to stay competitive in the global marketplace, we can and we must do better; again, another reason to support the balanced budget amendment.

Mr. President, earlier, I mentioned that AFDC benefits have declined since 1970. The significance of that fact should not be lost. We are spending ourselves into a deeper and deeper hole, and yet people who need help from Government are not better off as a result.

I live less than 2 miles from the Robert Taylor homes in Chicago, a public housing development on the south side of the city. I grew up in the shadow of that development.

Just last week, a study was released that showed that 9 of the top 10 poorest neighborhoods in the country were located in public housing in Chicago. And I know my senior Senator saw the study. It was shocking. Included in that number were three neighborhoods in the Robert Taylor Homes. That is not something to be proud of. In fact, it is disgraceful, and it is especially distressing to me, because I am third generation Chicagoan. I love the city. I know the people who live and work in those developments. I know they want the opportunity to get ahead and to have a chance to lead productive lives.

The study that I mentioned, which was based on per capita income information taken from the 1990 census, underscores why I so firmly believe that Congress must adopt this balanced budget amendment.

The people living in the Robert Taylor Homes and in the developments mentioned in that study are not better off than they were in 1969, which was the last time that this country had a balanced budget. In fact, they are worse off. They have become more isolated, and less connected to jobs and the American dream, less able to access and afford an education. They have fewer opportunities.

Perhaps if we had been able to take the $800 million we spend each day on interest, and directed it instead to improve the lives of those residents, this situation would not seem so hopeless. But, in order to halt this downward spiral, we have to get our budget problems under control. And that is another reason I support this balanced budget amendment.

Consider another set of facts. Just yesterday, the National Center for Children in Poverty released a study showing that a quarter, fully a quarter, of American children under the age of 6 were living in poverty in 1992. Even more shocking, nearly three out of five of those children had working parents. Despite the stereotypes you hear about on the nightly news, less than one-third of the children living in poverty have families that rely entirely on public assistance. The bulk of these children have parents who work. All of our spending has not done those children, or their parents—most of whom are working, scrimping and saving and trying to get ahead—has not done them much good. Without our massive deficits, if we did not have to devote such a substantial amount of our budget to interest on the national debt, the Government could help these people find better jobs. These are people who want to work; but, because we have gotten ourselves into such a hole with our lack of fiscal discipline, the Government cannot give them the hand that they deserve.

I have heard many opponents of the balanced budget amendment question the need to tackle the deficit immediately. America is not, they maintain, in the midst of a budgetary crisis. In the short term—the next 7 years—that is perhaps true. The country can probably continue on its current irresponsible path for a few years into the next century. But, after that, it will no longer be possible to ignore the basic demographic and health care cost trends driving the increases in Federal spending. We simply will not be able to continue on our current path, and expect the Federal Government to function as a partner of the people well into the next century. And, if we wait to act until crisis comes, any action we take will be that much more painful, and that much less effective.

Again, a quick glance at our current budget provides ample reason why we must act now, instead of waiting for the crisis to hit full blown. The entire Federal deficit for the current fiscal year—estimated at $176 billion—represents the interest owed on the huge national debt run up during the 1980's. This year, and next year, the budget would be balanced if not for the reckless supply-side economics that caused the deficit to balloon from its 1980 level of about $1 trillion to its current level of more than $4.7 trillion. If we had acted in 1980 to tackle the deficit, rather than adopting approaches that merely fed its rapid growth, the problems we face today—in terms of demographics, and the aging of the baby boomers—would seem much more manageable. In 1980, interest on the debt was $75 billion—that is a lot of money, Mr. President, but it is nowhere near the $950 billion we currently pay. How much better off we would be if, in 1980, Congress had possessed the courage to make the difficult choices, and balance the budget. Not passing the balanced budget amendment will not make our problems go away. Our ability to meet our priorities will be much greater if we enact the balanced budget amendment now, if we tackle the tough problems now, instead of waiting until the country is on the brink of financial ruin. If we need any convincing about the need to address the deficit now, in 1995, we should just look at the consequences of our failure to address it then, in 1980.

The Entitlements Commission concluded last December without issuing any specific recommendations to Congress, to the dismay of some. Nonetheless, I believe the Commission was a real success, for outlining in painstaking detail the truth about our budget future, and the consequences of not facing it honestly. I would also add that this report was adopted by a strong bipartisan vote of 30 to 1, which is quite remarkable, when you think of the wide variety of personalities and viewpoints that served on the Commission. What that bipartisan vote told me was that all of us, Democrat and Republican alike, know what the problems are, and know we need to act now to get them under control. If nothing else, the balanced budget amendment will help end the conspiracy of silence surrounding our Nation's fiscal problems, and ensure that we no longer have the ability to ignore the facts that are staring us in the face. Instead, it will guarantee that we face those facts, sooner rather than later.

Mr. President, given the level of public concern about our growing budget deficits, I was surprised that the Commission's final report did not receive more media attention than it did. I attribute that lack of interest to the difficulty of putting cold, hard, incomprehensive numbers into real, human

terms. People hear what we are saying when we talk about the deficit being a certain percentage of the economy; that does not necessarily mean they know what the numbers actually mean.

To paraphrase Alan Greenspan, chairman of the Federal Reserve System, it is hard to get people—or the media—interested in a problem whose symptoms are hard to detect and whose full-blown effects seem to be years or decades away.

But the final report of the Kerrey-Danforth Commission should not be of interest solely to economists and policy wonks. These numbers have a real effect on us all. We need to communicate to ordinary Americans how the fiscal bottom line affects them; we have to put the sometimes incomprehensible into real, human terms.

The senior Senator from Illinois, my Senator, PAUL SIMON—to whom the country owes a great debt of gratitude for championing this issue—often refers to a study by the New York Federal Reserve Board, that looked at what the budget deficit cost America during a 10-year period from 1978 to 1988.

According to the study, during that 10-year period, our country lost 5 percentage points of growth due to the deficit. According to the Congressional Budget Office, each percentage point of growth translates into approximately 650,000 jobs. Let me repeat that—650,000 jobs. In other words, our country would have created an additional 3.75 million jobs during that period, if not for the Federal budget deficit.

Another way to make these numbers more real to ordinary Americans involves looking at what we spend in interest. Every dollar that the Federal Government spends on interest payments on the Federal debt squeezes out funds that could otherwise be used to increase the productivity of society. Currently, the Federal Government is spending $800 million every day for interest payments on the national debt.

Think about that—$800 million that could otherwise be used for Head Start, for housing programs, for our battle against crime and drugs, to create jobs, or to repair our crumbling infrastructure—every day.

In total, in 1994, we spent $203 billion to service the national debt—an amount equal to 14 percent of total Government outlays. We can not afford to waste this precious capital on financing the Government debt. We are, essentially, paying bond holders with money that could otherwise be used to help working people get ahead.

Many opponents of the balanced budget amendment argue that Government should be allowed to deficit-spend in order to continue investing in infrastructure, jobs, education, and the like. I agree that public investment is a necessary and proper Government function. But I disagree that deficit spending is the most effective way to accomplish that.

In 1966, when our deficit totaled $3.7 billion, 2.6 percent of our budget went toward funding long-term investment. Now, with our budget deficit about to hit $268 billion, our long-term investment has shrunk to 1.8 percent of the budget. The reason, I think, is obvious—more and more of our funds must be devoted to paying interest on the debt, leaving less and less for investment.

There are many other negative consequences, of course, of chronic Government borrowing. When households and businesses have to compete with the Federal Government to obtain loans, the increase in demand pushes interest rates up. Government takes scarce capital that would otherwise be available to the private sector for job creation, investment in infrastructure, or even savings. Deficits have a chilling effect on private initiative. To quote one of our Founding Fathers, Andrew Jackson:

> Once the budget is balanced and the debts paid off, our population will be relieved from a considerable portion of its present burdens, and will find * * * additional means for the display of individual enterprise.

We would all do well to heed his words today.

Mr. President, the opponents of H.J. Resolution 1 have a great many arguments to support their view that a balanced budget amendment is unwise. I do not doubt the sincerity of their opposition, for their ranks include a number of Senators with whom I usually find myself in agreement. I greatly respect their view; however, I simply cannot agree with them. I would like to take a minute to discuss why.

I know I have taken a couple of minutes already. I would like to finish. This is such an important issue. I know the Senator from Louisiana is waiting, but I would like to make a complete statement today.

First and foremost, opponents of House Joint Resolution 1 state that we should not be tinkering around with the Constitution. Well, I could not agree with them more. The years I spent studying law at the University of Chicago gave me a deep appreciation for the Constitution. I believe the U.S. Constitution to be the finest exposition of democratic principles ever written. I make that statement fully aware that, in its original form, the Constitution included neither African-Americans nor women in its vision of a democratic society. But it changed to better realize the promise of America. The beauty of the Constitution is that it can, through a deliberate, cumbersome, and sometimes painful process, be amended to reflect the changing realities, and meet new challenges faced by our Nation. This current problem—the problem of our growing fiscal disorder—is too important not to act on today. Who could be opposed to affirmatively stating in the Constitution that current generations must act responsibly, so that future generations will not be forced to bear the burden of their irresponsibility? What could be more important than the fiscal integrity of our Nation? As another of our Founding Fathers, Thomas Jefferson once said:

> We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Why is that proposition not important enough to be included in the Constitution?

Mr. President, it is argued that matters of fiscal policy should not be included in the Constitution. I believe that proposition frankly ignores the fact that the Constitution deals with fiscal policy in a variety of ways. I will mention just a few of them here: Article 1, section 7, provides that all bills for raising revenue shall originate in the House of Representatives; article 1, section 8 provides that Congress shall have the power to lay and collect taxes, duties, imposts, and excises, and to pay the debts of the United States; it further provides that Congress has the power to borrow money on credit, to coin money, and to fix the standard of weights and measures. Section 8 includes the power to punish those who produce counterfeit money, to appropriate funds for the support of the Armed Forces, and to enact uniform laws on the subject of bankruptcy.

Article 1, section 9 of the Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and mandates that a regular statement and account of receipts and expenditures of all public money shall be published from time to time. Article 1, section 10, forbids the individual States from coining money. Article 6 provided that all debts contracted before the Constitution was adopted would be valid against the United States. Clearly, fiscal measures are part of the Constitutions's main text.

Fiscal issues are also mentioned in various amendments. The 16th amendment, of course, grants Congress the power to collect income taxes. The 14th amendment, in section 4, states that neither the United States nor the States may assume or pay any debt incurred in aid of insurrection or rebellion against the United States. There are other provisions I could mention, but these are sufficient to refute the contention of opponents of the balanced budget amendment, that monetary issues should not be dealt with in the Constitution.

Nor do I accept the argument that budget deficits are a temporary problem, and will not always need to be dealt with; we should not, opponents argue, write into the Constitution an amendment that will become irrelevant and outdated once we get our current situation under control. Nothing

would make me happier than to believe that our current budgetary deficits are only temporary, and are not something that future generations will have to contend with. That, however, Mr. President, is not the case. We are here today precisely because we have not previously had the discipline to voluntarily achieve the goals of House Joint Resolution 1.

Opponents of House Joint Resolution 1 also argue that there are times when the Federal Government needs to run a budget deficit. This, of course, reflects a Keynesian notion of economic policy; that in times of economic downturn, the Federal Government must act to stimulate economic activity through deficit spending. To that argument, I would simply respond that House Joint Resolution 1 does not prevent the Government from spending its way out of a recession if it chooses to do so; it merely provides that three-fifths of the Congress must affirmatively vote to do so.

But more importantly, I would say to my colleagues that there is a great deal of difference between the Federal Government stimulating economic activity by spending during a recession, and our current situation. The Federal budget has not been balanced since 1969. During the past 25 years, we have enjoyed substantial periods of economic growth—our economy has not been in a recession, it has been growing, over most of the past 25 years. But we did not balance the budget in the good years either. Our current fiscal policy reflects more than recessionary spending; it is regular, habitual, undisciplined, deficit spending—and it must stop.

Last year I had the honor of reading George Washington's "farewell address to the nation" on the floor of the Senate. This is something that one freshman Member a year gets a chance to do. Really, a singular honor. In that address, Mr. Washington left us with some words of wisdom that, I believe, support the notion of a balanced budget amendment. I would like to quote those here today:

> As a very important source of strength and security, cherish public credit. One method of preserving it is to use it as sparingly as possible, avoiding occasions of expense by cultivating peace, but remembering, also, that timely disbursements, to prepare for danger, frequently prevent much greater disbursements to repel it; avoiding likewise the accumulation of debt, not only by shunning occasion of expense, by my vigorous exertions, in times of peace, to discharge the debts which unavoidable wars may have occasioned, not ungenerously throwing upon posterity the burden which we ourselves ought to bear.

These words, which are ceremoniously repeated each year in the Senate, underscore what the balanced budget amendment stands for: that borrowing money to pay the Government's debts, and running a budget deficit, should not be impossible, but should be an extraordinary event, done only when an overwhelming percentage of the Congress thinks it wise. While running a budget deficit may be necessary at times, it is not good fiscal policy to do so on a consistent basis. The Congressional Budget Office, the General Accounting Office, and a multitude of distinguished economists have all warned that our continued deficit spending will result in lower productivity and deteriorating living standards. It should require more than a simple 51 votes to deficit spend. The three-fifth requirement reflects that reality.

This is not, I might add, a subversion of the principle of majority rule. I do not believe in unduly restricting the ability of Congress to function. I would not have supported this amendment if it had, for instance, provided that taxes could be raised only upon a three-fifth vote of both Houses. But the three-fifth requirement to run a budget deficit really preserves the constitutional principle of no taxation without representation. By running budget deficits, we are saddling future generations, people who have no vote today, with the burden of paying for our inability to get our fiscal house in order. As it now stands, every man, woman and child now owes at least $18,000 to pay off the Federal debt. Without action, that number will only grow. We are literally borrowing from our grandchildren to pay today's expenses. Permission to do so ought to, in my opinion, require consensus and a supermajority vote.

And it is not unprecedented. Again, there are a number of places in the Constitution that specifically provide for supermajority votes: article 1, section 3 provides for a two-third vote of Senators to convict in an impeachment proceeding; section 7 provides that a two-third vote of both Houses may override a Presidential veto; article 2, section 2, requires the Senate to approve treaties by a two-third vote; and, of course, two-third of both Houses of Congress must vote to approve a constitutional amendment—to name just a few.

Another argument against the balanced budget amendment is that Congress doesn't have to amend the Constitution to balance the budget; it merely needs to make the difficult choices needed to reach that goal. I agree. The opponents are correct on that score. But the simple fact of the matter is that, absent a constitutional amendment, Congress has not proved itself capable of making the tough choices necessary to get the Federal budget under control. In 1986, before I came to Congress, the Senate came within one vote of passing the balanced budget amendment. At the time, the Nation was $2 trillion in debt. Now, in 1995, that number is over $4.7 trillion. We had, and blew, our chance to resolve the issue when it was easier to resolve. We need to act now, before the crisis hits.

Likewise, the Gramm-Rudman-Hollings provision, in theory, was supposed to balance the budget by 1991, before I even reached the Senate. Obviously, that never quite happened. So I would assert that history adequately demonstrates the fallacy of the argument that Congress will balance the budget absent a constitutional amendment.

Yet another argument offered by balanced budget amendment opponents is that the amendment will be unenforceable. I believe that elevating the balanced budget requirement to constitutional status will, in and of itself, be enough to guarantee that the provision is upheld. Every single one of us in this body has taken an oath to uphold and defend the Constitution of the United States. The American people expect, as they have every right to, that the officials to whom they entrust the Constitution will not betray that public trust.

Nor do I believe that the amendment will unduly involve the Federal judiciary in matters of fiscal policy. House Joint Resolution 1 provides that "the Congress shall enforce and implement this article by appropriate legislation * * *." In other words, Congress is directed to enact legislation to make the amendment work. That can include, if necessary, action to limit the remedies a court could grant in a case brought under the balanced budget amendment.

In addition, courts have already developed a number of doctrines which will limit the type and number of lawsuits that may be brought under the act. First and foremost, all litigants must have standing in order to bring a claim. This generally requires potential plaintiffs to show they have suffered an injury in fact, that was caused by the alleged unlawful conduct, and that is redressable by the court. Courts have been extremely reluctant, with one or two notable exceptions, to confer standing to litigants based on their general status as taxpayers.

Mr. JOHNSTON. Will the Senator yield at that point?

Ms. MOSELEY-BRAUN. Yes.

Mr. JOHNSTON. Is not that language about the Congress acting to enforce the amendment by appropriate legislation identical to the language found in section 5 of the 14th amendment, and that has not prohibited the courts from issuing literally thousands upon thousands of orders under the 14th amendment, so why would it under this amendment?

Ms. MOSELEY-BRAUN. I thank the Senator from Louisiana. He is correct. The 14th amendment does have similar language, but I would point out also that in the first instance the distinction and the difference—I mean legislating or litigating now, but I would

think, first, the issue of standing would matter. You have to show individual and direct harm to have standing in a court case brought under this amendment and certainly under the 14th amendment.

The case law has evolved differently with regard to Federal taxpayers' rights rather than someone complaining of a violation of their civil rights, for example.

In addition, the Federal courts have a longstanding practice of avoiding controversies that involve a political question. In determining what constitutes a political question, the courts will generally examine three factors: First, whether the issue in the case is one that is generally committed to other branches of government; second, the lack of judicially discoverable and manageable standards for evaluating the controversy; and third, the need for a single pronouncement on the issue. The fact that any plaintiff which brought suit under the balanced budget amendment would have to overcome these two hurdles—the doctrine of standing, which we discussed already with regard to the 14th amendment, and the political question doctrine—should be more than sufficient to limit the Federal court's involvement in matters of budgetary policy.

As a matter of legislative history perhaps, we should take up at some other time that it is very clear it is not our intention that the Federal courts be involved in budgetary policy matters upon the passing of this amendment.

I want to take one moment to discuss the right-to-know amendment, which will be offered by the distinguished minority leader, Senator DASCHLE. The Right to Know Act simply provides that Congress must give the States a list of how we propose to balance the budget before the States vote on ratification. Along with 41 of my Senate colleagues, I signed a letter to the majority leader, Senator DOLE, urging he act to ensure that the American people know what is in the Federal budget, and what it will take to bring the budget into balance—and even more importantly, to keep it in balance. It seems to me that this is nothing more than full disclosure. The Right to Know Act provides for the same thing that the entitlement commission accomplished with its interim report—a full accounting to the American people of where we are, where we need to go, and how we can get there.

There have been suggestions that adopting the Right to Know Act will kill the balanced budget amendment because the American public does not have the stomach for the tough choices we face. Frankly, I believe that argument does a real disservice to the American public. People want Congress to level with them; they are tired of the cynical manipulations, the smoke and mirrors, that have been used to obscure our fiscal disorder in the past. The people know that getting our fiscal house in order will not be easy, and certainly will not be painless, but the long term consequences of not acting are far worse than any short-term pain. So I support that initiative, and I will vote for its adoption when it is offered on the Senate floor.

However—and I would like to make it very clear—if the Right to Know Act fails to be adopted, that will not mitigate my support for the balanced budget amendment. Opponents of the balanced budget amendment have had plenty of time to propose their version of what should be cut, and by how much, in order to balance our books. The fact is, they have not. I do not fault them for that, Mr. President, and I agree with them that the States should have as much information as possible before they decide to ratify this amendment; but Congress cannot accept any excuse for further delay on this front. The time to act is now.

Mr. President, I have every confidence that the balanced budget amendment will soon be passed by the Senate. I hope that this debate, therefore, will serve as a "call to arms" for everyone who truly cares about the future of our country to come together and begin a dialog on the tough choices ahead.

As we begin this dialog, however, it is critically important that we leave all choices on the table—nothing can be off limits if we truly want to succeed. That includes examining our tax laws; we cannot succeed unless tax reform is part of the agenda. We need to simplify the Tax Code. We need to eliminate unfair and inefficient tax breaks that are known as tax expenditures. After all, tax expenditures result in treating taxpayers with the same income differently, depending on whether or not they qualify for the expenditure. They are every bit as much a spending program as those whose funds are directly distributed by the U.S. Treasury. Again to quote from George Washington's farewell address:

> * * * It is essential that you should practically bear in mind, that towards the payment of debts there must be revenue; that to have revenue there must be taxes; that no taxes can be devised which are not more or less inconvenient and unpleasant * * *

Fiscal honesty means we have a duty to make sure the American people can take a look at both sides of the Federal balance sheet, both the spending side and the revenue side. Building a consensus for the decisions necessary to balance the budget—and keep it balanced—means making sure the American people know what businesses and investors pays taxes and what does not, and why, just as much as it means knowing where their tax money is spent.

We cannot expect to succeed in our task if we begin by declaring individual programs or tax expenditures off limits. As we move forward, we have to keep our eyes on the prize. The issue is not saving each and every individual program, but instead defining what objectives are important to us as a nation—and how we can most effectively accomplish those objectives. What is important is not which programs job training funds come from. What is important is that people who need job training assistance are able to get it, and are therefore able to get or hold the kinds of jobs that can help turn the American dream into an American reality. Likewise, we should not be concerned with who will administer housing grants. What is important is the goal—ensuring that every American has access to decent, affordable housing—and seeing that the goal can be achieved in the most efficient, productive manner. We all know that not every program administered by the Federal Government actually works it is no secret. By keeping everything on the table, we can keep our promisses and keep what works, get rid of what does not, and therefore devote our scarce financial resources in a more effective, productive manner.

Finally, Mr. President, I would like to take head on the political implications of this debate, because it is an important political question for the Congress. I am not a signatory of the Contract With America. Indeed, I agree with Senator BYRD; the only contract with American that matters to me is the U.S. Constitution.

But I want to be clear that this issue is not a partisan one. It reflects philosophical differences that have little to do with party lines. The senior Senator from my State of Illinois, Senator SIMON, has been one of the chief advocates of the balanced budget amendment for years. Senator SIMON's liberal credentials are without question. He is, and has always been, a Democrat—he was at one time even a candidate for our Presidential nomination. So this is not a Republican versus Democrat debate.

Nor is this a battle of the conservatives against the liberals. I am proud to call myself a liberal, for the simple reason that I believe government has a positive and constructive role to play in promoting the public good. I do not believe government is the enemy of progress. I believe it can promote progress. In my lifetime, I have seen first hand the positive contributions a commitment to the American dream of equality and opportunity can make. I would not be here today but for the struggles of people of good will to make the American dream a reality. And it is precisely because I so value their struggles that I believe we must take the steps that a commitment to providing opportunity requires. We have a duty to use our decisionmaking

power in a manner that preserves freedom and opportunity for all Americans, not only in this generation, but in generations to come.

Poor people and working people and those most in need of Government assistance are not helped by the deficits and out-of-control spending habits we cannot seem to shake. It is interesting as I listen to the debate that swirls around the issue of the balanced budget amendment and Social Security, the reason that debate is so intense is that current recipients of Social Security—and even those of us in the baby boom generation who will be in that system soon—too soon, in the not so distant future—have an absolute expectation that Social Security will provide for us in our retirement. The same can not be said for those in our younger generations. When you speak to people who are my son Matthew's age, they have absolutely no faith that Government will be there for them when they need it, that it will help them enjoy retirement security or affordable health care or a high standard of living.

And why should they, Mr. President? Since my son was born in 1977, we have never seen a balanced budget. Mat has no idea what it means to live under a Federal Government that spends within its means. His generation has heard politician after politician promise to balance the budget, yet has only seen the deficit skyrocket.

That cynicism grows deeper and deeper every day, despite pronouncements that a brighter day is just around the corner. The fact is, with current budget trends, a brighter day is not around the corner. What lies ahead, if we fail to act, is slower economic growth, greater debt, fewer options and higher taxes. Generation X's pessism will be affirmed if we do nothing.

The time has passed for us to realize that by failing to act, we are indeed making a choice—a choice that involves throwing away most of our options for dealing with our fiscal problems. The only way we will be able to turn current budget trends around is to face reality with the help of the balanced budget amendment.

Every generation of Americans has been able to address and resolve the challenges unique to their time. That is what makes this country great. Our current fiscal challenges are daunting, but I am convinced that—with passage of the balanced budget amendment—we can save our ability to invest in people, and we can protect our capacity for humane government. Getting our fiscal house in order will give us the freedom to invest in people. That is what this country is all about. That is what this debate is all about, and I urge my colleagues to support this amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Louisiana.

Mr. HATCH. Will the Senator yield for just one moment?

Mr. SIMON. Mr. President, I believe my colleague has not yielded the floor. I think my colleague from Illinois still has the floor.

The PRESIDING OFFICER. The Senator from Louisiana was recognized.

Mr. JOHNSTON. Mr. President, I did not want to cut off the Senator from Illinois. I thought she had finished her speech. Did she?

Ms. MOSELEY-BRAUN. Senator SIMON wanted to ask me a question and he had risen to ask me a question.

Mr. JOHNSTON. Mr. President, I will yield for the purpose of Senator SIMON asking a question.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I thank my colleague. First, her eloquent statement illustrates why I am proud to have her as a colleague in the U.S. Senate.

I do not know if she is aware that Data Resources, Inc., one of the major econometric think tanks just a few days ago came out with a statement saying, and this is in line with her talking about jobs, that if we balance the budget by the year 2002, we will create 2.5 million more jobs in our country. And they also say here, by 2002, half the savings in our budget simulation come from lower interest costs. They project a 2.5-percent drop in interest rates. What that would do for our economy.

Then if I may also, just while I have the floor, because she mentioned this, and knowing the concern that my colleague has for people in the Robert Taylor Homes—it is some massive housing project, I thought she might be interested.

Congressman JOE KENNEDY of Massachusetts, one of the cosponsors in the House, said in a statement a few days ago on the floor of the House: People come up to him and say listen, JOE, you are a liberal Democrat. How can you possibly be for a balanced budget amendment? Is it not going to cut the very programs that much of your family and others have stood for for generations?

And then JOE KENNEDY replies:

> I say to them that those very programs that stand up for the working people, the poor and the senior citizens of this country, have suffered the worst cuts over the course of the last 15 or 20 years in this country as a result of budget deficits. Look at the housing budget, cut by 77 percent over the course of the last 15 years; look at those who have press conferences who say they want to protect fuel assistance for the poor. Look at what happened to the fuel assistance program—cut by 30 percent.

Then he goes on to a number of others and then this final line that Congressman JOE KENNEDY says:

> Do we see the bellies of our poorest children filled as a result of interest payments on the national debt?

I think that is a powerful way to respond there. I really appreciate it.

If my colleagues—I am not sure who I am getting yielded from——

Ms. MOSELEY-BRAUN. I have no further comment except to say I very much appreciate the Senator's leadership in this, and the patience of my colleagues. The statement took a little longer than I expected. I did want to make it because this is the beginning part of what is probably one of the most historic debates this Congress has seen in a very long time.

I feel honored to be a part of it. Again I thank the Senator for his leadership and I yield the floor.

Mr. SIMON. It was an excellent statement and if I could respond to the question my colleague from Louisiana asked earlier about implementation language, he mentioned the 14th amendment.

This amendment has two other things I think are of interest. No. 1, section 6 says, "Congress shall enforce—" and, No. 2, "The history of State governments."

Mr. President, 48 of the 50 States have some similar provision—not identical but somewhat similar.

There simply has not been a history of litigation in State courts. I was just looking at Colorado the other day. In the history of Colorado, there has not been a single court case on this.

I yield the floor.

Mr. JOHNSTON. Mr. President, I yield for a unanimous-consent request to the Senator from Utah.

Mr. HATCH. Can I modify that for just a bit so I can compliment the distinguished Senator from Illinois as well. I certainly want to compliment her for her strong, persuasive statement. We appreciate the leadership she has provided on this issue as well as others.

I miss her on the Judiciary Committee. I want everybody to know she played a tremendous role there. But I thank her.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, 3 weeks ago I rose on the floor of this Senate to announce I would not be running for reelection. Today I rise, with the luxury of not having to face another election to the U.S. Senate, to oppose this amendment in its present form.

I do so, first of all, because I believe this amendment violates the social contract. The social contract was a concept formed in the 18th century by French philosophers, principally Jean Jacques Rousseau, who came up with this concept which in turn inspired Thomas Jefferson and the people who wrote the Declaration of Independence and the Constitution. It was founded on the thought that there should be government by consent of the governed. A social contract where the people, understanding the issues, gave to

their elected officials the right to make decisions on their behalf.

Why does this violate the social contract? Because we have here a pig in a poke in which the American public are asked, in effect, to trust us and we or the courts will later tell you what the program is. A balanced budget is not self-defining. A balanced budget can be balanced in many, many ways, some of which are good and some of which are not so good.

Alan Greenspan, the chairman of the Fed, was before the Budget Committee just last week. I asked him about various ways that the budget could be balanced. Some, he said, would be bad for the economy. Some would be good for the economy. And the fact of the matter is, we do not know how this budget would be balanced. It could be balanced through taxes, and I wonder how many of my colleagues on the other side of the aisle would sit still for a budget balanced solely through taxes? I would guess they would all oppose it. The American people would oppose it.

I wonder how many on my side of the aisle would like a budget balanced by cuts in Social Security and Medicare; in other words, senior citizens programs. I suspect not that many. One reason it violates the social contract is that people in our country do not understand the budget and how it is made up.

On Wednesday, November 16, the New York Times printed an article which in turn reported the results of an exit poll done by Harvard University and the Kaiser Family Foundation. In this poll, people were asked, "What is the biggest program in the Federal budget?" Twenty-seven percent of the respondents said foreign aid; 19 percent said welfare. In other words, almost half of the people said that two of the really smaller programs make up the biggest part of the Federal budget. The fact of the matter is foreign aid is less than 1 percent of the budget. AFDC—otherwise called welfare—is also only little more than 1 percent of the budget.

As this article goes on to say, quoting from the article, it says:

> * * * the Harvard polling expert who helped conduct the survey said that unless policymakers tried to educate people on the budget we are going to have a heck of a time having a national debate on the deficit.

Here we are. There has been very little done to educate the public on what we are really talking about. The public thinks, I believe—and this poll indicates—that all you have to do is cut welfare and foreign aid and maybe waste, fraud, and abuse, and you have the problem solved. You do not have to deal with taxes, you do not have to deal with Medicare, you do not have to deal with Medicaid—all of those things.

What would the American people do when faced with the facts? Many of us are trying very hard to get those facts out to the American people. I do not believe they are going to be as enthusiastic about this amendment once those facts are trotted out. Indeed, Representative ARMEY, the majority leader in the House, said, "We cannot tell the American people about how we are going to balance this budget. Their knees would buckle." Can you imagine, Mr. President, the cynicism of saying that if we have a social contract, if we have the facts known by the American people, they would be against this matter, and therefore we cannot tell them? It is like a candidate running for office who says, "Vote for me now, and I will tell you what my platform is later."

Is there anything more fundamental to the choices of America, to the future of America, than who pays for the balanced budget? Who pays? Mr. President, there are vast differences in who pays. Just in the last Congress this Senate went a long way toward reducing that deficit. In fact, both under the Bush and under the Clinton programs the budget deficit as a percent of the gross national product is coming down from 5 to 2.3 percent, almost half of the deficit as a percent of gross national product, which is the appropriate measure to use. The deficit has come down by that much. But what a controversial matter that was in the last Congress. In fact, not one single Republican voted for the Clinton program because it involved taxes. It is, in fact, Mr. President, a fundamental choice. And the American people ought to be involved in that fundamental choice.

How is it going to be done? How is it going to be balanced? Well, the Treasury Department was asked by the chairman of the National Governors Association to do a State-by-State breakdown making assumptions that the Contract With America would be passed and asked what the effect on each State would be.

I can tell you, Mr. President, for my State of Louisiana, it showed that we were more heavily impacted than any other State. They concluded that we would have $2.1 billion per year in lost funding for Medicaid, $129 million per year in lost highway trust funds, $66 million per year in lost welfare—AFDC, that is—$444 million per year in lost funding for education, job training, the environment, and housing and other areas, and that, "Louisiana would have to increase State taxes by 38.2 percent across the board to make up for the loss in grants."

That is what the Treasury Department concluded. They were not asked to make that judgment for my State of Louisiana but for all States. I invite all Senators to look at the State-by-State breakdown and the assumptions that were made. Some of my colleagues in the House from my State when faced with these figures said, "Oh, that is scare talk. That is scare talk. It is not to be." Mr. President, it involves assumptions, no doubt, and they may not be exactly accurate. I do not claim that they are exactly accurate. I do say that they are mathematically correct, that they assume that you are going to get to a balanced budget, and that you use today's figures about the economy.

I can tell you this, Mr. President. No one else has put out any other alternative. So if this is not correct, I say to my colleagues who criticize the Treasury study, tell us what your program is. That is why we are so anxious to find out what that program is.

I confidently predict when the word gets out there across America as to what this is going to mean, it is not only going to not be popular, but it is going to be wildly unpopular.

I well remember the catastrophic health care debate around here where, to solve a problem, the American Association of Retired Persons, AARP, proposed a program and we adopted it in this Senate, a highly subsidized program for senior citizens and catastrophic health care under which the richest American would have to pay a maximum of $600 a year. We passed it, I think, unanimously, or maybe there were one or two votes against it; not many. And within a year, because of the outcry across America, both Houses repealed it in record time. That was $600. Mr. President, when senior citizens see the size of Medicare cuts that are going to be required under this, they are going to rise up as one.

Social Security is not off the table here. Social Security is right there on the table. It is right there in the cross hairs. What everyone is asking by voting for the balanced budget amendment is to say, make us do it. We really want to cut Social Security and we want to cut Medicare. Make us do it so we can blame it on somebody else, the courts or whoever.

Mr. President, we are told here today that there is some language in this amendment that prevents the courts from enforcing this amendment.

I can not find that language. Mr. President, it permits the Congress to implement this amendment by appropriate legislation, which is the same language you have in the 14th amendment. I believe that same language is in the 15th amendment as well.

Congress, as far as I can recall, never used that under the 14th amendment. It is permissive and it does not make any requirement. But we are told that there are two bases on which the Court would not get into this. First is that it was a political question. Mr. President, I think the Court has long since abandoned that political question. You remember the one-man-one-vote decision. That was, for many, many years a political question in this country. The Supreme Court refused to take jurisdiction, and they finally did take jurisdiction and ruled for one-man-one-

vote. I think the proclivity of the Supreme Court to avoid political questions has long since left, and I think properly so.

Second, we are told there would be no standing to sue under this. If that is the intent of Congress, it is very easy to deprive anyone from access to the Court. But that is not the intent here, Mr. President. It is very plain. It is a constitutional amendment. There is a Federal statute giving jurisdiction to courts to raise constitutional questions. And surely somebody has a right to raise a constitutional question. We have that under the 14th amendment. Why would you not have it under this? And if there is no access to the Court, who is to enforce? If what we are after is some requirement from some outside force to make us do what we would otherwise not do, if the Court cannot do it, then who can? Then where is the compulsion? Then what is the point?

We can do this right now, Mr. President. If this amendment does not mean that the courts have jurisdiction to enforce it, it does not mean anything more than the present law says, because the law now says you must have a balanced budget.

Mr. President, I believe that this also violates the principle of majority rule. By requiring 60 votes to have an unbalanced budget, you give enormous power to the minority. This is an old ploy, Mr. President. We have it in our State, where in order to raise taxes you must have, I believe, a two-thirds vote. And what happens when you have to have taxes? That one-third of holdouts have a shopping list which is always long, usually very expensive and, in the end, they finally get the votes because they have to have the revenues. But in the end, it amounts to bad policy. Not only does it violate the principle of majority rule, but it calls for making deals with the holdouts.

Mr. President, if we get into the shape where you have to do it, where you have to have the 60 votes and everybody recognizes it, you will be able to get it done, but probably at great cost to the taxpayer, both in money and in bad policy.

Mr. President, if, as I contend, the courts very plainly have jurisdiction here to order up a balanced budget, then how are they going to do it? The occupant of the chair is a lawyer of some distinction, and I know he has dealt with constitutional questions before. I believe what the Court would do is to order an income tax surcharge and say the Congress has *X* amount of time within which to come up with an alternative to balance the budget; otherwise, the surcharge will go into effect. Why do I believe that? Because the Court does not have access to the huge amount of staff it would take to determine the effect of budget cuts. It takes tremendous sophistication, computer models, and knowledge, to know what the spend-out rates of various cuts would be, how they impact upon the public in general, and how they impact upon the budget.

I do not believe the Court is going to get in there and say, well, we need to cut the National Park Service by 5 percent; we are going to exempt the IRS because we need those people; we are going to cut Medicare by *X* percent. One thing we found out about health care, this huge, growing part of the budget, is how complicated it is. The Court is not going to deal with those kinds of cuts. Do you think the Court is going to get in and say we need to cancel the remaining part of the B-2 bomber program, and we are going to allow the F-16 to go forward, and we are going to have one less division, and we are going to close this many bases? They are not going to do that, Mr. President. They do not know how to do that. If they took 2 years within which to make a decision, they could never come up with that judgment.

So what are they really going to do? If they conclude, as I believe they would, that you cannot get the 60 votes and that you have violated the balanced budget, the simple thing is an income tax surcharge. You do not have to know about the income tax program. You do not have to be an expert on that. You simply say a surcharge. All of the rules that are in effect right now, you let them go on, and you put a surcharge equal to the amount of that deficit. It may be a huge one; it may be a punishing kind of thing. But they would then lob the ball right back into the Congress.

I sincerely believe, Mr. President, that is what the Court would do. I have thought about this thing a lot. That is what I would do if I were on the Court, because there is no other alternative. If you say the Court is not going to get involved in it, again, Mr. President, what is the point? If the Court is not going to enforce it, then it is up to the Congress—well, it is up to the Congress right now. So what does this add? I say to those who would argue with me that the Court has no jurisdiction; why do you not put that in the amendment? I can give you the language for it off the top of my head within about 10 words: No court shall have jurisdiction to order the budget to be balanced.

That is all we have to say if that is what we mean. And if it is so fundamental, why do we not say it? Because that is not what it means? Of course, it means that the Court can enforce it. If we do not know the answer to that fundamental question, then I say this is the most ambiguous constitutional amendment, perhaps, we have ever had, and there has been a lot of ambiguity. This particular ambiguity would be very easy to clear up if in fact it is ambiguous, and I believe it is.

Mr. President, virtually everyone is for the balanced budget, but there are vast differences in how to do it, and there are also vast differences in the timing of when it is done.

All economists—a conservative economist, a liberal economist, and all the rest—will agree on one thing, and that is that you ought to take bigger bites out of the deficit when times are good and lesser bites out of the deficit when times are bad. In other words, as the Federal Reserve Board is meeting today and tomorrow, talking about raising interest rates, why are they talking about raising interest rates and why have they raised them over these last few months? Very simple. Because they believe the economy is overheating. They point out that unemployment rates are at not historic lows, but very low rates. They are worried that that low unemployment will spur inflation in wages and in commodity prices. So the rumor is that they are going to raise interest rates another half, maybe three-quarters of a point.

This would be a good time to take some big bites, therefore, out of the deficit. When you get into a recession, Mr. President, it is not the time to take big bites out of the deficit. And everybody, virtually all economists, agree on that. But this amendment puts you irrevocably, indelibly, inexorably on this glidepath—some would call it a crash path—to a balanced budget, without knowing how in the world we are going to do it.

And it may be, Mr. President, that you will have maybe 50 Senators who want to raise taxes, maybe 50 Senators who want to cut Medicare, maybe 40 Senators who want to cut Social Security. You may not be able to agree, and you lateral that ball right over to the Supreme Court, who will decide it for us in the way that I believe they would, which is with an income tax surcharge.

Mr. President, the Congress can, in fact, balance the budget right now or put us on the glidepath. We can do it under Gramm-Rudman and set forth a spending glidepath that is enforceable, that calls for sequestration if we violate it, that calls for 60-vote points of order if we violate that. That is really all we have to do. I mean, that is an elaborate procedure which, once agreed upon, is much more clear, much less ambiguous than a constitutional amendment would be, because you know exactly how it is to be enforced; to be enforced by sequestration, which exempts certain programs, and does not exempt other programs. And it is self-enforcing. The whole mechanism is enforcing.

Now, why would we not do that? Well, it may be, Mr. President, because, as Mr. ARMEY says, the public's knees would buckle if they knew the truth—the public's knees would buckle if they knew the truth. What an incredible statement for this Congress to

make; that if the public knew how we were going to do this thing, they would not like it and they would not be for it.

What happened to that old axiom of government with the consent of the governed? Oh, we are told that the Congress has not done anything. Mr. President, where have my colleagues been these last 2 or 3 years, when we brought the deficit down from 5 percent to 2.3 percent of gross national product? Did we think we achieved that without any pain or any disagreement here?

Mr. President, we achieved a lot in terms of reducing that deficit. It can be done. It is hard to do, of course. But it can be done. And the American people were involved in that. Maybe they did not like the way it was done. I did not like the way it was done. I had a different idea about how it should be done. But the majority ruled and it was done, and it can be done now without this constitutional amendment

Mr. President, we all know that the deficit is coming down but that forecasts show that, in the future, the deficit is due to go up rapidly again because of the projected increases in medical programs, particularly Medicare and Medicaid.

That means that we in the Congress are going to have to take rather heroic steps in order just to stay even with the board; in other words, to keep the deficit from going up, much less balancing the budget, we are going to have to take rather heroic steps.

Now, how difficult will those steps be? I do not know, Mr. President. I suspect they will be rather difficult.

But I can tell you this: that those steps, combined with an automatic deficit reduction down to a zero constitutional amendment, which cannot be avoided except by supermajorities, at least if we go into a recession or slowdown, might make it virtually impossible for us to act. In other words, we do not know what we are in for in terms of the coping with this Medicare problem. We just do not know.

The difficulties we had in the last Congress in trying to figure out how to deal with the medical crisis in this country and how to project costs and how to project savings from certain steps and certain legislation were terribly difficult. No one could ever agree. Some said it was going to cost more; some said it was going to cost less.

But we are going to have to not only do that to conquer that question of turning around the increase in Medicare spending, but we are going to have to balance the budget at the same time, no matter what.

That is why, Mr. President, taking out the flexibility that this Congress ordinarily has to act by majority vote is a very, very bad idea. The timing is simply bad. The political timing is good.

You know, the American people have finally woke up to the balanced budget issue. They seemed to be unaware of it during the 1980's when the debt was going from a little over $900 billion to almost $4 trillion at the start of this administration. They seemed to be relatively unaware of it at that time. Now they have become aware, since it has come down from 5 percent of GNP down to 3.2 percent of GNP by the end of this year; now they are aware of it.

It does not mean that it is not still a problem. But it does mean to say that political polls, as to who is for and who is against a balanced budget, are ephemeral gauges that go up and down and do not take into account that the American people do not yet know how it is going to be done.

Mr. President, we ought to involve the American people in this biggest of all social contracts. We have heard this term "Contract With America." It was an ingenious political device. I stand in admiration of it. Some parts of it I support. But it was an ingenious political device which conjured up the idea that the Congress and the American public ought to have an agenda, that they ought to vote on that agenda by electing their representatives, vote for what they get and get what they vote for. And that was brilliant.

Mr. President, this is a bigger contract with America than that which is contained in the so-called Contract With America, because it involves the future of everyone. It is a question of who pays. It can be done by means testing and maybe that ought to be the way we ought to do it.

Maybe we ought to say that everybody who makes over *X* dollars has to pay twice as much for their Medicare. Maybe we ought to say if you make over $50,000 a year, you do not get Social Security, whatever the formula is. Means testing is clearly one of those ways to do it. It has been discussed a lot.

I wonder how many people out there in America, how many senior citizens, have thought about how much means testing has to be done. And remember catastrophic health care and the reaction to that. Or it could mean taxes. And we know how the American public feels about taxes. Or defense. You know, the American public says, "Gosh, we need a strong national defense." Or we could eliminate some of these programs.

But I suspect, Mr. President, that the American public is in for a rude awakening when they find out how little money you can get out of the welfare program. I think we ought to have welfare reform. But virtually everything that is talked about with welfare reform costs more money.

Orphanages? Mr. President, what do you think orphanages would cost? Right now, you know, the babies stay at home with mama and you give mama a check. But if you had to build the orphanage, acquire the property and build the orphanage, get the staff to operate the orphanage, and not only do that but take care 24 hours a day of these kids in loco parentis, as we say, the cost of that, Mr. President, would be—maybe it would not be as expensive as Boys Town; I understand Boys Town costs $70,000 or $80,000 a year. They have a lot of special counseling there. But if we have just the garden variety orphanage, it will cost a lot more than welfare does. Job training, I am for it. But anybody who thinks we can have job training and then have day care for the mothers—and we are going to be a lot cheaper on that than the present welfare program—has not taken out the calculator to figure this thing out. There is not a lot to be saved in welfare. We need to reform it, but there is not a lot to be saved. There is certainly not a lot to be saved in foreign aid.

I want to see my colleagues who are for cutting aid to some of our great friends out there—I am not—countries like Israel, which are so strong in promoting the American interests all throughout the Middle East. I am not for cutting that program. It is less than 1 percent of the budget.

Mr. President, in conclusion, and I apologize for speaking so long, but it is an important issue. This is an issue where we need a Contract With America. This is an issue where we need a social contract. We need a major debate where the American public is told about how this will be done, at least what is the approach; maybe not how every dollar over a period of 7 years is going to be cut in every single program, but how is it going to be done in approach. Is it going to be a means testing approach? If so, what is that going to mean to those senior citizens out there?

Is it going to be cuts in Medicare? For example, copayments? And how big would those copayments have to be? How much do we pay each time we go to a doctor? Should senior citizens not know that? Should they not know that, Mr. President? What will happen if they wake up—all the Senators have voted for the balanced budget amendment, and then I can see them. It will be just like in catastrophic health care. They will call up and say, "We did not know that that is what was meant. We did not know, Senator, that is what you had it mind." I remember those calls on catastrophic health care.

Now, I think the American public ought to be entitled to know what we are going to do, to know what the plan is and involve them in the debate. We do not have to rush into this thing. It is one of the most important debates we have ever had. Involve them in that debate. Tell them at least the broad outlines of what we will do, what will it cost Mr. or Mrs. or Ms. Senior Citizen. Do you know what I really believe? I really believe the senior citizens are right in the cross hairs. They

are in the scope. They are in the sights. And get ready, senior, because you will have to pay for this thing. To a very large extent, it is our senior citizens who will pay for the balanced budget amendment.

Medicare is going to be No. 1. Mr. President, we made cuts in Medicare in the past. They have not really hurt. Right now the Government pays about 70 percent of the doctor's bill or the hospital bill on the average on Medicare. But those doctors and the hospitals had accepted that 70 percent. What do they do? They pass it on to the other people. "Cost-shifting" it is called. Passed on. Passed on to those who have insurance and to those who can pay. Everybody knows that that is so.

There are, however, limits to that cost shifting, I suspect, and I am told by experts that we are right at the limit on cost shifting. In other words, we start cutting Medicare just on these block cuts more than we have now, and we will have doctors who will refuse to treat, hospitals who will refuse to accept patients, and we are going to have to make the changes in Medicare. Copayments, increases in premiums, or rationing of medical care, or other means.

In fact, the Speaker of the House just yesterday said we need a fundamental reexamination of Medicare. What did he mean? What did he mean, Mr. President? We do not know. But I think Medicare is important enough to the American people that we should be told that fundamental thing before we go in and adopt a balanced budget amendment which may require that fundamental restructuring of Medicare in such a way that the seniors are going to have to pay for this balanced budget amendment.

We are not talking about small decreases in expenditures. We are talking about $1.5 trillion between now and the year 2002. We are talking about cuts so huge that it would require a fundamental restructuring in Medicare, probably a fundamental restructuring in Social Security if those things are on the table. What else is there? What else is there?

Mr. President, I oppose this balanced budget amendment, certainly in the form that it is now. It is a ticket to the Supreme Court with an order for an income tax surcharge. It is an invitation for the senior citizens of this country to pay for it with huge, massive cuts in Medicare, probably Social Security. My State of Louisiana—according to the Treasury Department, is going to be impacted more than anybody. They say it would require a tax increase of 38.2 percent across the board. How many people in my State, if this is true, would be for this 38.2-percent tax increase?

Maybe that is not so. Well, if they did not make the right assumptions, tell Members what the assumptions are. Tell Members what those assumptions are. Then, if I know how it will be done and we sort of have that debate out there with our people, I could well be for it, because everyone, including me, is certainly for the balanced budget in concept. But not this way. Not "vote for me now" and I will tell you what the platform is later. Not putting at risk the fundamental future of senior citizens in these fundamental programs that we have in this country. It is the wrong way to do it, Mr. President.

I hope as this debate proceeds we will get some of these answers. How are we going to do it? Does the court have jurisdiction? Does anybody have standing? Just what is the plan? That is what we need in order to have a contract with America and to have a social contract with the people of this country.

I yield the floor.

Mr. SIMON. Mr. President, I just want to take 5 minutes to respond briefly to my colleague from Louisiana, for whom I have great respect. As a matter of fact, I have cited Senator JOHNSTON as an example of why term limits are a mistake, even though he has decided that he is going to leave this body.

Just very briefly. On the question of the courts imposing taxes, there has only been one example of that in our history and that is the Jenkins case in Kansas City. That was because Congress was silent. On this, we say Congress shall implement, and we will spell that out. We will make clear this is not the jurisdiction of the courts.

Mr. JOHNSTON. Would the Senator yield at that point?

Mr. SIMON. Mr. President, I yield.

Mr. JOHNSTON. Under the 14th amendment, courts run prisons, courts run schools, courts have even required taxes. What was the name of the case where the courts required taxes to equalize taxes between school districts in a State? They do that all the time. Section 5 of the 14th amendment says that the Congress may implement this amendment by appropriate legislation. Same language as we have here. What is the difference?

Mr. SIMON. Mr. President, I think there are two differences. No. 1, section 6, first of all, spells out "Congress shall enforce." Congress shall enforce, not the courts shall enforce.

Second, when we talk about equity——

Mr. JOHNSTON. Does it say the courts may not enforce?

Mr. SIMON. No. We say Congress shall enforce and Congress shall implement. But we have not in terms of equity. In terms of taxation, the courts may get into a school case.

There is only one case where the courts have imposed taxes on people, as far as I know, in the history of our country and that is the Jenkins case. In the Jenkins case the law is silent. They moved into an area where there was no law. Here we are going to, I assume—and Senator HATCH and I certainly are in agreement on this, and I am sure Senator JOHNSTON would be—make clear, very explicitly, this is our jurisdiction. And in terms of enforcement, because that is the problem, then, when we say we cannot increase the debt limit without a 60-percent vote, that is very tough enforcement, as Attorney General Barr testified.

Mr. JOHNSTON. May I ask my dear friend. Section 6 says, Congress shall enforce and implement this by appropriate legislation. It does not say the courts lack jurisdiction to enforce the amendment. Every other amendment of the Constitution, my friend would agree, can be enforced by the courts, can they not?

Mr. SIMON. Yes. And we do not prohibit any kind of court involvement. But, the history of this in States that have these kind of provisions is that there have rarely been any court cases. That is the history of it.

That is the history of it. The Senator and I took one oath when we stood down there, as the Presiding Officer did just a few weeks ago, to uphold and defend the Constitution. I do not think we are going to take that lightly.

Mr. JOHNSTON. My friend would agree that the courts are not prohibited from enforcing this amendment, and that in every other amendment the Court has jurisdiction to enforce, and they do get involved in every other amendment, do they not?

Mr. SIMON. If the Senate should say the heck with the Constitution, we are not going to pay any attention to this—and I cannot conceive of our doing that—then it is possible in some way the courts will get involved. But it is interesting in that last time, if I may just finish here, we had one of our colleagues who attacked us on the same basis, and then very reluctantly—and I think I speak for Senator HATCH on this, too—we accepted the Danforth amendment which was more precise on this about the courts not being involved, and then the same Senator got up and said I have a constitutional amendment that is meaningless. If my colleague from Louisiana will assure me that he will vote for the amendment if he gets those words in there that he would like, I am willing to take a look at it.

Mr. JOHNSTON. Let me ask, because it is at least as fundamental a question as there is here, do we agree, if I may get involved with the distinguished floor manager—

Mr. SIMON. Sure. I yield time to my colleague from Utah also.

Mr. JOHNSTON. The courts would have jurisdiction to enforce the amendment?

Mr. HATCH. I do not think they do. As a matter of fact, I cannot see any

way that the courts would find standing or justiciability, and I think they will invoke the political question doctrine, especially since we say Congress has the obligation and the right and power to enforce it.

Mr. JOHNSTON. Is that the clear intent of the authors, that the courts may not enforce it?

Mr. HATCH. Clear intent.

Mr. JOHNSTON. Why do you not say so? It is very easy, very sparing words.

Mr. HATCH. We do not because it is a true constitutional amendment and, frankly, there are those on the other side who I think will argue that the courts ought to have some control. We just want to avoid that particular argument.

Mr. JOHNSTON. Would not my friend agree——

Mr. HATCH. Some say no matter what you do the courts do not have control but they ought to. The majority say, well, we do not want the courts to have any control or have any interest in this and then we wind up, we wind up on both sides of the issue. Frankly, what we did is——

Mr. JOHNSTON. Would not my friend agree with me that this is at least ambiguous——

Mr. HATCH. I do not think it is. I do not think it is when you—

Mr. JOHNSTON. Political doctrine? The Senator remembers the one-man-one-vote case, Baker versus Carr?

Mr. HATCH. Sure.

Mr. JOHNSTON. For many, many years one-man-one-vote was considered by the Court to be a political question. And the Supreme Court in Baker versus Carr changed that judgment and said it is no longer political; we are going to order one-man-one-vote.

Now, what is there inherent in this that makes it a political question?

Mr. SIMON. If I may respond, on the one man-one-vote case, which grew out of the State of Tennessee, there was no explicit jurisdiction claimed solely by the legislative bodies. And here we are going to claim that we have the jurisdiction.

If I may respond just to a few other points that my friend from Louisiana made, he said—and a lot of my colleagues will disagree with what I have to say here, probably including my good friend from Utah. The Senator said, "This is a good time to take good bites out of the deficit"—I wrote down the Senator's words—talking about the Federal Reserve Board. But the reality is we are competing with each other trying to get a tax cut right now.

Mr. JOHNSTON. The Senator is not competing with me. I think that is terrible policy, and I know my President is for it and I know Contract With America is for it. But it is absolutely the wrong time to be doing that.

Mr. SIMON. I could not agree more with my friend from Louisiana, and if we had a constitutional amendment requiring a balanced budget, we would not be talking about it here. That is one of the realities.

Mr. JOHNSTON. In the Contract With America, it has both a tax cut and a constitutional amendment to balance the budget.

Mr. SIMON. If the Senator is expecting me to defend the Contract With America, I am not about to do that.

Mr. JOHNSTON. No, but the Senator said we would not be talking about it, and they are talking about it and they are in control.

Mr. SIMON. But my friend from Louisiana has just illustrated why we need the balanced budget amendment. It is absolutely ridiculous to be talking about a tax cut when we have these huge deficits. But we can do that because it is popular, and so we are going to go out and we will go back home and make speeches how we cut taxes—absolutely nutty to be doing that right now. And so I think the Senator has made the point.

When the Senator said we can do it on our own, that is the same speech we heard here in 1986 when it lost by one vote in the Senate. The total Federal debt then was $2 trillion. Now it is $4.7 trillion. And if we make the mistake of turning it down again, if we have a chance before we have economic chaos, it will be $9 trillion and we will have hurt the economy much, much more.

In terms of the Social Security trust fund, the Senator said the seniors are in the cross hairs—every group is being told. And those figures the Senator got from Treasury, they are about as inaccurate as any figures that I can imagine.

Mr. JOHNSTON. Where are they wrong? I hope they are wrong. Where are they wrong?

Mr. SIMON. They are wrong. And I think, I might add, in the course of this debate the Senator will have plenty of examples of why they are wrong, and I am going to be one who will spell it out.

Mr. JOHNSTON. Is it the mathematics or is it the assumptions?

Mr. SIMON. Yes. And I will spell that out. But let me just say the Senator mentioned seniors are in the cross hairs on Social Security. Bob Myers, the chief actuary for the Social Security system for 21 years, said it is absolutely essential for the Social Security trust fund to pass this. Without this, we are headed toward monetizing the debt. And as you look at the history of nations, I think that is very, very clear.

Then, finally, the Senator mentioned about responding on recessions. I would say there are two arguments here. One is used by Fred Bergsten, you probably remember, former Assistant Secretary of the Treasury, who says we are really strapped; we cannot respond to recessions as we should now. What we ought to do is have a 1- or 2-percent surplus and then give the President the authority to initiate programs immediately in areas where you have unemployment above X percent.

I think that is a very valid argument. But the National Bureau of Economic Research at Cambridge has issued a study by two University of California economists who come to this conclusion.

> Discretionary fiscal policy does not appear to have had an important role in generating recoveries. Fiscal responses to economic downturns have generally not occurred until real activity was approximately at its trough.

Mr. JOHNSTON. Is he one of those who disagreed that the New Deal helped bring us out of the Depression?

Mr. SIMON. All I know is the economists are from the University of California.

Mr. JOHNSTON. There are some people who believe in the flat Earth, too.

Mr. SIMON. I would add one other point, and I think most economists are in agreement on this point here that they make. At least I have had a lot of reading on that. But the other point is where we have extended unemployment compensation—and I have been looking at this—when we have had recessions, in every case but one, in 1982, we have had way more than the 60 votes that this constitutional amendment would require.

Anyway, I thank my colleague from Louisiana for his discussion. Obviously, we do slightly disagree on this constitutional amendment.

I yield the floor.

Mr. HATCH. If the Senator will yield?

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Utah.

Mr. HATCH. We in our report make it very clear. We say:

> The committee believes that S. J. Res. 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions, while not undermining their equally fundamental obligation to "say what the law is . . ." The committee agrees with former Attorney General William P. Barr who stated that there is. . . .

And then he went on to make it clear the courts will not.

Mr. JOHNSTON. If I may ask, is the Senator saying the Supreme Court is going to follow this judicial history?

Mr. HATCH. Maybe Justice Scalia will not but the other Justices will. And I think even Justice Scalia will because he will consider the law as it exists. Because, you know, the courts can only enforce constitutional amendments—really only where there is "standing." That is——

Mr. JOHNSTON. Who decides whether there is standing?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Let me define it. I believe my colleague has the floor but I am trying to respond to him. That is the "case in controversy" requirement of Article 3, which requires litigants to show harm. No one can show harm under Section 6 of this amendment. Since Frothingham versus Mellon, that was in the 1920's, the Court held that in order to have standing, a litigant must show particularized harm in budget and tax structures.

The case that the Senator is referring to, the one man one vote case, is Reynolds versus Sims. In that case, in the one man one vote case, the Court believed that in that case, in that particular case, the litigant could show particularized harm so the Court did finally decide it on that basis.

Now, the difference between that and here, is that there the Court was working on a fundamental right to vote, a fundamental right to have your vote weighed, a fundamental right to have your vote count. And you go right down the line on the fundamental right to vote.

Mr. JOHNSTON. If the Senator will yield now——

Mr. HATCH. If I could just add one more sentence. I just want to get this all out in one or two or three paragraphs.

As an example of a consitutional situation where standing will not lie, litigants literally cannot sue or complain about the President's control over foreign policy. They just cannot. So I wanted to get that one point out.

But, yes, the Court will pay attention to this. Yes, the Court will pay attention to section 6 of this amendment. And, yes, it is almost—I do not see any way that you could show standing and show that kind of particularized harm that you could show in Reynolds versus Sims. It was not hard for the Court to make that transition and decide Reynolds versus Sims the way it did. Some may disagree with the decision. Some may say that, yes—as the Senator did—for a fairly long period of time they treated the whole issue as a political question. But there is a far greater difference between deciding a fundamental right like the right to vote and enforcing a constitutional amendment that makes it very clear that Congress has the power to enforce and to take care of the details of the amendment itself.

Now, what is important here, in my opinion, is that—I value my friend from Louisiana. He knows it. We have been friends for the whole time I have been here. I have respected the work that he has done in the Senate. I hate to see him leave. And I think the Senate will be not as good a place once he does leave.

But I hope the Senator will continue to discuss this with us, if not on the floor at least off the floor. Because I am interested in satisfying people around here. Our problem is, as everybody knows, that we have 535 Members here. If he and I could sit down and write this amendment it might be a little bit different. In fact, he did participate in helping to get us to this point on the amendment. If the Senator from Idaho and I sat down and wrote it, it might be a little bit different. The fact of the matter is, a bunch of us have sat down over a 12-year period and have written this and it is the best consensus amendment, best bipartisan amendment we can do that might possibly cause us to start being serious about some of the deficiencies of Government, which I think the distinguished Senator from Louisiana has outlined quite well.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, my friend has outlined the emerging state of the law on the question of standing to sue. The issue of standing to sue goes all across the law and provokes about as many decisions as any area of the law that I know about.

Suffice it to say it is emerging, dynamic, and changeable. And—as is the question of a political question.

In Reynolds versus Sims, and Baker versus Carr, formerly political questions, they changed on that issue. There they were enforcing the 14th amendment, which said nothing about voting rights and which traditionally had been left to the States. So this was a change.

This amendment specifically deals with a question of unbalanced budgets. My friend says no taxpayer is particularly harmed by this. You should have heard the eloquent speech—as maybe he did—of my colleague from Illinois, who talked about her child and future deficits. You would think, to hear that, it is the most fundamental issue for our progeny and our families that there is. And I believe the Court would find that standing to sue.

What I find to be objectionable, among other things, I say to my friend, is this is deliberately ambiguous. It is deliberately ambiguous because there are those Senators who say the Court has to have the final club in the closet otherwise this does not mean anything. And there are others who say we do not want to get the Court mixed up in this because we do not want the Court to order taxes. So we leave it deliberately vague, ambiguous, to be decided by some future Supreme Court.

I believe that is the height of irresponsibility. It is not a difficult task from the standpoint of statutory draftsmanship. We could literally draft it here within 5 minutes on the floor of the Senate. I would say "No court shall have jurisdiction to enforce this amendment."

That is simple, straightforward and unambiguous. If that is what we mean it ought to be said. It is not one of those difficult things to define like "outlays and expenditures and receipts." That is what I read from section 6 here, is that the Congress shall enforce and may—what does it say—may define outlays and receipts? What does it say? "Estimates of outlays and receipts," define those. That is because they are not self-defining.

But a jurisdiction of a court is fundamental and it is the Congress who needs to make that choice. Is it an enforceable amendment or not an enforceable amendment?

How can we be debating something as fundamental as a balanced budget amendment and not know whether the Court can enforce it or not? How could we do that? That boggles the mind. That is the question. Can they enforce and how can they enforce? That is the question. We do not answer it.

Mr. HATCH. Will the Senator yield?

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I believe, if my colleague looks at facts, he looks at the law, he looks at the Court, there is really no question that the courts cannot enforce this.

Will there be——

Mr. JOHNSTON addressed the Chair.

Mr. HATCH. Let me just finish, if I can. The Senator seems to be making an argument that there is a mere possibility. I suspect we have to agree, there may be a mere possibility argument here.

Mr. JOHNSTON. I think it is probable. I think it is clear.

Mr. HATCH. The standing and political question doctrines are longstanding doctrines——

Mr. JOHNSTON. Every other amendment is enforceable.

Mr. HATCH. Not really. They are unlikely to change. In the case of Reynolds versus Sims, most people believe the Court made the right decision there. I do not know of any constitutional scholar—there may be some—but I do not know of any major constitutional scholar who would think the Court made the right decision if it interferes with this, nor do I know anybody on the Court who feels that way.

Mr. JOHNSTON. Why do you not say it? I do not believe——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I do not believe that judgment is clear at all. I think it is probable that the Court can enforce this—probable.

Reasonable minds can disagree. But why leave it deliberately vague, deliberately ambiguous?

Mr. HATCH. We do not think it is ambiguous.

Mr. JOHNSTON. I will tell you why it is left deliberately vague. Because there are some who are for it and some who are not for it and they want to leave it up in limbo.

Mr. President, this is a Constitution we are amending. Why can we not say what it means?

Mr. HATCH. Did the Senator address a question to me?

Mr. JOHNSTON. I will close with this because I have taken too long.

My point is that it is a Constitution we are amending. It can be clarified simply and clearly as to whether the Court can enforce. It is the most fundamental question, and we ought to decide here on the floor of the Senate.

Mr. HATCH. Mr. President, I am concerned about the Senator's feelings. I do not see a way in the world that the Court is going to find standing here, or even justiciability, let alone interpret the political question doctrine any other way than it has through all of the century, two centuries, of existence. To be honest, I just do not see how that is going to be.

So we are interested in continuing dialog, and I will be interested in chatting with my friend and seeing just what he feels on this even further. But to make a long story short, again this is a bipartisan consensus amendment.

Is it perfect? No. But it is as close to perfect as we can make it, and have a two-thirds majority in each body willing to vote for it.

The Bill of Rights does not. None of them provide for judicial review. They certainly do not do it explicitly. We will put it this way. Only where one shows standing can one litigate. In the first amendment cases, for instance, one cannot sue to protect the right of third parties. These are tough areas of the law. I think the Senator did well to raise this issue. It has been raised in every debate I have ever had on this. But I just do not see constitutional experts on his side of the question.

We will certainly discuss it with him and continue this dialog because we do want to get a balanced budget constitutional amendment passed, if we can.

Let me put into the RECORD at this point some answers to the arguments of the distinguished Senator from Louisiana on the standing, on the justiciability, and on the political question doctrine.

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

BALANCED BUDGET AMENDMENT JUDICIAL ENFORCEMENT ISSUES

Opponents argue that enforcement of the BBA will result in undue interference by the Federal Judiciary in the budget process.

Response. Opponents are incorrect. Certainly the better view is that enforcement suits would be dismissed on (1) standing, (2) justiciability, and (3) political question grounds.

1. Standing: The latest Supreme Court pronouncement on the standing doctrine is contained in *Lujan* v. *Defenders of Wildlife*, 112 S.Ct. 2130 (1992). There, the Court made clear that standing is a constitutionally mandated Article III prerequisite for commencing a federal action and has three elements: (1) the plaintiff must have suffered an "injury in fact" which is concrete, particularized, actual and imminent and not hypethetical, (2) there must be a casual connection between the injury and conduct complained of—*e.g.*, the injury must result from the actions of the complained of party and not a third party, and (3) it must be likely, as opposed to speculative, that the injury is "redressable" by a favorable court decision.

Turning to the three-part test, it is doubtful that a plaintiff could demonstrate the "injury in fact" prong because it is well settled that a mere interest in the constitutionality of a law or executive action is noncognizable.

Moreover, it is doubtful that a litigant could prove that the challenged law is the provision that "unbalanced the budget." In fact, such an allegation would be a "generalized grievance" which the Court has found noncognizable. *E.g.*, *Frothingham* v. *Mellon*, 262 U.S. 447 (1923).

As, to the third prong, "redressability", this prong subsumes justiciability and the political question doctrine, which I will discuss in a moment. Suffice it to say that as to this prong it is doubtful that a judicial remedy exists which would not violate the separation of powers doctrine.

The question of standing, of course, involves both taxpayers and members of Congress. With regard to Taxpayer Standing specifically, the Court, in *Flast* v. *Cohen*, 392 U.S. 83 (1968), announced a liberalized standing test for taxpayers. Under this "double nexus" test, taxpayer standing requires that the taxpayer-plaintiff (1) challenge the unconstitutionality of the law under the Taxing and Spending Clause of the Constitution, and (2) demonstrate that the challenged enactment exceeds specific limitations contained in the Constitution. Professor Tribe had testified that some taxpayers' suits to enforce the BBA would satisfy this test because the proposed Amendment would be a specific constitutional limitation on congressional taxing and spending power. There are two counters to this argument: (1) the Supreme Court has in application severely restricted the *Flast* doctrine; indeed, the Court seems to limit *Flast* to Establishment Clause situations. *See Valley Forge Christian College* v. *Americans United for Separation of Church & State*, 454 U.S. 464 (1982), and (2) the *Flast* test is not a substitute for the *Lujan* test; meeting the *Flast* test only establishes the "harmed in fact" first prong of *Lujan* and that the "redessability" prong cannot be met by taxpayer-plaintiffs. This conclusion is supported by the *Lujan* decision itself, whereby taxpayer standing cases are discussed in content of concrete harm.

The final possible route to standing in cases challenging the BBA, congressional standing, also seems to have little chance of success. It must be pointed out that the Supreme Court has never addressed the question of congressional standing and that the Circuit courts are divided on this issue. However, the D.C. Circuit recognizes congressional standing in the following limited circumstances: (1) the traditional standing tests of the Supreme Court are met, (2) there must be a deprivation within the "zone of interest" protected by the Constitution or a statute (generally, the right to vote on a given issue or the protection of the efficacy of a vote), and (3) substantial relief cannot be obtained from fellow legislators through the enactment, repeal or amendment of a statute ("equitable discretion" doctrine). *Reigle* v. *Federal Open Market Committee*, 656 F.2d 873 (D.C. Cir.), *cert. denied*, 454 U.S. 1082 (1981). Although there is an argument to be made that in certain limited circumstances (*e.g.*, where Congress ignores the three fifths vote requirement to raise the debt limitations) the voting rights of legislators are nullified and therefore there would be standing, the court would probably invoke the equitable discretion doctrine to dismiss the action. This "legislative exhaustion" requirement apparently does not take into account considerations of futility. In other circumstances challenging the enforcement of spending measures, Members of Congress would be subject to the same exacting standards as citizens.

Even if litigants could satisfy this standing requirement, courts would very likely dismiss their actions on the grounds that their claims were nonjusticiable political questions. The Court is *Baker* v. *Carr*, 369 U.S. 186 (1962), set out a lengthy test to determine when courts should dismiss an action on political question grounds. Since *Baker*, the Court has narrowed the political question doctrine to two elements: (1) whether there is a demonstrable commitment of the issue to a coordinate political department, and (2) whether there is a lack of judicially discoverable and manageable standards for resolving the issue ("justiciability"). *See, e.g.*, *Nixon* v. *United States*, 113 S.Ct. 732 (1993).

Identical to the "redressability" issue discussed above, analysis of the first prong reveals significant separation of powers concerns. Any significant relief (outside of a congressional standing suit for declaratory judgment) would require placing the budget process under judicial receivership (*e.g.*, injunctive relief setting a pro-rata budget cut or the nullification of any measure after outlays exceed receipts). This relief would, of course, interfere with congressional Article 1 powers. In other words, federal courts may not exercise Congress' spending and taxing authority, such authority being exclusively delegated to Congress by the Constitution.

Concerning the justiciabilty prong, the BBA does indeed contain "process" standards; however, it is doubtful that standing could be found to enforce such standards.

(Judicial Taxation) Some have also raised concern that the BBA would give the courts the power or authority to raise taxes. This concern, I believe, relies on a recent Supreme Court decision, *Missouri* v. *Jenkins*.

In *Missouri* v. *Jenkins*, 495 U.S. 33 (1990), the Court in essence approved of a lower court remedial remedy of ordering local, state or county political subdivisions to raise taxes to support a court ordered school desegregation order. Intentional segregation, in violation of the Fourteenth Amendment's Equal Protection Clause, had been found by the lower court in a prior case against the school district.

Would the balanced budget amendment allow a federal court to order Congress to raise taxes to reduce the budget? The answer is no. First, *Jenkins* is a Fourteenth Amendment case. Under fourteenth Amendment jurisprudence, federal courts may issue remedial relief against the States. The Fourteenth Amendment does not apply to the federal government.

Second, Congress cannot be a party-defendant. To order taxes to be raised, Congress must be a named defendant.

Presumably, suits to enforce the BBA would arise when an official or agency of the Executive Branch seeks to enforce or administer a statute whose funding is in question in light of the BBA. *See Reigle* v. *Federal Open Market Committee*, 656 F.2d at 879 n.6 ("When a plaintiff alleges injury by unconstitutional action taken pursuant to a statute, his proper defendants are those acting under the

law * * * and not the legislators which enacted the statute", *citing Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 175–80 (1803)). That official, however, cannot be ordered to raise taxes, because he or she does not have the authority to do so.

Finally, under Section 6 of the BBA, the enforcement mechanism, Congress could limit the type of relief granted by federal courts to declaratory judgments and thereby limit court intrusiveness into the budget process. This authority arises out of Article III's delegation to Congress to define and limit the jurisdiction of lower federal courts.

Mr. HATCH. Mr. President, let me also just take a few minutes on something that I think deserves more of a response.

I would like to speak on an important issue in this debate. This is an issue which was already debated last week, and on which the Senate has already voted.

Last week, amendments were offered on an unrelated bill regarding exemption for Social Security on the balanced budget amendment. Last week, the Senate voted twice on two approaches to protecting Social Security, and the votes were clear. It is the considered judgment of the Senate that we will protect Social Security from benefit cuts and tax increases enacted to balance the budget in any legislation implementing the balanced budget amendment. This body has already voted on that. We have ruled on that.

This proposal, which was introduced by Senator KEMPTHORNE, was supported by an overwhelming vote of 83 to 16. An amendment introduced by Senator HARKIN, which suggested that we exempt Social Security from calculations for meeting the balanced budget requirement in the discussion itself, failed by a vote of 62 to 38. The Kempthorne approach, which suggested we protect Social Security from benefit cuts and/or tax increases in legislation implementing the balanced budget, is clearly the most appropriate way to protect Social Security and is overwhelmingly supported by this body. However, an amendment has once again been introduced, and probably another one of many more which seeks to exempt Social Security from the balanced budget amendment in the Constitution itself.

Many of those who wish to exempt Social Security make the rhetorical point: "We should not balance the budget on the backs of the elderly." Aside from the fact that this amendment takes the unprecedented step of referring to a statute in the Constitution itself or bringing a statute into the Constitution itself, the irony is that exempting Social Security from the balanced budget amendment would create an overwhelming incentive to do just exactly that. Let me be clear.

The effect of this exemption will be exactly the opposite of its intended objective. If that exemption is granted by this body, it would focus budget pressures on the Social Security trust fund that could destroy the viability of the Social Security Program. If balancing the budget will create tremendous pressure—and it will—all that pressure will flow through whatever escape hatch is opened in the balanced budget amendment. Whatever is exempted from the balanced budget rule will be that escape hatch. If Social Security is made the escape hatch by this exemption, the total force of pressure of balancing the budget will fall on Social Security.

For the life of me, I cannot imagine anyone trying to protect Social Security trying to do it this way. There will be overwhelming pressure to either redefine as many Government spending programs as possible as "Social Security," endangering its original entitlement benefit purpose, or to literally pull the funds out of the Social Security trust funds to balance the budget. In fact, there would be nothing to stop Congress from borrowing as much money as it wanted from the Social Security trust fund to finance any other Government programs Congress wants to finance.

How can anybody argue that we should exempt it out of the balanced budget amendment when 83 of us in this body voted to make sure that Social Security is protected in the implementing legislation? After all, that is why you have implementing legislation. That is why we have this section 6 in this amendment.

Congress shall enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.

To deny that would be a denigration of the whole Senate, or at least those 83 who voted that we will take care of it in the implementing legislation.

It is a slap in the face to all of us, as though we did not mean it. An exemption from the balanced budget amendment says to Americans: Give us in Congress a loophole in the balanced budget requirement and we will figure out later how big that loophole will be. It says to Social Security recipients: Trust us in Congress not to use your Social Security through this loophole to fund other programs.

I do not know about you, but I do not trust Congress if there is a loophole through which they can drive any kind of social spending under the guise that they change the definition of Social Security.

I do not think our seniors would like it either, when they find out how bad it is. Does anyone believe that Congress can resist a chance to spend other people's money when it is given a blank check like this? That is why we have the debt problem we do now. If those amendments on Social Security, exempting Social Security, become attached in this amendment, that exemption would be a loophole you could drive any kind of spending truck you want to through. And it will not be long until the whole convoy of spending trucks and approaches will go right through that loophole. In other words, the balanced budget amendment would not be worth the paper it is written on. As politically attractive as that amendment may appear on the surface, it is misconceived and will serve to harm rather than help senior citizens.

The motivation for exemptions like this is to ensure that Social Security benefits will not be cut. This concern is misplaced for two reasons.

First, passage of the balanced budget amendment does not in any way mean that Social Security benefits will be reduced. It only requires Congress to choose among competing programs, and there are thousands of them in the Federal system right now that we wonderful Members of Congress created. And Social Security, everybody here knows, will compete very well.

It will be the No. 1 Super Bowl spending victor, and there is no use kidding about it; everybody knows that. An approach like the Kempthorne amendment in the Senate, overwhelmingly approved, is the best way to respond to this concern. It specifically would hold Social Security harmless. That is, Social Security would be protected from benefit cuts and tax increases, enacted for the purpose of balancing the budget.

Ironically, the proposed exemption from the balanced budget amendment does nothing to respond to this concern. Nothing in that amendment would protect Social Security recipients from either benefit cuts or tax increases. Those who say we are raiding the trust funds now to pay for the programs may be right, but exempting Social Security will only make that problem worse by making it the sole source of deficit spending. This will create a positive incentive to run a deficit in the Social Security trust fund, simply because you will be able to then, to offset revenue increases elsewhere in the budget.

Second, the biggest threat to Social Security is our growing debt and concomitant interest payments. Debt-related inflation hits especially hard on fixed incomes, and the Government's use of capital to fund debt slows productivity and income growth.

The way to protect Social Security is to support the balanced budget amendment and balance the budget so that the economy will grow. Senior citizens know this. They feel it. That is why a recent poll shows that an overwhelming 91.8 percent of seniors favor a balanced budget amendment. They want this country brought under control, too. They know that the viability of their Social Security depends on whether we in Congress can get this budget balanced. They know it is the best way to protect their children and grandchildren and the best way to ensure that runaway deficits do not lead

to runaway inflation, which hurts those on fixed incomes the most. It is harder on them, and it is especially hard on them.

Being a supporter of both the balanced budget amendment and Social Security, I believe this exemption that is asked for by some of our colleagues on the other side faces major concerns. I believe that the Senate has already voted on a better way to protect Social Security which would protect Social Security from benefit cuts and tax increases to balance the budget. This is the best and most appropriate way to protect Social Security for our seniors and our generation.

One last thought and then I will yield the floor to my colleague from Nebraska. If you do not think we raid trust funds around here, just look at last year's so-called anticrime trust fund. I know a little bit about that. I was on this floor for days and weeks on that issue. I went over to the House to help them with their problems and help to cut $3 billion of pork barrel spending out of the trust fund that the House and conference committee had put in. We were successful.

When it went out of the Senate, our trust fund was $22 billion. It was a trust fund set up to be paid for out of the reduction of 250,000 Federal workers. The purpose of it was to fight crime. By the time it got to the House and by the time it got through the conference committee—and I was on that conference committee—it was ignored on 30 amendments, and they had loaded up that trust fund with all kinds of pork barrel spending to make themselves look good. A trust fund to fight crime became a trust fund to spend and buy pork. If you do not think that will happen to Social Security, just exempt it in this amendment from being part of the total budget. And if anybody in this country believes that these two bodies here are not going to protect Social Security in the implementing legislation, then they have to be nuts. They have got to not understand basic reality in politics.

Constitutional amendments ought to read like constitutional amendments. They should not be legislative vehicles to protect anybody, except the American taxpayers and people, which is what this amendment will do. It is one of the few chances we have in the history of the last 60 years of profligate spending to do something about it.

This is it, folks. If we do not pass this balanced budget amendment, because of gimmicks like trying to exempt Social Security which, in turn, means the trust fund will be attacked by everybody who wants to spend all the time, and you cannot stop it around here, there will be a loophole that will make the constitutional amendment worthless and meaningless, then we have to have rocks in our head.

So do not let anybody be deceived by these so-called valiant attempts to save Social Security. I guarantee you if we do not put a balanced budget amendment in place, Social Security is going to be in trouble just like everything else in the budget, because we will not be able to pay for it, because these people are not going to do the things that have to be done to make priority choices among competing programs until we have this balanced budget amendment, and this is it, folks.

This is 12 years of work; this is a bipartisan amendment. No Republican and no Democrat can claim total control or credit for this. All of us can. This is the chance to get there. If we miss this chance and miss this opportunity—and by no means do I think we are going to, because I think we will make it before the end—I shudder for the country and I shudder for our seniors, because they are going to be the people that are going to be hurt the most.

I yield to my dear colleague from Nebraska, and I appreciate his patience in letting me make these points.

Mr. EXON. Mr. President, my colleagues know that I am a long-time supporter of the balanced budget constitutional amendment.

We have tried numerous other remedies, but they have failed to restrain our buy-now-and-pay-later habits. We have only proved how clever we are in creating loopholes and dodging the spending limits. I believe that the balanced budget amendment is our only hope; it is our last hope to break the cycle of runaway Federal spending.

However, too many people deal with the balanced budget amendment in the abstract. They will not face up to the harsh reality that goes along with it. They are queasy about telling the American people about the sacrifices that will be involved. The real work begins after we pass the balanced budget amendment. Passage of the legislation is merely a prologue to the really tough decisions that we have to make. We will have to roll up our sleeves and begin in earnest to cut spending.

The problem, Mr. President, is this: We have a distorted picture of how much is available for us to cut. I will try in these remarks to let the sunlight of straight talk shine in, revealing fully and honestly our task. It was swept under the rug in the House. We must not allow that to happen in the Senate.

Mr. President, the spending pool looks much bigger and deeper than it really is. It would be prudent to test the waters before we dive in. It would be prudent for the people, their Governors, and their legislators, to know what is in the constitutional amendment. It is a far-reaching measure, and it is time we take off the blindfolds, open our eyes and take a look at it. We find ourselves in such difficult straits because so much spending is placed off-limits. The pool becomes smaller and smaller and shrinks and shrinks. And one program after another is drained into a protected reservoir, not to be cut.

I want to take a few minutes to walk my colleagues through this daunting task of balancing the budget by the year 2002, the first year when the balanced budget amendment could take effect.

Let us start with some reference points. The Congressional Budget Office estimates that the projected deficit for the year 2002 will be $322 billion. Under the CBO sample deficit reduction path, we would have to make $1.2 trillion in savings over 7 years. Setting aside possible debt savings, we would need to cut $259 billion in the last, the seventh, year.

Total spending for the year 2002 is estimated to be $2.3 trillion. At first look, you might say we can certainly find $259 billion in savings out of that.

The problem is that the size of the $2.3 trillion spending pool is very misleading. Much of it has already been spoken for.

For example, $344 billion is reserved for interest on the debt. We cannot do anything about that. We certainly cannot touch that money. It would cause financial chaos throughout the world. So after we take that out, we are down to $1.9 trillion in spending. To bring us into balance, we would need to make a 13-percent across-the-board cut in spending. That does not sound too bad. But what about Social Security?

The Social Security bill for the year 2002 runs to $481 billion. The Republican leadership in the House and Senate have stated that Social Security should not be used to balance the budget. That is a good argument, but, if we exclude Social Security and interest on the debt that I have just referenced, our spending pool from which to make cuts has shrunk to $1.4 trillion. To bring the budget into balance now would require an 18-percent across-the-board cut.

Now, we come to a very important matter called defense, a major component of discretionary spending. I have expressed my concerns about the defense budget and the cuts that have been made and the hits that national defense has taken over the years. I believe that we are courting serious danger to national security if we cut any deeper into that program.

But, for the sake of argument, let us use a ballpark estimate of the President's 1996 defense budget in the year 2002, about $275 billion. Now subtract that from our available spending pool and we are down to $1.2 trillion. That translates into a 22-percent across-the-board cut in everything else to achieve a balance.

I am also hearing a great deal about tax cuts. That has been discussed on the floor this afternoon. I, too, favor

cuts when we can afford them. But right now, our priorities should be that deficit reduction must come first. How can we mention tax cuts and balanced budget amendment in the same breath? It strikes me as the height of irresponsibility.

But for a moment, let us assume that the tax cut in the House Contract With America is passed. In the year 2002, that represents $97.7 billion drain on the Treasury, further shrinking that pool that I have been making reference to.

The tax cut increases the spending cut required to reach balance from $259 to $357 billion. We are headed in the wrong direction, Mr. President.

What about the across-the-board spending cut needed to achieve a balanced budget? If we pass the tax cut, it climbs to an incredible 30 percent of all remaining spending.

I could carry this exercise even further. If veterans programs were taken off the table, the across-the-board cut would rise to 31 percent. Remove military retirement, it is up to 32 percent. Take off civilian retirement, it is 34 percent. Subtract Medicare, it is 50 percent. And so on, and so on, and so on.

Mr. President, these are the facts. These are facts that I daresay few Members, if any, in the House took a look at and probably not too many here in the Senate have taken the time to look at them either.

Of course, I do not believe that we will ever reach the point where we will have to cut 50 percent from all other programs. That is absurd. But it does show that if we follow this hands-off approach, a small number of discretionary programs are going to take a very large and perhaps an unfair share of the cuts.

And what sort of programs are these that would be left for the up to 50 percent cuts? Everything from the Federal Bureau of Investigation, to the Women, Infants and Children feeding program, to Head Start, to cancer research, to keeping open the Grand Canyon and Yellowstone National Parks, and all of the other programs in between.

Mr. President, the point here is that the American people have a right to know what it will take to balance the budget. We should lay out the policies and actions that will be necessary to reach that goal and not hide behind some curtain and say, "We'll tell you about it later." We should do it before we vote on this legislation.

Mr. President, let me emphasize even further how difficult this task which this Senator supports is going to be.

I am going to read a portion now, Mr. President, of a letter that was recently handed to me from the Communication Workers of America that I think is very instructive, not only for Nebraska, but the other States that are mentioned in the Wharton deliberations and reports, on what would happen to Nebraska if the balanced budget amendment to the Constitution would pass. The letter reads:

DEAR SENATOR EXON: The Communication Workers of America (CWA) urges you to reject the federal balanced budget amendment, S.J. Res. 1, when this legislation comes before the Senate for debate and vote.

Enactment of this proposal would wreak havoc on the economy of Nebraska, according to a study conducted by Wharton Econometric Forecasting Associates (WEFA).

The WEFA study forecasts that enactment of a balanced budget amendment would cause a drop in personal income of $6,900,000,000 (six billion, nine hundred million dollars) among residents of Nebraska by the year 2003. This is a decrease of 12.9 percent from the 1994 level.

Similarly disturbing, a balanced budget amendment would reduce employment in Nebraska by 29,300 jobs by 2003. This would increase Nebraska's unemployment rate by 2.6 percent.

The service sector of Nebraska's economy would be especially hard hit, according to the WEFA study.

On a national level, a balanced budget would bring about a loss of 6,400,000 jobs by 2003. Real Gross Domestic Product (GDP) would decline by 3.7 percent.

In conclusion, the balanced budget amendment would lay waste Nebraska's economy and damage America's well-being.

CWA requests that you vote against this misguided proposal. Attached is information documenting the negative effects that this legislation would precipitate.

Signed, Lou Gerber, Legislative Representative.

And attached to that is a copy from the Wharton School, "How a Federal Balanced Budget Would Affect Nebraska's Economy."

Behind that, after Nebraska's economy, there is a table that shows its similar effect on every other State in the Union.

I ask unanimous consent that this material be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. EXON. Mr. President, I ask further that, at the conclusion of my remarks, a sheet entitled "Across the Board Spending Cuts Required to Achieve the Balanced Budget in 2002," which I referenced in my remarks, be printed in the RECORD, also.

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

(See exhibit 2.)

Mr. EXON. Mr. President, let me comment if I can. How in the world could a Senator from Nebraska, after reading this work by the Wharton group, support a balanced budget amendment?

Well, No. 1, I have not had a chance to study this in great detail. Obviously, the organization that prepared this is a well-established, well-known, well-respected forecasting firm. I remember using their material way back 20 years ago when I was Governor of Nebraska. So they are not a fly-by-night outfit. They have evidently done a great deal of study and work. I know not what assumptions, Mr. President, they made in preparing this material because, obviously, they had to make some.

It is safe to say that what the Wharton people are pointing out here, while I do not suspect it is going to have an adverse effect on Nebraska to the extent that they outline, is that the constitutional amendment to balance the budget will cause some pain, suffering, and hardship in Nebraska and every other State in the Union.

Another way of saying that, Mr. President, is we have to swallow some pretty sour-tasting medicine and hope that it can cure us from the spending spree that in the last 14 years has seen a series of multibillion-dollar annual deficits that are transferred at the end of the year over to the national debt.

In the last 14 years, the national debt of the United States has grown from under $1 trillion to the present level of $4.7 trillion, and it is going higher. Every person in the House and every person in the Senate knows that. We will have to raise the debt ceiling and borrow more money before the end of calendar 1995. Even if we balance the Federal budget by passage of the constitutional amendment to balance the Federal budget, it is obvious, Mr. President, that from now until the year 2002—when we intend to reach balance—our debt is going to continue to rise certainly somewhere near the $7 trillion figure, because every projection that we have indicates that we are going to have multibillions of dollars in deficit for the next several years.

I started out by saying, Mr. President, that I was for a balanced budget amendment. I am for a balanced budget amendment even with the sour medicine, even with the hurt that it is going to cause my State of Nebraska. I am for it so long as everyone shares and shares alike as reasonably as possible. Then I believe that the people of the State of Nebraska would say, if we are treated fairly and if we are not picked on, if we have to swallow this pill to straighten out the fiscal mess of the Federal Government, let Congress do it and get it over with. Let's quit passing it along each and every year, as we have been doing since Hector was a pup, charging it off to our children and our grandchildren.

Mr. President, let me say in conclusion that I think we must do this. I think we must swallow the medicine. I think we must make the hard choices. But I think we should emphasize the people's right to know. If the Wharton School of Econometric Forecasts are not right, then we should have other people make a study as to what is right for Nebraska—and Iowa and North Dakota and South Dakota and Kansas and Colorado and California and Maine and Florida and Washington State, and everybody in between.

I am rising, Mr. President, to try to set a record straight, to tell the truth,

to emphasize once again that passing a constitutional amendment to balance the budget, as was done so bravely in the House of Representatives last week, is the easy part of the ball game. The nitty-gritty, the line play, is what counts. I simply say, Mr. President, this Senator is going to be pushing for a constitutional amendment to balance the budget, but at the same time I am going to be saying to my colleagues in the Senate on both sides of the aisle, we need to let the sunshine in. We need to take off the blindfolds. We need to tell the truth. Then and only then, do I think we would be able to marshal the support of the people of this country to make this work. Then and only then, Mr. President, can we expect the legislators of the 50 States to take a look at this with some knowledge and decide whether or not they want to ratify the amendment as three-fourths of them will have to do before this amendment becomes part of the Constitution.

Mr. President, I think we are on the right track. But I think the track should be bearing a train toward a balanced budget amendment that goes slow enough so that we can see the pitfalls on the side of the road. Mr. President, I urge support for a constitutional amendment to balance the budget with its pain and suffering and with its warts, so long as we tell the people the truth and let the sunshine in. I yield the floor.

EXHIBIT NO. 1

[From the Coalition for Budget Integrity, Feb. 1994]

HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD AFFECT NEBRASKA'S ECONOMY

BBA'S IMPACT ON NEBRASKA

10 consecutive years of reduced personal income.

7 consecutive years of overall job loss.

The Service Industry would be particularly hard hit, suffering job losses for 9 years.

The Finance and Banking Industry would also face 9 years of job losses.

8 years of higher than necessary unemployment rate.

STUDY SHOWS HOW A FEDERAL BALANCED BUDGET AMENDMENT WOULD HURT EACH STATE'S ECONOMY

The second part of a two-part study done by Wharton Econometrics Forecasting Associates (WEFA) details the impact of a federal balanced budget amendment on individual state economies. The first part of the study, which was released on Monday, February 14th, analyzed the effects of a balanced budget amendment on the national economy over the next ten years (1994–2003). It found that in 2003 the nation's economic output would drop sharply, millions of jobs would be destroyed, the unemployment rate would soar, and taxes would be the highest in postwar U.S. history. In addition, state and local governments would be hit hard, collecting $125.7 billion less in taxes in 2003 than they would without the amendment.

The second part of the study delineates even further how a federal balanced budget amendment would wreak havoc on each state's economy. As with the first part, the study assumes the federal budget would be balanced over a six year period ending in 2000 and would remain balanced thereafter. The balancing would be achieved by raising one dollar in taxes for every two dollars in spending cuts.

While the exact impact would vary from state to state, all states would suffer severe economic decline in 2003. Personal income would be, on average, 13.5% below what it otherwise is expected to be in 2003. For many states, that means a loss of between $20–$100 billion in personal income in that one year alone.

No state would be spared from serious job loss. On average, in 2003 the number of jobs would drop 135,000 per state below what WEFA otherwise predicts without a balanced budget amendment in place. For example, New York would lose 140,000 jobs, Tennessee would lose 168,000 jobs, Illinois would lose 190,000 jobs, Ohio would lose 232,000 jobs, Pennsylvania would lose 255,000 jobs, Florida would lose 521,000 jobs, Texas would lose 594,000 jobs, and California would see a loss of over 712,000 jobs in 2003.

The unemployment rate would rise in each state. In some states, it would climb by as much as eight percentage points or more above the rate WEFA forecasts without a balanced budget amendment.

The construction industry would be hurt badly. Housing starts would decline in all fifty states, in some states by forty thousand units or more in 2003 alone.

SUMMARY OF ECONOMIC EFFECTS IN 2003

State	Drop in personal income		Loss of jobs		Percent of unemployment rate would rise
	In billions	In percent	In thousands	In percent	
AL	−$15.4	−12.7	−88.3	−4.4	+4.2
AK	−6.4	−23.6	−93.5	−21.9	+6.4
AZ	−18.2	−14.6	−130.9	−7.0	+8.8
AR	−7.3	−10.3	−54.0	−4.6	+2.6
CA	−148.0	−12.2	−712.5	−4.8	+5.7
CO	−17.6	−13.6	−104.3	−5.4	+3.3
CT	−17.9	−11.7	−63.6	−3.7	+3.5
DE	−3.0	−11.3	−15.6	−3.9	+3.6
DC	−18.2	−55.1	−241.8	−28.5	+13.3
FL	−73.6	−14.0	−520.9	−7.1	+5.0
GA	−35.2	−15.4	−312.0	−8.3	+4.8
HI	−6.3	−13.9	−52.6	−8.1	+2.2
ID	−4.6	−13.3	−24.8	−4.4	+3.2
IL	−52.3	−11.4	−190.4	−3.1	+2.2
IN	−20.0	−10.7	−108.5	−3.6	+2.1
IA	−12.9	−14.5	−59.0	−4.1	+3.3
KS	−9.0	−10.4	−42.5	−3.3	+2.2
KY	−13.7	−11.6	−100.1	−5.4	+4.1
LA	−17.7	−12.7	−121.3	−5.8	+2.9
ME	−4.5	−10.3	−24.0	−3.9	+3.5
MD	−30.2	−14.5	−186.4	−7.8	+4.8
MA	−20.9	−8.6	−24.9	−0.8	+2.2
MI	−33.2	−10.1	−152.1	−3.3	+3.0
MN	−16.2	−9.7	−86.1	−3.3	+2.4
MS	−10.3	−13.7	−82.7	−6.5	+3.5
MO	−22.5	−12.4	−98.8	−3.6	+1.8
MT	−1.9	−8.2	−11.0	−2.9	+3.2
NE	−6.9	−12.9	−29.3	−3.4	+2.6
NV	−7.1	−13.0	−59.0	−6.4	+7.5
NH	−5.3	−12.3	−29.0	−5.4	+9.4
NJ	−43.6	−11.8	−178.3	−4.5	+4.5
NM	−8.0	−16.7	−80.9	−10.8	+3.0
NY	−64.2	−8.0	−140.7	−1.6	+2.2
NC	−32.4	−14.2	−277.0	−6.8	+3.3
ND	−2.2	−11.2	−4.1	−1.3	+1.5
OH	−43.4	−11.8	−231.8	−4.2	+2.4
OK	−12.0	−12.0	−46.9	−3.2	+3.3
OR	−21.2	−21.4	−196.9	−13.0	+7.7
PA	−56.6	−12.9	−254.6	−4.5	+3.9
RI	−3.7	−10.1	−15.5	−3.2	+5.8
SC	−15.3	−14.2	−162.3	−8.4	+4.5
SD	−2.4	−11.2	−13.5	−3.7	+1.6
TN	−21.8	−13.0	−168.1	−6.2	+5.5
TX	−93.6	−14.3	−593.9	−6.2	+3.2
UT	−7.8	−13.9	−63.0	−6.0	+2.0
VT	−1.2	−5.4	−3.9	−1.1	+0.5
VA	−34.5	−13.8	−242.9	−7.0	+3.4
WA	−28.5	−15.1	−208.8	−7.7	+4.5
WV	−4.3	−8.0	−22.1	−2.8	+2.6
WI	−18.8	−10.9	−111.7	−3.9	+2.1
WY	−2.0	−13.9	−18.4	−7.5	+2.9

EXHIBIT NO. 2

Across-the-board spending cuts required to achieve balance in 2002

[CBO estimates except where noted; dollars in billions].

CBO projected deficit for the year 2002	322
Savings required to achieve balance: (CBO 1/5/95 deficit reduction path):	
Policy savings (excluding tax cuts)	259
Interest savings	64
Total savings	323
Total spending for fiscal year 2002 (without offsetting receipts or deposit insurance)	2,298
Exclude net interest	−344
Spending w/o interest	1,954
Percent across-the-board cut	13
Exclude Social Security	−481
Spending w/o interest and Social Security	1,473
Percent across-the-board cut	18
Exclude defense (Preliminary estimate of President's FY1996 request)	−275
Spending w/o interest, Social Security and defense	1,198
Percent across-the-board cut	22
Assume $97.7 billion in tax cuts in 2002 (Treasury estimate) increasing total policy cuts required for balance to $357 billion	98
Percent across-the-board cut	30
Exclude Veterans programs (compensation, pensions and medical care)	−42
Spending w/o interest, Social Security, defense, and veterans' programs with tax cuts	1,156
Percent across-the-board cut	31
Exclude military retirement	−41
Spending w/o interest, Social Security, defense, veterans' programs, and military retirement with tax cuts	1,115
Percent across-the-board cut	32
Exclude civilian retirement	−51
Spending w/o interest, Social Security, defense, veterans' programs, and all federal retirement with tax cuts	1,065
Percent across-the-board cut	34
Exclude Medicare	−344
Spending w/o interest, Social Security, defense, veterans' programs, federal retirement and Medicare with tax cuts	720
Percent across-the-board cut	50

Mr. HATCH. Mr. President, I want to thank my colleague for the lucid and encouraging remarks. I appreciate his leadership in working toward balancing the budget and standing up so much on this issue. He is a prime cosponsor of this amendment. That means a lot to those Members who have been fighting so hard to get this constitutional amendment passed. So I want to just personally express my regard and comments.

Mr. EXON. I thank my friend and colleague from the great State of Utah.

Mr. HATCH. Mr. President I would like to respond to some of the remarks made earlier by our distinguished ranking member on the Judiciary Committee about capital budgets. The proposed exemption for so-called capital

investments could help evade the purpose of the balanced budget amendment or make it substantially more difficult for future Congresses to make capital investments.

I have to confess that I am not certain of the purpose of the amendment as it is drafted, or at least as I anticipate it to be drafted. It appears to be a provision at war with itself. The first sentence seems to encourage capital investments by taking them out of the balanced budget rule. But the last two sentences seem to be designed to discourage capital investments.

Now, this provision opens up a loophole in the balanced budget rule and unduly limits Congress' ability to make capital investments. There would be a powerful incentive for Congress and the President to help balance the budget by redefining more programs as capital investments. A gimmick capital budget exemption could actually endanger capital investments as fake investments crowd out real capital investment.

Furthermore, the 10-percent limit ties the hands of future Congresses that may choose among the competing programs to fund more capital investments than this limits allows. With the talk of a need for infrastructure investment by my friends on our side, I am sure they would want to tie Congress' hands this way. A future Congress may justifiably decide to make greater investments in this area.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Washington.

Mr. GORTON. Mr. President, yesterday when I spoke on the subject of a balanced budget amendment, a vitally important subject which, without doubt, will occupy the next many days of debate in this U.S. Senate, I observed that Members' views on this subject fell into what seemed to be three categories.

One category, it seemed to me, consisted of those Senators on the liberal side of the political divide who were essentially uninterested in a balanced budget, who were defenders of the status quo, whose observation was that their priorities had, by and large, been met by Congress operating the way it does without the constraints of a constitutional amendment inhibiting unbalanced budgets, and that they would forthrightly defend the status quo as being far superior to a constitutional amendment on a balanced budget because such a budget was essentially undesirable in the United States.

The second category, which was really relatively small given our history, consisted of those Members who were genuinely interested in fiscal responsibility and in a balanced budget, but who felt it was wrong to lock constraints against an unbalanced budget into the Constitution of the United States. In that case, it was my opinion that the experience of the last 10 years, 20 years, 30 years, 40 years, showed to most the folly of such a pursuit; that neither statutes nor an abstract sense of fiscal responsibility ever seemed to motivate a sufficient majority in Congress at a sufficiently high degree of priority to be successful, and that that group carried a very heavy burden of proof as to how we could reach the goal of a balanced budget without changing the Constitution. And therefore this group of Senators would be relatively small.

And the third group, consisting of the majority of the Senate, who feel that a drastic remedy is in order, who feel indeed we are in something of a revolution, and that in order to satisfy the demands of the American people we should enshrine in the Constitution a provision which makes it much more difficult to act in a fiscally irresponsible manner, would of course put forward that point of view eloquently and well, I hope, and ultimately triumph.

Only 24 hours have gone by during the course of this debate since I made those observations, and I must confess, at least if I read or hear those who oppose this constitutional amendment correctly, I was wrong about the first two groups. To the best of my knowledge, no single person has come into this body—no Member has come into this body, no matter how liberal, no matter how much in favor of an activist and increasing Federal Government, to state in a forthright fashion that that Member does not believe that a balanced budget is a particularly good idea, or at least a high priority. All of those who object to this constitutional amendment have given lip service to the proposition that a balanced budget is desirable, whatever their record in the past in voting for or against those measures, those items which would lead us to that end.

So that first group, that status quo group—while I strongly suspect that it exists—seems, so far in this debate, unwilling to identify itself. We who believe a constitutional amendment to be necessary are challenged with the proposition that we cannot make such a request without coming up with a detailed roadmap as to how we are going to get there. In fact, it is demanded of us that we have binding legislation governing at least three future Congresses, stating precisely how we will get from this point to that without regard to changes in our economy, changes in our international situation, dangers in the world at least, or changes, for that matter, in the majority, in the direction of the Congress of the United States.

Personally, I think the demand is an absurd one. It is legally impossible for us to bind future Congresses by a statute. We will in fact come up with a budget this year which will include a very fine downpayment toward a balanced budget, but we must recognize that future Congresses can take us on a different course of action, even if this proposal becomes a part of our Constitution. Many of those who have spoken against the constitutional amendment, should they come back to power, may very well wish to increase taxes rather than decrease spending in reaching that goal.

But my point here this afternoon is just this. If in fact I was wrong in dividing the Members into three categories in the course of this debate and there are only two—those who believe the constitutional amendment on a balanced budget to be necessary and those who believe firmly and fervently that we ought to do it but ought to do it without a constitutional amendment—then is it not every bit the obligation of that second group to tell us exactly how they would reach a balanced budget day by day, year by year, item-by-item, as it is for us to favor the constitutional amendment to do so.

It seems to me self-evident, if those who say the status quo is fine, that we must discipline ourselves to reach a balanced budget, are to prevail, and if they demand of those who want a constitutional amendment a road map, let us see their road map, too. How do opponents who wish to operate under the same system—under which we have operated throughout our entire history, and most particularly during the course of the last decade without coming close to balancing the budget—how do they propose that we do so? What reductions in spending over a 7-year period do they propose? What new taxes during that period of time do they propose? What changes in entitlements do they propose? In spite of their demand for that kind of detailed blueprint on our side, a map, we have so far received nothing but silence—lip service, statements about discipline, statements about what we ought to do, but not the remotest hint as to how a Congress, which has never been able to reach that goal under the present regime or in the past, can and should do so in the future.

Mr. President, I do not expect this request of mine to be honored. I believe it to be every bit as valid—in fact, more valid than their demand of us—as if when a constitutional amendment passes everyone will be in the same boat, its proponents, its opponents, the President of the United States, as well as the Congress of the United States. We will operate under different rules and under different circumstances.

We will be dealing with real issues, with real cuts, with real proposals for tax increases. But those who say we do not want to change the regime, we do not want to make that requirement, please vote no on this constitutional amendment. They, it seems to me, have an even more compelling, a greater, a more imperative duty, to say, if

we retain the status quo, here is how we reach the goal we all share. That they have not done, Mr. President. That I will warrant they will not do, and their failure to do so will show the falsity, the bankruptcy of the demand that those who propose a constitutional amendment come up with—that, besides a few more.

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. PELL. 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. PELL. Mr. President, I ask unanimous consent that I may proceed as if in morning business.

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

RESPONSE TO THE MEXICAN FINANCIAL CRISIS

Mr. PELL. Mr. President, earlier today President Clinton announced that he was working to develop an alternative package for addressing the Mexican peso crisis. This comes as a welcome response to a situation that was worsening by the day, as financial markets reflected increasing pessimism that Congress would approve the loan guarantee package. It is unfortunate that we were unable to act more expeditiously to help stem the crisis, and I want to commend the President for recognizing that we would all suffer from further delay.

While the details of the new package have not yet been clarified, as currently proposed it would include a $20 billion share from the United States Exchange Stabilization Fund, $17.5 billion in credits from the IMF, and a $10 billion short-term lending facility from the Bank of International Settlements. These aggressive but prudent measures should serve to shore up the Mexican peso as well as investor confidence in the Mexican economy as a whole.

Mr. President, without immediate action on the part of the United States and the world community, the short-term debt crisis in Mexico threatens to escalate into a full-scale recession that would negatively impact on all of us. Perhaps lost in the debate over the details of the financing mechanism was the fact that the United States and Mexican economies are now closely intertwined, and what happens there cannot help but affect us. Mexico is our third largest trading partner; American jobs and exports rely on Mexico's financial stability and growing prosperity. Politically, neither our immigration problems nor our war on drug trafficking can be adequately addressed without Mexico's active cooperation. We have been fortunate that across our long southern border is a friendly and stable ally. It is in our own self-interest to help ensure that a short-term debt problem does not become a lasting source of economic, political and social turmoil across the hemisphere.

I look forward to supporting President Clinton and urge my colleagues to do likewise.

Mr. President, I yield the floor. 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. BENNETT. 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. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed for up to 10 minutes as in morning business.

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

THE MEXICAN FINANCIAL CRISIS

Mr. BENNETT. Mr. President, today the President of the United States announced his intention to use his executive authority to intervene in the matters relating to the Mexican financial crisis.

Like other Members of the Senate, I have followed this crisis with great interest over the last few weeks. As a member of the Banking Committee, I participated in this morning's hearings on this issue, which were interrupted by the announcement of the President's action. Perhaps because of my interest in economic matters and my background in business, I have paid close attention to this and found that it has managed to consume some of my time in areas that I might have preferred to spend talking about other things. But it has become a very important part of my life for the last few weeks, and I thought it appropriate that I make a comment at this time.

Mr. President, I have likened the crisis in Mexico to an analogy that I hope will help people understand the position that I have taken. Suppose, Mr. President, that your neighbor suddenly came pounding on your door with the news that his house was on fire. You go out, look at his house and, sure enough, there are flames and smoke coming out of the attic. And your neighbor says, "My house is on fire; the fire is in the attic; my children are down in the basement. If we do not get the fire put out, my children will die. You must help me. Lend me your garden hose." And you say to the neighbor, "Well, there is no question that your house is on fire and you need help, but I do not think the garden hose will reach. I do not think it has enough water pressure to get up to the attic. I think there must be another solution." "No, you do not understand," says the neighbor. "There are combustible materials on the top floor. When the fire gets down through the attic, they will catch fire and my children will die. Let me give you more information." You say, "I do not need any more information about the fire. The information I need has to do with the ability of the garden hose to reach the problem."

That, in my view, has been part of the difficulty with the debate we have had around here about this issue. People keep coming to us and telling us "the Mexican house is on fire." My response is that I know that, I accept that. I do not argue with you, A, that it is on fire and, B, we need to help. My concern is whether or not the proposed solutions will help. And if they will not, I urge us to look someplace else to try to find something that will.

So it is in that spirit that I have been carrying on conversations with people from the Federal Reserve and the United States Treasury and met with officials from Mexico on several occasions to try to be sure that we are coming up with some kind of fire extinguisher that will do the job.

The more I worked on this, the more concerned I became that maybe we would not be able to do that. Today, the President has taken that decision out of our hands—I think very wisely and competently. The President has recognized that further delay, which would be an automatic result of leaving the thing before the Congress, would result in serious and perhaps irreparable harm. The fire had now gotten down from the attic, if you will, into the top floor, and it was necessary for the President to act and act quickly. I had suggested to members of the administration that they start thinking of a solution that did not require congressional action. They were reluctant to do that for reasons that I can fully understand, saying a matter as serious as this is something that should be brought to the Congress, and we should have an opportunity to debate and examine it before it is put into play.

But events overtook that process and the President used the authority that was available to him under the exchange stabilization fund to move ahead. As I say, I urged officials at the Treasury to look at this possibility as much as a week or 10 days ago. As I say, they were reluctant because of their desire for congressional approval. Now they are in a circumstance where, in effect, all Congress can do is disapprove after the fact. I hope we will not do that. I hope we will recognize that the President did about the only thing he could do under the circumstances. I hope the program that he has put in place will work; that we will indeed "see our neighbor's fire extinguished," because this is a matter of

great concern to all Americans, with the number of jobs that could be lost, the number of exports that could be affected. All of those statistics are on the public record.

There are a number of things that I think the Mexicans need to do. We have talked about them on this floor from time to time. I believe that this deal, as put in place by the President, is a better deal for the American taxpayer than the one that was first proposed, for several reasons. The first deal called for $40 billion, all of it charged to the American taxpayer.

This deal calls for, up front, $20 billion charged to the American taxpayer with the balance, another $27 billion, spread over a variety of agencies and countries. True, some of that which is spread over these other agencies might end up being American taxpayers' money, but at least, on the front end, the exposure to the American taxpayer is reduced.

Second, this deal produces burdensharing; that is, other countries are now going to be involved, whereas before it was strictly an American deal. Now we have gotten the attention of the other "householders" in the neighborhood, if you will, and they are bringing their "garden hoses" to the fire along with ours. I think that is a good thing, and that was not present in the first proposal the President made.

Third, this proposal involves the Federal Reserve System. The people at the Federal Reserve will be involved in enforcing the conditions that the Mexicans agree to. I think that is a good thing. It was not present in the previous deal. In the previous deal, any enforcement that took place would be under the direction of the Treasury and whatever allies they could gather from the IMF. I am not one who has a great deal of confidence in the ability of the IMF to solve this kind of a problem. I think it builds the confidence of the financial community to know that the people at the Federal Reserve System, whose principal activity in life is to defend the American economy and the American dollar, will be involved in overseeing the activities of the Mexicans. So inserting the Federal Reserve into the package improves the package for me considerably.

For these reasons then, Mr. President, I offer my congratulations to the President, and to the two leaders, Senator DOLE and Senator DASCHLE, for their willingness to give expressions of approval to the President for this action. He did not need those expressions of approval. Under the law, he could have proceeded without them. But it demonstrates the fact that the Congress is not unmindful of the "fire next door," that the two leaders, in a bipartisan fashion, have stepped forward to indicate their approval. The same thing is true in the House. Speaker GINGRICH and Leader GEPHARDT have both indicated their approval, as well.

So now all we can do is watch and wait. We have no assurance that this package will solve the Mexican problem. But at least there is now someone on the ground with a "fire hose" that presumably will be able to put out the fire. It is a hose that is more suited to the task than the garden hose that was originally asked for, and I add my voice to those that are being raised, saying to the President: You have my best wishes that this will work, and I will do whatever I can to cooperate with you and the administration to see that it does work.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. BENNETT. Mr. President, we are in the midst of a debate on the balanced budget amendment. At some point in this debate, I will have a lengthier and perhaps more comprehensive statement to make but, taking advantage of what the sportscasters call a break in the action, I thought I would make a few observations now about this particular matter.

I am a reluctant convert to the balanced budget amendment. As I have said from time to time around here, my educational background is as a political scientist. My whole career has been spent in business. But when I was in college, I studied the works of Jefferson, Madison, Hamilton, and Jay, and, yes, Karl Marx, Friedrich Hegel, and some of the other political philosophers. That has always been my avocation, even in the years that I was in business. I guess it was inevitable, given that particular bent on my part, that I would end up, when I could afford it, back in politics.

From a pure political science point of view, I can make a brilliant case against the balanced budget amendment. I can give you all of the reasons why a balanced budget amendment is not sound politics. Unfortunately, the real world sometimes intrudes upon the world of the political scientist and causes us to do things that are perhaps not as philosophically pure as we might like.

Let me give you an example. As I understand the Constitution and the theory and philosophy behind the Constitution, election of Senators by State legislatures is the ideal way this body should function. The Senate was created to represent States. What better way to make sure that the Senate represents States than to give the States full and complete control over the choice of their Senators. And the States did that in time-honored fashion through their own State legislatures.

That is the political science pure way that the Senate should operate. There is one problem with it. In the practical world, State legislatures that were divided by party—that is one party controlling one House and the other the other—would go for an entire Congress without being able to elect a Senator.

The Framers of the Constitution did not foresee the rise of the two-party system and there is nothing in the Constitution to accommodate it. There is nothing in the Constitution to deal with the challenges that come from it.

Also, people who were unscrupulous, who just decided they wanted to become Senators, many times could buy an entire State legislature, a bargain, if you will. And the corruption that surrounded the election of some Senators in the days when State legislatures chose Senators became so rampant that finally we had to go to another solution to the choice of Senators, which, while not pure to the philosophical doctrine of the Constitution, made eminent good sense. And so we passed the 17th amendment that called for direct election of the Senators.

I am not sure the caliber of the Senate got any better when we moved from the time when State legislatures chose Senators to the time when the voters did, but the various problems that I have described went away. And we have lived with the result of this very well since the time the 17th amendment was passed.

I think there is a parallel argument here with the balanced budget. I can give you, as I said at the outset, all kinds of reasons why the balanced budget amendment is not a good constitutional doctrine; all kinds of reasons why the Founders were wise to leave it out of the Constitution.

Unfortunately, we have practical pressures that have now overwhelmed us that say to us it is time for us to recognize that we need to adopt a balanced budget amendment. What are those practical pressures?

If I can go back to my political science background, I share with you the one thing that philosophers say is wrong with democracy as a form of government. Simply put, it is this: Once the people discover that they can vote themselves largess, the democracy will become financially unstable and it will fall. That was an article of faith among political scientists for centuries.

What is the oldest democracy in the history of humankind that has defied this principle? It is this one. We have lasted longer as a democracy than any other in the history of the planets.

And what is threatening our financial survival? It is the discovery of the people that they can, through their elected representatives, vote themselves largess—that is, get the Government to give them back more money than they give it—that is threatening our survival.

Now, we did not do that for over a century, maybe a century and a half, and then we began to discover that. And, having discovered that principle and gotten comfortable with it, we have started down the dangerous path that has historically undermined democratic governments all along.

So, in recognition of the fact that we have finally discovered that ancient truth and are acting on it, I say the time has come for us to adopt a balanced budget amendment.

I see the Senator from Arizona has arrived. As I say, I have a longer and more comprehensive statement on this issue that I will offer at some point. But I felt at this time that I should lay the groundwork with this little philosophical note before I get into the meat and potatoes of this real debate. I hope those who spend their time looking at history and philosophy will grant me a point or two on this one and recognize that I am addressing it in something other than the practical political hustings of the last campaign.

With that, Mr. President, I yield the floor.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Thank you, Mr. President.

First, I want to compliment the Senator from Utah. His reference to the famous historian Alexander Tytler, I think, is an apt way to characterize the dilemma that faces our Nation today, because it is true that certain segments of our society have determined that they can vote themselves largess from the public treasury. And it was at that point that this famous British historian and many others have concluded a democracy would not thereafter long last.

So the point that the Senator from Utah makes, I think, is critical to understanding the reasons for our support for a balanced budget amendment. I compliment him for that reference.

Mr. President, by the end of this fiscal year, Congress will have added another $309 billion to the national debt. It will amount to a total of over $4.9 trillion, nearly $19,000 for every man, woman, and child in this country.

Mr. President, $19,000 is more than the average Arizonan makes in a year. The $296.8 billion spent to service the debt last year amounted to over $1,100 per capita. That $1,100 is enough to pay the tuition of a young man or woman at Arizona State University for a year; enough for a healthy young person in a group plan to buy health insurance for an entire year.

Mr. President, Congress and the President are debt addicts. The addiction is destroying the Nation. Almost 50 cents of every $1 paid in individual income taxes is required just to pay the interest on the national debt. That is 50 cents of lost opportunity for every income tax dollar paid by hard-working Americans. The overspending makes us feel good today, but Congress is ruining the economic future of generations to come.

Congress has denied its addiction for too long. Many in this Chamber will continue to deny it, claiming that we can balance the budget without the discipline of a balanced budget amendment to the Constitution. That is just not going to happen. Just as it is difficult for drug and alcohol abusers to overcome their habit, it will not be easy for Congress to overcome its addiction. But we can either wait until the addiction destroys the country or we can take action now, suffer some pain, and get on the road to long-term recovery.

The first step to recovery is to admit the problem and seek treatment for it, treatment in the form of a balanced budget amendment to the Constitution. House Joint Resolution 1 will establish the framework and impose the discipline that is so urgently needed to force Congress to put its fiscal house in order. It is the best and the only chance to send a balanced budget amendment to the States for ratification in the immediate future.

Still, it is not the amendment I would have written, not the comprehensive treatment for the problem that I would have prescribed. House Joint Resolution 1 will force Congress to be more responsible in its budgeting practices. But there is more to responsible budgeting that just balancing the Nation's books. It also matters at what level Congress balances the books relative to the size of the Nation's economy.

For example, gross national product now exceeds $6 trillion. But no one would be happy if Federal outlays were $6 trillion, and Federal tax revenues were $6 trillion, even though the budget would be balanced at $6 trillion. It matters how much the Government spends in taxes as much as it matters whether we balance the budget. In that regard, House Joint Resolution 1 represents the intensive care treatment, the step needed to stop the hemorrhaging, to ensure recovery over the long term. However, it is a Federal spending limit that is needed.

The balanced budget spending limitation amendment, Senate Joint Resolution 3, which I introduced January 4, including a spending limit, requires a balanced budget and limits spending to 19 percent of the gross national product, which is roughly the level of revenue the Federal Government has collected over the last 40 years.

Mr. President, I will refer to this chart to my right a couple of times during my presentation. But the first thing that you can see by examining the chart is that revenues which are characterized in blue on the chart at this level here, almost uniformly from 1955, denoted on this chart to 1995 here, are at the 19 percent level of gross national product or relative to gross domestic product, 19.5 percent. We can see if we drew a line at 19.5 percent, that blue line is a very close approximation.

That is how much Americans are historically willing to pay into the Treasury. Through bad times and good economically, through Democrat Presidents and Republican Presidents, through times of tax increases and times of tax cuts, it does not matter. It stabilizes very quickly at about 19 percent of the gross national product. That is how much Americans are willing to pay in revenues.

When we say "willing to pay," what do we mean? Just quickly, by way of example, when the Federal Government increases tax rates, what do people do? Do they say, OK, we will simply pay more in taxes, or do they begin to adjust their behavior? Of course, we know the answer. They seek tax shelters. They do other things with their incomes so they do not have to pay as much in Federal income taxes. That is why, even though we increase income tax rates, revenue stabilizes at about that level of 19 percent.

What happens when we cut tax rates? Do revenues go down? No. We know that that stimulates the economy. It produces more gross national product. It produces more income, and even at a lower rate of income tax, more revenue is generated by virtue of that growing economy. It is a lot like the grocery store putting things on sale. They do not do it to lose money. They know the volume will make up for the reduction of prices; in fact, more than make up for it. That is why you see so many sales.

The bottom line is Americans are willing to pay 19 percent of the gross national product in income taxes. The way to balance the Federal budget is to limit spending to that level of revenues.

As we see the other line, the line that is represented in red, represents the spending as a percent of the gross domestic product on this chart. We can see that 20 or 30 years ago, it was roughly the equivalent of the revenues in the country, whereas in more recent years, the lines, two lines have begun to separate. Today, we have spending in the neighborhood of 22 percent or 23 percent of the gross domestic product, with revenues at 19 percent. That is the gap that needs to be closed with a balanced budget amendment.

Limit spending and there is no need to consider tax increases, obviously.

Congress would not be allowed to spend the additional revenue it raised, and knowing politicians as I do, they will not raise taxes just for the heck of it. Link Federal spending to economic growth as measured by the gross national product and an incentive is created for Congress to promote progrowth economic policies. The more the economy grows, the more Congress is allowed to spend, but always proportionate to the size of the economy.

A spending limitation has a further advantage. It reflects the fact that the economy has already imposed an effective limit on revenues relative to GNP. As I said before, despite tax increases and tax cuts, recessions and expansions, and fiscal policies pursued by Presidents of both political parties, revenues as a share of GNP have fluctuated only around a relatively narrow band, between 18 and 20 percent for the last generation. As I said, the primary reason for that is because the Tax Code changes people's behavior. That is why the debate about raising taxes is less important than the debate about limiting spending.

Lower tax rates stimulate the economy, resulting in more taxable income and transactions and more revenue to the Treasury. Higher tax rates discourage work production, savings, and investment, so there is ultimately less economic activity to tax.

Revenues amounted to about 19 percent of GNP when the top marginal income tax rate was in the 90 percent range in the 1950's. They amounted to just under 19 percent of GNP when the top marginal rate was in the 28 percent range in the 1980's. Revenues amounted to about 19 percent of GNP in the 1970's, during one of the longest postwar contractions and during the peacetime expansion of the 1980's. Since revenues remained relatively constant, 19 percent of GNP, the significance of our Nation's tax policy is how Congress taxes, not how much it can tax. The key is whether tax policy fosters economic growth and opportunity, measured in terms of GNP, or results in a smaller and weaker economy. In other words, 19 percent of a larger GNP represents more revenue to the Treasury than 19 percent of a smaller GNP.

The benefit of writing a spending limitation into the balanced budget amendment is that it would preclude futile attempts by Congress to balance the budget by raising taxes. Raising taxes will merely impede economic growth and harm the Nation's standard of living. A spending limitation provides Congress with the guidance at the outset that there is really only one way to balance the budget, and that is by cutting Government spending. While my preference is that a spending limit be included in the constitutional balanced budget amendment, I believe the issue can only be addressed, if need be, in subsequent implementing or enforcement legislation.

The quest for the perfect in this case should not be an excuse to defeat the very good. The stakes are too high in terms of the mountain of additional debt Congress is passing on to future generations to miss yet another opportunity to send a balanced budget amendment to the States for ratification. Of course, what the Senate has concluded to do is to take up the resolution which was adopted by the House of Representatives by 300 votes, rather than to bring forth our own version of a balanced budget amendment. The reason: To ensure that we can secure passage by both Houses of the same provision and, thus, pass it on to the States at the earliest possible stage.

So if there is insufficient support for inclusion of a spending limit in the amendment itself, I believe Congress should approve House Journal Resolution 1, which we took from the House of Representatives last week and then turn to consideration of the Federal spending limit as a means of implementing the balanced budget requirement.

Mr. President, the Senate has an historic opportunity to ensure that we begin to invest in the future of the country, not just continue to borrow from it. That will take courage, the courage to say no to special interests who benefit from the status quo. We should pass the balanced budget amendment. We should pass it in the form that it passed the House of Representatives. We should then send it on to the States for their ratification, and then we should make a couple of very important points to the States.

Point No. 1, we will not pass on the costs of a high-spending Congress to the States as our way of balancing the budget. We have a plan for achieving a balanced budget, and that plan, I hope, will be adherence to a legislatively adopted implementation guideline of spending limits. Those spending limits could be tied to the gross national product, as I proposed.

We can agree to come down half a percent per year and that will get us to the 19 percent we need to be at within the 6 or 7 years that it will take to adopt a balanced budget amendment. That is a rational, disciplined, proper way to achieve the balanced budget amendment.

Those who say that we should propose our plan before we adopt the discipline of a constitutional balanced budget amendment overlook the fact that we can impose an implementation plan without all of the specifics of every single budget. There is not a one of us here who knows how we are going to balance our own household budget 3 years from now, but we sure enough know we are committing ourselves to the fiscal discipline of doing it.

We also understand the way we have to do it is to conform our spending to our income, and that is what the Congress would be doing by immediately adopting an implementation plan to achieve a balanced budget through spending limitation.

So when our colleague from Utah, the chairman of the Judiciary Committee, Senator HATCH, proudly proclaims that the balanced budget amendment has passed the U.S. Senate, I think the very next thing we should do is to say, "And here is how we are going to do it so that you States who are considering whether to adopt it or not, to ratify it, will know we mean business back here in Congress, we don't mean to pass the costs on to you." That is the second part of the two-part commitment we made to the States. The first part we already adopted as legislation prohibiting unfunded mandates.

So with those kinds of commitments from the U.S. Congress, we can be assured that the States will adopt or ratify a balanced budget amendment to the Constitution and finally put this country on the road to fiscal discipline.

Mr. President, I thank you and certainly thank the chairman of the Judiciary Committee for the many years of hard work he has put into this very important endeavor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to compliment the distinguished Senator from Arizona. I cannot tell you what it means to me to have him on the Judiciary Committee and with his broad background in the House of Representatives as well as here on this amendment.

His suggestions are very valid, and the point that he has made, I think, overwhelms some of the arguments that have been made for tax increases in this body. No matter what we do, that line stays relatively the same, which means tax increases do not always produce more revenues. Sometimes they produce less revenues. We found, as in the case with capital gains, since 1960, every time capital gains rates went up, revenues to the Government went down; every time capital gains rates went down, revenues to the Government went up. There are $8 trillion in capital assets locked up out there because people do not want to pay 28-percent capital gains.

But his chart is a very important chart. The distinguished Senator makes a very interesting and good case. I wish that we were able to take some of his ideas and incorporate them in an amendment that could get the broad support that this amendment does have. But to his credit, even though he knows that if we used the 19 percent as a line in order to balance the budget, we would probably be better off if we did that. But he also knows that this amendment is the only one that we have that we can get a widespread consensus on. It is bipartisan. It is an amendment that involves

Democrats and Republicans and one that he is willing to help support.

So I personally just want to express to him how much I appreciate him, how much I appreciate his knowledge and his explanations to us of how his approach would work if we could put it through.

I have to say that I could easily support his approach. I think it is a very, very good one, and I want to thank the Senator for being such a stalwart on this issue.

Mr. KYL. Mr. President, may I say, I thank the Senator from Utah for his very kind remarks and look forward to continuing cooperating with him in passing this very important amendment.

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

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

FEDERAL EDUCATION SPENDING

Mr. PELL. Mr. President, I am deeply concerned with the rumors and talk about town regarding cuts in Federal education spending. While the Federal contribution constitutes only about 6 cents of every $1 spent in education in our country, it is a very concentrated and highly important amount of money. At the postsecondary level, it makes up 75 percent of all the grants, loans, and campus-based aid that enable deserving students to pursue a college education. In elementary and secondary education, it comprises over 60 percent of all the funds that go to help disadvantaged students learn on a level with their peers. To my mind, we should not be looking at cuts in education but, instead, should be examining how we might increase and strengthen the Federal contribution.

One of the education cutbacks receiving greatest attention is the potential elimination of the in-school interest exemption for students who obtain Federal loans to help finance their college education. Elimination of this exemption would increase student indebtedness by 20 to 50 percent. It would only worsen an already unfortunate trend in which students and their families are having to borrow more and more money. It would be the wrong step in the wrong direction at the wrong time.

Mr. President, as I have stated on many occasions, few things in life are more important than the education of our children. They are the living legacy that we leave behind and their education determines the future of the American Nation.

As part of the possible proposed spending cuts, it has been suggested that the in-school interest subsidy feature of the Federal student loan program be eliminated. This term subsidy is somewhat of a misnomer. What the phrase actually refers to is the in-school interest exemption feature of the loan program. This is a critically important feature of the loan program that shows the Federal commitment of providing help to hard-pressed middle income families. Its elimination, however, is one of the possible funding cuts in education that could be made to help pay for the Contract With America supported by the majority party in the U.S. House of Representatives. Because of this, I thought it very important not only to let my colleagues know of my strong opposition to such a proposal but also to let them know the terrible impact it would have on students who must borrow in order to pay for their college education.

In a recent letter I received, a director of financial aid at an institution in California expressed great concern over this proposed cut. He noted that eliminating the interest exemption feature will compound the already high debt levels of students.

Under the proposed cut, student loan indebtedness will increase from around 17 to 30 percent for the average undergraduate and graduate student. Elimination of the interest exemption feature will also hinder the students' ability to compete and participate in the economic marketplace if they are forced to begin their careers with such increased debt. The end result could well be an economy where college graduates cannot purchase homes or other necessities that are the economic stimulus of our society.

These harsh consequences would especially affect students from middle-class families, those same students for whom the loan program was originally designed. The ability to obtain and repay a loan is a major issue confronting college students. Increasing the amount they will owe when they finish school will most certainly affect students' decisions whether or not to attend college in the first place or go on to graduate school after undergraduate study is completed. Without the in-school interest exemption, it is estimated that students who are enrolled for bachelors degrees could see their debt burden increase by $20,000 or more.

For example a student that attends a 4-year college and borrows the maximum amount would owe $17,125. If interest is charged while the student is in school, the student would owe an additional $3,407 or $20,532 upon entering repayment. This 20-percent increase in the amount to be repaid would increase the monthly payment from $205 per month to $246 per month. The additional cost over the life of the loan would be about $5,000.

This proposal is truly penny-wise and pound-foolish. Students who today pursue graduate study would have an enormous increase in what they owe. Those same students have the lowest default rate in the loan program. Increasing their debt burden, however, will certainly increase the risk of default.

The effects on graduate students are even more profound for a student who attends 4 years while earning a bachelor's degree and attends graduate school for an additional 2 years to earn a masters degree. Upon graduation, the student would owe $34,125. If the interest exemption is eliminated, the student would owe an additional $9,167 for a total of $43,292. This represents a 27-percent increase in educational indebtedness and would increase the monthly repayment amount from $409 to $520 per month.

Every day families are making decisions about sending their children to college. Certainly one of, if not the major obstacle they face is how to pay for college. The loan is their last resort. It provides the extra but necessary money they must have after exhausting their own resources and obtaining any grants for which their children might be eligible. Increasing the amount their children owe after graduation may well place the dream of a college education beyond their reach. That, to my mind, would be a tragedy of truly immense proportions. In fact, recent studies show that the people who are the most uneasy about borrowing funds are those with low incomes. But these are the same low income students who will turn away from taking the loan because of the monetary increase. Without the funds, an education becomes an unachievable dream.

The proposal to eliminate the in-school interest exemption also comes at a particularly bad time. The cost of a college education continues to escalate at all levels, but particularly in the public sector where a previously affordable education is in danger. State after State has trimmed support for its public institutions. The result: Students and their families have had to pay more through higher tuitions and other related costs.

The need to borrow to pay for a college education is already increasing at an alarming rate. According to a recent study by the American Council on Education, the volume in the Stafford Loan Program increased by 45 percent last year, and the average loan size grew by nearly 20 percent. The study also found that the increase in borrowing over the past year was far greater than any previous year's increase.

Unfortunately, borrowing is more necessary because we have failed to provide sufficient funding for our grant programs in general and the Pell Grant Program in particular. When we reauthorized the Higher Education Act 3 years ago, we sought to extend Pell

grant aid to middle income families, but the sad fact is that funding has been inadequate to accomplish that objective. The consequence has been that more and more American families have been forced to borrow more and more money to pay for a college education. Elimination of the in-school interest exemption will only exacerbate an already worsening situation.

For example, at the University of Rhode Island in my home State, borrowing increased from $8.2 million in 1988–89 to over $26.7 million in 1994–95. For the current school year alone, cutting the in-school interest exemption would add another $2 million in debt burden. That is not the direction in which we should be moving.

Mr. President, I care deeply about the education of our children. If the in-school interest exemption is eliminated, we will be removing an essential and very helpful feature of the federal loan program. I urge my colleagues to talk with college officials in their respective States and to learn just how devastating elimination of the in-school interest provision would be not only to their schools but particularly to their students. I also urge my colleagues to join me in expressing early and strong opposition to such a proposal so that it might be removed from any and all lists of education cuts under consideration.

UNANIMOUS CONSENT ON INSPECTOR GENERAL

Mr. HATCH. Mr. President, as in executive session, I ask unanimous consent that nominations to the offices of inspector general, excepting the office of inspector general for the Central Intelligence Agency, be referred during the 104th Congress in each case to the committee having substantive jurisdiction over the department, agency, or entity, and if and when reported in each case, then to the Committee on Governmental Affairs for not to exceed 20 days.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

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–313. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 93–9; to the Committee on Appropriations.

EC–314. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94–02; to the Committee on Appropriations.

EC–315. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–316. A communication from the Deputy Director of the Defense Security Assistance Agency, transmitting, pursuant to law, the report of the status of loans and guarantees issued under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–317. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report of the analysis and description of services under the Arms Export Control Act; to the Committee on Foreign Relations.

EC–318. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, the report of the texts of international agreements, other than treaties, and background statements; to the Committee on Foreign Relations.

EC–319. A communication from the President of the United States, transmitting, pursuant to law, the report entitled "Procedures Established for Effective Coordination of Research and Development on Arms Control, Nonproliferation and Disarmament"; to the Committee on Foreign Relations.

EC–320. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of the reports and testimony for December 1994; to the Committee on Governmental Affairs.

EC–321. A communication from the Director of the Office of Government Ethics, transmitting, a draft of proposed legislation entitled "Office of Government Ethics Authorization Act of 1995"; to the Committee on Governmental Affairs.

EC–322. A communication from the Acting Executive Secretary of the National Labor Relations Board, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–323. A communication from the Director of Communications and Legislative Affairs, transmitting, pursuant to law, the report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–324. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–302 adopted by the Council on July 5, 1994; to the Committee on Governmental Affairs.

EC–325. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–331 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–326. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–332 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–327. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–333 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–328. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–334 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–329. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–335 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–330. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–336 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–331. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–337 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–332. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–338 adopted by the Council on October 4, 1994; to the Committee on Governmental Affairs.

EC–333. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–340 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–334. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–341 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–335. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–342 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–336. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–343 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–337. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–344 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–338. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–345 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC–339. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10–346 adopted by the Council on November 1, 1994; to the Committee on Governmental Affairs.

EC-340. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 10-347 adopted by the Council on December 6, 1994; to the Committee on Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-28. A resolution adopted by the Criminal Justice Information Services Advisory Policy Board relative to unfunded Federal mandates; ordered to lie on the table.

POM-29. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY CONCURRENT RESOLUTION NO. 133

"Whereas, It is appropriate that California recognize the sacrifices of all the veterans who have given their lives for their country; and

"Whereas, It is also appropriate that California give recognition to those veterans who, as citizens, have distinguished themselves in their community; now, therefore, be it

"*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the portion of State Highway Route 101 that is within the city limits of the City of Salinas is hereby officially designated the Veterans' Memorial Highway; and be it further

"*Resolved*, That the Department of Transportation is directed to determine the cost of appropriate plaques and markers, consistent with the signing requirements for the state highway system, showing the special designation and, upon receiving donations from nonstate sources covering that cost, to erect those plaques and markers; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation."

POM-30. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Kentucky; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 15

"Whereas, the right of free expression is part of the United States Constitution, but very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul, such as the Washington Monument, the United States Capitol Building, and memorials to our greatest heroes which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains to millions of immigrants the universal symbol of the American ideal; and

"Whereas, recent decisions by the United States Supreme Court no longer accord to the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes a proper station under law and decency; now, therefore, be it

"*Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

"Section 1. That the Commonwealth of Kentucky respectfully petitions the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit public physical desecration of the flag of the United States.

"Section 2. That the Clerk of the Senate is directed to send copies of this Resolution to the Clerk of the U.S. House of Representatives, the Secretary of the U.S. Senate, and the members of the Kentucky Congressional Delegation."

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. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 299. A bill to amend the Federal Power Act to modify an exemption relating to the territory for the sale of electric power of certain electric transmission systems, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

By Mrs. HUTCHISON:

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United States Code; to the Committee on Commerce, Science, and Transportation.

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANTORUM (for himself, Mr. BRYAN, Mr. GORTON, and Ms. MOSELEY-BRAUN):

S. 304. A bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation; to the Committee on Finance.

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. WELLSTONE):

S. 298. A bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes; to the Committee on Labor and Human Resources.

THE EQUITABLE HEALTH CARE FOR SEVERE MENTAL ILLNESS ACT OF 1995

Mr. DOMENICI. Mr. President, today I rise to introduce a bill I have introduced in the past, and which has always attracted the support and encouragement of a wide variety of my distinguished colleagues. This bill is called the Equitable Health Care for Severe Mental Illness Act of 1995. It was written because a situation exists in this country that I believe cannot continue, and this situation impacts upon some of the most vulnerable individuals in society. I am speaking of the those individuals who have been diagnosed as having a severe mental illness.

For so long, society shunned these individuals out of fear, ignorance, or misunderstanding, and the afflicted and their families suffered in silence. Because society didn't know what caused these illnesses, they could only assume that the strange and perplexing behavior was the result of some action; a punishment for some sin; or a weakness or frailty in character. In the past, those suffering from mental illness were locked up, tried as witches, or banished from society for being possessed by demons or evil spirits. As late as 1972 in this country, many States singled out the mentally ill, institutionalized them, and subjected them to systematic sterilization, often without their consent or knowledge. Ignorance of these illnesses bred contempt, and the sick were seen as criminals. Some just say, "why don't they just stop acting that way?"

Thankfully, today we know better. With our increasing understanding of the human body and the composition of the brain, we have come to learn a truth far different from the superstitions of the past. We have learned that there are physiological, chemical, and biological reasons for this behavior, and that these circumstances are far beyond an individual's control. We have also learned that these illnesses are treatable, and that with the right combinations of medicinal and behavioral therapy, these people can be helped, and can frequently lead a life as normal as yours or mine.

But mental illness continues to exact a heavy toll on many, many lives. Even though we know so much more about mental illness, it can still bring devastating consequences to those it touches; their families, their friends, and their loved ones bear this as well. These individuals and families not only deal with the societal prejudices and suspicions hanging on from the past, but they must also contend with a structural, systematic discrimination that most often bars them from getting the care they need and deserve. The advancement in our knowledge of these illnesses has not been accompanied by a change in the policies of most health care insurers. Consider the following facts for a moment:

MENTAL ILLNESS—A WIDESPREAD DISEASE

One person out of every five—more than 40 million adults—in this Nation will be afflicted by some type of mental illness.

Schizophrenia alone is 50 times more common than cystic fibrosis, 60 times more common than muscular dystrophy and will strike between 2 and 3 million Americans.

Among children and adolescents, nearly 7.5 million, or 12 percent, suffer from one or more mental disorders.

DISCRIMINATION IN HEALTH INSURANCE

Only 2 percent of Americans with private health care coverage have policies that adequately and fairly cover severe mental illnesses.

Health care reform plans designed to make health care more accessible and affordable would continue the discrimination prevalent in private health insurance today. Many plans: allow 365 days for inpatient physical care but only 45 days of inpatient psychiatric care; provide unlimited coverage of office visits for physical care but only 20 visits for psychiatric care; and provide up to $1 million in lifetime coverage for physical care but only $50,000 lifetime coverage for mental health care. These are discriminations that we cannot let continue, especially if we reform the health care programs, and more particularly if we reform the insurance programs of our Nation.

Furthermore, we find that only 10 percent of all insurance policies have coverage for partial hospitalization, despite proven success in producing good outcomes while controlling costs with persons with mental illness, and 60 percent of health maintenance organizations and preferred provider organizations completely exclude coverage of some treatments for severe mental illness.

Some will immediately say we cannot afford it or that inclusion of this treatment will cost too much. But let us take a look at the efficacy of treatment for these individuals, especially when compared with the success rates of treatments for other physical ailments. For a long time, many who are in this field—especially on the insurance side—have behaved as if you get far better results for angioplasty than you do for treatments for bipolar illness.

Let me give you some facts as to efficacy of treatment in the United States today. Treatment for bipolar disorders—that is, those disorders characterized by extreme lows and extreme highs—has an 80 percent success rate if you get treatment, both medicine and care. Schizophrenia, the most dread of mental illnesses, has a 60-percent success rate in the United States today if treated properly. Major depression has a 65 percent success rate.

Let me remind everybody that when we speak of schizophrenia or manic depression, frequently we think these are the dredges of society. I would like to remind everyone that some of the greatest men and women in all of history were manic depressives. Let me give you a few: Winston Churchill. Unquestionably, he would be diagnosed today as manic depressive because he had those extreme highs, when he said he never slept and he sat around and wrote history books, and all of a sudden the black hole, 3, 4 months in a state of depression. He was able to cope with it. Most human beings with that kind of illness cannot quite cope with it. They are not dredges or imbeciles, they are not the low intellectual people. In fact, quite to the contrary.

Compare this with commonly reimbursed treatments for cardiovascular diseases. Let us talk about that for a minute.

Angioplasty has a 41-percent success rate. Treatment for schizophrenia, the dread disease, has a 60-percent success rate. We can go on with many of the other ones. There is a 52-percent effective rate for atherectomy, one of the very important kind of treatments that everybody thinks we ought to be doing.

Furthermore, the National Institutes of Mental Health estimates that primary preventive care will add $6.5 billion annually to the overall cost of mental health care. This will be offset by an overall savings of about $8.7 billion to society. That is a $2.2 billion savings. The Federal Government alone spends approximately $14 billion each year for disability payments to these individuals—25 percent of all disability payments. Clearly, helping these individuals early on with medical treatment not only makes the distribution of health care services fair, but also saves the Government and society money over the long term.

So you can see why I feel it is a necessity that we do something to resolve this situation. Frankly, without some relief, the mentally ill will continue to be denied the treatment they need. The problems associated with nontreatment will continue to escalate and these individuals will continue to operate on the margins of society.

The Equitable Health Care for Severe Mental Illness bill I am introducing, along with Senator WELLSTONE today, seeks a very simple goal: To provide, in whatever health care reform package is eventually enacted, that the Congress and the President coverage for treatment of these individuals that is commensurate with individuals that are treated and cared for with other diseases. Let me repeat that. Equity just means you will treat mental illness under insurance policies and the like just like you are treating a heart condition, a kidney condition, or whatever physical condition that we have learned to cover. And we will use the same kind of terms of medical necessity which governs and bounds the kind of treatment that is forthcoming for those illnesses.

In 1990, Congress passed and President Bush signed the Americans With Disabilities Act, recognizing that there are individuals in society whose physical needs require special protection under the law. We determined that, because of conditions beyond their control, disabled Americans, many of them, their access to services and facilities had to be made available on an unrestricted, nondiscriminatory manner. We recognize that this constituted an infringement on their civil rights when treated otherwise. We did the right thing in trying to be helpful. I believe it is time we should view severe mental illness in this same light and do the right thing here, as well.

We must take steps to protect these citizens from unfair treatment and systematic discrimination. As I circulate this bill, which I now send to the desk, and ask that it be appropriately referred, and as I circulate it to fellow Senators, I hope they will seriously consider it. It is one of the severe and serious discriminations in this society that remains alive. Why do insurance companies not cover it in broader scope? Because one insurance company eliminated it and they were able to reduce their premiums. Then another company decided if they want lower premiums, they must reduce the mental health care coverage, and on and on it went until now the situation is as I have described.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

NATIONAL INSTITUTE OF MENTAL HEALTH REPORT ON MENTAL ILLNESS IN AMERICA—HIGHLIGHTS

Number of people suffering from mental illness: 2.8 percent of the nation's adult population. Approximately 5 million people.

Cost of equitable coverage for severe mental illness:

Will add only $6.5 billion in new health care costs.

Will be offset by $8.7 billion reduction in health care costs and costs to society.

Will yield an aggregate $2.2 billion savings for the nation.

How effective are treatments for severe mental disorders?

Panic Disorder: 80 percent success rate.

Bipolar Disorder: 80 percent success rate.

Major Depression: 65 percent success rate.

Schizophrenia: 60 percent success rate.

Obsessive Compulsive: 60 percent success rate.

How effective are treatments for commonly reimbursed cardiovascular disorders?

Angioplasty: 41 percent success rate.

Atherectomy: 52 percent success rate.

Costs to federal government? People with severe mental disorders account for 25 percent (or approximately $14 billion) of all federal disability payments (Social Security Insurance and Social Security Disability Insurance).

Mr. KENNEDY. Mr. President, I urge all of my colleagues to pay close attention to the interventions of the Senator from New Mexico. I think for all of us who care about health care know he has been tireless on the whole issue of mental health which is affecting families in this country. All of us are in his debt for all of the good work he does in this area. He has been and a tireless proponent of the mentally challenged, and we are grateful for his leadership.

Mr. WELLSTONE. Mr. President, I am pleased to join my colleague, Senator DOMENICI, to introduce legislation on an issue that I feel so strongly about—equitable health care coverage for mental illnesses.

Let me say first that it has been a real honor to work with Senator DOMENICI as cochair of the Senate Working Group on Mental Health and I look forward to building on the tremendous progress we made last year.

For far too long, mental health and substance abuse have been put in parentheses. We didn't want to talk about it and we didn't want to take it seriously. The stigma of mental illness and substance abuse has kept many in need from seeking help, and has prevented policymakers from providing it.

While we failed to enact comprehensive health care reform during the last Congress, we did make great strides in terms of increasing awareness and understanding of the importance of parity, flexibility, and a full range of comprehensive mental health benefits.

As cochair of the Senate Working Group on Mental Health I am proud of the work we did last year. But we must act this year on the issues that we were so successful at bringing to the forefront of the debate and at reaching bipartisan agreement on.

We have a tremendous body of new evidence proving that without a doubt mental health and substance abuse disorders are diagnosable and treatable in a cost-effective manner. In fact, we can now show that within a very short period of time it costs less to treat these disorders directly and appropriately than not to treat them at all. We can say this is true based on studies of every sector of our population: Insured and employed, uninsured and unemployed, people who now use the private system and those who now use the public system.

Mental illness and substance abuse have touched many of our families and friends. And for this reason and many others this is not a partisan issue. Americans do not see a distinction between mental and physical illnesses, and they do not want them treated differently. I am proud to cosponsor this legislation, which would make it the policy of the Federal Government to provide coverage for the treatment of severe mental illnesses that is commensurate with that provided for other major physical illnesses in any form of health care reform that is enacted by Congress and the President.

And, most of all, I look forward to continuing to work with Senator DOMENICI to end discrimination against this very vulnerable population and their families. After all, it's only old data and old ideas that keep us from covering mental health and substance abuse the same way we cover any other real illness, whether acute or chronic.

By Mr. MCCONNELL (for himself and Mr. ABRAHAM):

S. 300. A bill to reform the civil justice system, and for other purposes; to the Committee on the Judiciary.

THE LAWSUIT REFORM ACT OF 1995

Mr. MCCONNELL. Mr. President, our civil justice system is unable to adequately serve the people who need it. Our legal system, over the last 30 years, has become inefficient, costly and unpredictable. People who need a forum to resolve a dispute find less and less satisfaction in our courts; they face interminable delays, contentious proceedings, and decisions that too often seem neither fair nor just. We must bring needed change to the courts before Americans lose confidence in one of the crucial pillars of our democracy.

Today I am introducing the Lawsuit Reform Act of 1995, designed to start the process for reforming our litigation system. The bill is intended to reduce some of the rewards that now exist for bringing a lawsuit and to introduce some incentives to resolve cases without resort to litigation.

Let's face it, Americans are sue happy. The United States has become a litigation prone society, with far reaching consequences: Too many lawsuits and clogged courts hurt the U.S. in the international marketplace. And, the threat of lawsuits impedes innovation and invention.

That our Nation has become a society of people too willing to sue each other is also a symptom of moral decay. Too often, we try to blame someone else for our situation, and with a lawsuit, we try get that someone else to foot the bill. So, we have to get rid of the incentives for suing, and we have to ensure that those who do suffer losses get compensated fairly for those losses. The courts need to be available for those who have real disputes, and rationality, civility and fairness must be restored to our legal system.

The bill contains a number of provisions, some of which I have introduced in previous Congresses. Other provisions represent bold new directions for our legal system. For example, reform of attorney contingent fee arrangements—that is, limiting contingent fees to that portion of an award for which the attorney undertook risk and added value—will restore the balance to the lawyer-client relationship. It will remove the enormous financial stake trial lawyers now have in their clients cases, and it will significantly reduce the $13 to $15 billion paid in contingency fees. Incidentally, this provision has the endorsement of legal scholars from Judge Robert Bork to Normal Dorsen.

Another provision, early offer and recovery, will put more money in the hands of injured parties more quickly and effectively. In return for refraining from a lawsuit, an injured party would get all of his or her economic losses paid by the responsible parties. This mechanism has the potential to break the link between the litigation system and the overuse and abuse of the health care system. If an injured party gets a commitment to have all of his or her expenses paid, then there is no incentive to inflate expenses by making unnecessary trips to the doctor. And the 57 cents of every dollar spent in the litigation system as transaction costs associated with lawyers will be significantly decreased. Injured plaintiff will get much more than 43 cents of every dollar now spent on litigation.

The bill contains a loser-pays provision, restricted only to those who can afford to assume the risk of having to pay their opponent's legal fees. And, the bill includes needed limitations on punitive damages, reforms to the collateral source rule and an end to joint and several liability.

Mr. President, I am pleased to be joined in this effort by Senator ABRAHAM. Although he is new to the Senate,

he has extensive experience on this issue. Our bill contains some bold initiatives for reform. These changes will make a real difference in the legal system.

I am including in the RECORD a summary of the bill, and I will return to the floor on a regular basis to highlight the problems with our legal system and the reforms needed. I look forward to the Senate tackling legal reform in this Congress.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

SUMMARY OF LAWSUIT REFORM ACT OF 1995

THE PROBLEM

Over the last 30 years, the American civil justice system has become inefficient, unpredictable and costly. Those who need the court system to resolve their disputes face interminable delay, much of which can be blamed on frivolous lawsuits clogging the courts or upon unreasonable litigation when a settlement could be achieved.

The threat of lawsuits impedes invention, innovation and the competitive position our nation has enjoyed in the world marketplace. No nation is as litigious as the United States.

It is imperative that we restore rationality, certainty, fairness and civility to our legal system. For too long, a group of trial lawyers have prevented efforts to bring reasonable change to the legal system. Many of those who practice in our nation's courts have a vested interest in maintaining the status quo. But just as decisions about war are too important to leave to the generals, legal reform is simply too important to leave to the lawyers.

The Lawsuit Reform Act of 1995 contains a variety of options for reforming the civil justice system.

ACCOUNTABILITY IN ATTORNEYS' FEES

The legal system can be arcane and foreign to all but those who make it their occupation. Consequently, clients must rely on lawyers not only to handle their legal needs but even to tell them what their legal needs are. As a result, lawyers, like other experts in similar situations, are by the nature of their work well positioned to take advantage of those who come to them for assistance.

Most lawyers do not misuse their position. Unfortunately, however, some do. Moreover, the organized bar, which has been set up to serve as the principal mechanism for regulating such abuses, has frequently—sometimes for good reason—had considerable difficulty in drawing the line between acceptable and unacceptable conduct.

One key area where these problems are apparent is in the standard practice of taking tort cases on a contingent fee basis. Contingent fees play an important role in allowing plaintiffs to bring suit if their cases are legitimate, their chances of recovery uncertain, and their resources limited. But they have no place even where a plaintiff has limited resources if the recovery is a virtual certainty. Many tort cases are of the latter type, and the lawyers who take them know it. Nevertheless, the lawyers still take them on a contingent fee basis and collect very large fees because the plaintiff does not know it.

This section is designed to put some balance in the lawyer-client relationship. First, it requires that attorneys disclose fee arrangements to the potential client and inform the client that the contingent fee is not mandatory but an option.

In addition, it limits the collection of a contingent fee by an attorney to that portion of the award which was achieved by the attorney's work and undertaking of risk. It uses the party's own behavior to determine which portion of the award that should be by setting out limits on the attorney's contingent fee when a settlement is offered: if the attorney is retained to advise the claimant on the settlement offer, the attorney will be precluded from charging a contingent fee; if the attorney's representation results in an increased offer, the attorney may charge an hourly or contingent fee, not to exceed 20% of the increase in the offer; if the attorney obtains the settlement offer, the contingent fee will be limited to 10% of the first $100,000 and 5% of any additional amount. If the case goes to trial, the attorney's contingent fee could only be based upon the amount of the award that exceeds the settlement offer. The effect is to limit the attorney contingent fee to that portion of the case to which the attorney adds value.

Another provision requires judges, under Federal Rule of Civil Procedure 11, to impose sanctions on attorneys who file frivolous pleadings. Rule 11 was weakened in 1992 to give judges the discretion to impose sanctions.

The final provision of this section introduces loser pays in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or other economic loss.

In virtually every western nation except the U.S., the loser pays for the costs of litigation. Within our own legal system, we have dozens of fee shifting laws. But these have become "one way" shifting, allowing only prevailing plaintiffs to recover their attorneys' fees from losing defendants.

This provision restores some balance in the system by setting up a two way fee shifting that requires either losing party in a tort case to pay the other's attorney's fees.

The loser pays rule is limited to the amount of fees owed by the loser to its own attorney. And the loser pay rule will not apply to those individuals and small businesses which can least afford to pay. In addition, courts would retain discretion to refuse to award attorneys' fees or reduce the award if it would be in the interests of justice.

EARLY OFFER

A lawsuit can be avoided if the injured party gets fully compensated quickly. Moreover, a defendant may be willing to pay compensation but is prevented from doing so by the need to make an offer that will also pay the plaintiff's lawyer handsomely. This section creates sufficient incentives for a prompt compensatory settlement that should overcome this obstacle.

First, it sets up a mechanism allowing the potential plaintiff to notify the potential defendants of the injury and the compensation necessary. The potential defendant will then be allowed to make an early offer to pay all economic losses, including future economic losses; if it is accepted, the matter is resolved without a lawsuit. If the plaintiff elects to prove the elements of the case beyond a reasonable doubt, including that the defendant was grossly negligent or intentionally caused the injury, the plaintiff will not be foreclosed from bringing a lawsuit.

FAIR SHARE ASSESSMENT OF DAMAGES

Defendants' liability, in the American legal system, is often based upon the ability to pay and not on the degree of responsibility. The doctrine of "joint and several liability" permits a plaintiff to recover the entire damage award from any of the defendants sued. If one defendant is judgment-proof, but was 80% responsible, the plaintiff can still get the entire judgment paid by another defendant, even though that defendant was significantly less responsible.

This section reforms the doctrine of joint and several liability and permits recovery from a defendant only for damages attributable to the person's share of responsibility. It applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

ELIMINATE DOUBLE RECOVERIES

A plaintiff can recover damages without regard to money the plaintiff may be receiving from other sources, such as disability insurance or a wage continuation program.

This section would put an end to these double recoveries by prohibiting the inclusion of these collateral sources from the proof of damages. And it prohibits subrogation claims by the entities providing these collateral source payments. This provision applies to tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss.

PUNITIVE DAMAGES AS PUNISHMENT, NOT WINDFALL

Those accused of a crime have constitutional protection; they are informed of the charges against them and know the punishment they face.

In many cases, civil defendants face punitive damage awards that bear no relationship to the concept of punishment and deterrence and are designed to further compensate the plaintiff and his or her attorney. A reasonable limit on punitive damages will serve the public policy objective of punishment and deterrence. The bill limits punitive damages in tort cases where the plaintiff seeks damages for physical or mental injury, property damage or economic loss, to the greater of $250,000 or three times compensatory damages.

ALTERNATIVE DISPUTE RESOLUTION

Encouragement of ADR should be a focus of any civil justice reform effort. However, ADR should not become another procedural hurdle for litigants.

This section creates voluntary binding ADR. It requires, in all federal question and diversity cases, parties be told by their attorneys of ADR options. If parties agree to ADR, then they are bound by its results.

ENSURING EXPERT WITNESSES HAVE EXPERTISE

Too often, parties in a lawsuit bring in a witness asserted to be an "expert" to offer an opinion which supports a particular theory of the case. The 1975 Federal Rules of Evidence—in allowing any expert testimony that might be "helpful" to the jury—depart from the traditional standard: that expert testimony should only be admitted if its basis has "gained general acceptance in the particular field." The result has been a slippery slope to junk science finding its way into courtrooms across the nation.

This section is designed to ensure the expert witness actually has some expertise in a recognized field, and it will require the disqualification of any expert witness whose compensation is linked to the outcome of the case.

PRIVATE RIGHTS OF ACTION

Too many judges have a tendency to imply a private right of action in a law where Congress does not explicitly create it. The result

is excessive litigation and a power grab by the courts never intended by Congress.

This section creates a rule of construction that federal laws which do not expressly contain a private right of action should not be interpreted to imply one.

"OPT OUT" BY THE STATES

States will retain the right to opt out of any one or more of the provisions of this Act by affirmatively enacting legislation to opt out.

• Mr. ABRAHAM. Mr. President, it is my great pleasure to cosponsor the Lawsuit Reform Act of 1995.

Last fall's election was about change. And if ever there was an area in need of change, it is the current state of our legal system.

The current system doesn't work. It is arbitrary and imposes excessive costs and long delays. It must be reoriented to bring about the proper objectives of any legal system: swift justice and fair results.

Moreover, our litigation explosion is hurting U.S. competitiveness and stifling innovation with the high costs of lawsuits and damage awards in our courts. The costs are estimated to reach $300 billion annually—about 4.5 percent of the Nation's $6.7 trillion gross domestic product. These costs are passed on to consumers, making the legal system their enemy rather than their ally.

It is time for an overhaul of the system. The McConnell-Abraham Lawsuit Reform Act of 1995 signals the beginning of my efforts to help bring about that overhaul.

The McConnell-Abraham Lawsuit Reform Act is principally aimed at one aspect of the litigation problem. Our current system contains insufficient incentives to reward settlements, and insufficient penalties for litigating to the hilt disputes that should be able to be worked out.

One cause of this is that as litigation has been exploding, more and more lawyers have sought to maximize their fees at the expense of their clients' best interests. And while the legal profession has made attempts at self-regulation, it has been largely unsuccessful in stopping this trend.

The McConnell-Abraham Lawsuit Reform Act of 1995 takes an extremely innovative approach to this problem. It empowers clients in personal injury cases by creating incentives for potential plaintiffs and defendants to get together and settle meritorious cases. It also reduces lawyers' incentives to discourage settlements by barring them from charging contingent fees in cases where recovery is all but certain. And it creates penalties for frivolous litigation, ranging from mandatory sanctions for frivolous filings to a "loser pays" rule in certain classes of cases.

In short, the McConnell-Abraham Lawsuit Reform Act of 1995 will bring our legal system closer to accomplishing its central purposes: swift and certain redress for the meritorious claimant and penalties for abusive litigation. Therefore I am proud to join the distinguished Senator from Kentucky as an original cosponsor of this excellent piece of legislation.•

By Mr. KYL:

S. 301. A bill to provide for the negotiation of bilateral prisoner transfer treaties with foreign countries and to provide for the training in the United States of border patrol and customs service personnel from foreign countries; to the Committee on Foreign Relations.

THE CRIMINAL ALIEN TRANSFER AND BORDER ENFORCEMENT ACT OF 1995

Mr. KYL. Mr. President, today, I am introducing the Criminal Alien Transfer and Border Enforcement Act of 1995, legislation to make it easier to return criminal aliens back to their country of citizenship to serve out the remainder of their sentences. I was an original cosponsor of similar legislation introduced in the House last year by Representative STEVE HORN of California. Representative HORN reintroduced this legislation in the 104th Congress on January 18. His hard work in this area is very much appreciated.

The Criminal Alien Transfer and Border Enforcement Act advises the President to renegotiate bilateral prison transfer treaties with countries which have large numbers of alien criminals in U.S. prisons. The elimination of any requirement of prisoner consent would be a primary focus of the renegotiation. As an incentive to renegotiate their treaties, this bill would allow foreign governments that renegotiate and comply with a new treaty to send their law enforcement personnel to the Border Patrol and Customs Service academies where an integrated approach to drug interdiction and border management would be developed.

The tremendous financial burden that the Federal Government and States incur to imprison criminal aliens continues to grow. The Bureau of Prisons, for example, estimates that the incarceration of criminal aliens in U.S. and State prisons costs U.S. taxpayers approximately $1.2 billion a year. Criminal aliens make up about 24 percent of the total 91,000 Federal prison population. At a cost of $20,803 per Federal prisoner, taxpayers from Maine to California to Arizona are footing the bill to incarcerate these criminals. A national approach to returning these criminal aliens home and eliminating these costs must be developed.

On a State level, Arizona knows all too well about these costs. According to the Arizona Department of Corrections, the number of criminal aliens in Arizona State prisons has increased from 596 in 1984 to 2,066 as of December 31, 1994, a 250-percent increase. Criminal aliens comprise 10.4 percent of Arizona's inmate population; that compares to a State criminal alien inmate population of 4 percent nationally. Those 2,066 criminals cost Arizona taxpayers $16,020 each, or nearly $40 million in total last year.

The logical way to reduce these costs would be to work out an agreement where a country would accept the responsibility for taking its own citizens back and ensuring that the prison term is completed before the individual is released back into his or her own country. But, current bilateral prison transfer treaties allow criminal aliens to choose whether they will serve time in the United States or their country of citizenship. As a result, the criminal can circumvent any agreement worked out between two countries or a State and foreign government. This must change.

Our Nation's citizens are shocked when they hear that this is how our Nation's prison transfer treaties work. For example, in June of 1994 I had a constituent from Phoenix write me with some good suggestions about immigration reform. In the letter he said, "Can you enlighten me as to whether or not we have a law on the books which definitely requires the deportation of aliens who commit and are convicted of felonies? * * * [Someone] told me that once the alien is convicted of a felony, he is immediately deported to the country of origin with no appeals process and no bail."

My answer to him was that this is how it should work but, because of the way our bilateral prison transfer treaties are written, I reemphasize, criminal aliens choose whether or not they are deported to their own country to serve out their sentences.

Arizona has been particularly negatively impacted by this aspect of prison transfer treaties, specifically the United States-Mexico Prison Transfer Treaty. Gov. Fife Symington and Department of Corrections Director Sam Lewis have been working with Mexican authorities and the State Department to return some Mexican inmates to serve their sentences in Mexico. But, without the elimination of the prisoner consent provision of the outdated United States-Mexico Prison Transfer Treaty, the likelihood of their return is minimal. "Of those who we have determined to be eligible under the present [voluntary repatriation] criteria, 5 percent or less have demonstrated any willingness to return [to Mexico]," said DOC Director Lewis in a recent conversation.

Something is clearly wrong when States such as Arizona, which have ideas about how to reduce the burden of incarcerating illegal aliens, are kept from doing so because the criminal does not like the idea of serving time in the prison system of his or her country.

Mr. President, this problem is not going away. The INS estimates that as of October 1992, approximately 3.4 million illegal aliens were in this country

and, according to INS, that number is growing by about 300,000 yearly. In the Tucson border sector of Arizona alone, illegal immigrant apprehensions for the month of January are up 80 percent over the same period last year.

I ask unanimous consent that a table be printed in the RECORD.

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

Arizona Department of Corrections—Estimates of Alien Inmate Population and Annual Per Capita Costs

Date	Aliens—estimated number	Annual per capita cost
12/31/94	2,066	16,020
6/30/94	1,968	16,020
6/30/93	1,791	15,773
6/30/92	1,602	15,979
6/30/91	1,422	16,457
6/30/90	1,289	16,143
6/30/89	1,153	16,174
6/30/88	1,040	15,717
6/30/87	957	16,321
6/30/86	774	15,497
6/30/85	684	13,882
6/30/84	596	NA

Mr. KYL. Mr. President, nearly 600 illegal immigrants are arrested every day in Nogales, AZ. These statistics will most likely set an all-time illegal immigrant apprehension arrest record for Arizona.

Ensuring that adequate resources are allocated to stop these aliens at the border is the most important step we can take toward halting illegal immigration in this country. Renegotiating prison transfer treaties is another important step and one that will free up Federal and State dollars to go toward effective border control.

We are a land of legal immigrants and we should be proud to be and say so. But, no American, foreign-born or U.S.-born, believes we should be a land of criminal and illegal immigrants. The Criminal Alien Transfer and Border Enforcement Act will provide a necessary step to ensuring that we do not become a nation of illegal and criminal aliens. Mr. President, I encourage my colleagues to join me in urging the President to renegotiate our Nation's bilateral prison transfer treaties and to cosponsor this bill.

I ask unanimous consent that this bill be printed in the RECORD.

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

S. 301

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 "Criminal Alien Transfer and Border Enforcement Act of 1995".

SEC. 2. PURPOSE.

The purpose of this Act is to relieve overcrowding in Federal and State prisons and costs borne by American taxpayers by providing for the transfer of aliens unlawfully in the United States who have been convicted of committing crimes in the United States to their native countries to be incarcerated for the duration of their sentences.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The cost of incarcerating an alien unlawfully in the United States in a Federal or State prison averages $20,803 per year.

(2) There are approximately 58,000 aliens convicted of crimes incarcerated in United States prisons, including 41,000 aliens in State prisons and 17,000 aliens in Federal prisons.

(3) Many of these aliens convicted of crimes are also unlawfully in the United States, but the Immigration and Naturalization Service does not have exact data on how many.

(4) The combined cost to Federal and State governments for the incarceration of such criminal aliens is approximately $1,200,000,000, including—

(A) for State governments, $760,000,000; and

(B) for the Federal Government, $440,000,000.

SEC. 4. PRISONER TRANSFER TREATIES.

Not later than 90 days after the date of enactment of this Act, the President should begin to negotiate and renegotiate bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

SEC. 5. CERTIFICATION.

The President shall certify whether each prisoner transfer treaty is effective in returning aliens unlawfully in the United States who are incarcerated in the United States to their country of citizenship.

SEC. 6. TRAINING OF BORDER PATROL AND CUSTOMS PERSONNEL FROM FOREIGN COUNTRIES.

Subject to a certification under section 5, the President shall direct the Border Patrol Academy and the Customs Service Academy to enroll for training certain foreign law enforcement personnel. The President shall make appointments of foreign law enforcement personnel to such academies to enhance the following United States law enforcement goals:

(1) Drug interdiction and other cross-border criminal activity.

(2) Preventing illegal immigration.

(3) Preventing the illegal entry of goods into the United States (including goods the sale of which is illegal in the United States, the entry of which would cause a quota to be exceeded, or goods which have not paid the appropriate duty or tariff).

By Mrs. HUTCHISON;

S. 302. A bill to make a technical correction to section 11501(h)(2) of title 49, United State Code; to the Committee on Commerce, Science, and Transportation.

NONCONSENT TOW LEGISLATION

• Mrs. HUTCHISON. Mr. President, last year, the 103d Congress preempted State regulation of intrastate trucking, which was a proper policy that had my full support. However, in its breadth, deregulation swept local government regulation of tow trucks into its net, leaving local governments uncertain about their rules governing the area of nonconsent tows.

Nonconsent tows occur at the scene of an accident where the owner is unable to give consent to towing, and when a car is towed from private property without the knowledge or consent of the owner. Local regulation of emergency nonconsent tows is aimed ostensibly at protecting the motoring public at the scene of an accident to prevent a swarm of tow truck operators. Local regulation of private property nonconsent tows are consumer protection rules which generally go to how much a nonconsent tow from private property will cost and where the car can be taken.

After the passage of trucking deregulation, Senator GORTON and I introduced legislation to roll back the preemption of deregulation over tow trucks and transporters of recyclable materials. The bill passed in the Senate but was changed in the House; the legislative clock ran out before identical versions could be passed in both houses.

Trucking deregulation went into effect on January 1 and local governments have moved to comply with deregulation of towing price, route and service; however, there is still a great deal of confusion throughout local jurisdictions around the country regarding the degree to which cities can regulate nonconsent tows. Some city councils, such as the city of Houston's, have chosen to impose a 120-day moratorium on changing their regulations until Congress has had a chance to act in this area and clarify local authority.

The legislation I introduce today provides that clarification. It states that tows made at the request of a law enforcement officer or without the prior consent of the owner are not subject to the terms of the intrastate trucking deregulation, retroactive to January 1, when deregulation took effect. This will permit cities to continue rate regulation for nonconsent tows, which protects consumers that have little or no negotiating power in nonconsent tow situations. It will also permit them to utilize a system of selection for emergency nonconsent tows, if they so choose.•

By Mr. LIEBERMAN (for himself, Mr. MCCAIN, Mr. BRADLEY, Mr. BROWN, Mr. COATS, Mr. KYL, and Mr. MCCONNELL):

S. 303. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE BIOMATERIALS ACCESS ASSURANCE ACT OF 1995

• Mr. LIEBERMAN. Mr. President, I am introducing today, together with Senator MCCAIN and others the Biomaterials Access Assurance Act of 1995. This bill directly addresses a major threat to many of the miracles of modern medicine. By taking this small step

now, millions of Americans will no longer have to worry about the supply of life-saving medical devices.

Over the next few years, public health may be seriously jeopardized if makers of the life-saving medical devices that we take for granted today are no longer able to buy the raw materials and components necessary to produce their products. The reason is an all too common one nowadays—an out-of-control product liability system.

How could this happen? Last year, as chairman of the Subcommittee on Regulation and Government Information, I held a hearing to examine this problem. Witness after witness pointed out that the current legal system makes it too easy to bring lawsuits against raw materials suppliers and too expensive for those suppliers to defend themselves—even when they were not at fault and end up winning. Because of this, many suppliers have decided that the costs of defending these lawsuits are just too high to justify selling raw materials to the makers of implantable medical devices. In short, for those suppliers, it just isn't worth it.

How could this happen? A recent study by Aronoff Associates paints a clear, but dismal, picture. That study surveyed the markets for polyester yarn, resins such as DuPont's Teflon, and polyacetal resin such as DuPont's Delrin. The study showed that sales of these raw materials for use in manufacturing implantable medical devices was just a tiny percentage—0.006 percent—of the overall market—$606,000 out of total sales of over $11 billion.

In return for that extra $606,000 in total annual sales, however, that raw material supplier, like others, faced potentially huge liability related costs, even if they never lose a lawsuit. To take one example, a company named Vitek manufactured an estimated 26,000 jaw implants using about 5 cents worth of DuPont Teflon in each device. The device was developed, designed and marketed by Vitek, which was not related to DuPont. When those implants failed, Vitek declared bankruptcy, its founder fled to Switzerland and the patients sued DuPont. DuPont has won virtually all these cases—one of the last cases was dismissed earlier this month—but the cost has been staggering. The study estimated that DuPont alone has spent at least $8 million per year over 6 years to defend these suits.

To put this into perspective, DuPont's estimated legal expenses in these cases for just 1 year would buy over a 13-year supply of DuPont's Dacron polyester, Teflon and Delrin for all U.S. makers of implantable medical devices, not just makers of jaw implants.

Faced with this overwhelming liability, DuPont decided 2 years ago to stop selling its products to manufacturers of permanently implanted medical devices. DuPont has subsequently allowed manufacturers to purchase up to 3 more years worth of raw materials.

One supplier's decision alone might not be troublesome except that there is no reason to believe that the economics will be different for other suppliers around the world. One of the witnesses at the hearing testified that she has already contacted 15 alternate suppliers of polyester yarn worldwide. All were interested in selling her raw materials—except for use in products made and used in the United States. By itself, this is a powerful statement about the nature of our American product liability laws, and makes a powerful case for reform.

There's more at stake however, here than just protecting suppliers from liability. It's more than just making those raw materials available to the manufacturers of medical devices. What's at stake is the health of millions of Americans who depend on medical devices for their every day survival.

What's at stake is the health of children like Thomas Reilly from Houston, TX, who suffers from hydrocephalus, a condition in which fluid accumulates around the brain. A special shunt enables him to survive. But continued production of that shunt is in doubt because the raw materials' suppliers are concerned about the potential lawsuit costs. At our hearing last year, Thomas' father, Mark Reilly, pleaded for Congress to move forward quickly to assure that the supply of those shunts will continue.

What's at stake is the health of adults like Peggy Phillips of Falls Church, VA, whose heart had twice stopped beating because of fibrillation. Today, she lives an active, normal life because she has an implanted automatic defibrillator. Again, critical components of the defilbrillator may no longer be available because of potential product liability costs. Ms. Phillips urges Congress to move swiftly to enact legislation protecting raw materials and component part suppliers from product liability.

The scope of this problem affects young and old alike. Take a pacemaker. Pacemakers are installed in patients whose hearts no longer generate enough of an electrical pulse to get the heart to beat. To keep the heart beating, a pacemaker is connected to the heart with wires. These wires have silicone rubber insulation. Unfortunately, the suppliers of the rubber have begun to withdraw from the market. With this pacemaker, thousands of Americans can live productive and healthy lives for decades.

Take another example, a heart valve. Around the edge of a heart valve is a sleeve of polyester fabric. This fabric is what the surgeon sews through when he or she installs this valve. Without that sleeve, it would be difficult, if not impossible, to install the valve. Without that valve, patients die prematurely.

In short, this developing product liability crisis will have widespread and serious effects. We cannot simply allow the over 7 million people who own their health to medical devices to become casualties of an outmoded legal liability system. Because product liability litigation costs make the economics of supplying raw materials to the implantable medical device makers very unfavorable, it is imperative that we act now. We cannot rationally expect raw materials suppliers to continue to serve the medical device market out of the goodness of their hearts, notwithstanding the liability related costs. We need to reform our product liability laws, to give raw material suppliers some assurance that unless there is real evidence that they were responsible for putting a defective device on the market, they cannot be sued simply in the hope that their deep pockets will fund legal settlements.

I have long believed that liability reform could be both proconsumer and probusiness. I believe the testimony we heard on this subject last year proved this once again. When fear of liability suits and litigation costs drives valuable, lifesaving products off the market because their makers cannot get raw materials, consumers are the ones to suffer.

When companies divert money from developing new lifesaving products to replace old sources of raw materials supply, consumers are again the ones to suffer. When one company must spend millions just to defend itself in lawsuits over a product it did not even design or make—for which it simply provided a raw material worth 5 cents—it is the consumer that suffers the most. Our hearing dramatically illustrated that efforts to increase compensation for the injured can sometimes come at an unacceptably high cost.

Based on the testimony we heard, I, along with my distinguished colleague from Arizona, are committed to forging a solution to remedy this immediate threat to our national public health. Today, we are introducing the Biomaterials Access Assurance Act of 1995, which will establish clear national rules to govern suits against suppliers of raw materials and component parts for permanently implantable medical devices. Under this bill, a supplier of raw materials or component parts can only be sued if the materials they supplied do not meet contractual specifications, or can properly be classified as a manufacturer or seller of the whole product. They cannot, however, be sued for deficiencies in the design of the final device, the testing of that device, or for inadequate warnings with respect to that device.

I believe that enactment of this bill would help ensure that America's patients continue to have access to the

best lifesaving medical devices in the world. We must act now, however. This piece of legislation is preventative medicine at its best and is just the cure the patients need.

I ask unanimous consent that a copy 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. 303

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 "Biomaterials Access Assurance Act of 1995".

SEC. 2. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR.—With respect to an action brought on behalf or through a minor, such term includes the parent or guardian of the minor.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

(8) QUALIFIED SPECIALIST.—With respect to an action, the term "qualified specialist" means a person who is qualified by knowledge, skill, experience, training, or education in the specialty area that is the subject of the action.

(9) RAW MATERIAL.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(10) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(11) SELLER.—

(A) IN GENERAL.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 4. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this Act, a biomaterials supplier may raise any defense set forth in section 5.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this Act is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 6.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this Act applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this Act; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This Act supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this Act establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this Act and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 5. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

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(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section; or

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if the biomaterials supplier—

(1) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(A) the manufacture of the implant; and

(B) the entrance of the implant in the stream of commerce; and

(2) subsequently resold the implant.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii)(I) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j); and

(II) have received clearance from the Secretary,

if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 6. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this Act, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 5(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 5(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 5(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) PROCEDURAL REQUIREMENTS.—

(1) IN GENERAL.—The procedural requirements described in paragraphs (2) and (3) shall apply to any action by a claimant against a biomaterials supplier that is subject to this Act.

(2) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(A) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(B) an action against the manufacturer is barred by applicable law.

(3) AFFIDAVIT.—At the time the claimant brings an action against a biomaterials supplier the claimant shall be required to submit an affidavit that—

(A) declares that the claimant has consulted and reviewed the facts of the action with a qualified specialist, whose qualifications the claimant shall disclose;

(B) includes a written determination by a qualified specialist that the raw materials or component parts actually used in the manufacture of the implant of the claimant were raw materials or component parts described in section 5(d)(1), together with a statement of the basis for such a determination;

(C) includes a written determination by a qualified specialist that, after a review of the medical record and other relevant material, the raw material or component part supplied by the biomaterials supplier and actually used in the manufacture of the implant was a cause of the harm alleged by claimant, together with a statement of the basis for the determination; and

(D) states that, on the basis of review and consultation of the qualified specialist, the claimant (or the attorney of the claimant) has concluded that there is a reasonable and meritorious cause for the filing of the action against the biomaterials supplier.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 5(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 5(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (3) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 5 on the grounds that the defendant is not a manufacturer subject to such subsection 5(b) or seller subject to subsection 5(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 5(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 5(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 5(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists.

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 5(d) or the failure to establish the applicable elements of section 5(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 5(b) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this Act shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

SEC. 7. APPLICABILITY.

This Act shall apply to all civil actions covered under this Act that are commenced on or after the date of enactment of this Act, including any such action with respect to which the harm asserted in the action or the conduct that caused the harm occurred before the date of enactment of this Act.•

By Mr. WARNER (for himself and Mr. ROBB):

S. 305. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Energy and Natural Resources.

THE SHENANDOAH VALLEY NATIONAL BATTLEFIELDS PARTNERSHIP ACT OF 1995

• Mr. WARNER. Mr. President, I am pleased to introduce legislation, along with Senator ROBB, to establish a new national park in the Shenandoah Valley of Virginia.

This legislation mirrors my legislation from last year, S. 1033, which passed the Senate by unanimous consent.

While our purpose is conventional—the preservation of treasured historic resources, our approach is innovative—a cooperative relationship between the National Park Service and private landowners that combines a mix of Federal ownership through donation of lands and protection of private property rights.

This new park will preserve and commemorate the strategic significance of the Civil War battles in the valley which occurred from 1862 to 1864. The park will consist of 1,864 acres at 10 battlefields in the valley at McDowell, Cross Keys, Port Republic, Second Winchester, New Market, Fishers Hill, Toms Brook, Cedar Creek, Kernstown, and Opequon.

The Shenandoah Valley National Battlefields Partnership Act is the product of an indepth study by the National Park Service which was authorized by the Congress in 1990. The Park Service conducted field surveys of 15 battlefields in the valley and concluded in their analysis that "because of their size and unprotected status, the battlefields of the Shenandoah Valley were its most important, most neglected, and most threatened resource."

Mr. President, throughout my service in this body, I have been actively involved in the preservation of several Civil War battlefields in Virginia. One of my first legislative initiatives was to sponsor legislation in 1980 to expand the boundaries of the Manassas National Battlefield Park by 1,522 acres. While some battlefield preservation efforts in Virginia have been accomplished by a consensus of support from

local governments, the preservation community and the Federal Government, other efforts have involved a great deal of acrimony.

I am pleased that the Senate will again give approval to my legislation which represents a significant investment of time and commitment by preservation groups, local governments, and many dedicated residents in the valley.

Each party interested in fostering the protection of the Shenandoah Valley battlefields has worked diligently since the Park Service study began in 1990 to craft a consensus proposal that recognizes the limits on the Federal Government's resources to acquire substantial acreage in the valley and balances the needs of property owners and local governments to provide for their economic future.

Mr. President, during the past 2 years that we have worked on gaining national recognition for the Shenandoah Valley battlefields, I have remained committed to this effort because of the steadfast support and leadership by the many local citizens, property owners, preservationists, and local officials in the valley. They have given generously of their personal time to organize local meetings, testify before Congress, and work with the Park Service to advance our proposal.

I am especially grateful to Will Greene, formerly with the Association for the Preservation of Civil War Sites; Jay Monahan and Garland Hudgings, with the Stonewall Brigade Foundation; and many civic leaders such as June Wilmot, with the Winchester-Frederick County Economic Development Commission; Betsy Helm, with Historic Winchester Foundation; Robert Watkins, with the Frederick County Planning Commission, and Barbara Moore, with the Society of Port Republic Preservationists.

Mr. President, these are but a few of the many persons who have assumed the tremendous responsibility over the years to ensure that these historic lands remain undisturbed for future generations. It is no exaggeration to say that this legislation would not be possible today without their firm resolve and passion to preserve these battlefields.

With the passage of this legislation, they will no longer be shouldering this effort alone, but will now have the Park Service as an important partner.

While authorizing limited acquisition of 10 battlefields in the valley, most of this land will be donated to the Park Service. The central feature of this provision is to foster and encourage an atmosphere of cooperation between the Federal Government, State and local governments, property owners, and preservation groups.

We have been fortunate that the valley's predominantly agricultural land uses have provided protection for these battlefields. Permanent preservation, however, is in serious jeopardy as the rural landscape of the valley declines. With the continued pace of growth in the northern valley and the loss of agricultural lands, now is the time for the Federal Government to become a full partner in the local and private efforts to ensure that these lands remain protected for all Americans to study and enjoy.

This bill embodies many of the preservation approaches examined in the "Study of Civil War Sites in the Shenandoah Valley of Virginia." I concur with the study's finding that "* * * no single alternative is best suited to these sites. A balance must be achieved between preservation, the Valley lifestyle, and economic development * * *".

In keeping with these recommendations, I believe this bill provides the right balance for preserving these battlefields. With limited Federal ownership, and a commission comprised of local representatives and historians to recommend further additions for Federal stewardship as well as cooperative arrangements with local governments and private landowners, we are achieving the desired goal. It recognizes the rights and responsibilities of local governments to utilize their planning authorities to protect these areas. It gives the Federal Government needed authorities to provide technical assistance on options to protect these battlefields, to provide for visitor interpretation and understanding, and most importantly, to accept lands by donation or purchase only from willing sellers.

As the study proposes a mix of public funding and technical assistance and acquisition of battlefield areas, our legislation embodies these recommendations to foster a partnership between the Federal Government, local governments, landowners and private organizations.

Each will share the responsibility and will prosper from the benefits that a national park designation brings to neighboring communities.

Now is the time for the Federal Government to come forward and participate in the protection of these threatened resources.

Mr. President, there is no question about the historic value of these properties. They have a high degree of integrity and continue to tell an important story of the military strategy employed during the battles of Thomas J. "Stonewall" Jackson's valley campaign of 1862 and the battles comprising Union General Philip Sheridan's burning of the Shenandoah Valley in 1864.

Approximately one-third of the recorded events of the Civil War occurred in Virginia. Dyer's "Compendium of the War of the Rebellion" records 297 incidents of armed conflict in the Shenandoah Valley during the Civil War: 6 battles, 18 engagements, 21 actions, and 252 skirmishes. The Shenandoah Valley was the richest agricultural region in Virginia, providing provisions to the Confederate forces. In addition, the Confederates used the Valley as a natural corridor for invading or threatening invasion of the North, while the Union forces realized the importance of denying the valley's use to the Confederacy.

Mr. President, surely, these events deserve a permanent place in history, just as Manassas, Gettysburg, and Antietam.

One of the most brilliant and most studied military campaigns in history is Stonewall Jackson's valley campaign of 1862. During that campaign, Jackson's army of 17,000 men defeated three northern armies with a combined strength of 33,000 men in a single month, winning five battles: McDowell, Front Royal, Winchester, Cross Keys, and Port Republic. Most importantly, Jackson's valley campaign created a strategic diversion to draw strength from the Federal's advance on Richmond. It was General Lee who unleashed Jackson in the valley because he understood the importance of creating a diversion to keep Union troops from moving toward Richmond.

Mr. President, I would like to share with my colleagues a brief excerpt from the study which so eloquently describes the passion that continues in the valley today:

> Few regions in the United States have experienced the horrors of systematic destruction, and the memories are still close to the surface for many longtime Valley residents. Family histories are filled with stories that relate to the hardship of that time. It took a generation to repair the savages of "The Burning" and another generation before life in the Valley returned to its pre-war condition. There can be found there today a fierce pride in ancestors who survived the war and who struggled to rebuild all that was lost.
>
> The history of the Civil War in the Shenandoah Valley bears witness to the devastation and waste of warfare, but more importantly, it underscores the irrepressible human will to survive, to rebuild, to carry on. The historic events and the human players of the Valley—heroic and tragic alike—have contributed significantly to the texture of our American cultural heritage.

Mr. President, I am confident that these battlefields will make a very positive contribution to the Park Service preservation of this tragic chapter in our American history. These lands are important to our understanding of the events that occurred from 1862 to 1864 when the momentum and tide of the Confederacy's struggle turned and the Union forces began to take hold. •

By Mr. DORGAN:

S. 306. A bill entitled the "Television Violence Reduction Through Parental Empowerment Act of 1995"; to the Committee on Commerce, Science, and Transportation.

TELEVISION LEGISLATION

• Mr. DORGAN. Mr. President, today I am introducing legislation that would empower parents to deal with violence on television. Specifically, the Television Violence Reductions Through Parental Empowerment Act would require that television sets include a technical devise parents could use to block out television programs that are, in their judgment, too violent for their children.

This legislation is identical to legislation Representative ED MARKEY introduced in the House the previous Congress. I introduced this legislation in the Senate last year as well. I am introducing this bill again because I believe that we ought to consider this approach, commonly known as the V-chip bill, in the current debate over how we should address the problem of violence on television. In my judgment, the V-chip idea is an important part of a legislative response to the problem of violence on television.

I understand that the Electronics Industry Association is moving forward on developing an industry standard that will incorporate the ability to block programs based on a rating for violence into new television sets. I endorse and applaud these efforts. This private sector initiative is a very positive development. However, it remains to be seen as to whether or not such efforts will accomplish the goal of empowering parents to control television programs coming into their homes. I intend to work with the industry in this effort and I want to encourage the future of their efforts. Nevertheless, until such a standard is in place and out common goals are accomplished, I still believe that it is necessary to keep this legislation on the table.

There was a great deal of debate in the 103d Congress about television violence. Unfortunately, that debate took place, to a large extent, in congressional committees and no legislation was advanced. I think the broadcast and cable industries, along with the EIA, have all made significant efforts to address public and congressional concern with TV violence. However, I still believe that some modest legislative approach need to be considered.

I encourage my colleagues to support this legislation and in general work with me to advance a solution to television violence that enables the public and parents in particular to send a direct message to the industry. Parents and the public, and not the Government nor the industry, should have the ultimate say in what should and should not be on television The V-chip bill is a means to give consumers another tool.

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. 306

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Television Violence Reduction Through Parental Empowerment Act of 1995".

SEC. 2 FINDINGS.

The Congress finds the following:

(1) To the fullest extent possible, parents should be empowered with the technology to choose to block the display on their televisions of programs they consider too violent for their children.

(2) Violence now touches the lives of American children more than adults. From 1982 through 1984, teenagers were the victims of 1,800,000 violent crimes, twice the annual rate of the adult population over age 20. According to the American Academy of Pediatrics, one of every 8 deaths among children age 10–14 years old in 1990 was caused by a shooting. Among teenagers and young adults, that figure rose to one of every four deaths.

(3) Children watch an extensive amount of television. It is estimated that a child watches approximately 22,000 hours of television before finishing high school, almost twice the amount of time spent in the classroom.

(4) The amount of violence on television has reached epidemic levels. The American Psychological Association estimates that the average child witnesses 8,000 murders and 100,000 acts of violence before finishing elementary school.

(5) Three Surgeon Generals, the National Institute of Mental health, the Centers for Disease Control, the American Medical Association, the American Academy of Pediatrics, and the American Psychological Association have concurred for nearly 20 years as to the deleterious effects of television violence on children.

(6) Despite periodic television industry efforts to reduce the amount of television violence, reductions in the level of televised violence have never been long lasting.

(7) Parents who are working are unable to constantly monitor the television viewing habits of their children. Advanced television technologies such as channel compression and digitization will allow the expansion of channel capacity to levels even more unmanageable for parents who want to protect their children from televised violence.

(8) The major broadcast networks and a large number of cable channels have agreed to place parental advisories on programs they consider to be too violent for children. These parental advisories are of limited use to parents if they are not watching television with their children.

(9) The technology currently exists to equip television sets at a nominal cost to permit parents to block the display of television programs they consider too violent for children. However, this technology will only be effective (A) if all television programmers send any adopted rating or warning system electronically with the program signal, and (B) parents are able to block the display not only of individual programs but to block out automatically and simultaneously all programs with such rating.

(10) Congress calls upon the broadcast networks, independent television stations, cable programmers, and satellite programmers to protect the parental right to guide the television viewing habits of children by sending any adopted rating or warning system electronically with the program signal.

SEC. 3. EQUIP TELEVISIONS TO BLOCK PROGRAMS.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(v) Require that (1) apparatus designed to receive television signals be equipped with circuitry designed to enable viewers to block the display of channels, programs, and time slots; and (2) such apparatus enable viewers to block display of all programs with a common rating. The requirements of this subsection shall apply when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size, measured diagonally.".

SEC. 4. SHIPPING OR IMPORTING.

(A) REGULATIONS.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new section:

"(c) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(v) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance standards for such blocking technology. Such rules shall further require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and blocking specifications established by the Commission. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) CONFORMING AMENDMENT.—Section 330(d) of such Act, as redesignated by this Act, is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and section 303(s), 303(u), and 303(v)".

SEC. 5. EFFECTIVE DATE.

The amendments made by sections 3 and 4 of this Act shall take effect one year after enactment of this Act.

SEC. 6. RULES.

The Federal Communications Commission, shall promulgate rules to implement the amendments made by this Act within 180 days after the date of its enactment.•

By Mr. LEAHY:

S. 307. A bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency; to the Committee on Banking, Housing, and Urban Affairs.

THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Mr. LEAHY. Mr. President, I rise today to introduce the Counterfeiting and Money Laundering Deterrence Act of 1995.

Counterfeit money is the cheap way for terrorists to fund their activities around the world. The opening of the trial in New York of the accused terrorists, who allegedly threatened to blow up the United Nations, FBI Headquarters, and other sites, serves as a

reminder that our Nation is not immune to such activities. This bill outlines steps we should take to combat both the counterfeiting of our currency and the laundering of the estimated $300 billion per year of ill-gotten profits from drugs, arms smuggling, and other crimes.

This legislation, which Senator KERRY and I also introduced in the last Congress, would accomplish two objectives: First, it would bring our $100 currency up to date and stop letting counterfeiters have a free meal ticket. Second, it would put the squeeze on drug trafficking organizations that have to launder vast sums of money to operate—making their costs of doing business significantly higher and hopefully turning piles of their money into worthless paper.

COUNTERFEITING DETERRENCE

The currency of this country faces a serious challenge from new technologies that enable counterfeiters to turn out excellent reproductions. According to the Secret Service, overseas counterfeiting of U.S. currency has increased dramatically. For example, from 1992 to 1993, counterfeit currency detected abroad increased 300 percent.

A number of analysts believe the threat to the U.S. currency is urgent. News reports say that intelligence experts in the United States and Israel are aware of a highly skilled group of counterfeiters operating out of Lebanon's Bekaa Valley. These counterfeiters, controlled by Syria and Iran, have turned out as much as $1 billion of extremely high-quality reproductions of the U.S. $100 bill.

We must be very concerned with what nations like Iran or Syria can do with $1 billion in bogus U.S. currency so convincing that it can be passed onto the international market. Would these poor countries use this money to purchase sophisticated weaponry that challenges the security of the region or of this country? Would they use this currency in an effort to destabilize U.S. currency? Would they use it to fund smaller scale but still serious terrorist activities throughout the world? No one knows.

The opening of the Russian Republics and the Eastern Bloc has also resulted in increased counterfeiting activity. Because the situation is changing in this part of the world so fast, it is difficult to determine the amount of counterfeiting that occurs there. According to the chief of the Russian Interior Ministry's Department of Economic Crimes, the amount of counterfeit U.S. currency confiscated by Russian authorities increased 10 times from 1992 to 1993. With organized crime increasingly taking hold in the Republics, counterfeiting has become a national cottage industry according to Moscow news reports. Because of mounting inflation of the ruble, foreign currency such as the U.S. $100 bill has a special place in that country's economic system, making it particularly attractive to counterfeiting.

What makes this situation all the more pressing is that the U.S. currency is among the most easy to counterfeit in the world. Although recently updated with a deterrent polyester strip, our bills do not use the watermarks or sophisticated dying and engraving techniques that other countries employ to make it difficult to reproduce their bills convincingly. Nor do we change the appearance of our currency from time-to-time to discourage counterfeiters as other countries do.

To address this threat, this legislation requires the Secretary of the Treasury to design a new $100 bill that incorporates some of the counterfeit-resistant features that other countries have adopted. The Treasury Department has already done substantial design work on a new $100 bill, and it is the intention of this legislation to permit the Secretary to draw on that work in meeting the requirements of the act.

MONEY LAUNDERING DETERRENCE

But aside from bringing our currency into modern times to address state-of-the-art counterfeiting technology, this legislation is designed to put a full court press on money laundering. We need to realize that the international drug industry is a multibillion-dollar, highly sophisticated enterprise. A single undercover operation in which Federal agents operated a fake bank to launder money recently netted $52 million in cash and assets. If we are really going to stop international drug trafficking and terrorist activities, we need to focus more on stopping the ease with which those organizations move their money internationally to finance their crimes.

My bill strikes two blows against money launderers. First, the bill requires all existing $100 denomination U.S. currency to be exchanged within a 6-month period. This would make drug traffickers who hoard vast amounts of hard currency hard-pressed to convert their existing cash into the new money. If they cannot convert the money within the specified time frame, their funds become worthless under the bill. Even if drug organizations could somehow convert their money within the exchange period, the likelihood of their being traced by currency transaction reporting increases substantially, as does the cost of laundering their ill-gotten gains. Of course, there is an exception for hardship cases in the bill where money has not been derived from unlawful activity.

Second, the bill establishes two new versions of the $100 bill: One for use at home and one for use abroad. The only business that relies on exporting large amounts of hard currency is drug trafficking. This provision would make money smuggled out of the United States worthless, turning the tables on drug traffickers who covertly move money from the streets of this country to foreign banks who launder it without reporting illicit transactions to the Treasury.

A U.S. citizen traveling abroad who wished to bring $100 currency with him would hardly be inconvenienced by this measure: A quick stop at a U.S. bank to convert their greenbacks into differently colored foreign-use bills would be all that is necessary—just like purchasing travelers' checks. The only ones inconvenienced would be drug traffickers who would hate to exchange their greenbacks for foreign-use currency at a U.S. bank because of currency transaction reporting requirements.

To the extent drug traffickers cannot exchange their $100 bills within the timeframe and they become worthless, this is a debt against the U.S. Treasury that can be written off to finance the costs of this legislation, and further, to pay off other obligations of the U.S. Treasury.

LET'S BEGIN A DISCUSSION ON THESE ISSUES

I know there will be opposition from some quarters to this proposal. The Federal Reserve likes the current situation and believes the good-old, easily copied $100 bill provides welcome stability to the international monetary system. The banks feel burdened by the currency transaction reporting requirements. Adding new counterfeit-resistant features to bills is not costless. The Drug Enforcement Administration supports the concept but some there would prefer to go further and establish domestic and foreign use versions of all our currency.

Let us begin a serious discussion and debate on the steps we should take to address high-technology counterfeiting and money laundering. If this proposal is not the best way to go, then let's work to fashion a measure that will take strong steps against these threats. I am not comfortable with the current situation: We face the threat of potentially billions of passable counterfeit U.S. dollars going into the hands of terrorists. We must do more to cripple the big business of drug trafficking. Continuing to put our collective heads in the sand will not suffice. I encourage my colleagues and the relevant agencies and others with expertise in these areas to consider and take the steps necessary to address these important issues.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

SUMMARY OF THE COUNTERFEITING AND MONEY LAUNDERING DETERRENCE ACT OF 1995

Section 1. The short title of the bill is the "Counterfeiting and Money Laundering Deterrence Act of 1995."

Section 2. Findings and Purposes. Congressional findings are summarized and the purposes of the bill to combat counterfeiting and money laundering are described.

Section 3. Counterfeit-Resistant $100 Denomination Currency.

The bill amends Title 31, United States Code, with new section 5123 to require the Secretary of the Treasury, in consultation with the Attorney General and the Administrator of the Drug Enforcement Administration, to design and designate new counterfeit-resistant $100 bills for domestic and foreign use within 6 months of enactment.

The new bills must have counterfeit-deterring features such as watermarks, multi-colored dyes, holograms, sophisticated engraving techniques etc.

The domestic use bills would be legal tender only in the U.S.; the foreign use bills would be legal tender abroad only. The two types of money could be exchanged at banks subject to U.S. currency transaction reporting requirements only. The domestic use bills have distinctly different coloring from the foreign use bills. This means money smuggled out of the country to be laundered at offshore banks that do not engage in currency transaction reporting would be worthless.

A 6-month currency exchange period would begin one year from the date of enactment. Old $100 bills must be exchanged for new domestic or foreign use $100 bills within this 6-month period, or they become worthless. The bill includes a process for extending the exchange period for hardship cases.

The currency exchange must occur at banks regulated by U.S. currency transaction reporting and anti-money laundering laws or at foreign banks that the Secretary of the Treasury finds by treaty or agreement abide by currency transaction reporting laws.

The Act would be financed by using credits obtained from extinguishing the Treasury's liability for $100 bills not exchanged within the exchange period. Additional credits so generated would be returned to the general fund.

Section 4. Notice of Currency Exchange Period. The Secretary must begin notifying foreign and domestic governments and financial institutions of the upcoming exchange period within 6 months of enactment.

By Mr. SIMPSON (for himself, Mr. ROCKEFELLER, Mr. THURMOND, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. CRAIG, Mr. GRAHAM, and Mr. AKAKA):

S.J. Res. 26. A joint resolution designating April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition Day"; to the Committee on the Judiciary.

THE NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

• Mr. SIMPSON. Mr. President, I am pleased to join with my good friend and predecessor as chairman of the Committee on Veterans Affairs, Senator ROCKEFELLER, in introducing a Joint resolution which would recognize the service and dedication of America's former prisoners of war [POW's]. The Joint resolution would designate April 9, 1995, and April 9, 1996, as "National Former Prisoner of War Recognition day." April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW's than any other day in our history.

Every American who dons the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Many factors, some as random as fate itself, determine how that commitment will be realized. For some, military service may be little more than an office job here in the United States. For others, military service can combine bitter privation with the agony of combat. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW's.

Former prisoners of war have seen combat. By definition they were close enough to the enemy to be captured; frequently after being wounded, shot down, or sunk by enemy action. But for them, the war didn't end when they were taken by the enemy, it was just beginning. At the worst, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die as fellow slave laborers while working under conditions that would make the worst villain of a Dickens novel look like a philanthropist.

Even under the best possible conditions, the POW experience places American service members in the position of being dependent upon our nation's enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW's who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW's. A duty derived from the faithful discharge of their duty to us.

Mr. President, in this century 142,257 American servicemembers have become POW's. For over 17,000 of them, the experience was fatal. They died while in the hands of our enemies. Of the 125,202 who returned to our shores, only about 62,000 remain alive today.

This Joint resolution commemorates the service of former POW's who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died; I urge the Senate to express its gratitude to those still alive; and I call upon my colleagues to join with Senator ROCKEFELLER, members of the committee on Veterans' Affairs, and myself in sponsoring this Joint resolution.•

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the name of the Senator from Maryland [Ms. MIKULSKI] 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. 141

At the request of Mrs. KASSEBAUM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 141, a bill to repeal the Davis-Bacon Act of 1931 to provide new job opportunities, effect significant cost savings on Federal construction contracts, promote small business participation in Federal contracting, reduce unnecessary paperwork and reporting requirements, and for other purposes.

S. 210

At the request of Mr. THOMAS, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 210, a bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the medicare program of emergency care and related services furnished by rural emergency access care hospitals.

S. 227

At the request of Mr. HATCH, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 227, a bill to amend title 17, United States Code, to provide an exclusive right to perform sound recordings publicly by means of digital transmissions and for other purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 245

At the request of Mr. COHEN, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 245, a bill to provide for enhanced penalties for health care fraud, and for other purposes.

S. 262

At the request of Mr. GRASSLEY, the names of the Senator from Nebraska [Mr. KERREY], the Senator from Utah [Mr. HATCH], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of S. 262, a bill to amend the Internal Revenue Code of 1986 to increase and make permanent the deduction for health insurance costs of self-employed individuals.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Michigan [Mr. ABRAHAM] were

added as cosponsors of Senate Joint Resolution 17, a joint resolution naming the CVN–76 aircraft carrier as the U.S.S. Ronald Reagan.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 31, 1995 at 9:30 a.m. in open session to consider the nomination of Eleanor J. Hill to be inspector general of the Department of Defense.

Immediately following, the Committee will meet in closed session to receive an intelligence briefing on the smuggling of nuclear material and the role of international crime organizations; and on the proliferation of cruise and ballistic missiles.

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

COMMITEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, to conduct a hearing to look into the Mexican peso crisis and the administration's proposed loan guarantee package to Mexico.

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

COMMITTEE ON FINANCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Tuesday, January 31, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on the importance of savings in our economy.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, January 31, 1995, at 10:00 a.m. to hold a hearing on consideration of ratification of the START II Treaty (Treaty Doc. 103–1).

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. HATCH. Mr. President, I would like to ask unanimous consent that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Government Affairs, be granted authority to meet during the session of the Senate on Tuesday, January 31, 1995, at 2 p.m., to hold a hearing on oversight of the FDIC and the RTC's use of D'Oench Duhme.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. HATCH. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on January 31, 1995, at 10:00 a.m. on Department of Commerce Science and Technology Programs Oversight.

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

ADDITIONAL STATEMENTS

THE DEATH PENALTY—A PIVOTAL ISSUE

• Mr. SIMON. Mr. President, the issue of capital punishment is going to rear its head again in this session of Congress, and, once again, we will probably do what is politically expedient but is wrong.

I will continue to vote against capital punishment.

Recently, William H. Rentschler of my State, a member of the executive committee of the National Council on Crime and Delinquency, had an op-ed piece in the Chicago Tribune on the question of capital punishment. It contains so much common sense that I ask to insert it into the RECORD at this point.

The article follows:

[From the Chicago Tribune, Nov. 29, 1994]

THE DEATH PENALTY—A PIVOTAL ISSUE

(By William H. Rentschler)

Autumn of 1994 was "the killing season."

The ancient art of state-sanctioned killing clearly was a dominant issue, largely ignored in most post-election analyses of the Nov. 8 balloting.

The death penalty probably was as decisive a factor in the Republican sweep as the call for less government intrusion, even though the two are philosophical opposites.

Virtually every major winner, in upsetting incumbents, promised, in effect, to kill more human beings for an ever wider assortment of crimes, and to kill them deader and quicker.

Today, an overwhelming percentage of Americans tell pollsters they favor capital punishment, which seems to have become nearly as popular as tax cuts, Sunday afternoon football and strawberry yogurt. Which, of course, is why candidates seized on the issue with such self-righteous, drum-beating fervor.

If indeed all those elected keep their promises to enforce the death penalty more vigorously and broadly, this nation, in the final years of the 20th Century, will be witness to the greatest killing spree on American soil since the Civil War.

Never mind that:

There is no valid evidence capital punishment deters homicides and other violent crimes. Quite the contrary, homicides typically increase in the proximity of where an execution is carried out.

In our society, where the criminal justice system is erratic and uncertain, we inevitably will continue to execute some innocents.

A grossly disproportionate percentage of those who die at the hands of the state or wait their fate on death row are poor, illiterate, African-American or Hispanic. The homicide rate is highest in those states where executions are most frequent. Texas is the prime example. The death penalty no longer exists in any Western nation except the United States.

The public is angry and uptight. People are terrified and intolerant of escalating crime. Many want to rid society permanently of the slavering brutes they perceive as perpetrators of violence. A sizable majority of citizens would give the state virtual carte blanche to exterminate these beasts.

But wait. The "slavering brute" image embraces only a fraction of those who murder, maim and commit hideous, heinous crimes. Chicago Police Commissioner Matt Rodriguez states that homicides are committed in great numbers by family members, including parents and children, friends, neighbors, and business associates, than by prowling, predatory strangers. And the increasing numbers of random murders by violent, out-of-control youths, especially gang members, occur mainly in their own urban neighborhoods, according to Rodriguez.

Slight, bespectacled Susan Smith, the small-town South Carolina mother who rolled her two tiny sons to a watery grave in the family car, hardly fits the bestial profile society embraces so readily. Yet her apparent crime was monstrous and unfathomable.

Many, I believe, wish somehow the murderer would have been the black male of her fictional alibi. Then the answer would have been neat and simple; it would have fed inherent prejudice. That the killer, by her own confession, turned out to be the pathetically confused and conscienceless young (white) mother, tortured by the demons of a failed marriage, mounting bills and doomed romance, is much more complicated and challenging to our emotions, attitudes and pat, built-in assumptions.

The death penalty is so widely accepted largely because it provides a measure of seeming certainty to a society greatly frustrated by its inability to solve its most vexatious problems. But it is a simplistic answer, akin to the primitive law of the jungle. It is evidence of a society unwilling and incapable of coming to grips rationally with hard challenges.

Capital punishment makes a mockery of such noble legal canons as equal justice under law and the bedrock right of all to simple fairness.

No matter how atrocious Smith's crime, precedent tells us she almost certainly will not be executed; yet the make-believe black man of her grotesque fairy tale surely would have been found guilty and put to death if her charade had been accepted.

Los Angeles prosecutor Gil Garcetti already has announced O.J. Simpson, a rich celebrity and one-time role model, will not be executed if convicted of two murders by a jury. Nor will any murderer of wealth, fame and community standing. This confirms an old Russian proverb: "No one is hanged who has money in his pocket."

The death penalty is reserved exclusively for society's little people, its powerless, its rabble, its dregs. This alone makes capital punishment wrong in a just society.

Since we really execute very few, since the death penalty will never be a prime factor in curbing violent crime, since the nation is faced with many other nagging concerns begging for solutions, it is hardly unreasonable

to say that those candidates who collectively spent countless hours and millions of TV dollars trumpeting their passionate support for capital punishment were behaving irresponsibly and short-changing voters.●

ORDERS FOR WEDNESDAY, FEBRUARY 1, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Wednesday, February 1, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for not more than 5 minutes, each with the exception of the following Senators: Senator GRAHAM, of Florida, 20 minutes; Senator HARKIN, 20 minutes; Senator BRADLEY, 15 minutes; Senator BENNETT, 15 minutes; Senator MURKOWSKI, 15 minutes; Senator DORGAN, 10 minutes; Senator GRAMS, 10 minutes.

I further ask that at 11:30 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional amendment calling for a balanced budget.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. HATCH. If there be no further business to come before the Senate, and no other Senator is seeking recognition, I ask unanimous consent that the Senate stand in recess as under the previous order.

There being no objection, the Senate, at 6:03 p.m., recessed until Wednesday, February 1, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 31, 1995:

THE JUDICIARY

JAMES L. DENNIS, OF LOUISIANA, TO BE U.S. CIRCUIT JUDGE FOR THE FIFTH CIRCUIT, VICE CHARLES CLARK, RETIRED.

NATIONAL COUNCIL ON DISABILITY

RAE E. UNZICKER, OF NORTH DAKOTA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1997, VICE MARY ANN MOBLEY-COLLINS, TERM EXPIRED.

HUGHEY WALKER, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE ELLIS B. BODRON, TERM EXPIRED.

ELA YAZZIE-KING, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL OF DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1996, VICE LINDA ALLISON, TERM EXPIRED.

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

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

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
January 31, 1995.

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

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

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

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

CRISES IN OUR CARIBBEAN IMMIGRATION POLICY

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

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

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

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

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

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

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

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

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

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

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

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

GETTING TOUGH ON CHILD SUPPORT ENFORCEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I hope everyone joins us in cosponsoring the bill.

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

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

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

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

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

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

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

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

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

We passed a bill that would significantly strengthen the Federal Government's child support enforcement mechanisms and, for the first time, individuals would have been prohibited from receiving Federal benefits or become

employed by the Federal Government if their child support obligations are 3 months in arrears and they refuse to enter into a payment plan for the arrearage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Requires reporting of delinquent child support payments to credit bureaus.

AGAINST THE MEXICAN BAILOUT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MORE OVERSIGHT OF IRS NEEDED

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

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

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

An issue I want to talk about today is a bill that I have sponsored, H.R. 390, that is a very straightforward bill that deals with the IRS, I believe an agency of our Federal Government that the U.S. Congress has not only failed to control but has allowed to proceed without oversight in establishing not only policy which is clearly within the province of the United States of America, but rules and regulations that in

fact impound and impact upon that policy and everybody seems to just be silent. Nobody wants the IRS on your back.

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

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

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

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

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

□ 0950

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

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

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

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

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

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

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

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

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

Well, your taxpayers are. Congress should be.

VOTING ON THE ISSUES AMERICANS DEMAND

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

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

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

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

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

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

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

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

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

THE REPUBLICAN LEADERSHIP AND NEWTSPEAK

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

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

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

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

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

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

And the Speaker, in his speech, suggested we ought to give American seniors more choice. There is no program

in the United States that gives its beneficiaries more choice than Medicare. If you are Medicare beneficiary you can go to any physician or any hospital in the United States if you can walk, ride, hitchhike, or have the bus fare to get there.

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

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

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

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

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

CHILD SUPPORT

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

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

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

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

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

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

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

IMPROVE CHILD SUPPORT ENFORCEMENT SYSTEM

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

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

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

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

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

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

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

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

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

DEMOCRATIC PARTY'S EXCELLENT LEGISLATIVE HISTORY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHILD SUPPORT NOW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

□ 1010

MORGAN COUNTY, WV, NEEDS ASSISTANCE FROM CONGRESS

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

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

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

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

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

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

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

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

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

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

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

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

RECESS

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

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

□ 1100

AFTER RECESS

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

PRAYER

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

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

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. GUTKNECHT led the Pledge of Allegiance as follows:

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

REPUBLICAN CONTRACT WITH AMERICA

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

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

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

Mr. Speaker, this is our Contract With America.

THE PUNISHMENT IS NOT COMMENSURATE WITH THE CRIME

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

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

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

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

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

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

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

A LEGISLATIVE FOUR CORNERS

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

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

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

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

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

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

TRIBUTE TO THE CHAMPION SAN FRANCISCO 49ERS

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

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

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

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

REAL OSHA REFORM

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

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

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

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

A LOAN TO MEXICO: BAILING OUT EVERYONE BUT OUR CONSTITUENTS

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

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

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

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

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

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

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

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

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

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

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

But, my colleagues, 43 Governors have similar authority.

□ 1110

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

WHAT A LIST

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

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

Richard Gilder, Jr.: $310,000.

Roger Milliken: $255,000.

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

The Los Angeles Times succeeded yesterday in doing what the Federal Election Commission is attempting to

do in the courts, revealing the contributors to GOPAC and what their interests are in legislation before this Congress.

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

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

We need an outside counsel. We need one now.

REPUBLICANS ARE KEEPING THEIR PROMISES

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

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

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

THE REPUBLICANS ARE NOT KEEPING THEIR PROMISES

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

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

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

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

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

ALL THE DEMOCRATS WANT TO DO IS CHANGE THE SUBJECT

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

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

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

MISGUIDED POLICIES OF THE FEDERAL RESERVE ARE THREATENING NATIONAL SECURITY

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

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

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

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

MEMBER OF CONGRESS ELECTED TO PRO FOOTBALL HALL OF FAME

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

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

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

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

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

WE NEED TO BALANCE THE TRADE DEFICIT

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

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

Who do we help and who do we hurt?

How do we improve the quality of life?

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

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

According to economists, Mr. Speaker, last year the ever-widening trade deficit resulted in a reduction of nearly

one full percentage point. In America we imported 27 percent of the goods we consumed. That is up from 20 percent in the last 5 years. Led by the Department of Commerce, U.S. Export-Import Bank, U.S. Trade & Development Agency, and the Small Business Administration, all are encouraging opportunities for our small businesses and our communities.

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

□ 1120

FISCAL RESPONSIBILITY SEEN AS CONTRACT WITH AMERICA MOVES AHEAD

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

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

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

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

INTRODUCTION OF LEGISLATION TO ELIMINATE THE CIVILIAN MARKSMANSHIP PROGRAM

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

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

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

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

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

TIME FOR THE HOUSE TO STOP BICKERING AND LEGISLATE

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

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

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

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

Let us get down to real work.

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

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

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

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

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

THE UNITED NATIONS TAKES OVER IN HAITI

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

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

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

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

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

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

WHAT IS TRULY BEHIND THE $40 BILLION?

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

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

Mr. Speaker, there is risk involved in every investment. These institutions and individuals knew full well what was in front of them. They made the

investments; we did not. And now that the investments have soured some, it should not be the responsibility of the United States to make up their losses.

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

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

CHANGING BUSINESS AS USUAL—PUTTING AN END TO UNFUNDED MANDATES

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

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

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

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

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

A PLEA FOR REAL CHANGE, NOT FAKE CHANGES

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

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

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

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

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

□ 1130

KEEPING THE PROMISE

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

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

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

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

RESTORING PUBLIC'S TRUST IN THE HOUSE

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

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

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

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

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

FEDERAL MANDATES PRICE TAG

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

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

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

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

DEMISE OF THE BAILOUT?

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

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

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

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

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

SUPPORT LINE-ITEM VETO

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

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

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

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

BALANCED BUDGET AMENDMENT WON'T BALANCE THE BUDGET

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

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

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

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

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

ON THE MEXICAN LOAN GUARANTEES

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

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

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

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

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

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

PERMITTING COMMITTEE CHAIRMEN TO SCHEDULE HEARINGS

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

The Clerk read the resolution, as follows:

H. RES. 43

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

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

□ 1140

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

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

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

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

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

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

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

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

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

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

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

At that time, I was led to believe that was not a controversial issue and

that everyone agreed there was a need to legally restore what has been the standard operating procedure in this House for many, many years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RULE REGARDING SCHEDULING OF COMMITTEE HEARINGS

Current Rule:

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

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

* * * * *

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

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

Explanation:

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

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

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

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

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

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

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

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

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

Sincerely,

CHARLES W. JOHNSON.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

□ 1150

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

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

AMENDMENT OFFERED BY MR. SOLOMON

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

The Clerk read as follows:

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

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

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

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

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

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

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

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

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

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

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

Why is that?

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

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

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

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

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

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

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

I therefore support the amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

POINT OF ORDER

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

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

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

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

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

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

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

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

□ 1200

PARLIAMENTARY INQUIRY

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

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

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

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

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

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

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

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

I applaud the chairman in making sure that this compromise was reached. This will avoid the circumstances that occurred in my committee, the Committee on the Judiciary, wherein the

chairman on his own initiative decided to reduce the amount of time necessary to give notice to not only Members of Congress, as I said, but also to the entire public about a very important matter, the balanced budget bill that we took up this past week.

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

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

POINT OF ORDER

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

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

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

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

PARLIAMENTARY INQUIRY

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

The SPEAKER pro tempore. The gentleman will state it.

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

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

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

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

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

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

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

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

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

The previous question was ordered.

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

The amendment was agreed to.

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

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

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

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

There was no objection.

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

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

There was no objection.

UNFUNDED MANDATE REFORM ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 38 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5.

□ 1208

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the cost of Federal mandates on the private sector, and for other purposes, with Mr. EMERSON in the chair.

The Clerk read the title of the bill.

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

Are there any amendments to title I?

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

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

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

□ 1210

The bad news, however, is that we have about 130 or so amendments to go. All of the what I consider to be weakening amendments that were offered in terms of exemptions to the bill were defeated, not because the programs sought to be exempted by those amendments were not worthy and meritorious and had great value, because I think many of them did and do, but frankly because H.R. 5 poses absolutely

no threat to the present administration, the present way those programs are being implemented, and really only asks us to be accountable to any additional mandates that may be imposed as a result of those provisions in the future.

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

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

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

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

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

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

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

AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHIFF:

Amend title I to read as follows:

TITLE I—REVIEW OF UNFUNDED FEDERAL MANDATES

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

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

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

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

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

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

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

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

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

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

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

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

(b) CRITERIA.—

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

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

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

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

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

(C) issue final criteria under this subsection.

(c) PRELIMINARY REPORT.—

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

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

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

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

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

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

SEC. 102. SPECIAL AUTHORITIES OF ADVISORY COMMISSION.

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

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

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

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

SEC. 103. DEFINITION.

In this title:

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

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

MODIFICATION TO AMENDMENT OFFERED BY MR. SCHIFF

Mr. SCHIFF. Mr. Chairman, I have a modification to that amendment at the

desk, and I ask that the amendment and modification be considered together.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. SCHIFF:

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

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

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

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

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

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

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

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

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

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

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

There was no objection.

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

There was no objection.

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

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

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

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

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

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

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

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

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

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

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

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

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

□ 1220

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

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

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

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

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

My only concern initially was ACIR might not be able to do what was required within the time that we gave them. I have since had conversations with Governor Winter, who is the head of the ACIR. He assured me the commission has taken that into account,

will comply with our time restraints, will proceed with the work, so having been reassured in my own mind that the commission can in fact do that job we ask them to do in title II, I can now enthusiastically support the amendment.

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

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

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

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

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

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

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

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

This is a darn good amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. SCHIFF. I appreciate the gentleman yielding.

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

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

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

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

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

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

I have some concern that within the legislation the Commission is required

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

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

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

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

□ 1230

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. CLINGER. I thank the gentlewoman.

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

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

The Clerk read as follows:

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

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

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

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

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

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

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

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

Mr. SCHIFF. I thank the gentleman for yielding.

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

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

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

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

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

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

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

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

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

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

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

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

□ 1240

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

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

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

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

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

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

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

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

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

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

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

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

REQUEST BY MR. BARTLETT OF MARYLAND TO OFFER AMENDMENT

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

The CHAIRMAN. The Clerk will designate the amendment.

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

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

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

What is going on here?

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

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

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

Mrs. COLLINS of Illinois. All right.

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

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

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

PARLIAMENTARY INQUIRY

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

The CHAIRMAN. The gentleman will state it.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. BARTLETT of Maryland. All right.

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

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

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

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

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

Mrs. COLLINS of Illinois. Yes.

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

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

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

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

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

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

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

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

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

The CHAIRMAN. The Clerk will designate the perfecting amendment.

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

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

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

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

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

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

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

I urge my colleagues to support this important amendment.

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

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

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

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

□ 1250

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

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

So, Mr. Chairman, I support the amendment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

creating a duplicate agency works counter to that objective.

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

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

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

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

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

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

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

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

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

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

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

□ 1300

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

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

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

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

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

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

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

There was no objection.

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

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

The Clerk read as follows:

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

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

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

There was no objection.

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

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

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

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

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

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

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

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

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

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

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

The CHAIRMAN. Are there other amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—REGULATORY ACCOUNTABILITY AND REFORM

SEC. 201. REGULATORY PROCESS.

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

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

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

(b) STATE, LOCAL GOVERNMENT, AND TRIBAL GOVERNMENT INPUT.—Each agency shall develop an effective process to permit elected officials (or their designated representatives) of States, local governments, and tribal governments to provide meaningful and timely

input in the development of regulatory proposals containing significant Federal intergovernmental mandates.

(c) AGENCY PLAN.—

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

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

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

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

(2) EFFECTS ON PRIVATE SECTOR.—Before establishing any regulatory requirements, agencies shall prepare estimates, based on available data, of the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

SEC. 202. STATEMENTS TO ACCOMPANY SIGNIFICANT REGULATORY ACTIONS.

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

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

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

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

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

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

(4) the effect of Federal private sector mandates on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services;

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

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

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

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

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

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

SEC. 203. ASSISTANCE TO THE CONGRESSIONAL BUDGET OFFICE.

The Director of the Office of Management and Budget shall—

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

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

SEC. 204. PILOT PROGRAM ON SMALL GOVERNMENT FLEXIBILITY.

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

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

(2) meet overall statutory goals and objectives.

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

SEC. 205. ANNUAL REPORT TO CONGRESS REGARDING FEDERAL COURT RULINGS.

Not later than 4 months after the date of enactment of this Act, and no later than March 15 of each year thereafter, the Advisory Commission on Intergovernmental Relations shall submit to the Congress, including each of the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, and to the President a report describing Federal court rulings in the preceding calendar year which imposed an enforceable duty on 1 or more States, local governments, or tribal governments.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment to subsection (c) of section 201.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In subsection (c) of section 201, strike paragraph (2), strike the heading for paragraph (1) and run its text to the dash following the heading for the subsection, and redesignate subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out in consultation with the majority. Section 201(c)(2) requires an evaluation of private sector costs associated with major rules that appear to largely duplicate the evaluation required in section 202. Thus the amendment improves the bill by striking an apparently redundant provision. The amendment is also necessary because the language in section 201(c)(2) used vague terms like regulatory requirement that could have been interpreted to cover more than major rules. This amendment eliminates these potential ambiguities.

Mr. Chairman, I urge support of the amendment.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman from California. This is an important clarifying amendment. We have worked this out, and I want to congratulate the gentleman on clarifying an important aspect of the legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer my amendment numbered 140.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: Amend section 201(b) to—

(1) strike "AND TRIBAL GOVERNMENT" in the subsection heading and insert "TRIBAL GOVERNMENT, AND CONCERNED CITIZENS", and

(2) strike "and tribal governments" and insert "tribal governments, and concerned citizens".

Mr. WAXMAN. Mr. Chairman, H.R. 5 provides that Federal agencies must consult with State and local governments before proposing Federal regulations. This amendment that I am offering modifies this provision to require that Federal agencies also consult with concerned citizens at the same time. The amendment was adopted without dissent in the full Committee on Government Operations in the last Congress in October.

The amendment recognizes that concerned citizens should have the same rights to participate in the rulemaking process as State and local governments.

For example, if EPA is considering a new drinking water standard, the public that drinks the water should have just as much input into the standard as the public water suppliers who have to

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comply with that standard. I think this amendment makes a great deal of sense. It brings about a consultation with all those who are involved in the matter, and therefore would help those who are about to propose regulations to make the wisest regulations possible. I urge support for the amendment.

Mr. PORTMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to rise in reluctant opposition to this amendment, having accepted the last amendment from the gentleman from California [Mr. WAXMAN], which I thought was a good clarifying amendment.

The chairman of the committee and other Members on this side who have been active in this process have looked carefully at this amendment. We are reluctantly opposing it. We certainly think input from private citizens to develop meaningful regulations makes a lot of sense, and that is exactly why there is a process currently in the legislation to allow citizens to participate, call a notice and comment period for the promulgation of regulations. every citizen has a right to submit comments and participate in this regulatory process.

Reluctantly, because we agree on the intent of the amendment but we think it is not necessary to further amend this title with regard to this second amendment from the genteleman from California [Mr. WAXMAN], we must rise in opposition to it.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I understand the point the gentleman is making, that you think all parties ought to be involved, but I wanted to point out that the comment period is after a proposal is already on the table. And this bill provides that State and local governments can come in in advance. If they are going to come in in advance, then private citizens ought to be able to come in in advance and be able to participate on equal terms.

What we are proposing to do is there ought to be equal terms for comments, whether it be by a local government or by other concerned citizens.

Mr. PORTMAN. Mr. Chairman, reclaiming my time for a moment, I think what we have done in this legislation is entirely consistent with the executive order and the current process. State and local governments are coregulators.

□ 1310

It is appropriate that they have the input that is provided in the title. Again, although I think the intent of the gentleman's amendment we all agree with, we think there currently is the ability for citizens to have the kind of input that the gentleman desires. Again, we must reluctantly oppose the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a meritorious amendment.

This bill requires agencies issuing regulations to first develop a plan to solicit input from local governments. However, there is no similar requirement to solicit the input of private citizens who may also be affected by the regulation being contemplated.

Ironically, this bill, in title III, does require CBO to solicit and consider information or comments from designated representatives of the private sector in conducting studies under section 424(b)(3), page 37 at line 19.

So why not require of the agencies the same wide range of views that is required by CBO? During the debate in the committee last Congress, the gentleman from California [Mr. WAXMAN] raised similar concerns. And the gentleman from New Mexico [Mr. SCHIFF] made some excellent points that deserved to be heard by the new members of the committee, and there are 31 new members of the committee.

He stated that if there is an antipollution regulation that addresses a health hazard affecting anyone, that it makes sense to have input from those who might be affected. And he supported an amendment that is similar to this one.

Let me give my colleagues an example why this is so important. If EPA is contemplating proposing a new regulation, for example, affecting incinerators operated by State and local governments under H.R. 5, EPA must allow officials of those governments to have input before the regulation is even proposed. Yet neither the residents of these local low-income communities who are breathing in the pollution from these incinerators nor the operators of privately run incinerators would have that same opportunity.

This is a commonsense amendment, and I would certainly hope that my colleagues would support this amendment.

Mr. WAXMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentlewoman for yielding to me.

I just want to reiterate the point that was persuasive on both sides of the aisle in the last Congress. If a local government is running an incinerator and they want to come in in advance and have consultation with the regulators, that is unfair to the citizens who are not also being consulted in advance who are going to have to breathe in the pollution. The same would be true when Government is acting in a businesslike capacity almost like a private sector business, where they run a drinking water system or a sewage system.

I have no objection with the consultation with the regulators, but it seems to me that they should not have an unfair advantage to be consulted without other citizens having that same opportunity.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Again, I think what the gentleman is attempting to achieve here, we can certainly understand it and sympathize with it. In fact, I think one of the things we are trying to get at with this bill is to prod the Federal Government, which has been reluctant to seek the kind of input from State and local governments. But this bill is really going to the regulator. They are coregulators. These are the people we are attempting to involve in the process.

They have not been adequately involved in the process before. Private citizens should they have the same standing, should they have the same level, be allowed to input the system at the same level? I think not, because we are really asking here for the State and local governments to be a part of the process on regulations that directly affect them.

I think we should note that nothing in this legislation prevents anyone from making comments on proposed regulations. That clearly is not the intent of this legislation. I must also point out that all of the interest groups that have been involved in shaping this legislation, the so-called big 7, National Governors Association, League of Mayors, all of the rest of them oppose this amendment because they do not want to see a special kind of a review process carved out for private citizens.

So I must oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, my amendment No. 2.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: Insert at the end of section 201 the following:

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

Mr. MORAN. Mr. Chairman, most of my colleagues on the other side and on this side are aware that I introduced an unfunded mandates bill about 4 years ago. Most of the provisions that were in that bill are also included in this bill. But there are some very important provisions that are not. This amendment deals with one of those.

This amendment would require that when Federal agencies issue a notice of proposed rulemaking, receive comments back from the private sector and from State and local governments that would be affected by the new rule, that they choose the least costly alternative method of implementing the intent of the legislation. And if they do not choose that least costly alternative, then they must at least explain why they did not.

I think this is a terribly important provision to include in our unfunded mandates bill, Mr. Chairman. The amendment simply asks that the Federal agencies act rationally. It does not tie their hands. But the fact that they have not, in many cases, acted rationally is the core problem for many of the issues that have come to the floor over the last week and a half during this unfunded mandates debate.

One such issue is that of the emissions inspection requirement under the Clean Air Act. Now, when the Environmental Protection Agency issued its regulations, they got a lot of comments back. But they chose to impose a cookie cutter approach to implementation of the Clean Air Act. That is why so many Members, and it happened again this morning, have risen opposed to that Federal agency's regulations. There are far better ways of implementing the intent of the Clean Air Act, a concept that I agree with, I agree with the intent of the legislation. I very strongly disagree with the way in which the Environmental Protection Agency has chosen to implement that legislation.

For example, they have required in many States to have central testing facilities, facilities that did not exist before, facilities that are not equipped to make the repairs necessitated by the rejection of the emissions test. And so we have a ping pong effect where citizens not only have to wait in long lines but they have to go back to a repair station, get the repair done. They cannot know whether it is going to pass or not until they go back to the central testing facility, and then oftentimes they ping pong back and forth. And it takes up the entire day or several days. No wonder the American people are upset with the Federal Government. It does not make sense.

Why not have new automobiles be able to go to test and repair stations that already exist, but older automobiles could go to central testing? There are any number of other ways that we could choose to implement the intent of the legislation without violating any of the basic provisions and save a whole lot of money and a whole lot of aggravation.

Another example is in Alexandria, and this is one of the reasons why I offered the unfunded mandates legislation, the FAIR Act, 4 years ago.

EPA said that we had to separate our sewage from our storm water runoff. But they said we have to do it in a way that every other jurisdiction does it. For Alexandria, it meant digging up streets that were laid down 200 years ago, that were surveyed by George Washington, that are supporting very expensive historic structures. We would have had to dig under all those homes and streets to lay an additional storm water piping.

□ 1320

We had an alternative to have a retaining tank down in Old Town. Members have probably not noticed it because it is not even obvious. We could do it with very little money, accomplish the same purpose, with no threat to the health of our citizens, at a fraction of the cost, and yet it was unacceptable to EPA because they had one cookie cutter approach they wanted every jurisdiction to implement.

This is the case with many Federal agencies, so what this amendment would do, Mr. Chairman, is to say, "If you get better ideas from State and local governments on how to implement these regulations, or from the private sector, use that better thinking. Take advantage of it. Work with States and localities and businesses, and let us do the public's business in the most efficient and effective manner possible."

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am confused because I am going to accept the gentleman's amendment. I am delighted to be able to indicate strong support for the amendment. I think the gentleman has made a very good argument that what we are trying to do here is to find the most effective, the most efficient, the least expensive and least disruptive way to accomplish these things.

What the gentleman had done here is to clearly indicate that where there are two choices, we should clearly opt and encourage that the least expensive, least costly, and least disruptive be adopted, so I am pleased to accept the gentleman's amendment as a major contribution.

Let me just also commend the gentleman for his, as he said, 4- or 5-year effort in this regard as a principal player in this whole unfunded mandates debate. He has done a superb job. We have been grateful to work with him.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I would echo the gentleman's comments. I am very pleased to support the amendment. Let me say briefly, this amendment is consistent with language that is in the FAIR Act, which I believe is the foundation for the legislation, H.R. 5, before us today, and have said that on many occasions, as the gentleman knows.

It is also consistent with the Executive order, and we have had lots of discussions about the Presidential Executive order that is currently in place. All agencies are meant to abide by the requirements in this Executive order. It goes far further than title II of this act, which sets up the requirements for our Federal agencies in this legislation.

Mr. Chairman, let me give a couple of examples. H.R. 5 only applies to rules having an impact of $100 million or more annually. The Executive order currently in place by President Clinton applies not only to rules having an impact of $100 million or more, but in addition all rules affecting in a material way productivity, competition, jobs, environment, State and local governments, even if less than $100 million.

Therefore, I would just make the point clearly here that yes, the gentleman's amendment is a good one. The least burdensome manner in which the agencies can regulate is a good idea. It is a sound idea. It is part of FAIR. It is also part of the Executive order.

I would say, though, in addition, Mr. Chairman, that the Executive order in fact goes even further than the gentleman's amendment, and we will be accepting this amendment happily, but not picking up all of the requirements and additional burdens on the regulators that is in the Executive order, the Clinton Executive order of October 1993. I am happy to accept the amendment.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I rise to support the amendment, and make mention of the efforts of the gentleman from Virginia [Mr. MORAN] on this issue. He has been a tremendous leader in the unfunded mandates issue. He is partly the reason we are here today. Had he not started this fight and engaged us in this debate some time ago, we would not, probably, be at this point.

To his amendment, the gentleman's amendment is a good amendment. I think it demonstrates good common

sense for us to take the best option, and the gentleman from Virginia [Mr. MORAN], I think in his amendment characterizes what he has done in this whole issue, for us to move to a solid, commonsense solution. I commend the gentleman for that. I urge Members to support the amendment, and I congratulate and commend the gentleman for his effort in this entire issue.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank my friends and colleagues for their support.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment offered by my friend and neighbor, the gentleman from Virginia [Mr. MORAN], on this. I just want to take the opportunity to say I think this puts some teeth into title II. As a former board chairman adjacent to the city of Alexandria, of which Mr. MORAN was the mayor, I applaud his leadership in this area.

Long before many people were talking about unfunded mandates, the gentleman from Virginia [Mr. MORAN] has been a leader in this cause. I think this amendment will strengthen this bill. I just want to applaud the gentleman once again for his efforts in this, and rise in support of it. I hope the amendment will be accepted.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. CLINGER], has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 1 additional minute.)

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Mr. Chairman, I would also like to thank the sponsor of the amendment for bringing this issue up.

Mr. Chairman, let me just relate as quickly as I could the experience of Texas on the unfunded mandates issue with the Clean Air Act. We also support clean air, but there are options we can get to that, I think the Moran amendment points that out, that we have the option, both the State agencies, but also the EPA here in Washington has some options that they would pick the least burdensome, or, as we call it, the most user-friendly, to get to that point on clean air.

Mr. Chairman, I think with the controversy going on not only in Texas but in Illinois and lots of other States, I think this adds to this bill. I am glad that my colleague and also the chairman is accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 3.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: At the end of title II insert the following:

SEC. 206. JUDICIAL REVIEW.

(A) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

Mr. MORAN. Mr. Chairman, there is another part of this bill that I think could be strengthened. That deals with the issue of judicial review.

The bill before us is silent on judicial review, but that does not mean that judicial review does not apply. In fact, ironically, it opens up much of this legislation to procedural suits, procedural delays, excessive litigation.

My amendment, Mr. Chairman, would specify what is appropriate judicial review, and limit the ability to conduct unlimited litigation against provisions of law and regulation for which the unfunded mandates legislation might apply. Specifically, Mr. Chairman, it says that where we have agencies that are not currently subject to judicial review, that they would not become subject to judicial review under the Administrative Procedures Act solely for compliance with the procedural aspects of this legislation.

It also says, Mr. Chairman, that where there is a single court of jurisdiction, whether it be the Court of International Trade, the U.S. Circuit Court, whatever court is appropriate for that agency, that any other litigation must go through that court. In other words, lawyers cannot go to several courts, which would be principally for the purpose of delaying action.

Third, where there is an exhaustion of administrative remedies under the Administrative Procedures Act, in substantive legislation that exhaustion of administrative remedies would apply in this case as well, where legislation has been affected by the unfunded mandates legislation.

Fourth, if there are substantive agency actions that cannot be stayed; in other words, you cannot delay implementation of the regulations, get an injunction against issuance of regulations, then you cannot as a result of this legislation, either.

Mr. Chairman, there are four aspects that really do need to be addressed and refined. Mr. Chairman, I think it is terribly important that there be judicial remedies if Federal agencies and the executive branch do not comply with the intent of this legislation. On the other hand, we certainly do not want to open up a Pandora's box of opportunities to litigate for any period of time that a person who feels they are adversely affected by legislation or regulations might choose to.

I think without this clarifying amendment, this limited amendment, Mr. Chairman, we would do just that, because if we do not specify limits to judicial review, the Administrative Procedures Act applies to everything, and in fact would create substantial gridlock throughout the Federal Government.

Therefore, Mr. Chairman, I would ask the chairman of the committee and the sponsors of this bill to positively consider this amendment, and I think that its strengthens the legislation itself, the underlying legislation.

□ 1330

The only people who might not like it are in the legal community, but I do not think their interests are particularly well-served, either, by not addressing the issue of judicial review.

I could give any number of examples where this would apply and where in fact this must apply to implement this legislation in a rational way, but at this point I would respond to any comments by people that might have questions about the intent of this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word, just to very briefly say we have now had a chance to review this amendment on our side. In fact we have been in long discussions with the gentleman from Virginia [Mr. MORAN] over a long period of time on this. I think it represents a very, very good compromise between very divergent views on this question of judicial review. I think it is better than what we started out with, that it is clearly an improvement. I am delighted to accept the measure.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding, just briefly to rise in support also of the amendment. It is a very good amendment.

We have had on the floor here an interesting debate the last several days about the issue of judicial review. It came up in the context of the exemptions to the legislation, but it really went at some of the core issues of this act.

I think the gentleman from Virginia would agree that judicial review is very important in order to ensure that there are teeth in the provisions in title II, to ensure that the agencies actually carry out the provisions which again

are less burdensome on the agencies than the current executive order requirements that President Clinton issued in October 1993.

I would say that this is an important clarification of the kind of judicial review that we had intended to have in this legislation. It is our view that this is not an issue that necessarily needed to be resolved by amendment, but if there is any misunderstanding or any clarification needed, I think it is important to do so. This specifically addresses concerns raised on the floor by the gentleman from Pennsylvania [Mr. KANJORSKI]. The gentleman from Pennsylvania [Mr. KANJORSKI] raised the issue that you could possibly have a stay on an injunction in the case of a regulation and it would keep the regulation from going forward. This language I think very clearly provides that such a stay would not be permitted, that there would not be that kind of injunctive relief provided under the judicial review that is provided under H.R. 5.

I thank the gentleman for clarifying that point and for addressing a legitimate concern which was raised on the floor.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for yielding.

The chairman of this committee and principal sponsor of this legislation has played a very constructive role in both working out the amendments that strengthen the legislation and in fact in getting this bill to the floor which I think is terribly important. I certainly appreciate the comments that were made by the gentleman from Pennsylvania, the gentleman from Ohio, the gentleman from Virginia, and the gentleman from California.

I would like to say for the RECORD whereas I am getting recognized, I would like to recognize someone who was the original sponsor of the Fair Act and worked very hard on it. This particular judicial review issue was terribly important to the gentleman from Pennsylvania [Mr. GOODLING]. The gentleman from Pennsylvania [Mr. GOODLING] has played an instrumental role in the unfunded mandates legislation. As a former superintendent of schools, he understood the importance of not imposing mandates that in effect abrogated a locality's ability to carry out their own priorities with their own best judgment.

I want to recognize particularly the gentleman from Pennsylvania [Mr. GOODLING] and I thank my friends and colleagues on the other side.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had put in the RECORD an amendment on this very subject of judicial review which I will not offer at this time. I will support the Moran amendment because I think it is an improvement over the text that has been submitted to this Committee of the Whole. But I do not think it goes far enough.

I would hope that when we go into conference with the other body, the managers of this legislation will look with great care at the other body's stand on this very issue. In the other body, in their unfunded mandates legislation, there is an explicit provision saying that there should not be judicial review. I think that is appropriate, for the very simply reason that judicial review can tie up regulations for a very, very long time and leave a great deal of uncertainly about what the regulations will in fact be in the long term.

Section 202 of H.R. 5 provides that before promulgating a final regulation containing a Federal mandate, the agency would have to prepare a detailed statement analyzing a number of different factors, economic and other impacts of the regulation. The matters that must be analyzed include the anticipated costs to State and local governments; the estimates of future costs of Federal mandate; estimates of disproportionate budgetary effects upon particular regions of the country or particular States; estimates of disproportionate budgetary effects upon urban or rural or other types of communities; estimates of any disproportionate budgetary effects on the private sector; a qualitative, and if possible, a quantitative assessment of costs and benefits anticipated from the Federal mandate, including enhancement of health and safety and protection of the natural environment; the effect on national economy; the effect on productivity; the effect on economic growth; the effect on full employment; the effect on creation of jobs; and the effect of mandate on international competitiveness.

I do not disagree with all of these factors being analyzed, but if we allowed judicial review of the regulation pursuant to statute, pursuant to laws adopted by the Congress and signed by the President and the judicial review does not go against the regulation as to whether it is a wise one pursuant to the statute, but in case they did not look at the productivity factors as opposed to one economist's view vis-a-vis another economist's view on any of those items I have listed, it seems to me that it will not make a lot of sense to allow that kind of second-guessing by the courts of the regulations.

It seems to me to offer a lot of opportunity for agencies to be stymied in their objectives to carry out laws like the Clean Air Act, the Safe Drinking Water Act, laws that are put in place to protect the public.

Who will benefit from judicial review? One thing I can say with certainty, it will be all the lawyers that will be litigating this matter, because they will have the ability to drag this litigation on for a very long time.

The Moran amendment does go far enough to say that there cannot be an injunction on the implementation of the regulation, but it still permits the adjudication of that regulation based on whether the agency has done a sufficient analysis to the satisfaction of the court, which may then decide to get involved in the procedural matters of this review.

I do not think judicial review is necessary to enforce what we are asking the agencies to do before they adopt regulations. The judicial review is not necessary for enforcement. The review requirements can be enforced by the White House during OMB review. The requirement can also be enforced through congressional oversight.

Before EPA developed its proposal to regulate emissions from municipal incinerators, EPA consulted with the Conference of Mayors, the National League of Cities, and the National Association of Counties.

Before the Department of Education proposed a regulation relating to vocational training for disadvantaged students, the Department held public meetings with State and local education officials.

□ 1340

Before proposing rules affecting housing on tribal lands, HUD met with many tribal authorities. In fact to assure compliance with the Executive order, OMB has sent several regulations back to the agencies for failure to consult with all of the State and local governments that were appropriate.

For instance, EPA regulations controlling emissions from municipal landfills were sent back to EPA for this reason. Likewise regulations to improve water quality in the Great Lakes were sent back to EPA for that same reason.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

(By unanimous consent, Mr. WAXMAN was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, in other words, we ought not to provide a judicial review as the way to enforce that the analysis be done. OMB has that role as they look at regulations coming from that agency and they have required the agencies to go back and review these things if they felt a satisfactory review did not take place.

In fact, the Director of OIRA, the Office of Information and Regulatory Affairs at OMB, Sally Katzen, has informed us that she is not aware of a single complaint with a State, local or tribal authority since the adoption of the Clinton Executive order, which has the same purpose as this legislation would in this regard.

So the point is the Executive order is working without judicial review. The idea of judicial review can be very troublesome for the regulations to be settled with certainty. There are industries that can be affected by that uncertainty, and the public interest has been certainly adversely affected by that uncertainty and the lengthy litigations to be followed.

It would be far better to see if there is a problem in reality before we have a judicial review provision that could have the consequence I fear.

So I stand in support of this amendment with the statement that I want to make very clear on the RECORD that I do not think it needs to go as far as we need to have us go on this very issue.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first let me say in response to the comments from my colleague from California that I appreciate him bringing this issue to the floor, for bringing it to the attention of the sponsors of the legislation. I think we worked responsibly with the gentleman from Virginia [Mr. MORAN], with the gentleman from California, and others to try to address at least the major concerns that have been raised on the floor, and I think it was a healthy process.

I happen to believe in the end we have ended up with the right mix. We have judicial review, which I think is necessary to put teeth into agency requirements in title II.

Just to remind my colleagues again, these requirements are less burdensome on the agencies than those found in the Executive order which is currently in place.

I would also just very briefly talk to the issue of the standard which the courts will apply that the agency action must be arbitrary and capricious standard, which is very high. I quote from Judge Scalia with regard to the issue the gentleman raises:

> The scope of review under the "arbitrary and capricious" standard is narrow and a court is not to substitute its judgment for that of the agency. This is especially true when the agency is called upon to weigh the costs and benefits of alternative policies since such cost-benefit analyses epitomize the types of decisions that are most appropriately entrusted to the expertise of an agency.

I think that is very important, and I think I would agree with the gentleman from California, we do not want to needlessly tie things up in court. We want to defer to the agency expertise. The gentleman has raised a number of important concerns, and I believe given that standard which was just quoted, which is the common practice of the courts, that we would not be in such a position.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding on that point. I think it is a helpful one for us to have on the record and I do want to express to the gentleman and the chairman of the committee my appreciation for their willingness to explore this issue with me. I regret that we were not able to reach full agreement on it. I think we have come to a compromise, and perhaps we can continue to look at the issue as this legislation moves forward. But I do express the good spirit in which the gentleman engaged us in this issue to try to come up with what is the best public policy.

Mr. PORTMAN. Reclaiming my time, I thank the gentleman. Again, I think we have done this in a way where we end up with the kind of teeth in the legislation, H.R. 5, many of us on this side feel is necessary to make sure these requirements are carried out.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding. I want to say the gentleman from California [Mr. WAXMAN] has clearly stated his position that he does not believe judicial review should apply at all, and I understand the position and I respect the reasons he has given. However, I believe no judicial review ultimately means no enforcement.

However, the concerns that have been raised have been legitimate concerns. And I think the gentleman from Virginia [Mr. MORAN] in his amendment has tried to tighten this bill and tighten judicial review, so we hope to avoid even the prospect of some of the problems that might have arisen due to judicial review, as remote in my judgment as they may have been. I think the amendment strengthens the bill, and I support the amendment of the gentleman from Virginia.

I yield back to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentleman from New Mexico.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly support the amendment of the gentleman from Virginia, because I, too, do not think it goes far enough. If this bill is subject to judicial review, we should rename it the Lawyers Relief Act of 1995.

Any new regulations issued pursuant to the bills covered by H.R. 5 could be tied up in court for years. The Senate provision, which is the same as the original contract, would preclude judicial reviews, and I urge my colleagues to look at the Senate provision very carefully. It carries out the language of the contract. It favors review but it does not favor lawyers and litigation.

New cottage industries on mandate law will suddenly spring up all over the country. Courses in mandate will be required to graduate from law school. The Civil Division at the Department of Justice will have to increase the number of lawyers it hires in order to keep up with the rising workload. Anyone remotely familiar with civil litigation knows that that agency regulations could easily be tied up in court for years. Delays, postponements, discovery, motions, and trials would make the swift implementation of agency regulations next to impossible. Meanwhile, the American people would be left out without vital health and safety protection.

How important are these regulations?

Well, I think one example will suffice. Just ask the parents of children who have died of E. coli bacteria about the need for new mandated requirements with State governments for meat inspection. The President and Vice President are continuing a historic effort to reinvent Government. Part of this effort involves streamlining and simplifying the Federal regulatory process.

It also involves making the Federal Government respond more quickly to the needs of the American people. Yet much of the progress that has been made already by the President will be undone if all of the Government actions are subject to judicial review.

The Federal Government will become entangled in an endless array of needless and confusing regulatory requirements in an effort to protect itself from being sued.

Those who support judicial review argue that it is needed to ensure that Federal agencies comply with the requirements of this act. But there are other more effective ways to guarantee compliance. One way is the congressional oversight process, and that is what our committee is: Government Reform and Oversight.

The Constitution confers on the Congress the responsibility to oversee the operations of the Federal Government. Congress has also been given a vast arsenal of weapons to oversee agencies' compliance with Federal law, including subpoena power and the power to command the appearance of witnesses to testify in public hearings, and the power to get access to most agency documents.

Second, we have the appropriations process, the power of the purse. An agency's failure to comply with Federal law can be met with a reduction in funding for that agency. I can think of no more powerful tool to enforce the requirements of this bill.

Many supporters of the no funding, no mandates provisions in this bill should also be concerned if it is undermined by judicial review.

Suppose during a fiscal year the Committee on Appropriations fails to

fully fund a mandate, triggering the bill's requirement that the responsible agency reduce the responsibilities of State and local governments. Judicial review will prevent that reduction from going into effect. This will leave State and local governments with less money while performing the same duties for years, while the issue is resolved in court.

Tying up the executive branch with costly litigation is not an appropriate remedy for the problem of compliance. Compromising health and safety regulations because of legal gridlock is extremely dangerous.

And again, I am going to support the amendment by the gentleman from Virginia [Mr. MORAN], but I sure do not think it goes far enough.

Mr. Chairman, I yield back the balance of my time.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the distinguished chairman, the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, just to clarify what may not have been clarified, and that is that as the chairman of the committee I do support the gentleman's amendment wholeheartedly.

Mr. MORAN. Mr. Chairman, if the gentleman will yield, I very much thank the gentleman for that clarification.

□ 1350

Mr. GOODLING. Mr. Chairman, there was a time in the history of this Congress when they believed that people back home would believe whatever we say and whatever we say we did rather than really tell them the way it is. Fortunately for this country that time is gone forever.

I can remember a gentleman that I came with to Congress, and I used to say to him, "I do not understand the philosophy you espouse here, because it seems to be totally opposite of your constituency." He said, "My constituents believe what I tell them." Well, as I said, fortunately that is gone. I mention that simply because I am glad an accommodation was worked out, because as the gentleman from Virginia said, I feel very strongly about judicial review. I feel very strongly because nothing is going to happen if that threat is not there.

When we presented the bill a couple years ago, I and others asked the CRS to comment on what it is we were doing in relationship to judicial review. We asked three specific things: How judicial review would apply to sections 201, 202, and 203; what impact this would have on the regulatory process, whether agencies would have to comply with the stipulations stated in sections 201, 202, 203, if section 201, page 15, lines 22 through 24, were removed.

I am convinced in their response that we are on the right track and we are on the right track when we sent out the Dear Colleague, and I would like to read just a portion of that Dear Colleague:

As you may recall, President Jimmy Carter signed the Regulatory Flexibility Act into law September 19, 1980. The new law requires agencies to consider the special needs and concerns of small entities whenever they engage in rulemaking subject to the notice and comment requirements of the APA or other laws. Each time an agency was to propose a rule in the Federal Register, it was also supposed to publish a regulatory flexibility analysis. This RFA would describe the impact of a proposed rule on small entities, which includes small business, organizations, and governmental jurisdiction.

Well, to make a long story short, provided in this was also an indication that judicial review would not apply. The end result was, as history will show, that the agencies paid no attention whatsoever to the RFA. They just ignored it completely, and so it meant that the act had no teeth and, therefore, the act was totally worthless.

That was my fear with this legislation, that we would have this wonderful shell out there as if we were really doing something big, but they would not have the opportunity for judicial review. In return, the agencies would pay no attention whatsoever.

Now, you see, the history of judicial review would indicate to us that there is no standing only line out there where everybody is rushing in trying to get into the judicial review process. It is so difficult that very seldom is it ever used.

So, again, I am glad that we have come up with some accommodation. I hope we are strong enough, because I feel very strongly that without it this is a worthless, toothless piece of legislation.

Mr. EWING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment and the compromise that has been reached with this piece of legislation.

When I first ran for Congress, I realized in talking to my constituency that there is a real problem with excessive regulation, and there is a real problem, because the Federal Government was not listening to the little guy, to the small business, to the units of government that do not have large legal staffs or big budgets. When I came to this body then, I thought what can we do about it. I looked into it, and I found that we had the Regulatory Flexibility Act, and I read that act. I thought, "This should work. This should be a big help."

And then I said, "Why is it not working?" Well, I was told very quickly that it was not working because of the boilerplate language in that act that says that any agency can say the act does not apply to this rule and regulation and move right ahead as if no analysis was needed.

What was the response from those being regulated? It was there was no judicial review.

Ladies and gentlemen, judicial review is imperative unless we want to project on the American people another cruel hoax that we are doing something to help them overcome regulation and yet we are not.

So this is an excellent compromise. I think that it is excellent that we are going to do this and send it to conference, and we can discuss that with the Senate side and hopefully we will come up with judicial review that will protect the little guy, the small business, the small unit of government.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman has had prior recognition.

Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, I rose before to strike the last word, and I rise in support of the amendment now.

I do so to clarify for the RECORD that the General Accounting Office was asked to review what is called the Reg Flex Act to see whether the regulatory flexibility regulations are in fact being enforced by the executive branch, and they came back with a report which I would insert in the RECORD following my remarks that some agencies have in fact complied.

The Environmental Protection Agency, which is a target of much of the debate here today, they said had complied. Where there was noncompliance, the reasons were many, not, they pointed out, because there was a lack of judicial review, but because the Small Business Administration had not issued guidance, or the OMB had not established procedures to enforce the Regulatory Flexibility Act. They did not say that a judicial review was recommended or required in order for the Regulatory Act to work. I want to make that point clear.

Because I do not think judicial review is advisable as a part of enforcement of these proposals.

Mr. Chairman, the GAO report is included at this point in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, April 27, 1994.

Hon. JOHN J. LAFALCE,
Chairman, Committee on Small Business, House of Representatives.

Hon. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate.

This letter is in response to your requests that we evaluate federal agencies' implementation of the Regulatory Flexibility Act of 1980 (RFA), codified in Title 5 of the U.S. Code.[1] Specifically, you asked that we (1) review the Small Business Administration's

[1] 5 U.S.C. 601–612.

(SBA) annual reports on agency compliance with the RFA and generalize from the reports about which agencies were and were not implementing the RFA in an effective manner and (2) review SBA annual reports and related documents on the extent to which agencies have complied with the RFA requirement that they periodically examine their rules (section 610 of Title 5).

BACKGROUND

The RFA requires federal agencies to assess the effects on their proposed rules on small entities. According to the RFA, small entities include small businesses, small governmental jurisdictions, and small not-for-profit organizations. As a result of their assessments, agencies must either (1) perform a regulatory flexibility analysis describing the impact of the proposed rules on small entities or (2) certify that their rules will not have a "significant economic impact on a substantial number of small entities." The RFA does not define "significant economic impact" or "substantial number," but does require the regulatory flexibility analysis to indicate the objectives of the rule and the projected reporting, recordkeeping, and other compliance requirements. Agencies must also consider alternatives to the proposal that will accomplish the agencies' objectives while minimizing the impact on small entities. The RFA also requires agencies to publish a semiannual regulatory agenda that describes any prospective rule that is likely to have a significant effect on a substantial number of small entities.

Section 612 of Title 5 requires the SBA Chief Counsel for Advocacy to monitor and report at least annually on agency compliance with the RFA.[2] SBA's primary method of monitoring agencies' compliance is to review and comment on proposed regulations when they are published for notice and comment in the Federal Register during the federal rulemaking process. The Chief Counsels have issued 12 annual reports on RFA compliance since 1980.[3] The reports discuss some, but not all, federal agencies' RFA compliance.

RESULTS IN BRIEF

The SBA annual reports indicated agencies' compliance with the RFA has varied widely from one agency to another. Some agencies (e.g., the Environmental Protection Agency) were repeatedly characterized as satisfying the RFA's requirements, while other agencies (e.g., the Internal Revenue Service) were viewed by SBA as recalcitrant in complying with those requirements. Still other agencies' RFA compliance reportedly varied over time (e.g., the Federal Communications Commission) or varied by subagency (e.g., the U.S. Department of Agriculture). The same lack of uniform compliance is reflected in SBA documents regarding the section 610 requirement that agencies periodically examine their rules. Some agencies had developed plans for the review of their regulations and had acted on those plans, while other agencies had neither developed plans nor taken any action.

One reason for this lack of compliance with the RFA's requirements is that the RFA does not expressly authorize SBA to interpret key provisions in the statute. Also, the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, and SBA has not issued any guidance to federal agencies defining key statutory provisions. Finally, the RFA does not authorize SBA or any other agency to compel rulemaking agencies to comply with the act's provisions. The Office of Management and Budget (OMB) said that it has helped to ensure RFA compliance during the rulemaking process whenever SBA has notified OMB of SBA's concerns regarding an agency's RFA compliance. However, OMB's ability to ensure RFA compliance has been limited because SBA does not normally notify OMB of SBA's RFA concerns when it comments on agencies' proposed rules. Also, OMB has no established procedures in its review process to determine whether agencies have complied with the RFA. Finally, OMB cannot review rules from independent regulatory agencies or agricultural marketing orders.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to determine which agencies SBA's annual reports and other documents (1) frequently indicated were and were not implementing the RFA in an effective manner and (2) indicated were and were not complying with section 610 of Title 5. To accomplish these objectives, we reviewed the annual reports of the SBA Chief Counsel for Advocacy for 1981 through 1992; correspondence from SBA and various agencies regarding section 610 activities; and related hearing records, reports, and other RFA-related materials. We also obtained information on the RFA and the regulatory process from officials at both SBA and OMB. We did not make an independent determination of agencies' RFA compliance. Any characterizations of particular agencies in this report are directly attributable to SBA. We discussed the results of our work with the SBA Chief Counsel for Advocacy and officials, including the Deputy Administrator, from the Office of Information and Regulatory Affairs at OMB in March 1994 and incorporated their comments where appropriate. We conducted our review from September 1993 to February 1994 at the Washington, D.C., headquarters offices of SBA and OMB. The review was conducted in accordance with generally accepted government auditing standards.

SBA REPORTS INDICATE VARIABLE AGENCY COMPLIANCE WITH THE RFA

The SBA annual reports we reviewed did not evaluate all federal agencies' compliance with the RFA.[4] Only the Environmental Protection Agency's compliance record was specifically mentioned in all 12 reports. Five other agencies—the U.S. Department of Agriculture (certain subagencies), the U.S. Department of Labor, the Federal Communications Commission, the Internal Revenue Service, and the Securities and Exchange Commission—were mentioned in at least 8 of the 12 reports. At the other extreme, some agencies (e.g., the U.S. Departments of Education, Energy, Housing and Urban Development, Justice, State, and Veterans Affairs) were either not mentioned in any annual reports or were only rarely mentioned. The SBA Chief Counsel said that differences in the degree to which agencies were mentioned in the reports are primarily due to differences between the agencies in their levels of regulatory activity. For example, the State Department issues very few regulations that affect small entities.

The Chief Counsel said SBA normally becomes aware of the specifics of a proposed rule when it is published for notice and comment. If SBA believes the rulemaking agency has not adequately considered the effect of the proposed rule on small entities, the Chief Counsel said SBA will send the agency written comments. However, the Chief Counsel said that SBA does not usually send OMB a copy of their compliance concerns. OMB officials said that SBA officials have occasionally called them on the telephone regarding certain agencies' RFA compliance and, in those instances, OMB has taken SBA's views into consideration during its reviews and helped ensure RFA compliance. For example, they said that if SBA official told them that a rulemaking agency should have conducted an RFA analysis, OMB would ask the agency to show why an analysis was not done before permitting the proposed rule to be published in its final form.

CONCLUSIONS

Our review of SBA's annual reports and other documentation indicated that some agencies have not complied with the RFA as interpreted by the SBA Chief Counsel for Advocacy. We believe that the reasons for this apparent lack of compliance include the following: (1) the RFA does not expressly authorize SBA to interpret the act's key provisions, (2) the RFA does not require SBA to develop criteria for agencies to follow in reviewing their rules, (3) SBA has not issued any guidance to federal agencies defining key statutory provisions in the RFA, and (4) the RFA does not authorize SBA or any other entity to compel rulemaking agencies to comply with the act's provisions.

OMB can help ensure certain rulemaking agencies' compliance with the RFA by reviewing and commenting on those agencies' significant regulatory actions pursuant to its responsibilities under Executive Order 12866. OMB can return most regulatory actions to agencies for further consideration if it believes the actions are inconsistent with the RFA. However, OMB's authority to play an enforcement role is limited in several respects. OMB cannot review rules proposed by independent regulatory agencies and cannot return agricultural marketing orders to AMS. Also, OMB does not have established criteria or procedures to determine whether agencies have complied with the RFA. Finally, while SBA reportedly notifies rulemaking agencies in writing of its RFA concerns during the rulemaking notice and comment period, it does not normally provide OMB with a copy of those concerns and only occasionally telephones OMB about SBA's compliance concerns. Therefore, OMB's ability to ensure agencies' RFA compliance is diminished because it is often unaware of SBA's concerns regarding an agency's compliance.

MATTERS FOR CONSIDERATION OF CONGRESS

If Congress wishes to strengthen the implementation of the RFA, it should consider amending the act to (1) provide SBA with clearer authority and responsibility to interpret the RFA's provisions and (2) require SBA, in consultation with OMB, to develop criteria as to whether and how federal agencies should conduct RFA analyses. Congress could also consider focusing its RFA oversight on the independent regulatory agencies and agricultural marketing orders over

[2] There have been several Chief Counsels since the RFA was enacted, some of whom served as Acting Chief Counsels. In this report, the Acting Chief Counsels are referred to as "Chief Counsels."

[3] The first report for 1981 was provided on October 7, 1981, in testimony before the Subcommittee on Export Opportunities and Special Small business Problems of the House Committee on Small Business. Reports for 1989 and 1990 were not prepared until 1992. All reports were prepared the year after the subject year. The report for 1993 is scheduled to be published in mid-1994.

[4] All but the first report contained an appendix listing selected comments filed by the Office of Advocacy regarding agencies' proposed rules during the year. These listings did not, however, evaluate agencies' compliance with the RFA.

which OMB's review and comment authority is limited.

RECOMMENDATIONS

We recommend that the OMB Director, in consultation with SBA, establish procedures OMB can use to determine agencies' compliance with the RFA. These procedures should be incorporated into OMB's processes for reviewing regulations before they are published for notice and comment and before they are published in final. We also recommend that the SBA Administrator direct the SBA Chief Counsel for Advocacy to send OMB a copy of any written notification of RFA noncompliance the Chief Counsel sends to an agency.

AGENCY COMMENTS AND OUR EVALUATION

We provided a draft of this report to the SBA Chief Counsel for Advocacy and discussed the report with her on March 23, 1994. She suggested certain technical changes, which were incorporated into the final report. Overall, she said she agreed with the report's conclusions and recommendations. She said SBA welcomes clarification of its authority to interpret RFA provisions and will work with OMB to develop criteria and procedures for agency compliance with the act. The Chief Counsel also said that she will send OMB a copy of any written notifications of RFA noncompliance she sends to agencies during the rulemaking process.

We also provided a draft of the report to the Administrator of the Office of Information and Regulatory Affairs at OMB and discussed the report with her staff on March 3, 1994. The Deputy Administrator said OMB has no objection to any changes in the statute or in the rulemaking process that would strengthen its position in ensuring RFA compliance. He also said OMB would work with SBA to develop criteria and procedures for determining RFA compliance. Finally, he said that if the SBA Chief Counsel notifies OMB during the rulemaking process that an agency is not complying with the RFA, OMB would discuss the issue with the agency before concluding its review of any final regulations.

We are sending copies of this report to the SBA Administrator, the SBA Chief Counsel for Advocacy, the OMB Director, the Administrator of the Office of Information and Regulatory Affairs at OMB, interested congressional committees, and others who may have an interest in this matter. Copies will also be made available to others upon request.

The major contributors to this report are Charles I. Patton, Jr., Associate Director, Federal Management Issues, General Government Division; Curtis W. Copeland, Assistant Director, Federal Management Issues, General Government Division; and V. Bruce Goddard, Senior Attorney, Office of the General Counsel. If you have any questions or require any additional information, please call me on (202) 512-8676.

WILLIAM M. HUNT,
Director, Federal Management Issues.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MS. PRYCE

Ms. PRYCE. Mr. Chairman, I offer an amendment, No. 106 as printed in the CONGRESSIONAL RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. PRYCE: At the end of title II insert the following:

SEC. 206. ANNUAL STATEMENTS TO CONGRESS ON AGENCY COMPLIANCE WITH REQUIREMENTS OF TITLE.

Not later than one year after the effective date of title III and annually thereafter, the Director of the Office of Management and Budget shall submit to Congress, including the Committee on Government Reform and Oversight of the House of Representatives and the Committee on Governmental Affairs of the Senate, written statements detailing the compliance with the requirements of sections 201 and 202 by each agency during the period reported on.

Ms. PRYCE. Mr. Chairman, the amendment that I am offering, along with my friend, the gentleman from California [Mr. CONDIT], is designed very simply to strengthen regulatory accountability and improve congressional oversight of executive branch agencies.

To insure that Federal agencies are not skirting the intent of this legislation, our amendment would require the Office of Management and Budget to provide Congress with annual written statements detailing each Federal agency's compliance with the requirements set forth in title II. Our proposal would allow the Committee on Government Reform and Oversight and its sister committee in the Senate to conduct greater oversight of Federal agencies.

The amendment is not meant as a substitute for judicial review, nor is it incompatible therewith.

Our amendment would merely give Congress a reliable status check on how well agencies are complying and whether any modifications are needed.

Without this amendment, I fear agencies may regard these requirements merely as obstacles to overcome, rather than a standard to be diligently applied.

This amendment provides real teeth go into title II of this legislation. Accountability should be part and parcel of the work that every Federal agency performs.

Too often, bureaucracies take on a life of their own, and in the process they lose sight of the original intent of the legislation.

We have all heard the horror stories about regulatory abuses by overzealous bureaucrats. This amendment would help ensure that State and local governments and the private sector are protected from future abuses.

State and local governments are valuable coregulators. They help carry out the purposes of many Federal laws, and their perspectives should be invited and heard.

This legislation and our amendment would force Federal agencies to recognize that mandates impose real costs on taxpayers and consumers alike. If for some reason agencies choose to ignore the requirements in title II and avoid coming to this realization, then they will have to justify their actions before this Congress.

□ 1400

Mr. Chairman, I would like to thank my friend from California for his strong support for this common sense, good government amendment. I urge its adoption.

Mr. DREIER. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from California.

Mr. DREIER. I thank the gentlewoman for yielding to me.

Mr. Chairman, I would like to say that my Rules Committee colleague has done a superb job. The gentlewoman mentioned my friend from the other part of California who is a coauthor of this amendment, but I would like to associate myself with the words of the gentlewoman and state that accountability is key here, and enhancing the ability for reporting back to us from the agencies is I think a very important part of this whole goal of trying to reduce this extraordinary burden which is shifted from Washington onto the shoulders of State and local governments.

I would like to again say how proud I am of the fine work my friend from Columbus is doing on the Rules Committee and this amendment is clear evidence of that.

Mr. CLINGER. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. I thank the gentlewoman for yielding.

Mr. Chairman, the gentlewoman's amendment is going to do much to shed light on how this whole bill is going to work. It is going to provide Congress with the administrative material to comply with H.R. 5. The information is going to be of interest to the President as well, since much of this is what is required by the President through his Executive order, and I believe this affords the Congress strong oversight. I think it is a very valuable addition to what we are trying to accomplish in H.R. 5. It does clarify what is required, and I am glad to support the gentlewoman.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. PORTMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to comment on my colleague from Ohio's amendment. I would like to thank the Rules Committee for helping us to perfect the legislation. This is a good example of that. It provides a very important feedback loop back to the authorizing committees from the agencies that I think is really critical in order for the structure of H.R. 5 to work properly, and I congratulate the gentlewoman.

Mr. CONDIT. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I am happy to yield to the gentleman from California.

Mr. CONDIT. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment and say this is one of the good amendments that would force Congress to revisit this issue so it does not get away from us. It forces us to reevaluate the program, whether or not it is working, so we can take corrective actions if we need to do so.

I commend the gentlewoman for her thoughtfulness in bringing up this amendment, and I have enjoyed working with her on it.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. I thank the gentlewoman for yielding.

Mr. Chairman, I have reviewed the amendment and support it.

As I said earlier, congressional oversight of agency compliance with title II is an important mechanism that should be used to make title II effective.

It is a less costly and more effective oversight tool than the courts.

I recognize it is not being offered as a substitute for judicial review, but I still support it as a useful amendment.

Mr. TRAFICANT. Mr. Chairman, will the gentlewoman yield?

Ms. PRYCE. I yield to the gentleman from Ohio.

Mr. TRAFICANT. I thank the gentlewoman for yielding.

Mr. Chairman, I think this is a very good perfecting amendment. It not only is common sense, it is good government. I think the gentlewoman brings that record to the Congress, and I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. PRYCE].

The amendment was agreed to.

AMENDMENT, AS MODIFIED, OFFERED BY MR. ALLARD

Mr. ALLARD. Mr. Chairman, I offer an amendment, and I ask unanimous consent that it be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, we would like to know the number of the amendment.

Mr. ALLARD. Mr. Chairman, if the gentlewoman will yield, it is No. 26.

The CHAIRMAN. It is the Chair's understanding that this is a new form of the amendment.

Mr. ALLARD. This is a modification of amendment No. 26. We cleared it with the Clerk, and it was determined that the best way for everybody to understand where we were at this point was just to move the amendment. But it is a modification of amendment No. 26.

The CHAIRMAN. The amendment, as modified, is required to be read.

Is there objection to dispensing with the reading of the amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve a point of order until we find out what the modification is.

The CHAIRMAN. The point of order is reserved.

Mr. ALLARD. Mr. Chairman, I have no objection to reading the amendment. It is a very short amendment.

The CHAIRMAN. The gentleman from Colorado [Mr. ALLARD] withdraws his request, and the Clerk will report the amendment.

The Clerk read as follows:

Amendment, as modified, offered by Mr. ALLARD: In section 202(a) in the matter preceding paragraph (1), strike "prepare a written statement containing—" and insert "prepare a written statement identifying the provision of Federal law under which the rule is being promulgated and containing—".

Mr. ALLARD. Mr. Chairman, I rise in support of H.R. 5 and also the amendment, as modified. I want to note that according to my understanding, the amendment, as modified, is now acceptable to the sponsors of H.R. 5.

The Unfunded Mandates Reform Act of 1995 is a piece of legislation whose time has come. However, as currently written, H.R. 5 will not prohibit certain regulations that could impose an unfunded mandate on States and localities. That is why Mr. GRAHAM of South Carolina and I are offering this amendment to tighten H.R. 5.

Our amendment requires regulatory agencies to identify the statutes that give the agencies specific authority to issue a regulation that imposes a mandate on State and local government and the private sector. This helps to ensure that executive agencies cannot escape the scrutiny of H.R. 5 by issuing general regulations that impose an unfunded mandate.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the chairman of the committee.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would rise in support of the amendment. President Clinton's Executive order contains a very similar kind of requirement that a regulatory plan must include a statement of the statutory basis by which the plan is being carried out, and I think this clarifies that the intent is we are not trying to do anything extralegally. We are trying to ensure that what does happen here is going to be done according to statute. I think it is a welcome addition to the bill.

I would urge my colleagues to support the Allard-Graham amendment.

Mr. GRAHAM. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from South Carolina.

Mr. GRAHAM. I thank the gentleman for yielding.

Mr. Chairman, this amendment is the kind of amendment that embodies the idea of government, a very simple idea but an important idea. Almost every municipality or county government in my district is affected by an unfunded regulatory mandate. What we are trying to do now is for the regulatory agency to tell us where the authority exists to regulate, to begin with. A big problem in this country is that agencies get off and running with these statutes and we are trying to rein them in.

I come from a town of 2,000 people. Let me tell you what happened to a town of 2,000 in central South Carolina because of a regulatory mandate situation.

The water bill went up 80 percent, we spent $16,000 to test the water through a government mandate that could have been done for about $2,000 from a private firm. We had to pay $5 million to upgrade their water system, to test for contaminants not native to South Carolina.

It is about time we started doing something about it, and this is a good step.

Mr. BURR. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from North Carolina.

Mr. BURR. I thank the gentleman for yielding.

Mr. Chairman, I rise today in strong support of the Allard-Graham amendment. I believe that this amendment will halt overzealous regulators that pass unfunded mandates to our local communities. This amendment strengthens H.R. 5, by forcing Federal regulators to be fiscally responsible as well. Under this amendment, regulators will be required to reference a specific law before passing unfunded mandates onto the State and local officials.

In my district, I had a county commission that was forced to raise taxes on its citizens, not from an unfunded Federal mandate, but from an unfunded regulatory agency mandate. In Caldwell County, the Environmental Protection Agency forced the commission to place a clay liner on its land fill. Protection was not at issue. Instead, the issue was why a clay liner? Why was it necessary to use a material not available in the area? Why not look for and use an equally reliable material to reduce the $6 million cost to this community? And most important, what law gave the EPA the right to mandate this community? The fact is, a lack of legislation allowed this to occur. By supporting the Allard-Graham amendment, you can put an end to this "taxation without representation".

Mr. Chairman, I urge strong support for this amendment.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman for yielding.

Mr. Chairman, I rise at this time only to withdraw the point of order reservation made by the gentlewoman from Illinois [Mrs. COLLINS].

The CHAIRMAN. The reservation of the point of order is withdrawn.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. ALLARD. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's amendment. It is a good amendment. It is the kind of clarification that we need. I would also like to thank the gentleman from South Carolina [Mr. GRAHAM] for working closely with the sponsors of the legislation and with the chairman of the committee to come up with a proposal that I think fits with the broader scheme of H.R. 5.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Colorado [Mr. ALLARD].

The amendment, as modified, was agreed to.

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AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designated the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. OXLEY:

SECTION 205. CLARIFICATION OF MANDATE ISSUE AS TO GREAT LAKES WATER QUALITY GUIDANCE.

Section (c)(2)(C) of the Federal Water Pollution Control Act (33 U.S.C. Section 1268(c)(2) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the requirement that the States adopt programs 'consistent with' the Great Lakes guidance shall mean that States are required to take the guidance into account in adopting their programs for waters within the Great Lakes System, but are in no event required to adopt programs that are identical or substantially identical to the provisions in the guidance."

Mr. CLINGER. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] reserves a point of order against the amendment.

The Chair recognizes the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I would like to bring to the attention of my colleagues another example of an unfunded mandate under the Clean Water Act which will cost my constituents millions of dollars. The issue is the proposed Great Lakes water quality rule from the U.S. EPA which is expected to be finalized in early March.

The Great Lakes Critical Programs Act requires EPA to issue guidance concerning certain water quality regulatory procedures, and then requires the Great Lakes States to adopt requirements that are consistent with that guidance. However, when EPA issued its proposed guidance, that document was actually a binding regulatory mandate instead of the guidance that the act requires. If fact, EPA clearly indicated that it wants all of the State programs, to be identical to the Federal rule.

EPA's intention to issue a binding regulation rather than guidance with respect to the Great Lakes is inconsistent with congressional intent. Also, by taking away any flexibility for a State to develop a program that is appropriate for its own situation, EPA would violate the basic federalism principles that are at the heart of the Clean Water Act. Again, the Federal Government would be imposing an unfunded mandate on the States.

This mandate will result in unfunded compliance costs in excess of $2 billion per year and potential loss of 33,000 jobs without producing meaningful toxic reductions.

Several cities in my district surveyed their own municipal water treatment operations and looked at the additional regulatory controls needed to control mercury under the proposed Great Lakes water quality rule. The survey, based upon mercury only, shows that it would cost Bucyrus, OH, population 14,000, $13.6 million to comply with the proposed rule. Mansfield, OH, population 50,000, would pay $29.1 million and Lima, OH, population 43,000, would pay $89 million.

In terms of household taxes, the town of Lima has estimated an increase of $207 in taxes to pay for the costs of the water treatment program. In later years, as the rule is fully implemented, the town of Lima estimates that the household tax will increase to $1,147 per home per year.

This is an incredible increase in local taxes for a federally mandated program from EPA. These costs are in addition to what Lima taxpayers already pay for safe drinking water controls and Clean Water Act controls on mercury. The Federal Government and EPA cannot expect towns like Lima to spend millions of additional dollars when the results will demonstrate little environmental improvement.

EPA has simply gone too far. The 1986 reauthorization of the Clean Water Act did not ask EPA to propose a rule on these pollutants to improve the Great Lakes Basin. In fact, the act simply called for the EPA to issue guidance to the States surrounding the Great Lakes.

The Great Lakes States want to fix the toxics problem, not just throw money at it. My amendment would require that the EPA issued guidance which could be used in a flexible manner as the States choose.

If we are to keep our promise we made with the people, we must not force the costs of the Great Lakes initiative on the cities and States. Including this initiative in the unfunded mandates reform would prevent if from being issued as a regulation. It is my hope that if we cannot resolve this matter today, Congress will move quickly to fix the Great Lakes water quality initiative. While well-intended, this proposal is an unproductive and expensive detour around the real environmental solutions.

Mr. CLINGER. Mr. Chairman, I am going to have to insist on my point of order because I think the amendment is not germane. I do appreciate the gentleman from Ohio [Mr. OXLEY] taking the time to raise this very important issue. I would like to assure the gentleman that I am aware of and sensitive to the impact that the Great Lakes water quality initiative is going to have on municipalities and industries all across the Great Lakes region.

My district does not border on the Great Lakes. My hometown of Warren is only an hour's drive from Erie, PA, and, according to a study conducted by the Great Lakes Quality Coalition, the EPA's new binding regulatory mandates could cost Erie, PA $119 million. Also the General Electric plant in Erie expects GLI's regulation to cost $50 million.

National Forge, a major employer in my district, manufactures crankshafts for approximately 900 engines built annually in G.E.'s Erie plant, and the G.E. plant accounts for nearly 20 percent of National Forge's business, and the ripple effect of these costly mandates could force layoffs, or worse, relocation of National Forge.

Another company affected by these new regulations that has significant presence in my district is International Paper. The cost of compliance to I.P.'s mill at Erie could reach $30 million.

Although the Pennsylvania Department of Environmental Resources states it would not impose the new regulations statewide, the Lock Haven mill in my district could be indirectly affected since the Erie mill supplies wood pulp to Lock Haven.

So, as the gentleman could see, I, too, have some concerns about EPA's new regulations and very much appreciate his bringing this to our attention and would like to work with the gentleman to address this very important issue, but must insist, I think, on my point of order in this regard.

Mr. GILMAN. Mr. Chairman, I commend the gentleman from Ohio [Mr. OXLEY], the author of the amendment to H.R. 5, for his efforts in bringing this issue to the floor.

I support this proposal which seeks to clarify the original legislative intent in the Federal Water Pollution Prevention and Control Act of 1990. The language in this act requires the

States to institute water quality programs consistent with the Environmental Protection Agency's Great Lakes guidance, but in no way requires the States to adopt regulations which identically comply with the specific elements of the Great Lakes guidance.

Accordingly, Mr. Chairman, it will be helpful to clarify the intent of this section of the Federal Water Pollution Prevention and Control Act.

Mr. OXLEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Mr. BONIOR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment that was just withdrawn by the gentleman from Ohio [Mr. OXLEY], and I take the time of the House to speak on this because it is such an important issue to those of us who reside on the Great Lakes.

The Great Lakes are the largest single body of fresh water in the world. They are an important environmental and economic resource for this Nation and for those of us who live on their borders.

In 1990, we passed the Great Lakes Critical Programs Act which included a measure to level the playing field of all States that border the Great Lakes. The Great Lakes Water Quality Initiative, or the GLI as it is known, requires Great Lakes State governments to develop and adopt uniform water quality standards, and it is imperative that the overall mission of the GLI not be undermined by the amendment that we were about to consider. This is a classic case where the Federal Government is needed to ensure that each State is playing by the same rules, that we have a level playing field, that one State does not disadvantage another State.

The GLI eliminates the competitive advantage a State might derive by setting relaxed pollution standards. Now different States share resources, and one has a different approach to managing the resources than another. Who mediates the dispute? Logic would suggest the Federal Government.

I do not always agree with my Governor, Gov. John Engler of Michigan, but in this case he understands the need to replace conflicting water pollution control rules that widely vary from State to State with a uniform comprehensive and enforceable set of standards, and in this instance I hope that others of his party will follow his lead in the future.

While I do not believe this amendment is germane, and it obviously is not because it was withdrawn by the gentleman from Ohio [Mr. OXLEY] at the suggestion of the gentleman from Pennsylvania [Mr. CLINGER], I would have opposed it anyway. Good responsible governing does not try to gut every Federal rule that has ever been made. It is about resolving issues that States cannot resolve on their own. This is one instance where the Federal Government should and must intervene, and I hope, when this debate unfolds in the future, that we will remember this issue and we will not give up on a program that works, is needed and will help mediate the problems between the various Great Lakes States.

Mr. Chairman, I submit for the RECORD an editorial from the Detroit Free Press: "Ban on Federal Mandates May Even Hurt Great Lakes."

[From the Detroit Free Press, Jan. 30, 1995]

BAN ON FEDERAL MANDATES MAY EVEN HURT GREAT LAKES

If you want an example of the mischief that can be done in the name of heedlessly doing away with unfunded mandates, consider an Ohio congressman's move to throw out the proposed Great Lakes water quality standards.

The Great Lakes Initiative [GLI] has been painfully hammered out by business, regulators, governors and the environmental community. The result didn't satisfy everybody, but its stunning virtue is that it would apply the same rules to all players: Steel mills in Illinois, auto plants in Ohio and sewage plants in Wisconsin would have the same water quality rules as their counterparts in Michigan.

That protects the Great Lakes, and also eliminates the competitive advantage a state might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

That protects the Great Lakes, and also eliminates the competitive advantage a stage might derive from winking at pollution. The principle is critical for Michigan, which has had tougher water quality standards than many of its neighbors. The GLI has the firm support of Gov. John Engler.

Enter Rep. Michael Oxley, R-Ohio, with an amendment to the unfunded mandates bill that would turn the GLI into advisory guidelines, rather than rules. That would get Ohio off the hook and gut Great Lakes protection. And bad as the Oxley proposal is, it is only one of scores of similar amendments the trash-the-rules gang is lining up to tack onto the measure.

Clean lakes? Safe drinking water? Worker safety? Consumer protection? Not if the mandate-bashers have anything to say about it. Rep. Oxley's amendment emasculating the GLI is bad enough. A rigid, unthinking prohibition of any form of federal mandate would be far worse.

□ 1420

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: In section 202(a), after "productive jobs," insert "worker benefits and pensions,".

Mr. TRAFICANT. Mr. Chairman, this amendment has been banged around a little bit. It has had quite a bit of scrutiny and review, but I think it is imperative that the amendment be understood and that we understand the importance of the amendment as it relates to unfunded mandates, working people, and the health of our economy.

This bill requires Federal agencies to examine a number of factors before promulgating regulations, but under this section where my amendment is in fact targeted, agencies are required to examine the effect of a proposed rule on the economy, the effect on productivity, economic growth, full employment, creation of productive jobs, and the impact on international competitiveness.

The Traficant amendment adds the impact on workers' benefits and their pensions. Let me say this: Many pensions in this country are underfunded. When a pension plan is underfunded, the Congress of the United States bails those pension plans out through the Pension Benefit Guaranty Corporation.

As we know, workers are worried sick around the country about many of these underfunded pension plans.

The Traficant amendment is not designed to impose any regulatory process on the insurance industry nor pension plans, but what the Traficant amendment says is that when we consider and when that group considers the impact of these unfunded Federal mandates on these respective elements under section 202(a)(4), they also look at its impact on the long-term effect on those health insurance plans and those pension plans.

The Pension Plan Fund of America is the major source of investment money that impacts our stock markets, our bond markets, and the viability of our economic community, and I believe that in fact to leave that out, to be silent on that, or to not address it specifically would be a failing of this bill.

I am a strong supporter of the bill, and I believe that we cannot separate these important areas from the other elements that are addressed specifically in the bill.

So I would ask the Members to support the amendment and to keep that amendment in that part of the bill which addresses the fact that it must be reviewed and considered in any other capacity as those other areas so delineated. I think if we are going to ask the agencies to examine those other areas, we would be remiss if we did not focus on those two main areas that so affect our economy.

With that, Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the amendment offered by my colleague, the gentleman from Ohio [Mr. TRAFICANT].

The gentleman from Ohio has been very active on this issue of making the

bill a better bill. I think this amendment is a good amendment. I think he has tried to work it out with the majority and tried to do everything he can to make sure it fits in where it is supposed to fit. I commend the gentleman for his effort and his support on this issue. It has been greatly appreciated, and I ask the Members to support the amendment.

Mr. TRAFICANT. Mr. Chairman, I thank the gentleman from California for his leadership on the bill.

Mr. Chairman, I now yield to the distinguished chairman of the subcommittee.

Mr. SCHIFF. Mr. Chairman, I want to say that as I understand the debate over the type of unfunded mandates we are talking about, I see them distant in the areas I can think of from the areas the gentleman is talking about.

However, the area of pension guarantees is so important that if there is any possibility that this legislation affects the areas the gentleman from Ohio is identifying, then I think it is important that we add his amendment to the bill as offered, and I accept the amendment and support it.

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the gentleman from New Mexico [Mr. SCHIFF].

Mr. Chairman, I yield to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding.

I certainly support the gentleman's amendment. It makes a lot of sense. It would add the words, "work benefits and pensions" after the words, "creation of productive jobs" as one aspect of private sector regulatory analysis.

Certainly regulations can affect productivity and jobs. They can create jobs or cost jobs. What is equally important is the impact upon the benefits and pensions of workers across the country. I find that the average worker is not just concerned about the security of his job or her job, but they are equally concerned about the security of benefits and the security of pensions which are increasingly being eroded.

The gentleman's amendment makes a lot of good sense. It focuses our attention and the agency's attention on this very important matter.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

(By unanimous consent, Mr. TRAFICANT was allowed to proceed for 2 additional minutes.)

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank my colleague, the gentleman from Ohio, for yielding, and I just want to thank the gentleman for educating us over the last several hours here on this very important issue. I thank the gentleman for his contribution to the debate.

Mr. TRAFICANT. Mr. Chairman, I appreciate the gentleman's comments.

Before I complete my presentation, let me say this: It is not just the retirees and their pension plans I am concerned about. When those pension plans are impacted and that money dries up for investment in our economy, it impacts the active workers in our country as well.

Mr. Chairman, I appreciate the openness of the Members of the majority party in looking at this issue as broadly as they have. I appreciate their support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

Mr. FATTAH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to protect my right to offer an amendment, amendment No. 14.

I understand a similar amendment has already been considered today, and I was not on the floor at that time. But I do, nonetheless, want to raise the issue.

Mr. Chairman, on page 17 of this bill it provides that each agency shall develop an effective process to permit elected officials or their designated representatives of State, local, or tribal governments to provide meaningful and timely input in the development of regulatory proposals.

The amendment that I had considered offering today and, therefore, had printed in the RECORD, was an amendment that would also provide for private sector input and not just the input of elected officials. I thought the thrust of what I had been hearing here on the Hill was that we wanted to give the Government back to the people, and that perhaps we wanted to have input from individuals, private individuals, not just elected officials.

Having understood a previous amendment which was very similar to mine was not passed, I would be willing to not belabor the point if I could get a point of view as to why this type of amendment would not be found acceptable by the majority.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. FATTAH. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I appreciate the gentleman's yielding.

Very briefly, we did have a good discussion on this issue previously in response to the amendment offered by the gentleman from California [Mr. WAXMAN] which was not accepted.

I think there are two issues here. No. 1, there is a process by which through the existing Administrative Procedures Act, in a notice and comment period in the private sector, individuals would have an opportunity to be heard.

The second point is that we do in fact provide for a special place in a sense for State and local governments at the table, but that is because they are the coregulators of the very Federal regulations that are subject to this rulemaking.

So I think the response is, frankly, that there is already in the process the opportunity for people to be heard, and that is appropriate. We endorse that. But we did not need to carve out a special requirement for the agencies with respect to this. We did so for State and local governments, again in the sense that they are the coregulators and are directly affected by these regulations.

Mr. FATTAH. Mr. Chairman, I thank the gentleman for his explanation.

Mr. Chairman, in consideration of what has been offered as an explanation, I would reiterate that it would seem to me that it would be appropriate for us to provide in this section absolute guarantees of private sector input and private citizen input. However, so that we would not delay the process and in consideration of the vote on the previous amendment which was similar to mine, I at this point would withdraw my amendment.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield further?

Mr. FATTAH. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, let me say that I again thank the gentleman from Pennsylvania. We worked closely on some other amendments in the process, including amendments to title I, and I appreciate the gentleman's withdrawing his amendment at this time.

The CHAIRMAN. The Chair will state that the gentleman from Pennsylvania [Mr. FATTAH] simply declines to offer his amendment.

□ 1430

Mr. ROTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is an extremely important piece of legislation, and I must just take 1 minute to draw the body's attention to what this legislation is doing in the area, for example, of the Great Lakes.

Mr. Chairman, we've heard many examples of the burdens placed on the States by unfunded Federal mandates during this debate. The Great Lakes States, are facing a very serious problem that will affect cities, townships, and villages all around the lakes.

The EPA's proposed Great Lakes Water Quality Initiative [GLI] will impose substantial costs on local government and industry with little proven environmental benefit.

The EPA Science Advisory Board and the American Council on Science and Health, as well as a study commissioned by the Great lakes Governors, have all expressed doubts about the proposal's potential environmental effectiveness.

There is little doubt, however, that the proposal will do significant damage to the Great Lakes economy. The Governors' study estimates that it will cost more than $2 billion a year and destroy more than 33,000 jobs.

These large costs are not being imposed solely on industry. The most recent study estimates the costs will be even higher. For just 50 municipalities, this study estimates $1.7 billion in capital costs and $695 million in operating and maintenance costs. That means costs to the entire region could be well in excess of $5 billion.

The EPA currently intends to issue the proposal as a binding regulatory mandate that must be implemented the same way in every State and every community. There would be no flexibility, and consequently, no opportunity to reduce costs.

This is yet another example of an outrageous unfunded mandate imposed by an out-of-control bureaucracy. A mandate that may bankrupt an entire region with little or no proven environmental benefit.

We must return to some common sense in our governmental conduct. The proposal was originally intended as a guidance, not a mandate. We must give the States back the flexibility to adopt the GLI to local conditions and needs.

This amendment says clearly that the States should take the EPA guidance into account in adopting water quality programs. At the same time, however, State programs do not have to be identical to the EPA guidance.

Mr. Chairman, this amendment would provide a sensible remedy to an expensive and unfair situation.

Mr. SKAGGS. Mr. Chairman, I ask unanimous consent that we proceed out of order at this point. I think this amendment is the last one that was going to be offered in title II. We are working with the majority side to try to reach agreement on this language. Rather than try to proceed prematurely, I ask unanimous consent that we go into title III and reserve the right to come back.

Mr. SCHIFF. Mr. Chairman, reserving the right to object, we have no objection. The gentleman from Colorado and the chairman of the committee have been discussing this issue. In the possibility that they might reach agreement, it would be well warranted.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the rights of the gentleman from Colorado [Mr. SKAGGS] to offer an amendment to title II will be protected.

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—LEGISLATIVE ACCOUNTABILITY AND REFORM

SEC. 301. LEGISLATIVE MANDATE ACCOUNTABILITY AND REFORM.

Title IV of the Congressional Budget Act of 1974 is amended by—

(1) inserting before section 401 the following:

"Part A—General Provisions"; and

(2) adding at the end the following new part:

"Part B—Federal Mandates

"SEC. 421. DEFINITIONS.

"For purposes of this part:

"(1) AGENCY.—The term 'agency' has the meaning stated in section 551(1) of title 5, United States Code, but does not include independent regulatory agencies, as defined by section 3502(10) of title 44, United States Code.

"(2) DIRECTOR.—The term 'Director' means the Director of the Congressional Budget Office.

"(3) FEDERAL FINANCIAL ASSISTANCE.—The term 'Federal financial assistance' means the amount of budget authority for any Federal grant assistance or any Federal program providing loan guarantees or direct loans.

"(4) FEDERAL INTERGOVERNMENTAL MANDATE.—The term 'Federal intergovernmental mandate' means—

"(A) any provision in legislation, statute, or regulation that—

"(i) would impose an enforceable duty upon States, local governments, or tribal governments, except—

"(I) a condition of Federal assistance; or

"(II) a duty arising from participation in a voluntary Federal program, except as provided in subparagraph (B); or

"(ii) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for the purpose of complying with any such previously imposed duty unless such duty is reduced or eliminated by a corresponding amount; or

"(B) any provision in legislation, statute, or regulation that relates to a then-existing Federal program under which $500,000,000 or more is provided annually to States, local governments, and tribal governments under entitlement authority, if—

"(i)(I) the provision would increase the stringency of conditions of assistance to States, local governments, or tribal governments under the program; or

"(II) would place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding to States, local governments, or tribal governments under the program; and

"(ii) the States, local governments, or tribal governments that participate in the Federal program lack authority under that program to amend their financial or programmatic responsibilities to continue providing required services that are affected by the legislation, statute, or regulation.

"(5) FEDERAL PRIVATE SECTOR MANDATE.—The term 'Federal private sector mandate' means any provision in legislation, statute, or regulation that—

"(A) would impose an enforceable duty on the private sector except—

"(i) a condition of Federal assistance; or

"(ii) a duty arising from participation in a voluntary Federal program; or

"(B) would reduce or eliminate the amount of authorization of appropriations for Federal financial assistance that will be provided to the private sector for the purpose of ensuring compliance with such duty.

"(6) FEDERAL MANDATE.—The term 'Federal mandate' means a Federal intergovernmental mandate or a Federal private sector mandate, as defined in paragraphs (4) and (5).

"(7) FEDERAL MANDATE DIRECT COSTS.—

"(A) FEDERAL INTERGOVERNMENTAL DIRECT COSTS.—In the case of a Federal intergovernmental mandate, the term 'direct costs' means the aggregate estimated amounts that all States, local governments, and tribal governments would be required to spend or would be required to forego in revenues in order to comply with the Federal intergovernmental mandate, or in the case of a provision referred to in paragraph (4)(A)(ii), the amount of Federal financial assistance eliminated or reduced.

"(B) PRIVATE SECTOR DIRECT COSTS.—In the case of a Federal private sector mandate, the term 'direct costs' means the aggregate estimated amounts that the private sector would be required to spend in order to comply with a Federal private sector mandate.

"(C) EXCLUSION FROM DIRECT COSTS.—The term 'direct costs' does not include—

"(i) estimated amounts that the States, local governments, and tribal governments (in the case of a Federal intergovernmental mandate), or the private sector (in the case of a Federal private sector mandate), would spend—

"(I) to comply with or carry out all applicable Federal, State, local, and tribal laws and regulations in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that Federal mandate; or

"(II) to comply with or carry out State, local government, and tribal governmental programs, or private-sector business or other activities in effect at the time of the adoption of a Federal mandate for the same activity as is affected by that mandate; or

"(ii) expenditures to the extent that they will be offset by any direct savings to be enjoyed by the States, local governments, and tribal governments, or by the private sector, as a result of—

"(I) their compliance with the Federal mandate; or

"(II) other changes in Federal law or regulation that are enacted or adopted in the same bill or joint resolution or proposed or final Federal regulation and that govern the same activity as is affected by the Federal mandate.

"(D) DETERMINATION OF COSTS.—Direct costs shall be determined based on the assumption that States, local governments, tribal governments, and the private sector will take all reasonable steps necessary to mitigate the costs resulting from the Federal mandate, and will comply with applicable standards of practice and conduct established by recognized professional or trade associations. Reasonable steps to mitigate the costs shall not include increases in State, local, or tribal taxes or fees.

"(8) LOCAL GOVERNMENT.—The term 'local government' has the same meaning as in section 6501(6) of title 31, United States Code.

"(9) PRIVATE SECTOR.—The term 'private sector' means individuals, partnerships, associations, corporations, business trusts, or legal representatives, organized groups of individuals, and educational and other nonprofit institutions.

"(10) REGULATION.—The term 'regulation' or 'rule' has the meaning of 'rule' as defined in section 601(2) of title 5, United States Code.

"(11) STATE.—The term 'State' has the same meaning as in section 6501(9) of title 31, United States Code.

"SEC. 422. LIMITATION ON APPLICATION.

"This part shall not apply to any provision in a bill, joint resolution, motion, amendment, or conference report before Congress that—

"(1) enforces constitutional rights of individuals;

"(2) establishes or enforces any statutory rights that prohibit discrimination on the basis of race, religion, gender, national origin, or handicapped or disability status;

"(3) requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government;

"(4) provides for emergency assistance or relief at the request of any State, local government, or tribal government or any official of such a government;

"(5) is necessary for the national security or the ratification or implementation of international treaty obligations;

"(6) the President designates as emergency legislation and that the Congress so designates in statute; or

"(7) pertains to Social Security.

"SEC. 423. DUTIES OF CONGRESSIONAL COMMITTEES.

"(a) SUBMISSION OF RULES TO THE DIRECTOR.—When a committee of authorization of the House of Representatives or the Senate orders a bill or joint resolution of a public character reported, the committee shall promptly provide the text of the bill or joint resolution to the Director and shall identify to the Director any Federal mandate contained in the bill or resolution.

"(b) COMMITTEE REPORT.—

"(1) INFORMATION REGARDING FEDERAL MANDATES.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character that includes any Federal mandate, the report of the committee accompanying the bill or joint resolution shall contain the information required by paragraph (2) and, in the case of a Federal intergovernmental mandate, paragraph (3).

"(2) REPORTS ON FEDERAL MANDATES.—Each report referred to in paragraph (1) shall contain—

"(A) an identification and description of each Federal mandate in the bill or joint resolution, including the statement, if available, from the Director pursuant to section 424(a):

"(B) a qualitative assessment, and if practicable, a quantitative assessment of costs and benefits anticipated from the Federal mandate (including the effects on health and safety and protection of the natural environment); and

"(C) a statement of the degree to which the Federal mandate affects each of the public and private sectors and the extent to which Federal payment of public sector costs would affect the competitive balance between States, local governments, or tribal governments and the private sector.

"(3) INTERGOVERNMENTAL MANDATES.—If any of the Federal mandates in the bill or joint resolution are Federal intergovernmental mandates, the report referred to in paragraph (1) shall also contain—

"(A)(i) a statement of the amount, if any, of increase or decrease in authorization of appropriations under existing Federal financial assistance programs or for new Federal financial assistance, provided by the bill or joint resolution and unable for activities of States, local governments, or tribal governments subject to Federal intergovernmental mandates; and

"(ii) a statement of whether the committee intends that the Federal intergovernmental mandates be partly or entirely unfunded, and, if so, the reasons for that intention; and

"(B) a statement of any existing sources of Federal financial assistance in addition to those identified in subparagraph (A) that may assist States, local governments, and tribal governments in paying the direct costs of the Federal intergovernmental mandates.

"(4) INFORMATION REGARDING PREEMPTION.—When a committee of authorization of the House of Representatives or the Senate reports a bill or joint resolution of a public character, the committee report accompanying the bill or joint resolution shall contain, if relevant to the bill or joint resolution, an explicit statement on whether the bill or joint resolution, in whole or in part, is intended to preempt any State, local, or tribal law, and if so, an explanation of the reasons for such intention.

"(c) PUBLICATION OF STATEMENT FROM THE DIRECTOR.—

"(1) IN GENERAL.—Upon receiving a statement (including any supplemental statement) from the Director pursuant to section 424(a), a committee of the House of Representatives or the Senate shall publish the statement in the committee report accompanying the bill or joint resolution to which the statement relates if the statement is available to be included in the printed report.

"(2) OTHER PUBLICATION OR STATEMENT OF DIRECTOR.—If the statement is not published in the report, or if the bill or joint resolution to which the statement relates is expected to be considered by the House of Representatives or the Senate before the report is published, the committee shall cause the statement, or a summary thereof, to be published in the Congressional Record in advance of floor consideration of the bill or joint resolution.

"SEC. 424. DUTIES OF THE DIRECTOR.

"(a) STATEMENTS ON BILLS AND JOINT RESOLUTIONS OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS.—

(1) FEDERAL INTERGOVERNMENTAL MANDATES IN REPORTED BILLS AND RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

(A) If the Director estimates that the direct cost of all Federal intergovernmental mandates in the bill or joint resolution will equal or exceed $50,000,000 (adjusted annually for inflation) in the fiscal year in which such a Federal intergovernmental mandate (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct cost of complying with the Federal intergovernmental mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations or budget authority or entitlement authority under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution and usable by States, local governments, or tribal governments for activities subject to the Federal intergovernmental mandates.

"(2) FEDERAL PRIVATE SECTOR MANDATES IN REPORTED BILLS AND JOINT RESOLUTIONS.—For each bill or joint resolution of a public character reported by any committee of authorization of the House of Representatives or the Senate, the Director shall prepare and submit to the committee a statement as follows:

"(A) If the Director estimates that the direct cost of all Federal private sector mandates in the bill or joint resolution will equal or exceed $100,000,000 (adjusted annually for inflation) in the fiscal year in which any Federal private sector mandate in the bill or joint resolution (or in any necessary implementing regulation) would first be effective or in any of the 4 fiscal years following such fiscal year, the Director shall so state, specify the estimate, and briefly explain the basis of the estimate.

"(B) The estimate required by subparagraph (A) shall include estimates (and brief explanations of the basis of the estimates) of—

"(i) the total amount of direct costs of complying with the Federal private sector mandates in the bill or joint resolution; and

"(ii) the amount, if any, of increase in authorization of appropriations under existing Federal financial assistance programs, or of authorization of appropriations for new Federal financial assistance, provided by the bill or joint resolution usable by the private sector for the activities subject to the Federal private sector mandates.

"(C) If the Director determines that it is not feasible to make a reasonable estimate that would be required under subparagraphs (A) and (B), the Director shall not make the estimate, but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for that determination in the statement.

"(3) LEGISLATION FALLING BELOW THE DIRECT COSTS THRESHOLDS.—If the Director estimates that the direct costs of a Federal mandate will not equal or exceed the threshold specified in paragraph (1)(A) or (2)(A), the Director shall so state and shall briefly explain the basis of the estimate.

"(4) AMENDED BILLS AND JOINT RESOLUTIONS; CONFERENCE REPORTS.—If the Director has prepared the statement pursuant to subsection (a) for a bill or joint resolution, and if that bill or joint resolution is reported or passed in an amended form (including if passed by one House as an amendment in the nature of a substitute for the text of a bill or joint resolution from the other House) or is reported by a committee of conference in an amended form, the committee of conference shall ensure, to the greatest extent practicable, that the Director shall prepare a supplemental statement for the bill or joint resolution in that amended form.

"(b) ASSISTANCE TO COMMITTEES AND STUDIES.—

"(1) IN GENERAL.—At the request of any committee of the House of Representatives or of the Senate, the Director shall, to the extent practicable, consult with and assist such committee in analyzing the budgetary or financial impact of any proposed legislation that may have—

"(A) a significant budgetary impact on State, local, or tribal governments; or

"(B) a significant financial impact on the private sector.

"(2) CONTINUING STUDIES.—The Director shall conduct continuing studies to enhance comparisons of budget outlays, credit authority, and tax expenditures.

"(3) FEDERAL MANDATE STUDIES.—

"(A) At the request of any committee of the House of Representatives or the Senate, the Director shall, to the extent practicable,

conduct a study of a legislative proposal containing a Federal mandate.

"(B) In conducting a study under subparagraph (A), the Director shall—

"(i) solict and consider information or comments from elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and such other persons as may provide helpful information or comments;

"(ii) consider establishing advisory panels of elected officials (including their designated representatives) of States, local governments, tribal governments, designated representatives of the private sector, and other persons if the Director determines, in the Director's discretion, that such advisory panels would be helpful in performing the Director's responsibilities under this section; and

"(iii) include estimates, if and to the extent that the Director determines that accurate estimates are reasonably feasible, of—

"(I) the future direct cost of the Federal mandates concerned to the extent that they significantly differ from or extend beyond the 5-year period after the mandate is first effective; and

"(II) any disproportionate budgetary effects of the Federal mandates concerned upon particular industries or sectors of the economy, States, regions, and urban, or rural or other types of communities, as appropriate.

"(C) In conducting a study on private sector mandates under subparagraph (A), the Director shall provide estimates, if and to the extent that the Director determines that such estimates are reasonably feasible, of—

"(i) future costs of Federal private sector mandates to the extent that such mandates differ significantly from or extend beyond the 5-year period referred to in subparagraph (B)(iii)(I);

"(ii) any disproportionate financial effects of Federal private sector mandates and of any Federal financial assistance in the bill or joint resolution upon any particular industries or sectors of the economy, States, regions, and urban or rural or other types of communities; and

"(iii) the effect of Federal private sector mandates in the bill or joint resolution on the national economy, including the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of United States goods and services.

"(c) VIEWS OF COMMITTEES.—Any committee of the House of Representatives or the Senate which anticipates that the committee will consider any proposed legislation establishing, amending, or reauthorizing any Federal program likely to have a significant budgetary impact on the States, local governments, or tribal governments, or likely to have a significant financial impact on the private sector, including any legislative proposal submitted by the executive branch likely to have such a budgetary or financial impact, shall provide its views and estimates on such proposal to the Committee on the Budget of its House.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Congressional Budget Office to carry out this part $4,500,000 for each of fiscal years 1996 through 2002.

"SEC. 425. POINT OF ORDER.

"(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider—

"(1) any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4); or

"(2) any bill, joint resolution, amendment, motion, or conference report that contains a Federal intergovernmental mandate having direct costs that exceed the threshold specified in section 424(a)(1)(A), or that would cause the direct costs of any other Federal intergovernmental mandate to exceed the threshold specified in section 424(a)(1)(A), unless—

"(A) the bill, joint resolution, amendment, motion, or conference report provides new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(B) the bill, joint resolution, amendment, motion, or conference report provides an increase in receipts or a decrease in new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate and an increase in new budget authority or new entitlement authority in the House of Representatives or an increase direct spending authority for each fiscal year for the Federal intergovernmental mandates included in the bill, joint resolution, amendment, motion, or conference report in an amount that equals or exceeds the estimated direct costs of such mandate; or

"(C) the bill, joint resolution, amendment, motion, or conference report—

"(i) provides that—

"(I) such mandate shall be effective for any fiscal year only if all direct costs of such mandate in the fiscal year are provided in appropriations Acts, and

"(II) in the case of such a mandate contained in the bill, joint resolution, amendment, motion, or conference report, the mandate is repealed effective on the first day of any fiscal year for which all direct costs of such mandate are not provided in appropriations Acts; or

"(ii) requires a Federal agency to reduce programmatic and financial responsibilities of State, local, and tribal governments for meeting the objectives of the mandate such that the estimated direct costs of the mandate to such governments do not exceed the amount of Federal funding provided to those governments to carry out the mandate in the form of appropriations or new budget authority or new entitlement authority in the House of Representatives or direct spending authority in the Senate, and establishes criteria and procedures for that reduction.

"(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

"(c) DETERMINATION OF DIRECT COSTS BASED ON ESTIMATES BY BUDGET COMMITTEES.—For the purposes of this section, the amount of direct costs of a Federal mandate for a fiscal year shall be determined based on estimates made by the Committee on the Budget, in consultation with the Director, of the House of Representatives or the Senate, as the case may be.

"(d) DETERMINATION OF EXISTENCE OF FEDERAL MANDATE BY GOVERNMENT REFORM AND OVERSIGHT AND GOVERNMENTAL AFFAIRS COMMITTEES.—For the purposes of this section, the question of whether a bill, joint resolution, amendment, motion, or conference report contains a Federal intergovernmental mandate shall be determined after consideration of the recommendation, if available, of the Chairman of the Committee on Government Reform and Oversight of the House of Representatives or the Chairman of the Committee on Governmental Affairs of the Senate, as applicable.

"(e) LIMITATION ON APPLICATION OF SUBSECTION (a)(2).—Subsection (a)(2) shall not apply to any bill, joint resolution, amendment, or conference report that reauthorizes appropriations for carrying out, or that amends, any statute if enactment of the bill, joint resolution, amendment, or conference report—

"(1) would not result in a net increase in the aggregate amount of direct costs of federal intergovernmental mandates; and

"(2)(A) would not result in a net reduction or elimination of authorizations of appropriations for Federal financial assistance that would be provided to States, local governments, or tribal governments for use to comply with any Federal intergovernmental mandate; or

"(B) in the case of any net reduction or elimination of authorizations of appropriations for such Federal financial assistance that would result for such enactment, would reduce the duties imposed by the Federal intergovernmental mandate by a corresponding amount.

"SEC. 426. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

"It shall not be in order in the House of Representatives to consider a rule or order that waives the application of section 425(a): *Provided, however*, That pending a point of order under section 425(a) or under this section a Member may move to waive the point of order. Such a motion shall be debatable for 10 minutes equally divided and controlled by the proponent and an opponent but, if offered in the House, shall otherwise be decided without intervening motion except a motion that the House adjourn. The adoption of a motion to waive such a point of order against consideration of a bill or joint resolution shall be considered also to waive a like point of order against an amendment made in order as original text.".

SEC. 302. ENFORCEMENT IN THE HOUSE OF REPRESENTATIVES.

(a) MOTIONS TO STRIKE IN THE COMMITTEE OF THE WHOLE.—Cause 5 of rule XXIII of the Rules of the House of Representatives is amended by adding at the end of the following:

"(c) In the consideration of any measure for amendment in the Committee of the Whole containing any Federal mandate the direct costs of which exceed the threshold in section 424(a)(1)(A) of the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of that measure, to move to strike such Federal mandate from the portion of the bill then open to amendment.".

(b) COMMITTEE ON RULES REPORTS ON WAIVED POINTS OF ORDER.—The Committee on Rules shall include in the report required by clause 1(d) of Rule XI (relating to its activities during the Congress) of the Rules of the House of Representatives a separate item identifying all waivers of points of order relating to Federal mandates, listed by bill or joint resolution number and the subject matter of that measure.

SEC. 303. EXERCISE OF RULEMAKING POWERS.

The provisions of this title (except section 305) are enacted by Congress—

(1) as an exercise of the rulemaking powers of the House of Representatives and the Senate, and as such they shall be considered as part of the rules of the House of Representatives and the Senate, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the House of Representatives and the Senate to change such rules at anytime, in the same manner, and to the same extent as in the case of any other rule of the House of Representatives or the Senate, respectively.

SEC. 304. CONFORMING AMENDMENT TO TABLE OF CONTENTS.

Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting "PART A—GENERAL PROVISIONS" before the items relating to section 401 and by inserting after the items relating to section 407 the following:

"PART B—FEDERAL MANDATES

"Sec. 421. Definitions.
"Sec. 422. Limitation on application.
"Sec. 423. Duties of congressional committees.
"Sec. 424. Duties of the Director.
"Sec. 425. Point of order.
"Sec. 426. Enforcement in the House of Representatives.".

SEC. 305. TECHNICAL AMENDMENT.

(a) TECHNICAL AMENDMENT.—The State and Local Government Cost Estimate Act of 1981 (Public Law 97-108) is repealed.

(b) TECHNICAL AMENDMENT.—Section 403 of the Congressional Budget Act of 1974 is amended to read as follows:

"ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the fiscal years following such fiscal year, together with the basis for each estimate; and

"(2) a comparison of the estimate of costs described in paragraph (1) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.".

SEC. 306. EFFECTIVE DATE.

This title shall take effect on October 1, 1995.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer my amendment numbered 51.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois: In section 306, strike "October 1, 1995" and insert "at the end of the 10-day period beginning on the date of the enactment of this Act".

Mrs. COLLINS of Illinois. Mr. Chairman, many Democrats will vote for this bill because they believe the open and full debate on the costs to the public and private sector is the essence of good public policy.

That is why it is imperative that if this bill is passed, the requirements of the bill be applied to legislation as soon as possible. We need to ensure a full and open debate on the true costs of the legislation that the Republican leadership will be bringing to this floor.

Unfortunately, H.R. 5 in its present form will not allow us to do that. The effective date in section 306 is not when we pass this bill, or even a week or a month after passage. No, for some unexplained reasons, this bill does not go into effect until October 1, 1995. That is more than 8 months away. My amendment would simply move up the effective date to 10 days after enactment.

We have heard how important this legislation is, how essential it is to pass it as soon as possible. How urgent is this bill?

So urgent that the primary committee of jurisdiction, the Committee on Government Reform and Oversight, was told that it did not have time for a hearing on the bill.

So urgent that it was marked up just 2 days after the bill was printed.

So urgent that the markup took place at the same time that the committee held its first organizational meeting.

So urgent that the majority requested permission to file the committee report early to get us to the floor today.

Why, if it is so urgent, does it not take effect for another 9 months? The chairman of the committee has stated that he wanted to give the Congressional Budget Office time to gear up for its new responsibilities. I would answer that CBO has had plenty of opportunity to gear up. It has known for 2 years that unfunded mandate legislation was coming.

In fact, in staff discussions with CBO, its staff does not believe it will take much additional resources to carry out its duties under this legislation.

Let me suggest a different reason for delaying enactment until October 1: By then, most of the Republican contract, including rescission bills, welfare reform, and other cost-cutting measures, will have come to the floor and been acted on.

Some of these bills, in cutting the Federal responsibility for certain programs, may very well have the effect of shifting those burdens to State and local governments.

For example, the welfare reform bills that we have heard about would provide less money to States while perhaps still requiring them to provide certain levels of assistance. That is an unfunded mandate under this bill. And we have no idea what impact the rescission bills may have on State and local governments.

We have heard that none of the legislation to be taken up between now and October will impose any costs on State and local governments. Therefore, there should be no opposition to this amendment. If there is hesitation to applying this bill over the coming months, then either this bill has great problems, or there are in fact unfunded mandates in the Republican agenda.

Let us not delay the effect of this bill. Regardless of your views on this bill, there is no reason to exempt our actions over the coming months on the Republican contract.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I know that the amendment is very well intentioned, but it seems to me that there is a sense that this October 1 effective date was somehow just drawn out of thin air, when in fact that clearly is not the case. The enactment date of October 1 was not determined by the Contract With America. In fact, it was determined based on consultations with the Congressional Budget Office to arrive at a reasonable time frame that would allow the Congressional Budget Office to obtain the staffing and expertise to conduct accurate cost estimates, which clearly is the major thrust of what we are trying to do with this legislation.

It seems to me that is a very responsible route for us to take. Nothing is trying to be put off at all.

□ 1440

I think that the attempt to proceed with this is less than responsible.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Cincinnati, OH.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

A couple of points in response to the gentlewoman's comments regarding the effective date. It should be made clear, Mr. Chairman, that in last year's legislation, which passed the Government Operations Committee by a vote of 35 to 4, the effective date was October 1, 1995. This was, of course, prior to the Contract With America, prior to the new Congress. And this was a piece of legislation which was very similar to the H.R. 5 now before us. Again, it was a strong bipartisan vote of 35 to 4. The reason October 1 was chosen is precisely what my friend from California has said, which is, it would take that long for the Congressional Budget Office to be prepared to do the extensive analysis which is required under this legislation.

I would say, in addition, that I have had direct personal conversations with CBO as recently as in the last 2 weeks with regard to this very issue. And

they, in fact, would probably prefer the Senate version of the bill, which provides for an effective date of January 1, 1996. The House version, again, is October 1, 1995.

I would say finally that this is also very important so that our committees, authorizing committees here in the House and so that the Federal agencies can be prepared to actually respond to the new requirements in this legislation, which are so important to the accountability that is central to this act.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, the gentleman from Ohio [Mr. PORTMAN] mentioned that the bill that we had last year had an enactment date of October 1995. I just want to point out, this is not the bill we had last year. This is a totally different bill than the bill we had last year. This is a new bill, as the gentleman very well knows. It just seems to me we cannot compare those two at this point in time.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, just one small comment, it is a different piece of legislation with regard to the CBO requirements. If anything, this bill has even more requirements for CBO, although the bill last year also had a CBO cost requirement, as the gentlewoman knows, and if anything, one would think the logic would be that we would push back the effective date beyond October 1, given the change in the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, they also had a year's head up since we are in another year, and another Congress.

Mr. DREIER. Mr. Chairman, I think a very important point that needs to be made here is that the dollars that would be necessary for the Congressional Budget Office to successfully implement this will not be appropriated until the next fiscal year. We can authorize it, but those funds would not be available until following October 1, and that is the reason for this date. That is why I think that it is important for us to maintain that.

A great deal of thought went into it. It is for that reason that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, would the gentleman have any idea when he would expect CBO to be doing these estimates and getting information back to the Congress?

Mr. DREIER. This is obviously going to be taking place over the next several weeks and months following implementation of this legislation. And they are well aware of the fact that this October 1 date is obviously key for them and that sets an actual deadline.

Mrs. COLLINS of Illinois. Does the gentleman expect an unfunded mandate to come down the pike before then, before October 1?

Mr. DREIER. Surely. Before the first of October, surely, we are going to be looking at those. It is obvious that as we begin addressing this issue, it is going to be on the horizon, but this October 1 date was very important and, as I said, was not grasped out of thin air. It was something that clearly we did with careful negotiations with the Congressional Budget Office.

It is for that reason, Mr. Chairman, that I am going to have to oppose the gentlewoman's amendment.

Mrs. COLLINS of Illinois. Could the gentleman tell me when is the effective date of title II?

Mr. DREIER. The effective date on title II.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, I would say in response to the gentlewoman's question with regard to title II, which is the regulatory requirements, that it is my understanding that they become effective upon enactment.

The CHAIRMAN. The time of the gentleman from California [Mr. DREIER] has expired.

(By unanimous consent, Mr. DREIER was allowed to proceed for 30 additional seconds.)

Mr. DREIER. Mr. Chairman, was the answer adequate?

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, the gentleman said title II was effective upon enactment. So will we have to wait for that title until October 1, 1995, even though it is effective upon enactment?

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, it is my understanding that the regulatory section, which is title II, becomes effective upon enactment. In other words, the Federal agencies will be required to continue to do as they do now.

The CHAIRMAN. The time of the gentleman from California [Mr. DREIER] has again expired.

(On request of Mr. PORTMAN, and by unanimous consent, Mr. DREIER was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, the Federal agencies will be required to do as they are required now under the Executive order to carry out the cost-benefit analysis contained in title II.

Mrs. COLLINS of Illinois. Mr. Chairman, does the gentleman suppose they might be willing to delay any additional enactment until October 1, 1995, under title II, the Federal agencies?

Mr. PORTMAN. Mr. Chairman, the Federal agencies are currently required, under the Executive order, to go even beyond the cost-benefit analysis provided in title II. We now have it in statute, not just in the Executive order. But it is my understanding the agencies would continue to provide the cost-benefit analysis that was subject to the debate earlier today.

Mrs. COLLINS of Illinois. Mr. Chairman, the problem is, it is a new requirement because it is a new bill. I just wondered how it was going to all play out between now and October 1, 1995.

Mr. PORTMAN. It is my understanding that the Congressional Budget Office, because, they have no requirements within title II, will begin their analysis on October 1. By that time they will have adequate funding and adequate personnel to do the very major tasks which we are asking them to do in this legislation. Again, this is all consistent with the legislation we passed last year, H.R. 5128. The Senate bill has January 1, 1996, as a deadline.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

The recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 250, not voting 3, as follows:

[Roll No. 73]

AYES—181

Abercrombie	Duncan	LaFalce
Ackerman	Durbin	Lantos
Andrews	Engel	Laughlin
Baesler	Eshoo	Levin
Baldacci	Evans	Lewis (GA)
Barcia	Farr	Lincoln
Barrett (WI)	Fattah	Lipinski
Becerra	Fazio	Lofgren
Beilenson	Fields (LA)	Lowey
Bentsen	Filner	Luther
Berman	Flake	Maloney
Bishop	Foglietta	Manton
Bonior	Ford	Markey
Borski	Frank (MA)	Martinez
Boucher	Frost	Mascara
Browder	Furse	Matsui
Brown (CA)	Gejdenson	McCarthy
Brown (FL)	Gephardt	McDermott
Brown (OH)	Geren	McHale
Bryant (TX)	Gibbons	McKinney
Clay	Gonzalez	Meehan
Clayton	Gordon	Meek
Clyburn	Green	Menendez
Coleman	Gutierrez	Miller (CA)
Collins (IL)	Hall (OH)	Mineta
Collins (MI)	Hamilton	Minge
Condit	Harman	Mink
Conyers	Hastings (FL)	Moakley
Costello	Hilliard	Mollohan
Coyne	Hinchey	Montgomery
Cramer	Holden	Moran
Danner	Hoyer	Nadler
de la Garza	Jackson-Lee	Neal
Deal	Jacobs	Oberstar
DeFazio	Jefferson	Obey
DeLauro	Johnson, E. B.	Olver
Dellums	Johnston	Ortiz
Deutsch	Kanjorski	Orton
Dicks	Kaptur	Owens
Dingell	Kennedy (MA)	Pallone
Dixon	Kennedy (RI)	Parker
Doggett	Kennelly	Pastor
Dooley	Kildee	Payne (NJ)
Doyle	Klink	Payne (VA)

Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—250

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
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
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Bilbray
Gekas
Mfume

□ 1505

Mr. RICHARDSON changed his vote from "aye" to "no."

Messrs. BARRETT of Wisconsin, DOOLEY, DEAL of Georgia, BAESLER, TAUZIN, PARKER, and LAUGHLIN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 73, the amendment by Mrs. COLLINS of Illinois to change the effective date of the bill from October 1, 1995, to 10 days after the measure's enactment.

Had I been here I would have voted "yea."

PERSONAL EXPLANATION

Mr. GEKAS. Mr. Speaker, on Tuesday, January 31, 1995, I was unavoidably detained during rollcall No. 73, and thus my vote on the Collins amendment to H.R. 5, the Unfunded Mandate Reform Act, was not recorded. Had I been present, I would have voted "nay" on agreeing to the amendment.

AMENDMENT OFFERED BY MR. PORTMAN

Mr. PORTMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PORTMAN: In section 301, in the proposed section 423(b)(2) of the Congressional Budget Act of 1974, amend subparagraph (C) to read as follows:

"(C) a statement of—

"(i) the degree to which the Federal mandate affects each of the public and private sectors, including a description of the actions, if any, taken by the committee to avoid any adverse impact on the private sector or on the competitive balance between the public sector and the private sector; and

"(ii) in the case of a Federal mandate that is a Federal intergovernmental mandate, the extent to which limiting or eliminating the Federal intergovernmental mandate or Federal payment of direct costs of the Federal intergovernmental mandate (if applicable) would affect the competitive balance between States, local governments, or tribal governments and the private sector.

Mr. PORTMAN. Mr. Chairman, my colleague and friend the gentleman from California [Mr. CONDIT] and I are offering this amendment in response to concerns we have heard from Members about the potential adverse impacts this legislation, H.R. 5, could have on the private sector and the competitive balance between the public and private sectors.

I should say at the outset it is not my view that H.R. 5 would have such a negative impact. In fact, it strikes me as rather odd that while certain Members of the other party are expressing concerns about the devastation that might befall the private sector, it is representatives of this very sector, the private sector, that have strongly supported H.R. 5 and have worked with us in drafting this bill and are strongly supportive of this clarifying amendment.

The list of business groups endorsing H.R. 5 is too lengthy to go through in its entirety, Mr. Chairman, but I will say for the record that we have support from the chamber of commerce, the NFIB, the Small Business Legislative Council and, yes, one of the largest private sector entities involved in this situation which would be BFI, Browning-Ferris. That is quite persuasive to me that the concerns being expressed by the opponents to H.R. 5 are being overdone.

These are groups that the opponents of H.R. 5 claim would be negatively affected by its enactment. Yet these groups want this legislation. They want it passed now.

As someone who is very proud of my record of support of the private sector, particularly small business, I can assure my colleagues that I would not be standing here today arguing for the passage of H.R. 5 if I believed it would harm this critically important sector of our economy. In fact, I believe just the opposite. Passage of H.R. 5 does not mean that Congress is denied the right to impose mandates on the public sector that are imposed on the private sector. Nor does it mean that we will fund mandates for the public sector that are not funded on the private sector, thereby setting up a competitive disadvantage. Instead it simply means we are going to have the cost information we need to make an informed decision.

Specifically on this point, H.R. 5 gives us for the first time, Mr. Chairman, a requirement that Congress must address the impact on the private sector. It must address this very issue of the competitive balance between the public and private sectors. The Portman-Condit amendment strengthens this requirement so that before legislation is brought to the House floor, we will be apprised of the degree to which Federal mandates in this bill could affect the competitive balance between the public and private sectors.

This amendment, Mr. Chairman, would require that the committee report accompanying the Federal mandate legislation spell out precisely what the effect on the public-private competitive balance would be if there were mandates on both the public and private sector that were scaled back, eliminated, or funded for the public sector.

By doing so, Mr. Chairman, we achieve the goal of accountability that is central to H.R. 5. These are the very ends that H.R. 5 seeks, accountability and informed debate. We owe nothing less to the American people than to have that. I believe this amendment clarifies and strengthens the accountability in this act. I urge my colleagues to support the amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

Mr. Chairman, I would simply like to associate myself with his remarks and say that I believe that this amendment strikes the very important balance which we are seeking between the private and public sectors, so that in fact an analysis can be done that would determine if there were any negative effects that this measure were imposing on those on the private side.

I think it is a very good amendment, it clarifies the situation which was in question, and I hope my colleagues will support it.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to join in support of this amendment. I think it is a very constructive one. This analysis about the competitive situation between the public and the private side will be a very useful one. I think this is a helpful amendment and I urge support for it.

Mr. PORTMAN. I thank the gentleman for his support and appreciate it very much.

Mr. CONDIT. Mr. Chairman, will the gentleman yield?

Mr. PORTMAN. I yield to the gentleman from California.

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and thank the gentleman from Ohio [Mr. PORTMAN] for his involvement and effort in this amendment and the bill.

□ 1510

I think that this amendment is a good amendment in dealing with the private sector problem that we have, and we acknowledge that we have a private sector problem. We are doing everything that we can to try to deal with it in a fair fashion. We think this does it. We think this reporting requirement would allow us the opportunity to collect the information, and to then do something about it at a later time.

Let me also just remind my colleagues that in a few weeks we will also be discussing other issues that I believe deal with the private sector, that will help them in dealing with unfunded mandates, and that is risk assessment and cost analysis.

For those who get overly exercised about this not being totally what they want it to be or totally fair, I think we are going to have another bite at the apple down the road with risk assessment and cost benefit, which I think will be a great benefit to the private sector and to putting some balance in regulatory law in this place.

So, this is a good amendment. It may not be what everybody wants, but I think it is a good amendment, it makes the bill work, and I would encourage Members to support the amendment.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I agree with the gentleman from California [Mr. CONDIT] that this does not do everything we want and it is not totally fair. And I am glad he made that point.

I support this amendment. I think it is appropriate that each authorizing committee consider the impact of their legislation on both the public sector and the private sector and where it creates a disparity, a lack of competitiveness, that committee ought to address it.

But where this amendment does clarify the problem, it does not rectify the problem. I will have an amendment that I will offer shortly that would rectify the problem. But I appreciate my friends, the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT], bringing up this issue, exposing it to public consideration and particularly within this body, because it is a very basic issue, and I think a significant flaw within this legislation.

But it is a flaw that we can easily, as I say, rectify with a subsequent amendment that I will offer to treat the public sector equally with the private sector.

The basic problem with this bill is that it enables State and local governments to avoid Federal mandates if they are not completely funded. But it does not give that same option to the private sector.

So all of these privatization efforts that we have made and that I think the other side is particularly supportive of, but they are getting a lot of support on the Democratic side as well, to let the public sector carry out in the most efficient way all of the privatization efforts, which are going to be compromised or in fact eliminated if we do not rectify this basic flaw in the legislation which says that it becomes optional for State and local governments to carry out Federal legislation, but it is not optional for the private sector. Even though we will know what the cost to the private sector is, we do not give them the option to avoid the impact of this legislation, and as a result, in most areas where the private sector attempts to compete with the public sector it will become uncompetitive because it will not have to comply with environmental or labor laws or any other piece of legislation that we will subsequently enact. It is basically unfair and I think it is totally inconsistent with the concept of this legislation.

So, while I support this amendment and I certainly support what the gentleman from Ohio [Mr. PORTMAN] and the gentleman from California [Mr. CONDIT] would like to accomplish with this amendment, it does not do the job.

I appreciate the fact that they have pointed out the problem, but I would hope that they would support my effort to rectify the problem.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I am looking forward to the debate on the upcoming amendment to which the gentleman referred.

I would say this amendment does in fact address the problem, it does in fact force Congress to deal with the issue of public-private competition. If Congress, under its point of order requirement, which would be the discretion of Congress by majority vote, chooses not to impose a mandate because of the private-public concern, then Congress has the ability to do that under H.R. 5. And by this amendment we are insuring that Congress has the information to carry out that very informed debate and to make this very important decision.

So I would say that this amendment in fact does solve the gentleman's concern, and I look forward to the debate on his amendment.

Mr. MORAN. I thank the gentleman. If I could reclaim my time just shortly to respond, yes, it will give us that information, and that information should be used for our decisionmaking.

The problem is the gentleman wants us to make a decision now which will preclude our ability to rectify the unfairness that committees are going to discover as a result of the gentleman's amendment. That is the basic problem. He wants to make the decision now before we have the information that is available.

But, we will continue this discussion when we entertain my amendment. I do support this particular amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. PORTMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer amendment number 15.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment number 15 offered by Mr. HALL of Ohio:

In section 301(2), in the matter proposed to be added as a new section 421(4)(B)(ii) to the Congressional Budget Act of 1974, insert "except with respect to any low-income program referred to in section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985,".

□ 1520

Mr. HALL of Ohio. Mr. Chairman, my amendment is very simple and straightforward. It protects very low-income programs, those that we exempted from sequestration under the Gramm-Rudman Act of 1985 as unfunded mandates. This is important, because there could be major changes coming down the road on low-income programs including food and poverty programs.

My amendment clarifies the definition of Federal intergovernmental mandates in section 421. What I am trying to do is clarify the intergovernmental mandates in section 421 to ensure that the poor will get an up-or-down vote on their programs just like everyone else. Programs that would be protected under this amendment are child nutrition, which would be school lunch, school breakfast, summer food service, child- and adult-care food programs, food stamps, Aid to Families with Dependent Children, Medicaid, and SSI.

Mr. Chairman, H.R. 5 is essentially a piece of legislation that changes the procedures for bills coming down the road, and we have not yet seen the bills and amendments it is intended to affect.

While I am sympathetic to the idea the Federal Government should provide adequate funds for mandates, I want to be sure that the poor are not left out. Whenever tough issues come up, it seems like we always look to the weakest constituency first, the poor, and these people really have no one fighting for them.

What I am saying is our Government does have a responsibility to provide basic things like food and shelter and health care for our own poverty-stricken. I am afraid if this amendment is not included, the poor will be left holding the bag.

There are many proposals in Congress to change poverty programs. The Contract With America proposes to eliminate Federal nutrition programs and substitute a single block-grant payment to the States. We will be confronted with a proposal very soon that would eliminate the entitlement status of food programs including food stamps, and it will reduce appropriations in the first year alone, I am told, to about $5 billion below the levels required to maintain current services.

Under the best-case scenario, the Contract With America will result in a reduction of funding in food assistance for the poor and hungry by over $30 billion by fiscal year 2000. While I oppose these kinds of changes, particularly when the Conference of Mayors tells us that the requests for emergency food and shelter are on the rise, we all know who will be the victims of these changes, millions of low-income families, children, and the elderly. My own State of Ohio is slated to lose about 20 percent of funding for food assistance in fiscal year 1996.

If the Federal Government places responsibility on the States to take care of low-income people with fewer resources, then that is an unfunded mandate, and while section 421 does have language to this effect, it also has language which would allow States the flexibility to lower services.

To many, the third paragraph of that section is very unclear, and that is the section that I am trying to get at. The amendment makes it clear, my amendment, that these entitlement programs would be unfunded mandates and subject to the point of order if they are reduced.

Many of my friends on both sides of the aisle have already voted to protect these very important programs. We have done this already, and we have done it time and time again. We did it under the Gramm-Rudman Act. Congress has spoken on this. We should do it again.

My amendment will make sure that the poor programs will get the same vote as other unfunded programs. Do not leave poverty and nutrition programs in doubt. Please, join me in supporting this amendment.

Mr. DREIER. Mr. Chairman, I reluctantly rise in opposition to the amendment.

I would say to my very good friend, colleague on the Committee on Rules, I am very sympathetic with the need to address the concerns of those who are less fortunate, those who are hungry, those who are desperately in need. In fact, we on this side of the aisle clearly feel that one of the pressing needs out there is for us to expand individual initiative and responsibility and self-reliance.

But having said that, we are well aware of the fact that there are people who do have to have some kind of assistance provided by government, but the concern that we have with this amendment here is that we are not providing the States with the kind of flexibility which is needed.

I happen to be one who believes strongly that States do feel a responsibility to address these issues, and there is a sense, I have inferred from this amendment, that if we choose to accept this amendment that we are somehow saying that the States do not have any kind of responsibility to effectively address the issues of hunger and homelessness and a wide range of other social needs that are out there. I happen to believe that they are positioned to, and feel a responsibility to, address those needs, and it is for that reason that I am compelled to oppose the very well-intentioned amendment by my friend.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Pennsylvania [Mr. CLINGER], chairman of the Committee on Government Reform and Oversight.

Mr. CLINGER. If the gentleman will yield, I would just also have to rise in reluctant opposition to the gentleman's amendment. I think he is right to be concerned about what some of the impacts could be. But I think he is also wrong in the assumption that giving flexibility to the States to implement these programs, carry out these programs, that they are not going to be concerned about the health, safety, and well-being of their children. So I think that we at the Federal Government, I think, too often take the assumption or have the assumption that the States and local governments cannot be trusted to do these things.

Hopefully they will be challenged to do them and to provide the kind of necessary measure of care. But they need the flexibility in order to do that.

Mr. DREIER. I thank the gentleman for his contribution.

We are in the position where some would like to say we are somehow abrogating our responsibility if we do not in fact micromanage these particular programs, and we happen to have a great deal of confidence in individuals and State and local governments to address these needs, and it is for that reason that we are opposing the amendment.

Mr. WAXMAN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, what this amendment seeks to do is to have the Congress understand that if we are going to cut back on these programs for low-income people, the most vulnerable people in our society, that we are creating an unfunded mandate on local governments either to have to make up the difference in dollars or to cut some of these people adrift from food stamps or from supplemental security income or WIC. These are programs for very, very low-income people.

When we had the Gramm-Rudman bill before us, we specifically said that those programs would not be required to undergo the sequestrations that would be required to be placed on other Government programs, because we wanted to treat these with a special concern.

I think the amendment offered by the gentleman from Ohio is a good one. If we are going to cut these programs that affect the low income in our society, let us know about it, let us have a point of order, and let a specific vote be cast in order to accomplish that goal with the full information before us that we are hurting those who are most vulnerable in our society.

I urge support for the Hall amendment.

Mr. RUSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in strong support of the amendment which our colleague from Ohio [Mr. HALL] has offered to H.R. 5, the Unfunded Mandate Reform Act.

Mr. HALL's amendment is designed to make certain that Congress specifically studies and deliberates any reductions in programs which make up our Nation's weakening social safety net.

Without attachment of this provision to H.R. 5, there is a distinct possibility that reductions in the basic Federal poverty programs—AFDC, child nutrition, food stamps, medicaid, and SSI—could be reduced without a specific vote on that reduction.

At a time when the majority has called for increased accountability and responsibility on the part of Congress, this should be an absolute no-brainer for this body.

Even during the Reagan budget-cutting frenzy of the mid-1980's, there was a specific exception to the Gramm-Rudman-Hollings budget deficit act for all of these programs.

They are the lifeblood of our Nation's poorest citizens, and therefore deserve the deliberate and conscious protection which this amendment would ensure.

This amendment would by no means assure that reductions will not occur in the funding allocations for these budget items.

However, it would guarantee that a separate floor vote and committee analysis be accomplished before such reductions could be enacted.

In a commonsense manner, this amendment would provide that reductions of this type be treated as unfunded mandates.

This is particularly appropriate, since States and local governments would undoubtedly have to make up for such reductions with their own funds.

Mr. Chairman, I implore my fellow Members on both sides of the aisle to support this extremely worthwhile amendment.

□ 1530

Mr. GOSS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise very reluctantly, as the distinguished gentleman from Ohio [Mr. HALL] knows, in opposition to his amendment. I want to go through a scenario that gives me some serious concern. It is difficult to precisely read Mr. HALL's amendment because there is no specific line number in the amendment.

It appears the amendment would foreclose the Federal Government's ability to ever cut or impose a cap on a number of low-income programs which are listed in section 255(h) of the Budget Act. In essence, any cut or cap would be by definition a Federal intergovernmental mandate even if the States have the authority to change their financial or programmatic responsibilities. This would trigger the point of order.

Now, to get specific and go to one of the programs listed in 255(h), Medicaid, the Hall amendment would define any cut or cap in the Medicaid Program as an unfunded mandate regardless of the fact that the States have the flexibility to change their programs.

To demonstrate that this is not good policy in the Medicaid Program, I would like to remind my colleagues about a sad chapter in the Medicaid Program involving provider-specific taxes and disproportionate share payments to hospitals. Because of a change in Medicaid law in 1990, provider-specific taxes help cause an annual growth in Federal Medicaid payments to the tune of $10 billion per year, that is annually, $10 billion per year, every year.

Now, to help close this loophole, legislation was passed in 1991; the provider-specific tax amendments of 1991 and in OBRA 1993 to place a cap on disproportionate share payments.

Now, my friend, the gentleman from Ohio [Mr. HALL] voted for both of these caps on the Medicaid Program. In both instances these caps were placing limits on an element of the Medicaid Program that was being abused; I think we agree.

In both instances the States had the flexibility to change their programs. If Mr. HALL's amendment was in effect, his votes would be defined as an unfunded intergovernmental mandate subject to points of order.

So it is for that very technical reason, even though I understand what the gentleman is trying to accomplish, that I have to again underscore that while this is well meaning it is not going to have a benign effect on what we are trying to do, in my view, and is going to remove flexibility.

The States have asked for that flexibility. To take that away from them, especially after what we just heard from the Governors, just does not make a lot of sense to me at this time.

Mr. FARR. Mr. Chairman, I rise in support of the Hall amendment.

There isn't a more vulnerable population out there than children, especially poor children. The food programs the country has instituted over the years have been put in place to protect this most at-risk group. It is unconscionable for this body to consider legislation that would deny food to the very mouths of babes.

Upward of 2.2 million children could be affected in the Food Stamp Program alone by this bill.

Another 1 million children could be affected by cuts to the WIC Program.

Even more would feel the impact of cuts to child nutrition, school lunch and breakfast and other hot meal programs that provide essential services to our youngest and most tenuous of constituents.

I urge my colleagues to support the Hall amendment and give American kids a fighting chance.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 144, noes 289, not voting 1, as follows:

[Roll No. 74]

AYES—144

Abercrombie	Furse	Nadler
Ackerman	Gejdenson	Neal
Barcia	Gephardt	Oberstar
Becerra	Gibbons	Olver
Beilenson	Gonzalez	Owens
Bentsen	Gordon	Pallone
Berman	Green	Pastor
Bishop	Gutierrez	Payne (NJ)
Bonior	Hall (OH)	Pelosi
Borski	Hastings (FL)	Rangel
Boucher	Hefner	Reed
Brown (CA)	Hilliard	Reynolds
Brown (FL)	Hinchey	Richardson
Brown (OH)	Hoyer	Rivers
Bryant (TX)	Jackson-Lee	Roybal-Allard
Cardin	Jacobs	Rush
Clay	Jefferson	Sabo
Clayton	Johnson, E. B.	Sanders
Clement	Johnston	Sawyer
Clyburn	Kaptur	Schroeder
Coleman	Kennedy (MA)	Scott
Collins (IL)	Kennedy (RI)	Serrano
Collins (MI)	Kennelly	Skaggs
Conyers	Kildee	Slaughter
Coyne	Klink	Stark
Danner	LaFalce	Stokes
de la Garza	Lantos	Studds
DeLauro	Levin	Thompson
Dellums	Lewis (GA)	Thurman
Deutsch	Lofgren	Torres
Dicks	Lowey	Torricelli
Dingell	Maloney	Towns
Dixon	Manton	Traficant
Durbin	Markey	Tucker
Emerson	Martinez	Velazquez
Engel	Mascara	Vento
Eshoo	Matsui	Volkmer
Evans	McCarthy	Ward
Farr	McDermott	Waters
Fattah	McKinney	Watt (NC)
Fazio	McNulty	Waxman
Fields (LA)	Meehan	Whitfield
Filner	Meek	Williams
Flake	Menendez	Wolf
Foglietta	Miller (CA)	Woolsey
Ford	Mineta	Wyden
Frank (MA)	Mink	Wynn
Frost	Moakley	Yates

NOES—289

Allard	Bliley	Chambliss
Andrews	Blute	Chapman
Archer	Boehlert	Chenoweth
Armey	Boehner	Christensen
Bachus	Bonilla	Chrysler
Baesler	Bono	Clinger
Baker (CA)	Brewster	Coble
Baker (LA)	Browder	Coburn
Baldacci	Brownback	Collins (GA)
Ballenger	Bryant (TN)	Combest
Barr	Bunn	Condit
Barrett (NE)	Bunning	Cooley
Barrett (WI)	Burr	Costello
Bartlett	Burton	Cox
Barton	Buyer	Cramer
Bass	Callahan	Crane
Bateman	Calvert	Crapo
Bereuter	Camp	Cremeans
Bevill	Canady	Cubin
Bilbray	Castle	Cunningham
Bilirakis	Chabot	Davis

Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
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
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wise
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Mfume

□ 1553

Mr. STUPAK and Mr. SCHUMER changed their vote from "aye" to "no".

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 74, on the amendment offered by Mr. HALL of Ohio. Had I been here I would have voted "yea."

AMENDMENT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Chairman, I offer an amendment, the amendment numbered 165.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PETERSON of Minnesota: In section 301, in the proposed section 424(a)(2)(A) of the Congressional Budget Act of 1974, strike "$100,000,000" and insert "$50,000,000".

Mr. PETERSON of Minnesota. Mr. Chairman, this is a straightforward amendment offered by myself, the gentleman from Kansas [Mr. ROBERTS], the gentleman from Indiana [Mr. BURTON], the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and others who worked on this and who had similar ideas.

It is a straightforward amendment that lowers the threshold on private sector mandates in which CBO is required to file a report from $100 million to $50 million.

Mr. Chairman, this will equalize the threshold at $50 million for both the public and the private sector. There were a number of amendments offered in this area. Some of them went lower, but we thought this made sense, to equalize the two.

One of the issues was whether the lowering of this threshold would possibly cost CBO additional money. But we have checked, and CBO said the money authorized in this bill is sufficient to comply with these provisions.

Mr. Chairman, in the 103d Congress, 226 of us, including myself, cosponsored the bill of the gentleman from California [Mr. CONDIT], which would impose a tougher standard, basically a "no money, no mandate" standard, which a lot of us would still like to see. But this is a good first start.

What we are doing here by lowering this threshold is making sure that we have the same standards in both the public and private sector, and also that we will include more mandates in this process.

Mr. McINTOSH. Mr. Chairman, will the gentleman yield?

Mr. PETERSON of Minnesota. I yield to the gentleman from Indiana, the chairman of the Subcommittee on Government Operations, on which I serve.

Mr. McINTOSH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his efforts in fashioning a bipartisan approach to this and for his efforts in my Subcommittee on Regulatory Relief to do the same.

I think this is an important amendment because it would lower the threshold at which we would study the problem of regulations in the private sector. As I have said many times before, regulations are a hidden tax on the middle class in this country, and we have to do something to attack that problem. It is important that we do that well informed and with the studies that would be resulting from this legislation.

I strongly support this amendment, and want to thank my colleague from Minnesota for introducing it here today.

Mr. PETERSON of Minnesota. Mr. Chairman, I yield back the balance of my time.

Mr. ROBERTS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would like to thank the gentleman from Minnesota [Mr. PETERSON], in coauthoring this amendment with myself, the gentleman from Texas [Mr. PETE GEREN], the gentleman from Oregon [Mr. COOLEY], and many other members of the unfunded mandates caucus. This has the support of the unfunded mandates caucus.

It is bipartisan in nature. The gentleman has simply explained the amendment very well. What it does is to equalize the threshold and brings it down to $50 million in regards to the private sector.

It is my considered opinion that all mandates should fall under the careful scrutiny of the Congressional Budget Office. A mandate is a mandate. In fact, I think there are some of us that would support lowering the threshold to zero. This is really an effort by the gentleman from Minnesota, myself, and others, to make the threshold apply to rural and small-town America.

Obviously, if you exclude the smaller mandates, that is going to impose a greater burden on small communities. So the gentleman's amendment is certainly appropriate to that effort.

□ 1600

There has been some concern about the fact whether or not the CBO can do this job. They can. We have been in contact with the CBO, and I think I should point out to Members that the CBO cost estimates have not always been in agreement with the cost estimates that are prepared by State and by local governments. So if you had a $100 million threshold, as opposed to $50, look what happened in regards to the Motor Voter Act. The cost of implementation as estimated by CBO was $28 million. It costs $26 million alone in regards to California.

It is a good amendment. I rise in support of it. I thank the gentleman from Minnesota.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, just briefly let me just say that this has bipartisan support. I obviously want to congratulate the gentleman

from Minnesota for his hard work as well as my distinguished colleague who was gracious enough to yield to me.

We are moving in the right direction as far as these mandates are concerned. I think the people of this country, both public and private, are going to congratulate us for this effort.

I would just like to say, once again, to my colleague, congratulations on the amendment.

As has been stated, our amendment equalizes the threshold for requiring a CBO cost estimate of mandates on the public and private sector.

Under H.R. 5, if a mandate will have an annual impact of $50 million or more on State and local governments, then CBO must do a cost analysis of the mandate and find out how much it will actually cost. A point of order can be raised if the bill does not contain this information.

The threshold for the same cost estimate for the private sector is $100 million, and a point of order can also be raised here as well if this information is not included.

My amendment lowers the threshold for the CBO cost estimate for the private sector to $50 million. This helps to level the playing field.

In many cases, the mandate should then be reduced or killed, and if it is really necessary it should be paid for.

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for his contribution. Let the record show the gentleman from Indiana [Mr. BURTON] was a coauthor of this amendment and worked very hard with us to bring it to the attention of the House at this moment.

Mr. DAVIS. Mr. Chairman, I move to strike the requisite number of words.

I just want to be very brief and compliment the authors of this amendment and say on behalf of the committee that we support this amendment.

Mr. MORAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this will expand the scope of this legislation. It will bring in many more Federal activities. But since the private sector will only require that a cost estimate be done, it will not trigger the optional aspect of this legislation, as would be triggered for States and localities. I do not see that it is a problem. The reality is that for CBO to determine whether or not a piece of legislation is going to impose a mandate of $100 million or more, they have to do the analysis anyway. So in the process of doing the analysis, that will suffice for the $50 million threshold.

I do not think it is going to cause much more work on the part of the Congressional Budget Office. It is consistent with the intent of the legislation, and it would be welcomed by the private sector. So I support the amendment as well.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thought that the intent of the majority was that we would have no strengthening or weakening amendments to this bill. The other Chamber has acted on this matter, and this amendment would seemingly fly in the face of reaching some appropriate compromise on this matter, because it actually moves in the opposite direction.

So I would hope that even though it has been indicated that there is support, that there would be some consistency as we move through this process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PETERSON].

The amendment was agreed to.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment, the amendment designated number 173.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: In section 301, in the proposed section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and after paragraph (7) add the following new paragraph:

"(8) pertains to the immunization of children against vaccine-preventable diseases.

Mr. ROEMER. Mr. Chairman, first of all, I would just like to say that the intention of this amendment, which would exempt children's immunizations from the legislation that we are considering here, given the special circumstances that we have a Federal program running right now for children's immunizations which we need to improve but we might need to eventually have go back to the States and localities, I am not sure that I will offer this. I may withdraw it, but I do want to talk about the importance of immunizations for children.

Let me say, I want to congratulate the Members that have been working so hard on this bill, the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Ohio [Mr. PORTMAN], the gentleman from California [Mr. CONDIT], the gentleman from Virginia [Mr. MORAN], and many others.

My amendment is in no way to be dilatory or to take away from the serious debate and the bipartisan nature by which we are working together to prohibit unfunded mandates where many of my constituents and Democratic and Republican mayors want us to act in this body in a bipartisan way.

I intend to vote for passage of this legislation. But I also want to make sure that there are not unintended consequences of this legislation. And with immunization rates in this country trailing badly other developed and industrialized countries, we need to make sure that we continue to put the very highest priority on immunizing our children. We are 20 and 25 percent behind the immunization rates of countries such as Japan and Germany.

We invest $1 in immunizing a child and we save $10 later on in our health care costs. There is absolutely no question that to put the very highest priority on these programs is in the very best interest of our children, our taxpayers, and our health care system. So I want to offer this amendment with the intention of working with the Republican majority and other interested parties here in Congress on seeing that we improve our immunization rate, seeing that we improve the Federal program that was started by President Clinton, seeing that we improve the State rate of participation, and seeing that at some point in the future we may need to critically analyze and critique this program that is currently running and possibly move it back to the States and the localities, which might run it in a better and more efficient fashion.

We have seen some of the regulations with this program throw some hurdles into the delivery of immunizations and inoculations for children, in that a regulation requires a doctor to keep a free vaccination in a separate quarter from a paid-for vaccination or inoculation. So I think that there are many improvements that we can do, and I want to just guarantee and have guarantees from the majority that we can improve this program, there will be priorities put on this program to immunize our children and that there are no hurdles put up under this bill.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from Ohio, who has worked so hard on this legislation.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I would just say, as the gentleman is aware, there is nothing in H.R. 5 which would preclude the Congress from continuing to have an active role to play in immunization programs and to perfect, in fact, the local-State-Federal partnership on immunization. I think on the majority side we share the concern about the programs. We share the gentleman's view that these are salutary preventive programs that make a lot of sense, that they are very cost effective.

I would say, again, as we said many times over the last several days in response to the exemption argument, that this legislation will in no way preclude Congress carefully considering future mandates in this area.

However, reluctantly, we would have to oppose such an amendment simply because it again creates an exemption which is not necessary for this legislation.

I would ask the gentleman if he would be willing, given that understanding, that in fact these immunization programs would be coming to the floor, would be receiving debate on a more informed basis, I might add, that he might consider withdrawing his amendment.

Mr. ROEMER. Mr. Chairman, I will ask unanimous consent in the next minute, to withdraw the amendment and just make two further points, ancillary points to what the gentleman has just brought up.

I thank the gentleman for his willingness to work together on this.

The reason that I brought the amendment to the floor was, again, not to be dilatory but that immunizations have two distinct differences from some of the more generic amendments that have been offered by my colleagues on children's health.

One is that we have a Federal program in place.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

(On request of Mr. PORTMAN, and by unanimous consent, Mr. ROEMER was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. We have a program in place that we do not want to see hurt by this legislation. I think we may want to see improvements in it. And if we cannot implement those improvements, we may want to work more with the State and local governments to see this implemented.

Second, with the outbreak of a virus or something that could affect our children, the emergency provisions in this bill would allow us to act pretty expeditiously if we want to guarantee that quick action, not only for the impact on children but for our senior citizens, who might be more susceptible to infection.

Mr. PORTMAN. Mr. Chairman, if the gentleman will continue to yield, in section 4, there is a specific exemption for emergency situations such as the one which the gentleman stated. I would think that that would be covered by that exemption.

Mr. ROEMER. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

□ 1610

AMENDMENT OFFERED BY MR. SKAGGS

Mr. SKAGGS. Mr. Chairman, I offer amendment No. 158.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SKAGGS: In paragraph (4) of section 202(a), insert before "the effect" the following: "estimates by the agency, if and to the extent that the agency determines that accurate estimates are reasonably feasible, of".

Mr. SKAGGS. Mr. Chairman, this amendment deals with what I suspect was really a drafting error, back in title II of the bill, having to do with the estimates that are required to be prepared by agencies pursuant to the new authorities in this legislation.

Interestingly, Mr. Chairman, in subsection A(2) of section 202, estimates made by agencies concerning future costs or disproportional budgetary effects are to be made "if and to the extent that the agency determines that accurate estimates are reasonably feasible."

However, over in paragraph 4 of that subsection, estimates concerning the effect on the national economy, including productivity, economic growth, full employment, creation of jobs, and international competitiveness have no such qualifying language about reasonable feasibility.

It seems to me those estimates are equally problematic for the agency to be able to conduct, Mr. Chairman. In discussing this with the floor manager of the bill, the gentleman from Pennsylvania [Mr. CLINGER], I think it is clear that we all recognize that in this proposed statute, as in any others, there is an implied qualification of reasonableness.

I just wanted to inquire of the floor manager currently on the floor, the gentleman from Virginia [Mr. DAVIS], if indeed that is his interpretation, that we are looking for reasonable estimates to be made by the agency under paragraph 4, just as under paragraph 2.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. SKAGGS. I yield to the gentleman from Virginia.

Mr. DAVIS. Mr. Chairman, I thank the gentleman from Colorado for yielding to me.

Mr. Chairman, I would concur with the gentleman's statement. There is a standard of reasonableness built into this bill in terms of the agencies being able to gather and make the reports.

Mr. SKAGGS. Therefore, we are not asking them to do anything that is impossible or impracticable, is that correct?

Mr. DAVIS. If the gentleman will yield further, that is correct.

Mr. SKAGGS. With that understanding, Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Without objection, the amendment of the gentleman from Colorado [Mr. SKAGGS] is withdrawn.

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. COOLEY

Mr. COOLEY. Mr. Chairman, I offer amendment No. 9.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. COOLEY:

Strike out subsection (e) of the proposed section 425 of the Congressional Budget Act of 1974.

Mr. COOLEY. Mr. Chairman, I rise today to offer an amendment that would strike the mandate grandfather provision of the Unfunded Mandate Reform Act.

Added during the Committee on Rules' consideration of this bill, this provision, found in section 425(E), protects all past mandates as long as they do not increase the mandate or decrease the resources allocated to fund it.

In other words, the Clean Water Act, Clean Air Act, Immigration Act, Safe Drinking Water Act, Endangered Species Act, Resource Conservation Recovery Act, and Superfund amendments are all protected from the bill as written.

As I have listened to this debate, Mr. Chairman, these past few days it has occurred to me that it has been a degradation of the debate on the value of this particular law. Someone wants to keep the bill from applying to seniors, another to children and yet women, yet another to laws affecting public health and safety.

Mr. Chairman, these are debates for another time. The question at hand today is "Will we make States pick up the tab for Congress' ideas?"

Mr. Chairman, I submit that there is not a single Member of this body who wants to jeopardize the health and safety of Americans, nor do we believe that there is a single Member who would want to lessen the standard of living for the children, mothers, or senior citizens. Disabled persons are not on anyone's hit list, either. We are here in Congress because we are concerned about these very problems.

In light of that, I cannot fathom why the opponents of this bill are so certain that the bill will be the undoing of all laws governing public health, safety, and the environment. Would striking the exemption for existing unfunded mandates mean that we instantly disregard the progress we have made? Absolutely not.

My amendment would simple ensure that unfunded mandates be on equal footing. There should be nothing sacred about these massive costs inflicted upon the States, nor should future mandates, if deemed critically important, be considered less necessary to public health and safety by virtue of their following this act. All mandates, whether funded or unfunded, should be considered on their merit.

We can signal our resolve to carefully consider all unfunded mandates that come up for reauthorization by cancelling the provision that protects them from a point of order.

Mr. Chairman, if we subject future unfunded mandates to a point of order, then we should do the same for those being reauthorized.

Before I close, I must unequivocally state that my amendment does not end all present unfunded mandates immediately. That is, my amendment does not make this legislation retroactive. The only thing that will change is a law requiring reauthorization for related appropriations to be subject to the point of order.

Clearly, if Congress supports the underlying legislation that faces reauthorization, it will dispose of the point of order. Everyone here knows that if the sentiment is here for the substance of the legislation, the point of order, which requires a simple majority, will be waived by a similar count.

My amendment simply makes us stop and consider the wisdom or folly of our predecessors. If we waive the point of order, then we will have deemed the content of the reauthorization necessary.

We have considered this bill for the purpose of casting light upon the burden that unfunded mandates have created for the States. If my amendment is adopted, these past mandates will be evaluated on the basis of the burden they impose and the benefits they bring to our States and communities. If past mandates do not pass the muster, then why have them and why protect them, as they are unfairly shielded in this bill as presently written?

My amendment merely signals our intention to consider all unfunded mandates equally. I would ask my colleagues to support this amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in strong opposition to this amendment. It will unabashedly seek to undo all Federal laws that protect the health, safety, and welfare of Americans by subjecting the laws to a point of order when they are reauthorized. We have repeatedly sought to exempt laws already on the books from the provisions of this bill, as long as reauthorizations did not impose additional unfunded mandates.

The chairman of the Committee on Government Reform and Oversight, as far as I know, has agreed. The chairman of the Committee on Rules has agreed, as far as I know, and in fact, inserted language specifically to clarify this point.

Now the gentleman throws out all statutes as they come up for reauthorization. The result would be a wholesale dismantling of dozens of laws. All of our environmental statutes would be repealed, because there is no way we could fully fund the costs. So would worker safety laws. Consumer protection standards would be gutted.

Are the American people really willing to risk their drinking water? I do not think so. Are they willing to trust States upstream to not dump their sewage in their rivers and our beaches? I do not think so. Do they want airport safety to be decided by some local accountant? I do not think so. Will they forego the safety of their children? I know they will not.

Mr. Chairman, we all know the answer to these questions. Vote "no" on this amendment. This is a crippling amendment, one we do not need. I would urge all my colleagues to strike it down and not vote for it.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in reluctant opposition to the amendment of the gentleman from Oregon [Mr. COOLEY]. I know what many on this side of the aisle and Members on the other side of the aisle feel is that this bill does not go far enough, that we really should be looking back and taking a look at all of the myriad mandates that we have imposed on State and local governments over the years.

Title I of this bill is a first effort to do that, to say yes, we need to review where we stand. We need to look at what is on the books. We need to assess what has been the impact, what is the cumulative impact.

I think there is no question that we can say 1 mandate is not too much, 2 is not too much, but 176 unfunded mandates clearly is too much, so I think the gentleman is certainly on the right track. He is looking at this thing and saying we have gone overboard and we should really be reviewing and eliminating those at this point.

However, Mr. Chairman, I would say that this language that is in the bill does represent a compromise that was effected, and which was actually fashioned in the Committee on Rules to address this very issue. Mr. Chairman, I think it is fair to say that this would be a killer amendment. It is a strengthening amendment, there is no question about that, but I think it strengthens the bill too much to survive. For that reason, I would have to oppose the amendment.

□ 1620

Mr. GOSS. Mr. Chairman, I would like to further state that the Committee on Rules did respond in a very cooperative way to what we think was a very legitimate concern by the Committee on Government Reform and Oversight on how to work out a compromise that would work on this, and we did come up with an amendment which we called the Goss amendment which we thought resolved the issue pretty well.

I would like to point out that this is a subject that went through a briefing, a hearing, a markup, and not a little bit of debate, to say nothing at all of the fact that we had a rule discussion on it. So we have really given this a lot of analysis.

My concern about a killer amendment is very real. We have tried to weigh and balance, and we have got a protection built in. I say this sincerely, because I speak as a local government official who has come out of being a mayor and a county chairman. I have very strong, deep personal feelings about dealing with unfunded mandates whether they come from the Federal Government or the State capital, and that is, that we have got our Advisory Commission on Intergovernmental Relations, and we have been given, I think, very strong promises of commitment from the leadership that we are going to pay attention to what they say.

We are going to have a report, a study, monitoring, and I think we have hit middle ground here. Until we know a little better whether there is a problem or there is not, I think we ought to go as the committee has presented it.

I thank the distinguished gentleman for yielding. I regrettably say that I will be in opposition to the Cooley amendment.

Mr. CLINGER. Mr. Chairman, reclaiming my time, I would just say to the gentleman that I am sympathetic to the concerns that he has raised here. I think that what we have in this bill, however, is a first cut. As the gentleman has indicated, there are many on this side that would like to see us go much further. There are many on the other side who think we have gone way too far as it is, and this seems to strike a fairly reasonable balance. Again, I would have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. COOLEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. COOLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 146, noes 287, not voting 1, as follows:

[Roll No 75]

AYES—146

Allard	Condit	Geren
Bachus	Cooley	Gibbons
Baker (CA)	Cox	Gillmor
Barr	Cramer	Goodlatte
Barrett (NE)	Crapo	Gordon
Bartlett	Cremeans	Graham
Bereuter	Cubin	Green
Bevill	Cunningham	Gunderson
Bilbray	Deal	Gutierrez
Blute	DeLay	Gutknecht
Bonilla	Doolittle	Hall (TX)
Bono	Duncan	Hancock
Browder	Dunn	Hansen
Brownback	Edwards	Hastert
Bryant (TN)	Emerson	Hastings (WA)
Bunn	Ensign	Hayworth
Burr	Everett	Hefley
Camp	Ewing	Heineman
Chambliss	Flanagan	Herger
Chenoweth	Forbes	Hilleary
Coble	Frank (MA)	Hoke
Coburn	Funderburk	Hostettler
Collins (GA)	Gallegly	Hunter
Combest	Ganske	Istook

Johnson (SD)
Johnson, Sam
Jones
Kasich
Kim
LaHood
Largent
Latham
Laughlin
Lewis (KY)
Lightfoot
Lincoln
Linder
Longley
Lucas
Manzullo
Martinez
McCollum
McHugh
McInnis
McKeon
Metcalf
Minge
Montgomery
Nethercutt
Neumann
Ney
Norwood
Orton
Owens
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Pombo
Pryce
Riggs
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tauzin
Thornberry
Tiahrt
Torkildsen
Vucanovich
Waldholtz
Wamp
Watts (OK)
Weldon (FL)
Weller
Whitfield
Wicker

NOES—287

Abercrombie
Ackerman
Andrews
Archer
Armey
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Berman
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burton
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Crane
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Durbin
Ehlers
Ehrlich
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gejdenson
Gekas
Gephardt
Gilchrest
Gilman
Gonzalez
Goodling
Goss
Greenwood
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Moakley
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
White
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—1

Mfume

□ 1648

Messrs. RUSH, OLVER, BONIOR, COYNE, ACKERMAN, RICHARDSON, DINGELL, and MARKEY, and Ms. BROWN of Florida changed their vote from "aye" to "no."

Messrs. HERGER, HASTINGS of Washington, HILLEARY, HANCOCK, JOHNSON of South Dakota, GALLEGLY, KIM, SMITH of Texas, ALLARD, EWING, and WAMP, Mrs. VUCANOVICH, Messrs. PACKARD, PAXON, and CAMP, Ms. PRYCE, Mr. BEVILL, Mr. McCOLLUM, Mrs. SEASTRAND, and Messrs. LAHOOD, LIGHTFOOT, NORWOOD, BARRETT of Nebraska, SAM JOHNSON of Texas, ISTOOK, TORKILDSEN, BLUTE, and BEREUTER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 75, on the amendment offered by Mr. COOLEY of Oregon.

Had I been here I would have voted "no."

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WAXMAN: In the proposed section 424 of the Congressional Budget Act of 1974, redesignate subsection (d) as subsection (e) and insert after subsection (c) the following:

"(d) ESTIMATES.—If the Director determines that it is not feasible to make a reasonable estimate that would be required for a statement under subsection (a)(1) for a bill or joint resolution, the Director shall not make such a statement and shall inform the committees involved that such an estimate cannot be made and the reasons for that determination. The bill or joint resolution for which such statement was to be made shall be subject to a point of order under section 425(a)(1).

Mr. WAXMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1650

Mr. WAXMAN. Mr. Chairman, this amendment has been worked out with the majority. It is noncontroversial, a perfecting amendment to clarify what CBO is supposed to do if it is not able to estimate the impact on State or local governments. It provides in this situation that CBO may give the committee a statement that it is not feasible to estimate the cost. We have worked this out. I would urge support for the legislation.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment offered by the gentleman from California. I think it is a good addition to the bill. What it is really saying is we do not want CBO to have to invent figures, make them up, to be forced into coming up with squishy numbers in this area, though yet the point of order would still lie. We have preserved the point of order.

We also say "Be straight up with us, tell us if you cannot do it. If you cannot to it, just tell us that."

Mr. Chairman, I support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, No. 144.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN:

In the proposed section 421(4) of the Congressional Budget Act of 1974, add the following new sentence at the end of the section: "Clause (i)(I) of subparagraph (B) shall not apply to provisions that are designed to prevent fraud or abuse or to increase fiscal accountability of the program administered by the States, local governments, or tribal governments receiving assistance."

Mr. WAXMAN. Mr. Chairman, the bill before us provides that it would be considered an unfunded mandate if we increase the stringency in an entitlement program as a condition of assistance. Now, the way this is defined, I think it applies perhaps exclusively, but certainly to the Medicaid program.

What my amendment would provide is that if there is an increase in the

stringency of conditions of assistance in Medicaid, this would not apply if the change in the requirements is to assure the fiscal integrity of the program to assure that expenditures are for the purposes that are legitimate under the program or to prevent fraud and abuse by people or providers receiving payment under the program.

This is a good Government amendment. If we are, let's say under the Medicaid Program, going to pay for health care services for poor people and we ask the States to be sure to police the program to be sure that there is no fraud or abuse being committed, if in that increased stringency requirement in order to protect the integrity of the program the States are required to do more than would otherwise be the case, we should consider that an unfunded mandate that would be prevented.

We have, as most of you know, a reverse suggestion of what we ordinarily think about in this unfunded mandate. We have a provision for extra payments by the Federal Government when the States provide assistance to disproportionate share institutions. These are usually hospitals that serve a disproportionate share of low-income people and we want to provide extra reimbursement to them.

But some of the States took advantage of this provision and they concocted schemes to rip off Federal dollars to which they were not entitled. They came in and requested that the Federal Government match money that they put up and then used the Federal dollars under Medicaid for things that had nothing to do with Medicaid. Medicaid was being used as a revenue-sharing program.

Let me just illustrate this by the fact that under this loophole States collected billions of dollars of Federal Medicaid spending. We went in the space of about 3 years from spending $300 million on disproportionate share payments to $11 billion. When we came back in 1993 in a bipartisan way and we said this is a loophole that cannot be tolerated, we plugged up that loophole. But if this mandates bill were in effect, that would be considered increased stringency of the program and the States could come back and say you cannot increase the stringency of the program as it relates to them, even though it plugged up a loophole by which they got Federal dollars from the Federal Government to which they were not entitled.

Those of us who want to protect the integrity of a program like Medicaid to make sure States police for fraud and abuse, make sure the States are protecting the integrity of the dollars being spent by the Federal Government, those things should not be considered unfunded mandates. We should not subject such a requirement and Federal changes in Federal law to a point of order. This amendment would accomplish that result. So I would urge an aye vote for this amendment.

It is not dissimilar, by the way, to the exceptions in this legislation that say that when we require compliance with accounting and auditing procedures with respect to grants or other money or property provided by the Federal Government, that should not be considered an unfunded mandate under section 4 limitations on the limits of the legislation.

But I do not believe that that limitation on the application of what is considered unfunded mandate means where we say if it is to comply with accounting and auditing procedures, it would apply to something more to protect the fiscal integrity of the Medicaid Program.

Mr. Chairman, I ask support for this amendment.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment very briefly.

Mr. Chairman, I think this amendment is too broad for what the gentleman is seeking to accomplish. As he has already indicated, we do exempt auditing and accounting from the provisions of this bill to prevent waste, fraud, and abuse. The concern I have with it is that it really does broaden the scope of what we are trying to do. I think the purpose we should be focusing on, at least, is to try to enforce what exists. We do have controls existing that are not being enforced. I think we do a better job of getting the inspector generals to enforce what exists now without adding new restrictions and broadening language to the bill.

So I must oppose the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WAXMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 275, not voting 6, as follows:

[Roll No. 76]

AYES—153

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates.

NOES—275

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
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
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
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
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella

Murtha	Roth	Tauzin
Myers	Roukema	Taylor (MS)
Myrick	Royce	Taylor (NC)
Nethercutt	Salmon	Tejeda
Neumann	Sanford	Thomas
Ney	Saxton	Thornberry
Norwood	Scarborough	Thornton
Nussle	Schaefer	Thurman
Ortiz	Schiff	Tiahrt
Orton	Seastrand	Torkildsen
Oxley	Sensenbrenner	Traficant
Packard	Shadegg	Upton
Parker	Shaw	Visclosky
Paxon	Shays	Volkmer
Peterson (FL)	Shuster	Vucanovich
Peterson (MN)	Sisisky	Waldholtz
Pickett	Skeen	Walker
Pombo	Skelton	Walsh
Porter	Smith (MI)	Wamp
Portman	Smith (NJ)	Watts (OK)
Poshard	Smith (TX)	Weldon (FL)
Pryce	Smith (WA)	Weldon (PA)
Quillen	Solomon	Weller
Quinn	Souder	White
Radanovich	Spence	Whitfield
Ramstad	Spratt	Wicker
Regula	Stearns	Wilson
Riggs	Stenholm	Wolf
Roberts	Stockman	Young (AK)
Rogers	Stump	Young (FL)
Rohrabacher	Talent	Zeliff
Ros-Lehtinen	Tanner	Zimmer
Rose	Tate	

NOT VOTING—6

Chapman	Hefner	Petri
Everett	Mfume	Torres

□ 1715

Messrs. HOLDEN, McHALE, and HILLIARD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was, unfortunately, detained in my congressional district in Baltimore earlier today and thus forced to miss a record vote. Specifically, I was not present to record my vote on rollcall vote No. 76, on the amendment offered by Mr. WAXMAN of California.

Had I been here I would have voted "yea."

AMENDMENTS OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer two amendments and ask unanimous consent that they be considered en bloc and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. HAYES:

In Section 301, in the proposed section 421 of the Congressional Budget Act of 1974, on page 29, line 11, after the period, insert the following: "(12) SIGNIFICANT EMPLOYMENT IMPACT.—The term 'significant employment impact' means an estimated net aggregate loss of 10,000 or more jobs."

In section 301, in the proposed section 424(b)(1)(B) of the Congressional Budget Act of 1974: on page 38, line 11, strike "or"; and on page 38, line 13, after "private sector", insert: "; or (C) significant employment impact on the private sector".

□ 1720

Mr. HAYES. Mr. Chairman, realizing the length to which this bill has proceeded, I will be as brief as I can.

The impact of these two amendments considered en bloc as they appear have impact on sections 421 and 421(b)(1)(b) of the Budget Act of 1974 as follows:

We talk so much about unfunded mandates in terms of money. The word "funding" itself would make us believe that we have got to look at each and every dollar sign.

The fact of the matter is that there are many instances in which the cost to human beings cannot be easily predilected in terms of money accounts.

In my home State of Louisiana, we lost more oilfield workers in the crash of the early 1980's than the entire automobile industry of America lost. So what the gentleman from Louisiana [Mr. BAKER], my colleague, and I have done, in a bill filed in the last Congress, the impact of which is to effect the amendments to this bill in this Congress, is simply add language saying that the significant employment impact on the private sector, under a definitional statement, a net aggregate loss of 10,000 or more jobs is as significant as any amount of money could possibly be.

For that reason, we are simply extending the application to the consideration of the impact of loss of jobs to the American worker.

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana.

Mr. BAKER of Louisiana. Mr. Chairman, I would like first to commend the gentleman from Louisiana for his efforts in this matter and point out that there is one other aspect of this amendment I think most important.

The debate to date has been centered about the effect of unfunded mandates on local and State governments. The effect of this amendment with regard to employment stretches the effect of analysis to go now to the private sector, which I think is very important in all this rush to make sure we are not doing things that are unreasonable.

If we are going to cost American jobs, we should be mindful of the effect, and balance that against the supposed benefit of some new federally mandated rule or regulation.

So the scope and effect of this amendment, I think, is very important in that it assigns a dollar value to the regulations for local governments. But it also assigns a job employment effect for those in private enterprise.

I commend the gentleman for his hard work and cooperation on this matter and hope the House will look favorably on its adoption.

Mr. HAYES. Mr. Chairman, the gentleman from Louisiana [Mr. BAKER], and I, for the last 8 years, have been able to work under what is now called bipartisanship and what we considered a natural kinship for the betterment of the State of Louisiana. I am glad the rest of the Congress is on occasion catching up to the gentleman from Louisiana and I.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding to me. I am pleased to rise in support of the amendment. I think it makes a valuable addition to what we are trying to do here and merely authorizes the committees of Congress to seek information as to what it is going to mean to employment, what kind of impact it is going to have on employment.

It does not affect the point of order, but it does provide valuable information to the committees. I am pleased to support the gentleman's amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding to me.

I would simply like to join in and praise the bipartisan spirit of this amendment and say that I believe that it is right on target and to say to my friend from Louisiana that those of us in the 52-Member delegation from California are in fact learning from the marvelous example that the two gentlemen are setting.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Louisiana [Mr. HAYES].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. DREIER

Mr. DREIER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DREIER: In section 301, in the proposed section 425 of the Congressional Budget Act of 1974, strike subsection (d) and redesignate subsection (e) as subsection (d).

In section 301, in the proposed section 426 of the Congressional Budget Act of 1974, strike: ": *Provided, however,*" and all that follows through the close quotation marks.

In section 301, after such proposed section 426, add the following:

"SEC. 427. DISPOSITION OF POINTS OF ORDER.

"(a) IN GENERAL.—As disposition of points of order under section 425(a) or 426, the Chair shall put the question of consideration with respect to the proposition that is the subject of the points of order.

"(b) DEBATE AND INTERVENING MOTIONS.—A question of consideration under this section shall be debatable for 10 minutes by each Member initiating a point of order and for 10 minutes by an opponent on each point of order, but shall otherwise be decided without intervening motion except one that the House adjourn or that the Committee of the Whole rise, as the case may be.

"(c) EFFECT ON AMENDMENT IN ORDER AS ORIGINAL TEXT.—The disposition of the question of consideration under this section with respect to a bill or joint resolution shall be considered also to determine the question of consideration under this section with respect to an amendment made in order as original text.".

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER. Mr. Chairman, during consideration of H.R. 5 in the Committee on Rules, an amendment to section 426 was adopted that creates a mechanism to allow any Member to make a motion to waive points of order against a mandate in any bill, joint resolution, amendment or conference report that does not include a CBO cost estimate or a means for paying for the mandate.

The language currently in section 426 is preferable to the language in H.R. 5 as introduced for several reasons.

First, it more directly achieves the goal of the authors of H.R. 5 to guarantee votes in the House specifically on unfunded mandates. Second, it does not place undue constraints on the legislative schedule by requiring our Committee on Rules to report two rules every time a decision is made to waive the application of section 425.

Third, it relieves some of the burden on the presiding officer when making a determination with respect to a point of order.

Since H.R. 5 was reported to the House, I have been working with the parliamentarian and a lot of other Members have been working with the parliamentarian on language to address two additional concerns raised by section 426. The language is contained in the amendment that I am now offering, Mr. Chairman.

First, the amendment further reduces the burden on the presiding officer to rule on points of order with respect to not only the existence of a mandate but whether the cost of the mandate exceeds the threshold of $50 million. This will be particularly troublesome in situations where a motion to waive such a point of order is not made.

Second, the amendment addresses a concern raised by a number of my colleagues on the other side of the aisle with respect to the role of the chairman of the Committee on Government Reform and Oversight in advising the Chair about the question of unfunded mandates. Under my amendment, that advice would no longer be necessary.

Essentially, Mr. Chairman, the amendment provides that whenever points of order are raised pursuant to section 425(a) or 426, the points of order shall be disposed of by a vote of the Committee of the Whole.

The question would be debatable for 20 minutes, 10 minutes by the Member initiating the point of order and 10 minutes by an opponent of the point of order.

This also addresses the concern that was raised by our distinguished ranking minority member, my friend, the gentleman from South Boston, MA [Mr. MOAKLEY], who argued that the 10 minutes of debate time contained in the existing section 426 was insufficient.

Mr. Chairman, this amendment is an honest attempt to address a number of the concerns raised by my colleagues on the other side of the aisle. It further clarifies the procedure under which points of order against unfunded mandates are to be enforced in the House.

The amendment should not be controversial, and I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. MOAKLEY TO THE AMENDMENT OFFERED BY MR. DREIER

Mr. MOAKLEY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MOAKLEY to the amendment offered by Mr. DREIER:

In the proposed new section 427, insert the following new subsection (a) (and redesignate the existing subsections accordingly):

"(a) In order to be cognizable by the Chair, a point of order under section 425(a) or 426 must specify the precise language on which it is premised."

Mr. DREIER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MOAKLEY. Mr. Chairman, the Dreier amendment is a major improvement over the text of the bill. I would, however, make one suggestion.

As the gentleman from California [Mr. DREIER] explained to us, his amendment will change the point of order into a question of consideration. But I am worried that there will be no way to ensure that this process is not abused.

So as the amendment now stands, if a Member wanted to avoid a vote, the Member just could raise the unfunded mandates point of order. Once that point of order has been raised, the Chair will have no choice but to put the question of consideration.

There is no way to prevent a Member from making an unfunded mandates point of order, even when there is none.

My amendment makes the Member who is raising the point of order show exactly where the unfunded mandate exists and explain how that language constitutes a violation.

I believe that this amendment to the Dreier amendment will make a very big difference in preventing abuse of the unfunded mandate point of order.

If my amendment is accepted, a Member will not be able to raise a point of order against a measure unless he or she can show that one may exist.

Mr. Chairman, I have had a lot of constructive conversations with the gentleman from California. [Mr. DREIER]. I appreciate his willingness to work with us on this matter.

□ 1730

Mr. Chairman, I hope the gentleman from California [Mr. DREIER] will accept this amendment. Later if we find we have to make further modifications, perhaps we can take those up in conference.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I am glad to yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding.

I have to say, Mr. Chairman, well wonders never cease. The Louisiana delegation has come together. The Committee on rules is coming together. We are working in a bipartisan way in the 104th Congress to deal with many of the challenges that lie ahead of us.

It seems to me that on this issue the burden of proof should in fact lie with the Member raising the point of order. This is a very effective way to address that concern. I strongly support the amendment offered by the gentleman from Massachusetts. [Mr. MOAKLEY] to the amendment I have offered. The gentleman from Pennsylvania [Mr. CLINGER] will be let off the hook with this amendment.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. Moakley. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, that is precisely what I wanted to say. In the legislation presently drafted, the task of determining what was or was not an unfunded mandate would have fallen on the shoulders of the chairman of the Committee on Government Reform and Oversight, and/or perhaps the ranking member of that committee, so I certainly appreciate the fact that this is now going to ensure that this matter will be decided by the House itself. That is the appropriate place for this decision to be made. I am pleased to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MOAKLEY] to the amendment offered by the gentleman from California [Mr. DREIER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. DREIER] as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. MINK OF HAWAII

Mrs. MINK of Hawaii. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. MINK of Hawaii: In section 301, in the matter proposed as section 421(4)(A)(i)(II) of the Congressional Budget Act of 1974, strike "except as provided in subparagraph (B)".

In section 301, in the matter proposed as section 421(4) of the Congressional Budget Act of 1974, strike subparagraph (B).

In Section 301, in the matter proposed as section 422 of the Congressional Budget Act of 1974, strike "or" after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert "; or", and insert at the end the following:

"(8) requires compliance with certain conditions necessary to receive grants or other money provided by the Federal Government in programs for which the States, local governments, or tribal governments voluntarily apply.

Mrs. MINK of Hawaii. Mr. Chairman, I rise to offer this amendment to express my opposition to this legislation because of the many questions caused by the ambiguous, overly broad language contained in this legislation which have not been resolved to my satisfaction.

Mr. Chairman, the debate on this bill has raised many areas of national concern which will be seriously jeopardized by the mandate that all standards and requirements be fully funded or risk the hazard of not being implemented or even repealed.

This debate is a lesson on the critical issues that we have tried to face as a Nation where the Congress has set forth the goals, and sought to make the case for national compliance in a shared responsibility with States and local communities.

This bill provides that unless the Federal Government pays for the cost of implementing these standards and goals on a local level, that these goals are of no force and effect.

The obvious effect of this bill is to reduce the reach of the Federal Government to help fight disease, curb pollution, prevent contamination of our environment, improve educational opportunities, raise the minimum wage, maintain safe places of work, prohibit child abuse, child exploitation, and provide for the poor, the elderly, and the infirm.

We in the minority believe very strongly that the Federal Government has the constitutional responsibility to provide for the general welfare of all citizens of this country and that, accordingly, it has the duty to establish by Federal law, Federal rules of conduct and safety, Federal standards, and Federal regulation that cut across State boundaries because they are safeguards and protections we are sworn to provide to all citizens of this country.

But the sweep of this legislation we are debating is to cut off the establishment of any new Federal responsibility or to expand an existing responsibility unless we are prepared to pay for it totally. the majority explicitly state that their goal is to transform the Federal Government and to reduce its function and authority in all programs, regardless of merit.

When the public realizes what this bill will do in reducing their protections in the areas of health, safety, and educational benefits, I feel confident that they will seek the abrogation of this contract which the majority seeks to impose on an unwilling Nation.

Mr. Chairman, I agree that certain mandates are unreasonable and ought to be revisited, but because you have a problem with your toe is no reason to cut off your foot and cripple yourself for the rest of your life.

My amendment makes clear that this bill does not affect any program which is voluntary. If the Federal Government sets out its goals, and invites the States and local entities to participate with the lure of funding, it is clearly voluntary and should not be covered by any bill which deals with mandates.

Yet this bill is unclear exactly where it draws the line as to what is voluntary and what is not.

My amendment seeks to make explicitly clear that no voluntary program entered into by the States and local communities can be converted into a mandate because it costs more than $500 million. If a program was voluntarily entered into by the States and local communities, the fact that it now costs the Federal Government to implement it does not convert it into a mandate.

Section 301 of H.R. 5 includes voluntary entitlements. Why? Strictly because it costs the Federal Government more than $500 million. Why should costs convert what is voluntary into a mandate? An entitlement is a mandate on the Federal Government.

It does not mandate participation on the part of the States. No State is required to participate in a voluntary entitlement program. It chooses to do so on its own, voluntarily, and when it chooses to participate, it agrees to the basic guidelines set forth in the law.

Mr. Chairman, AFDC is a classic example. The range of voluntary participation can be easily demonstrated by just looking at the range of benefit payments: $120 a month to a family of three in Mississippi, $624 a month to a family of three in California. There is no uniform benefit payment. AFDC is clearly and unequivocally a voluntary program, yet it is covered by this legislation as an unfunded mandate because it costs the Federal Government more than $500 million.

Mr. Chairman, this same argument applies to all the other voluntary entitlement programs. I urge this House to support my amendment and make clear that this bill does not cover voluntary programs whatsoever.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

Mr. Chairman, we have, as we know, eliminated or exempted voluntary programs and those that would have conditions as part of a grant, but when we are talking about exempting out an entire Medicaid Program, which is one of the largest programs we have, I think it would be very remiss of us not to at least consider what the cost of that would be, and to at least have some accounting of what the cost would be. This, again, would be a massive exemption from the provisions of this bill. Again, it would not affect the bill, but it would clearly call into account what we are doing here and make it very difficult for us to go forward.

Mr. Chairman, I would oppose the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Hawaii [Mrs. MINK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mrs. MINK of Hawaii. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 121, noes 310, not voting 3, as follows:

[Roll No. 77]

AYES—121

Abercrombie	Gibbons	Nadler
Ackerman	Green	Oberstar
Barcia	Gutierrez	Obey
Beilenson	Hall (OH)	Olver
Bentsen	Hastings (FL)	Owens
Berman	Hilliard	Pastor
Bishop	Hinchey	Payne (NJ)
Bonior	Holden	Pelosi
Brown (CA)	Hoyer	Rangel
Brown (FL)	Jackson-Lee	Reynolds
Brown (OH)	Jacobs	Rose
Bryant (TX)	Jefferson	Roybal-Allard
Cardin	Johnson, E. B.	Rush
Clay	Johnston	Sabo
Clayton	Kanjorski	Sanders
Clement	Kaptur	Sawyer
Clyburn	Kennedy (MA)	Scott
Coleman	Kennedy (RI)	Serrano
Collins (IL)	Kildee	Stark
Collins (MI)	Klink	Stokes
Conyers	LaFalce	Studds
Coyne	Lantos	Stupak
Dellums	Levin	Thompson
Dicks	Lewis (GA)	Torres
Dingell	Lofgren	Torricelli
Dixon	Maloney	Towns
Doggett	Manton	Traficant
Doyle	Martinez	Tucker
Engel	Mascara	Velazquez
Eshoo	McCarthy	Vento
Evans	McDermott	Ward
Farr	McKinney	Waters
Fattah	McNulty	Watt (NC)
Fazio	Meek	Waxman
Fields (LA)	Menendez	Williams
Filner	Mfume	Wise
Flake	Miller (CA)	Woolsey
Foglietta	Mineta	Wynn
Ford	Mink	Yates
Furse	Moakley	
Gephardt	Mollohan	

NOES—310

Allard	Bass	Browder
Andrews	Bateman	Brownback
Archer	Bereuter	Bryant (TN)
Armey	Bevill	Bunn
Bachus	Bilbray	Bunning
Baesler	Bilirakis	Burr
Baker (CA)	Bliley	Burton
Baker (LA)	Blute	Buyer
Baldacci	Boehlert	Callahan
Ballenger	Boehner	Calvert
Barr	Bonilla	Camp
Barrett (NE)	Bono	Canady
Barrett (WI)	Borski	Castle
Bartlett	Boucher	Chabot
Barton	Brewster	Chambliss

Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manzullo
Markey
Martini
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Becerra
Coburn
Crane

□ 1756

Mr. GEJDENSON, Ms. SLAUGHTER, and Mrs. LOWEY changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON: In the proposed section 421(a)(4)(ii) of the Congressional Budget Act of 1974 insert "or the amount of appropriations" after "appropriations".

In the heading for the proposed section 424(a) of the Congressional Budget Act of 1974, strike "OTHER THAN APPROPRIATIONS BILLS AND JOINT RESOLUTIONS".

In paragraphs (1) and (2) of the proposed section 424(a) of the Congressional Budget Act of 1974, strike "of authorization".

In the proposed section 425(b) of the Congressional Budget Act of 1974, insert "(2)" after "(a)".

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would impose the same information requirements with respect to unfunded mandates on appropriations bills as H.R. 5 requires for authorizing legislation.

Even if we are not going to prohibit consideration of appropriations bills which contain unfunded mandates we should at least, Mr. Chairman, require that they be submitted to CBO for an estimate of the cost of any unfunded mandates they may contain. Otherwise we will be making appropriation bills a magnet for authorizers attempting to circumvent the requirements imposed on their own bills.

I personally have some reservations about the practicality of CBO-produced estimates of Federal mandates in legislation. It is a good idea in concept, but we are likely to see problems in its implementation, at least for a while. But if we are going to require such cost estimates for authorizing bills we ought to require them for appropriations bills as well.

It is easy to imagine a situation where members of authorizing committees, frustrated that they are unable to get a cost estimate from CBO on a timely basis, or are unwilling to do so because they know how the figures will turn out, go to the Committee on Appropriations and persuade a majority of members there to add the legislation to the appropriations bill.

□ 1800

It is also easy to imagine members of the Committee on Appropriations inserting legislation into their bills that the authorizing committees will not act on. It is easy to imagine these scenarios, because they have happened frequently in the past for other reasons. When an authorizing committee is unable to move a piece of legislation under its jurisdiction for whatever reason but wants to enact a programmatic change, the authorizing members often persuade the appropriators to include the legislative language in one of their bills.

Likewise, appropriations members who cannot get a legislative provision they want through an authorizing committee have been known to put it in an appropriations bill.

Subjecting authorizing bills but not appropriations bills to cost estimates for mandates would give Members an additional reason, potentially a very powerful one, to try to use the appropriations process to enact legislation.

The chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], has argued that using the appropriations process to circumvent the unfunded-mandate requirement will be difficult because the Committee on Rules will not waive clause 2 of rule XXI, the prohibition on legislation in an appropriations bill. However, there will be times that the Committee on Rules will be under enormous pressure to waive that rule, and if the Committee on Appropriations does not have a determination from the CBO as to whether there are unfunded mandates in the bill, the Committee on Rules will have no way of knowing whether waiving rule XXI will also result in sending an unfunded mandate to the floor.

Subsequently, if the House votes to waive rule XXI, the House could find itself voting on an unfunded mandate without knowing it is doing any such thing.

Furthermore, no matter how well we adhere to our prohibition in an appropriations bill here in the House, we have no control over what the Senate will do in this regard. We may well find that in conference on appropriations bills House Members will be under enormous pressure to accept legislative provisions containing unfunded mandates inserted by Members of the other body.

In sum, Mr. Chairman, if we fail to ask of appropriations bills what we are asking of authorizing bills under this proposed legislation in the way of information requirements, we will be tilting the balance of power among our committees away from authorizers and toward the appropriators, and we will have created a significant loophole in this legislation. We can avoid doing both to a great extent by adopting this amendment.

I urge support for it. I think it is an eminently reasonable amendment. I think it makes all the sense in the world, and I urge Members to support it and vote for it.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment essentially repeals the exemption in the

bill for the appropriations bills, as my friend has said. Contrary to the argument that has just been provided, there really is no loophole. There clearly is no loophole.

Any unfunded mandate in an appropriations bill would constitute legislating in an appropriations bill and would, therefore, alone be subjected to a point of order. So it is open to a point of order that conceivably could be raised.

Even if the Committee on Rules reported a rule that waived this point of order, an amendment to strike the unfunded mandate would always be in order unless it were a completely closed rule. Those of us on this side who are in the majority now do not plan to continue this pattern we have seen in the past of closing down rules.

So it seems to me that this amendment really does not do anything to effectively address the issue we are trying to get at here. There is really no need to proceed with this, and I hope very much that we will be able to reject this duplicative amendment which is already addressed in the standard operating rules of the House of Representatives.

Mrs. COLLINS of Illinois. Mr. Chairman, I move to strike the last word.

Mr. Chairman, why is this change so important? Well, the House is about to embark on some drastic cost-cutting measures including rescissions and elimination of programs through the regular appropriations process. Already the Committee on Appropriations is working on two rescissions bills that will soon be considered on this floor. We must make sure that we know whether these cuts will shift the cost burdens to State and local governments, and if they do, we must apply the procedures of H.R. 5 to those bills.

No proponents of this legislation have given a reason why appropriations bills are not covered by H.R. 5. Just as important are conference reports on appropriations bills that come back from the other body with all sorts of authorizing legislation attached.

If a conference on an appropriations bill contains an unfunded mandate, why should not H.R. 5 apply?

Now, Mr. Chairman, we all know that provisions can be attached to continuing resolutions and reconciliation bills. They should all be included in the scope of this legislation. But in order to accomplish this, we must first amend the definition of Federal intergovernmental mandate in section 421(4). That definition currently includes only bills that decrease authorization of appropriations and not appropriations bills themselves.

Therefore, CBO is not required to perform any cost analysis on appropriations bills even though those bills may drastically cut funds for State and local governments used to pay for Federal mandates.

The goal of full and open debate on the cost of legislation cannot be met if appropriations bills, including rescissions, are not included.

Now, the Republican leadership has been talking of consolidating many costly Federal assistance programs and, instead, providing block grants to States. This, they promise, will save money, because fewer dollars will be needed. I want to tell you that I am skeptical. I fear that, instead, these unfunded mandates will be passed on to the States. That is why we need to closely scrutinize each appropriations and rescission bill that comes to the floor and to apply the proceeds of H.R. 5 to stop any unfunded mandates.

I urge the adoption of this amendment.

Mr. MOAKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Beilenson amendment.

As we have heard over the past few days, the unfunded-mandate legislation is a far-reaching effort to alter the way the Federal and State governments relate to each other on a wide range of regulatory matters. There is certainly room for improvement in this relationship.

The fact is, we used to do a better job of listening to each other and sharing responsibility for the standards we set. I think we should bring back a better balance to the system. But it seems to me that the legislation which we are considering here today contains a very large loophole. It does not extend the CBO information requirements to appropriations bills.

I am at a loss to understand why. This is a very significant part of our legislative process, and this was omitted from the legislation. When we raised the issue in the Committee on Rules, the only response from the authors of the bill is that they did not want to offend the members of the Committee on Appropriations.

Mr. Chairman, I believe that extending the reporting provisions to appropriations bills so that we have information on any unfunded mandates they may contain would close a glaring loophole and provide a very valuable addition to this bill.

Mr. Chairman, to be fair and to be comprehensive in our desire to address the legitimate financial concerns of the States and localities, we need to extend the provisions of H.R. 5 to appropriations legislation, and I urge my colleagues to support the Beilenson amendment.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I am happy to yield to the gentleman from California.

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would simply like to say that as we look at the Committee on Rules' relationship to the appropriations process, for the past several years we have seen restrictions imposed on the appropriations bills and waivers granted and all, but before that, that really did not happen, and I believe very sincerely that in this 104th Congress we are going to be able to get back to the point where we are not imposing those kinds of constraints on consideration of appropriations bills.

Also, I have to add that when I had the privilege of serving with the gentleman from Indiana [Mr. HAMILTON], cochairing our Joint Committee on the Organization of Congress, I was just reminded, throughout that hearing process I said the greatest reform that we could possibly implement in this institution would be to simply comply with the standing rules of the House. That is all we are saying right now.

The amendment offered by the gentleman from California [Mr. BEILENSON] tragically is based on the assumption that we are going to be waiving the rules of the House again. We would like to think, it is not ironclad, but we would like to think in most cases we will, in fact, be able to look at that as a thing of the past.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I have several problems with the logic there. First of all, arguing that something should not be included because it is not necessary, if there is any ambiguity, it seems to me a weak argument. None of those arguing in opposition said it would do any harm. They said it is not necessary.

In other words, we are getting the argument from literary elegance, not from logic.

Let us not be redundant. Fortunately the rule against redundancy does not apply to our speeches, or we would be in better shape.

On the other hand, there is a reason to apply this here. Among other things, we are not the only institution in this capital that treats appropriations legislation. Yonder lies the Senate. They have no such rule.

We have sometimes been confronted, as the gentleman understands, with situations in which, in conference, we have had to agree to that. So to argue that we should not put something into a statute which is intended to last indefinitely, because we have a House rule provision that does the same thing, is no argument at all.

□ 1810

If you are serious about the principle, then the fact it is in the House rule is a good idea, but hardly a sufficient protection. Putting it in the statute does no harm and arms us against a Senate where there is no such rule whatsoever.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

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Mr. DREIER. I thank the gentleman for yielding.

Mr. Chairman, as my colleague knows, over in the other body they regularly have opportunities with motions to strike. So clearly this issue can be addressed there.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

Now, I am surprised because the gentleman has not said that all the time we spent on the unfunded mandates was a waste, because he is saying in effect we do not need an unfunded mandate bill, all we need is not to vote on unfunded mandates.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has expired.

(On request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. MOAKLEY was allowed to proceed for 1 additional minute.)

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding further.

Mr. Chairman, this is astonishing. What the gentleman is saying is we do not need any of this because if a motion comes up in a bill that has an unfunded mandate we defeat it. Has this been a charade? No, it has not been a charade. I mean, is the contract unnecessary? Is this superfluity? How can you argue that we do not need this whole bill and argue that we do not need this amendment because, after all, if it comes up we will vote it down. That stands the whole process on its head.

I am surprised that the gentleman thinks that the whole thing we are talking about is illogical. Given the logic of a need for an unfunded mandates bill, applying it to appropriations bills makes the most obvious sense. The gentleman from California [Mr. BEILENSON] is correct.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from California.

Mr. DREIER. I thank the gentleman.

Mr. Chairman, beyond the standing rules of the House, on which we have had a pattern of waivers over the past several years, and this measure, what else would be necessary to ensure that we do not proceed with imposition of an unfunded mandate? I am just saying at what point? We have concluded that the rules of the House are not enough. I happen to think they are.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MOAKLEY] has again expired.

(On request of Mr. FRANK of Massachusetts and by unanimous consent, Mr. MOAKLEY was allowed to proceed for an additional 30 seconds.)

Mr. MOAKLEY. I yield further to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman.

Mr. Chairman, the rules of the House are not enough, I would say to the gentleman very simply, when we are dealing with a matter which includes the U.S. Senate. That is not hard. The rules of the House do not bind the Senate, they do not impress the Senate, and if you are serious about this you do it by statute.

Mr. DREIER. The rules of the House are not enough, and people who were formerly in the majority have had a pattern of constantly waiving them.

Mr. PORTMAN. Mr. Chairman, I move to strike the requisite number of words.

Just briefly, Mr. Chairman, in response to the point of the gentleman from Massachusetts [Mr. FRANK], No. 1: In the Senate debate on this the Senate did agree to a Senate procedure which handles the appropriations issue. So Mr. FRANK will take comfort from that, I am sure.

It is in a sense a line item in the appropriations bill on the Senate side. So that point is not necessary.

Second, this legislation is in fact not only necessary, but as we have seen over the last week in debating it, there is a crisis out there in terms of us sending unfunded mandates to States and localities.

If we do not get at it at the authorizing committee level, we will be in a situation where in a balanced budget environment we are increasingly pushing our costs down to the local level. So the legislation is absolutely necessary.

Mr. DREIER's concerns are well-stated. Why have another point of order? We already have a point of order. Why have a duplication of a second point of order on appropriations bills? If you are legislating on an appropriations bill, there can be a point of order raised. That is all we are saying. We just do not need it. The language in the bill makes it very clear that at the authorizing committee level you have to consider the costs. Then on the floor of the House there is a point of order raised if the mandate is not funded. At the appropriations level there is always a point of order if you go beyond what the authorizing committee has done.

So in point of fact, by definition there is a point of order for both situations, and I think this legislation should not be duplicative. We should not go out of our way to go back and make rules that are not necessary.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. BEILENSON

Mr. BEILENSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BEILENSON: Amend section 425 of the Congressional Budget Act of 1974 to read as follows:

SEC. 425. POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order in the House of Representatives or the Senate to consider any bill or joint resolution that is reported by a committee unless the committee has published the statement of the Director pursuant to section 424(a) prior to such consideration, except that this paragraph shall not apply to any supplemental statement prepared by the Director under section 424(a)(4).

(b) LIMITATION ON APPLICATION TO APPROPRIATIONS BILLS.—Subsection (a) shall not apply to a bill that is reported by the Committee on Appropriations or an amendment thereto.

Strike the proposed section 426 of the Congressional Budget Act of 1974 and strike the reference to such section in the amendment made by section 304.

Mr. BEILENSON. Mr. Chairman, the amendment I am offering would eliminate the bill's prohibition on consideration of legislation containing an unfunded mandate on State and local governments.

This amendment goes to the heart of what makes this bill so troublesome and problematic: The prohibition it establishes against considering legislation that contains an unfunded mandate on State and local governments of more than $50 million annually. It is clear from the debate we have had thus far that we do not know enough about the likely impact of such a rule to institute it at this time.

We do not know how an unfunded mandate will be determined, how different types of Federal activities will be affected, and whether the Congressional Budget Office will be capable of assessing the costs of a proposal to State and local governments accurately and in a timely fashion. It seems unwise, to say the least, to prohibit consideration of a certain type of legislation when we really do not know what legislation we will be prohibiting.

Supporters of H.R. 5 have portrayed the proposed rule as a rather benign procedure that will not prevent Congress from enacting any legislation we want to enact. They have said that it is not a "no money, no mandates" rule; they have said that all it will do is help us make more informed decisions about legislation which would impose an unfunded mandate, and be more accountable for those decisions.

But that, in fact, is not the case. If this rule were as benign as some of its proponents claim, the sponsors would not have exempted legislation dealing with civil rights, or national security, or emergencies. They would not have exempted appropriations bills. They would not have agreed to amendments offered by Democratic Members to exempt Social Security and antidiscrimination measures for older Americans.

Their support for exemptions for certain types of legislation is a tacit admission that this new prohibition does in fact have the potential to be a serious obstacle—if not a complete barrier—to enactment of certain types of legislation.

If you consider what this new rule means, and how it will work, you cannot help but reach the conclusion that it will make it enormously difficult, if not impossible, to enact legislation imposing a requirement that could be determined to be an unfunded mandate. And that would effectively stop us from enacting legislation promoting clean air, clean water, public health, child safety, labor standards, and a whole host of other activities which the vast majority of Americans support.

Let us look at how the process will work:

If a bill containing an unfunded mandate, as determined by CBO, is reported from a committee, or if a Member wants to offer a floor amendment that contains an unfunded mandate, the legislation in question cannot be protected by a waiver included in the rule providing for the bill's consideration. This, by the way, is the only case where the Rules Committee will not be allowed to include a waiver of a point of order in a rule. No other rule of the House is treated this way.

Instead, any Member will be able to make a point of order against any legislation which he or she knows, or suspects, may contain an unfunded mandate. Following that, the Chair would put the question of consideration.

If this rule does not make it impossible to pass legislation containing an unfunded mandate, it certainly will make it almost impossible. Certainly committees will avoid reporting legislation which has been judged by CBO to contain an unfunded mandate—no matter how worthy the purpose may be—to avoid subjecting the bill to a vote which is almost certain to fail.

Thus, contrary to what many of this bill's supporters say, the practical effect is that it is a "no money, no mandate," bill.

In cases of amendments, we may not know if the legislation contains an unfunded mandate and, if so, how serious the violation is. Yet we will be required to vote on the question of consideration. That does not make any sense, and it puts Members in the very difficult situation of having to make a decision and cast a vote on the waiver without the information we would need to make that decision.

Proponents of the legislation say that this procedure will encourage Members to get cost estimates for their amendments ahead of time. But the fact is, it is going to be very difficult for CBO, even with the extra resources they will get under this bill, to assess the costs of mandates on the more than 87,000 State and local governments for committee bills. It will be next to impossible to assess those costs for individual Members' amendments. It will be completely impossible to assess them in the middle of floor debate. So, by adopting this new point of order, we will be setting ourselves up for some very difficult situations on the House floor, to put it mildly.

There are cases where it makes sense for us to prohibit consideration of certain types of legislation. One good example is our point of order against tax or entitlement legislation which would increase the deficit. That makes sense because it is an enforceable rule and because it is relatively easy for CBO to determine whether legislation will have that effect. But establishing a rule against consideration of legislation containing unfunded mandates is far more problematic.

For all of these reasons, it would be wise for us to drop the prohibition on consideration of legislation containing unfunded mandates at this time. We ought to give CBO some time to get some experience in defining unfunded mandates, and determining their costs before we use those determinations as a basis for banning the consideration of legislation, and setting up a process that could create some real procedural problems for the House.

□ 1820

If what we really want from this legislation, as has been stated repeatedly during this debate, is information and accountability with respect to our actions regarding legislation containing unfunded mandates, we can achieve that by requiring CBO to determine whether reported bills contain an unfunded mandate and requiring the committees to include that information in reports accompanying the reported bills. This amendment would maintain the prohibition on consideration of committee reported legislation if the committee fails to include a CBO analysis of the cost of the mandate.

So, Mr. Chairman, so long as we have that information available to us, it will become part of the debate. We will know that by voting for the measure we are acting to impose an unfunded mandate. We will be accountable for that vote, but we will not have stacked the deck against enactment of such legislation to the extent that the bill currently does. We will not have tied our hands with respect to responding to as yet unknown problems that may emerge in the future.

This amendment will enable us to achieve the fundamental purpose of this bill, knowing the cost of mandates we are imposing and thus making us accountable for our vote, as we shall be, without making it all but impossible to enact important environmental, health and safety legislation, and I urge our colleagues to support the amendment.

Mr. DREIER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, unfortunately this amendment really does not allow us to address the issue of payment, and, first, it only establishes a point of order for failure to include a CBO analysis in the committee report. Under H.R. 5 a point of order also exists if the bill does not provide for a way to pay for the mandate. Actually getting the cost information is needed not only to provide information, but to determine how much is necessary to pay for the mandate.

It seems to me that this is completely unnecessary, and I am going to urge my colleagues to oppose the amendment.

Mr. MOAKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by my good friend the gentleman from California [Mr. BEILENSON]. I believe that his amendment establishes a point of order which is far more appropriate than what is currently contained in this bill. Under this procedure, CBO would be required to provide detailed information on the potential cost that any unfunded mandate in proposed legislation would have on State and local governments as well as on private businesses. The point of order would not apply, however, to the consideration of legislation containing an unfunded mandate.

By including a point of order against consideration of mandate legislation we would effectively create a "no money, no mandate" bill. It would be next to impossible to get Members to cast an explicit vote to impose an unfunded mandate. I believe that it is valuable for Members to have the ability to make informed decisions on whether the particular Federal mandate's benefit outweighs the financial burden that might be incurred due to the legislation. However, it seems to me that we do not want to jeopardize the opportunity of the House to decide whether to consider a legislation proposal without an appropriate amount of deliberation and debate.

Under this procedure proposed by Mr. BEILENSON, legislation containing mandates important to our Nation would still be able to move forward for consideration by the Congress. The CBO information would provide members with an upfront assessment of the costs of the legislation being considered. Members could then decide by comparing the merits of the bill with the impact of the burden on non-Federal entities. I urge my colleagues to join me in support of this constructive amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BEILENSON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 138, noes 291, not voting 5, as follows:

[Roll No. 78]

AYES—138

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rangel
Reed
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wynn
Yates

NOES—291

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
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
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Becerra
Crane
Frank (MA)
McDermott
Rose

□ 1842

Mr. LIVINGSTON changed his vote from "aye" to "no."

Mr. BEVILL changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title III?

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment, amendment No. 99.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MORAN: In the proposed section 421(4) of the Congressional Budget Act of 1974, add after and below subparagraph (B) the following:

A mandate which would apply an enforceable mandate equally on State, local, or tribal governments and the private sector shall not, for purposes of section 425(a)(2), be considered a Federal intergovernmental mandate.

Mr. MORAN. Mr. Chairman, the purpose of this amendment is to treat the private sector in the same way that we treat the public sector. It is as simple as that. It only takes up one paragraph.

The basic problem it gets at is that this piece of legislation has a fundamental flaw. On the very first day of this session, we passed legislation that said that every law that applies to private citizens ought to apply to the Federal Government as well, particularly to the U.S. Congress. But now this piece of legislation would say that every law that applies to private citizens and private businesses will not necessarily apply to State and local governments and that, in fact, it intends to exempt State and local governments from complying with many of the safeguards and the standards that will continue to be imposed upon private citizens and private businesses.

The purpose of this amendment is to say that is not fair. We ought to treat the private sector in the same way that we treat the public sector.

Ironically, the point of order provision in this legislation will end virtually all of our privatization efforts. It has that potential, Mr. Chairman.

There is nothing wrong with the point of order that says that if we do not know the cost of legislation that is being imposed on State and local governments and private businesses, then that legislation ought to be subject to a point or order, because no longer ought we to pass the bill and then pass the buck to others to pay for it. But that point of order that requires a fiscal impact analysis makes sense, because it relies upon this Congress to exercise its judgment to determine whether or not the intent of the legislation is worth the imposition that it will impose on state and local governments and businesses.

That is necessary. The vast majority of the Members of this Congress last year cosponsored legislation that would do that.

This bill goes one step further. I think one step further that flaws the intent of the bill and will create unintended consequences that will haunt us for years to come, because it says that if there is not 100 percent funding for legislation, then there is no mandate.

In effect, if the appropriations committees pass an across-the-board cut, that will trigger the option for States and localities to determine whether or not they want to implement legislation.

Now, let me give Members some examples of the specific problem areas this will create. There are 16 million public employees. If, for example, we were to increase part B hospital insurance premium under Medicare, which

may well have to be done to make that program solvent, we would not be able to fund it. We should not have to fund it. But it will make it optional for all 16 million public employees, all of the thousands of public entities that employ those employees, whether or not they want to come up with the premium.

I cannot imagine any of them voluntarily paying that premium, which means that the 100 million private employees will not only have to pay their share of that Medicare increase, they will also have to make up for the fact that 16 million public employees do not have to pay for it. That is the problem we are trying to get at.

We have 1,800 municipal power plants, almost 1,000 rural electric cooperatives who will be exempt from meeting new Clean Air Act requirements.

□ 1850

The CHAIRMAN. The time of the gentleman from Virginia [Mr. MORAN] has expired.

(By unanimous consent, Mr. MORAN was allowed to proceed for 2 additional minutes.)

Mr. MORAN. Mr. Chairman, there are 226 investor-owned power companies. They will have to abide by every single new air quality standard, even though they generate 75 percent of the power in this country, whereas those municipal power plants will not have to. That is the unfair treatment we are creating.

Mr. Chairman, if we enact this legislation in its present form, we are going to take a step backward, backward to a situation that is really analogous with the Articles of Confederation. From about 1781 to 1787 we gave almost complete discretion to all the States. It did not work. There had to be national standards. This says there no longer have to be national standards.

Mr. Chairman, I appreciate the efforts that have been made by my friends on the other side to study this legislation, but the problem is that studying it, exposing it, even understanding it, does not rectify it. This amendment rectifies it.

Mr. Chairman, this amendment says that where we have Federal activities that are carried out by both the public and the private sector, we have to treat them equally; that in fact we cannot give an option to States and localities whether or not they want to comply with standards. It still requires that we know exactly what the cost of implementation is, but it leaves it to our judgment whether or not we want to pass that legislation.

Mr. Chairman, obviously it does not apply to any programs that are completely Federal programs, like Medicaid. SSI is a public program, the Women, Infants, and Children Program, any number of these entitlements. Those are all public programs. We are only talking about programs that apply to both the public and private sector.

Mr. Chairman, I think this is a terribly important amendment that this body needs to support and pass.

Mr. CLINGER. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this might be deemed the mother of all exemptions, because there is a very real possibility here that many amendments can be deemed to have application to both public and private entities. This would in effect say that anyone that had equal application, both private and public, would be exempt from the provisions of this bill. That sweeps in many, many of the exemptions that have already been dealt with here tonight.

Mr. Chairman, this is, as I say, the mother of all exemptions. I think exempting this class of mandates would preclude Congress from having the Congressional Budget Office cost estimates for these requirements. Further, it would deny the ability of Congress to have a separate vote on whether or not to consider these amendments.

The gentleman talked about some of the things, horrendous things that could occur with this. We are just saying we need to consider these on a case-by-case basis; that we should take a look at it, and in fact there are serious competitive disadvantages built into it. I think that would determine the response we might well make.

However, to say that we are going to exempt them flat out, across the board, without that kind of case-by-case analysis, I think would be wrong.

Mr. Chairman, I would point out that H.R. 5 already requires committee reports to include a statement analyzing the degree to which the Federal mandate affects each of the public and private sectors, and the extent to which Federal payment of public sector cost would affect the competitive balance between States, local governments, or tribal governments, and the private sector. This is something that we have never had before. We have never had the ability or never had the requirement that this kind of analysis be done, as to how it affects the competitive balance between the governmental entities and the private sector.

Mr. Chairman, language was crafted in very careful consultation with the U.S. Chamber of Commerce, the National Federation of Independent Business, Browning-Ferris Industries, and other groups who may well be in a competitive situation with public sector entities. but they have all endorsed H.R. 5 as presently structured.

The point is that Congress, as a result of this legislation, is going to have more information as to the costs of private sector mandates, and I believe this is just the first in what are going to be a series of efforts in Congress we are going to make over the next few months to address the very pressing need for regulatory reform.

We cannot solve all of those issues in one fell swoop, but I do consider this amendment to be a weakening one. In fact, I consider this to be one that would be so sweeping in its potential application as to render the bill really useless.

Miss COLLINS of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend, the gentlewoman from Michigan, for yielding to me.

Mr. Chairman, in response to the gentleman from Pennsylvania [Mr. CLINGER], let me say and emphasize this does not exempt every program that is carried out by both the public and the private sector whatsoever. All it says is that the opt-out provision would no longer be included in the legislation. There are any number of other provisions that apply.

We still have a bill that addresses unfunded mandates, a bill that every single State and local organization in the country that I am aware of supported, a bill that the Chamber of Commerce supported, that the Federation of Independent Businesses supported, the National Association of Manufacturers.

Mr. Chairman, we have written support from all of those organizations. In fact, I have a letter from Browning-Ferris objecting to this provision.

Mr. Chairman, my point was not that we should exempt any of this legislation. My point is that we are going too far in including the opt-out provision. The gentleman is aware of so many privatization efforts that are working so well.

In fact, we got a letter from the National School Transportation Association. They pointed out that in Connecticut 90 percent of the buses are operated by private companies. Any Federal law or regulation that applies to the operation of those bus companies would continue to be imposed on that private company, but would not on municipalities, and there is no question that all of these school districts are going to take back the operation of those buses, because it will eventually become uncompetitive.

Mr. Chairman, all we are trying to do is to say the private sector ought to be able to compete with the public sector in areas that are appropriate. If we do not pass this amendment, they cannot, because the public sector can opt out. The private sector does not have that option. Mr. Chairman, these standards would continue to be imposed upon them.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, just to clarify, the gentleman keeps talking about the opt-out provision. What is the opt-out provision in H.R. 5?

Mr. MORAN. Mr. Chairman, if the gentlewoman will continue to yield, the opt-out provision is that if there is not complete funding for a program, a Federal activity that would be considered on the floor of the House, then States and localities have the option of not implementing.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will continue to yield, that is an incorrect representation of the bill. What the bill says is that there is a point of order to be raised if the mandate is not funded. Congress can always act by a majority vote to waive that point of order. It is not an opt-out provision for State and local government.

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield further, the point is the gentleman is assuming that we will overturn the point of order. Every time we raise these issues, if the gentleman's answer is, we are going to overturn the point of order, what we are saying, let us not create that situation in the first place. It is a fundamental flaw.

Mr. PORTMAN. Mr. Chairman, if the gentlewoman will yield further, I would hope we would not override the point of order in every case. I would hope Congress would in an informed way be able to look at the issue of public-private. That was the purpose of an amendment offered earlier today by the gentleman from California [Mr. CONDIT] and myself.

The committees have the responsibility, the requirement under this bill to look at the very issue the gentleman is discussing. As the gentleman knows, they have three things they can do. They can either not fund the public mandate, they can either have the mandate apply equally to both parties, or they can not apply the mandate to the private sector, so there is an explicit provision in this legislation to get at the very issue that is addressed.

Miss COLLINS of Michigan. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I appreciate the point the gentleman from Ohio [Mr. PORTMAN] makes. The problem is that all he does is to require that we look at the situation after we have passed this legislation. That is the problem. We do not want to create a situation that we subsequently have to undo.

In the National League of Cities publication this week, it tells States and localities, it is obviously very pleased with this legislation, but it tells States and localities, and I want to make sure that the ranking Democratic member of the Committee on Appropriations is listening, it tells States and localities that in the future, any Federal program that is not an individual entitlement for full funding will become optional to States and localities. They will not have the requirement to carry it out.

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, does the gentleman believe that is an accurate representation of the legislation?

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has expired.

(At the request of Mr. PORTMAN and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

Mr. PORTMAN. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Ohio.

□ 1900

Mr. PORTMAN. Does the gentleman believe that is an accurate representation of the legislation?

Mr. MORAN. I would tell the gentleman from Ohio that the National League of Cities represents more than 16,000 local jurisdictions. This is their understanding of legislation that affects them more than any other group.

Mr. PORTMAN. Is the gentleman's understanding correct?

Mr. MORAN. That is what they are being told and they are citing conversations that they have had with the proponents of the bill. So that is their understanding.

Mr. PORTMAN. That representation is not accurate. As you know, the legislation is very clear, we have now talked about it for a week. It does provide a point of order if the new mandate is not funded. This bill is only prospective, as we know. The bill would not apply to any existing mandate, and it provides a point of order on the floor of the House absolutely. That is the whole idea. But the representation from the League of Cities or even your earlier characterization of the bill just are not what we have here before us today on H.R. 5.

Mr. MORAN. You are correct if you can assume that we will overturn points of order consistently when they are raised.

The CHAIRMAN. The time of the gentlewoman from Michigan [Miss COLLINS] has again expired.

(At the request of Mr. OBEY and by unanimous consent, Miss COLLINS of Michigan was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Miss COLLINS of Michigan. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to vote for this bill if the Moran substitute is adopted tomorrow, but frankly I am still concerned about the point the gentleman is trying to make, because I do not want to create the possibility of creating additional entitlements when we are supposedly telling the country we are in the business of shaving them back.

Would the gentleman walk through for the House again how in your view without your amendment and without the amendment you are going to be offering tomorrow as well, how this, in fact, does create an unintentional entitlement, if the Committee on Appropriations, for instance, were to cut back by passing an across-the-board cut?

Mr. MORAN. Mr. Chairman, if the gentlewoman will yield, I will be happy to do that. I thank the gentleman from Wisconsin for raising that issue.

The legislation says that if there is any reduction from the amount that is authorized to be appropriated for any Federal activity we pass on the floor, if there is any reduction, that triggers the option for States and localities whether or not they want to implement it.

There is another alternative. If in that legislation the authorizing committee specifies that the Federal agency, the executive branch, has the option of paring back the program, choosing what activities they want to conduct and which they do not, it gives that kind of prerogative to the executive branch to decide what part of an authorization they choose to implement and how they want to cut it back if there was such an across-the-board cut in the appropriations bill.

Mr. OBEY. Does the gentleman believe that under this procedure there would in fact be built into the process an incentive against cutting spending under those circumstances?

Mr. MORAN. I think it will preclude the Committee on Appropriations from exercising its discretion on domestic discretionary programs in the same way that it lacks discretion on entitlement programs today.

Mr. OBEY. I thank the gentleman.

Mr. McINTOSH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this issue came up in our committee meeting and at the time I indicated that I have a great deal of sympathy with the problem that was created here or the potential problem that the private sector enterprises would be put at a disadvantage if they were not put on the same playing field as the public sector. But I do think that this remedy to that problem is much too extreme and goes too far in gutting the basic provisions of this bill.

What I would propose and would like to do is work with my colleague, the gentleman from Virginia, on addressing this issue in H.R. 9 or other appropriate legislation to grant many of the same protections to the private sector that would be available to their public

sector competitors, so we can move forward with unfunded mandate legislation that is real legislation and real reform and yet at the same time make sure that we do not put the private sector at a disadvantage.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. McINTOSH. I yield to the gentleman from Virginia.

Mr. MORAN. I thank the gentleman, my colleague on the Committee on Government Reform and Oversight, for yielding.

Mr. Chairman, I noticed that the gentleman from Indiana [Mr. McINTOSH] had a amendment that would have required that the private sector be fully funded just as the public sector would be fully funded. I notice that that was withdrawn because I suspect the leadership requested it and, of course, it would have exposed the box that the opponents of this bill have put themselves into.

There is no way that we can fully fund private sector mandates, but nevertheless we are treating them unequally from public sector. The public sector we control. The private sector we do not.

Mr. McINTOSH. Mr. Chairman, reclaiming my time, let me address the question. I think that there are ways of doing this that does not require the Federal Government to lay funds forward but simply to extend the provision that says where there are no funds appropriated, there is no mandate to extend that provision to the private sector.

I am willing to discuss the other if the gentleman from Virginia would like to see it, but I think the context is not in this bill. It should be done in the context of regulatory reform for the private sector which I understand will be coming forward to this House in the coming month.

Mr. MORAN. If the gentleman will continue to yield, that is the other obvious alternative. No money, no mandates for all the private sector. Forget air traffic control, forget all of the regulations that apply, but that is an honest provision.

Mr. McINTOSH. Mr. Chairman, I do not think we are going to get into any of that type of situation. What we will do is create a level of playing field for the private sector competitors of public sector providers of services and goods that are regulated. I would favor addressing that issue in a later bill.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, unfortunately, the issue of public and private sector competition under Government mandates has gotten awfully confused here. Let us look at the facts as they exist today. Today government at the local level and the Federal level does compete against private industry and vice versa in many areas.

When the Federal Government issues a mandate to local government to do something, the local government today is in competition in many cases with private sector companies who are under the same mandate to do the same thing. The local government funds that operation today. It funds it out of tax dollars raised locally.

The only change this unfunded mandate bill makes in that equation is it changes as to who raised the money to pay for the public sector operation. That is the only change. It does not change the equation of private sector or public sector competition at all. It simply says that in that equation when it comes time to raise the money to carry out the mandate, instead of raising the money locally with taxes raised at the local level, the money has to be raised on the Federal level, or else a point of order is raised against the mandate to begin with.

Now, if you really do not believe in the unfunded mandates concept of this bill, the gentleman from Virginia [Mr. MORAN] has offered you the perfect amendment to defeat it. This amendment would simply say that where you have a Federal mandate that does apply to both local government and to private sector businesses, which most of these mandates do, that the point of order does not lie against it. But you cannot in fact enforce the unfunded mandate provision of this bill against such a mandate.

If you ever wanted an exemption that exempted most Federal mandates out of this bill, we have just been offered it today.

Let me say again, the equation of competition private to public is not affected by this bill. If you believe that, you need to think just a second what is happening in the world today. The private sector competing against local government, local government having to carry out Federal mandates, raising the money locally because we force them to, and the change this bill will make, the only change is that instead of telling local government you have to do it this way and you have to raise the money locally to do it, under this bill a point of order would lie against such a rule.

Unless we exempted ourselves from that point of order or waived it, a point of order would lie against it so that we would have to come up with the money here in Washington to fund that public mandate on the public institution locally at home. That is the only difference.

I understand if you do not believe in that proposition. If you believe that Government ought to be able to mandate things on local governments and we ought not to have to come up with the money to fund them, if you believe that we ought to be able to tell a State and county and parish and city governments across America that you have got to do it our way and you have to raise the taxes to pay for it, if you really believe that, this is the perfect out amendment.

□ 1910

This amendment says a point of order will not lie against those kind of mandates in the future, and it also says, in effect, this unfunded mandate provision will not be enforceable against any mandate that affects both the local government and a private business in your district.

So if my colleagues really do not like this bill, if they do not believe in it, if they want to believe in mandates from Washington without the necessity of funding them, then vote for this amendment. If my colleagues believe in a strong unfunded mandates bill, they have got to defeat this amendment. It is the amendment that exempts most mandates from the bill. It is the one that destroys the whole idea of an unfunded mandates bill.

So, I urge Members, defeat this amendment and let us go on to pass a strong unfunded mandates bill.

When we get through, every time we have a mandate that affects public and private businesses from now on we will now consider do we in fact fund it from Washington or do we tell our comrades in arms, the local city councilmen, the Members who represent a district back home, a county or a parrish or a State government it is up to you to come up with the money, you just have got to do it our way? If Members want to keep doing business that way, vote for this amendment.

If they want to change business and make sure from now on when we mandate things on local governments back home we either provide the money or we do not mandate it, vote against this amendment. It is that simple.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I am happy to yield to the gentleman from Virginia.

Mr. MORAN. Mr. Chairman, I thank the gentleman from Louisiana for yielding. I know my friend does not mean to be deliberately misleading, but I would ask my friend if he is aware that there is a provision in the bill that says that it is always in order to strike an unfunded mandate? And this amendment does not affect that.

Mr. TAUZIN. Reclaiming my time, let me assure the gentleman the League of Cities campaigned that the opt-out provision applied to the former bill introduced in the last Congress by my good friend, the gentleman from California [Mr. CONDIT], who led this effort. It does not apply to H.R. 5; that provision is not in the bill.

Mr. CLAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say I rise to cosponsor this amendment because I firmly believe that what the gentleman

is seeking to do is very important. And I do not believe that the cavalier attitude of casually disposing of all of these important amendments is in the best interests of what we are trying to do for this country.

Mr. Chairman, I believe that public employers should be model employers. As such, I believe they have a duty to provide their workers with the same protections that we otherwise require of private employers. They have a responsibility to ensure that the manner in which they operate shows the same respect for the health and safety of the general public that we require of private sector businesses.

I note from my colleagues on the other side that the adoption of this amendment will ensure that H.R. 5 does not confer undue and improper competitive advantages to public employers over private employers. That is the point that the gentleman from Virginia has made and very effectively made.

A public hospital should not be treated any differently with regard to Federal standards regulating the disposal of hazardous wastes than a private hospital. The city of St. Louis should be under the same requirement to pay at least minimum wages to its employees that we impose on private sector employees.

Mr. Chairman, the gentleman from Virginia is absolutely right. If we do not fully fund some of these programs that apply to both public and private, then a point of order can be raised to knock out the public sector involvement. And it probably will stand.

Mr. Chairman, an employee has the same responsibilities to provide a decent living for his or her family, regardless of whether the employee is employed in the public sector or the private sector. The fact that hazardous fumes emanate from a public incinerator instead of a private incinerator in no way diminishes the health hazards to the general public. There are basic protections that must and should be extended to all.

Where the Congress determines such a circumstance to exist, public employers and private employers should be treated equally.

Mr. Chairman, I urge support of the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my friend from Massachusetts for yielding.

Mr. Chairman, it is important to respond to what the gentleman from Louisiana said. When I brought up the fact that it would always be in order to strike any unfunded Federal mandate, the last thing the gentleman said was that that provision was in the bill of the gentleman from California [Mr. CONDIT]. It is not in this bill.

Mr. TAUZIN. Mr. Chairman, would the gentleman yield for a second?

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I want to correct the RECORD. I did not say that the provision to have a point of order against the mandate is not in this bill; it is. What is not in this bill is the opt-out for local governments, which was contained in the Condit bill last year, which the League of Cities wrote to the gentleman and all of us about, and which the gentleman from Virginia quoted on the floor tonight. That provision is not in H.R. 5. It was in the Condit bill last year.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield again to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think the gentleman from Louisiana missed the point. I was not referring to last year. I was referring to the point that the gentleman from Louisiana tried to make, that if we pass this amendment it will essentially gut the intent of this legislation.

That could not be further from the truth. And I would draw the attention of my colleagues to page 48, that says that

> With regard to the Unfunded Mandate Reform Act of 1995, it shall always be in order, unless specifically waived by terms of a rule governing consideration of a measure, to move to strike such unfunded Federal mandate from the portion of the bill that is open to amendment.

And this is not affected by our amendment.

The point is that with passage of this bill it will be in order for any Member of this House to strike an unfunded Federal mandate. That is what we want. All I am trying to get at is the disparity in the treatment of the public sector versus the private sector. I am not trying to eliminate any responsibility to address unfunded Federal mandates. And this bill would continue to do that.

Mr. PORTMAN. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Ohio.

Mr. PORTMAN. Mr. Chairman, I thank the gentleman from Massachusetts for yielding.

Very briefly, there is a big difference between the motion to strike and the point of order. The point of order is precisely what gives us information on the public-private competition issue that we want to have to address this issue responsibly. So I would say in response to the gentleman's concern about what the gentleman from Louisiana said, that the motion to strike does not solve the problem. We need the point of order, we have to have the point of order.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield to the gentlemen from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I think we are ready to vote here. The point is if we do not pass this amendment, we are going to hear from our private sector businesses who will be treated unfairly, who will lost their opportunity to compete with the public sector in a constructive way, and we are going to wind up having to change this bill down the road when we realize the unintended consequences of this legislation.

So, I would urge my colleagues to treat the public and private sector alike, to approve this amendment, and then to pass a responsible version of the unfunded mandates legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. MORAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MORAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 285, not voting 6, as follows:

[Roll No. 79]

AYES—143

Abercrombie	Gutierrez	Olver
Ackerman	Hall (OH)	Owens
Barcia	Hastings (FL)	Pastor
Bellenson	Hefner	Payne (NJ)
Bentsen	Hilliard	Payne (VA)
Berman	Hinchey	Peterson (FL)
Bishop	Hoyer	Pomeroy
Bonior	Jackson-Lee	Rahall
Borski	Jefferson	Rangel
Boucher	Johnson, E. B.	Reed
Brown (CA)	Johnston	Reynolds
Brown (FL)	Kanjorski	Richardson
Brown (OH)	Kaptur	Rivers
Bryant (TX)	Kennedy (MA)	Roybal-Allard
Cardin	Kennedy (RI)	Rush
Clay	Kennelly	Sabo
Clayton	Kildee	Sanders
Clyburn	Klink	Sawyer
Coleman	LaFalce	Schroeder
Collins (IL)	Lantos	Scott
Collins (MI)	Levin	Serrano
Conyers	Lewis (GA)	Skaggs
Coyne	Lincoln	Spratt
de la Garza	Lofgren	Stark
DeFazio	Lowey	Stokes
DeLauro	Luther	Studds
Dellums	Maloney	Stupak
Dingell	Manton	Tanner
Dixon	Markey	Thompson
Doyle	Mascara	Thornton
Durbin	Matsui	Torres
Engel	McCarthy	Towns
Eshoo	McDermott	Traficant
Evans	McKinney	Tucker
Farr	Meehan	Velazquez
Fattah	Meek	Visclosky
Fazio	Mfume	Ward
Fields (LA)	Miller (CA)	Waters
Filner	Mineta	Watt (NC)
Flake	Mink	Waxman
Foglietta	Moakley	Whitfield
Ford	Mollohan	Williams
Frank (MA)	Moran	Wise
Furse	Murtha	Woolsey
Gejdenson	Nadler	Wyden
Gephardt	Neal	Wynn
Gonzalez	Oberstar	Yates
Green	Obey	

NOES—285

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Upton
Vento
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—6

Becerra
Crane
Gibbons
Martinez
Pelosi
Smith (NJ)

□ 1934

Ms. JACKSON-LEE changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FAZIO of California. Mr. Chairman, I have always been sensitive to the local impact of Federal laws that are underfunded—that are not supported by adequate resources. They place State and local governments in an awkward, and often impossible, position—trying to ensure that the required protections are in place, without sufficient financial support.

For that reason, during the last Congress, I supported the efforts of my Democratic colleagues—Mr. CONDIT of California and Mr. MORAN of Virginia—to provide local governments with some relief from this financial hardship. And, at this time, I want to acknowledge both Mr. CONDIT and Mr. MORAN for meeting this challenge head-on during the 103d Congress, each by introducing legislation that would have provided some relief in response to the pleas for help that we received from local communities.

As Governor of Arkansas, President Clinton experienced, first hand, the difficulty and frustration of dealing with Federal laws that were insufficiently funded. That is why he has expressed support for unfunded mandate reform, just as many local officials in my district have. The cities of Winters, Red Bluff, and West Sacramento, along with Tehama, Colusa, and Solano Counties, are just some of the local jurisdictions that advised me of their support for Federal mandate relief. Some passed resolutions, and others incorporated mandate reform in their legislative platforms. Regardless of the vehicle, however, the message was consistent—local government is overly burdened by Federal programs that are not accompanied by the necessary resources to implement them. Although giving local communities more flexibility in managing these programs helps, we also need to weigh and control their cost.

I therefore support enactment of legislation that will help us make all-around better decisions—decisions that are solid, sound, informed, and responsible, and that do not overly burden the local communities charged with implementing them. But, the Federal Government also has a responsibility to ensure that both the public and private sectors follow basic policies and practices if the health, safety, environment, and human and civil rights of American citizens are to be protected. Without these standards—whether they are for education, or nursing homes, or clean air and water, or proper waste disposal within States and across State lines—American families are placed at great risk. And, although implementation can be costly, the social costs of not implementing them—of failing to protect the public—are immeasurable.

That is why I have several serious concerns about the bill that is now before us and why I support amendments that clarify its intent and enhance its effectiveness. As it is written, H.R. 5, the Unfunded Mandates Reform Act, could force us to abandon many of the most important Federal safety and environmental standards in existence today—standards that protect the American public and that the American people really want and support. To rush this legislation through without hearings and without improving it is a grave mistake.

Unamended, H.R. 5 is much too broad and much too vague. If it is enacted, will we continue to be able to protect our children? What about school safety regulations designed to safeguard against asbestos, radon, and lead paint? What about child support enforcement laws? Will the Federal Government be able to enact national standards that prevent child abuse and exploitation?

What about the American worker? Are minimum labor standards, such as minimum wage, child labor prohibitions, and occupational safety standards at risk?

What about Medicare and the social service programs that serve as a safety net for our senior citizens? What about Federal protections that extend to investors, financial markets, federally insured banks and credit unions and deposit insurance funds? What about regulating the generation, transportation, storage and disposal of toxic, hazardous, and radioactive substances? Without a Federal standard, can each State set its own guidelines for waste disposal, and be free to unload its waste on another? Will this bill threaten water safety regulations? Are those protections that we have worked so long and hard to put in place at risk of being erased? I support the concept of mandate reform, but I have serious problems with this process—the way in which we are forcing this bill through. Its long-term impact is too great and too far reaching to be sacrificed for a short-lived success.

I am voting in favor of final passage of H.R. 5 in support of the communities in my district that have consistently expressed their frustration and concern with underfunded mandates. However, I also want to go on record noting my concerns with mandates reform that moves too quickly and does not take into consideration its far-reaching impact. H.R. 5 must ensure that State and local governments get the help that they need in meeting the financial costs of complying with Federal regulations. But it must also reflect the fact that we must have Federal standards. There are certain protections that cannot be waived or eroded. We must therefore work together to develop legislation that balances our support of these critical protections with consideration for the State and local governments that bear the burden of their implementation.

Mr. CLINGER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BEREUTER) having assumed the chair, Mr. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5) to curb the practice of imposing unfunded Federal mandates on States and local governments, to ensure that the Federal Government pays

the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and to provide information on the costs of Federal mandates on the private sector, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. CRANE. Mr. Speaker, I asked for a leave of absence after 5:30 p.m. to conduct business in my district in Illinois. Because I was in the district I was unable to cast my vote on three amendments. Had I been present I would have cast my vote against the Mink amendment, rollcall No. 77; against the Beilenson amendment, rollcall No. 78; and against the Moran amendment, rollcall No. 79.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 101, TAOS PUEBLO INDIANS OF NEW MEXICO LAND TRANSFER

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–12) on the resolution (H. Res. 51) providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo Indians of New Mexico, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 400, THE ANAKTUVUK PASS LAND EXCHANGE AND WILDERNESS REDESIGNATION ACT OF 1995

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–13) on the resolution (H. Res. 52) providing for the consideration of the bill (H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 440, LAND CONVEYANCE IN BUTTE COUNTY, CA

Mr. LINDER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–14) on the resolution (H. Res. 53) providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to contain individuals in Butte County, CA, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEES TO SIT ON TOMORROW, WEDNESDAY, FEBRUARY 1, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Agriculture; Economic and Educational Opportunities; Transportation and Infrastructure; Judiciary; Science; Resources; Commerce; and International Relations.

It is my understanding that the minority has been consulted and that there is no object to these requests.

The SPEAKER pro tempore (Mr. BEREUTER). Is there objection to the request of the gentleman from Texas?

Mr. WISE. Mr. Speaker, reserving the right to object and I will not object, the minority is not going to object but simply say to the Members of the majority, the distinguished majority leader, that this is certainly the appropriate way to go about this. I think we have had a very fruitful day today, we moved quickly through the bill. In each of the cases, the eight committees that the distinguished majority leader mentioned, there was full consultation with the minority. Everyone signed off on it. We think this is the way to operate. We look forward to operating in this way in the future.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRIDLOCK

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute.)

Mrs. SEASTRAND. Mr. Speaker, when I was elected to this great body just 3 short months ago, I made a commitment to my constituents to fight diligently for the ideas that I believe in and to be just as unrelenting in my fight against those ideas that are not good for my district, my State, and our country.

But I must say that I find the behavior by some Members on the other side of the aisle a bit bizarre. They fight to stall legislation that they eventually vote to pass.

I have maintained that gridlock is not necessarily a bad situation. If you oppose something, try to defeat it with every weapon at your disposal. But when a group purposely stalls a bill simply for partisan gain, that is pretense without principle. Some of the antics on the other side of the aisle make you wonder who is devising their strategy.

We are working for real change. We kept our promises by passing the balanced budget amendment last week and are working this week to pass the unfunded mandates bill that will stop the Federal Government from not only passing the buck, but passing the bill to our States and localities.

Mr. Speaker, we should stop the delaying tactics. The American people want us to end the bickering and go on about the people's business.

□ 1940

COMMUNICATION FROM THE HONORABLE RODNEY P. FRELINGHUYSEN, MEMBER OF CONGRESS

The SPEAKER pro tempore (Mr. BREWSTER) laid before the House the following communication from the Honorable RODNEY P. FRELINGHUYSEN, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, January 30, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my office has received a subpoena for testimony and documents concerning constituent casework. The subpoena was issued by the Superior Court of New Jersey in Morris County.

After consultation with General Counsel, I will determine if compliance with the subpoena is consistent with the privileges and precedents of the House.

Sincerely,

RODNEY P. FRELINGHUYSEN,
Member of Congress.

SERIOUS QUESTIONS ABOUT AUTHORITY UNDER WHICH ACTION WAS TAKEN TO BAIL OUT THE MEXICAN PESO

(Mr. BARR asked and was given permission to address the House for 1 minute.)

Mr. BARR. Mr. Speaker, today we heard communications from the White House, which were communicated and reverberated around the world, that the President of the United States has made an end run around the Congress, and I think this raises some very troubling problems about the Mexican bailout process.

Just 1 short week ago, Mr. Speaker, we had the top administration officials appear before the Committee on Banking and Financial Services, on which I have the honor of serving, to tell this Congress that the only way, the only way that we could avoid a crisis in the international monetary market and avoid a collapse of the Mexican economy, is if this Congress acceded to the wishes of the administration and provided legislation that would in effect bail out the Mexican peso.

Less than 1 week later, Mr. Speaker, we find out that the administration has another plan, and I call on the administration to come clean with this Congress, to let us know exactly what is going on and to answer some very serious questions about the authority under which this action is taking place, why it was not foreseen and why this administration, through the testimony of the administration officials in

the Committee on Banking and Financial Services, appeared to mislead this U.S. Congress and the American people.

BIPARTISANSHIP PREVAILS

(Mr. KINGSTON asked and was given permission to address the House for 1 minute.)

Mr. KINGSTON. Mr. Speaker, last week, when we passed the balanced budget amendment, we took a good step not only toward fulfilling campaign promises, but also for working with each other as Democrats and Republicans because there are about 70 to 80 Democrats who voted on the balanced budget amendment and joined the Republican majority. I think that is a great bipartisan effort. The same thing has happened as we debate the unfunded mandates bill. Many Democrats are not going along with this obstructionism. They are coming over to the majority side and putting the business of the American people first.

During the month of February, Mr. Speaker, we are going to be debating the line-item veto, and the crime bill and regulatory reform. All these are very, very important to our constituents, Democrats, Republicans, big cities, small cities, rural, urban, and I hope that this bipartisan spirit prevails so that we can take care of the business that America demands and do what is best for our great country.

PRESIDENT SHOWS HIGH DEGREE OF LEADERSHIP BY HELPING MEXICO STABILIZE ITS ECONOMY THROUGH GUARANTEED LOANS

(Mr. TORRES asked and was given permission to address the House for 1 minute.)

Mr. TORRES. Mr. Speaker, I think that today's action by the President of the United States in taking his prerogative as a Chief Executive to order an Executive order guaranteeing the $47.5 billion guarantees to Mexico was a prudent move. I believe it sends out a strong signal to the international markets, to the international community, that he is showing a high degree of leadership. Since we in Congress were not able to meet his request, I believe that the President is taking his prerogatives as the Chief Executive to order those guaranteed loans which will go a long ways in seeing to it that the Mexican peso is stabilized, that the economy of Mexico can be stabilized, for not to do so would have a serious negative impact on American workers and on our relationships with that country, not to speak of the problems that it would cause as a domino effect in Brazil, and Argentina and other developing nations.

So, Mr. Speaker, I believe that today's move by President Clinton was an important one and indicates once again that he is willing to make tough decisions in a crisis time like this.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BREWSTER). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CIRCUMVENTING THE WILL OF CONGRESS

Mr. LIPINSKI. Mr. Speaker, today the Clinton administration abandoned its effort to pass a $40 billion loan guarantee to Mexico. The President came to the conclusion that his bailout proposal would have failed in Congress, and he was right.

So what does the administration turn around and do? Instead of really responding to the opposition of Congress, the administration decides to devise a new plan, a new plan which effectively circumvents the will of the Congress. While this new plan includes more international financial support, it also calls for dipping into our country's exchange equalization fund for as much as $20 billion to prop up the peso. This fund, which only holds $25 billion, I might add, is usually only used to help stabilize the U.S. dollar.

Mr. Speaker, this marks the fist time that the fund has ever been used to support any kind of currency other than the U.S. dollar.

Mr. Speaker, I must take exception. I must take exception to how this administration wants to put the Mexican peso before the American people. I must take exception to how this administration chooses to side step the authority of Congress in this matter.

Even with International Monetary Fund support, U.S. tax dollars are still at risk. By avoiding the authority of the U.S. Congress the administration does not have to answer to the elected Representatives of the American people on this rescue plan for Mexico.

How did we come to where we are today? Well Mr. Speaker, it all began with something called NAFTA. Over a year ago, the media hailed it as the right thing to do.

□ 1950

Meanwhile, the Clinton administration cut deals with various Members in exchange for their vote in favor of the agreement. I and others, however, stood our ground and said "no" to NAFTA. We did so knowing full well the devastating effects such an agreement would have on the U.S. work force and our country's trade position.

Unfortunately, our warnings went unheeded, and today the administration wants to bail out Mexico.

The Clinton administration promised that 100,000 new jobs would be created in the first year of NAFTA. These jobs we have yet to see. Let us take a look at the statistics. Since NAFTA was enacted, United States net imports with Mexico fell more than half. Our trade deficit in electronics has doubled, and we have a $12 billion trade deficit in automobiles and parts. In fact, the overall automotive trade deficit with Mexico has only worsened under NAFTA.

The Department of Commerce estimated that $1 billion in exports supports approximately 20,000 jobs. This means our automotive trade deficit alone has cost our country 32,000 jobs. So how are U.S. workers expected to deal with this? NAFTA's trade adjustment assistance program certainly is not helping, because eligibility requirements are extremely strict and the actual benefits are limited. Many firms have actually consulted their employees and told them not to bother applying.

Labor and environmental side agreements negotiated under NAFTA have proven to be abused.

Now after a year of NAFTA, Mexico has experienced a financial crisis, and Americans, thousands of whom lost their jobs to Mexico, are being asked to foot the bill. Americans are being forced to prop up the peso through a government fund that was set up specifically to help the U.S. dollar.

To me, this is incredible.

Many questions have yet to be answered about the nature of the peso crisis. Reports that the administration knew long beforehand about the situation of the peso also cause the urgency of the situation to come into serious question. During debate on NAFTA, opponents pointed out that Mexico was highly overvaluing the peso and that provisions must be included in the agreement to stabilize the currency relationship. No such provisions were included in the agreement, and look where were are today.

We just passed a balanced budget amendment to the Constitution, and we are being asked to swallow this bailout, and we must ask, will U.S. and international loans really help anyone?

In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Mr. Speaker, the Teamsters and United Electrical Workers unions filed unfair labor complaints against Honeywell and GE companies in Mexico—the National Administrative Office dismissed these cases with no penalties for the companies—a blatant disregard for workers' rights.

Likewise, the environment and public health have suffered a great deal. Are NAFTA supporters aware that a GM plant near the border in Mexico bumped a toxic chemical at 215,000 times the acceptable level? It is no wonder that children's cancer rates have increased

dramatically by 230 percent in Brownsville TX—230 percent!

In July 1994, a 13-year-old boy from Texas died from a brain infection after swimming in the Rio Grande.

American health officials traced the infection back to the 24 million gallons of raw sewage from Mexico which is pumped into the river each day.

Mr. Speaker, NAFTA is literally poisoning our children and grandchildren.

William Seidman, former Chairman of the FDIC, who was in favor of NAFTA, opposed the administration's original loan guarantee package. Mr. Seidman said that it bore striking similarities to the S&L bailout of the 80's—and he should know. Mr. Speaker, under this new administration plan, taxpayers' dollars are still on the line.

Mr. Speaker, at best, efforts to prop up the peso are simply a political rescue for the new Mexican Government and a bailout for Wall Street. The Mexican and American middle class will see little direct benefit.

At the very least, the peso crisis gives us reason to step back and take a good long look at what's wrong with NAFTA.

In Mexico where the disparity between rich and poor is so great, we need to slow down, reevaluate the integrity of our trading partner and ask ourselves—who really is going to benefit from the loan guarantee.

We must recognize that the peso instability is not a quick fix situation—the loan package will not alter the underlying structural weaknesses of the Mexican economy. A year or so from now, Mexico may be back wanting more financial aid.

When will it end?

We just passed a balanced budget amendment to the Constitution and we're being asked to swallow this bailout?

And, we must ask, will U.S. and international loan efforts really help anyone? In the Washington Post, Jim Glassman argues that the bailout may only make Mexico's long-term economic problems worse. By being too lenient on the Mexican Government, we are encouraging misbehavior in the future.

Why not just let the Mexican market fix itself? This admittedly may cause investors to lose money, but they assumed this risk, they deserve little sympathy from American taxpayers.

A major issue in last November's election was the fear, the concern, and the insecurity that the American middle class has about their shrinking standard of living. Now, with NAFTA and this billion dollar bailout, we are not only shipping out middle class jobs, but putting an additional burden on the middle class to subsidize another country.

Since 1979, the United States has lost 16 percent of its manufacturing job base—that is 3.2 million jobs lost. The United States has lost these jobs to Mexico. Not to Mexican companies, but to over 1,600 American-owned plants, plants that employ low paid Mexican workers.

I have already heard from a large number of my constituents urging me to reject the peso bailout. These are the same people who knew that NAFTA was not good for this Country. These are also the same people who go to work everyday, live within their means, and are responsible for their own finances.

Mexico and Wall Street could learn a lot from my constituents.

I have cosponsored legislation to repeal NAFTA and legislation which says that no loan guarantee shall be provided which could result in any direct or indirect financial obligations on the part of the American taxpayer. I urge my colleagues to do the same. The American people deserve nothing less.

Mr. Speaker, how can we in good conscience rush to bailout Mexico when we have thousands of people here at home who desperately need our help—many of whom lost their jobs to Mexico?

I am very disappointed that Congress has been denied this say on this issue.

Mr. Speaker, instead of rescuing Mexico and Wall Street, we need to be helping our own citizens achieve a better way of life.

UNFUNDED FEDERAL MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

(Mr. FOX of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. FOX of Pennsylvania. Mr. Speaker, in November the American people clearly demonstrated their disgust with outlandish spending, skyrocketing taxes, and a lack of responsiveness from Congress.

The new Republican majority is working hard to eliminate many of the business-as-usual policies and practices of the past, including the onerous burden of unfunded mandates. The burden of unfunded Federal mandates has become an albatross for many State and local governments and impacts nearly every community at some level.

As a former Montgomery County commissioner in Pennsylvania and a former member of the Pennsylvania State House of Representatives, I have seen firsthand the devastating financial effects such unfunded programs have had on municipal, county, and State budgets.

If the Congress really believes in a program, then the Congress should pay for that program. We can no longer pass the buck on to others. The practice has to end here and now.

Honest reform and accountable government are not only what the public wants to see, they are the right things to do. The American people are sick of legislation which uses smoke and mirrors and accomplishes nothing. We need effective reform, which clearly marks the 104th Congress as different from the rest. Ending unfunded Federal mandates should be at the top of this list.

FDA'S EXPENSIVE NEW FACILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, one of the most wasteful, inefficient agencies in the entire Federal Government is the Food and Drug Administration.

In their bureaucratic and arrogant way, they have held medicines and medical devices off the U.S. market, sometimes for years, to the detriment of the health of American citizens.

By their rules, regulations, and redtape, they have driven up the price of drugs and have helped the big drug giants by making it extremely difficult or almost impossible for small businesses to compete in the field.

Now, however, they want to do something which should outrage every taxpayer in the Nation.

At a time when we are supposed to be downsizing the Federal Government, the FDA wants to build a Taj Mahal complex of buildings in Maryland for a new headquarters.

Part of this project is to be in Montgomery County and part in Prince Georges County.

However, the important point is not the location. It is the cost.

The original cost estimate for these buildings was almost $1 billion.

However, because the FDA has become concerned about the appearance of this exorbitant and excessive spending at a time when most people want frugality in Government, they have lowered their estimated cost, all the way down to $875 million.

Even if this project comes in on budget, which I seriously doubt, it would still be at a cost of a whopping $257 a square foot.

State governments are building beautiful buildings for half this cost.

And is the FDA doing everything possible to hold down costs? Well, since the money is not coming out of their own pockets, they chose the most expensive site they looked at and some of the most expensive land in this Nation.

The original cost estimate for the Prince Georges facility was $290 a square foot.

The Montgomery County complex is to be several buildings interconnected, in a college campus-like setting, on a 530-acre tract of land—530 acres when they could build a beautiful headquarters on an acre or less.

The fact is, Mr. Speaker, the FDA should be greatly reformed. It should be greatly downsized. It should stay where it is now.

Perhaps the most phenomenal thing of all is the size of this project—3.4 million square feet—to house only 6,500 employees. This comes out to approximately 750 square feet per employee.

Most Members of Congress have approximately 1,000 square feet to house 9

or 10 employees, or about one-seventh of what the FDA wants.

Moreover, FDA's current offices and laboratories occupy 2.1 million square feet of office space.

The new FDA complex will be 3.4 million square feet in size. This is 1,300,000 square feet more than what they have now—a 60-percent increase—at a time when the Federal Government is supposed to be downsizing.

With a national debt of more than $4.7 trillion, we should not be spending almost $1 billion to build plush new quarters for FDA bureaucrats.

The bureaucrats want to live like kings while taxpayers foot the bill.

I am pleased that today, the Citizens for a Sound Economy came out strongly against this project.

I know we have a Government that is of, by, and for the bureaucrats instead of one that is of, by, and for the people, but, Mr. Speaker, this is one I hope we can win for the taxpayers.

□ 2000

THE PRIVATIZATION OF THE HUMANITIES ACT

The SPEAKER pro tempore (Mr. BEREUTER). Under a previous order of the House, the gentleman from Ohio [Mr. CHABOT] is recognized for 5 minutes.

Mr. CHABOT. Mr. Speaker, we've been told time and time again that spending has already been cut to the bone and that we can't cut anything without shredding the fabric of our society. Well, that's not true. All sorts of needless bureaucracies continue to waste all sorts of money and eat a hole in our wallets. Today, I'd like to call attention to one of the more egregious examples I've seen during my first month on the job.

I am referring to the tripe that I and all my colleagues received this past week from the National Endowment for the Humanities.

The NEH produced and sent around to us something called a conversation kit, more formally entitled a "National Conversation on American Pluralism and Identity."

Inside you'll find 20 or so high-gloss pamphlets, some of them 30 or 40 pages long, that contain readings of varying quality, simplistic questions, and the Government's edicts on how folks should talk to each other.

This is the brainchild of NEH Chairman Sheldon Hackney and his band of "culture bureaucrats," as George Will has labeled them. Its basic assumption is that we, as free-thinking Americans, need the Government to tell us how to engage in day-to-day conversations. The plan, as I understand it, is for NEH-types to go around the country circulating these packets and instructing us all how to talk with one another.

Besides assembling arcane questions such as "When do we act as public people and when as private people?" or the more abstract "Where do we belong?" the conversation kit suggests readings by militant feminists such as Patricia Williams and Charlotte Bunch, and provides a list of movies that, quote, "might make good conversation starters." I must thank Mr. Hackney for spending our tax dollars to tell us about a little known film called "Casablanca."

So the American public can see first hand some of Mr. Hackney's handiwork, I ask unanimous consent to include in the RECORD a small excerpt from the conversation kit.

Besides the kit's skewed content, every American should be outraged by the expense of printing these conversation kits. This particular program, I'm told, is going to cost us $1,700,000 just by itself. And remember, given our huge national debt, that's $1.7 million that we don't have and that we're charging to our children's accounts.

Mr. Speaker, the NEH again has thrust the Federal Government into another venture in which it does not belong. And once again, we see the Federal Government pushing its inane, self-righteous agenda on the American public.

These conversation kits may be politically correct, but they're fiscally foolish. They're also insulting to the intelligence of our citizens.

America's filled with sensible, kind, and intelligent people who know how to talk with one another. The last thing we need is a group of condescending academics squandering our tax dollars to tell us how to talk to each other. This is not the proper role of the Federal Government and we need to end, forever, this type of wasteful spending.

That's why I urge my colleagues to join me in cosponsoring Congressman JOE HEFLEY's bill, The Privatization of the Humanities Act. Let's tear down Sheldon Hackney's fiefdom. The critics and the naysayers believe we cannot balance the budget. Well, here's a golden opportunity to begin that process by trimming $177 million of fat from the Federal budget.

Mr. Speaker, I include for the RECORD the following information:

APPENDIX A

CHECKLIST FOR CONVERSATION PLANNING

People:

Do you need to contact organizations that can help you assemble a planning committee and find participants for the conversation?

Does your planning committee have the same racial, ethnic, and cultural diversity as the people you hope will participate?

Have you divided responsibilities among committee members?

Have you identified an effective discussion leader?

Have you appointed someone to take notes or tape-record each session?

Have you personally invited the participants or responded to them personally after they have expressed interests in joining the conversation?

Have you sent information and directions to participants several days before the first session?

Have you made reminder phone calls to participants one or two days before each session?

Content:

Have you decided how to focus your discussion? if there will be more than one session, have you identified all the topics? Or will participants choose the later topics at the first session?

Have you selected the materials—e.g., readings, videos, conversation starters, Scholars' Essays, news clips—for each session?

How will you use the materials? How will you distribute them?

Have you considered inviting an expert to provide background information for the discussion?

Format:

Have you chosen an appropriate conversation format (number, length, and frequency of sessions)?

Do you have an agenda, including time for opening remarks, introductions, and ground rules?

Is the discussion leader familiar with the reading materials and the makeup of the group?

MEXICAN BAILOUT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

Ms. KAPTUR. Today the administration, with the acquiescence of the top leaders in this Congress, announced a sweeping $47.5 billion bailout of the Government of Mexico and its Wall Street creditors by our taxpayers through the instrumentalities of the United States, including our U.S. Treasury, our Federal Reserve, the International Monetary Fund, into which the United States pumps money, and the Bank for International Settlements, on whose board sit the chairman of our Federal Reserve and the chairman of the New York Federal Reserve.

All of this was done without a vote of the Congress of the United States, the only federally elected officials representing the people of this country.

This newest proposal is a perpetuation of the worst kind of manipulative politics, both here in our country and in Mexico. And from a constitutional standpoint, it is absolutely precedent setting in the abuse of power by our own Federal Reserve, in collaboration with the U.S. Department of Treasury.

This new proposal is nothing short of a circumvention of the democratic process and a circumvention of the proper role of the elected leaders of the Congress of the United States.

The administration chose this path because they knew that they did not have the votes in this Congress, nor the support of the American public. In fact, over 80 percent of the American people oppose this bailout.

This new proposal is representative of what is wrong with politics in our

country: not reflecting the will of the people.

Federal Reserve Chairman Greenspan, officials in the administration, and the top Republican leadership of this Congress have all exhibited this type of behavior during the present Mexican peso crisis and further through past trade policies which created this mess, an arrogance and abuse of power which knows no bounds.

It is well known that people tend to change once they come into the beltway in Washington.

In October 1979, Federal Reserve Chairman Greenspan told the Senate Banking Committee that a proposed $750 million loan, one-fortieth of what is being proposed here, for near-bankrupt Chrysler Corp. was a bad idea that flew in the face of the principles of free enterprise. This is the same man who by raising interest rates has increased your mortgage payments and increased your monthly credit card payments, eating into your wages over the last 20 years.

Chairman Greenspan and the Federal Reserve are trying desperately to cover their own tracks in this crisis. In fact, it was the Federal Reserve's own interest-rate policies of the past 3 years that helped set Mexico up for a fall.

Low United States rates in 1992 and 1993 led speculators to pump record levels of money into Mexico, some estimating over $70 billion, and other emerging markets, but then the Fed's interest rate increases of 1994, all six of them, led those same investors to pull their money back out and bring it home.

If Chairman Greenspan was so concerned about Mexico, he would certainly not have raised United States interest rates six times over the last year.

The latest increase in interest rates means that if you own a $60,000 home with a 30-year mortgage, your mortgage payments have gone up by an additional $100 a month. And as a result of the Fed's actions, your home will cost you about $1,200 more a year or about $36,000 over the life of your mortgage.

Chairman Greenspan is unelected, unaccountable, and evidently unaware of the people's lives in this country that his policies affect.

There is absolutely no reason that a proposal of this magnitude should not be considered by the Congress of the United States.

Under the Constitution, we have the absolute authority to coin money and to regulate the flow of money between nations. What was done here, very cleverly through the back door, was that an entity within the U.S. Treasury Department, the Currency Stabilization Fund, took deutschemarks and yen that they hold and they said to the Federal Reserve, we will borrow against those. And essentially a flow of funds came from the Federal Reserve to the U.S. Treasury against the terms of the Constitution of the United States, which require all appropriated dollars to be voted on by the Congress of the United States.

INVESTIGATION OF COMMERCE SECRETARY RON BROWN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Indiana, [Mr. BURTON] is recognized for 60 minutes as the majority leader's designee.

Mr. BURTON of Indiana. Mr. Speaker, let me first say that I just listened with great interest to my colleague from Ohio. I think she is right on the money.

I would like for my friends who are paying attention to this special order to know that this is a bipartisan concern about the circumvention of the will of the people and the will of the Congress. I think it is wrong.

□ 2010

Mr. Speaker, there were many of us that worked on the draft legislation for the loan guaranty program with Mexico. In the draft legislation we had many conditions spelled out to protect the American taxpayer and to put in some other things that were very important to our hemisphere.

I am the chairman of the Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs. We put things in there that we thought would put the heat on Castro in Cuba and stop Mexico from giving aid, direct or indirect aid to Castro. We wanted to put $3 billion in hard assets in American banks to protect American taxpayers against a loss or a default. All those things are circumvented by this Executive order.

I think the gentlewoman is right on the money. The people of this country ought to be outraged, as well as their Representatives in the Congress. I congratulate the gentlewoman on her fine remarks.

Tonight I want to talk about another subject, however, because I think it is very, very important and it bears upon the credibility of this Government and this administration. The Secretary of Commerce, Mr. Ron Brown, who is the former chairman of the Democratic National Committee, is once again under fire by the media for possible improprieties that took place since he became the Secretary of Commerce. However, before I get into that, I want to talk a little bit about Ron Brown's background, because I think it is extremely important that my colleagues know what this gentleman has done over the past several years.

Mr. Speaker, back in the early 1990's, in 1991, Ron Brown was involved with an organization called the Chemfix Technologies Corp. The Commerce Secretary has a history of questionable business dealings. This is one of them. None of the charges have been adequately investigated by the FBI or this body regarding Chemfix or any of these other allegations I'm going to talk about tonight. We need to have answers to these questions.

In 1991, columnist Michael Kinsley wrote about Brown's conflicts of interest in the Washington Post. Kinsley's allegations were followed by a television report on "20/20."

While chairman of the Democratic National Committee, Brown was a partner in the law firm of Patton, Boggs, and Blow in Washington, DC. This firm represented BCCI here in the United States.

Brown was also a member of the board of directors of this company, Chemfix Technologies, a Louisiana-based company that helps cities dispose of sewage. Right when the Democratic National Convention was being decided, the committee was meeting to decide whether they were going to hold its 1992 convention in New York, that city gave Chemfix a $210 million contract to dispose of sewage from New York. This deal was made despite complaints from numerous other cities about Chemfix's poor operations, their past performance.

Right after the deal was struck, before the convention, Ron Brown purchased 5,000 shares of stock in this company. The "20/20" report on Chemfix stated that the city of New Haven was so dissatisfied with Chemfix's performance that it tried to get out of the deal. Chemfix refused, and Ron Brown made $100,000 on the stock options. Brown's firm, Patton, Boggs, and Blow, also made hundreds of thousands of dollars doing Chemfix's legal work. This all happened during Brown's tenure as chairman of the Democrat Party.

In responding to Kinsley's column, Brown stated that he had nothing to do with the fact that Chemfix was awarded the $210 million New York contract, and that the contract played no role in the selection of New York City as the site of the 1992 Democrat convention. Right. But as Kinsley wrote, "There is only one reason a Louisiana sewage company would want a Washington lawyer high in Democrat politics on its board, and it's not because of his knowledge of sewage." That is the first time, not the first time, but it is the first glaring example of some possible improprieties on the part of Mr. Brown.

Then, in 1993, a gentleman named Binh Ly from Florida came to see me to talk to me about a deal that was allegedly made between Mr. Brown and a man named Mr. Hao and the Government of Vietnam to normalize relations with that country, even though we had never had an accounting of the POW-MIA's that are still missing. Mr.

Ly said that the Government of Vietnam had promised to give Ron Brown a large sum of money, $700,000, as a down payment for his influence to normalize relations with that country.

Members will recall that this country had made a commitment under President after President after President since the Vietnam war that we would never normalize relations with Vietnam until we had a full accounting of all those POW's and MIA's. It still has not been done, and yet the normalization process has started because of Ron Brown's efforts.

In February of 1993 Binh Ly, this gentleman I'm talking about, was interviewed by the FBI. The FBI gave him a lie detector test, a 6-hour lie detector test, which he passed.

The FBI, after the lie detector test, gave him a briefcase equipped with a tape recorder and a beeper so he could tape conversations between him and Mr. Hao about Mr. Brown's activities. In April of 1993, the FBI mysteriously took the beeper and the briefcase back, claiming budget cuts, and discontinued the investigation.

I might add that Mr. Ly told me that he asked the FBI "Why are you taking the beeper back, because we are trying to get evidence on Mr. Brown," and the FBI man winked at him and said it was, it is because of budget cuts, and the inference was he was getting orders from the top to curtail the investigation into Mr. Brown.

A grand jury investigation was not begun until after an extensive article about Ron Brown's Vietnam contacts had been published in the U.S. News and World Report in the summer of 1993. After denying, Mr. Brown, Ron Brown, Secretary of Commerce, after denying that he had never met with Mr. Hao, Ron Brown admitted later that year in September, 1993, that he met with him not once, not twice, but three times, the third time being at the Department of Commerce, just like Binh Ly claimed.

In October of 1993, ABC News and other news organizations reported that the FBI had obtained two notes faxed from Mr. Hao to the Vietnamese Government stating that his first two meetings with Ron Brown had been a big success, further verifying Binh Ly's statements.

Also in October the New York Times reported that the FBI had uncovered evidence of wire transfers indicating that the Vietnamese Government was preparing to establish a special bank account in Singapore, backing up Binh Ly's statements that the Vietnamese Government was going to pay Ron Brown $700,000 through this bank in Singapore.

They had proven, the FBI had proven, that there was a bank in Singapore, that there were wire transfers, just as Ly said, and the amount was not disclosed, but we estimated, we believe it was the $700,000 that had been promised in the agreement.

In December of 1993 the Federal prosecutor conducting the investigation in Miami, the grand jury investigation, attempted to terminate the investigation without even calling Binh Ly to testify.

We contacted him and said that Binh Ly should testify because he was the principal witness, so the special prosecutor put Binh Ly before the grand jury only when he was ordered to do so by his superiors. This was clearly not a very aggressive prosecutor.

I might add, this prosecutor was not the local U.S. District Attorney in Miami, whom you would normally think would conduct the grand jury investigation. It was a special assistant to Janet Reno, the Attorney General, who was ordered to go down there and conduct the grand jury investigation.

They then said to me and other Members of Congress, they did not say Ron Brown was innocent. They said they did not have enough evidence, in their opinion, to indict him. Because they said they did not have enough evidence to indict him, then he was able to keep his job as Secretary of Commerce and everything went on as usual.

The fact of the matter is, this Congress has never had a complete report on that investigation by the Justice Department. Now that we have a majority in this Congress on the Republican side, we are trying to get a complete documented report from the Department of Justice on the entire investigation, starting with the FBI. We are going to continue to work on that until we get to the bottom of it.

Now we come to the latest allegations that have been in the paper this past week. These are pretty damning as well. These latest allegations are about a lady named Nolanda Hill and Ron Brown, and are very serious and demand a very thorough investigation.

In a nutshell here is what happened. A company owned by Nolanda Hill defaulted on a $40 million debt that the Federal Government inherited, the taxpayers inherited, from bankrupt savings and loans.

At the same time, that same company was paying $12,000 a month to another company that was co-owned by Nolanda Hill and Ron Brown, so while she was defaulting on a $40 million obligation to the taxpayers of this country, and the same company that was in bankruptcy, she was paying $12,000 a month to another company in the same office that was owned by her and Ron Brown.

The second company, First International Communications, was located in the very same office as the company that defaulted on the loans.

Now let us talk about First International Communications. In the 1980's Ron Brown and Nolanda Hill formed a partnership. They named it First International Communications. Nolanda Hill owned a second company named Corridor Broadcasting.

□ 2020

Corridor Broadcasting borrowed $26 million from two savings and loans in Texas and New Mexico to buy two television stations, one here in Washington, DC, WFTY, Channel 50, and the other in Needham, MA, WUNI, Channel 27. Corridor also borrowed an additional $23 million from another savings and loan.

Nolanda Hill's company, Corridor, eventually defaulted, as I said, on both of the loans, the savings and loans failed, and the $40 million in bad debt was inherited by the taxpayers, the Federal Government.

Interestingly enough, Corridor Broadcasting, Nolanda Hill's company, and First International Communications, the partnership between Nolanda Hill and Ron Brown, as I said, were in the same office. Ron Brown has stated repeatedly that he never invested any of his own money in First International. He also stated many times for the record that there were never any ties between Corridor Broadcasting and First International.

However, it was just revealed this month that First International's only substantial source of income was the $12,000 a month in interest payments coming from Corridor Broadcasting on a loan of $875,000.

Here you have Ron Brown saying there is no connection between the two companies, and yet there was a loan from one to the other and the defunct company that was in default to the taxpayers to the tune of $40 million was paying $12,000 a month in interest to the other company, while Ron Brown said there was no connection.

In other words, at the same time that Corridor Broadcasting could not afford to repay $40 million in debts that had been inherited by the taxpayers, it could still afford to pay $12,000 a month in interest to Nolanda Hill and Ron Brown.

Ron Brown's lawyer has recently stated that Ron Brown did not know that First International had made a loan to Corridor Broadcasting and was not directly involved in First International's operations.

Here are some questions that need to be answered:

If Ron Brown was one of the two partners in the firm, how could he be ignorant of the firm's sole source of income? It is beyond comprehension.

If Ron Brown did not invest any of his own money in First International, what was the purpose of including him in the partnership? Was it to use his influence, first as chairman of the Democrat Party and then as Secretary of Commerce?

Three. Where did the $875,000 come from that First International loaned to

Corridor Broadcasting? Nobody said where did that $875,000 come from? Where did it come from?

It has been alleged, as I said before, that the Government of Vietnam wanted to pay Ron Brown $700,000 for his influence to get the embargo on Vietnam lifted, and according to the FBI, there was an electronic transfer from the Government of Vietnam to this bank in Singapore, and here all of a sudden we have a mysterious $875,000 turning up that was invested into this corporation. And Ron Brown said he does not know anything about it.

If Corridor Broadcasting could not afford to repay the taxpayers of this country, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation, how could it afford to pay $12,000 a month in interest to Secretary Brown and Nolanda Hill?

Let us talk further about Ron Brown and this possible payoff that we were talking about. Ron Brown was nominated to be Secretary of Commerce in December 1992. He was confirmed by the Senate in January 1993. He owned a share of First International Communications throughout 1993, although he did not pay anything for it, but he owned a share in it. He did not pay anything for it.

Listen to this. He owns a share in it and did not pay anything for it, yet he received roughly $135,000 in payments from First International in 1993. That is a pretty good investment. It didn't cost you anything and you get $135,000. This was the year that Corridor Broadcasting's loans were finally written off by the Federal Government.

So while Corridor Broadcasting is going down the tubes, First International, which is getting $12,000 a month in interest payments, paid him another $135,000.

In December 1993, he sold his share of the company back to Nolanda Hill because of the bad publicity, and, get this, he did not pay anything to own part of the company, but he got between $250,000 and $500,000 for his one share of stock.

He got $135,000, then when he sells his share of stock back, he gets almost half a million dollars with no investment.

However, it has just been revealed that in 1994, Nolanda Hill spent an additional $190,000 paying off personal debts of Ron Brown. Their attorneys state that this was part of the transaction in which Secretary Brown liquidated his holdings in First International.

So we have got $135,000. We have got between $250,000 and $500,000. Now we have another $190,000. And all this with no investment.

It is unclear if this $190,000 was part of the payment listed on Secretary Brown's 1993 financial disclosure statement or if it was in addition to that amount.

Here are some questions:

If Secretary Brown did not invest any of his own money in First International and most of its ventures were total failures, how could his shares be worth almost a half million dollars? Everything was a failure. He put no money into it. How could it be worth a half a million dollars?

Did Nolanda Hill repurchase these shares at fair market value, or was this a gift to Secretary of Commerce Brown?

Three. What was the total amount Secretary Brown received from Nolanda Hill? Was the $190,000 Nolanda Hill used to pay Ron Brown's debts part of the money reported on Secretary Brown's financial disclosure report for 1993 or was it in addition to that amount?

Four. If Ron Brown did not invest any money in First International, then all the money he was paid when he divested himself should be considered a capital gain.

Question: Did Secretary Brown pay capital gains taxes on all these funds, including the $190,000 paid to him last year to pay his debts?

There is another corporation in this same office, a third one, called Know, Inc. Nolanda Hill owned a third company, Know, Inc. Oddly enough, Know, Inc. was in the same office as Corridor Broadcasting and First International.

In 1992, Nolanda Hill loaned Ron Brown $78,000 through this third corporation.

We have got $135,000, he got $190,000 and he got somewhere between $250,000 and $500,000. Through this third corporation he got $78,000 so he could pay off another debt. According to the Washington Post, Brown needed to repay a debt to the National Bank of Washington before his Senate confirmation hearings began.

Nolanda Hill—now, get this—she loaned him $78,000 to pay off his debts. And now Nolanda Hill later forgave the debt and did not require Ron Brown to pay it back.

So here he is now. He has got $135,000, $190,000, probably a half a million dollars, and now he has got $78,000 in a note that is forgiven. All with no investment.

Questions:

If Nolanda Hill could not afford to repay the taxpayers any of the $40 million she owed, where did she keep coming up with all this money for Ron Brown? Did Secretary Brown report this $78,000 as income on his financial disclosure statement? Did Secretary Brown report this $78,000 on his income taxes, and why did Nolanda Hill have so many different companies, if they were all located in the same office? Could it have been to shield herself from paying off legitimate debts that the taxpayers are now paying to the tune of $40 million?

The FDIC announced this week that they are launching an investigation of Nolanda Hill's defaulted loan. In addition, 14 Senators have written to Attorney General Reno to ask for a thorough investigation of this entire matter. A thorough investigation of this whole mess is absolutely necessary and an independent counsel is probably necessary. Congress in my opinion must also continue to investigate all of these nefarious activities or apparently nefarious activities of Ron Brown that have taken place for the last 5 or 6 years that have garnered him probably millions of dollars.

I would just like to say that we have tried for the past couple of years to get an independent counsel to investigate the allegations of the Vietnamese affair and we have done that without success.

We have brought to the attention of the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight, and I believe that the gentleman is already looking into this and hopefully we will have a very thorough investigation not only into these latest allegations against Ron Brown but also into these others.

I hope the FDIC and the Internal Revenue Service will take a very close look at his ethics reports as well as his income taxes, because if all of that stuff is on his income tax reports, he must have paid a heck of a lot of money in the last couple of years.

□ 2030

Mr. FOX of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Mr. Chairman, I thank the gentleman for yielding. I would ask the gentleman from Indiana, if the Speaker will permit, a few questions if I may in regard to his presentation.

First, does the law impute that the Commerce Secretary would be knowledgeable of the questionable transactions of his firm?

Mr. BURTON of Indiana. Does the law require that?

Mr. FOX of Pennsylvania. Would the law impute, in other words, based on the transactions the gentleman spoke of and the fact it was in his firm, would they automatically assume that the Secretary would have known?

Mr. BURTON of Indiana. I would think that any investigative attorney would question highly a partner in a firm with these kinds of resources.

Mr. FOX of Pennsylvania. Especially with the size of the amount.

Mr. BURTON of Indiana. Not knowing about the activities of one of the partners, so it is beyond comprehension to me that Mr. Brown would not know of these activities.

Mr. FOX of Pennsylvania. Would the gentleman further yield?

Mr. BURTON of Indiana. Sure, I am happy to yield to the gentleman from Pennsylvania.

Mr. FOX of Pennsylvania. Are members of the Cabinet required to file statements of financial disclosure?

Mr. BURTON of Indiana. Yes; they are.

Mr. FOX of Pennsylvania. Would the transactions that the gentleman listed or discussed here this evening be noted on the Secretary's financial disclosure form?

Mr. BURTON of Indiana. Yes; I believe all of these activities should be very thoroughly documented in his report, and that is one of the reasons why I believe that the Senators and those of us in the House are asking the FDIC, and other agencies of Government to take a close look at those, and his income tax returns, because we question whether or not this stuff has been reported.

Mr. FOX of Pennsylvania. Mr. Speaker, will the gentleman further yield?

Mr. BURTON of Indiana. I am happy to yield.

Mr. FOX of Pennsylvania. Based on the issue of credibility and questionable activities you have outlined, does this loss of confidence make it difficult for the Commerce Secretary to be fully effective, in your opinion?

Mr. BURTON of Indiana. Yes; and I think one of the things that we should do is we should write a letter to the President, and I believe we will probably have one drafted sometime tomorrow asking the President to have the Commerce Secretary step aside while this investigation is taking place so it will not cast any aspersions on the administration. You know, the administration has had a lot of problems in the past year with not only allegations but proven allegations being made public on a number of administration officials, Web Hubbell and Mr. Altman and others, and Mr. Nussbaum, and as a result those people having been forced to resign, and I think the administration would be well advised to ask Mr. Brown to step aside. They do not have to ask him to resign his post if they do not want to, but ask him to step aside so he does not conduct any of his official duties while this investigation is taking place.

Mr. FOX of Pennsylvania. Only the U.S. Senate has the right to confirm Presidential appointees and Cabinet members. What options does this House have to investigate a Cabinet member as far as you know?

Mr. BURTON of Indiana. The chairman of the Government Operations Committee or Government Oversight and Reform Committee has the right to hold hearings on suspected inappropriate activity on the part of a member of the executive branch; much like the Banking Committee held hearings on the Whitewater investigation last fall.

So, I think since the Resolution Trust is involved and a default of $40 million of taxpayers' money, then I think that possibly the Banking Committee, as well as Government Reform and Oversight Committee would have jurisdiction and we could both have hearings.

Mr. FOX of Pennsylvania. So it is your opinion then that the Banking Committee under JIM LEACH and Government Reform and Oversight Committee under Congressman CLINGER could in fact hold appropriate hearings to get the appropriate and honest and fair information regarding this matter so Congress would have and the American people would have a proper view of these circumstances, am I correct?

Mr. BURTON of Indiana. Yes, I think that should be done. And I also believe we should seriously consider urging that an independent counsel be appointed to thoroughly look into all of these activities I have alluded to. If we can get the Justice Department and FBI to give us a thorough accounting of what went on in the Vietnamese affair I talked about, I think that that probably would give Chairman CLINGER in this particular case reason to hold hearings on that subject alone. I really believe that.

But if that were not enough, then certainly these latest revelations would lead Chairman CLINGER to hold not only hearings here, but also to urge that we have an independent counsel investigate this.

Mr. FOX of Pennsylvania. If the gentleman will further yield, one final question. Inasmuch as the Federal Deposit Insurance Corporation is already conducting an investigation in a related portion of the matters you have raised before the House tonight, would the Commerce Secretary's involvement as part of the overall investigation be appropriate by FDIC, or do you believe it should be a committee of the House?

Mr. BURTON of Indiana. I think the FDIC is looking into this already, because it involves taxpayers' moneys and loans from the Federal Government. And so I think that the FDIC is going to look into this at the request I believe of Chairman CLINGER and others.

I also think there should be an audit of Mr. Brown's tax returns because of the tremendous amounts of money and loans that were given to him and were forgiven, to see if they were declared as income.

So I think there should be a number of agencies involved in this investigation: FDIC, the IRS, independent counsel, as well as the House and Senate Committees on Government Oversight.

Mr. FOX of Pennsylvania. If the gentleman will further yield, I would say I know the Members of the House appreciate your bringing these issues forward because the very foundation of our democracy is we are a nation of laws and not men.

And Congressman BURTON, I appreciate your bringing this forward tonight. I hope you will continue to advise the House of whatever matters come before you or Chairman CLINGER, so we are aware of what is happening and the American public has a chance to weigh in as well.

Mr. BURTON of Indiana. I thank the gentleman from Pennsylvania for his participation in this special order, and I agree with him that we should continue these special orders to illuminate issues of national concern.

One of the problems that we have in this country right now is there is not a great deal of confidence in government. I think the last election showed that very clearly. And when you have member after member after member of the administration quitting or being forced to resign under a cloud, it creates more doubts and concerns among the electorate and the people of this country. So I think what we have to do is reinstill confidence in them that the Government is honest, that the people that are running the Government in both the executive and legislative branches are honest, and if we find some wrongdoing, that needs to be brought out in the full light of day through hearings or investigations. And that is why we urged during the Vietnamese debacle there be hearings, but we were not in the majority at that time and could not get it done.

Now that we are in the majority, we should have full and fair hearings. I do not think it should be we are tying him up and tar and feathering him and carrying him off over into the sunset. I think they ought to be fair hearings with fair questions being asked and expecting fair answers from Mr. Brown and his associates.

But these things that are in the paper are going all across the country right now, and the people I am sure are shaking their heads and saying, "Oh my gosh, there is another corrupt government official." And we need to get to the bottom of it and get to the bottom of questions like this.

Mr. FOX of Pennsylvania. I hope the gentleman will get back to us through this forum of the special orders or within our Committee on Government Reform and Oversight because I know the gentleman from Pennsylvania [Mr. CLINGER] has a full plate with many of the Contract With America items, but I know he has made a priority your discussion with regard to restoring public confidence in public officials. We look forward to hearing further.

Mr. BURTON of Indiana. I thank the gentleman. Let me just say next week we will be taking a special order going into some other activities in the administration which I think will be of great interest to my colleagues.

With that, I yield back the balance of my time.

FINANCIAL STABILITY OF THE UNITED STATES GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Oregon [Mr. DEFAZIO] is recognized for 60 minutes as the designee of the minority leader.

Mr. DEFAZIO. Mr. Speaker, this evening we would like to address two subjects having to do with the health of the economy of the United States, and the financial stability of our Government. And they go to the proposed or pending interest rate increase before the Federal Reserve Board, and the announcements today made by the administration regarding the Mexican bailout which apparently now will be done by administrative order.

I would like first to start, since it has not happened yet, perhaps we can prevent a disaster, start with the proposed interest rate increase by the Federal Reserve.

Six times in the last year, a record, the Federal Reserve Board has seen inflation somewhere over the horizon and raised interest rates.

□ 2040

Those six increases have hit hard at anybody in America who has to borrow money, families who want to borrow money to buy a house, individuals who want to borrow money to buy a car, people who want to start or continue with a small business, homebuilders and others. They have been hit time and time again by the Federal Reserve raising interest rates, this latest pending increase estimated to be one-half of a percent.

Now, just think about it, this is a group that will meet in secret. The Federal Reserve meets in secret. They are accountable to no one. Calls were recently placed down there by my staff regarding the Mexican peso bailout, and we were told there was no business of the Congressman what involvement the Federal Reserve might have with our tax dollars and reserve money that underlies our bank accounts. They will meet in secret, and they will consider a policy change that is likely to raise this year's deficit by $2.5 billion.

It is likely, according to the homebuilders, to drive a medium-priced home beyond the reach of 1 million families in America. That is after they have already driven up prices of mortgages by more than $200 a month on a $100,000 home in the last year. This single increase will drive up the mortgage on a $100,000 house by about $1,600.

Now, here we are squabbling over these proposals to reduce taxes by a pizza a week for every American family, and the Federal Reserve in secret with no accountability to the U.S. Congress or the elected representatives of the people is going to unilaterally impose a policy that will increase the deficit by $2.5 billion, will increase the price of a home for a modest family, a $100,000 home, by $1,600 per year with no public scrutiny, no hearings, and no accountability. It is absolutely outrageous.

Furthermore, they have adopted a policy now, they think that any rate of unemployment less than 6 percent is inflationary. God forbid that wages should go up a little bit in this country. They have not gone up for your average family in the last 20 years, and the Federal Reserve has a concerted policy to make sure that does not happen. They consider a wage increase for working Americans to be inflationary.

Yet we had a wire story today that said we had the least pressure on employment costs since those statistics have been kept. Yet again, the Federal Reserve is going to preemptively raise interest rates with a concerted policy to put tens of thousands more Americans out of work. Remember, it used to be 4 percent was considered full employment in this country. Now they say 6-percent unemployment is full employment. That is 3½ million Americans who are going to be deprived of their jobs by the Federal Reserve because the Federal Reserve sees inflation that does not exist.

Furthermore, Alan Greenspan, the Chairman of the Federal Reserve, appointed by the last Republican President, has said that we overstate inflation in this country. He testified just last week before the Banking Committee and said, "Well, you know, the CPI overstates inflation by 1 to 1½ percent." That means, according to Alan Greenspan's own numbers, inflation is at more than a 30-year low in this country. Yet they are going to go back to the well one more time. They are going to raise interest rates again. They are going to raise the price of houses again, refrigerators, anything you buy on time will be increased.

Why? Not because there is a real threat of inflation, but because it is being demanded by Wall Street.

Now, it is an interesting question who makes monetary policy in this country, who controls the currency of the United States. And are we running this Nation for a few select bankers on Wall Street, or are we running this Nation for the American taxpayers? That brings up the Mexico bailout.

The gentlewoman from Ohio [Ms. KAPTUR] found a very interesting quote in the Wall Street Journal, and I thought you might want to present that.

Ms. KAPTUR. If the gentleman will yield, I thank you for your tremendous work on focusing on the Federal Reserve and the important role they play in this country. They are unelected. They do not have to come up here. Most Americans do not know who the Board of Governors of the Federal Reserve are, and yet all of the money that the citizens put in their banks back home, those banks, if they should choose, and most of them do, then pay dues into the Federal Reserve System.

They are organized by districts around the United States. The closest one to me is in Cleveland, OH, since I live in the State of Ohio. Those banks belong to the Federal Reserve here in Washington.

It is my opinion not all Federal Reserve district banks have the same importance in the system, because it was not the banks that belonged to the Cleveland Federal Reserve that got into all the trouble 12 years ago or 13 years ago in making those loans to Mexico. It was largely money-center banks in New York City that caused all the trouble. Yet our member banks back home had to help cushion those blows. They were forced to charge higher interest rates to their customers.

They did not cause the damage in the system, and I think what we have here is the predominance of one set of money-center banks from Wall Street and their related brokerage houses doing business in very close communication, not open to the general public. Of course, I mean, they do not see this happening.

But yet they draw money in from the system, do things with it that causes problems, and they become very powerful in making economic decisions for this country.

The gentleman was asking me about an article in the Wall Street Journal today. You know, we have been trying to figure out why interest rates are going up in the United States when there is no inflation, when people's wages are not going up; in fact, people are taking benefit cuts all over this country. We have so many part-time workers and temporary workers and people who are being outsourced, downsized, restructured, redeployed. There are all kinds of names for this.

And you ask yourself why would interest rates be going up in the United States. Well, they are not really going up because of what is happening in this country, but the markets are reflecting, our market here, and the interest rates, are reflecting draws on the system because of decisions made by money-center banks and large corporations in other countries.

The closest one at the moment is Mexico. I believe interest rates are going up in this country because the market is taking it out on the American people, the banks that have a lot at risk and have made some bad decisions, and the brokerages that borrow from them have made some bad decisions. And now the American people are having to pay for it in their checking accounts, in the mortgage payments that they make, as the gentleman said, and what you mentioned in terms of the price of a $100,000 house.

I know I figured it out for a $60,000 house in Toledo, OH. The interest rates

over last year will cost that family $100 more a month, $1,200 more a year.

I do not care how much tax-cutting we do this year in this Congress, we are not going to be able to offset the real dollars people are paying every day through the worst taxes of all, which are these higher interest rates people pay on their credit cards and cars and on their homes.

Some of the people that are causing the trouble were talked about today beginning on page A3 of the Wall Street Journal in an article called "Mexico's Currency Plunges Nearly 10 Percent," and it continues on page A8. We have been asking the Clinton administration for a list of who Mexico owes money to, who are the creditors that are supposed to be bailed out. Of course, they have not sent us an answer.

It is very interesting what it says in the top paragraph on page A8. It says that if the Congress and the taxpayers were to bail out Mexico, one beneficiary would be the firm that Treasury Secretary Robert Rubin used to run, Goldman, Sachs & Co., which ranked as the No. 1 underwriter of Mexican stocks and bonds in the United States and European markets for 1992 through 1994. In those 3 years, according to Security Data Co., Goldman underwrote over $5 billion worth in Mexican securities compared with $2 billion for the securities unit of J.P. Morgan & Co. Third was Bear, Stearns & Co. at $1.8 billion.

So I would guess that even though the administration and the Treasury Department have not provided us with the specific list of creditors that we are looking for, we can begin by reading between the lines here and see whose wallets are really on the line.

Mr. DEFAZIO. If I could interject at that point. There is an excellent quote which plays off that in the business section today of the Washington Post, page D1, where the vice-chairman of Goldman, Sachs, Robert Hormats, says the prestige of the President, the Fed Chairman, and the leadership of both Houses in Congress has been committed. If Congress were to kill the aid package, the feeling in the rest of the world would be that we are a nation in disarray, a country incapable of addressing a crisis. The psychological blow would be enormous.

I wonder if Mr. Hormats is really talking about the blow to the United States of America and the people whom I represent who have not been speculating in Mexico, or is he talking about the blow to Goldman, Sachs, who has done 5.2 billion dollars' worth of business in Mexico for the last 3 years.

If we are taking about that, I am really concerned what is being proposed now by the ex-director of Goldman, Sachs, the Secretary of the Treasury, is to bail out Mexico now through an Executive order, not through coming to the United States Congress.

□ 2050

They found the Congress exerted, in this case, uncommon good sense; they said "Wait a minute, we don't see the collateral or the national security interests. Why are we looking at this $40 billion bailout?"

I see the gentleman from California [Mr. HUNTER] has arrived.

Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I thank my friends for continuing to discuss this issue. I think there is an even greater issue now that I hope all of Congress will start looking at and the American people will look at, and that is the whole underpinning of this blind adherence to free trade that those in the executive branch and many of our colleagues and friends in Congress have adhered to over the last 10 years or so. If it is true, if these apocalyptic claims by the Goldman-Sachs representatives of the world are true, if you want to have a poor person Mazatlan send me a thousand dollars, if that is true that we really have tied the United States and the well-being of our people to the fortunes of a Third World nation which we cannot control, then there is a fundamental flaw in our free trade philosophy.

What that means is we have handcuffed ourselves pursuant to the deep breathers, the free trade advocates, to a drowning swimmer, somebody who cannot swim.

I am talking about Mexico and other Third World markets, so-called emerging markets that our investors have put billions of dollars into. That is not a fundamentally sound economic policy for the United States to follow.

So the people that helped engineer NAFTA I think have to answer a couple of questions. First, they have to prove that this is an apocalyptic situation—and I do not think it is—and I think Bill Siederman and other responsible conservatives, moderates, and liberals in the economic world have made good statements with respect to that. But if our free trade philosophy has handcuffed us to these nations that cannot swim, has put us in the deep water and said "Have a nice day," then that is fundamentally unsound and fundamentally flawed and we should rethink free trade for that reason.

I think the gentlewoman from Ohio [Ms. KAPTUR] the lady with the rose, who has always had such an articulate viewpoint on this very important issue and keeps coming and coming and coming on this issue on the House floor, trying to persuade our colleagues to take a seek look at this blind adherence to free trade. I think in the aftermath of NAFTA and this debacle a lot of Members are starting to disengage themselves from their idealistic philosophy and look at the real world.

I thank the gentleman from Oregon [Mr. DEFAZIO] also for his work because he has been here night after night working on this issue. I thank the gentleman for what he is doing.

Mr. DEFAZIO. I thank the gentleman.

Mr. Speaker, I see the gentleman from Vermont [Mr. SANDERS]. I say to the gentleman we are discussing both the Mexican bailout proposal and also more generally the policies of the secretive Federal Reserve Board that is obviously hand in glove involved with the bailout of Mexico.

Mr. Speaker, I yield to the gentleman from Vermont.

Mr. SANDERS. I thank the gentleman for yielding.

Let me congratulate the gentleman from Oregon and Ms. KAPTUR and Mr. HUNTER for their excellent work.

I find myself just a little bit nervous in agreeing with the gentleman from California [Mr. HUNTER] with whom on many issues we do not have much in common. But the point I just heard him make is an excellent point.

It frightens me to think that if the global economy means that the future of a decent standard of living of the American people rests on the prosperity of an authoritarian corrupt government in Mexico, then we are in very, very deep trouble. It also seems to me that in a time when this Congress and this President are having such a difficult job improving the standard of living of every ordinary American—today there was a piece in the paper which indicated there are about 6 million children in America under the age of 6 who are living in poverty. We have the highest rate of childhood poverty in the industrialized world. Forty million Americans have no health insurance. We are losing millions of decent manufacturing jobs to Third World countries.

We have enormous problems in this country, which this Congress, this President, President Clinton, and President Bush and others have been unable to solve. If we cannot resolve our own problems how in God's name are we going to be running the country of Mexico?

So I would simply suggest that we leave to our Mexican friends the difficult charge that they have to run and try to improve the lives of their people and that we should try to concentrate on our own needs here.

The other point that I would make is that I was at a Banking Committee hearing last week and at the meeting in pursuing the bailout for Mexico we had the Secretary of State, Warren Christopher, we had the head of the Federal Reserve, Mr. Greenspan, and we had the Secretary of Treasury, Mr. Rubin.

My, my, my, all of these heavy hitters working night and day trying to help us bail out Mexico, and yet I look

at what happens to family farmers in Vermont working 80 hours a week losing their farms; 2 million people in America who are homeless; children who are hungry. Where are the heavy hitters who are standing up and saying we have an emergency right here in the United States of America. Our standard of living is in decline, let's pay attention to that need.

So I get a little bit resentful, a little bit resentful when all of this energy, all of this big money focuses on bailing out Mexico and yet the needs of the American people seem to be ignored.

Mr. DEFAZIO. I yield to the gentlewoman from Ohio.

Ms. KAPTUR. I would like to add a point to that in terms of who are wiling to bail out and who are not willing to bail others out. One of the most advanced industries in our country is the airline industry. Every day we see newspaper articles in papers across this country about the fate of USAir. That is one of our major carriers, which serves my hometown and has served different parts of the Northeast.

There has been no surge as far as I have noted from those same three gentlemen mentioned by the gentleman from Vermont, who appeared before the Committee on Banking to try to help USAir work out of its situation or its handsome losses over the past several years, to keep thousands and thousands of people on their jobs.

I have not seen any phone calls or comments made by anybody over at Treasury. In fact, it is interesting if you look at the Chrysler situation several years ago before I got to the Congress, Alan Greenspan at that time was opposed to any Federal involvement in the Chrysler bailout.

Whether you agreed with the Chrysler bailout or you did not agree with the Chrysler bailout, they paid their money back with interest, as Lee Iacocca will remind us no matter where you meet him anywhere in the country; he was opposed. Yet he is for this, one of the chief sponsors of this effort to try to find a way, back doorway now of getting our taxpayers and our banking system to bail out Mexico. Yet when one of our own companies has been in trouble, now USAir needing a little bit of help, I have not seen the Secretary of the Treasury on the telephone or the Chairman of the Federal Reserve with the head of USAir.

So I would agree with the gentleman.

While I have the floor for a moment I just want to commend the gentleman from California [Mr. HUNTER] who has also been on this floor so many evenings trying to give some incredible speeches that reached far beyond the Beltway into the hearts and minds of the American people, trying to show the people a new road, not a road that closes off America but a road that is fair to American workers and builds democracy abroad.

That is what we should be about here. For those of us who have fought this long fight it is a great fight to be in because we know we are right. The American people are now listening. They know something is up.

I thank the gentleman from Oregon for having this special order this evening.

Mr. DEFAZIO. The interesting problem is that we have been somewhat successful. I think when we first started to speak out against the Mexican bailout it was pretty lonely. The Republican Speaker and the Republican majority leader in the Senate went down to the White House to meet with the President, Alan Greenspan, Secretary of the Treasury, Democrat President. We had a bipartisan agreement that it was in the national security interest of the United States to bail out Mexico and rush something through the Congress. But then a few of us started standing up and asking embarrassing questions about why this was necessary, why the haste, what was the collateral, what exactly was the national security interest. These are questions of cost that have never been answered, and in fact that is why they will not try to have to move that legislation through the House. They do not want answers to those questions, the list that the gentlewoman from Ohio provided about exactly who holds these securities that are at risk. They are trying to come in and tell us it is pension funds.

□ 2100

Well, we made some calls in my district, and I know other people have, and we have yet to find anybody managing a pension fund that will admit that they were speculating in junk bonds in Mexico, bonds that paid between 20 and 50 percent interest.

Now I do not think there are very many prudent pension managers around the Nation who are engaged in such speculation, but apparently Goldman Sachs was into Mexico very big time, $5.2 billion over 4 years, and who knows how many of their clients were at risk here, as opposed to Goldman Sachs itself as a firm, and how much liability they might have for having provided poor advice to their clients talking about the emerging markets of Mexico, but in our success it appears we are about to be short-circuited.

Where we could not get $40 billion out the front door, it appears that the President is going to attempt to take $40 billion out the back door, still working hand in glove with the Federal Reserve with secret amounts of money under terms not to be disclosed to the people's Representatives in the Congress, working through the International Stabilization Bank. How much of the money being channeled through the International Stabilization Bank is flowing out of our Federal Reserve, working through the International Monetary Fund? How much of the money coming through the International Monetary Fund is money being channeled by the Federal Reserve of the United States of America? I have not heard the outcry in Europe that we must stabilize Mexico in order to stabilize the world economy. I have not heard those cries, but we certainly heard the cries coming from the people running Goldman Sachs in Wall Street.

So, now it turns out that the President, even though he came to the Congress in a bipartisan way to propose this bailout, has decided, well, actually he did not need the authority anyway, that there is another way to structure this bailout using section 5302 or chapter 31, section 5302, of the U.S. Code stabilizing exchange rates and arrangements.

The gentleman from Vermont [Mr. SANDERS] is on the Committee on Banking and Financial Services, and I know the gentlewoman from Ohio [Ms. KAPTUR] is more versed than me, but the way I read this, Mr. Speaker, it allows us to engage in short-term swaps or exchanges of funds to defend the U.S. dollar, not 10-year loans to bail out a failing government in a collapsing economy.

I ask, "Would you want to address that for a moment?"

Ms. KAPTUR. I am glad the gentleman brought up that point. Before I address that, let me just say that through our efforts 80 percent of the American people oppose this effort to try to prop up the peso so that Mexico can pay its debts to Wall Street speculators. What is interesting is the Wall Street Journal today also said that 75 percent of the residents of Mexico City, the people of Mexico, were against the loan guarantee packages as well, so if the people of the United States are against it, and the people of Mexico are against it, who is it that is ramming this through?

And the gentleman asked about the Banking Committee. In my 8 years that I spent on the committee, Mr. Speaker, I never saw the Currency Stabilization Fund used for this purpose. It was always used in small amounts, never to the tune of $20 billion. We are trying to research back to see the largest such use of the fund. Maybe we found $2 billion back 10 years ago, but never to this extent, and never to defend the debts owned by another country. This is a very precedent-setting move that is occurring here.

In addition to that, there is an additional, around $17.5 billion, coming through the International Monetary Fund, and at the moment it is unclear to us whether that is $17.5 billion in new money because the U.S. contribution to the IMF has to be appropriated dollars through here. Are those old dollars? Are those new dollars? Where are those dollars coming from?

And then the third element of this is the International Bank for Settlements, which is $10 billion, and it is very interesting because the Bank for International Settlements has a board just like the Federal Reserve. It has 24 members on the board. The United States has never participated on that board before. We were not making payments. All of a sudden who ends up on the board of the 24 most recently? The Chairman of our Federal Reserve, Alan Greenspan, and the chairman of the New York Fed, Bill McDonough, all of a sudden. And Citibank, surprise, surprise, is all of a sudden making payments into the Bank for International Settlements.

Now if it would happen that the debtors could not pay their debts, the burden of the Bank for International Settlements falls to the member countries to pay back. So they have a lot of different names, but it is the same people in these different institutions, and it all comes back right here, to the taxpayers of the United States, and every single economist that came before our hearings that the gentleman from California [Mr. HUNTER], and the gentleman from Oregon [Mr. DEFAZIO] and the gentleman from Vermont [Mr. SANDERS] helped us organize about a week ago, every single person said this was a set of credits that had high risk. This was not something where there was certain repayment. They expected losses. So, we expect that there will be claims that will be made on the taxpayers of our country under this new scenario.

So, the gentleman is correct. I think what the President has done is just pushed the definition of what is in that section to the limits both in terms of his own authority and the amount of funds that will now be drawn down for the purpose of, not propping up the dollar, but propping up the debts that are owed to creditors by the Government of Mexico.

Mr. DeFAZIO. Mr. Speaker, I yield to the gentleman from Vermont for a moment.

Mr. SANDERS. Mr. Speaker, the gentlewoman from Ohio [Ms. KAPTUR] mentioned that she read in the Wall Street Journal, I gather, that not only are the vast majority of the American people in opposition to this bailout, but in Mexico City, for interesting reasons having to do with the sovereignty of the Mexican people, very strong opposition to this bailout as well. So, on one hand you have the American people in opposition. On the other hand we have the Mexican people in opposition.

But probably in the Wall Street Journal, if we went to the editorial page of the Wall Street Journal, let me guess. The Wall Street Journal is strongly in support of the bailout, which takes us back to the scenario that took place some 14 months ago when we debated this issue of NAFTA right here on the floor of the House.

And interestingly enough the proponents of this bailout are trotting out all of the same figures once again. We have all of our former Presidents who told us what a great deal NAFTA would be. They are out again. And all of the former Secretaries of the Treasury who told us what a great deal NAFTA would be, they are out again. And all of the major newspapers in America and all of the large corporations in America who told us that NAFTA would significantly improve the standard of living of Mexican workers, why they are out again telling us editorially what a good deal this bailout would be.

The truth of the matter is that, and I say this, and I know you have made this point before: We are not gleeful, we are not delighted to say that we were right about NAFTA and they were wrong. We are not gleeful. But we do think it would be helpful for some of these editorial writers and the Wall Street Journal, instead of saying, "Let us pump another $40 billion of loan guarantees into Mexico, and then maybe they may want to acknowledge that they were wrong and that maybe we want to rethink."

And I know that the gentleman from Oregon [Mr. DEFAZIO] has introduced a very important piece of legislation that I know we are on which says, "Let us break the NAFTA agreement, let us withdraw from the NAFTA agreement," but it really does bother me that, after misleading the American people, they are back 14 months later saying, oops, we made a little bit—they do not acknowledge that they made a mistake, but now they have proposed that we have—we put another $40 billion of loan guarantees.

Mr. DeFAZIO. Well, actually what they do is they say, "We never could have anticipated this."

Of course we talked about the fact the peso was overvalued, would be devalued. I mean they can go back and review the debate, and actually we told them, as did credible economists.

But the gentlewoman from Idaho [Mrs. CHENOWETH] I believe has a question she would like to direct to the gentlewoman from Ohio [Ms. KAPTUR] and I yield to her for that purpose.

Mrs. CHENOWETH. Mr. Speaker, I thank the gentleman very much, and, being a freshman in this distinguished body, I have watched with great admiration as the gentlewoman from Ohio has patiently explained to us and the American people much that we need to know, and I appreciate her very much, and I am learning from her, but I do want to ask either the gentlewoman from Ohio [Ms. KAPTUR] or the gentleman from my neighboring State, the gentleman from Oregon [Mr. DEFAZIO]. I have a question about the basic function and the statutory authority of the Bank of International Settlements. I was shocked to realize that they, too, were a part of this bailout.

□ 2110

It was my understanding that the Bank of International Settlements was set up to help with International disputes. Again, Mr. DEFAZIO pointed out there is no national security problem here or no great national interest here.

Where is the dispute? Can you help me out here? Can you help the American people out? So much is being skirted in terms of what our expectations should be in the way institutions function, as well as government. It seems that the institutions are functioning outside of government, and it is a frightening thing.

Ms. KAPTUR. First of all, I think the gentlewoman from Idaho, so early in her first term, for being down here in the well asking the right questions.

Sometimes we do not always win our issues, but we find if we give voice to the American people, even though sometimes we feel like we do not have a lot of power, with that voice comes greater understanding, and slowly you see a country change. I think that is what we are about.

I am not aware of what the dispute is. The Bank for International Settlements was a consortium of central bankers that was devised in order to try to deal with some of the currency differences and for central banks to band together for assistance if there were draws that went more to one country than another country. I, like the gentlewoman, am quizzical as to what the dispute would be in this case. And I am very concerned about what the U.S. financial obligation would be if bills come due you.

I also wanted to place on the record this evening, to the gentleman from Vermont, who has been so steadfast in participating in these special orders, to say you have talked about the Wall Street Journal, one of the most respected publications in our country. And read it everyday and many, many analytical articles are just superb.

But I think it is important for the record to indicate that the former president of Mexico, the most recent president of Mexico, Carlos Salinas, was appointed to the board of Dow Jones & Co., which owns the Wall Street Journal, and it does not surprise me, therefore, as I read the various headlines in the Wall Street Journal and some of the hype that has been put into trying to make it seem like if we do not do this there will be an apocalypse, "Mexico worries spread to emerging markets," the headlines, "Mexico's currency plunges 10 percent amid worries about U.S. rescue plan." The headlines, you worry. Headlines form policy. It is important to know who is in position to make opinions about this and influencing public opinion.

So if I might further respond to the gentlewoman from Idaho, my hope is that as we get more details on the

package, over the next day we hope—we were not able to get the fineprint today—we will be able to answer your constituents and our own with more specificity as to the role of the Bank for International Settlements in this.

We know it is $10 billion. We do not know how that is being drawn down. We were not provided with any details today.

Mr. DEFAZIO. I thank the gentlewoman for answering questions as best we can at this time.

I think the gentlewoman from Idaho has raised an excellent question. The Bank for International Settlements, what is the United States' obligation to that bank at this point in time? How is it we came so recently to be represented on the board of directors by Alan Greenspan and the chairman of the New York Fed?

What commitments has the United States made of either funds that are being channeled through the Federal Reserve Board in secret, or more overt agreements or obligations of the Federal treasury? How much do we have at risk here?

I think these are excellent questions that need to be answered.

You know, there is this wisdom that somehow we have to allow the Federal Reserve to operate in secret because it is the only way to give them political independence. The Bundesbank in Germany is I think the most highly regarded central bank in the world, and they are required to conduct all their deliberations, negotiations, discussions and votes in public. But yet our Federal Reserve somehow is the only agency of the Federal Government, more powerful than the Congress and the President combined in terms of the economic future of this country today, in terms of whether or not we bail out Mexico or raise interest rates again to fight inflation that no one else sees except for Alan Greenspan and a few other inflation warriors at the Federal Reserve, they do all this in secrecy. They change the policies to say they think 4 percent unemployment is too low and they would rather have 6 percent, because otherwise wages might go up a little bit and working people might earn more in this country and that might start an inflationary trend. At the same time they are tying us to international agreements and institutions which are diminishing the role of U.S. labor.

So on the face of it their arguments are not even consistent. But they do not have to account to anyone. They do not have to answer questions if we call down there.

My staff called down today to ask about conflicts of interest by members of the Federal Reserve Board. Do any members of the Federal Reserve Board represent regional banks which are heavily invested in Mexico, and have they disclosed that fact, have they recused themselves from voting as they apportion funds to bail out Mexico? No, we are not allowed to know the answer to that question.

So what is this body we have created, that is so much beyond the public and the elected representatives of the people? Its role in this bailout is just extraordinary.

Mr. SANDERS. I think the points that the gentleman is making are absolutely correct. Ostensibly we live in a democracy, and ostensibly it is the President of the United States and the House and the Senate that represent the American people, and presumably are elected to do the best that we can to represent the interests of the American people, and presumably are elected to do the best that we can to represent the interests of the American people. And one of the aspects of this whole bailout which bothers me very, very much, is that all over this country the American people know what a lemon it is. They know that with the $290 billion deficit, and with people in this body talking about cuts in Medicare and Medicaid and nutrition programs for the elderly and for the children, that it is absolutely insane to be talking about putting $40 billion of American taxpayers' money at risk in this bailout.

It is not often in my view, as the only Independent in the Congress, that actually the Congress hears the needs of the American people. But guess what? On this particular instance, the Congress, the Republicans, the Democrats, the Independent, heard what the American people were concerned about and made it very clear that the U.S. Congress was not going to support the Mexican bailout.

So some of us last night, we were saying hey, every once in a while we actually win a victory. It looks like we are going to win this particular fight.

But lo and behold, guess what? So what if many of the vast majority of the American people do not want the bailout? So what if the vast majority of Congress does not want the bailout? I guess the Wall Street Journal, the major corporations and the major banks in America do want it. So, hey, if it is between the American people and the Congress on one hand, and the corporate world and the banks on the other hand, which way are we going to do?

So what the President does, which is really disturbing, I would have been disturbed if Congress had voted for the bailout. But I could have lived with it, just as I had to live with NAFTA. But the idea that the President circumvented the Democratic process, pulled out some ancient, arcane law which ostensibly gave him the authority, is very, very disturbing. And I frankly think those of us in Congress who are concerned about this issue have got to deal with that statute and make some changes to it.

Mr. DEFAZIO. Well, I appreciate the gentleman's comments there. I think it is certainly time to review this statute. It is obviously time to get some clarification from the administration on exactly what authority they believe they do have. Are there no limits? We are now pledging $20 billion to Mexico. Is there no limit? What if the $20 billion is not enough? Credible analysts came before our hearing, unlike the playacting hearing put on by the Committee on Banking and Financial Services, but a hearing where we invited people who had differing views from the administration and the bailout artists, and said "No. $40 billion will not be enough. Mexico is such a basket case, if you are going to tie the U.S. dollar to the Mexican peso, you better be prepared to defend the U.S. dollar against a run by the Japanese and the Germans and others, because they do not think this is a very smart thing to do." They said, "You can expect to be talking about $150 billion, not $40 billion dollars."

So this stabilization fund, will the President next week announce that well, the $20 billion was not enough, and now we are going to go for another $50 billion or $100 billion?

□ 2120

Where does this money come from? As you said, we have a $200 billion deficit, where does this money come from?

Mr. SANDERS. I think the gentleman and gentlewoman might agree that if we were talking about loan guarantees, it might be appropriate to talk about loan guarantees right here in the United States of America. Can you imagine how many decent paying jobs we could create right here at home rebuilding our economy, both the public sector and the private sector, if we had loan guarantees right here. But apparently, uplifting the poor people of America—I always get a kick, I get a kick out of hearing how good it would be for our economy if we can improve the standard of living of Mexican workers. I happen to be very strongly pro-Mexican and very concerned about the problems and the poverty that exists in Mexico, and we all want to uplift the Mexican people.

But how ironic that that same argument is not used here in the United States of America. Fourteen percent of our people live in poverty. Now maybe if we invested in a jobs program, maybe if we rebuilt our cities and towns and our infrastructure and provided decent jobs for our people and uplifted them, maybe they would also be able to purchase the goods and services that right now corporate America wants to sell to Mexico.

But apparently that is a very, very radical idea to suggest that we might want to uplift the poor people in America rather than the poor people in Mexico.

Mr. DEFAZIO. Did not the gentleman identify an article yesterday that said that because of the economic straits that our country is in that we are going to have to lower the loan guarantees made available to small businesses in this country?

Mr. SANDERS. The small businesses.

Mr. DEFAZIO. In my State the thriving growth of the last 20 years has come from small businesses. We have had a few big corporations move in, but generally we can identify most of the growth that is coming in. Now we will have to cut back on loan guarantees for small businesses in America while we, for example, extend $40 billion to Mexico.

Mr. SANDERS. The gentleman is quite right. That was in the Washington Post, I believe, yesterday. It dealt with the Small Business Administration, that is correct.

Mr. DEFAZIO. That is extraordinary. So somehow, I guess small businesses in the United States are not a good risk or we just cannot afford them, even if they are a good risk. And so we are going to have to cut back on that extension of credit. But a regime in Mexico, which has had three major financial crises, essentially two previous defaults in the last 12 years, which is an authoritarian regime which has lowered the standard of living of its own people by 25 percent in the last decade, which has, however, created 24 billionaires in a mere 7 years, is somehow a great credit risk. And there is nothing to worry about. But American businesses, well, I am sorry, we cannot afford to extend that kind of credit to American businesses. We are just going to have to cut that program back, and we are also going to cut our loans, rural electrification loans and other things.

We do have a budget crisis. I agree. It is time to get it under control. But how is it that suddenly, when we have to bail out the savings and loans, we can do it off budget; when we have to bail out Mexico, we can do it off budget. But if it goes to average American people and their concerns, their small businesses, their livelihoods, their education, we are broke.

This is a strange parallel to me.

Mr. SANDERS. The other irony, I think, perhaps the interesting irony in this whole affair is that I personally happen not to be a great believer in the free enterprise system for many reasons. I do respect people who take a risk and, having taken that risk, if they do well, they earn a whole lot of money. I think that is okay. But when you take a risk by definition, there is a chance that you may lose. I find it really outrageous that the people who invested in Mexico, especially after the NAFTA agreement, they invested a whole lot of money, and they expected a high rate of return. Well, things did not turn out the way they expected. That is unfortunate.

But in Vermont, small businesses are having very great difficulty, family farmers, workers, having very great difficulty. And yet they do not have the U.S. Government guaranteeing their investment. What a wonderful world it is for Wall Street investors. It is heads, I win; tails, you lose. Heads, I win and get a large rate of return from my investment in Mexico or tails, you guarantee my investment. Sorry, the American taxpayer.

So they make these investments. And then they come crawling into the Congress and say, gee, Congress, gee, Mr. President, we very, very wealthy people may have to lose some money. That is unacceptable. We are very wealthy. We are not supposed to lose any money. So you ordinary Americans, average taxpayers, workers who may have seen your jobs go to Mexico, we want you to bail us out.

And the leadership of the Republican party and the President and Mr. Greenspan say, well, that makes sense to us. Hey, that is a good idea. We will guarantee your investments.

Oh, that the average American small businessperson had that type of support behind him or her.

Mr. DEFAZIO. I think a lot of our colleagues are not aware of the fact that a lot of these short-term tesobonos that the Mexican Government cannot turn over are paying rates of interest between 21 and 50 percent. Now, I do not know, but if someone offered me a 21 percent rate of return on my modest savings, I might say, is there not a risk. That seems like an awful high rate of return.

If they said, no, Congressman, do not worry about it, there is no risk at all, I think maybe I would make a few phone calls. But the Wall Street people, the Goldman Sachs firm, which is into Mexico for $25.2 billion over the last 3 years, and others, said, oh, no, this is an emerging economy. There is no risk. This is just sort of like the United States except the people speak Spanish. There is no risk down there. Do not worry about the government. They just had an election.

Well, they had an election 6 years ago. The party that lost won, and they were the one we liked the most. And this last time the party that we liked the most, well, they won again. They may have fixed the election, but they always win, so there is no risk. They do not allow people to organize, labor unions. And if they do organize the labor unions, do not worry, we also control the judiciary because we do not have an independent judiciary in this country. And the judiciary will take care of those pesky people trying to drive up wages there in Mexico. So we will keep wages down there even lower than we can drive wages in the United States so your investment in Mexico is totally safe.

This is what is extraordinary to me, that we have allowed this thing to spin so far out of control, that we get sold such a bill of goods. Not you and I, since we voted against the NAFTA agreement, but so many of our colleagues. And now we are going to go to this extent to cover some very prestigious fannies around here and extend $40 billion of our taxpayers' money to bail them out. They could not get it through the Congress, to the credit of this institution. But now they are going to find another way to do it.

Mr. SANDERS. I think at this point maybe some Americans are wondering what they can do about this fiasco. I think the iron law of politics is that government will often try to get away with as much as they can until people stand up and say, sorry, you are not going to do that.

So I think I would speak for you and many Members of Congress who are saying to the American people, we have enough problems at home. We have a $200 billion deficit and a $4.6 trillion national debt. We do not think it makes a lot of sense within that context to be bailing out an authoritarian and unstable government and a very shaky economy in Mexico. I would very strongly urge the American people, write to the President, write to your Members of Congress and say, wait a second. We want you to stop this $40 billion bailout.

So I would hope that the American people would stand up and say, no, Mr. President, no Republican leadership, let us reinvest in America. Let us control our own deficit. I hope we do not take this lying down.

If people stand up and fight back, we can yet turn around this fiasco.

Mr. DEFAZIO. I thank the gentleman.

I think these are an extraordinary couple of days in the history of this republic. The House of Representatives and the Senate did stop the bailout of Mexico or at least indicated that they were not willing to go along readily. That was great. But now we have seen an end run around the Congress of the United States with the creative interpretation of a statute and another way to send $40 billion out the back door that Congress would not let go out the front door. Yet again the Federal Reserve is going to meet tomorrow to try and visit another catastrophe on the American people, to raise interest rates, to banish the threat of inflation that does not exist.

□ 2130

There is a 30-year low in terms of inflation statistics to drive up unemployment. That is the policy of the Federal Reserve.

Did this Congress authorize the Federal Reserve to drive up unemployment? Are those the underlying laws and statutes in the United States, and is that the authority which extended to the Federal Reserve: You are charged

with driving up unemployment because we do not want to see wages go up, we don't want people to make a better standard of living?

That is not what I got elected to do. I believe there are some extraordinary questions here, and they all seem to come back to the same very small influential group, the Federal Reserve, a few people on Wall Street and some people in the administration, some of whom used to work on Wall Street very recently, earning up to $26 million a year advising their company to invest $5.2 billion in Mexico, and now want to bail out Mexico.

These are extraordinary times, and the people should be very attentive to what is going on here.

Mr. SANDERS. Mr. Speaker, I say to the gentleman from Oregon, [Mr. DEFAZIO], what especially distresses me, as the gentleman knows, in this last election only 38 percent of the American people bothered to vote. I think the reason for that is so many people are just shaking their heads and shaking their hands and they are saying, "Hey, I really have no power. I have no authority."

With this whole business, what this whole business indicates is that we can understand why people are giving up on the democratic process, because here we have, for once in a very long time, the Congress of the United States actually doing the right thing and saying no to the bailout, and yet we still cannot win.

So next time when we run for reelection and we go back home, people are going to say, "What difference does it make? You are trying to do a good job but they are going to go around you anyhow. You do not have enough power to represent ordinary people."

I think that is a very sad thing at a time when many of us, I know the three of us, are reaching out. We want working people and we want poor people and we want the elderly to get involved in the political process.

This action on the part of the President just discourages, I think, millions of people who say, "Hey, it does not make a difference. Wall Street has made a demand and the President has succumbed to it, and it does not matter what ordinary people think about it."

Mr. DEFAZIO. Mr. Speaker, I yield to the gentlewoman from Ohio.

Ms. KAPTUR. Mr. Speaker, I just want to say what a pleasure it has been to participate in this special order with both gentlemen this evening, and to also mention that part of the reason we doubt this rescue package is simply because people like myself believe that the markets are being manipulated by those who have a great deal of power.

In Mexico, for example, we know that both the Government of Mexico and our own Government knew that the peso was overvalued. We tried to get it dealt with in the NAFTA agreement itself. They tried to prop up and they did prop up the value of the peso right before the Mexican election in August, and right after the election the peso began to drop in value.

Then we had the GATT debate here in Congress, and right after GATT passed the peso went through the floor. So we know that that government manipulates the value of its money. Knowing that, we know we are now being manipulated; that much of what we see happening is being done to benefit the very same financial interests that created the overinflated peso during the 1993–1994 period. There is a lot of money on the line for many of these private interests.

My point with them is when, especially for those interests in the United States which made over a 66-percent return on their emerging market funds since 1990, you greeted those gains and profits with smiles and parties in New York and boat parties off the docks and all the things that happened with a 66-percent return, while interest rates for average American families were going up at the same time as you ate your profits, now is the time to eat your losses. The private market is a very harsh referee, but you have to accept the market, both in the ups and the downs, and not come running to the taxpayers of the United States for some type of private or public relief for private actions.

I just want to thank the gentleman for participating in this special order this evening, and to say what makes it worthwhile serving in the Congress of the United States. Though we don't always win, though we fight as hard as we know how, it is only bearable because of the people who send you here and because of the fine colleagues with whom you serve.

I would say to the gentleman from Oregon [Mr. DEFAZIO] and to the gentleman from Vermont [Mr. SANDERS] it is only worth serving because you are here, too. It has been a pleasure to be here with you.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman. I thank her for her leadership, and I can assure our colleagues that this is not the last they have heard from us on this issue, either on the Mexican bailout and the new attempts by the President to end run the Congress, or the Federal Reserve and their incessant increases in interest rates driving thousands of Americans out of work.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CRANE (at the request of Mr. ARMEY), for today, after 5:30 p.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. TORRES) to revise and extend their remarks and include extraneous material:)

Mr. LIPINSKI, for 5 minutes, today.
Mr. MENENDEZ, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. BARR) to revise and extend their remarks and include extraneous material:)

Mr. DUNCAN, for 5 minutes, today.
Mr. BARR, for 5 minutes, today, and on February 1.
Mr. KOLBE, for 5 minutes, today.
Mr. CHABOT, for 5 minutes, today.
Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. TORRES) and to include extraneous matter:)

Mr. SKELTON in two instances.
Mr. STOKES in two instances.
Mr. KLECZKA.
Mr. HOLDEN.
Mr. LANTOS.
Mr. MFUME in four instances.
Mr. JACOBS.
Mr. UNDERWOOD.
Ms. PELOSI.
Mr. MONTGOMERY.
Mr. RICHARDSON.
Mr. STARK.
Mr. TRAFICANT.
Mr. FAZIO of California.
Mr. TORRES.

(The following Members (at the request of Mr. BARR) and to include extraneous matter:)

Mr. PACKARD.
Mr. WOLF.
Mrs. MORELLA.
Mr. FAWELL.
Mr. GEKAS.
Mr. GILMAN.
Mr. KOLBE.
Mr. KNOLLENBERG.
Mr. CRANE.
Mr. BATEMAN.

ADJOURNMENT

Ms. KAPTUR. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 35 minutes p.m.), the House adjourned until Wednesday, February 1, 1995, at 11 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 51. Resolution providing for the consideration of the bill (H.R. 101) to transfer a parcel of land to the Taos Pueblo, Indians of New Mexico (Rept. 104–12). Referred to the House Calendar.

Mr. McINNIS: Committee on Rules. House Resolution 52. Resolution providing for the consideration of the bill H.R. 400) to provide for the exchange of lands within Gates of the Arctic National Park and Preserve, and for other purposes (Rept. 104–13). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 53. Resolution providing for the consideration of the bill (H.R. 440) to provide for the conveyance of lands to certain individuals in Butte County (Rept. 104–14). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. NORTON:

H.R. 748. A bill to amend the Internal Revenue Code of 1986 to provide that individuals who are residents of the District of Columbia shall be exempt from Federal income taxation, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORRES:

H.R. 749. A bill to provide that professional baseball teams, and leagues composed of such teams, shall be subject to the antitrust laws; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 750. A bill to amend the Occupational Safety and Health Act of 1970 to provide for uniform warnings on personal protective equipment for occupational use, and for other purposes; to the Committee on Economic and Educational Opportunities.

H.R. 751. A bill to amend section 207 of title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

By Mr. COLLINS of Georgia (for himself, Ms. DUNN of Washington, Mrs. MYRICK, Mr. CLINGER, Mr. CARDIN, Mr. ENGLISH of Pennsylvania, Mr. PARKER, Mr. TALENT, Mr. LINDER, Mr. KINGSTON, Mr. BUNNING of Kentucky, Mr. SOLOMON, Mr. HASTERT, Mr. MINETA, Mr. SHUSTER, Mr. OBERSTAR, Mr. DUNCAN, Mr. FAWELL, Mr. QUINN, and Mr. RAMSTAD):

H.R. 752. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on fuel used in commercial aviation which is scheduled to take effect on October 1, 1995; to the Committee on Ways and Means.

By Mr. GEKAS (for himself, Mr. PASTOR, Mr. COBURN, Mr. RAMSTAD, Mr. COX, and Mr. BILBRAY):

H.R. 753. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLDEN (for himself, Mr. BOUCHER, Mr. KANJORSKI, Mr. KLINK, Mr. MASCARA, Mr. MURTHA, Mr. RAHALL, and Mr. WISE):

H.R. 754. A bill to make improvements in the Black Lung Benefits Act; to the Committee on Economic and Educational Opportunities.

By Mr. HOLDEN (for himself, Mr. BARRETT of Wisconsin, Mr. BLUTE, Mr. CANADY, Mr. FRANK of Massachusetts, Mr. JACOBS, Mr. KLINK, Mr. LINDER, Mr. MANZULLO, Mr. MEEHAN, Mr. MILLER of Florida, Mr. POSHARD, Ms. SLAUGHTER, and Mr. ZIMMER):

H.R. 755. A bill to reduce the amount authorized for the official mail allowance for Members of the House of Representatives by 20 percent; to the Committee on House Oversight.

By Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. GREENWOOD, Mr. COLLINS of Georgia, Mr. CANADY, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, and Mr. SHAW):

H.R. 756. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Ways and Means, Banking and Financial Services, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JACOBS (for himself, Mr. MCCRERY, and Mr. MORAN):

H.R. 757. A bill to amend the Internal Revenue Code of 1986 to provide that the amount of an overpayment otherwise payable to any person shall be reduced by the amount of past-due, legally enforceable State tax obligations of such person; to the Committee on Ways and Means.

By Mr. JONES:

H.R. 758. A bill to require the Corps of Engineers to carry out the construction and operation of a jetty and sand transfer system, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. KNOLLENBERG (for himself, Mr. KOLBE, Mr. SMITH of Texas, and Mr. ISTOOK):

H.R. 759. A bill to improve the effectiveness of Federal welfare efforts and increase citizen participation in fighting poverty; to the Committee on Ways and Means, and in addition to the Committees on Agriculture, Commerce, Economic and Educational Opportunities, Banking and Financial Services, the Judiciary, Resources, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCNULTY:

H.R. 760. A bill for the relief of Henry Johnson; to the Committee on National Security.

By Mr. NADLER (for himself, Mr. DELLUMS, Ms. VELAZQUEZ, Mr. OWENS, Mr. MILLER of California, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. TRAFICANT, Mr. PALLONE, Mr. ACKERMAN, Mr. DEUTSCH, Mrs. MALONEY, Mr. YATES, and Mr. ENGEL):

H.R. 761. A bill to establish the AIDS Cure Project; to the Committee on Commerce.

By Mr. TRAFICANT:

H.R. 762. A bill to reestablish the revenue sharing program of annual payments to States and units of general local government, to authorize appropriations for payments under the program, and to offset that authorization by reducing the authorization of appropriations for foreign aid; to the Committee on Government Reform and Oversight, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. GOODLATTE, Mr. TRAFICANT, Mr. MORAN, and Mr. GORDON):

H.R. 763. A bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, and for other purposes; to the Committee on Resources.

By Mr. WYNN:

H.R. 764. A bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage; to the Committee on Economic and Educational Opportunities.

By Mr. MILLER of California (for himself, Mr. GEJDENSON, Ms. WATERS, Mr. HINCHEY, Ms. MCKINNEY, Ms. SLAUGHTER, Mr. GENE GREEN of Texas, Mr. OWENS, Mr. RANGEL, Mr. MCNULTY, Mr. SERRANO, Mr. FRANK of Massachusetts, Mr. STARK, Mr. GUTIERREZ, Ms. VÁLEZQUEZ, Mr. FLAKE, Mr. FARR, Mr. COLEMAN, Mr. HALL of Texas, Mr. BREWSTER, Mr. EDWARDS, Mr. OBEY, Mr. TAUZIN, Mr. DEFAZIO, Mr. TRAFICANT, Mr. WYDEN, Mr. ROEMER, Mr. FOGLIETTA, Mr. STUDDS, Mr. CONDIT, Mr. ABERCROMBIE, Mr. MCDERMOTT, Mr. DURBIN, Ms. ESHOO, and Mr. SPRATT):

H. Res. 54. Resolution expressing the sense of the House of Representatives that the Federal Open Market Committee and the Board of Governors of the Federal Reserve System should defer any further increase in the Federal funds rate and the discount rate until at least September 1995; to the Committee on Banking and Financial Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LINDER introduced a bill (H.R. 765) for the relief of Larry Errol Pieterse; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 8: Mr. FIELDS of Texas.

H.R. 26: Mr. MILLER of Florida, Mr. PASTOR, Mr. DEAL of Georgia, Mr. COX, Mr. BROWN of Ohio, Mr. LEVIN, Mr. MINGE, Mr. TUCKER, Mr. COLEMAN, Mr. PAYNE of Virginia, Mr. CONDIT, Mr. PORTMAN, Mr.

LAUGHLIN, Mr. STENHOLM, Mr. VOLKMER, Mr. QUINN, Mr. POMBO, Mr. CALLAHAN, Ms. HARMAN, Mr. GILCHREST, Mr. BROWDER, Mr. COBLE, Mr. TRAFICANT, Mr. BAESLER, Mr. BALDACCI, Mr. OLVER, Mr. COSTELLO, and Mrs. THURMAN.

H.R. 28: Mr. PORTER and Mr. CUNNINGHAM.

H.R. 47: Mr. BURR, Mr. STUMP, Mr. ISTOOK, Mr. SOLOMON, Mr. FOLEY, and Mr. STEARNS.

H.R. 52: Mr. KENNEDY of Rhode Island, Mr. HOLDEN, Mr. DOOLEY, Mr. FROST, Mr. ROYCE, and Mr. FORBES.

H.R. 62: Mr. WELLER, Mr. MCHALE, and Mr. FLANAGAN.

H.R. 65: Mr. WELLER, Mr. FRANK of Massachusetts, and Mr. PASTOR.

H.R. 66: Mr. FRANK of Massachusetts.

H.R. 70: Mr. PETE GEREN of Texas.

H.R. 97: Mr. EVANS and Mr. GEJDENSON.

H.R. 103: Mr. JACOBS, Mrs. THURMAN, and Mr. HINCHEY.

H.R. 104: Mr. RIGGS and Mr. TORKILDSEN.

H.R. 109: Mr. MILLER of Florida, Mr. RIGGS, Mr. GONZALEZ, and Mr. PASTOR.

H.R. 112: Mr. WYNN.

H.R. 120: Mr. HILLIARD and Ms. LOFGREN.

H.R. 125: Mr. CRAPO, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. NORWOOD, Mr. PETERSON of Minnesota, and Mr. ROSE.

H.R. 139: Mr. MCHALE.

H.R. 142: Mr. FLANAGAN.

H.R. 208: Mr. SAM JOHNSON and Mr. ARMEY.

H.R. 216: Mr. FLANAGAN.

H.R. 260: Mr. CALVERT.

H.R. 303: Mr. WELLER and Mr. FRANK of Massachusetts.

H.R. 325: Mr. DORNAN and Mr. FRELINGHUYSEN.

H.R. 359: Mr. BOUCHER, Mr. WILSON, Mr. ROBERTS, Mr. WYNN, and Mr. BARTLETT of Maryland.

H.R. 363: Mr. SABO, Mr. MARTINEZ, Mr. HINCHEY, Mr. FATTAH, Mr. GENE GREEN of Texas, Mr. HILLIARD, Mr. MILLER of California, Mr. GONZALEZ, Mr. CONYERS, Mr. OWENS, Mr. PAYNE of New Jersey, Mr. DELLUMS, Ms. VELAZQUEZ, Ms. WATERS, Ms. NORTON, Mr. FILNER, Mr. EVANS, Mr. TORRES, Mr. TOWNS, Mr. YATES, Mr. ABERCROMBIE, Mr. LEWIS of Georgia, Mr. BONIOR, and Ms. PELOSI.

H.R. 436: Mr. ARMEY, Mr. SOUDER, Mr. COSTELLO, and Mr. CHAPMAN.

H.R. 450: Mr. BILBRAY, Mr. LATHAM, Mr. HILLEARY, Mr. ARCHER, Mr. FRISA, Mr. GOODLING, Mr. GRAHAM, Mr. TIAHRT, Mr. NORWOOD, Mr. RAMSTAD, Mr. GUTKNECHT, Mr. FOLEY, Mr. FLANAGAN, and Mr. TAYLOR of North Carolina.

H.R. 463: Mr. QUILLEN.

H.R. 469: Mr. RIGGS.

H.R. 483: Mr. SMITH of New Jersey, Mr. PETERSON of Minnesota, Mrs. FOWLER, Mr. DEUTSCH, Mr. DIXON, Mr. GALLEGLY, Mr. DOYLE, Mr. ZELIFF, Mr. DORNAN, Ms. DANNER, Mr. SABO, Mr. ANDREWS, Mr. QUILLEN, Mr. GOODLATTE, Mr. LIGHTFOOT, Mr. COX, Mr. BOUCHER, Mr. GILLMOR, Mr. OXLEY, Mr. ENGLISH of Pennsylvania, Mr. SCHIFF, Mr. SHAW, and Mr. BARTLETT of Maryland.

H.R. 497: Mr. LAFALCE, Mr. DAVIS, Ms. NORTON, Mr. UPTON, Mr. LIVINGSTON, Mr. STEARNS, Mr. PICKETT, Mr. SHAYS, and Mr. ROEMER.

H.R. 502: Mr. FIELDS of Texas, Mr. GILCHREST, Mr. RADANOVICH, Mr. TRAFICANT, Mr. KNOLLENBERG, Mr. SHAYS, and Mr. FOX.

H.R. 512: Ms. MOLINARI.

H.R. 513: Mr. CALVERT.

H.R. 522: Mrs. MORELLA.

H.R. 523: Mrs. MORELLA.

H.R. 526: Mr. BARRETT of Nebraska.

H.R. 555: Mr. FOGLIETTA.

H.R. 559: Mr. RAHALL, Mr. GONZALEZ, Mr. FILNER, Mr. WILSON, Mr. DELLUMS, Mr. SMITH of New Jersey, and Mr. FROST.

H.R. 582: Mr. WALSH.

H.R. 593: Mr. PORTER.

H.R. 594: Ms. PELOSI and Mr. KLUG.

H.R. 608: Mrs. MINK of Hawaii and Mr. GUTIERREZ.

H.R. 609: Ms. ESHOO, Ms. JACKSON-LEE, Ms. WOOLSEY, and Mr. OLVER.

H.R. 663: Ms. PRYCE, Mr. HUNTER, Mr. SHUSTER, Mr. KLUG, and Mr. TALENT.

H.R. 682: Mr. MCCRERY, Mr. TANNER, and Mr. FOX.

H.R. 696: Mr. MFUME.

H.R. 697: Mr. COX, Mr. METCALF, Mr. HUNTER, Mr. FOX, Mr. MCINTOSH, Mr. FROST, Mr. DELAY, Mr. MANZULLO, Mr. SCHAEFER, Mr. DEUTSCH, and Mr. GOSS.

H.R. 739: Mr. KNOLLENBERG, Mr. HALL of Texas, Mr. FUNDERBURK, Mr. HUNTER, Mr. SHAYS, Mr. TAYLOR of North Carolina, and Mr. PETRI.

H.J. Res. 3: Mr. FIELDS of Texas.

H. Con. Res. 12: Mr. HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MINGE, and Ms. COLLINS of Michigan.

H. Res. 20: Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. DEUTSCH, Mr. GENE GREEN of Texas, Mr. MEEHAN, Mr. OWENS, Mr. SCOTT, and Ms. MCKINNEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2

OFFERED BY: MR. FATTAH

AMENDMENT NO. 2: At the end of section 2, add the following new subsection:

(d) LIMITATION ON APPLICATION.—This Act shall not apply to any discretionary budget authority for the legislative branch of the Government.

H.R. 2

OFFERED BY: MR. FATTAH

AMENDMENT NO. 3: Section 1 is amended by—

(1) inserting "; **FINDINGS**" in the section heading before the period;

(2) inserting "(a) SHORT TITLE.—" before "This"; and

(3) adding at the end the following new subsection:

(b) FINDINGS.—The Congress finds that—

(1) in some States whose governors have "line item veto" authority similar to that given to the President by this Act the governor has used the authority to influence the votes of individual State legislators on issues other than the amount of spending by the State; and

(2) the ability of Congress to conduct effective oversight of the Executive branch and the ability of individual Members of Congress effectively to represent their constituents both require that the President be unable selectively to rescind the amount appropriated for individual parts of Congress (such as Members' staff, committees' staff, the General Accounting Office, the Congressional Budget Office, the Office of the Legislative Counsel of the House, the Office of the Parliamentarian of the House, the Congressional Research Service, the Office of Technology Assessment, and the Government Printing Office).

H.R. 2

OFFERED BY: MR. KANJORSKI

AMENDMENT NO. 4: At the end, add the following new section:

SEC. 7. TERMINATION DATE.

This Act shall cease to be effective on January 1, 2000.

H.R. 2

OFFERED BY: MRS. LOWEY

AMENDMENT NO. 5: The first sentence of section 5(d)(1) is amended by striking "without amendment" and inserting "without amendments except amendments to strike any rescission or rescissions of budget authority".

Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order except amendments to strike any rescission or rescissions of budget authority. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

OFFERED BY: MS. SLAUGHTER

AMENDMENT NO. 6: Paragraph (3) of section 4 is amended to read as follows:

(3) The term "targeted tax benefit" means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a limited class of taxpayers whether or not such provision is limited by its terms to a particular taxpayer or class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.

H.R. 2

OFFERED BY: MRS. THURMAN

AMENDMENT NO. 7: Section 5(d)(2) is amended by striking the eighth and ninth sentences and inserting the following:

No amendment to the bill is in order, except any Member may move to strike any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion.

H.R. 2

OFFERED BY: MR. WISE

AMENDMENT NO. 8: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. If the President proposes a rescission of budget authority, he may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the amount of the proposed rescission. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to Congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit unless the President also proposes a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission;

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal; and

"(F) a reduction in the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974, if proposed by the President.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that speecial message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committeee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to disagreed to.

"(C) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the proceeding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. This bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider to the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate or a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall get equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with the special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entitles.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended—

(A) in subsection (a), by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

H.R. 2

OFFERED BY: MR. WISE

AMENDMENT NO. 9: Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND TARGETED TAX BENEFITS.

(a) IN GENERAL.—Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683) is amended to read as follows:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS

"SEC. 1012. (a) PROPOSED RESCISSION OF BUDGET AUTHORITY OR REPEAL OF TARGETED TAX BENEFITS.—The President may propose, at the time and in the manner provided in subsection (b), the rescission of any budget authority provided in an appropriation Act or repeal of any targeted tax benefit provided in any revenue Act. Funds made available for obligation under this procedure may not be proposed for rescission again under this section.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—

"(1) The President may transmit to congress a special message proposing to rescind amounts of budget authority or to repeal any targeted tax benefit and include with that special message a draft bill that, if enacted, would only rescind that budget authority or repeal that targeted tax benefit. That bill shall clearly identify the amount of budget authority that is proposed to be rescinded for each program, project, or activity to which that budget authority relates or the targeted tax benefit proposed to be repealed, as the case may be. A targeted tax benefit may only be proposed to be repealed under this section during the 10-legislative-day period commencing on the day after the date of enactment of the provision proposed to be repealed.

"(2) In the case of an appropriation Act that includes accounts within the jurisdiction of more than one subcommittee of the Committee on Appropriations, the President in proposing to rescind budget authority under this section shall send a separate special message and accompanying draft bill for accounts within the jurisdiction of each such subcommittee.

"(3) Each special message shall specify, with respect to the budget authority proposed to be rescinded, the following—

"(A) the amount of budget authority which he proposes to be rescinded;

"(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(C) the reasons why the budget authority should be rescinded;

"(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed rescission; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed rescission and the decision to effect the proposed rescission, and to the maximum extent practicable, the estimated effect of the proposed rescission upon the objects, purposes, and programs for which the budget authority is provided.

Each special message shall specify, with respect to the proposed repeal of targeted tax benefits, the information required by subparagraphs (C), (D), and (E), as it relates to the proposed repeal.

"(4) For any rescission of budget authority, the President may either submit a special message under this section or under section 2 of the Line Item Veto Act. Funds proposed to be rescinded under this section may not be proposed to be rescinded under section 2 of that Act.

"(c) PROCEDURES FOR EXPEDITED CONSIDERATION.—

"(1)(A) Before the close of the second legislative day of the House of Representatives after the date of receipt of a special message transmitted to Congress under subsection (b), the majority leader or minority leader of the House of Representatives shall introduce (by request) the draft bill accompanying that special message. If the bill is not introduced as provided in the preceding sentence, then, on the third legislative day of the House of Representatives after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the Committee on Appropriations or the Committee on Ways and Means of the House of Representatives, as applicable. The committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of that House after the date of receipt of that special message. If that committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) During consideration under this paragraph, any Member of the House of Representatives may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members.

"(D) A vote on final passage of the bill shall be taken in the House of Representatives on or before the close of the 10th legislative day of that House after the date of the introduction of the bill in that House. If the bill is passed, the Clerk of the House of Representatives shall cause the bill to be engrossed, certified, and transmitted to the Senate within one calendar day of the day on which the bill is passed.

"(2)(A) A motion in the House of Representatives to proceed to the consideration of a bill under this section shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the House of Representatives on a bill under this section shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit a bill under this section or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Appeals for decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a bill under this section shall be decided without debate.

"(D) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of a bill under this section shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) A bill transmitted to the Senate pursuant to paragraph (1)(D) shall be referred to its Committee on Appropriations or Committee on Finance, as applicable. That committee shall report the bill without substantive revision and with or without recommendation. The bill shall be reported not later than the seventh legislative day of the Senate after it receives the bill. A committee failing to report the bill within such period shall be automatically discharged from

consideration of the bill, and the bill shall be placed upon the appropriate calendar.

"(B) During consideration under this paragraph, any Member of the Senate may move to strike any proposed rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 14 other Members.

"(4)(A) A motion in the Senate to proceed to the consideration of a bill under this section shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate in the Senate on a bill under this section, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (C)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this section shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(D) A motion in the Senate to further limit debate on a bill under this section is not debatable. A motion to recommit a bill under this section is not in order.

"(d) AMENDMENTS AND DIVISIONS PROHIBITED.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the House of Representatives or the Senate. It shall not be in order to demand a division of the question in the House of Representatives (or in a Committee of the Whole) or in the Senate. No motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House to suspend the application of this subsection by unanimous consent.

"(e) REQUIREMENT TO MAKE AVAILABLE FOR OBLIGATION.—(1) Any amount of budget authority proposed to be rescinded in a special message transmitted to Congress under subsection (b) shall be made available for obligation on the day after the date on which either House rejects the bill transmitted with that special message.

"(2) Any targeted tax benefit proposed to be repealed under this section as set forth in a special message transmitted by the President shall not be deemed repealed unless the bill transmitted with that special message is enacted into law.

"(f) DEFINITIONS.—For purposes of this section—

"(1) the term 'appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'legislative day' means, with respect to either House of Congress, any day of session; and

"(3) The term 'targeted tax benefit' means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.".

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

(1) in subsection (a), by striking "and 1017" and inserting "1012, and 1017"; and

(2) in subsection (d), by striking "section 1017" and inserting "sections 1012 and 1017"; and

(c) CONFORMING AMENDMENTS.—

(1) Section 1011 of the Congressional Budget Act of 1974 (2 U.S.C. 682(5)) is amended by repealing paragraphs (3) and (5) and by redesignating paragraph (4) as paragraph (3).

(2) Section 1014 of such Act (2 U.S.C. 685) is amended—

(A) in subsection (b)(1), by striking "or the reservation"; and

(B) in subsection (e)(1), by striking "or a reservation" and by striking "or each such reservation".

(3) Section 1015(a) of such Act (2 U.S.C. 686) is amended by striking "is to establish a reserve or", by striking "the establishment of such a reserve or", and by striking "reserve or" each other place it appears.

(4) Section 1017 of such Act (2 U.S.C. 687) is amended)

(A) in subsection (a) by striking "rescission bill introduced with respect to a special message or";

(B) in subsection (b)(1), by striking "rescission bill or", by striking "bill or" the second place it appears, by striking "rescission bill with respect to the same special message or", and by striking ", and the case may be,";

(C) in subsection (b)(2), by striking "bill or" each place it appears;

(D) in subsection (c), by striking "rescission" each place it appears and by striking "bill or" each place it appears;

(E) in subsection (d)(1), by striking "rescission bill or" and by striking ", and all amendments thereto (in the case of a rescission bill)";

(F) in subsection (d)(2)—

(i) by striking the first sentence;

(ii) by amending the second sentence to read as follows: "Debate on any debatable motion or appeal in connection with an impoundment resolution shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, except that in the event that the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.";

(iii) by striking the third sentence; and

(iv) in the fourth sentence, by striking "rescission bill or" and by striking "amendment, debatable motion," and by inserting "debatable motion";

(G) in paragraph (d)(3), by striking the second and third sentences; and

(H) by striking paragraphs (4), (5), (6), and (7) of paragraph (d).

(d) CLERICAL AMENDMENTS.—The item relating to section 1012 in the table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

"Sec. 1012. Expedited consideration of certain proposed rescissions and targeted tax benefits.".

EXTENTIONS OF REMARKS

A SALUTE TO THE NATIONAL BLACK NURSES ASSOCIATION: CELEBRATING 24 YEARS OF SERVICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. STOKES. Mr. Speaker, in just a few days, on February 2, 1995, members of the National Black Nurses Association will gather in Washington, DC, for the fifth annual Black Nurses Health Day on Capitol Hill. Thousands of nurses from around the country will travel to our Nation's Capitol Hill for this day-long event focusing on health care and other issues impacting the nursing community.

The National Black Nurses Association is the Nation's largest African-American health organization, representing more than 130,000 nurses in the United States and throughout the world. The organization is under the direction of Dr. Linda Burns Bolton, who serves as president. I rise today to offer a special salute to the National Black Nurses Association.

Mr. Speaker, the history of African-Americans in nursing can be traced to Sojourner Truth, a former slave, who ministered to wounded black veterans of the Civil War in 1864. History also records that a few years later, in 1870, Susan Smith McKinney Steward became the first black woman to receive a medical degree. Steward received her degree from the New York Medical College for Women, and was valedictorian of her class.

I take pride in the fact that the National Black Nurses Association has its founding in my congressional district in 1971. Over the past 24 years, the organization has been a strong advocate for the health care needs of the poor, the disenfranchised, the elderly, and our Nation's youth. The National Black Nurses Association has also played a key role in fighting to secure increased funding for research and development, public health service, health profession education, and health care technology developments.

Mr. Speaker, the National Black Nurses Association Health Day on Capitol Hill was established in 1989 to give recognition to the outstanding services that African-American nurses contribute to the health care system in America. The event is celebrated annually during Black History Month. I am proud that during Health Day, my colleagues in the Congressional Black Caucus, the Hispanic Caucus, and other Members of Congress will join us for this important event.

Mr. Speaker, I applaud Dr. Linda Burns Bolton for her leadership of the National Black Nurses Association. I am proud to host the organization's Annual Health Day, and look forward to greeting Dr. Bolton and the members of the National Black Nurses Association. As we celebrate Black Nurses Day, let us remember that we owe each of these individuals a debt of gratitude for their commitment and dedication to service.

ACCOMPLISHMENTS OF B-2 STEALTH BOMBER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. SKELTON. Mr. Speaker, on December 22, 1994 an article appeared in the Windsor Review, a newspaper in the Fourth Congressional District of the State of Missouri. The article, entitled "B-2 Has Phenomenal First Year At Whiteman Air Force Base," examines the first year accomplishments of the B-2 stealth bomber. I enter the article into the CONGRESSIONAL RECORD:

The 509th Bomb Wing has flown 114 of 120 planned sorties, with an astounding reliability rate of 95 percent, since the Air Force's first B-2 stealth bomber winged its way from its birthplace in Palmdale, California, to its new home near Dec. 17 last year. That equals more than 380 flying hours for all four aircraft.

The 509th got off to a phenomenal start by flying the "Spirit of Missouri" on its first training mission just five days short of its arrival at Whiteman.

Since that time, the "Spirit of Missouri" has been joined by the "Spirit of California", "Spirit of Texas", and "Spirit of Washington" as the 509th progresses toward becoming the first fully operational B-2 wing in the Air Force.

The wing initially trained two instructor pilots at Whiteman, and four more instructor pilots in the first class have recently completed their checkrides. The second and third class have begun training. By the end of 1994, the 509th will be able to point with pride to eight instructor pilots who have completed basic qualification.

"I'm extremely pleased with the Whiteman team and excited about the future of the B-2" said Brigadier General Ronald C. Marcotte, 509th Bomb Wing Commander. "Our goal is to make the B-2 and Whiteman AFB the crown jewel of national defense. I think we're well on our way.

In September, the 509th completed its first operation delivery of munitions at the Air Force's Utah Teat and Training Range. The "Spirit of California" delivered two inert Mark-84 2,000-pound bombs against targets located at Barker Strong Point on the Utah range.

"We were on target and on time" said Colonel William M. Fraser III, 509th Operations Group commander. "It was the culmination of many months of training for the entire 509th team. We exercised our mission planning program as well as our weapons load and aircraft preparation."

Six weapons load crews have been trained and certified in the past year.

While the "Spirit of California" demonstrated the B-2's munitions delivery capability, the "Spirit of Missouri" began its first phase inspection. A phase inspection is a scheduled inspection that looks at the entire airplane for any signs of damage, usually in the form of corrosion, cracks, or unexpected wear and tear. The B-2 has more than 1,200 items that must be inspected. The whole process takes about 44 working days.

"Our plan is to use this phase as a benchmark for future phases," said Colonel Henry L. Taylor, 509th Logistics Group commander. "We want to improve the process so we can reduce the time needed for phase inspections and return the planes to the 393d Bomb Squadron as quickly as we can safely do it."

As Whiteman team members work to make the B-2 the cornerstone of national defense, they are also deactivating 113 Minuteman II missiles in accordance with the START treaty, and welcomed the 442nd Reserve Wing and its fleet of 22 A-10's from Richards-Gebaur AFB, Mo. The conversions required $120 million in construction projects.

"Without the support of our community partners and taxpayers, especially those who live and work around Whiteman we could not have achieved the accomplishments of the past year," Marcotte said. "We've worked, not only at building solid relationships with our civilian friends and neighbors. Everyone has been tremendously supportive and we're off to a great start."

The future of the B-2 and Whiteman looks bright. "The B-2 is the cornerstone of America's global power of tomorrow. It's a critical component that will enable us to meet the enormous challenges to world peace in the 21st century," Marcotte said. "And as our 509th motto says: Follow Us."

WILLIAM KOWALKOWSKI NAMED PERSON OF THE YEAR BY THE MILWAUKEE COUNCIL OF SOUTHSIDE ADVANCEMENT ASSOCIATIONS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KLECZKA. Mr. Speaker, I rise today to congratulate my friend, Mr. William Kowalkowski, on being named Person of the Year by Milwaukee's Council of Southside Advancement Associations.

Milwaukee's south side has long been a place where people can count on the help and friendship of their neighbors. It is people like William Kowalkowski who have helped to keep this special quality alive in our community.

Mr. Kowalkowski, through his many years of community service, has rightfully earned the respect and admiration of those around him. His outstanding work with charitable organizations such as the St. Joseph's Foundation and Polish Relief for Poland has benefitted the less fortunate, and those who were displaced by the upheaval of war. His involvement in numerous civic and cultural organizations such

as the Pulaski Council, the Southside Businessmens Club, and the Polish-American Congress to name just a few, has helped to preserve the rich cultural heritage which make Milwaukee such a wonderful place to live.

The list of honors which Mr. Kowalkowski has received is impressive to say the least. Bill has been honored over the years, by numerous State and local organizations such as the Wisconsin Fraternal Congress, the Pulaski Council, and the Southside Businessmens Club. In addition, his outstanding efforts on behalf of Polish-Americans and the people of Poland have earned him recognition by the Government of Poland. In 1975, the Polish Government in exile presented Mr. Kowalkowski with the Gold Cross of Merit. Last year, Kowalkowski received the prestigious Knight's Cross of Merit for Service to the Polish Republic.

In addition to his professional and civic achievements, Mr. Kowalkowski and his wife Felicia have raised a family of whom they can be proud. It is very fitting that the Council of Southside Advancement Association, an organization dedicated to the principle of community service, has honored William Kowalkowski as the Person of the Year.

Congratulations, Bill, this is an honor that is well deserved!

HOLDEN REINTRODUCES FRANKING LEGISLATION

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. HOLDEN. Mr. Speaker, I am pleased to reintroduce in the 104th Congress legislation to reduce the amount of money Members are able to spend on franked mailings.

Mr. Speaker, the American people are demanding that Congress show leadership in reducing some of its expenses. I constantly speak to constituents who tell me they want to see spending cuts by the Federal Government. For that reason, today I am introducing a bill that cuts each Member's franking allowance by 20 percent as a way to show such willingness on our part. This legislation illustrates the commitment of Members of Congress for cutting legislative branch spending.

My bill is simple: the factor used to determine each Member's franking allotment will be reduced from a factor of 3 to a factor of 2.4, a 20 percent reduction. This bill will not eliminate the flexibility in the Legislative Appropriations Act which accommodates each Member's particular costs of mailing—geography, population density, etc.

If we are calling on Americans to sacrifice then Congress, too, must lead by example. A 20 percent cut will not impinge on any Member's ability to communicate with his constituents in a responsible manner. Nor will it stop a Member from using his franking budget in whatever manner he or she deems appropriate.

Mr. Speaker, Congress must cut back and tighten their belts, just as we will be asking the American people to make sacrifices as we cut and eliminate Federal programs. I want Congress to lead by example, and I think this bill puts us squarely on that road.

STOP THE REGULATORY MACHINE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. PACKARD. Mr. Speaker, the new Republican Congress is working hard and moving forward with the people's business. Last week, we restored fiscal responsibility by passing the balanced budget amendment. This week we will pass legislation to limit Government intrusion. We promise to work for a Federal Government that protects your rights, not one that infringers upon them with burdensome unfunded mandates.

The Federal regulatory machine continues to churn out a dizzying array of mandates which threaten to turn the American dream into a bureaucratic nightmare. Passage of H.R. 5, the unfunded mandates bill, will help to curb Washington's regulatory appetite.

No longer will liberal lawmakers be free to hide the costs of their regulatory appetite by handing the check over to State and local officials. Congress will have to take a good look at what they put on the regulatory table.

Reforming unfunded mandates will restore congressional accountability and instill fiscal discipline. If the Federal Government cannot pay for it, then neither will State and local governments. The Republican agenda works for the people, not for the Federal bureaucracy machine.

A TRIBUTE TO JEAN GILLIGAN

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mrs. MORELLA. Mr. Speaker, I would like to bring to the attention of the House the retirement of a remarkable woman, Jean W. Gilligan, who has now retired after 45 years service as a congressional staffer.

Jean came to Capitol Hill from South Dakota in 1949 and began her career as secretary to Representative Gardner Withrow of Wisconsin. She then became the administrative assistant to Representative Vernon Thompson of Wisconsin from 1961 to 1974. Jean then served on the Committee on Post Office and Civil Service from 1975 to 1994 under four ranking Republican Members: Representatives Edward Derwinski of Illinois, GENE TAYLOR of Mississippi, BENJAMIN GILMAN of New York, and JOHN MYERS of Indiana.

Last night Mr. Speaker, the Congressional Staff Club [CSC] honored Jean Gilligan at its annual membership party where she was lauded by friends, colleagues, and CSC members. Jean was the primary force in developing the club into a vital entity for staff members. She served as second vice president of the club in 1965, first vice president in 1966 and president in 1967 and 1993. She was one of the founders of the mixed ten pin bowling league and served as its secretary, vice president and president. The Congressional Staff Club honored Jean by awarding her a life membership in 1977.

There is no doubt that Jean will be greatly missed on Capitol Hill by hundreds of staff members who consider her a colleague par excellence, a friend and a mentor. I, too, will miss you, Jean.

Mr. Speaker, I congratulate Jean on her dedicated service and wish her a long, healthy, and active retirement.

INTRODUCTION OF H.R. 743, THE TEAMWORK FOR EMPLOYEES AND MANAGERS ACT

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. FAWELL. Mr. Speaker, yesterday I was pleased to join with my colleague from Wisconsin, Mr. GUNDERSON, in introducing H.R. 743, the Teamwork for Employees and Managers Act, or Team Act, legislation which will go a long way toward improving the competitiveness of U.S. companies.

In 1935, Congress enacted the National Labor Relations Act [NLRA], which is rightly considered the cornerstone of our country's national labor policy. At the heart of its many provisions, the NLRA protects the rights of workers to organize and to bargain collectively with their employers. It also includes a number of like-minded protections for employers.

However, we cannot ignore the fact that economic conditions have changed dramatically during the last 60 years, and the American workplace has undergone a similarly dramatic transformation. American business is no longer faced with the type of labor-management strife that permeated virtually every aspect of industrial America during 1930's. Instead, we are witness to growing trend in which American workers and managers are abandoning the confrontational tactics of their past and, together, are seeking better ways of doing business.

American business today sees its foreign competitors gaining a competitive advantage, due in large part of their utilization of greater labor-management cooperation. Unfortunately, it is provisions of the National Labor Relations Act—and, how those provisions are being interpreted by the courts and the National Labor Relations Board [NLRB]—which are part of the reason American businesses find themselves at this a competitive disadvantage.

Perhaps the best known example of the legal impediments confronting companies that wish to utilize employee participation programs is the NLRB's December 1992 decision involving Electromation, Inc. The Board found that the small, nonunion electronics manufacturer violated the NLRA when it established employer-employee committees to address various workplace issues, including the company's no-smoking, attendance, and pay-progression policies.

Why have managers and workers in America's industries been having trouble setting up manager-worker teams to increase production,

quality, and efficiency at the place of employment?

The basic reason is that section 8(a)(2) of the National Labor Relations Act [NLRA] says that it is an unfair labor practice for an employer to, in effect, create a sham, or company union, I.E., "to dominate the formation or administration of any labor organization or contribute financial or other support to it." Section 2(5) defines a labor union so broadly it includes all groups "in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning * * * conditions of work." Since employee involvement groups usually deal with conditions of work, the National Labor Relations Board [NLRB] has rather consistently ruled that employee groups working in cooperation with their employer, are labor organizations which are dominated and supported by the employer. Hence the employer is deemed guilty of unfair labor practices for having, in effect, created a sham or company—illegal—union.

We are talking about voluntary employer-employee agreements encouraging employee involvement in the conduct of a business in today's fast evolving information-centered economies and societies. Thus, we are talking about something very subjective—cooperation—a working togetherness of employers and employees in work teams. As taught by W. Edward Deming and others, the dynamic work team concept moves as much brain work as possible to front-line employees. It involves employees intellectually in the business operation and commits them to making the process function more effectively while constantly seeking their input into methods of improving it.

It seems to me that it isn't really possible or desirable for any law to stop employers and employees from voluntarily cooperating and sharing responsibilities. Congress surely never intended to proscribe place of employment cooperation between employees and employers as to their various conditions of work.

Yet, according to the NLRB—in Electromation—that apparently is precisely what Congress did 60 years ago when they passed section 8(A)(2) of the NLRA—designed to stop the formation of company unions.

This seems illogical to me. Employers obviously should not be creating sham or company unions and the law ought to simply so state. On the other hand, Congress should be doing all it can to motivate employers to have highly involved and motivated workforces as encouraged for instance by the coveted Malcolm Baldridge Quality Awards. And we should be able to make it clear that cooperation between employers and employees should not be equated with creating company or sham unions. The NLRB ought to be able to recognize an overall intent by an employer and/or employees to create a sham union without stopping employers and employees from discussing matters of mutual interest, including issues of quality, productivity, and efficiency which does not have, claim, or seek authority to negotiate or enter into or amend collective bargaining agreements between the employer and any labor organization.

The time has come for Congress to consider what changes must be made to the NLRA so that it may accurately reflect the nature of today's workplace and the challenges that confront American business; and to consider what change must be made so that companies can confidently follow the example of the management-worker teams who spoke here today.

As chairman of the Subcommittee on Employer-Employee Relations, I am committed to that task. As such, I intend to convene the subcommittee at the earliest possible date in order to hear testimony on the Team Act, and to expedite its consideration. I urge my colleagues to join the effort to improve workplace cooperation and, in turn, U.S. competitiveness by cosponsoring H.R. 743, the Teamwork for Employees and Managers Act.

SHENANDOAH VALLEY NATIONAL BATTLEFIELDS PARTNERSHIP ACT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. WOLF. Mr. Speaker, today I reintroducing legislation to preserve the Civil War sites in the Shenandoah Valley of Virginia. The Shenandoah Valley National Battlefields Partnership Act, which enjoyed wide bipartisan support in the 103d Congress, provides us with an excellent opportunity to preserve an integral piece of American history.

In response to a congressional directive—Public Law 101–628—the National Park Service [NPS] undertook the task of studying the Civil War sites in the Shenandoah Valley. The NPS identified significant Civil War sites and determined their condition, established their relative importance, assessed short- and long-term threats to their integrity, and provided general alternatives for their preservation.

The Park Service discovered that 15 of the 326 documented armed conflicts in the valley between 1861 and 1865 were of particularly high significance. Because many portions of the valley retain a high degree of historic, rural, and scenic integrity, the NPS concluded that they should be preserved. The two major valley campaigns—the Thomas J. "Stonewall" Jackson Valley campaign of 1862 and the decisive Philip Sheridan campaign of 1864—are the major Civil War battlefields not yet preserved. This Congress has an historic opportunity to capitalize on the overwhelming momentum of support for this legislation.

Unfortunately, the NPS did not recommend a specific preservation strategy. Therefore, some local valley residents accepted a challenge by Park Service staff to devise a plan to preserve these historic lands. Their efforts were remarkable. Their dedication and perseverance unflappable. This was truly a grass roots effort.

Local residents began to meet and discuss how these hallowed lands could be preserved for future generations to learn from and enjoy. They are eager to share the stories of the valley—not just battle maneuvers and formations, but the stories of people dislocated by a brutal war. They want to share the story of how the city of Winchester, VA, changed hands between North and South at least 73 times, and how that turmoil affected local residents.

After countless meetings and telephone conversations, in which the National Park Service was consulted, a consensus began to form around a partnership concept where Federal, State, and local governments, private landowners and preservation groups could work together to preserve these lands. After a draft bill was ready, we held discussion meetings in the Shenandoah Valley on the proposed legislation. These meetings provided an opportunity for thorough review and comment by valley residents and officials on this legislation. These meetings, attended by local government officials, landowners, business people, and preservationists, served as a vehicle to refine, modify, and improve the legislation with the input and advice of citizens from throughout the Shenandoah Valley.

What I found during those public meetings was unprecedented unanimous support for this legislation. I served at the Department of the Interior in the seventies under Secretary Morton, and I can't recall ever gaining such widespread support for a park bill. The legislation before this subcommittee has been endorsed by every local government where core battlefield properties are located. Moreover, we have a broad, bipartisan coalition of interests united to preserve these treasures of history. The list that follows my statement, compiled over a year and a half ago, comprises those persons and entities who endorsed this partnership approach to preservation. There have been many others since this list was put together.

This House should know that the work of valley residents did not end with the drafting and introduction of this legislation. There has been great activity in the past year. The Frederick County Board of Supervisors and Winchester City Council have appointed a battlefield task force whose responsibility it is to prepare a strategic plan for the protection and use of the battlefield sites. They have developed an interim action plan which designates the most critical and significant sites and recommends immediate actions to be taken. Frederick County and the city of Winchester have also successfully convinced a trustee of a battlefield property at Kernstown to postpone a planned auction. Moreover, they have purchased a $500,000 2-year option to buy the land. Not only have the local governments dedicated time and personnel to planning the preservation of the battlefields, they have committed scarce resources to protect these lands. This is an overwhelming demonstration of their commitment to the successful implementation of a preservation plan.

Local governments alone can't preserve these valuable resources; they need a partnership with the Federal Government to preserve these lands. Even the most well intentioned friends of battlefield preservation will find it difficult to keep the threats of residential construction, commercial development, highway construction, and industrial development at bay. Interstates 66 and 81 bring increasing pressure on this rural landscape and threaten to consume more battlefield land. As the NPS study indicates, some critical properties have already been lost.

Since the Civil War, most of the Shenandoah Valley has remained in the same type of agricultural use, but, as the Park Service

has reported, increasing development threatens key battlefield sites. This legislation would protect many of these through designation as a unit of the National Park System, while encouraging partnerships with local governments and private landowners to protect the natural cultural and historical resources on adjacent lands within the historic core areas of the key battlefield sites. Partnership is the key ingredient in this bill. It was borne of cooperation and will succeed by bringing all interested parties into the planning, development, and implementation of this novel preservation scheme.

This legislation capitalizes on the cooperation and hard work which have created a sturdy foundation upon which to build this park. Much of the groundwork has been laid by residents of the valley and specialists knowledgeable about land use planning, environmental impact studies, and so forth. By passing this legislation, this body will capitalize on the experience, dedication, and knowledge base that exists in the valley for preparing a plan for park management, visitor facilities, educational programs, and historical markers and exhibits throughout the Shenandoah Valley. The NPS should work hand-in-glove with the local community.

The second important component of the legislation is that it provides incentives for local governments to preserve historic land by including battlefield protection in regional planning. As the Park Service study observed, local governments are under increasing pressure to allow residential construction, commercial development, highway construction, and industrial development. Grants and technical assistance provide the necessary incentives that local governments need to ward off development pressures.

The third key ingredient which I would like to stress is the grants to private battlefield landowners. Because of the tight fiscal constraints of Federal discretionary spending, we can't expect the National Park Service to purchase thousands and thousands of acres of land. This is much too expensive. We can, however provide incentives to local landowners to assist in the preservation of historic lands. In exchange for these economic incentives, private landowners could provide the Park Service needed scenic or preservation easements or could contractually agree to maintain open-space lands with historic viewsheds. This will ensure that a comprehensive overall interpretation of the resource is attained.

Based on suggestions made by many residents of the valley, I added a provision in this legislation which continues to allow living history demonstrations and battlefield reenactments on the battlefields. Living history demonstrations help educate visitors about what life was like during the battle. Also groups like the Cedar Creek Battlefield Foundation use reenactments to help raise money for continued preservation and interpretation of the battlefields.

The time is upon us for Federal action to preserve the historic Civil War battlefields of the Shenandoah Valley, in partnership with State and local governments, local landowners, and preservation groups. This innovative concept will be the least costly and disruptive strategy to protect the lands forever.

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Mr. Speaker, I would be remiss if I did not recognize the tremendous contributions of citizens from the valley and every county government which has supported this legislation. I can't possibly thank everyone in the valley and across the country who has supported this effort, but would like to let them know that this House and I are grateful for their diligent work. The following is a list of some of the supporters of this legislation.

SHENANDOAH VALLEY PROPOSAL ENDORSEMENTS—BY COUNTY

FREDERICK

The Glass-Glen Burnie Foundation, landowner/individual.
Town of Middletown, government.
Town of Stephens City, government.
Winchester-Frederick Chamber of Commerce, business.
Winchester-Frederick County Econ. Dev. Comm., business.

SHENANDOAH

Association for the Preservation of Civil War Sites, landowner/individual.
C.M. "Mike" Hunt, landowner/individual.
Sarah P. Faulconer, landowner/individual.
James H. Faulconer, landowner/individual.
Garland C. Hudgins, landowner/individual.
Breckenridge Chapter, Daughters of the Confederacy, historic group.
Town of New Market, government.
Clifton M. Truesdale, individual.
The Strasburg Guards, Sons of Confederate Veterans, historic group.
Town of Woodstock, government.
David E. Smith, landowner/individual.
William Craun, landowner/individual.
William F. Bausserman, landowner/individual.
William J. Bausserman, landowner/individual.
Harold Walter, landowner/individual.
Keith Rocco, landowner/individual.
J.W. Troxell, landowner/individual.
Ralph Stickley, landowner/individual.
Tom's Brook Farm,/Rodney A. Bankson, CDR, USN-Ret., landowner/individual.
10th Virginia Volunteer Infantry, historic group.
Cross Keys Antiques/John B. Woodyard, landowner/individual.
Friends of the North Fork of the Shenandoah River, civic group.
Hupp's Hill Battlefield Park and Study Center, historic group/business.
New Market Area Chamber of Commerce, business.
New Market Battlefield Historical Park, historic group.
Patricia K Marie, landowner/individual.
Reformation Lutheran Church, civic group.
Robert D. Plu, landowner/individual.
Shenandoah Caverns, business.
Shenandoah Valley Civil War Roundtable, historic group.
Shenandoah Valley Quality Inn/Lois Moomaw, Gen. Man, business.
Strasburg Rotary Club, civic group.
Town of Mount Jackson, government.
Town of Tom's Brook, government.
VMI Museum Programs, historic group.
Women's Memorial Society, civic group.
Woodstock Museum, historic group.

ROCKINGHAM

Arthur J. Hamilton, landowner/individual.
Association for the Preservation of Civil War Sites, landowner/individual.
Barbara Paulson, landowner/individual.
Cherry Grove Farm/George K. Harnsberger, landowner/individual.
F & M Bank-Massanutten, business.
Graham C. Lilly/Professor of Law UVA, landowner/individual.
Harrisonburg-Rockingham Historic Society, historic group.
Harry L. Chandler, landowner/individual.
Lawrence D. Bowers/Wilson & Bowers, landowner/individual.
Martha B. Caldwell/Professor of Art History JMU, landowner/individual.
Mr. & Mrs. Brownie A. Cummins, landowner/individual.
Mr. & Mrs. Thomas F. Tutwiler, landowner/individual.
Peter Svenson, landowner/individual.
The Inn at Keezletown Road Bed & Breakfast, business.
The Society of Port Republic Preservationists, historic group.
The Town of Dayton, Virginia, government.
James J. Geary, Former Dir. New Market Battle., landowner/individual.
Ronald E. Carrier, President, James Madison Univ., educational.
Barbara Moore, landowner/individual.
Daniel M. Downey, Ph.D, landowner/individual.
Tom's Brook Farm/Rodney A. Bankson, CDR, USN-Ret., landowner/individual.
W. Allen & Phoebe Sherwood, landowner/individual.
W. C. Bedall, Jr., landowner/individual.
Wilmer Diehl Family, landowner/individual.

HIGHLAND

Association for the Preservation of Civil War Sites, landowner/individual.
The Board of Supervisors for Highland County, government.
The Recorder, business/press.
Virginia's Western Highlands Travel Council, business.

WINCHESTER

City of Winchester, government.
Elizabeth G. Helm/Former Mayor, government.
Downtown Development Board, government.
The Common Council of the City of Winchester, government.

AUGUSTA

Winston Wine, landowner/individual.

PAGE

Luray Caverns Corporation, business.

PORT REPUBLIC

Mark & Susan Hardy, landowner/individual.

REGIONAL

The Civil War Trust, historic group.

ALEXANDRIA

Brian C. Pohanka, landowner.

VALLEY WIDE

Shenandoah Valley Travel Association, business.

TRIBUTE TO DARLENE GREENWELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. SKELTON. Mr. Speaker, today I wish to honor a great Missourian, Darlene Greenwell for years of dedication and hard work as circuit clerk for the Bates County Circuit Court. Darlene Greenwell of Adrian, MO, recently retired after a lifetime of unrelenting work to foster the effectual supervision of justice in her community.

Darlene Greenwell was not only committed to her work, but has given many years to volunteer work within her community. She has served as president and a member of the Bates County Democrat Women's Club and Beta Sigma Phi, a member of the Adrian Christian Church, the American Legion Auxiliary, and NARFE.

I urge my colleagues to join me in commending Darlene Greenwell for her many years of leadership and service to her community. I bid best wishes for a happy and prosperous retirement.

CONGRATULATES THE GUAM GIRL SCOUTS ON THEIR 60TH BIRTHDAY

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. UNDERWOOD. Mr. Speaker, two troops came to Guam in March 1935 and marched right into the halls of George Washington High School. These were the girls in green, from kindergarten to their senior year of high school, and they became a chartered council of the Girl Scouts of America in 1937. The Guam Girl Scouts now consists of more than 750 active members, and in March 1995 we celebrate their 60th Anniversary on Guahan.

Many districts across the country are blessed with their units of this fine organization. The Guam Girl Scouts in my home district have become assets in every one of our villages and military installations.

The goals of the Girl Scouts program are expressed in four programs, all of which promote higher quality of life on the island. The programs are: Developing Self-Potential, Relating to Others, Developing Values, and Contributing to Society.

The girls work in the community and earn badges by completing activities centered around an interest. The five "Worlds of Interest" in Girl Scouting are the World of Well Being, the World of Out-of-Doors, the World of People, the World of Arts, and the World of Today and Tomorrow.

This year, Guam's Girl Scouts spearheaded the Kobe relief project to aid Japan's earthquake victims. More than 400 volunteer hours were devoted to sorting, counting, packaging, and labeling more than 30,000 items donated from Girl Scouts and Guam's residents.

Guam Girl Scouts also conducted a food drive for Catholic Social Services, participated in the Sugarplum project and collected clothes for Goodwill of Guam, all projects completed in the past year.

Yes, we on Guam are lucky. Our Children can receive an informal education through the Guam Girl Scouts. The girls who join enjoy many fine programs which enhance and extend their abilities and strengths. Our future leaders are getting the best kind of training through services to the community.

COMMEMORATING THE LUNAR NEW YEAR 4693

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Ms. PELOSI. Mr. Speaker, I rise today to bring to the attention of the Congress that throughout this great Nation, our Chinese, Korean, and Vietnamese-American communities will celebrate the new lunar New Year.

Today, January 31, 1995, marks the year 4693, the Year of the Boar in the Chinese astrological calendar. During this festive season, Korean families will eat their traditional mandukook and duk, the Vietnamese their banh chung and banh tet, and the Chinese their dumplings and precious mooncakes. Families will reunite at homes and at large banquets, and observe traditional rituals which stretch back centuries in these ancient cultures.

Mr. Speaker, San Francisco is a city built by immigrants who have come to our shores. Each has enriched and invigorated our Nation through their hard work, their family values, and through the cultures and traditions they bring to the American experience. Today, in San Francisco, and other communities throughout the Nation, we should honor the Chinese, Korean, and Vietnamese-American communities, and wish them a happy new year.

A TRIBUTE TO FOUR HEROS

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. BATEMAN. Mr. Speaker, I rise today in recognition of four U.S. Army chaplains, 1st Lts. George L. Fox, Clark V. Poling, John P. Washington, and Alexander D. Goode, each one of different faith, who worked together and gave their lives in an effort to save others in a selfless act of heroism.

Fifty-two years ago, on February 3, 1943, the SS *Dorchester,* an Army transport vessel, was in the North Atlantic en route from St, John's NF, to Narsarsuak, Greenland, transporting 904 passengers, in addition to some cargo. At approximately 3:55 a.m., the *Dorchester* was torpedoed without warning.

The torpedo hit the ship just aft of amidships, near the engine room. The explosion was muffled and there was very little noise, but the concussion was severe. The ship took on water at such a fast rate that in a matter of just 25 minutes, it was lost.

In that short time, it was the bravery of Lieutenants Fox, Poling, Washington and Goode, the four chaplains aboard the *Dorchester,* that saved the lives of many. According to many survivors, the chaplains, with complete disregard for their own safety, quieted the panic of men frozen by fear at the ship's rail, forcing them into boats and lifejackets. They handed out life belts from a box, and when those were gone, they gave their own to enlisted men. Additionally, they helped construct makeshift rafts out of timbers, cork, and other materials at hand. The only concern of these brave men was to do everything they could to save the lives of the others on the transport. Chaplain Goode even gave his gloves to another man, despite the bitter cold, knowing that having those gloves might help him survive. The recipient of the gloves did indeed survive, and credited his survival to the selflessness of Chaplain Goode.

When these four brave men had done everything humanly possible to help those on board, and when the end was imminent, Lieutenants Poling and Fox, both Protestants, and Washington, a Roman Catholic, and Goode, who was Jewish, joined hands and prayed together as the ship went down.

Because of their bravery, these four heroic men were posthumously awarded the Purple Heart and the Distinguished Service Cross. Additionally, in 1960, this body awarded Fox, Poling, Washington, and Goode the Congressional Medal for Heroism. This medal was specifically created to honor these men, and they are the only four to have received it.

The SS *Dorchester* was built at Newport News Shipbuilding & Dry Dock Co., and was originally a passenger liner when delivered in 1926. With the commencement of the United States involvement in World War II, the owners chartered it to the Army Transport Service to transport personnel and cargo. In Newport News today, the memory of the four chaplains is kept alive by the efforts of the Four Chaplains Memorial Committee, and with the marble and bronze monument that was erected in their memory in 1989 at the War Memorial Museum grounds. Let us keep alive their bravery their actions embodied, by remembering their heroism today.

RENEW AMERICA WINNERS OF THE NATIONAL AWARDS FOR ENVIRONMENTAL SUSTAINABILITY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. RICHARDSON. Mr. Speaker, today, three organizations from my home State of New Mexico will be recognized for their accomplishments in effective, responsible environmental projects. Lighthawk of Santa Fe, the Southwest Network for Environmental and Economic Justice of Albuquerque and the Global Rivers Environmental Education Network of Las Cruces will all be recognized by Renew America as winners of the National Award for Environmental Sustainability.

I am especially proud of the fact that New Mexico, which has one of the smallest populations of any State in the Nation, is home to three Renew America award winners. That figure is more than any other State in the Nation, with the exception of California with seven winners, and a far larger population base than New Mexico.

Lighthawk, which is known as the Environmental Air Force, is based in Santa Fe, NM, in my district, but their impact has been felt throughout the Nation and the world. Since its creation in 1979, Lighthawk and its group of

pilots have flown more than 2 million miles to far-flung locations throughout the Western Hemisphere to educate the public, empower local environmental groups, and respond to environmental crises. Lighthawk flies activists, legislators, and the media over and into endangered lands, allowing individuals to learn first-hand of environmental problems and situations. I have flown with Lighthawk in the past, and I am especially pleased that they have received such significant recognition.

Project Del Rio, in cooperation with the University of Michigan's Global Rivers Environmental Education Network conducts a program that brings students and educators together from over 100 schools located along the Rio Grande both in the United States and Mexico. Using equipment, background, motivation, and resources provided by Project Del Rio, students learn to interpret scientific information, public opinion statistics, and economic data. Since its founding in 1990, many of the programs' participants have gone on to use the experience they gained while with Project Del Rio to win internships in other, similar fields.

The Southwest Network for Environmental and Economic Justice, based in Albuquerque, NM, works to address issues that impact people of color and to strengthen community organizations and encourage them to influence local, State, regional, and national policies regarding the environment. The network has been considered essential in restoring long overdue justice in the areas of unsafe working conditions, natural resource exploitation, and political disempowerment. In addition to this award the Southwest Network has been involved in many successful media campaigns, which have opened up communication channels between environmental activists, the Department of Energy, and the Environmental Protection Agency. Lastly Mr. Chairman, the Southwest Network has been instrumental in promoting the examination at the Federal level of the broad range of environmental justice issues.

Mr. Speaker, these New Mexico-based organizations truly are wonderful examples of the dedication of citizens across the country to environmental protection and education activities. I would like to salute my constituents' organizations and the other Renew America Winners for their accomplishments and contributions. They deserve our thanks and our appreciation.

INTRODUCTION OF THE COMMON SENSE WELFARE ACT OF 1995

HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KNOLLENBERG. Mr. Speaker, I rise today, along with my colleague Mr. KOLBE, to introduce the Common Sense Welfare Reform Act of 1995. We believe this legislation could revolutionize the way we deliver social services to the Nation's poor.

Over the course of the last 60 years, government, whether it be Federal, State, or local, has assumed almost complete responsibility over caring for the Nation's poor. Like it or not, our welfare delivery system has essentially become a government monopoly. And it exhibits all of the worst symptoms: It is woefully expensive; it is overly bureaucratic; it is preoccupied with process; and it is client-ignorant. Every year, it gobbles more of our tax dollars without any incentive to cut costs or streamline itself.

The American welfare monopoly has also undercut the efforts of private organizations. It has made it nearly impossible for charities to place conditions on their aid, when prospective recipients can walk down to the local welfare office and pick up a government check, no strings attached.

It has almost singlehandedly created what the Wall Street Journal's John Fund calls the I-gave-at-the-office syndrome. In fact, the portion of charitable giving in this country devoted to alleviating poverty has declined by a shocking one-third since 1960.

So the question remains: How should we reform the welfare delivery system? Our bill, like many others, would consolidate dozens of overlapping, inefficient Federal programs and put that money into a State block grant. However, it also provides for a choice-in-welfare tax credit that would give individual citizens a voice in how this country fights poverty. Under our plan, every taxpaying American would be free to direct up to 10 percent of their Federal income taxes to a charitable organization in their community that is engaged in antipoverty efforts. Each time a taxpayer claimed this credit, the Federal Government would make a corresponding reduction in their State's block grant—thereby making it revenue neutral.

The Federal Government already has a regulatory framework for overseeing nonprofit organizations, minimizing the need for additional bureaucracy. However, State governments often have a more active oversight program, so we would require that participating charities obtain State tax-exempt status as well.

In addition, to ensure that tax credit contributions are reaching the people they're intended to serve, it would be necessary to establish guidelines for participating charitable organizations. For instance, charities would be prohibited from using the proceeds to engage in lobbying or litigation activities. We would also require that at least 70 percent of a participating charity's expenses be allocated directly to the poor. And charities would be required to expand tax credit-generated contributions within 1 year of receipt.

To maintain the separation of church and state, religious organizations must have a subsidiary devoted to social welfare to be eligible. Organizations that have a religious component, but are primarily focused on social welfare—i.e., Salvation Army—would be eligible as well.

Finally, to guard against possible fraud, taxpayers themselves would not be allowed to donate tax credit-funded contributions to charities in which they have a financial interest.

Our funding mechanism is a revolving account within the Treasury Department that would hold the vast majority of the money the Federal Government intends to spend on poverty in the next fiscal year. Once Congress appropriated the money for this account, a small portion would be set aside to cover the cost of the tax credit, and the rest would be given to the States in block grant form. After April 15, any funds left in the tax credit set-aside would be given to States as a bonus.

It is important to note that the tax credit/block grant funding mechanism will be separated at the State level. For instance, Michigan's total Federal grant would be determined by how many of its citizens gave to instate, qualified charitable organizations. This is to ensure that the effects of competition are always tangible.

There are a few other provisions worth noting.

First, we phase in the tax credit over a 5-year period to ensure that the transition to a public/private partnership is a gradual one. Second, while we place dollar caps on the credit, any contribution above that level would be tax deductible as it is now. Similarly, contributions to other nonprofits would also retain their present deductibility.

In closing, we believe that if our bill was enacted, we could at once reduce Federal spending and micromanagement, create competition among aid providers, reinvigorate a charitable sector whose tremendous capacity has been subverted by government intrusion, and finally begin to attack poverty in a truly meaningful and effective way.

COMMON SENSE WELFARE REFORM ACT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. KOLBE. Mr. Speaker, I rise today with my colleague, Congressman KNOLLENBERG, to introduce the Common Sense Welfare Reform Act. We believe it is not only possible, but sensible, to turn the administration of the welfare system over to the State capitals and the city halls. Block granting social programs to the States is a first step in reform of the welfare system. This flexibility is critical to allowing States to test assistance programs best suited to their needs. Common sense tells us that a successful program in rural Arizona may not necessarily work in Detroit, MI.

We believe, however, that the debate should be taken a step further—and that is why we are introducing the Common Sense Welfare Reform Act. If States can better administer welfare programs, shouldn't it follow that citizens know best which programs work in their communities and which are the most cost-effective? That's what our legislation is about—a partnership of State and local entities with individual taxpayers.

The common sense welfare reform bill will give the people that pay the bills and provide the services in the community a role in how poverty relief efforts are structured. The Common Sense Welfare Reform Act consolidates over 60 overlapping, inefficient programs run by the Federal Government and gives the money directly to the States in block grant form. That's a direction in which the House is moving and is a necessary precondition to making our welfare privatization proposal work.

Our proposal allows taxpayers to contribute up to 10 percent—not to exceed $2,500—of their Federal income taxes to qualified private charities in their State in return for a dollar-for-dollar tax credit. This tax credit is paid for by corresponding reductions in the block grant to the State in which the taxpayer lives.

The Common Sense Welfare Reform Act serves two purposes by empowering taxpayers to participate in the funding decisions for poverty-relief services. First, we give taxpayers a voice in how services are delivered in their communities. We have faith in the ability of individuals who are in the communities to know what is working well. The Federal Government—or State governments, for that matter—should not have a monopoly on where welfare dollars are allocated. Critics of block grants contend that many States do not have a good track record in administering social programs. Our proposal, however, diffuses the concentration of authority over spending on poverty-relief efforts by leveling the playing field on which private and public charities compete. The Common Sense Welfare Reform Act allows taxpayers to determine where their poverty-relief dollars are spent the most effectively.

Second, we reward private charities for doing what they have traditionally done best, and that is to provide prompt, temporary assistance. Private charities view assistance as a tool by which to change behavior—it is not a right nor a way of life. Because of this philosophy, both in theory and in practice, it is inconceivable that a family would subsist for generations on the local soup kitchen, food bank or shelter. Private charities stress personal responsibility and provide hands-on management for recipients. The humanizing aspect of private charities is missing from the impersonal public welfare bureaucracy which requires nothing from the recipient except eligibility for aid.

Americans need to become personally involved in reforming the welfare system. If I may be so immodest, I would suggest that Congressman KNOLLENBERG and I have a bold and innovative approach in the Common Sense Welfare Reform Act to allow Americans to do just that. We hope the momentum in the welfare debate will take our deliberations a step further. Let's allow taxpayers a role in providing assistance, while giving private charities the opportunity to compete for welfare dollars in a true, competitive atmosphere, instead of making their funding a function of who has the best grant writer or the best connections in Washington—or Lansing or Tallahassee.

THE DEATH OF JAMES P. GRANT

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. GILMAN. Mr. Speaker, the world lost a great humanitarian this past weekend with the death of my dear friend, Jim Grant.

For the past 15 years, Jim served with distinction and compassion as the Executive Director of UNICEF. He was a man who loved all of the world's children and a man who made a significant difference. Jim Grant epitomized the dedicated international public servant, but no one ever called him a bureaucrat. Rather, he was a visionary leader who used all the tools available to promote worthy causes.

Jim Grant was a field-oriented person. No project was too remote to escape Jim's interest. Traveling with Jim in Africa meant spending a lot of time in off-road vehicles to see how well health programs were reaching remote villages.

Jim Grant was a promoter in the best sense of the word. Whether he was promoting expanded immunization programs, oral rehydration, or breastfeeding, or whether he was enlisting another celebrity as a UNICEF goodwill ambassador, Jim Grant always used his flair for publicity for good causes.

Jim Grant had the capacity to influence world leaders to focus on the topic he cared most about—the state of the world's children. Perhaps his most satisfying accomplishment was the 1990 World Summit for Children and one of his greatest disappointments was that he did not see his own Government ratify the Convention on the Rights of the Child during his lifetime.

Probably no tribute to Jim Grant's life is more appropriate than to lay out the following statistics: During his tenure as Executive Director of UNICEF, immunization levels in the developing world have risen from about 20 percent in 1980 to almost 80 percent today. During that same period, the number of polio victims has fallen from 500,000 a year to fewer than 100,000.

Jim Grant was an American hero and a world treasure. His presence will be greatly missed, but his work and the good works of UNICEF will remain a legacy of his persistence and humanity.

BUDGET BALANCING VIA CONFLICT CONTAINMENT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. JACOBS. Mr. Speaker, Professor Janos Horvath is one of Indiana's most distinguished citizens. His Ph.D. in economics was earned at Columbia University. He now teaches courses in advanced macroeconomics, principles of economics, international business and business ethics.

He is known and rightly known as a brilliant theoretician.

Before his immigration to the United States, he was a leader in the Hungarian independence movements in 1956. Earlier he was imprisoned by the Nazi Gestapo. He was elected to the Hungarian Parliament in 1945.

The following is an example of the imaginative writing of Dr. Horvath.

BUDGET BALANCING VIA CONFLICT CONTAINMENT

(By Janos Horvath)

There exists a workable option for Congress in 1995 to balance the budget by 2001. It is not to push through some of the plans as they stand. The numbers do not add up. Not only conventional economists hold doubts, but conservatives such as Herbert Stein and William Niskanen who advised Presidents Nixon and Reagan are also skeptical.

The road I propose toward budget balancing has three guide posts. They say: (1) hold expenditures constant in inflation adjusted real terms, (2) hold tax rates constant, (3) allow tax revenues to increase from the growing tax base which is the Gross Domestic Product. In essence, halt the deficits that beget debt accumulation, crowding out of investments, confiscatory taxes, debilitating inflation, debt repudiation, and erosion of the social fabric.

Here are the salient figures. Expressed in current dollars the 1994 level of government spending, $1,485 billion, will amount to $1,844 billion in year 2001. The higher number reflects inflation—the two amounts are of equal purchasing power. During the same interval from 1994 to 2001, tax revenues rise from $1,249 billion to $1,859 billion. The increase results from 2.5% economic growth plus 3.2% inflation. But if the growth rate becomes 3.0%, a sound estimation, then the deficit reduces to zero in six years.

To implement the proposal, I offer a "conflict containment" model. The GOP Contract With America being the seminal document, it would be naive to assume away stress in the bipartisan arena. Occasionally Republicans in the House and in the Senate may differ. Even though certain groups might lack the majority to reach their declared goals, they could block others from reaching their goals. Here conflict minimizing means maximizing the potentials for compromise: the mother milk of legislation.

On the revenue side, the tax mechanism shows the perspectives: (1) Tax revenues will increase, (2) without increasing tax burden, (3) with constant tax rate, (4) because the tax base grows with the growing economy. A family making $100,000 taxable income with 20% tax rate does pay $20,000 tax. As taxable income grows to $110,000 the tax payment rises to $22,000. The $2,000 tax increase comes from income growth. The tax burden has not risen.

The expenditure side is more tangled. The key is to hold the sum total of governmental spendings constant. This means no cut and no rise in the bottom line amount. Undoubtedly such a tall order prompts challenges. On one side is the fiscal restraint movement who wants to prune. On the other side are cynics who accept that entitlements rise and by curbing them the society would crumble. In the middle are solution seekers recalling that the USA has survived and prospered with less government spending and even financed and won the cold war. To intone an aphorism: "whatever exists is possible."

Successful budget balancing being a viable pursuit, it is less agonizing to mutually consent to continue spending allocations the way they are rather than to battle over every detail. Therein lies the rational for the maxim: "no-tax-cut-no-tax-raise-no-spending-cut-no-spending-raise." Suspicions of inequity and the pangs of envy get mollified. Nobody's ox gets gored.

The no-cut-no-raise maxim is a self-discipline apparatus for Congress. While the bottom line is untouchable, there is ample room, actually duty, for efficient and compassionate reallocations between and among existing provisions. On the outlay side are two major items: increases in Social Security and health care. On the saving side are: government streamlining, welfare reform, peace dividend, privatization, etc. Further

savings result if bureaucrats were rewarded for cost cutting innovations and if the deceptive practices were discontinued which label reduction in projected increases as spending cut.

Attempts at creative solutions have been tried before. In March, 1994, Rep. Gerald B. Solomon (R-N.Y.) proposed more than 500 specific spending cuts totaling more than $700 billion, balancing the budget within five years. His bill did not raise taxes, did not cut Social Security, and even increased defense spending by $60 billion. Among the spending cuts were: eliminating the Interstate Commerce Commission and the Travel and Tourism Administration, restructuring the Interior Department, downsizing the Bureau of Reclamation, privatizing the Government Printing Office, the Government National Mortgage Association, and the Air Traffic Controllers.

A coherent farm policy review is the work of Senator Richard Lugar (R-Ind). Now chairman of the Senate Agriculture Committee, he is determined to substantially reduce the agricultural programs that cost about $60 billion a year. Nothing escapes scrutiny: bloated bureaucracy, food stamps, subsidies to producers of corn, wheat, cotton, rice, sugar, tobacco. Lugar's two year review has already led to closing of 1,070 underused field offices nationwide.

As the 1995 legislative agenda evolves, the "Lugar Initiative" and the "Solomon Bill" are emulated. Recently President Clinton has joined the thrifty moderates proposing expenditure cuts. Among the targets are: inventory liquidation (petroleum, metals) could recover around $100 billion and the privatization of assets (power plants, grazing lands, mineral rights) about $200 billion. Pruning outdated programs and cutting deadwood are on everybody's agenda. However, while bipartisan bargaining promises results, there are ideological and operational aspirations which becloud the horizon.

There is gathering a momentum of conflicts as Congress debates the GOP Contract With America. It is labeled "fairy-tale economics * * * not * * * specific," by Senator Tom Daschle (D-S.D.) and Rep. Richard Gephardt (D-Mo), leading Democrats. House Majority Leader Dick Armey (R-Texas) wants "discipline which comes from the balanced budget amendment * * * [so] once members of Congress know exactly, chapter and verse, the pain that the government must live with in order to get a balanced budget, their knees will buckle." Such early signs divine that the budget debate brings fervent struggles. When the political stratagem—patriotic devotion, party discipline, arm twisting, log rolling, and deal making—does succeed to enact a hard fought budget, the battles might inflict grievous injuries that handicap subsequent legislation.

Hence the need for conflict containment. Less conflicts allow more time for creative work. The crux of the matter is how to shape the budget to everbody's heart's desire. It is beyond the realm of possibilities to pursue four rival goals simultaneously: to cut tax, to raise tax, to cut expenditure, to raise expenditure. Even if the arithmetics worked, still distrust about burden sharing would deadlock the process. It would be like opening a Pandora's box.

Successful conflict containment is logical human behavior. Legislators, representing various constituencies, will be less unwilling to support reform (1) if the cure is believable, and (2) if burden sharing makes no exception. This is the venerable idea of fairness. People who resent special deals may embrace fair deals. Thus people make sacrifices when moved by patriotic, religious, emergency, or community appeals. Nowadays the threat of a national bankruptcy arouse people.

In conclusion, budget balancing via conflict containment is an operational blueprint ready to use. It saves time, reduces pain, and guarantees cure. Congress, authorized by the Constitution, has all the power to do the job. Efforts to pass a constitutional amendment to balance the budget could be directed to balancing the budget. Anyway, after the symbolic process of constitutional amendment the reallocations in spendings still must come. Congress may choose a symbol before, even though it is a detour. In a dry spell some gardeners do a rain dance before fetching buckets to carry water from the pond.

Finally, let's peek into the future. After following the conflict containment framework through six or seven years, the trend lines of government spending and tax revenue will converge. Thus, 2001 becomes the year of bliss when the deficits reduce to zero and surpluses begin to accumulate. Then we shall have options. How much of the budget surplus should be directed where: tax cut, human capital, competitiveness, social insurance, governmental debt. First, of course, we ought to get there. For which the prospects exist.

C. WAYNE HAWKINS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. MONTGOMERY. Mr. Speaker, today a very good friend of veterans, Mr. C. Wayne Hawkins, retired from the Department of Veterans Affairs after 37 years of dedicated Federal service. I had planned to attend a reception in his honor yesterday; however, votes in the House prevented me from doing so. I regret I could not join his many friends and colleagues to thank him for his outstanding service to our Nation's veterans. I came to know Wayne through his many appearances before our committee. He established a reputation among our members as both an outstanding administrator and a straight shooter whose commitment to the veteran and the VA system were unshakeable.

Wayne Hawkins' distinguished career as a health care administrator, educator, and veterans' advocate is evidenced by the positive impact he has had on the provision of compassionate, quality health care both within the Department of Veterans Affairs and the health care community.

Prior to his retirement, Wayne was the Deputy Under Secretary for Health for Administration and Operations, the highest position ever held by a nonclinician within the Veterans Health Administration [VHA], the health care arm of the Department of Veterans Affairs. In this position, Wayne served as the chief operating officer for one of the largest corporate health care systems in the country which plays an integral part in educating physicians, nurses, dentists, and allied health care practitioners; providing quality medical care to our Nation's veterans; conducting medical research, and serving as medical backup to the Department of Defense during a time of war or national disaster. He was responsible for the operational management of 171 medical centers, 353 outpatient clinics, 128 nursing homes, and 37 domiciliaries, which employ more than 200,000 personnel with a $16.7 billion annual budget.

Mr. Speaker, Wayne was born in Rogersville, TN, on August 21, 1935. He received a B.S. degree from East Tennessee State University in 1957 and an M.S. in health care administration from the University of Minnesota in 1971. He completed graduate work in health systems management at Harvard University, and is a graduate of the U.S. Army Command and General Staff College.

Wayne began his VA career in 1957 as a rehabilitation therapist at the Mountain Home VA Medical Center in Johnson City, TN. During his VA career, Mr. Hawkins also served as a personnel manager and later as an associate director at VA facilities in Asheville, NC, Biloxi, MS, Atlanta, GA, Waco, TX, Spokane, WA, Portland, OR, Nashville, TN, and Dallas, TX. Prior to his January 1991 appointment as the Deputy Under Secretary for Health for Administration and Operations in Washington, DC, Wayne served as Director of the VA Medical Center in Dallas, TX for 15 years.

Wayne has an equally distinguished military career, retiring after 33 years in the Active and Army Reserve with the rank of colonel. He served as the chief of staff of the 807th Medical Brigade in Seagoville, TX, from 1979 to 1985, then as executive officer of the 94th General Hospital in Mesquite, TX, until his retirement in 1987.

Mr. Speaker, Wayne Hawkins' contributions extend beyond his role as a Federal health care executive. He served in major leadership roles in the Texas Hospital Association and the American Hospital Association, as president of VA's chapter of the Senior Executive Association, and holds faculty and preceptorship appointments at a number of prestigious universities. He is a member of the American College of Health Care Executives and was inducted as a fellow in 1991.

Wayne has received many awards during his career, including the Department of Veterans Affairs' Distinguished Career Award, the Presidential Rank Award for Distinguished Executive and the Presidential Rank Award for Meritorious Executive, the Ray E. Brown Award for Outstanding Accomplishment in Health Care Management, and the Outstanding Federal Services Health Administrator Award from the Association of Military Surgeons of the United States, and the Army's Legion of Merit and Exceptional Leadership Award. Other honors include induction as an honorary member of the Sigma Theta Tau International Honor Society of Nursing, and honorary lifetime member of the American Academy of Medical Administrators.

It would be difficult for me to list all of Wayne's many accomplishments during his 37-year career with the VA, but I would like to highlight just a few. He chaired the Chief Medical Director's Advisory Committee on Construction over a 10-year period which led to the reorganization of the construction program to VHA. This reorganization decentralized the decisionmaking process to local directors and provided an opportunity to explore different

methods of design. He was a leader in developing the model for satellite outpatient clinics in VA, and served as the project manager for the construction and activation of one of the first satellite clinics in Chattanooga, TN, in 1974.

Over a 15-year period he developed the Dallas VA Medical Center into one of VA's flagship hospitals, taking a leadership role in patient care, education, and research. He has always been a strong advocate for including employees, veteran service organizations, and the community in the decisionmaking process. He was an early advocate for the homeless veterans program and established the first comprehensive treatment center for chronic mentally ill veterans at the Dallas VA Medical Center. He was instrumental in restructuring the role of canteen service as a major contributor in meeting the customer's needs and opened the VA's first food court in the early 1980's.

During his tenure in VA Central Office, Wayne was recognized as a strong advocate for the decentralization and empowerment of medical center directors. Throughout his career, Wayne Hawkins has consistently held the respect of his superiors, his peers, and subordinates due to his integrity, honesty, and decisiveness. He has frequently been credited with his visionary capability and his ability to manage many complex issues at any one time. However, his No. 1 priority never changed—doing what was right for America's veterans.

The VA health care system has certainly undergone many far-reaching changes over the course of Wayne's long, distinguished career. Over those years, the demands on, and expectations of, VA medical facilities have mushroomed. Although VA has successfully met many of those challenges, I believe many of those successes are in no small measure a tribute to the kind of leadership and example set by Wayne Hawkins.

Upon his retirement, Wayne can take pride in the knowledge that he is among a distinguished few who will be remembered as individuals whose careers as VA clinicians, administrators, and key advisers to top leadership have left a lasting imprint—both on the VA system and on the many veterans who depend on it.

Mr. Speaker, Wayne Hawkins exemplifies the very best in public service—responsibility and accountability to self, fellow employees, those he serves, and the community. His vision and requisite knowledge to project future trends, zeal for excellence, and determination to see initiatives through to their successful conclusion are some of the qualities which have ensured his continued success for almost four decades. The honors and awards that the VA, veterans service organizations, and the health care community have bestowed upon him are testament to both the depth of his service commitment and the impact of his efforts.

Although Wayne is retiring from Government service, he is not leaving the health care community. We wish him the very best in his new career and know that he will continue to be an advocate for veterans and a friend to the VA.

REVENUE SHARING REESTABLISHMENT ACT OF 1995

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. TRAFICANT. Mr. Speaker, today I introduced the Revenue Sharing Reestablishment Act of 1995. The bill, which will keep $5 billion in taxpayer money here at home, can help alleviate the budget constraints of our State and local governments. I urge my colleagues to cosponsor this important measure.

Mr. Speaker, many of my colleagues will remember the General Revenue Sharing Program created by the State and Local Fiscal Assistance Act of 1972. The program was relatively simple: State and local governments received automatic payments from the Federal Government based on a formula. The money could be spent at the discretion of the governments and the payments were guaranteed for as long as Congress authorized them.

As Congress works to lessen the overwhelming burdens it places on State and local governments, the Revenue Sharing Reestablishment Act of 1995 provides a channel through which Congress can directly assist these struggling entities. Under my legislation, $5 billion will be made available annually for direct payment to State and local governments. Unlike the previous Revenue Sharing Program, however, the program will not add to the enormous Federal budget deficit. Instead, the program will be paid for entirely with cuts in foreign aid.

The U.S. Government has been authorized by Congress to spend $14.8 billion in foreign aid during fiscal year 1995. Over 30 percent of the money is earmarked for two countries—Israel, which will receive $3 billion, and Egypt, which will receive $2.1 billion. There is no question, Mr. Speaker, that there are pressing needs throughout the world. We all know that famine, disease, and suppression transcend all borders.

We also know, Mr. Speaker, that America is experiencing horrors of its own: 14.3 million children live in poverty, 2.5 million Americans are addicted to crack, our infant mortality rate ranks 24th in the world, behind Singapore and Hong Kong, and, since 1960, violent crime has risen 500 percent and teen suicides have more than tripled.

We are desperate, Mr. Speaker, and diverting a third of our foreign aid budget to American governments will allow these entities to address the most pressing needs and the most destructive forces in their communities. Where are our priorities?

As the former Secretary of the Treasury John B. Connally stated in testimony before the House Ways and Means Committee in 1971:

> General revenue sharing seeks to redress some basic imbalances in our Federal system of government—imbalances between needs and resources, between power and responsibilities, between conception and execution.

Let's redress these imbalances, Mr. Speaker. And let's pay for it with money we already have. I urge my colleagues to keep our taxpayer's money not only in America, but in their State or community. I urge colleagues to cosponsor the Revenue Sharing Reestablishment Act of 1995.

H.R. —

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 "Revenue Sharing Reestablishment Act of 1995".

SEC. 2. REESTABLISHMENT OF REVENUE SHARING PROGRAM.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Treasury shall make payments to States and units of general local government in accordance with the provisions of chapter 67 of title 31, United States Code (formerly known as the "Revenue Sharing Act"), as in effect on April 6, 1986 (in this section referred to as "chapter 67").

(b) ENTITLEMENT PERIOD DEFINED.—Notwithstanding section 6701(a)(1) of chapter 67, for purposes of this section the term "entitlement period" (as used in chapter 67) means each fiscal year after fiscal year 1995.

(c) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 6703(b) (1) and (2) of chapter 67, there are authorized to be appropriated to the Secretary of the Treasury to carry out this section $5,000,000,000. For purposes of this section, amounts appropriated under this subsection shall be treated as amounts in the Trust Fund (as that term is used in chapter 67).

SEC. 3. REDUCTION OF AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR FOREIGN AID.

The amount authorized to be appropriated for aid to foreign governments for fiscal years after fiscal year 1995 is reduced by $5,000,000,000.

GERMAN PARLIAMENT DENOUNCES SITUATION IN CHECHNYA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. LANTOS. Mr. Speaker, I would like to share with my colleagues a very important document brought to my attention by my very good friend, Dr. Zbigniew Brzezinski. Below is the text of a resolution unanimously passed by the Bundestag in Germany on January 20, 1995, regarding the Russian debacle in Chechnya. I commend the German Parliament for its principled stand and I urge my colleagues to carefully consider it as a model for our own policy.

The article follows:

GERMAN PARLIAMENT RESOLUTION ON CHECHNYA, JANUARY 20, 1995

Begin informal translation:

The German Bundestag is deeply concerned and dismayed at the dangerous development of the situation in Chechnya. It does not contest the right of the Russian federation to preserve its territorial integrity within the legal framework provided for by the Russian constitution and in observance of international law and human rights, as well as OSCE principles and other rules with which it (the Russian Federation) had agreed to comply under a binding obligation. The Russian actions in Chechnya constitute, however, a grave violation of the principles of

the OSCE, the provisions of the 1992/1994 Vienna Document on confidence and security building measures, and of the U.N. Human Rights Conventions. The acts of violence, the disregard of human rights, and the indiscriminate and unrestrained use of military force are unacceptable. The military actions in Chechnya shake the confidence in the democratization process of the Russian Federation.

The German Bundestag deplores the appalling loss of human lives, the sacrifice and the suffering of the civilian population caused by the armed conflict in Chechnya.

The German Bundestag supports all efforts to call on Russia emphatically to continue the intensive dialogue started within the OSCE and to use all possibilities of the OSCE to solve the crisis.

The German Bundestag calls on the Russian Government and the Chechen fighters to stop the fighting immediately and unconditionally, to end the bloodshed and to seek a political solution of the conflict which takes into account the legitimate interests of Russia as well as those of the Chechen population.

Only such a solution can exclude dangers for the reform process, democratization and the stability of the whole region; only a democratic Russia will be able to remain a close partner of Germany, the EU and NATO.

The German Bundestag reaffirms its support for the Russian democrats who champion human rights and the rule of law.

Germany wants to remain Russia's partner and friend.

End informal translation.

Adopted unanimously by the Bundestag on January 20, 1995.

LEGISLATION TO REPEAL ANTITRUST EXEMPTION REGARDING MAJOR LEAGUE BASEBALL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. TORRES. Mr. Speaker, today I am introducing legislation to repeal the antitrust exemption under which Major League Baseball has operated since 1922.

I am doing this for two reasons. For the short term, I believe repealing the antitrust exemption will accelerate the end of the baseball shutdown, which threatens the livelihoods of thousands of Americans and the economies of cities and towns across the country.

For the long term, I believe repealing the antitrust exemption will restore fairness to the fragile relationship of labor and management in professional baseball. And in doing that we will help preserve the institution of baseball and protect the livelihoods of Americans for generations to come.

Although my own background has deep roots in the labor movement, I do not mean to take sides in the current struggle between the players and management. All I want to do is restore fairness to the negotiating process and allow the courts to help accelerate the negotiations where necessary.

As long as professional baseball enjoys its exemption from the antitrust statutes, management can impose its own salary structure free from constraints of the courts or the open market. I have no doubt that removing the antitrust exemption would drastically alter the escalating rate of ticket prices which are currently set by an unfettered cartel of 28 team owners.

Removing the antitrust exemption would put professional baseball in the real world of corporate America where it belongs. If we allow the free market to determine the cost of doing business in professional baseball, the owners will discover they can discipline their business practices and the players will discover their real value on the open market.

We must recognize once and for all that professional baseball is a business, a big business. And if we can bring baseball's fiscal house in order, I have no doubt we can bring back fans to ballparks across the country and restore the game of baseball, not the business of baseball, and America's national pastime.

$20,571.48 A YEAR FOR AN INDIVIDUAL HEALTH INSURANCE POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. STARK. Mr. Speaker, I have just received a letter from a 59-year-old self-employed realtor in California—a man who has no serious medical conditions. Several years ago, he was divorced and used COBRA to keep his wife's Prudential group rate policy of $275.96 per month. At the end of his COBRA health continuation period, he asked Prudential to convert to an individual policy. As the gentleman wrote me, that's when Prudential "dropped a piece of the Rock" on him. The monthly cost of a $100 deductible policy was $1,714.29—or $20,571 a year. For a $1,000 deductible, the monthly premium was $1,030—or $12,360 per year.

To help stop these outrageous overcharges, I urge the Congress to simply extend the COBRA health continuation time periods indefinitely. Once you are in a group policy, you should be able to stay in at the group rate plus an appropriate administrative fee.

PERSONAL EXPLANATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 31, 1995

Mr. CRANE. Mr. Speaker, after receiving assurances that we would not be voting on final passage of the Unfunded Mandate Reform Act tonight, I am keeping a commitment I made many months ago to travel back to Illinois to speak before the Barrington Chamber of Commerce. I regret that I may miss a number of votes relating to amendments to this legislation. However, regrettably, it has become clear from the proceedings of recent days that many of the amendments being offered by my colleagues on the other side of the aisle may be dilatory in nature, and are designed to simply slow down the process. In any event, my engagement in the district is important to my constituents, and I will make clear in the RECORD how I would have cast my vote on any recorded votes I may have missed.