SENATE—*Tuesday, February 28, 1995*

(Legislative day of Wednesday, February 22, 1995)

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

The PRESIDENT pro tempore. Our prayer will be offered by a guest Chaplain, Father Paul Lavin, of St. Joseph's Catholic Church, Washington, DC.

PRAYER

The guest Chaplain, the Reverend Paul Lavin, offered the following prayer:

In Psalm 89 we read:

May the goodness of the Lord be upon us, and give success to the work of our hands.

Let us pray:

God our Father, You have placed all the powers of nature under the control of the human family and the work we do.

May the men and women of the U.S. Senate and their staffs work to support one another and our fellow citizens to bring Your spirit to all our efforts, and may we work with our brothers and sisters at our common task of guiding Your creation to the fulfillment to which You have called us.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDENT pro tempore. 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.

Pending:

(1) Feinstein amendment No. 274, in the nature of a substitute.

(2) Feingold amendment No. 291, to provide that receipts and outlays of the Tennessee Valley Authority shall not be counted as receipts or outlays for purposes of this article.

(3) Graham amendment No. 259, to strike the limitation on debt held by the public.

(4) Graham amendment No. 298, to clarify the application of the public debt limit with respect to redemptions from the Social Security Trust Funds.

(5) Kennedy amendment No. 267, to provide that the balanced budget constitutional amendment does not authorize the President to impound lawfully appropriated funds or impose taxes, duties, or fees.

(6) Bumpers modified motion to refer H.J. Res. 1 to the Committee on the Budget with instructions.

(7) Nunn amendment No. 299, to permit waiver of the amendment during an economic emergency.

(8) Nunn amendment No. 300, to limit judicial review.

(9) Levin amendment No. 273, to require Congress to pass legislation specifying the means for implementing and enforcing a balanced budget before the balanced budget amendment is submitted to the States for ratification.

(10) Levin amendment No. 310, to provide that the Vice President of the United States shall be able to cast the deciding vote in the Senate if the whole number of the Senate be equally divided.

(11) Levin amendment No. 311, to provide that the Vice President of the United States shall not be able to cast the deciding vote in the Senate if the whole number of the Senate be equally divided.

(12) Pryor amendment No. 307, to give the people of each State, through their State representatives, the right to tell Congress how they would cut spending in their State in order to balance the budget.

(13) Byrd amendment No. 252, to permit outlays to exceed receipts by a majority vote.

(14) Byrd amendment No. 254, to establish that the limit on the public debt shall not be increased unless Congress provides by law for such an increase.

(15) Byrd amendment No. 255, to permit the President to submit an alternative budget.

(16) Byrd amendment No. 253, to permit a bill to increase revenue to become law by majority vote.

(17) Byrd amendment No. 258, to strike any reliance on estimates.

(18) Kerry motion to commit H.J. Res. 1 to the Committee on the Budget.

(19) Hatch (for Dole) motion to recommit H.J. Res. 1 to the Committee on the Budget with instructions.

(20) Hatch (for Dole) motion to recommit H.J. Res. 1 to the Committee on the Budget with instructions.

(21) Hatch (for Dole) motion to commit H.J. Res. 1 to the Committee on the Judiciary with instructions.

(22) Hatch (for Dole) motion to commit H.J. Res. 1 to the Committee on the Judiciary with instructions.

RECOGNITION OF THE DEMOCRATIC LEADER

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

Mr. DASCHLE. Mr. President, I yield 10 minutes to the distinguished Senator from North Dakota [Mr. CONRAD].

(Mr. KYL assumed the chair.)

Mr. CONRAD. I thank the Chair and I thank the minority leader. Mr. President, today is an important day in the life of our Nation. Today we consider a balanced budget amendment to the Constitution of the United States. We do not lightly consider amendments to the Constitution because that document has served as the framework that has made this the greatest Nation in human history.

Mr. President, we are here because this Nation faces a debt threat. I have brought with me several charts to try to illustrate the challenge that we face. This first chart shows what has happened to the gross debt in our country from 1940 to 1999. One can see that back in 1940 the debt of the country exploded during World War II, and then we went into a long period in which the gross debt of the country came down steadily, until 1979. At that time, gross debt, once again, exploded. We saw the gross debt of the country down about 30 percent, and it has gone up 70 percent, not as high as it was during the Second World War, nonetheless a real concern because the growth of the debt puts enormous pressure on the financial markets, puts pressure on interest rates, and has an adverse effect on our total economy.

Mr. President, I think this chart tells a very important story. This is the work of the entitlements commission that just concluded their work. On this chart, the green line shows the revenue of the United States back from 1970, forecasted up through 2030. One can see that the revenue has consistently run at just under 20 percent of our gross domestic product. We are right in this change today. One can see that the difference between the green line and these bars is the deficit, and we have worked the deficit down in this period to about 2.5 percent of gross domestic product.

Mr. President, look at what happens if we do not change course. Let me just say the entitlements commission did not take the worst case scenario. They assumed no recessions, no wars, no catastrophes, no natural disasters. Look at how the deficit explodes by the year 2030. By the year 2012 alone, we will use every penny of Federal revenue just on entitlements and interest on the debt.

Mr. President, we must address the debt threat without question. That takes us to the next chart. Some have said, "Well, Senator CONRAD, if you feel so strongly about the need to attack the deficits, why have you not signed up to the constitutional amendment" that is before us today? Very simply, Mr. President, I have several concerns.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

As I indicated earlier, we do not amend the Constitution of the United States lightly. That is the organic law of our country. It is the document that has stood the test of time, and we must take that measure against any proposed constitutional amendment.

Mr. President, there are three items that especially concern me. First is the possibility of looting the Social Security trust fund in order to balance the operating budget. That really raises the question that I have on this chart: What budget is being balanced? I think it is very important to know what budget is being balanced. To answer that question, we need to go to the language of the amendment itself.

In section 7, it says:

Total receipts shall include all receipts of the U.S. Government except those derived from borrowing. Total outlays shall include all outlays of the U.S. Government except for those for repayment of debt principal.

Mr. President, what that means, very simply, is that everything is going in the pot. This is a little teapot that shows the pot of Federal spending that we have created. It shows what goes in on the revenue side—individual income taxes, social insurance taxes, corporate income taxes, and other taxes. It shows the spending that comes out the spigot of Federal spending, the spigot of the pot of Federal spending. You can see Social Security comes out of the spending spigot—interest on the debt, defense, Medicare, and Medicaid. They are the big items. In fact, Social Security, interest, defense, and Medicare make up 78 percent of Federal spending.

Mr. President, the problem with that part of this constitutional amendment is that it assumes Social Security is in the pot, and Social Security is not contributing to the deficit; Social Security is in surplus. Social Security, in fact, is going to run a surplus over the 7 years necessary to balance the budget, under this provision, by $636 billion. So the amendment that is before us today assumes that we will be looting the Social Security trust fund surpluses of the $636 billion in order to balance the operating budget.

Mr. President, I do not consider that balancing the budget. That is, frankly, Washington talk for balancing a budget. If a head of any company in this country told the investors that he was balancing the budget and that a central part of balancing was to take the employees' trust funds, that person would be on the way to a Federal facility—and it would not be the U.S. Congress; that person would be on their way to jail. So this is a concern that I think must be addressed.

The second concern that I have—and it is a concern shared by others—is the role of the courts, because once you put in the Constitution of the United States an amendment, you have constitutionalized the issue. I brought with me a quote from Walter Dellinger who testified last year at the hearings on the question of a balanced budget, and he said:

If we have an amendment that for the first time constitutionalizes the taxing and spending process and creates a constitutional mandate which the courts are sworn on oath to uphold, there is simply no way that we can rule out the possibility that tax increases or spending cuts would be ordered by the judiciary. And I think we would all agree that that is a profound change in our constitutional system.

Mr. President, I hope people focus on this question. Would we really want unelected judges to be able to order tax increases in this country? I think not. That would be taxation without representation. Judges are not elected. Judges are not chosen to make these decisions. That is part of the genius of our Constitution: a separation of powers, with Congress, the elected representatives, making the financial decisions for the people of America.

Mr. President, it is not just Mr. Dellinger's view. Former Senator Danforth, who was among our most respected colleagues, a Republican Senator from Missouri, said last year when he offered an amendment—an amendment, by the way, which was accepted—to deal with the issue of clarifying the role of the courts said:

The implications of this judicial encroachment are staggering when applied to the proposed balanced budget amendment. As Professor Tribe testified before the Committee on the Budget: "What remedy could a federal court then decree? [if the budget is not balanced under this amendment] The court in the United States in Missouri vs. Jenkins a couple of years ago held that judges may have the power to mandate higher taxes if needed to force the government to comply with the Constitution."

Senator Danforth went on to say:

I find it troublesome, but it is the law. Talk about taxation without representation, unelected judges mandating higher taxes.

Mr. President, we ought to listen to the wisdom of former Senator Danforth. He was one of the most respected Members of this Chamber. He was dead right on this question.

Mr. President, there is a third issue that I want to raise today that is of concern and I think must be addressed if we are to pass a balanced budget amendment.

Mr. President, the third issue that I raise is the question of an economic emergency. Mr. President, we know that today the right policy is to cut spending and reduce the deficits and balance the budget. Sixty years ago that was precisely the wrong policy. In the Depression, raising taxes and cutting spending only made the Depression deeper and longer lasting.

Mr. President, Robert Solow, of MIT, a Nobel laureate in economics, said:

The balanced budget amendment would force perverse actions by Congress, easily turning a small recession into a big one and a big one into a disaster. Monetary policy can solve the small problems, but not the big ones.

Mr. President, if we are to have a constitutional amendment, I believe we must have special provision for an economic emergency.

I end on this note, a quote from Henry Aaron, the director of economic studies at the Brookings Institution. Dr. Aaron, in testimony last year said:

One does not need to be a primitive Keynesian to believe that a requirement forcing tax increases or spending cuts during an economic slowdown could be catastrophic.

Catastrophic, Mr. President—

Yet the need to mobilize a three-fifths majority, not just in the Senate but in the House of Representatives as well, heightens the possibility that such policies would result because of incapacity to mobilize the necessary supermajority in both Houses.

Mr. President, some have assured Members "Don't worry. If we are in an economic emergency, you will be able to get 60 votes." Mr. President, I went back to the time leading into World War II when the economy of this country was in deep trouble, when we faced an enormous external threat. I found an interesting thing. When we needed $1 billion to start to rebuild the Navy of this country, that passed by only 58 votes. When we needed to start to have a draft to prepare for war, that passed by only 56 votes.

Mr. President, I think it is very clear that we cannot take the assurance that in an emergency we would be able to muster the 60 votes.

Mr. President, let me just conclude by saying I believe deeply that we must address the debt threat hanging over this country. We must cut spending. We must reduce the deficit. We must balance the budget in preparation for the time when the baby boom generation starts to retire, the Social Security expenses and Medicare and all the rest start to explode.

Mr. President, we are talking about amending the Constitution of the United States. We should only do it if we are absolutely convinced we are properly crafting such an amendment. The three concerns that I have raised must be addressed if this amendment is to secure my vote.

We should not loot the Social Security trust fund because that is not balancing the budget. That is a paper sham. That is wrong. We should not leave the role of the courts vague and ambiguous. No unelected judges should be writing the budget for the United States, raising taxes, cutting spending. That would subvert the genius of the Constitution. Third, I believe we must have provision for an economic emergency so that we do not put our great Nation at risk at a time of economic weakness and vulnerability.

Mr. President, I thank the Chair. I yield the floor. I look very much forward to what the day will bring. I hope that we are able to come together and

craft an amendment that will stand the test of time.

Mr. STEVENS. Mr. President, how much time am I allowed?

The PRESIDING OFFICER. The Senator controls 73 minutes 20 seconds.

Mr. STEVENS. Will the Chair notify me when I have used 12 minutes?

The PRESIDING OFFICER. Yes, sir.

Mr. STEVENS. Mr. President, my support of a balanced budget amendment goes back to the 95th Congress.

In the last Congress, I did not perceive the willingness of Congress to consider all expenditures in order to achieve a balanced budget and did not support this amendment at that time.

Now, it is my belief that the changes in Congress and in the attitude of the country as a whole have brought a new commitment to consider all Federal expenditures, including entitlements. There is no question that the passage of this amendment is important to the Nation as a whole. That is particularly true to small States such as Alaska, and other States in the West.

We believe Congress must operate under fiscal restraint, restraint that is missing from the Federal budget process at this time. I am informed that next September the current Federal debt limit of $4.9 trillion will be reached. Congress may have to vote to increase that Federal debt limit above $5 trillion or face the prospect of shutting down the Federal Government and defaulting upon our obligations.

Default is an unthinkable option for a Nation like the United States. But I do not believe that I could in good conscience vote to increase the debt limit unless this Nation adopts a plan to balance the budget and end unnecessary deficit spending.

Based upon President Clinton's 1996 budget, 16 percent of the total Federal budget for this next fiscal year will be required to pay interest on that $4.9 trillion dollar national debt. The President's budget also requests and projects 16 percent of the total Federal budget to go to support of our national defense, 15 percent to grants to States and localities, and 5 percent to go to the operation of Federal agencies.

In my judgment, interest payments are competing now with the national defense. Our national defense is the second largest expenditure of Federal funds, second only to the direct benefit payments to individuals. This national debt is a real threat. Left unchecked, increased interest payments will endanger every Federal program.

In the past, and particularly last year, I expressed concern that entitlement programs would not be included in any efforts to balance the budget and that the necessary cuts would come from the remaining 36 percent of the budget. I was concerned that discretionary spending would bear all of the cuts.

It was my expressed fear that small States, like Alaska, would be severely and unfairly impacted by those cuts in discretionary spending. Cuts of the magnitude required to balance the budget taken solely from discretionary spending would impose a great burden upon us because of the necessity to have Federal programs—the Coast Guard, the FBI, the FAA, and so many other agencies of the Federal Government that provide the safety net for our people—in a State as large and diverse as mine.

After giving this issue serious consideration and having discussed the matter seriously with many of my colleagues, I have come to the conclusion that it is now the intent of Congress that spending cuts would be fairly applied to all expenditures.

Mr. President, we keep track of the calls and letters we receive in my Washington and Alaska offices, and the majority of Alaskans support a balanced budget amendment. They support it by a margin of 6 to 1, as reflected by the calls and letters that have come to my office endorsing or opposing the Amendment.

The Kerry-Danforth Commission, the Bipartisan Commission on Entitlement Reform, identified as one of its five broad principles the issue of balancing entitlement commitments with the funds available to meet those promises. If current entitlement policies are left unchanged, entitlement spending and interest on the national debt would consume almost all Federal revenues in the year 2010. By the year 2030, projected Federal revenues will not cover entitlement payments.

I do not support exempting any specific type of spending in the balanced budget amendment, per se, but I do believe Congress must find a way to balance the budget without reducing Social Security payments. On February 10, our distinguished majority leader, Senator DOLE, offered a measure on the Senate floor which calls on the Senate Budget Committee to report to the Senate a plan to protect Social Security while allowing Congress to balance the budget. I supported that amendment.

According to our Joint Economic Committee, Congress could balance the budget while Government spending increases 2 percent per year without touching Social Security or Medicare and allowing Medicaid to grow at the rate of 5 percent per year. There are some who question that plan, but that is the result of the report by the Joint Economic Committee.

It is time for the Federal, State, and local legislative and executive leaders to work together to find a way or to find ways to cut the fat out of Government without removing its heart. Spending decisions will be more difficult as interest on the national debt consumes a larger portion of Federal revenues.

It is my judgment that the Congress and the States must act now to ratify this balanced budget amendment to the Constitution. There is still time for Federal, State, and local governments to work together, as I suggested, to decide how to provide the necessary government services for our people. Our country cannot afford to wait any longer. We must get our fiscal house in order, and we can begin that process today.

I want to urge the Senate, particularly my colleagues who have not taken a position on this amendment, to support it. I shall support this amendment. I do so in order that, consistent with our Constitution, it may be submitted to the 50 States for ratification and we may begin this process. It will be a long and arduous process, Mr. President, but I think the time to commence is now.

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. EXON. 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. EXON. Mr. President, I ask that I be yielded approximately 8 minutes from the time reserved for Senator HATCH, the Senator from Utah.

The PRESIDING OFFICER. Does the Senator yield time?

Mr. STEVENS. I am pleased to yield to the Senator from Nebraska that amount of time.

Mr. EXON. Mr. President, I thank my friend from Alaska.

The constitutional amendment to balance the budget should be viewed as an important step in the right direction, but rejected as a certain cure-all assuring future sound national fiscal policy. The primary benefit, if passed in Congress and ratified by three-fourths of the States, is the considerable "discipline"—and I emphasize the word "discipline"—that it would provide to correct our current course. We veered dangerously off course in the 1980's when we ballooned annual deficits from manageable levels, under $100 billion by increasing it threefold or more. And from 1980 to the present we have skyrocketed the national debt, the culmination of those yearly deficits, fivefold, to $5 trillion, and it is going higher.

In fiscal year 1996, annual interest on that debt to non-trust fund or public debt costs taxpayers $260 billion, which alarmingly is the fastest growing part of our Federal budget. Of that $260 billion in interest costs about a fourth or $65 billion goes to foreign investors. Talk about foreign aid giveaways.

The $65 billion in interest the taxpayers will pay is shipped directly overseas, with no strings attached, and it is going up each and every year. It is astonishing, Mr. President, when we

compare the $20 billion that we provide annually for foreign aid, a category that we hear so much about, which is actually going down every year, compare that, if you will, with the $65 billion in taxpayers' money that is going overseas without any strings attached whatsoever.

The facts are that we are giving $45 billion more to foreigners in interest than in aid. If there were no other sound reasons—and there are many—the concerns just stated would be reason enough to employ the discipline that the balanced budget amendment will bring.

I salute the many good and reasoned arguments made by opponents in opposition to the amendment. Indeed, there are good reasons not to vote for it. I am not satisfied in total with the amendment and I believe it should have been amended in the Senate.

The trouble seems to be that the constitutional amendment before us has been Newtonized. Such a description, therefore, makes it infallible and unamendable. It is a believe exactly as we do or perish philosophy that is dangerous.

It is required that Republicans and the Democrats alike simply roll over and play dead for the good of the new order.

Mr. President, this is a very important day in the history of the U.S. Senate. Today, at the Republican caucus, the decision will be made as to whether or not a reasonable compromise will be accepted. That is the last real chance for success.

Notwithstanding what will be reported Tuesday evening—today—this amendment will not be approved—I emphasize, will not be approved—unless it is on a bipartisan basis. We can garner the minimum 67 votes to pass it—and the numbers I have indicate that it should be 52 Republicans and 15 Democrats—if we accept some version of the Danforth-Johnston-Nunn, et al., amendment. That concept is to keep the courts out of budgeting and agree to address some of the Social Security trust fund concerns that have been expressed on the floor most recently by my colleague from North Dakota a few moments ago. If we do not do that, it will not, and, in such an event, the responsibility for failure will rest on our inability to compromise just a little bit.

We can still pass this constitutional amendment if there is just a little give and a little concern. Despite the many seemingly unsurmountable hurdles, I am encouraged that, after a series of discussions of last Friday, yesterday and this morning, we may well be close to resolving enough of the more contentious issues to see success today. But I am not sure.

The key vote, Mr. President, on whether or not we can pass a constitutional amendment will come today on the Nunn amendment regarding concerns about court involvement. If that fails, I predict we will not garner the 67 votes for the balanced budget amendment. In that case, the final vote will just be an exercise to establish how many votes short of the required 67 that the constitutional amendment requires.

Mr. President, I think we are about some very, very serious business. I have previously said on many occasions why I support the constitutional amendment to balance the budget, with some reservations.

At this time, I appeal for reason and I appeal somehow to give and take a little bit, to compromise on one or two very important issues. If that happens and it is approved in the Republican caucus today, we can go on to success with the balanced budget amendment. If not, we will live to regret it, in the view of this Senator.

Mr. President, I yield the floor and yield back the remainder of any time that I had reserved on my original request.

Mr. HATCH. Mr. President, I suggest the absence of a quorum, with the time divided equally.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. 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. HATCH. I understand the distinguished Senator from Texas would like some time. How much time would the Senator like, 10 minutes?

Mr. GRAMM. What about 15?

Mr. HATCH. We are pressed for time. I yield 10 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I thank our distinguished colleague from Utah for yielding me time.

Mr. President, today we have an opportunity to change the course of American history. I guess each of us in our own way came into public life because we wanted to make historic decisions. I think it is fair to say that every Member of the Senate initially ran for office because he or she wanted to make a difference in the lives of the people in their State and across this country. We have an opportunity today in one vote to rewrite the history of the United States of America. That one vote is adopting a balanced budget amendment to the Constitution of the United States of America.

I would like to talk today about what happens if we do not pass a balanced budget amendment to the Constitution, and to also talk about what happens if we do, not in abstract terms but in concrete terms that have to do with the well-being of the forgotten people in America who do the work, pay the taxes, pull the wagon, and who ought to be the focal point of this debate, but unfortunately are not.

Then I wish to touch very briefly on some of the arguments that are being made against the amendment. First of all, I think we have to understand that Government spending means Government taxing. In 1950, the average American family with two children sent $1 out of every $50 it earned to Washington, DC. Today, that same family is sending $1 out of every $4 it earns to Washington, DC, and in 20 years, if we do not create a single new Federal program, if we simply pay for the Government that is already on the books, that family is going to be sending $1 out of every $3 it earns to Washington, DC.

It seems to me we have come to the moment of truth where either we are going to stay on this 40-year spending spree and squander the future of our children or we are going to stop the spending so as to save the American dream. That is the choice we make today.

Since 1950, the Federal Government's budget has grown 2½ times as fast as the family budget. Since 1950, the Government has spent money at a rate 2½ times as fast as the institution in America which created the income that the Government spent, the American family.

Now, what difference has it made over the last 40 years that Government spending has grown 2½ times as fast as family spending? Let me give you a startling statistic. If the ability of the family to spend the money it earned had grown as fast as the ability of Government to spend the money the family earned, families in America today would be spending not $45,000 per family of four but would be spending $120,000 per family.

Conversely, if Government spending had grown only as rapidly as spending by the family, the Federal Government would be roughly one-third the size it is today.

When you think about the American dream, when you think about the kind of America you want for your children and grandchildren, which pictures fits your view of America's future: Families with incomes three times as large as they are today and the Government a third the size it is today, or the reverse?

It seems to me that the priority of the family's budget over the Federal budget is the definition of what we are talking about. The debate here is not a debate about how much money is going to be spent on education and housing and nutrition and all of the other things that we are all for. The debate is about who is going to do the spending.

For many of our colleagues on the left, many of the Democratic Members of the Senate, the President of the United States, Bill Clinton, their vision for America's future is that they want Government to do the spending. Our vision for America's future is that we want the family to do the spending. We know the Government; we know the family; we know the difference; and we know something else. We are betting the future of America on the decision we make today. We want to bet the future of America on the family and not on the Government.

Now, in looking at these mind-numbing figures, since they are so big, we tend to forget that they really mean something. Let me give you some figures. If we adopt and enforce the budget proposed by Bill Clinton, that will mean that in 10 years we are going to be spending $412 billion simply paying interest on the public debt. That is more money than Jimmy Carter's budget for the whole Government of the United States in 1977. That was not that long ago.

Let me give you another figure that gives you an idea of the magnitude of the choice we make today. If we do nothing, if we stay with the status quo that Bill Clinton would have us adopt, the interest cost on the public debt in a decade is going to rise by $177 billion.

Now, nobody knows what $1 billion is except Ross Perot, but let me convert that into English. If we stop the deficit spending, if we did not borrow all that money, we could give every family in America a $13,000 tax deduction for the money we are going to squander paying interest on debt simply because this Congress has been incapable of saying no to any special interest group with a letterhead that has asked for our money.

Now, I wish to address very briefly some of the arguments that are made against the amendment. One argument, which many of us heard this weekend on television, is that deficit spending is a powerful medicine that can cure recessions, that can cure depressions, and if we lost the ability to use this medicine we might forever be pushed into a great recession and a great depression.

Mr. President, deficit spending is a drug to which we have become addicted. We have engaged in deficit expenditures in expansions, in contractions, in recessions, in inflations, and if deficit spending ever had any curative power, that curative power has long ago been lost.

We debate today whether to end this addiction to deficit spending. We debate today whether or not to force the Government to do what every family and every business in America has to do, and that is say no.

Finally, let me try to set this in perspective. Balancing the Federal budget is not going to be easy. It is going to mean hard choices. It is certainly not going to be easy for Members of Congress. But we cannot forget the benefits to be derived for the future of America in terms of opportunity and growth, and we must not forget what this means in terms of freedom. We should not get so caught up in the dollars and cents of the deficit and the budget debate that we forget that what is being squandered here is not just our money, it is our freedom. Government has grown so big, so powerful, so expensive, so distant, so hostile that this is a process that has to be reversed and we have it within our power today to do it. We all stand here on the floor of the Senate and wring our hands about the deficit. To balance the Federal budget means we have to freeze Government spending at its current level for 3 years.

How many businesses in America have made tougher choices than that just to keep their doors open in the last year? How many families in America have had to make tougher choices than that when a job was lost or when a parent died? The difference is that families and businesses in America live in the real world where you have to say no, where bad things happen, where you have to make adjustments, where you have to change.

Change is a fact of life everywhere except in Washington, DC, in America. Our Government has not lived in the real world for 40 years. We have it within our power today to change that. We have it within our power to pull our Government into the real world with our people, and in doing so enrich the lives of millions of Americans who want the kind of opportunity that has been routine in the American experience.

If we can adopt the balanced budget amendment to the Constitution today, we will change the course of the history of our Nation. And I am prayerfully hopeful that when our colleagues cast this vote they will realize we are shooting with real bullets and we are determining the future of the greatest country that the world has ever known.

The PRESIDING OFFICER. The distinguished minority leader.

Mr. DASCHLE. Mr. President, I yield 5 minutes to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I do want to point out for the record on the floor of the U.S. Senate, as I listened to my colleague from Texas speak about special interests, that I introduced an amendment several weeks ago, with Senator FEINGOLD from Wisconsin, which said that when we go forward with deficit reduction and continue on this path of deficit reduction and reach the goal of balancing the budget, we should consider $425 billion—that is in any given year—of tax expenditures, many of which are loopholes and deductions and sometimes outright giveaways to the largest corporations and financial institutions in America. That amendment was voted down on the floor of the U.S. Senate.

So it is interesting how children are a special interest, somehow with a negative connotation. Older Americans are a special interest, somehow with a negative connotation. Students who are trying to afford higher education are a special interest, sometimes with a negative connotation. But, on the other hand, subsidies for oil companies, the subsidies for coal companies, subsidies for pharmaceutical companies—they are not special interests at all. I think that has something to do with who are the heavy hitters, who has the representation, who does the lobbying, who has the power, who is well represented and who is left out.

I have been very involved in this debate and today there is just time for a few concluding remarks or reflections. At the very beginning of this 104th Congress I came to the floor with an amendment from my State of Minnesota. This amendment essentially said, based upon a resolution passed by my State legislature and signed by Governor Carlson, which urged that before we send a balanced budget amendment to the States, if it is passed, we ought to do an analysis for States of the impact on our States and of the people back in Minnesota and across the country. That was voted down. Similar amendments were also voted down.

There are other amendments that were very important to this effort to improve this constitutional amendment to balance the budget—very important. There was an amendment to make sure that there would not be a raid on the Social Security trust funds. That was voted down. There was an amendment, as I mentioned, that Senator FEINGOLD and I introduced, that urged that we at least consider some of the tax subsidies and giveaways to the largest corporations of America, the wealthiest people, as part of what we do in deficit reduction. Let us not just cut nutrition programs for children or Medicare. That was voted down. There was an amendment introduced on the floor of the U.S. Senate that said—and it makes good, rigorous economic sense—let us separate capital budgets from operating budgets. If we are going to make a comparison to family budgets, then let's really look closely at the similarities and differences. Sheila and I have never cash flowed the homes we've bought. We did not cash flow education for our children, higher education. And we did not cash flow cars. Those were investments in the future. We certainly have done a good job of balancing our budget every month, if that means keeping up with our payments. The same thing is true of most

of the State legislatures in this country. So the point was to make some separation.

There was an important amendment that said in times of recession let us not have those recessions become depressions. This is rigorous economic analysis. I say this as someone with an interest and a background in political economy. That was voted down. We do have to be concerned about the economics and the economic management of our Nation.

There were other amendments as well. I had a sense of the Senate amendment that we would not do anything to increase hunger or homelessness among children. That was voted down.

I have to say, I am acutely aware of what is politically popular at the moment. This constitutional amendment to balance the budget is politically popular at the moment. It is politically popular in the abstract. But people do not yet know what the specifics are. There has not been any truth in budgeting with this. I do not believe people have yet had a chance to look at all of the consequences of it.

So my position remains the same position. I was sent to the U.S. Senate from Minnesota to listen closely to people. I was sent to the U.S. Senate from Minnesota to stay close to people. But I also said to people in Minnesota that I would always vote my conscience. I would always vote what I believed was right for my Nation. I would always vote what I believed was right for the people I represented—even if it was a difficult political vote, even if it was politically unpopular at the moment, even if I was subject to attack ads and other criticism for my vote.

I will not back down from that. I will continue to go by that code. And it is my honest view, it is my profound sense that this constitutional amendment to balance the budget is a very serious mistake for a Nation that I love and for a State that I love.

And therefore for all the reasons I have outlined during this debate over the last month, I will vote no.

(Disturbance in the visitors' galleries.)

The PRESIDING OFFICER. The gallery will please withhold any display.

Thank you.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER (Mr. DEWINE). The Senator is recognized for 10 minutes.

AMENDMENT NO. 274

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent my amendment be the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I rise today in support of a substitute amendment to House Joint Resolution 1, the balanced budget constitutional amendment.

I support a balanced budget amendment to the Constitution, and I would like to see this body pass such an amendment. However, as I have previously stated, I do not believe that the House-passed amendment, the amendment being considered by the Senate, is the right amendment for this country.

With Senators FORD, HOLLINGS, MCCAIN, MIKULSKI, KOHL, HARKIN, DASCHLE, DORGAN, REID, and GRAHAM of Florida, I, therefore, offer my colleagues—both Republican and Democratic—a substitute.

The substitute I am offering today is a balanced budget amendment to the Constitution that will permanently exempt Social Security from the calculations. It will protect this fund, holding in trust the money deducted from American workers' paychecks every week until they are ready to use them in retirement.

The amendment does not alter any other aspect of House Joint Resolution 1—not a single item. It merely exempts Social Security—it is an honest balanced budget amendment—a balanced budget amendment which can pass.

Unfortunately, this body has steadfastly refused to make any changes to the original balanced budget amendment submitted to the Senate despite hours of good debate—especially on the establishment of capital budgeting procedures, with which I agree, the removal of Social Security from the budget, and attempts by both Senators JOHNSTON and NUNN to clarify the areas of legal redress under this amendment. The leadership has merely posed the same amendment which the House passed and asked that we rubberstamp it here in the Senate. I find this approach both unacceptable and puzzling.

This Senate has been involved in 1 month of detailed and incisive debate of this subject. Virtually all amendments have been defeated. No matter how salient or cogent points raised have been, they have been rejected. Apparently, the only acceptable amendment is the one presented. No changes can be made no matter how correct or compelling the criticism.

Now, while I believe a balanced budget is the correct policy decision for this country—I do not believe we must pass any amendment just because a few have ordained this to be the amendment. It is our duty in the Senate to weigh all legislative matters carefully. Amending the Constitution is a serious historical task which demands the thought and wisdom of all of us here in the Senate. I was elected by the people of California to represent their interests in the Senate. I was not elected to genuflect to a measure simply because it was passed by the House of Representatives.

At this point in our history, we should not be altering the legislative process. This body should not be simply a rubberstamp to a measure ramrodded through the other House. We should be examining all pieces of legislation independently from the House. This deliberation includes altering and amending legislation to fit the needs of Americans as we see them—I believe that the balanced budget amendment being offered by Republicans does not best serve as a correct methodology for balancing the budget.

Mr. President, I have stated previously my reasons for strongly supporting a constitutional balanced budget amendment. In the year that I was born, the Federal debt amounted to less than $25 billion. In the year my daughter was born, the Federal debt was about $225 billion—10 times greater. My granddaughter Eileen was born 2 years ago. At the time of her birth, the Federal debt was more than 150 times greater than it was when I was born—nearly $4 trillion.

In the last 35 years, the Federal Government has balanced its budget exactly twice. Once in 1960, a surplus of $300 million and again in 1969, a surplus of $3.2 billion.

Yet, in the last quarter of a century, the Federal Government has run up more than $4 trillion in debt without once balancing the budget. During this time, this Nation has experienced war and peace and economic booms and recessions. Never did this Government balanced the Federal budget, let alone run a surplus.

One fact is inescapable—spending in this country has grown out of control, and we have let the Federal debt grow at a rate that is unacceptable. That is why I am a strong supporter of a constitutional balanced budget amendment. We do not have another generation to allow this problem to fester. The time for action is now. But equally important to the need for a solution is its workability in the future.

There are four important arguments for protecting Social Security:

First, this amendment would place Social Security off-budget, thereby enshrining into the Constitution congressional action and guaranteeing the integrity of the system.

Between its creation in 1935 and 1969, Social Security had always been off-budget. In an attempt to cover the costs of the Vietnam war and later to mask growing deficits, Social Security was put on-budget. This was a misuse of the Social Security trust fund. In the 1990 Budget Enforcement Act, Congress put an end to this practice by declaring Social Security funds off-budget. The amendment in the Senate to exclude Social Security from budget calculations was passed in the 101st

Congress by a vote of 98–2. Every Member today who served in the 101st Congress voted to place Social Security off-budget.

Second, Social Security is not like other Government programs and should not be treated like other Government programs.

Social Security is a publicly administered, compulsory, contributory retirement system. Through the Federal Insurance Contributions Act, known as FICA, workers are required to contribute 6.2 percent of their salaries to Social Security. Every worker does this. Employers are required to match that amount. Every employer does this. This combined 12.4-percent contribution funds the Social Security system. It is not meant to fund Interior, or Agriculture, or Defense, or HUD, or welfare, or anything else. By law these funds are required to be held by the Federal Government in trust. They are not the Federal Government's funds, but contributions that workers pay in and expect to get back.

Over 58 percent of working Americans pay more in FICA taxes, if you include the employers' share, than they pay in Federal income taxes. This is not a small amount, and it is not adjusted by salary.

Third, Social Security does not contribute to the Federal deficit. In fact, the Social Security trust fund surpluses are masking the true size of the deficit today. In 1995, Social Security will take in $69 billion more than it will pay out in benefits. By 2001, Social Security will be running surpluses of more than $100 billion a year. By the time this amendment goes in place, in 2002, the surplus in the Social Security System will be $705 billion.

Fourth, the failure to save Social Security surpluses could undermine the system's viability.

In the late 1970's and 1980's, Congress changed the way the Social Security System was financed. Recognizing the large demand on the system that would be created by the retirement of the baby boomer generation early next century, the Social Security System was changed from a pay-as-you-go system to a system that would accumulate large surpluses now to prepare for the vast increase in the number of retirees later.

The amendment being offered by the Republicans permits the collected funds to be used to finance the deficit. That means beginning in 2019, when Social Security is supposed to begin drawing down its accumulated surpluses to pay for the benefits of the vast numbers of retiring baby boomers, there will be no money saved to distribute.

Congress will be forced to either raise taxes, cut Social Security benefits, or further cut other spending programs to meet the obligations workers are paying for now. In short, the American workers will have to pay twice for the retirement of the baby boomers because we will not be saving what they contribute now.

The only way to save the Social Security surpluses to pay for future retirements is to balance the budget exclusive of these revenues, and that is what this amendment would do.

The impact of this, of course, would be that the Federal Government would run a unified budget surplus—a balanced Federal budget and a surplus in the Social Security trust fund. In this way, we would cut the Federal debt and save Social Security funds, not just watch the debt keep growing. The alternative balanced budget amendment being offered today will do just that.

On February 17, the Times Mirror released its latest public interest poll. I think every Senator here should be aware of the results. When asked what should be given a higher priority in 1995, cutting taxes or taking steps to reduce the budget deficit, 55 percent want to reduce the deficit while 37 percent want to cut taxes for the middle class. Now, this supports the argument which we all are making for the balanced budget amendment. The American public wants to reduce the deficit; balancing the budget is the best way to do just that.

But this question is only one part of the story. When asked if it was more important to reduce the budget or keep Social Security and Medicare benefits as they are, the respondents favored keeping Social Security benefits as they are by a 70 to 24 percent margin. Let me say that again, 70 percent of the American public favors protecting Social Security while only 24 percent want to reduce the deficit at the expense of Social Security. This amendment we are offering will satisfy both of these desires.

Just last week, on February 23, I received a letter from the AARP supporting the protection of Social Security. Let me quote some of it:

The Association believes that a specific exemption for Social Security is required because anything less is inadequate and nonbinding. Without an exemption the program is at risk in several ways. First, benefits could be cut to reach the balanced budget goal even though money from such unwarranted reductions would remain in the Social Security trust funds. This would have the affect of further masking the deficit at the expense of Social Security beneficiaries. Just as important the benefit promise to today's workers will be jeopardized because the annual reserve will continue to be used to hide the extent of the Federal deficit.

The letter concludes by stating:

During the most recent election, candidates and the leadership of both political parties pledged to protect Social Security. The American people have grown angry and wary of promises from Washington. To tell the American public that Social Security is protected—and then fail to address the issue directly—will only lead to an increase in the cynicism that is currently prevalent throughout the Nation.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of this letter, along with a letter I received on February 1 from the National Committee to Preserve Social Security and Medicare supporting this amendment to protect the Social Security.

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

AMERICAN ASSOCIATION OF RETIRED PERSONS

Washington, DC, February 23, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: The American Association of Retired Persons (AARP) appreciates your efforts to protect Social Security from the proposed constitutional amendment to require a balanced budget. Many members of Congress speak about the importance of this program and the need to maintain it for current and future beneficiaries. However, since previous attempts to specifically shield Social Security from the balanced budget amendment have been defeated, your substitute represents the last opportunity to truly protect this vital program before the amendment would be sent to the states.

While AARP continues to believe that a requirement for a balanced budget federal budget does not belong in the Constitution, we believe that exempting Social Security is warranted for the following reasons:

Social Security is a self sustaining program that is financed by employer and employee contributions that are credited to the Social Security trust funds in order to pay benefits and run the program,

Social Security does not contribute one penny to the federal deficit. It currently has over $400 billion in reserve—an amount that is expected to increase by $70 billion this year alone; and

Raiding the trust funds would weaken our benefit promise to today's worker, as well as undermine their confidence in our nation's most important protection program.

The Association believes that a specific exemption for Social Security is required because anything less is inadequate and nonbinding. Without an exemption the program is at risk in several ways. First, benefits could be cut to reach the balanced budget goal even though the money from such unwarranted reductions would remain in the Social Security trust funds. This would have the affect of further masking the deficit at the expense of Social Security beneficiaries. Just as important, the benefit promise to today's workers will be jeopardized because the annual reserve will continue to be used to hide the extent of the federal deficit. In addition, Section 2 of the proposed amendment treats the Social Security trust funds' government bonds differently than the rest of the debt held by the public. This differentiation could lead to further attempts to use the Social Security trust funds as a cash cow.

During the most recent election, candidates and the leadership of both political parties pledged to protect Social Security. The American people have grown angry and wary of promises from Washington. To tell the American public that Social Security is protected—and then fail to address the issue directly—will only lead to an increase in the

cynicism that is currently prevalent throughout the nation.

Sincerely,

HORACE B. DEETS.
Executive Director.

NATIONAL COMMITTEE TO
PRESERVE SOCIAL SECURITY AND
MEDICARE,
Washington, DC, January 9, 1995.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: On behalf of the nearly six million members and supporters of the National Committee to Preserve Social Security and Medicare, I offer our strong support for your amendment to remove Social Security trust funds from budget and deficit calculations under the pending balanced budget constitutional amendment, S.J. Res. 1.

The National Committee agrees that the future economic growth of this nation will be enhanced if the budget of the United States is brought into balance. However, we strongly disagree that balancing the budget requires putting Social Security at risk by including it in the budget.

Balancing the budget requires reasoned decision making and the courage to face up to hard choices. It also requires recognizing the source of the problem. And that, by definition, excludes Social Security. The Social Security program is self-supporting and does not contribute one penny to the deficit. To the contrary, it produces a substantial surplus which Congress has been using to conceal the true size of the deficit. Including Social Security in this balanced budget constitutional amendment makes this budgetary charade much worse by writing it into the Constitution.

Amending the Constitution of the United States to legitimize this practice amounts to a breach of trust with the American people. Social Security today is exactly what it was established to be almost sixty years ago—a publicly administered, compulsory, contributory retirement program. Treating Social Security as just one more federal expenditure alters the very character of the program in a way that will ultimately undermine the program's great success.

Seniors support a balanced budget, but will strongly object to a Constitutional amendment which includes Social Security trust funds in budget and deficit calculations. On behalf of our members, I offer our sincere thanks for your efforts to protect Social Security.

Sincerely,

MARTHA A. MCSTEEN,
President.

Mrs. FEINSTEIN. I will not rehash the arguments lodged against this alternative balanced budget amendment at this point except to restate two important points:

First, the opponents of this amendment have repeatedly stated that we should not place a statute in the Constitution. They fear that Congress will have to amend the Constitution every time they enact enabling legislation.

This statement is pure hogwash—history has proven that constitutional amendments are inevitably defined by enabling legislation. During my statement on February 9, I displayed 20 volumes of the United States Code Annotated related to the 14th amendment. Are the supporters of this argument saying that they are opposed to all this legislation because it does not belong in the Constitution?—I think not.

They also believe that the Social Security trust funds can be protected through this same enabling legislation. At this time, I will reintroduce to the RECORD a letter from the American Law Division of the Congressional Research Service. Just to remind my colleagues, let me read the reply I received to an inquiry about the ability to protect Social Security in implementing legislation. The letter reads,

If the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculation of total receipts and outlays under section 1 of the balanced budget amendment.

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

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

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 6, 1995.

To: Senator Diane Feinstein
Attention: Mark Kadesh
From: American Law Division
Subject: Whether the Social Security Trust Funds Can Be Excluded from the Calculations Required by the Proposed Balanced Budget Amendment.

This is to respond to your request to evaluate whether Congress could by statute or resolution provide that certain outlays or receipts would not be included within the term "total outlays and receipts" as used in the proposed Balance Budget Amendment. Specifically, you requested an analysis as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund could be exempted from the calculation necessary to determine compliance with the constitutional amendment proposed in H.J. Res. 1, which provides that total expenditures will not exceed total outlays.[1]

Section 1 of H.J. Res. 1, as placed on the Senate Calendar, provides that total outlays for any fiscal year will not exceed total receipts for that fiscal year, unless authorized by three-fifths of the whole number of each House of Congress. The resolution also states that total receipts shall include all receipts of the United States Government except those derived from borrowing, and that total outlays shall include all outlays of the United States Government except for those used for repayment of debt principal. These requirements can be waived during periods of war or serious threats to national security.

Under the proposed language, it would appear that the receipts received by the United States which go to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. This is confirmed by the House Report issued with H.J. Res. 1.[2] Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security Trust Funds from the calculations of total receipts and outlays under section 1 of the amendment.[3]

KENNETH R. THOMAS,
Legislative Attorney,
American Law Division.

FOOTNOTES

[1] H.J. Res. 16, 104th Congress, 1st Sess. (January 27, 1995) provides the following proposed constitutional amendment—

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Section 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

[2] House Rept. 104–3, 104th Congress, 1st Session states the following: "The Committee concluded that exempting Social Security from computations of receipts and outlays would not be helpful to Social Security beneficiaries. Although Social Security accounts are running a surplus at this time, the situation is expected to change in the future with a Social Security related deficit developing. If we exclude Social Security from balanced budget computations, Congress will not have to make adjustments elsewhere in the budget to compensate for this projected deficit. . . ." (Id. at 11.)

it should also be noted that an amendment by Representative Frank to exempt the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from total receipts and total outlays was defeated in committee by a 16–19 rollcall vote. Id. at 14. A similar amendment by Representative Conyers was defeated in the House, 141 Cong. Rec. H741 (daily ed. January 23, 1995), as was an amendment by Representative Wise. Id. at H731.

[3] Although the Congress is given the authority to implement this article by appropriate legislation, there is no indication that the Congress would have the authority to pass legislation which conflicts with the provisions of the amendment.

Mrs. FEINSTEIN. Second, I recognize that the exclusion of Social Security will make it harder to balance the budget. Taking Social Security off budget will require about $3 trillion more in spending cuts by the year 2017. However, the alternative of leaving Social Security on budget allows Social Security funds to be stolen to avoid spending cuts. When the baby-boomer generation begins to retire, there will not be any funds available for them to collect.

In order to address this valid concern, I believe a capital budget should

be established to assure continued Federal investments in major public physical assets. Instituting a capital budget would more than offset the effects of moving Social Security from the budget. However, I was not permitted to offer this alternative. I was hoping that we would have been able to vote on this alternative. However, the Senate was denied that opportunity by an objection from the other side of the aisle. It is rather ironic—we are considering amending our Constitution—the great protector of free speech—and my speech was stifled, squashed, and censored.

In conclusion, I do not believe that the working men and women of this country are well served if we take the FICA tax moneys that they believe will be available for their retirements and use them to balance the budget. That is wrong. It is dishonest. It masks the debt. It betrays people. And it jeopardizes the retirements of future generations. I will not break the trust of the American people.

I urge my fellow Senators to vote for this honest balanced budget amendment. I want to see a balanced budget amendment pass this Senate.

This amendment can pass—there are enough Senators in this body who support a balanced budget amendment to pass this version.

However, if Senators wish to gamble in an attempt to gather enough votes for House Joint Resolution 1, they can.

I, for one, do not wish to take that risk.

I will vote for this honest balanced budget amendment.

Mr. FORD. Mr. President, time is short and I have only a few minutes to speak on behalf of the Feinstein substitute balanced budget amendment, so I'll keep my remarks to the point. As I have said before, the public trusts Congress to keep the Nation's finances in order. Nowhere is that agreement and that trust more evident or more important than in the governing of the Social Security trust fund. For that reason, I have had a great deal of concern about voting for the version of the balanced budget amendment that is before the Senate and it is that concern which led me to cosponsor with my colleague from California, a substitute amendment exempting Social Security from the equation.

The fact is that surpluses in trust funds are being used to hide the true debt of our Nation. As I mentioned on the floor last Friday, the highway and airport improvement trust funds are being used to hide debt. There are billions of dollars in these funds that are expressly raised and set aside for the specific purposes of repairing and building either highways or airports. What are they being used for? I'll tell you, they are being used to hide the actual level of the shortfall that we have around here between what comes in and what goes out.

The biggest example of this trickery is in Social Security. The other trust funds amount to a few billion dollars apiece, an amount that pales by comparison to the Social Security fund. From 1994 through the year 2002, the date that the amendment would likely take effect, an additional $706 billion in creative accounting and budgetary illusions will be used to mask the true size of our Nation's red ink. Well, I want to believe that all of us in this body know that these budgetary manipulations are not good for the country and should be stopped. Those that support the Feinstein substitute amendment will actually be doing something about that.

Senator FEINSTEIN's amendment respects the contract our Nation made with its people long ago. It reinforces the Social Security pact, makes it stronger, safer, and more secure. By exempting Social Security with the substitute amendment, it secures and fortifies its position as a separate trust fund. Social Security did not cause the deficit, and under our amendment, it will not be used to hide the deficit. Our amendment demands honest budgeting to get us to a balanced budget.

I have heard some argue that this amendment would shield any program Congress wanted to protect under the guise of Social Security. This simply is not true. We would require the same mechanisms to change the structure of Social Security as we do today, a 60-vote supermajority to waive the Budget Act.

Passage of the much-needed balanced budget amendment could be guaranteed if we're only willing to tell the American people that we will not misplace their trust. Working Americans pay into the Social Security system for the purpose of providing a nest egg in their older years. Perhaps it will give them the freedom and dignity to live independent lives so that they will not be a burden to their children. In any case, these taxes are paid to the Federal Government for retirement—not for Government operating expenses.

Mr. President, I will yield the floor shortly so that other Senators may speak, but I must add one more thought. Why is it that we have two separate and distinct Houses of Congress? As I always remembered from my history lessons, the Senate and the House are co-equal bodies. If that is the case—and I don't think I will find anyone in the Chamber who will disagree with me—if that is the case, then why are we being asked to be a rubberstamp for the House? Certainly most things in life are not perfect. The Feinstein substitute is not perfect either, but surely my colleagues must agree that it is better than the present language of the balanced budget amendment. Each body is supposed to review the others' actions and try to improve upon them. Surely if given a chance, the other body will pass the Feinstein amendment language. Why don't we give them a chance? Are we afraid of improving this measure? If not, there is no excuse for what has been going on here.

Mr. HATCH. Mr. President, this debate is unnecessary. We have already debated and voted on the substance of this amendment. This amendment is a substitute balanced budget amendment incorporating the Reid Social Security amendment, which has already been rejected by the Senate.

This issue was debated in committee and it was rejected. Then it was brought to the Senate floor, with only a minor alteration in the language, where it was debated and rejected again. Now, we are encouraging the same amendment for the third time. I also note Mr. President, that the distinguished Senator from California voted for the balanced budget amendment last year without a similar amendment on Social Security. Why?

We have heard complaints from the opponents of the balanced budget amendment that things are moving too fast, that we need to take more time, even though we have spent a full month of floor time on this constitutional amendment. Well, if all we are going to do is rehash the same arguments—and indeed the same amendments—over and over, it is time to vote.

Every minute of every day that we spend debating the balanced budget amendment, the debt increases more and more. Over $829 million every day. It is right here on my debt tracker chart. And people in Washington cannot understand why the American people are so upset at their Government it is because we do things like this—have repeated debates using the same old arguments on the same amendments we have already disposed of, while the country runs up hundreds of millions of dollars of debt every day. Business as usual has got to end.

Mr. President, there is only one reason that I can think of for this amendment to be brought to the floor again. The vote on this amendment could be used by some Senators who have promised their constituents that they would vote in favor of a balanced budget amendment the political cover to vote against the balanced budget amendment. In other words, they can claim that they kept their promise to vote for a balanced budget amendment by voting for something of that name which has no chance of passing, and then not voting for the one that does. We know this alternative has no chance because we have already had a vote on the modification embodied in this alternative, it was rejected.

Mr. President, such a cover vote was offered last year to help defeat the balanced budget amendment. Like last year's cover alternative, this substitute amendment is simply a sham, a

cover vote to allow Members to say to their constituents—the vast majority of whom want a balanced budget amendment—that they supported a balanced budget amendment, but one which would obviously fail. Remember that last year, proponents of the real balanced budget amendment were not alone in this assessment. The New York Times agreed. As Adam Clymer wrote in the Times last year.

The substitute version was intended to serve as a political fig leaf that would allow some Senators to vote for the measure and then, after its near-certain defeat, vote against the original version and still tell constituents they had supported a balanced budget amendment.—Option May Doom Budget Amendment (for Now) The New York Times, Friday, February 25, 1994, page A14.

More interesting, and more damning, is the fact that one of the key administration opponents of the balanced budget amendment suggested days before the introduction of last year's cover amendment that such tactics would be necessary to beat the real amendment. On February 18 of last year, Leon Panetta, President Clinton's then Director of the Office of Management and Budget, now his Chief of Staff, and a longtime foe of a balanced budget amendment, has this to say:

If you allow people to say, "Are you for or against a balanced budget," you'll lose it.

He explained that—

There are going to be some members who are going to have to have an alternative proposal that they can vote for in order to give them cover to come out against the [original] proposal.

Describing the process of developing sufficient cover for Members, Mr. Panetta further explained that—

You're basically counting votes and you're basically saying to members, "What do you need?" To the extent that a member says, "I need a constitutional amendment" * * * you probably have to design an alternative amendment to the Constitution that would in some way protect them.

Well, Mr. President, here they go again. Given the fact that this is the only complete substitute alternative balanced budget amendment, and given that the only change from the real balanced budget amendment is the addition of Social Security language already debated at length and rejected, the purpose of this amendment can be no other than a cover vote. Well, Mr. President, the American people will not be fooled by this. They want a real balanced budget amendment, and they want it passed now.

Let me repeat for the record, that I believe this amendment would not help Social Security recipients. In fact this amendment would create an incentive to call as much of the budget Social Security as a clever Congress could get away with. This would gut the balanced budget amendment, destroy Social Security, and keep us on the path to economic ruin. The real threat to Social Security is our mounting debt. If we can get that under control with the help of a real balanced budget amendment, only then will Social Security and any other Government program be safe, and only then will our Nation's economic future be brighter, rather than darker, for all our generations.

Mr. President, I urge my colleagues to table this alternative to the real balanced budget amendment.

Mr. President, I move to table the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMENDMENT NO. 300, AS MODIFIED.

Mr. NUNN. Mr. President, I ask unanimous consent that my amendment No. 300 be modified by the amendment I now send to the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 300), as modified, is as follows:

On page 3, line 3, after the period insert: "The judicial power of the United States shall not extend to any case or controversy arising under this Article except as may be specifically authorized by legislation adopted pursuant to this section."

Mr. DASCHLE. I yield 5 minutes to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, at the outset of this very important day, I rise to speak not to the particulars of our budget and our budget problems, but to the risk which we take with the entire economy by the measure proposed before us; a measure that would place in the Constitution a set of propositions that are essentially contrary to everything we have learned about the management of a modern industrial economy in this extraordinary half century since the enactment of the Employment Act of 1946.

I will take the liberty of reading to the Senate a statement issued by the Jerome Levy Economics Institute of Bard College at Annandale-on-Hudson, NY, written by some of the finest economists gathered together in any site in the country today. It was placed as an advertisement in the Washington Post, a rare and unprecedented event for the persons involved, but a measure of their sense of urgency. It is headed, sir, "An Invitation to Disaster." It reads:

The balanced budget amendment would destroy the ability of the United States government to prevent economic depressions, to respond to natural disasters, to protect the savings of tens of millions of working Americans, and, over time, to enable the economy to grow.

The ability of the federal government to pump money into an ailing economy has time and again in the postwar era limited the depth and duration of a recession and prevented a depression. During the 1957–58 recession, the Eisenhower administration deliberately increased the deficit.

And from that moment on, sir—and I can say I came to Washington as an Assistant Secretary of Labor, policy planning and research, which was on the periphery but still very much involved, and took a place in the economic response of the Kennedy administration to the recession of 1961, which followed that of the Eisenhower administration that was followed on in the next decade by that of the Nixon administration. We have gone, sir, 50 years with only one recession that brought us to a significant negative economic growth, which was a 2.2-percent drop in 1982—50 years. It was the great crisis of capitalism which shook the world, shook our country, because we could not manage the business cycle, and have yielded to understanding, to discourse, to evidence. It was a bipartisan, immensely successful experience to save everything we hold most valuable about a free-enterprise, private-market economy.

We put this in jeopardy. It is an invitation to disaster. The New York Newsday, in an editorial this morning, speaks of an "Unbalanced Idea" and refers to the chart that I have several times shown on the floor of the huge swings, boom and bust, starting from the 1890's, the panic of 1893, leading up to the postwar period of almost unbroken—the business cycle is moderate and the growth is continuous. That chart, says Newsday, "tells it all." In part, it reads:

Since World War II, this country has enjoyed 50 years of economic stability unmatched in modern U.S. history. Recessions have been shorter and shallower, periods of growth markedly longer than during the half century before the war.

That's largely because government spending has expanded, which works to fill in some of the gaps when recessions hit * * *.

We have automatic anticyclical measures. It says in this provision that we can anticipate and we can vote with a supermajority to raise the debt ceilings and such like. No. Mr. President, recessions in our country have not occurred until the dating committee of the National Bureau of Economic Research announced that they happened. In the meantime, the automatic adjustments have been responding long before anybody is aware of an economic decline.

Mr. President, we know this. President after President has understood it. The time has come to say we understand it as well and reject the amendment.

Mr. President, I ask unanimous consent that at the conclusion of these remarks, we have printed in the RECORD the statement of the Jerome Levy Economics Institute; the statement of the New York Newsday, an "Unbalanced

Idea"; and above all, the lead editorial in today's Washington Post, sir, which says it all. It is entitled, "The Urgency of Political Courage."

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

[From the Washington Post, Feb. 27, 1995]

AN INVITATION TO DISASTER

The Balanced Budget Amendment would destroy the ability of the United States government to prevent economic depressions, to respond to natural disasters, to protect the savings of tens of millions of working Americans, and, over time, to enable the economy to grow.

The ability of the federal government to pump money into an ailing economy has time and again in the postwar era limited the depth and duration of a recession and prevented a depression. During the 1957–58 recession, the Eisenhower administration deliberately increased the deficit. That strategy brought a rapid end to the decline. During every recession thereafter, either by design or through circumstance, a deficit was crucial in containing and ending the decline. For example, tax reductions adopted in 1981 were not planned as a counter-recession tactic, but the enacted cut that took effect in 1982 was the key to the recovery that began in that year.

Floods in the Midwest, hurricanes in the Southeast, and earthquakes in California during recent years prompted the federal government to spend hundreds of millions to relieve suffering and limit damage. Scientists who study natural phenomena warn against worse disasters. The balanced budget amendment would keep the federal government from dealing with such calamities.

Occasional man made disasters have occurred throughout the history of capitalism—for example, the savings and loan debacle of the 1980s. Had the federal government not been able to provide the money to validate the deposits of millions of ordinary citizens, their losses and runs on saving and commercial banking institutions would have recreated 1932. To assume that financial crises will never recur is unrealistic.

The balanced budget amendment ignores the nature of our monetary system. The Federal Reserve and the commercial banks issue money against their holdings of federal debt. Under a balanced budget amendment, the debt will not increase. Eventually the system will not be able to create the money the economy needs in order to grow.—The Jerome Levy Economics Institute.

[From the New York Newsday, Feb. 28, 1995]

UNBALANCED IDEA—A RISKY BUDGET AMENDMENT

The chart that New York's Sen. Daniel Patrick Moynihan showed the Senate a couple of weeks ago tells it all: Since World War II, this country has enjoyed 50 years of economic stability unmatched in modern U.S. history. Recessions have been shorter and shallower, periods of growth markedly longer than during the half-century before the war.

That's largely because government spending has expanded, which works to fill in some of the gaps when recessions hit and private spending contracts. That counterbalance effect will be far harder to achieve if the nation adopts the balanced-budget amendment the U.S. Senate is scheduled to vote on today.

So the senators should turn it down. That's too bad, in a way. The federal government has run up its debt to frightening levels during the last 20 years because of its now-routine reliance on deficits—spending more than it takes in—in the bountiful years as well as the bad ones. That should be stopped. But despite President Bill Clinton's effort to change that in his first budget, annual deficits will start growing again in a couple of years.

Some formal discipline, such as a constitutional amendment, might give presidents and legislators the cover they need to cut popular spending programs and raise unpopular taxes. "We have to; it's in the Constitution," they could say. But the trouble is that the amendment the Senate votes on today, essentially unchanged from the version passed by the House last month, goes too far the other way. It includes *no* mechanism to allow deficit spending during recessions—when deficits help to keep economic downturns from getting worse.

There is only an allowance for Congress to waive the balance requirement by a supermajority vote. Winning such a waiver would be far from a certainty, and a minority of lawmakers in either house could block it.

A realistic mechanism to counter recessions probably could be devised. It's regrettable the Republican leadership took the easier path—the "just say no to deficits" approach—instead of a responsible one. As a result, it's the Senate that should just say no, today, to an ill-conceived balanced-budget amendment.

[From the Washington Post, Feb. 28, 1995]

THE URGENCY OF POLITICAL COURAGE

It is hard to decide which would be worse: if the balanced budget amendment that the Senate is voting on today functioned as its sponsors intend, thereby locking the country into what would often be an ill-advised economic policy; or if Congress found a way to duck the command, thereby trivializing the Constitution and creating a permanent monument to political timidity.

Take the second possibility. The Constitution of the United States is remarkable because no country in the world has taken its written Constitution so seriously. It is a concise Constitution, and it has not been amended lightly. Other countries have acted as if their constitutions were merely pieces of legislation to be changed at will, but not the United States.

The balanced budget amendment marks the intrusion of the worst kind of legislative politics onto our constitutional tradition. For about a decade and a half, for mostly political reasons, Congress has not found the fortitude to come even close to balancing the budget. Instead of doing what it should and voting the spending cuts and taxes to narrow the deficit, Congress wants to dodge the hard choices by changing the Constitution. But as Sen. Daniel P. Moynihan argued on "Meet the Press" this Sunday: "My proposition is that you avoid trying to pretend a machine will do this for you. . . . You have to do it yourself." With or without the amendment, only Congress will get the budget balanced. And who is to say that the amendment, which becomes effective only in 2002, won't delay Congress from making the hard decisions until it is against the wall of its mandate, give it yet another excuse? "Gosh, we passed the balanced budget amendment," the unfailingly inventive members will be inclined to say, "and it goes into effect in just a few years. Isn't that enough? What do you want us to do? Balance the budget?"

Sen. Sam Nunn, whose vote could prove decisive, has argued forcefully that this amendment could lead to the judiciary's making decisions on spending cuts and tax increases that ought only be made by the legislative branch. Last night, Sen. Byron Dorgan, another whose vote had been in doubt, voiced a similar reservation. Supporters of the amendment are now trying to win their votes by arguing that legislation could be passed to protect against judicial supremacy. But surely Mr. Nunn's first instinct was right: No legislation can supersede the Constitution. If the amendment itself does not protect against judicial interference, there is no guarantee as to how a court will act. And if, on the other hand, there is no enforcement mechanism for the amendment, then why pass it in the first place? It becomes an utterly empty symbol, which is exactly what the United States Constitution has never been and never should be.

As bad as this prospect is, and effective balanced budget amendment might be even worse. By requiring three-fifths votes to pass unbalanced budgets, it would enshrine minority rule. And while deficits in periods of prosperity make little sense, modest deficits during economic downturns have been powerful engines for bringing the economy back to prosperity. This amendment, if it worked as planned, would shackle government to economic policies that are plainly foolish. Since government revenues drop during recessions and since payments for benefits such as food stamps and unemployment compension increase, the amendment would require Congress by constitutional mandate to pursue exactly the policies that would only further economic distress; to raise taxes, to cut spending, or do both.

Moreover, as Mr. Moynihan and others have pointed out, the amendment could one day lead to the devastation of the banking system. This might happen because a balanced budget amendment could stall or stop the government from meeting its obligations to protect the depositors of banks that failed during an economic downturn. Mr. Moynihan is not exaggerating when he says that "everything we have learned about managing our economy since the Great Depression is at risk."

Voting against this amendment should be easy. It has been said that were today's vote secret, the amendment would certainly fail. But the political pressures on the undecided senators—Mr. Nunn, Mr. Dorgan, John Breaux, Kent Conrad and Wendell Ford—are immense and largely in the amendment's favor. These senators have an opportunity only rarely given public figures; to display genuine courage on an issue of enormous historical significance. They should seize their moment and vote this amendment down.

Mr. MOYNIHAN. I thank the Chair and I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I yield myself 10 minutes of the democratic leader's time. I request that the Chair notify me when I have used 8 of the 10 minutes.

Mr. President, I have just been looking at the modification that apparently the majority party has agreed to in order to accommodate Senator NUNN's concerns about the court's role in enforcing this amendment.

I do not want the courts involved, but I do not want to tinker with our sacred organic law, either. Because when

you take the courts out, what you have are the same people charged with the responsibility of enforcing this amendment that are now in charge. The only difference is you have the requirements of a supermajority of 60 votes.

The Nunn proposal apparently says that the courts may not involve themselves in this matter unless we grant them that authority in the future. I can tell you now, I am not ever going to grant them the authority to meddle in this. That makes another portion of the Constitution, of which James Madison was proudest, a eunuch, because then you torpedo the separate branches of Government.

My amendment, which we are going to vote on this afternoon, is more powerful in getting the budget balanced than is this constitutional amendment. If you take the courts out, the only thing you have left is a 60-vote majority required to unbalance the budget. My amendment does that by amending the Budget Act and saying you may not change—you may not change—the requirement that every budget resolution, starting this year—not in the year 2002, this year—must provide for a deficit smaller than the preceding year and a balanced budget in the year 2002.

This constitutional amendment does not require this body to do one blessed thing until the year 2002. We may do it, but there is not anything in this thing that requires it. My amendment would require it now, not in 2002, not after the Republicans have spent another $471 billion. That is what the contract calls for between now and 2002, $471 billion in additional tax cuts and defense spending, and then—and then—we will start talking about balancing the budget. It is the biggest scam ever perpetrated on an unsuspecting nation.

There has to be some ambivalence on the other side among some people about whether they really want this or not. If they do not get it, it will be the No. 1 issue in the 1996 election. "He voted against a constitutional amendment to balance the budget." And to the ordinary American citizen that is tantamount to voting against a balanced budget. Is that not a tragedy, that we have not been able to separate the two during this debate?

I yield to nobody in this body in my efforts to get spending under control for 20 years, but I am not willing to tinker with, literally trivialize, the sacred organic law of this Nation that makes us the oldest living democracy, living under the oldest living document, for political purposes.

So if they lose, they have it all going their way in 1996. "He voted against a budget resolution." And the reason I think they are ambivalent is because, if they win, then they have to say to the American people sometime between now and the year 2002, "We overpromised. It cannot be done."

Do you think $1.5 trillion can be cut from the budget between now and 2002? Why, of course, it is ridiculous. The question answers itself.

My amendment is tougher than the constitutional amendment, as I say, because it puts us on a glidepath now. It starts balancing the budget now, not in the year 2002.

Let me ask my colleagues who are still perhaps undecided: If you vote to take the courts out, what do you have? You have a constitutional amendment that nobody but the U.S. Congress can enforce. It is wholly unenforceable unless we have the spine to do it.

That is what this amendment is all about. It is an admission to the American people that we cannot be trusted to trust them with the truth. And it is an admission that we cannot bring the budget into balance. And if you take the courts out of this, that is what you have.

One Senator told me the reason he was voting for it was because he wanted the courts to enforce it. And I am wondering now how that Senator is going to vote, now that there is going to be a provision in the amendment saying they cannot enforce it.

And if you put the courts in or if you do nothing, there is a chance that the courts would take jurisdiction, and then you have unmitigated chaos.

Do you know what the litmus test is going to be in 1996 and 1998 and the year 2000? It will not be, "If you elect me, I will vote for a balanced budget amendment. I will vote for a line-item veto. I will vote for term limits. I will vote for prayer in school. You tell me whatever has a majority of popular opinion. Count me in, I will vote for it."

The PRESIDING OFFICER. The Chair advises the Senator he has used 8 minutes.

Mr. BUMPERS. I thank the Chair.

Everybody will be campaigning with one additional provision— "I will never vote and be one of the 60 votes to unbalance the budget."

So what do you have? You have a depression, you have a hurricane, you have an earthquake, you have floods, you have an S&L bailout, the banks fail, and we sit here trying to muster 60 votes and everybody says, "No, I promised my people in the last campaign that I would never be one of the people who would vote to unbalance the budget." A depression, so be it. Precisely what Herbert Hoover said, precisely the reason we had 25 percent unemployment in 1933.

I talked to one of my law school classmates yesterday who is a couple years older than I. We both remember the Depression. He said to me, "Do you know what this country needs? A good depression."

They have forgotten why all these laws are in effect—FDIC, FSLIC, the Securities and Exchange Commission. They are there because we put them in during the Depression to protect people.

Mr. President, the distinguished floor manager from Utah was quoted in the press this morning as saying, "I pity"—I pity—"anybody in this body who votes no."

Mr. President, I pity an unsuspecting nation if we vote yes.

I yield the floor.

Mr. LEAHY. Mr. President, I share the anger, frustration, and impatience of those who want to reduce our deficit. But a constitutional amendment simply is not the way to achieve that goal.

The Senate debate on this constitutional amendment and the amendments offered to improve it, which were all tabled by the majority, have reinforced my conclusion that the balanced budget amendment is a bad idea whose time has not come.

I have 10 reasons why I believe adoption of this proposed 28th amendment to the U.S. Constitution would be a grave mistake.

IT DOES NOT REDUCE THE DEBT OR THE DEFICIT

First, the proposed constitutional amendment will not cut a single penny from the Federal budget or deficit this year, next year, or any year. It is a copout.

There are only two responsible ways to reduce our budget deficit: cut spending or raise taxes. Focusing our attention on this proposed amendment only delays us from making progress on those choices.

PROPONENTS' DEBT TRACKER CHART

I have noted the daily ritual of proponents of this amendment using their debt tracker chart. That practice is as deceptive as the constitutional amendment that we are debating: It misleads the American people by suggesting that this debate is responsible for billions of dollars of increased national debt.

But if this resolution had been passed on the first day of debate, the national debt would have risen just as fast and just as high. The debt tracker has nothing to do with the debate on this resolution. But it is symbolic of the lack of substance of the arguments of the proponents of this so-called balanced budget amendment.

Further, the debt tracker is indicative, not of delay by opponents of this constitutional amendment, but delay in starting the difficult process of cutting the deficit. It is the proponents of the amendment that are fiddling while the debt is growing.

It makes more sense to cast votes that will cut the deficit now and not wait until the next century. Of course, this year there is additional irony in that the Republican Party has assumed majority status in both the House and Senate. As such, it can pass any budget it wants. That only requires a majority vote.

If they want to balance the budget, eliminate the deficit, pay off the debt. They can do all that by a simple majority vote in both Houses. They do not

need a constitutional amendment to do any of this; they can do it right now.

Our Republican colleagues have been preparing for their leadership role since November 9. In over 3 months, they have proposed no budget resolution, proposed no balanced budget, proposed no budget moving toward balance, indeed, proposed no budget at all. Instead, they choose to distract and delay through the use of this proposed constitutional amendment.

It is only with resolve and hard work that we make progress. Neither is evident in this effort. This is politics pure and simple and no one should play politics with the Constitution.

IT WILL SHIFT BURDENS TO STATE AND LOCAL GOVERNMENTS

Second, the proposed amendment contains no protection against the Federal Government seeking to balance its budget by shifting burdens to the States. This is the ultimate budget gimmick—pass the buck to the States.

That is not the way to cut the Federal deficit—shifting burdens to State and local government and requiring them to raise the revenues necessary to take up the slack. Working people cannot afford tax increases any more easily because they are imposed by State and local authorities.

Unless we carefully balance the budget, this amendment could pass the buck to the States. Studies make dire predictions if we resort to across-the-board spending cuts—the easiest way to avoid the painful choices needed to balance the budget.

In response to a request from Governor Dean of Vermont, the Treasury Department recently studied what could happen to State and local taxes under the balanced budget amendment.

Assuming that Social Security and Defense cuts were off the table, as the Republican leadership has promised, the Treasury analysis predicts cuts in Federal grants of over $200 million to Vermont in 2002.

Treasury predicts Vermont would lose $89 million per year in Medicaid funding. Treasury predicts Vermont would lose $37 million per year in highway trust fund grants. Treasury predicts Vermont would lose $13 million per year in welfare funding. And Treasury predicts Vermont would lose $68 million in other Federal funding.

To try to offset these losses, Vermont would have to raise State taxes by 17.4 percent.

The Treasury Department forecast higher State taxes not only for Vermont, but for the other 49 States as well. Louisiana would have to raise State taxes by 27.8 percent to make up for lost Federal funds. Rhode Island would have to raise State taxes by 21.4 percent to make up for lost Federal funds. South Dakota would have to raise State taxes by 24.7 percent to make up for lost Federal funds. West Virginia would have to raise State taxes by 20.6 percent to make up for lost Federal funds. Mississippi would have to raise State taxes by 20.8 percent to make up for lost Federal funds, and so on. If we try to balance the Federal budget by scaling back essential services, we will just as surely be shifting these costs and burdens on State and local governments. I know that the people of Vermont are not going to let their neighbors go hungry or without medical care.

And I expect people elsewhere will not either. As much as our churches, synagogues, charities, communities, and volunteers will contribute, a large share of the costs will fall to State and local governments.

I believe that before we are called upon to consider this constitutional amendment, we need to know what its impact is likely to be. Certainly before any State is called upon to consider ratification of such a constitutional amendment, it should be advised of the likely effects on its budget.

In spite of the majority leader's assurance more than 2 weeks ago that Republicans would provide as much detail as possible in the course of this debate about how they intend to balance the budget, we have heard none. Their secret plan remains secret. Let us get some answers and know where we are headed.

IT WILL HURT CHILDREN'S PROGRAMS

Third, simple arithmetic indicates that sharp cuts will be proposed in programs for our Nation's children. Supporters of this amendment have promised not to cut Social Security and not to cut defense, although they do propose that we cut taxes. What is left?

Programs like school lunches, education, childhood immunization. Under the proposed amendment, programs like these will face likely cuts of 30 percent or more.

The Children's Defense Fund has predicted that across-the-board spending cuts from the balanced budget amendment would unfairly balance the budget on the backs of children.

Under the balanced budget amendment in 2002, the Children's Defense Fund fears that in Vermont alone: 4,850 babies, preschoolers, and pregnant women would lose infant formula under the WIC Program; 7,600 children would lose food stamps; 13,900 children would lose subsidized school lunches; 13,750 children would lose Medicaid health coverage, and 2,500 children in child care and Head Start would lose Child and Adult Care Food Program meals.

More than 7 million children nationwide may be thrown out of these Federal programs.

Let us remember that these programs for children are investments in our future. Study after study shows that healthy, educated children grow up to become productive citizens.

Take for example the WIC Program, which provides nutrition and health care for pregnant women, infants, and children. The GAO indicates that in the long haul, a dollar spent on WIC saves $3.50 in health care costs. Let us not be pennywise in our deliberations. There will be a bill to pay later for unwise, shortsighted cuts, and that bill will be left to the next generation.

I do not want to saddle our children and grandchildren with Federal debt, but neither do I want to leave them a legacy of malnutrition, poor education, and inadequate health care. Children are our most vulnerable population and our most valuable resources for the future.

IT WILL ENCOURAGE BUDGET GIMMICKRY

Fourth, this proposed constitutional amendment would invite the worst kind of cynical evasion and budget gimmickry. The experience of States with balanced budget requirements only bears this out.

Many States with a balanced budget requirement achieve compliance only with what the former controller of New York State calls "dubious practices and financial gimmicks."

These gimmicks include shifting expenditure to off-budget accounts, postponing payments to localities and school district suppliers, delaying refunds to taxpayers, deferring contributions to pension funds, and selling State assets. The proposed balanced budget amendment does not prohibit the Federal Government from using these same and other "dubious practices and gimmicks."

With Congress facing a constitutional mandate, the overwhelming temptation will be to exaggerate estimates of economic growth and tax receipts, underestimate spending and engage in all kinds of accounting tricks, as was done before the honest budgeting effort of 1993.

Passing a constitutional directive that will inevitably encourage evasion, will invite public cynicism and scorn not only toward Congress, but toward the Constitution itself.

Let us not debase our national charter in a misguided, political attempt to curry favor with the American people by this declaration against budget deficits. Let us not make the mistake of other countries and turn our Constitution into a series of hollow promises.

IT IS LOADED WITH LOOPHOLES

Fifth, the loopholes in House Joint Resolution 1 already abound. One need only consult the language of the proposed amendment and the majority report for the first sets of exceptions and creative interpretations that will allow Congress to reduce the deficit only so far as Members choose to cast responsible votes. The distinguished senior Sentor from West Virginia and others have pointed out additional problems, as well.

The Senate Judiciary Committee report says that Congress will have "flexibility" in deciding what is off-

budget for purposes of the constitutional amendment.

Proponents expressly exempt in that report the Tennessee Valley Authority as "[a]mong the Federal programs that would not be covered." What other exemptions are contemplated or will be granted?

It may mean one thing this year and another the next. It can be shifted around the calendar as Congress deems appropriate. Watch out for the shifting of fiscal years in order to juggle accounts when elections are approaching.

As the senior Senator from West Virginia so ably explained, this proposed amendment gives Congress leeway to rely on estimates to measure the budget and to ignore very small or negligible deficits. But what is small, what is negligible? With an apology to Everett Dirksen: "A billion here, a billion there, after a while it does not add up."

I commend Senator FEINGOLD for offering an amendment to strike the exemption for the Tennessee Valley Authority from the Judiciary Committee report. I voted for it. Unfortunately, my colleagues overwhelmingly voted to keep this loophole.

This proposed constitutional amendment uses the seemingly straightforward term "fiscal year." But, according to the Senate report, this time period can mean whatever a majority in Congress wants it to mean.

The biggest loophole, of course, is using the Social Security trust fund to make the true deficit. I commend Senator REID and Senator FEINSTEIN for their amendment to exclude Social Security from the balanced budget amendment. Unfortunately, it was tabled by the majority.

Social Security is the true contract with America. And we owe it to our senior citizens to make sure we do not balance the budget with their lifetime contributions.

Social Security does not add a penny to our deficit. In fact, the Social Security trust fund runs annual surpluses that are now used to offset the deficit. In 1995, the Social Security trust fund is estimated to run a $69 billion surplus, and by 2002 the Social Security trust fund will run annual surpluses totaling $636 billion.

We should not raid the annual surpluses in the Social Security trust fund to balance the budget.

IT MAY HARM THE ECONOMY

Sixth, this proposed constitutional amendment could be economically ruinous. During recessions, deficits rise because tax receipts go down and various Government payments, like unemployment insurance go up. By contrast, the amendment would demand that taxes be raised and spending be cut during a recession or depression.

Last week, the Treasury Department issued a report that concluded the balanced budget amendment would have worsened the recession of 1990–92. The Treasury Department found that:

> A balanced budget amendment would force the Government to raise taxes and cut spending in recessions—at just the moment that raising taxes and cutting spending will do the most harm to the economy, and aggravate the recession.

In Vermont, had this amendment been in effect, Treasury predicted that between 1,300 to 3,800 more Vermonters would have lost their jobs during the 1990–92 recession.

A study completed last year by the Wharton Econometrics Forecasting Associates concluded that a balanced budget amendment would devastate the economies of our States. The study found that such a constitutional amendment would cause severe job losses and drastic cuts in personal income in 2003.

For Vermont, the study predicted a loss of personal income of $1.2 billion, an average of 5.4 percent for each Vermonter, and 3,900 lost jobs, resulting in a 0.5 percent rise in Vermont's unemployment rate. The study predicted dire job loss and devastating economic consequences for every other State.

Economic policy must be flexible enough to deal with a changing and increasingly global economy. Yet, the requirements of this proposal will tie Congress' hands to address national problems that may necessitate deficit spending.

Senator BOXER and I offered an amendment that would have permitted Congress to waive the balanced budget supermajority requirement to provide Federal aid in response to a natural disaster as declared by the President.

The Boxer-Leahy amendment would have given future Congresses needed flexibility to respond to the needs of natural disaster victims under a balanced budget amendment. But once again, the majority voted in lock step to table this amendment.

We should not hamstring the legislative power expressly authorized in article I, section 8, of the Constitution. Let us not undo that which our Founders wisely provided—flexibility.

Let us not limit choices and accountability. Instead, let us exercise our constitutional responsibilities in the best interests of the American people.

IT INVITES CONSTITUTIONAL CLASHES

Seventh, this proposed constitutional amendment risks seriously undercutting the protection of our constitutional separation of powers.

No one has yet convincingly explained how the proposed amendment will work and what roles the President and the courts are to play in its implementation and enforcement. Constitutionalizing economic policy would inevitably throw the Nation's fiscal policy into the courts, the last place issues of taxing and spending should be decided.

The effect of the proposed amendment could be to toss important issues of spending priorities and funding levels to the President or to thousands of lawyers, hundreds of lawsuits and dozens of Federal and State courts. If approved, the amendment could let Congress off the hook by kicking massive responsibility for how tax dollars are spent to unelected judges and the President.

Indeed, the Nunn amendment, as modified this morning, arguably makes things worse. It seeks to strip the Federal courts, including the U.S. Supreme Court of judicial power in connection with cases arising under this constitutional provision. The result of the Nunn amendment is that State courts are left to interpret and apply the constitutional provision and that any conflicts that arise in that interpretation and implementation by the courts of the 50 States cannot be considered or resolved by the U.S. Supreme Court.

I do not believe that this is what Senator NUNN intended, but that is the result of the language he has offered. This shows the difficulty and danger of seeking to draft constitutional language overnight with careful consideration and the input of constitutional experts.

I applaud Senator JOHNSTON for his foresight in offering an amendment to preclude judicial review of this amendment unless Congress specifically provides for such review in the implementing legislation. The Johnston amendment would have dried up one of the many murky swamps surrounding this constitutional amendment. But in their zest to keep the Senate version of this constitutional amendment identical to the House version, the majority tabled the Johnston amendment.

Instead of creating future constitutional crises, let us do the job we were elected to do. Let us make the tough choices, cast the difficult votes and make progress toward a balanced budget.

IT ERODES THE FUNDAMENTAL PRINCIPLE OF MAJORITY RULE

Eighth, this proposed constitutional amendment undermines the fundamental principle of majority rule by imposing a three-fifths supermajority vote to adopt certain budgets.

Our Founders rejected such supermajority voting requirements on matters within Congress' purview. Alexander Hamilton described supermajority requirements as a "poison."

As one of my home state newspapers, the Rutland Herald, recently noted, James Madison condemned supermajority requirements in Federalist Paper No. 58.

Madison warned that:

> In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: The power would be transferred to the minority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

I am prepared to keep faith with and in the American people.

IT WILL RESULT IN DISTRESSING SURPRISES

Ninth, there is much truth to the axiom that the devil is in the details.

The proposed constitutional amendment uses such general terms that even its sponsors and proponents concede that implementing legislation will be necessary to clarify how it will work.

What will this implementing legislation say?

We will not find out until we see this implementing legislation what programs will be off-budget, what role the courts and the President will have in enforcing the amendment, and how much of a deficit may be financed and carried over to the next year. And who knows what other core matters will be added to implementing legislation.

I do not think that Congress should be asked to amend the Constitution by signing what amounts to a blank check. Nor should any State be asked to ratify a pig in a poke.

That is why I voted for Senator DASCHLE's amendment that would have required Congress to tell the American people the details of how we intend to balance the budget by 2002. The distinguished minority leader's right-to-know amendment was the right thing to do. Unfortunately, this amendment was just the first of many to be tabled by the majority.

In the interests of fair disclosure, Congress should first determine the substance of any implementing legislation, as it did in connection with the 18th amendment, the other attempt to draft a substantive behavioral policy in to the Constitution.

IT IS NOT CONSTITUTIONALLY NECESSARY

Tenth, this amendment does not meet the requirements of article V of the Constitution for proposal to the States—it is not constitutionally necessary.

Instead of a sloganeering amendment, what we need is the wisdom to ask what programs we must cut and how much we need to raise revenues, and the courage to explain to the American people that there is no procedural gimmick that can cut the deficit or the debt.

Let us not proceed with a view to short-run popularity, but with vision of our responsibilities to our constituents and the Nation in accordance with our cherished Constitution.

We should quit playing politics with the Constitution. This is folly. There is nothing wrong with the Constitution.

Let us get on with the real business of reducing the deficit and balancing the budget.

Mr. BRADLEY. Mr. President, today's vote on the balanced budget amendment is not a vote on how we should reduce our Nation's crippling deficit. It's not a vote about the substance of serious deficit reduction. After this vote, not a single program will have been cut and not a single dollar will have been saved. Instead, this is simply a vote on a procedure that will enshrine in our Nation's most sacred document both bad constitutional policy and bad economic policy that will make it more difficult to counter recessions. It is more likely that banks will fail and more certain that disasters will go unabated.

We all agree on the need to cut the deficit. However, the debate over the balanced budget amendment is not about which programs to cut, how to stop the unchecked growth of entitlement spending, or what our tax policy should be. Instead, this debate is about procedural fixes. It is about finding ways to continue ducking the tough choices that need to be made, all the while appearing to be concerned about the deficit. If a decade of procedural fixes to the deficit has shown us anything, it has shown us that such fixes are no substitute for leadership.

Unfortunately, Mr. President, the amendment we will vote on today is simply a substitute for solid, courageous leadership. Before taking this route, we would do well to remind ourselves why we were elected. Under our Constitution, it is the Congress that is vested with the power to make all laws, and it is our obligations as Senators to make decisions about these laws and live with the implications of these decisions. No one. No President. No Senator has placed the cuts necessary for a balanced budget before the American people. We vote on the amendment without knowing what it means for citizens who work every day.

The irony of this proposed amendment is that nothing in the Constitution stands in the way of a balanced budget. The plain truth is that the Senate already has the power to reduce the deficit. Cutting the deficit requires leadership now and no amendment to the Constitution will cut the deficit if we lack such leadership. In fact, we can have a balanced budget whenever enough Members of Congress are ready to vote for one. If we agree that deficits should be reduced, then we should take the responsibility for making the necessary decisions and live with the consequences.

Mr. President, this amendment does nothing to reduce the deficit. It simply allows Congress to postpone action until at least 2002, and even then it will not require Congress to balance the budget. Instead, it will lead to more gimmicks such as off-balance-sheet budgeting, inflated revenue estimates, redefining such terms as CPI, and raids on the Government trust funds to mask the size of the deficit. Throughout this debate, I have supported efforts to protect Social Security and prevent Congress from relying on budgetary gimmicks. Each of these efforts has been defeated by the supporters of this balanced budget amendment.

No one disputes that we need to reduce the deficit substantially. The massive Federal deficit continues to sap our economic strength by raising interest rates and passing an enormous tax burden onto our children and grandchildren. Throughout my tenure in the Senate, I have introduced legislation to cut wasteful Government spending. I have offered proposals to cut wasteful spending in appropriations bills for defense spending, for agricultural spending, for Interior Department spending, and for HUD spending, among others. I have also offered legislation to close many of the tax loopholes that increase the Federal deficit by billions of dollars each year. In addition, in 1993, I voted for the largest deficit reduction act in our Nation's history. That act, which cut the deficit by over $500 billion, passed without a single Republican vote in its favor.

I am also concerned that the balanced budget amendment will serve to exacerbate recessions. Currently, Federal spending helps to reduce the harm caused by recessions. As the economy slows down, more people qualify for unemployment compensation and other Federal assistance programs. In addition, as people earn less as a result of the recession, they pay less in taxes. While these changes in spending and taxes temporarily increase the deficit, they also serve to reduce the damage done by recessions to the American economy and families. The balanced budget amendment would require the Federal Government to raise taxes and cut spending at precisely the same time that such policies will cause the most harm. Have we learned nothing from economic lessons of the 20th century?

According to a recent report by the Treasury Department, if this amendment had been in place during the 1990–92 recession, an additional 1.5 million Americans would have lost their jobs as the unemployment rate rose to 9.4 percent, the highest level since the enactment of the Employment Act of 1946. In New Jersey, we would have seen the unemployment rate reach 11.8 percent, as an additional 34,000 to 103,000 New Jerseyans lost their jobs. Without the support provided by Federal assistance programs, many of these families might have found themselves destitute.

Mr. President, not only would the balanced budget amendment that we are voting on today aggravate recessions and harm American families, it makes no distinction between current operating expenses and long-term capital investments. Every family understands the difference between credit card debt and mortgage debt. While we

need to balance our budget, we should not do so in a way that would prevent us from making those investments that will be necessary for our children to compete in the world economy.

Despite a balanced budget requirement, New Jersey, along with almost all other States, allows the State government to borrow to finance long-term capital projects, such as highways, schools, and water treatment facilities. Although families are required to balance their budgets, they also borrow to buy homes. The balanced budget amendment would prevent the Federal Government from borrowing to finance long-term projects over their useful lives. As a result, we will be far less likely to make these necessary investments in our Nation's infrastructure, especially when confronted with the day-to-day demands of competing interests. In order to address this risk, Senator BIDEN and I offered an amendment to the balanced budget amendment that would have allowed the Federal Government to borrow to invest in long-term capital projects just as families, businesses, and States do.

Mr. President, in addition to the damage that this balanced budget amendment will cause our economy, I am concerned that the amendment will significantly damage our democratic form of government. The Constitution is primarily a charter of basic rights, not a prescription for economic policy. Unfortunately, while enshrining economic policy in the Constitution, this amendment would allow minority rule and potentially shift tremendous power to unelected judges—both violations of the basic tenets of a representative democracy.

Of the 26 amendments to the Constitution, all but 2 have been drafted to protect the fundamental rights of American citizens or correct flaws in the original structure of the Constitution. The only two exceptions are the amendments which were passed to establish prohibition and then to repeal it.

Prohibition—established by the 18th amendment and repealed by the 21st amendment—was a scar on the face of our Constitution. Its proponents screamed, "Keep us from drinking" only to find there was not the will equal to the words.

Mr. President, I find a parallel between the prohibition amendment and the balanced budget amendment. Proponents of this amendment scream, "Keep us from spending." Here also, there must be the will to equate the words.

Without that will, the amendment will make little difference. If our experience with Gramm-Rudman and the budget agreement has shown anything, it has shown the ability of Congress to get around rules meant to limit deficits. If we are unwilling to make unpopular votes, the amendment will result in placing more programs off-budget, mandating more expenditures by the States, and playing more tricks with revenue and expenditure estimates. We have seen these types of gimmicks before.

In 1981, in their official estimates, the Republicans promised the Nation that they could cut taxes, increase defense spending, and balance the budget—all by 1984. By relying on false estimates to pass their legislative programs, the Republicans unleashed a tidal wave of red ink. In the almost 200 years leading up to 1980, our Nation amassed a Federal debt of roughly $750 billion. Over the next 12 years, this debt quintupled to approximately $4.5 trillion.

Ironically, it is these same empty promises that have led to our current budgetary problems. In 1994, total Federal revenue exceeded all programmatic spending combined. The deficits that we suffer from today are due solely to the cost of paying interest on the debt that was run up during the 1980's. If we did not have to pay these interest charges, we would have a balanced budget today.

In addition, Mr. President, even with the proposed changes suggested by Senator NUNN, this amendment holds the potential to significantly expand the rule of the courts. Over 200 years ago, the Framers were wise enough to exclude judges from making economic policy decisions. Depending on unspecified enabling legislation, this amendment would allow judges to make unilateral tax and spending decisions. In fact, legal scholars as diverse as Judge Robert Bork and Harvard Prof. Lawrence Tribe have opposed the amendment because of the danger posed by the expansion of the role of the courts. The change proposed by Senator NUNN does not eliminate this danger.

Furthermore, this amendment will enshrine in the Constitution not a balanced budget amendment, but rather the principle of minority rule. With this amendment, just more than 40 percent of either House will be able to hold the entire Government hostage to their demands. Over 200 years ago, in The Federalist Papers No. 22, Alexander Hamilton warned against the danger of granting a congressional minority a veto power over government activities. We would be wise to heed this warning.

Mr. President, I am painfully aware of the effects which the Federal Government's uncontrolled spending is having on this generation and on future generations. The longer we wait to address the issue, the more enormous the problem is going to be. Balancing the budget will be bitter medicine for the entire country. I believe the time has come for this bitter medicine. But, Mr. President, I also believe that it is fundamentally unfair to ask the American people to take this medicine without their full knowledge and consent. Every citizen has a right to know what the likely effects of the budget cuts will be before their elected representatives are asked to vote on it.

The bottom line is that we have to decide just what it is that we owe to our children. By running deficits, we have been acting as if we owe no obligation at all to the future. Traditionally, Americans have thought otherwise. We have seen ourselves as part of a progression of Americans, linked to each other across time. We have agreed with Edmund Burke, who saw society as a "partnership not only between those who are living, but between those who are dead, and those who are to be born." Otherwise, "The whole chain and continuity of the commonwealth would be broken. No one generation could link with the other."

Instead of postponing action with gimmicks such as the balanced budget amendment and Contract With America, let's get onto the job of fashioning real deficit reduction. One of the great tasks for this Congress should be to define—in terms of specific policies and spending priorities—what such a partnership across time should mean. The first step should be to stop arguing about process and start debating substance.

Mr. President, in the coming weeks, I will propose a package of spending cuts that will substantially reduce the Federal deficit and place us on a path toward a balanced budget. If the American people are to be prepared for the sacrifices necessary to put us back on a track toward long-term growth, their elected leaders must be candid in their description of the problem and forthcoming in their discussion of possible solutions. We must also begin this debate now—not at some point in the distant future. Unfortunately, the balanced budget amendment before us today simply postpones this debate, while doing nothing to actually reduce the deficit. We should defeat it and lead with serious action.

AMENDMENT NO. 300, NUNN AMENDMENT, AS MODIFIED

Mr. LEAHY. Mr. President, a few hours ago, our distinguished colleague from Georgia came to the floor and modified his amendment seeking to prohibit judicial review of matters that may arise under the so-called balanced budget amendment to the Constitution. In the brief opportunity I have to examine the language of his modification, I discern a number of serious problems with this amendment.

The first and most obvious point is that this amendment and the language it would add to our fundamental charter, the U.S. Constitution, is being considered without adequate study or debate. The language has not been the subject of hearings, testimony, examination, comment by constitutional experts, or comment by the Department

of Justice. Nor is there any opportunity provided to obtain adequate study. This language was sprung on the Senate this morning without any opportunity for Senate debate before the scheduled votes on this amendment or the other pending amendments or the constitutional amendment, itself. This is not the way to go about considering constitutional language. The value of the month of debate in which we did engage is likely to be lost in this last-minute maneuvering. That, too, is a shame.

Second, the language of the amendment does not do that which its sponsor apparently intends. It does not remove the likelihood of judicial review of matters arising under this constitutional language. To the contrary, it is expressly limited to denying our Federal courts authority to decide cases. Thus, it leaves the courts of the 50 States free to determine what this constitutional amendment means and whether it is properly implemented.

It was a proponent of the constitutional amendment, the former Republican Attorney General, William P. Barr, who emphasized at the Judiciary Committee hearing back on January 5, 1995, a problem with the drafting of the constitutional amendment that "holds some potential for mischief." That problem, according to Mr. Barr was the possibility that "a State court could entertain a challenge to a Federal statute under the balanced budget amendment * * * [T]he State court in such a circumstance would have the authority to render a binding legal judgment."

Mr. Barr went on to suggest that:

> To avoid the possibility that a Federal statute or the Federal budgetary process itself might be entangled in such a State court challenge . . . Congress include a provision for exclusive federal jurisdiction in any implementing legislation enacted pursuant to section 6 of the amendment. Such a provision should be carefully worded so as not to create inadvertently any implied right of judicial review in federal court and so as not to affect any of the otherwise applicable limitations on justiciability. . . .

The Nunn amendment, as just modified this morning, would do the opposite of that which former Attorney General Barr recommended. Instead of restricting judicial review to the Federal courts, the Nunn amendment prohibits Federal court involvement by the prohibition against the extension of the "judicial power of the United States" to cases and controversies arising under the constitutional amendment.

That serves to funnel court challenges to the myriad State courts. Ironically, Mr. Barr was worried that the State courts are not bound by the same justiciability doctrines, like standing and the political question doctrine, that act to restrain Federal courts from intervening in matters in which they are not competent and in which judicial determination is inappropriate. Through the Nunn amendment we will, in fact, be left with an even less perfect world in which the various State courts may choose to intervene in budgetary matters and in which the U.S. Supreme Court is literally powerless to stop them or even to resolve the conflict among their rulings and competing injunctions of spending and taxation.

Senator NUNN has been quite right to argue, as he has forcefully and repeatedly, that we should not leave these important matters to the vagaries of implementing legislation. Unfortunately, that is the circumstance in which we are left by the Nunn amendment as modified. I have little doubt that Congress will reinstate the authority of the U.S. Supreme Court in the wake of the implicit authorization of State courts left by the Nunn amendment. It is inconceivable that Congress would tolerate a situation where supreme courts of different States could interpret important provisions of the U.S. Constitution differently or in conflict.

My main point here is that those who believe that by adopting the Nunn amendment they have cut off judicial review are mistaken.

There are other problems with the language of the amendment that we are not able to explore before being required to vote on it or the constitutional amendment to which it is being attached. Whether once the Nunn language is adopted in the Constitution, it is even possible in mere implementing legislation to curtail the sole avenue to judicial review that we retain through the State courts by way of this amendment is a complex constitutional problem. Whether we can effectively strip the Supreme Court of authority to construe the Constitution of the United States is a much mooted legal question. Whether this amendment language can be interpreted to be consistent with the absolute language of article III and our 200-year history of respecting the Supreme Court and judicial power is another question that will require serious reflection that our circumstances in the Senate Chamber today do not allow.

Finally, I cannot support the Nunn amendment for additional reasons. One of the enduring guarantees of our Constitution is that its provision will be respected and will be enforced. To strip the Federal courts of the power to enforce a constitutional right is wrong in my view. Too many other countries around the world have embarked on such a path with too little result for us to follow. Rather our Constitution is one of positive rights that can and should be enforceable. If we start by seeking to limit Federal judicial power to protect rights under this amendment to the Constitution, what will it mean? What rights will we next ask the American people to cede? When will we be asked to sacrifice court protection of our first amendment guarantees or of the rights to equal protection or due process? This is not the way. We need only ask the people of Eastern Europe and elsewhere whose constitutions were filled with empty promises. I will not vote to degrade and deface our Constitution in this way.

Mr. SHELBY. Mr. President, Webster's dictionary defines the term "red herring" as "something that distracts attention from the real issue. [From the practice of drawing a red herring across a trail to confuse hunting dogs]."

The reason I share this definition is because most all of the arguments we have heard over the past 4 weeks in objection to the balanced budget amendment amounts to little more than red herrings. The objections are simply distractions from the real issue.

The real issue is that Federal spending is out of control and unless we pass a constitutional amendment to control spending, our children and grandchildren will never know the America we take for granted. The United States has a current national debt of over $4.75 trillion and according to President Clinton's new budget, will be $6.7 trillion in the year 2000. I have said it before and I will say it again Mr. President, debtors are never free, they are only subject to dominion of their creditors. That is the real issue.

Over the past couple of weeks, we have heard no less then six red herrings that are repeated time and again. I would like to take a moment to go through them one at a time and explain why they are just distractions from the real issue.

Red herring No. 1: The balanced budget amendment would raid Social Security and put the burden of balancing the budget on the elderly.

The fact is that there is no Social Security trust fund. The surplus to which many speak is actually in the form of IOU's. The purpose of the balanced budget amendment is to ensure the solvency of the United States so we can protect the living standards of Americans and pay our creditors. If we experience a currency problem like Mexico, we will not be able to pay our creditors much less Social Security recipients. If you truly care about the elderly and clearly understand the issue at hand, I see no other option but to support the balanced budget amendment.

Why do the opponents view the Reid and Feinstein amendments as litmus tests to whether we support Social Security? They contest the only reason one would not support these amendments is because one wants to raid the trust fund. Some of the opponents even say we should be more honest with the American people and what we have in mind for Social Security. Besides the fact there is no trust fund, this charge is completely false and an effort to

demagog the issue at hand. To imply proponents of the balanced budget amendment favor cutting Social Security is incorrect, wrong, and at odds with the consistent demonstrated record of advocacy Congress has toward seniors. We should not balance the budget on the backs of Social Security recipients. In fact, I believe we should help seniors by repealing the earnings limits for Social Security recipients. However, proponents of the balanced budget amendment believe the solvency of the whole country will do far more to protect the standard of living of every American than making an ineffective attempt to ensure one particular interest group is protected. Which, by the way, those amendments would not do.

Primarily, these amendments would not protect anyone because Congress could, and in my opinion would, reclassify programs such as supplemental security income and Medicaid as Social Security. This would allow Congress to avoid balancing the budget by using FICA taxes to pay these benefits..In addition, Congress could redefine terms in the Social Security Act such as the term "recipient." We define who the recipients of Social Security are and as such could change the definition to include any special interest group.

Red herring No. 2: The balanced budget amendment is not enforceable. The amendment would curtail the authority of and respect for the Constitution.

Section 2 of the amendment requires a three-fifths vote to increase the debt ceiling. If you consider that insignificant, I ask why do we vote every year to increase the debt limit? Why does the President submit his budget by the first Monday in February every year? Neither of these procedures are identified in the Constitution. Indeed, these budget procedures are based on statute. As U.S. Senators, we are obligated to abide by the law. If one suggests that Members will arbitrarily disregard the Constitution, then I content you are completely off base and your lack of confidence in the institution undermines our role as a legislative body in a participatory democracy.

Red herring No. 3: The people have the right to know how this is going to affect them. Proponents of the balanced budget amendment should map out the way they will achieve a balanced budget within 7 years.

It is true the people need to know what their legislature is doing and how its decisions affect them. For the most part, I think they have the general idea. However, as former Nobel Laureate of Economics James Buchanan has so eloquently stated, "This argument reflects a failure to understand what a choice of a constitutional constraint is all about and conflates within-rule choices and choices of rules themselves."

We have debated year after year and day after day ways to cut spending. We have also debated year after year and day and day whether or not we should increase taxes. Unfortunately we have been unable to achieve significant deficit reduction within the framework we have. The choices we have made as a collective body have placed us deeper in debt. As a result, we are sincerely trying to rectify the problem by changing the framework in which we operate. The idea that we are trying to pull the wool over someone's eyes is false and seemingly disingenuous.

Furthermore, I would like to know where right to know advocates were when Congress passed the Endangered Species Act and the wetlands legislation? Wouldn't one assume the people would like to have known ahead of time that a puddle that stands for more then 2 weeks of the year would be considered a wetland and that their property rights thereof would be forgone? I think they would. Do you think the American people would like to have known the inflationary impact of the 1993 Tax Act before it was passed? I'm sure they would have. The point is that there is no way to tell an individual that the balanced budget amendment will reduce their Government subsidy by exactly $342.34 or that a particular service will be taken from the States and therefore State taxes will be increased by exactly $43.25 You can see how absurd that request really is. The point is the citizens of the United States know all too well the problems of Federal spending. They want to see us pass a balanced budget amendment to stop the fiscal hemorrhaging from the Nation's Capital. The opponents are correct in that the people have a right, but the right they have is for the Federal Government to stop spending this country into bankruptcy.

Red herring No. 4: The balanced budget amendment will have dire consequences on the elderly and the children.

On the one hand the opponents claim a balanced budget amendment will lead to draconian cuts in very critical programs. According to them every old person, young person, and poor person will be cut off from a dignified standard of living.

Red herring No. 2 claims that the balanced budget amendment is not enforceable. No amendment will be able to force the President and Congress to balance the budget. Who is going to sue them they ask. Well, which is it? Are we going to experience draconian cuts or aren't we? The arguments against the balanced budget amendment are faulty according to their own logic.

Since the logic is inconsistent, opponents will try to paint a dreadful picture to the American people, hoping this will elevate opposition to the balanced budget amendment. Well, I have a frightening picture I would like to share with the American people.

Imagine, one day 30 years in the future, your children are now retired and living comfortably. They have worked all their lives, spent frugally and saved religiously. One day, they wake up and find the value of the dollar has crashed in financial markets. The Federal Reserve cannot stop the falling dollar and in response, the Treasury prints money. Suddenly, your children's assets are worth half of what they were a day before. Inflation is rampant and we are reduced to a Third World country. Everything your children have worked for has been taken from them because Members of the generations represented in this Chamber did not think that addressing the debt was important. Instead, Members chose the immediate gratification of consumption.

The opposition to the balanced budget amendment provides significant insight as to why many people do not understand the virtues of capitalism. The idea of capitalism means that one chooses to forgo current consumption and save in order to accumulate capital. In other words, deny consumption now for bigger and better things later. To gather capital—which by the way, increases productivity and therefore living standards—we must deny ourselves immediate gratification. In order to pass the America we know on to our children, we must deny ourselves immediate gratification and pay the bills we have incurred.

Red hearing No. 5: The balanced budget amendment is just some popular idea we are voting for brought about by the Contract With America. We need time to think about a balanced budget amendment.

The fact of the matter is that the balanced budget amendment is not a new idea at all. Thomas Jefferson is well known for saying, "If I could add one amendment to the Constitution, it would be to prohibit the Federal Government from borrowing funds * * * We should consider ourselves unauthorized to saddle posterity with our debts and morally bound to pay them ourselves."

In 1936, Representative Harold Kuntson of Minnesota proposed the first constitutional amendment to balance the budget. Since then, a number of balanced budget amendments have been proposed. We have held hearings as far back as 1979 and even passed a balanced budget amendment in 1982. Indeed, the issue has come up several times since then. Several of the Senators opposing the balanced budget amendment have been around for many of those debates.

The balanced budget amendment is not a new idea that has not been justly considered. We know the issue all too well. The balanced budget amendment is an idea whose time has come.

Red herring No. 6: Federal accounting does not allow for capital budgeting. Federal accounting would throw chills down the spine of any business executive.

Trying to confront the arguments against the balanced budget amendment is like following a bouncing ball. When they are defending Social Security, the books are fine, they are in surplus. However, when we discuss the tremendous deficits and debt of the United States, the Federal accounting is somehow inept.

Once again, there is an inconsistency in the opponents reasoning. If you maintain the argument that Federal accounting is flawed, then one must take another look at the books of the Social Security trust fund. There is no fund. There is no surplus. According to accounting rules used by business executives, liabilities exceed assets. By definition, that is not a surplus.

In addition, I hear analogies being made to the American family in that they enter into substantial debt when they purchase a house. They have to pay mortgage payments monthly, but they are not worse off. Indeed, most would say they are better off. This is true, but lets take that analogy one step further as it applies to our national debt. The difference is that homeowners do not buy a house this year, and another house the next year and another the year after that. A homeowner pays down the principal. As a Government, we never get to this point because we have to borrow just to pay the interest. It is a perpetual problem that feeds on itself.

The arguments I have just mentioned are the objections opponents make to the balanced budget amendment. I call them red herrings because I believe such arguments are just distractions from the real issue. The term again comes from the practice of drawing a red herring across a trail to confuse hunting dogs.

Mr. President, the trail of debt now tops $4.75 trillion. The red herrings of a balanced budget amendment will not convince anyone on Wall Street or Main Street. Mr. President, the hunting dogs are not confused. The time has come for a balanced budget amendment to the Constitution of the United States of America.

Mr. CAMPBELL. Mr. President, I rise today to speak in favor the balanced budget amendment to the Constitution.

When we began this debate, I spoke on the floor in favor of this constitutional amendment as a means to ensure a strong economy and protect our children from rising interest payments and the debt.

There is no doubt that passage of this amendment will raise our Nation's savings rate and standard of living.

Today, I speak in favor of the amendment because I believe the American people and the States have the right to make the decision to either approve or reject the balanced budget amendment.

It's often repeated on this floor that the American people want this constitutional amendment. Most surveys show that about 80 percent of Americans favor it. Likewise, Governors and State legislators are calling for its adoption.

Realizing that the American people want this, and that a general feeling of frustration and distrust exists among voters, we should hand it to States and ask, "Do you really want a balanced budget or not?"

We should bring the debate closer to the people, to the States. States have a profound interest in this legislation because their budgets will be affected. Of the 50 States, 44 rely on the Federal Government for at least one-fifth of their budgets. Alabama relies on Federal funds for 58 percent of its budget, and Mississippi relies on Federal funds for 41 percent of its budget.

If elected officials in the States are worried that the sky will fall under a balanced budget, as so many have predicted, they can vote against the Amendment in the State legislatures.

On the other hand, if the States think a balanced budget is necessary to ensure a strong economy and protect our children from rising interest payments and the debt, they can vote for the amendment in the State legislatures.

Opponents claim a constitutional amendment is bad policy, and that the voters are not ready for the necessary spending cuts. If that is true, let the American people and the State legislatures reject it.

A recent editorial in the Durango Herald, a newspaper that actually opposes the constitutional amendment, yet realizes the need to get our fiscal house in order, says, "Since it's clear this thing is not going to just wander off and die, let's get on with it" and approve it so the States can decide.

The point is that this debate will not end until it is won or lost. This debate will not end until the States have the opportunity to either approve or reject the balanced budget amendment. In other words, to quote the Durango Herald, "Let's get on with it."

I ask unanimous consent that this article from the Durango Herald be printed in the RECORD. Thank you.

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

[From the Durango Journal, Jan. 15, 1995]

PASS IT AND MOVE ON: LET THE STATES KILL THE BALANCED BUDGET AMENDMENT

Amending the Constitution of the United States to require a balanced budget is a terrible idea—and one Congress should approve. Since it's clear this thing is not going to just wander off and die, let's get on with it. Give everyone in Congress the opportunity to posture and pose and send the proposed amendment to the States for ratification. Closer to the people, and the problems, cooler heads will drive a stake through its heart.

With good reason, the States fear Washington would balance its budget at their expense. And, they have no desire to have federal budgets decided by the courts. Both of those are likely consequences of a balanced budget amendment.

Of course there are other reasons to oppose such an amendment. For starters, it would be an abdication of one of Congress' fundamental responsibilities. Moreover, it wouldn't work. It's not even certain it would be good if it did.

Writing in The Wall Street Journal, economist Robert Eisner points out one of the fallacies behind a balanced budget amendment is that deficit spending is inherently bad. One common argument compares the deficit with an individual's finances: "I balance my checkbook. Why can't the government balance its?" Eisner says that's wrong on a couple of points.

Both the government's revenue and its expenditures are tied to the economy in ways that are out of its immediate control. Eisner figures that if unemployment were to go back up to where it was in June of 1992 the deficit would increase by more than $110 billion. What gets cut when that happens? And, if Congress could make that kind of call why do we need a balanced budget amendment?

A better point is that the checkbook analogy neglects another side of spending. Deficit spending is borrowing, something responsible individuals and businesses do all the time.

So do States. Although they may have balanced budgets mandated by their constitutions, most also have separate capital budgets financed by borrowing. In checkbook terms, they don't consider themselves overdrawn because they have a mortgage.

Eisner points out that if the deficit grows at the same rate as national income, the ratio of debt to gross domestic product will stay constant. Like someone who always trades in the car before it's paid off, we'll always be in debt, but never in trouble. Excess debt is crippling, but would our lives be better off if we were compelled to pay for houses, cars and appliances out of pocket?

What's needed is not a balanced budget, but some responsibility, some agreement as to what's important and a sense of proportion. No amendment will provide that. By sending the balanced budget amendment to the states for execution, maybe we can be rid of it for good.

Mr. MCCONNELL. Mr. President, I rise today to join the chorus of support for a balanced budget amendment to the Constitution. This action is long overdue. For the last quarter-century the Federal Government has failed to pass a single balanced budget. Rhetoric, desk-pounding, and campaign promises notwithstanding Congress has time and time again come up short. The fact is, willpower hasn't done it and term limits won't do it. We must be boxed in by a constitutional mandate.

To say the least, Congress' fiscal irresponsibility has frustrated the American people. The last election was a collective scream for change. Voters did not just send new members to Congress last November, but a clear message as well: cut the waste and balance the books.

The public clamor for term limits is largely attributable to the Federal budget fiasco. Ironically, term limits would not work to instill courage or fiscal disciple but a balanced budget

amendment may serve to limit terms as Members are constrained from using the Treasury to buy votes.

Unfortunately, the President has not heeded the message of last November, or did not hear it, and sent a budget that embodies more of the same. Between 1994 and the year 2000, President Clinton proposes that we add another $2.5 trillion to the gross national debt. I fail to see how it gets us close to a balanced budget—must be some new math of the 1990's.

Since coming to the Senate 10 years ago, I have listened to those who oppose a balanced budget tell the American people that all we need is courage. Year after year, Congress runs up billions on the public credit card that is to be paid for by future generations. What right do we have to ask our children and grandchildren to pay for excesses today?

Thomas Jefferson, a strong proponent of a balanced budget amendment, felt very strongly about this. He stated:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

That was the questions our Founding Fathers wrestled with when drafting the Constitution. It is the same question we contemplate as we cast our votes to amend this living document. Is it our place to ask others to pay for our lack of discipline? I think not.

A balanced budget amendment will serve as a bulwark to ensure that spending not exceed outlays. It purposely excludes any reference to specific programs—such a detailed blueprint has no place in the Constitution. Within this confine Congress can reprioritize spending to meet the most urgent needs and eliminate those programs that are duplicative or outmoded. Among other things, we will need to redefine terminology used in Washington. Only in Washington bureaucratese does a cut mean an increase in spending smaller than the increase the year before.

Congress would have 7 years to meet the objective of a balanced budget in the year 2002. This will be an evolutionary process in an effort to accurately reflect ongoing economic and political changes. In testimony before the Senate Budget Committee, on February 7, Secretary Rubin echoed these sentiments regarding the difficulty to predict economic situations 7 years from now. It would not be possible to precisely lay out budget priorities for the next 7 years.

Mr. President, to ensure we don't continue to resort to higher taxes instead of cutting spending to balance the budget, I urge my colleagues to support the three-fifths vote requirement to raise taxes. The record is clear, Congress has been remarkably resourceful in raising taxes. And each time taxes went up it was accompanied by increased spending. Clearly, the deficit is not a result of taxing too little, but spending too much.

Mr. President, let's take a look where we are now. Presently, the Federal debt is $4.7 trillion. If every man, woman, and child were to pay an equal share, they would owe about $18,000. Under the Clinton proposal, their Federal share would jump to $26,000 by the year 2000.

Probably one of the most astounding facts is that interest on the debt has become the second largest budget item. It amounts to 5½ times more than is spent on education, job training, and employment programs combined. On top of that, this budget function is the only item truly off-limits. The only way we can reduce it is to balance the budget. In the meantime it remains a very substantial charge to taxpayers. The Congressional Budget Office predicts that if interest rates are even 1 percent higher than predicted, interest costs would rise by $50 billion in 2000. This is on top of the $310 billion in net annual payments expected that year.

The cumulative impact of this irresponsible behavior is staggering. Deficit spending crowds out savings and investment. Over the last 14 years, savings has declined from its highest point to record lows. Billions are diverted annually from private investment to cover government excess, and this has a direct impact on job creation.

Balanced budget opponents are trying to scare people with Social Security nightmare scenarios. The fact is, Congress continues to abdicate its fiscal responsibility, it will surely jeopardize future commitments to retirees. Only by putting our fiscal house in order now, can we continue to honor retirement obligations. Already actuarial models show the rapid depletion of the trust funds as baby-boomers begin to retire. Unless Congress takes swift action, there will be no resources available to support these people.

Opponents of the balanced budget would like seniors to believe that a balanced budget amendment will devastate the trust funds. I would be interested in knowing how many of my colleagues who have engaged in this rhetoric also supported the President's tax increase on seniors that diverted billions from Social Security to the General Treasury? This should be a clear indication of the threat posed to the trust fund under an unbalanced budget. I am as committed to Social Security as anyone and will work to ensure this commitment can be honored, a promise which must entail balancing the budget.

Some in this body seek to undermine the balanced budget by attaching a Social Security exemption. This exemption is a hoax fraught with loopholes and questions. This exemption would create an off-budget blackhole where more and more programs are sent to be exempt from the constraints of a balanced budget. If this prediction comes true, seniors will be sharing their special exemption with a multitude of other programs. This will threaten the reserves and defeat the purpose of a balanced budget. As the old saying goes, "give them an inch and they'll take a mile."

No amount of gimmickry will protect future generations like a balanced budget will. Only by relieving them of our burdens, can we ensure that they can realize a higher standard of living. This is something every generation has been afforded until now. I urge my colleagues to support the balanced budget amendment to the Constitution.

Wouldn't it be nice if our children could owe a debt of gratitude, and not just a debt?

Mr. KEMPTHORNE. Mr. President, if this Senate has the courage to finally approve the balanced budget amendment, I predict that my State of Idaho will proudly be the first State to ratify the amendment.

Idaho eagerly waits the opportunity to do what is right. Idaho will not waste 40 years ratifying this amendment, it will not waste 40 weeks or even 40 days to approve this amendment. Idaho may well act within 40 hours to ratify this amendment. And for the simple reason Idaho knows what Congress is just now figuring out—our future as a nation, and the future of our children demand that Congress stops spending the Nation recklessly into debt.

This past Monday evening I was in Montpelier, ID—population 2,520—for a Lincoln Day meeting. What impressed me was the number of young folks who came.

Those young folks, Mr. President, were there because they are concerned about their own future. They see our generation mortgaging away their future. This debate is about bringing us some fiscal sanity so that these young people will have a future, and not one that is mortgaged away.

Idahoans, like most Americans, have lived under a State balanced budget requirement for years. Has it forced tough decisions? Certainly. Has it prevented Idaho from doing some things the people may have wanted to do? Undoubtedly. But has it worked? Yes.

The people of my home State have shown they can and will live within a limited budget, on both a personal and governmental level. It is an example Congress would do well to follow.

The truth is Congress soon will once again raise the debt limit, this time to more than $5 trillion—a staggering, incomprehensible amount of debt, a debt we pass on as our selfish legacy to future generations. It is sad to say, but

all signs indicate this deficit spending will continue unless we make it against the law.

It has been 26 years since the last balanced budget was approved by Congress. 26 years. Mr. President, I was preparing to graduate from high school and enter the real world 26 years ago. But for more than a quarter of a century, Congress has failed to operate in the real world. Congress' world has been one of illusions where, when the money runs out, it is like that Doritos Corn Chip ad where Jay Leno boasts, "We'll make more." In Congress, we fire up the printing presses, make more, and add a few extra zeroes to the national debt.

As many of my colleagues are aware, I had the privilege of serving as the mayor of Boise, ID, before coming to the U.S. Senate.

As chief executive officer for a municipality, I had the responsibility to make sure the city's budget was balanced. I did not have other options. I could not spend the city into the red. I had to prioritize. I would have loved to put more police officers on the street. We had vacant parcels of land which had been waiting years for grass, ball fields, and playground equipment. It would have been fantastic to expand more bus routes, build a new firehouse, and purchase a new bookmobile.

Those were all desirable propositions. But we did what was realistic, and we lived within our means.

And do you know what? We kept our river clean. Our crime rates went down. We built some great parks. We modernized our firefighting equipment. We were voted one of the most livable cities in America—"A great place to raise a family"—said one national magazine.

We were able to do that because our mandate from Boiseans was clear: Learn to do more with less. And, I would add, Mr. President, that we did all this and either held the line or decreased the property tax levy the final 2 years I was in office.

We need to get used to the fact that the American people want the Federal Government to cut up its credit cards, prioritize the real needs, ignore the wants list, learn to do more with less, and balance its budget.

I mention credit cards, and I am sure this has never happened to any of my colleagues, but I had a bit of an embarrassing experience while I was back in Idaho this past weekend.

I pulled out a credit card and gave it to a hotel clerk. She ran it through the machine to print out a receipt for me to sign. But instead of handing me a receipt, she politely handed me my card back and said, "I'm sorry Mr. KEMPTHORNE, but your card expired at the end of January."

It became painfully clear to me at that moment, that Congress' credit card has also expired. And the American people aren't going to issue a new card because Congress has run its limit up to a point where we no longer have a favorable credit rating.

When that happens, the solution is obvious. You cut up the credit cards and start to pay off the debt.

The call for fiscal responsibility is nothing new, it has been sounding for years. Just over a decade ago, the American people heard these words:

> We must act now to protect future generations from government's desire to spend its citizens' money and tax them into servitude when the bills come due. Let us make it unconstitutional for the Federal Government to spend more money than the Federal Government takes in.

This sage advice came from President Ronald Reagan on the event of his second inauguration. His words were true then, and they are even more so now. Since he made that call for a balanced budget amendment to the Constitution, we have had 10 more years of unbalanced budgets, 10 more years of deficits, 10 more years of telling our children and grandchildren that they will have to discover a way to do what we did not have the courage to do.

We have been inching closer to passing a balanced budget amendment. One reason for this is the tireless efforts of Idaho's senior Senator, LARRY CRAIG, who has spent 13 years working to see his dream of congressional approval of a balanced budget come true.

His partners in this effort—Senators HATCH and SIMON—have left no stone unturned in the effort to get this amendment passed.

These Senators know better than anyone else here that the Senate has approved this amendment in the past, only to have it fail in the House. Now, the House has approved a balanced budget amendment, and the eyes of the Nation—particularly the eyes of those young people I met in rural Idaho this past weekend—are watching and waiting for us to do what is right.

This vote is real this time.

This vote counts.

Let us finally stop talking and do what is right: Pass House Joint Resolution 1, the constitutional amendment to balance the budget. Idaho and the rest of the Nation is watching, and waiting, and is ready to act.

Mr. HEFLIN. Mr. President, I again come to the floor as an original cosponsor of the resolution calling for a balanced budget amendment to the U.S. Constitution. I do so with the firm belief that this measure, and the amendment it would help establish, is the very best hope we have now or in the near future of finally getting a handle on our massive budget debt and yearly deficits.

Just as we did in the summer of 1993 by passing the largest deficit-reduction legislation in history, we again stand at a unique place and time in history with regard to addressing our most pressing structural economic problems. The American public, through countless opinion surveys, consistently ranks deficit reduction as one of its paramount concerns. What we did in August 1993 was the right thing to do, and we are seeing benefits from that legislation. Deficits are coming down for the third year in a row. But as we know all too well, that is nowhere near enough. The temptation to spend is still a mighty one to resist for Congress, regardless of who is in control.

I believe in the inherent good sense of the American people, and I believe that good sense has opened millions of eyes and even hearts to the fact that America has been victimized by more than a dozen years of borrow-and-spend Federal fiscal policies that have run up a horrendous $4 trillion national debt. The public is saying, "enough is enough. This irresponsibility must stop." There is a sense of urgency for protecting the future of our children and grandchildren. The question is whether we will act further with an even more bold step to not only reduce the deficit, but to eventually wipe it out completely. If we don't seize this opportunity—the best chance we've ever had to pass the balanced budget amendment—we might not get another opportunity any time soon. We must act to complete what the House has started.

Unfortunately, our viable alternatives are few. We must finally begin to service and reduce our debt or our Nation will face the miserable consequences of bankruptcy.

We are deeply and sincerely committed to doing something about deficit reduction. The American people, by all accounts, are prepared to do their part. This is one of the few times in my more than 16 years in the Senate that I have seen such an array of forces converged in an attempt to address this pervasive problem. Indeed, it is rare that we ever have a committed public and majority of Congress aligned on any economic issue, much less one that strikes at the very soul of our free Republic. But we need more than just a simple majority. We must get 67 votes to ratify what the House has already passed overwhelmingly.

The bottom line is this: We have the momentum to take bold and decisive action to begin reducing it. It is an opportunity to build on what we started 2 years ago. I am fearful that if we do not act this time and finally send this amendment to the States for ratification, we will lose that momentum, perhaps never to regain it.

And so, we can continue to wring our hands and play the blame game, or we can act. There is plenty of blame to go around, in both branches of Government and both parties, for how we came to this point. But the time has come for the blame to end and for us, as a body, to accept responsibility.

Winston Churchill once said, "If we open a quarrel between the past and the present, we shall find we have lost the future." We can argue forever about what might have been done in the past to avoid the debt we face. We do not have the luxury of replaying the past, but we do have the present. And the quarreling of the present will only impact our future security. Let us heed Churchill's warning and cast a vote for the future.

I implore all of my colleagues to stop the blame game and wringing of hands and vote for a new beginning with this resolution calling for a balanced budget amendment to the Constitution. Let us give it to the States, where it will be fully debated, analyzed, and voted on. This is as it should be, because amending the Constitution is gravely serious business. This is why the process is so difficult. But the States should have the opportunity to decide this issue. Support this historic effort at debt reduction by stepping up to the plate and accepting responsibility. It is what we have been elected to do. The economic future of our Nation depends on us fulfilling that responsibility.

AMENDMENT NO. 300, AS MODIFIED

Mr. GORTON. Mr. President, the Nunn amendment fills the last gap in a vitally needed balanced budget amendment. It makes clear that the responsibility for abiding by its solemn requirements rests in the Congress and the President. The prospect of judicial intervention into fiscal estimates, and taxing and spending decisions, made exclusively by the elected representatives of the people for more than 200 years, is appalling. The people of the United States must retain their control over those whose decisions so affect their lives and their pocketbooks.

Under the Nunn amendment, of course, Congress may grant this power of judicial review with such limitations as it deems appropriate. But the power can be withdrawn, and that makes all the difference. Such a power is highly unlikely to be misused.

The balanced budget amendment, House Joint Resolution 1, is the key to our commitment to change, to a new course of action to deal with deficits that choke our economy and unjustly burden our children and grandchildren. It is a revolt against the status quo and the promise of a new way. It is a rejection of the old and discredited way of doing business, and the promise of a brighter future.

With the Nunn amendment, the balanced budget amendment is the most important initiative of this Congress. It must be approved.

AMENDMENT NO. 291

Mr. HATFIELD. Mr. President, on February 15, 1995, this body considered an amendment by Senator FEINGOLD, the effect of which would have been to nullify Judiciary Committee report language pertaining to the impact of the balanced budget constitutional amendment on the legal status of the Tennessee Valley Authority.

I opposed the motion to table the Feingold amendment because I believe the Judiciary Committee report language related to TVA goes beyond the plain meaning of the language of the balanced budget constitutional amendment.

Section 7 of the Senate Judiciary Committee's Report No. 104-5 indicates that total receipts under section 5 of the proposed constitutional amendment are intended to include all moneys received by the Treasury either directly or indirectly, except for the proceeds of Federal borrowing. The report states that "total outlays" under section 5 of the proposed constitutional amendment are intended to include all disbursements from the Treasury, either directly or indirectly through Federal or quasi-Federal agencies created by the Congress, whether they are on budget or off budget, with the exception of that total outlays do not include the repayment of debt principal. In the case of TVA or the Bonneville Power Administration, this means that their borrowing would not count as a receipt and their debt principal repayment would not count as an outlay. This is correct and entirely consistent with existing budget law.

It is the following statement in the Senate Judiciary Committee report language that is troubling to me: "Among the Federal programs that would not be covered by Senate Joint Resolution 1 is the electric power program of the Tennessee Valley Authority." The text of the proposed constitutional amendment is clear: There are to be no exemptions to the amendment unless the Congress would later waive the provisions of the article under the Declaration of War provision in section 4. The above TVA report language attempts to go beyond the stated language in the proposed constitutional amendment. I do not believe this report language can overcome the plain meaning of the text of the proposed constitutional amendment.

Congress has recognized that the power programs of TVA, BPA, and the other power marketing administrations are unique and that ratepayer revenues should not be traded off against taxpayer appropriations. Under our current budget rules, the TVA and BPA power programs are on budget, direct spending authority programs. These programs possess borrowing authority which is subject neither to sequestration nor reduction. This sequestration protection has been provided because the funds that would be reduced are derived from electric ratepayers and not taxpayers and such reduction would not reduce the Federal district.

We should not return to the time when the Congress was involved in detailed power system decisionmaking for the TVA and the BPA. These programs must remain direct spending and exempt from sequestration and budget reduction. Reduction of the expenditure of ratepayer revenues would not help reduce the Federal deficit. At the same time, the proposed constitutional amendment as currently written clearly applies to TVA and BPA. The Senate Judiciary report language cannot overcome the clear language of the proposed constitutional amendment.

The Senate tabled the Feingold amendment on a vote of 63 to 33. I voted against tabling because of my belief that the TVA report language would have no effect because it exceeds the language of the constitutional amendment. It is my view that the tabling of this amendment did the disservice of reinforcing the TVA report language and further complicating the ability of courts or this body to clearly understand the legislative intent behind this part of the balanced budget amendment.

Senator FEINGOLD has now offered another amendment to force the issue of whether this report language overcomes the plain meaning of the balanced budget amendment. The point is made in a counterintuitive way by seeking to exempt TVA in the legislative language, rather than the report language, of the balanced budget amendment.

Because I oppose exempting TVA from the balanced budget amendment, just as I would oppose exempting BPA, I will vote to table the Feingold amendment. Regardless of the outcome of this vote, I continue to believe that, to the extent it is inconsistent with the text of the balanced budget amendment, the underlying report language related to TVA should be without effect.

I yield the floor.

THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. ROTH. Mr. President, today I rise as a proud cosponsor of the constitutional balanced budget amendment, and I urge its adoption.

The time has come to put an end to out of control Federal spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The President's recent budget proposals for next year offer clear evidence for the lack of political will to make the hard choices when it comes to cutting Government spending. I strongly disagree with President Clinton's decision not to fight for further deficit reduction this year.

The American people are crying out for a smaller, more efficient government. They are concerned about the trends that for too long has put the interests of big Government before the interests of our job-creating private

sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

It is clear, Mr. President. The time has come to heed the will of the people. It is our duty, not only to heed their will, but to act in their best interest. And this amendment is in their best interest.

The President's budget maintains deficits of $200 billion over the next 5 years, and the deficits go up from there. His budget does not take seriously the need for spending restraint—restraint that would put us on a path toward a balanced budget by the year 2002.

In fact, Bill Clinton proposes spending over $1.5 trillion in fiscal year 1995 to over $1.9 trillion in the year 2000. In other words, the only path that the President proposes is one that leads to higher Government spending and ever increasing deficits.

Mr. President, my decision to cosponsor this legislation was not made lightly. The U.S. Constitution is our Nation's most sacred document. Dozens of countries have modeled their constitutions around the principles espoused in ours. Many of the emerging democracies around the world recognize the profound simplicity and timelessness contained in that hallowed document.

Any amendments to the Constitution should be made with care, and with careful consideration of the intended outcome.

I believe the outcome of a balanced budget for our Nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children's children.

As a Nation—and as individuals—we are morally bound to pass opportunity and security to the next generation. This is what a balanced budget amendment will help us do. As Thomas Paine has written, no government or group of people has the right to shackle seceding generations with its obligations. A balanced budget amendment will help us prevent the shackling of future generations.

As chairman of the Senate Governmental Affairs Committee I have outlined a plan to reduce the Federal bureaucracy, eliminate outdated and wasteful Government programs, and to strengthen Government's ability to better serve the taxpayers.

In January I kicked off a series of hearings on Government Reform: Building a Structure for the 21st Century. It is my belief that as we move into the 21st century, so should our Government. Innovative technologies should allow us to cut out many layers of management bureaucracy, and reduce Federal employment. Programmatic changes should also occur.

Just this week I released a report that I asked the GAO to examine the current structure of the Federal Government. The GAO examined all budget and Government functions and missions. They did not conduct in-depth analysis, but simply illustrated the complex web and conflicting missions under which agencies are currently operating.

The GAO report confirms that our Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government we will be able to serve Americans into the next century.

Deficit spending cannot continue. We can no longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget by the year 2002. And I ask my colleagues—and all Americans—to support our efforts.

THIS IS THE VOTE THAT COUNTS; DO WE TRUST THE PEOPLE?

Mr. CRAIG. Mr. President, we are now down to final passage of House Joint Resolution 1, the BBA.

No matter how any Senator voted on any amendment earlier, your constituents will understand:

Vote no, and you kill any form of BBA, here and now.

Vote yes, and you continue one of the great debates of our age.

This vote is really about engaging the American people in the most important public debate about the appropriate role of the Federal Government since the Bill of Rights was sent to the States by the First Congress.

Do we trust the people with that debate?

Do we trust the 80 percent of the people who demand this amendment?

Do we trust the American people who voted for change last November?

This Senator trusts the people.

FUNDAMENTAL RIGHTS, LIMITS ON GOVERNMENT

A constitution—

Protects the basic rights of the people;

Outlines the fundamental responsibilities of the Government and broad principles of governance;

Sets forth just the essential procedures to do these things.

House Joint Resolution 1 fits squarely within that constitutional tradition:

The American people have a right to be protected from the burdens of an intolerable public debt.

The Framers thought that the limited and enumerated powers of government, a gold standard, and a moral imperative would make an explicit balanced budget requirement redundant.

For 150 years, they were right. But times have changed.

We are having this debate today because the American people are demanding that Congress change, as well.

THE DEBT IS THE THREAT

Even as we speak, we are adding to the Federal debt: $829,440,000 a day; $34,560,000 an hour; $576,000 a minute; and $9,600 a second.

Americans are paying now, with a sluggish economy. Under current trends, our children will pay even more dearly.

For each year with a $200 billion deficit, a child born today will pay $5,000 in additional taxes over his or her lifetime.

Last year, the President's budget projected that future generations face a lifetime net tax rate of 82 percent in order to pay the bills left by this generation.

Total Federal debt is now $4.8 trillion—$18,500 for every man, woman, and child in America.

Gross interest on that debt is $300 billion—the second largest item of Federal spending;

Growing interest payments threaten to squeeze out every other budget and economic priority—including Social Security.

THE BBA IS THE BEST HOPE FOR ECONOMIC SECURITY

A 1992 GAO report shows gains in standard of living of between 7 percent and 36 percent in 2020 resulting from balanced Federal budgets.

According to the economic forecasting firm DRI/McGraw-Hill:

Balancing the budget can create 2.5 million new jobs by 2002.

Lower interest rates from balancing the budget could increase nonresidential investment 4 percent to 5 percent by 2002.

Balancing the budget could produce an additional $1,000 in per-household GDP in 2002, in today's dollars.

We can balance the budget by simply holding the growth of spending to 3 percent a year until 2002.

Spending would still grow from $1.53 trillion this year to $1.88 trillion in 2002—a $350 billion increase in 2002 alone.

CBO and the Treasury Department say a balanced budget saves $64 to $74 billion in 2002, in interest costs. DRI says lower interest rates and economic growth would save even more.

CONCLUSION

It's been suggested that we don't need a BBA—we already have the power to balance the budget.

We also have the power to protect freedom of speech and religion, protect property rights, and ensure equal protection under the law.

That didn't stop previous Congresses from including those protections in the Constitution.

Today, it is clear from bitter experience that the American people need one additional protection, from a profligate, borrow-and-spent government.

This is not a short-term problem; the Federal Government has run deficits for: 57 of the last 63 years; 34 of the last 35 years; the last 26 years in a row.

Washington, Franklin, Madison, and others learned from experience and determined that certain protections were inadequate unless provided for in the Constitution.

We should do the same.

Jefferson said:

I am not an advocate for frequent changes in laws and constitutions. But laws and institutions must go hand in hand with the progress of the human mind. * * * We might as well require a man to wear still the coat which fitted him when a boy as civilized society to remain ever under the regimen of their barbarous ancestors.

If you want to ignore the lessons of the last 35 years of excessive debt, vote no on this amendment.

If you are willing to leave our children a stagnant or declining standard of living, vote no on this amendment.

If you want to continue the failed status quo, vote no on this amendment.

If you agree with Jefferson that, "as new discoveries are made, new truths discovered, * * * institutions must advance also," then vote yes on the balanced budget amendment.

If you trust the American people, and understand their demand that government change its ways, then vote yes on the balanced budget amendment.

If you want today to be the first day of new hope and opportunity for our Nation, our economy, and our children, then vote yes on the balanced budget amendment.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time do we have remaining on both sides?

The PRESIDING OFFICER. The Senator from Utah has 42 minutes 40 seconds.

Mr. HATCH. And the other side?

The PRESIDING OFFICER. The minority leader has 20 minutes 9 seconds.

Mr. HATCH. Mr. President, I am just going to finish the last day with this balanced budget debt tracker that we have been keeping track of throughout this whole debate.

As you can see, we started 30 days ago and we have gone steadily uphill from this baseline of $4.8 trillion.

We are now, in this 30th day, almost $25 billion more in debt. I do not care what anybody says, that is a tremendous problem to this country. In other words, while we have been debating this matter, almost every day we have gone $1 billion deeper in debt.

Now, we can scream and shout all we want. We can talk about how important it is to do the right thing around here. For 36 years we have failed to balance the budget except once—one time in 36 years. The people who are fighting this want to continue business as usual, the old way of doing things, forgetting about our children and the grandchildren and the future of this country while we just continue to go up ad infinitum.

And the President's own budget this year made it very clear that he has no serious intent to do anything about bringing deficit spending down, because for the next 12 years his budget averages, there will be at least $190 billion-plus deficits each of those next 12 years. That is, in the next 12 years, trillions of dollars in debt.

For the first time in history, the House of Representatives has passed a balanced budget amendment. Many people think that was a miracle after watching the House for all these years. I, myself, feel that it was a stunning occasion, as one who has brought the balanced budget amendment to the floor of either House for the first time in history in 1982, then 1986, and then last year again. We won in 1982. We had 69 votes. We lost in 1986 by one vote. We lost last year by four votes. Now we have picked up three people who voted against it last year, Senator BIDEN, Senator BAUCUS, and Senator HARKIN, who have committed to vote for this. We have lost a few who voted for it last year.

It is coming right down to one vote, one way or the other. This is the last chance, it seems to me, for Members to strike out and do something that is right for our country, for our children, for our grandchildren, and for their future.

I hear a lot of talk about automatic stabilizers. Let me say, the only automatic stabilizer I know is an attempt to live within our means. All the automatic stabilizers in the world will not work if we do not get spending under control. We are wrecking the future of our children and our grandchildren. This is the day. This is the day. We will pass this amendment or we will not pass this amendment. It is coming down to one solitary vote.

One thing is crystal clear. That is, we need to move toward a balanced budget. During the debate, both sides have cited lots of numbers and figures. One such figure is the $4.8 trillion represented by the red line on the balanced budget amendment debt tracker.

But how does one communicate the implications of our staggering debt in trillions of dollars? In 1975, before the recent borrowing spree, the Federal debt amounted to $2,500 per individual in this country, man, woman, and child, and the annual interest charges were roughly $250 per taxpayer.

At the present, the Federal debt amounts to $18,500 for every man, woman, and child in America with annual interest rates exceeding $2,575 per taxpayer. That is what we owe.

That is at today's interest rates, which could go much higher. Thanks to Congress, every American is endowed not only with life or liberty but with over $18,500 in individual owed debt. I wonder how long liberty will last if we keep going the way we are going.

The Congressional Budget Office predicts under the current law if we continue business as usual, which is what is being argued for here on the floor today by the other side—sincerely, I might add. I do not find fault with people who differ from us, except I think it is time to wake up. The Congressional Budget Office predicts under current law in 1999 total firm debt will be $6.4 trillion. That is under the President's current budget package. It will go from $4.8 trillion, that bottom red line, to $6.4 trillion. That means $23,700 per person with annual interest cost projected to be over $3,500 per taxpayer. The last figures would mean a tenfold increase in per capita debt and a nearly fourteenfold increase in annual interest charges per taxpayer since 1975.

This breakdown may give a bigger picture of the actual magnitude of the debt. It still does not describe human implications. Its human implications are that our children are shackled with an insurmountable burden as a result of our profligacy. How could you conclude otherwise? According to the National Taxpayers Union, a child born today will have to pay over $100,000 in extra taxes over the course of his or her lifetime in order just to pay the interest on the debt which accumulates in just their first 18 years of life; $100,000 more in taxes for every kid born today, in the first 18 years of life, the way things are going.

Further, the National Taxpayers Union has calculated that for every $200 billion deficit the Government runs up—and we will do it every year now for 12 years, according to the President's budget—the average child born today will have to pay an additional $5,000 in taxes just to cover the interest charges. That is $5,000 for every $200 billion in deficit spending that will occur every year now for the next 12 years.

Think about that. That is $60,000 over the next 12 years that that child will have to pay—extra taxes on top of the $100,000 that they have to pay in the first 18 years of their lives. Over time the disproportionate burdens imposed on today's children and their children can include some combination of the following: Increased taxes, reduced public welfare benefits, reduced public pensions, reduced expenditures on infrastructure and other public investments, and diminished capital formation, job creation, productivity enhancement, real wage growth in the private economy, and higher interest rates, higher inflation, increased indebtedness, and economic dependence on foreign creditors, increased risk of default on the Federal debt.

This sociopathic economic policy has continued under President Clinton's latest budget proposal, as I have said. In complete surrender to deficit spending, the President's budget runs deficits of around $200 billion for each of the next 5 years—actually, 12 years. That is $1 trillion right there in the

next 5 years added to the debt and another $25,000 in tax for today's children. Under recent projections of the Congressional Budget Office, we will continue to have deficits of about 3 percent of GDP for the next 10 years, increasing as we go into the future.

In a 1992 report, the GAO found that this scenario, which it called the "muddling through option," would not be sufficient to avoid the severe economic consequences of deficit spending. Among the conclusions that GAO reached are the following:

No. 1:

If we continue on the current "muddling through option," by the year 2005 the amount of deficit reduction that will be required to limit the deficit to 3 percent of GDP will increase exponentially. By the year 2020, it will require $1/2 trillion of additional deficit reduction every year just to maintain a deficit path of 3 percent of GDP.

No. 2:

The muddling through path requires one to make harder and harder decisions just to stay in place, partly just to offset the growing interest rates that compound with the deficit. To select this path is to fend off the disaster of inaction, but it would lock the Nation into many years of unpleasant and relatively unproductive deficit debates rather than debates about what Government ought to do and should be doing. It is death by 1,000 cuts.

No. 3:

While the implications for the economy of the muddling through approach are less devastating than the no action scenario, they still imply an economy that grows only slowly with ominous implications for the ability to sustain both the commitments made to the retiring baby boomers and a satisfactory standard of living for the working-age population in 2020 and beyond.

It sounds like shock therapy. The shocking thing about this forecast is that President Clinton's much ballyhooed deficit reduction only keeps us in this muddling through approach. President Clinton's one-time fix of record-setting tax hikes does not set us off in the direction of responsible Government nor does it move us off the path to long-term fiscal disaster.

It just sets the stage for ever-increasing tax hikes and growing debt. I think that the President's latest proposal is best described by a famous American who said:

Look at the President. He started in with the idea of a balanced budget, and said that was what he would hold out for. But look at the thing now. Poor President, he tried but couldn't do it by persuasion and he can't do it by law. So he may just have to give up and say, "Boys, I've tried, but I guess it's back to the old ways of an unbalanced budget."

The amazing thing about that statement is that it was made over 60 years ago by Will Rogers. You see, Mr. President, budget deficits are not new. They are not cyclical. They are not short-term. Budget deficits are an institutional, structural problem which must be dealt with in a long-term, insoluble rule. We need a constitutional amendment to balance the budget.

The debate is going to end pretty soon. We will all have to vote. I just want to point out to my colleagues how expensive our debate has been. It has been 30 days since we started. We are now in the 30th day, and just in those 30 days we have put us $35 billion further in debt. If you stop and think about it, that is over $95 for every man, woman and child in America, just in these 30 days.

I hope the American people have been enjoying the debate. It has cost each of them $95 in national debt. One of my staffers told me that much would buy him groceries for 2 weeks. I am sure most people watching this debate would prefer to have the $95 to spend on something other than this debate. Certainly they could have found better entertainment for their money than this debate. Any way you cut it, this has been an expensive debate. And if the people watching prefer things change, they should call their Senators today and tell them you want them to vote for change, to vote for a balanced budget amendment. I promise the call will be less than the $95 this debate has cost you.

Now that I have reviewed what will happen without a balanced budget amendment, I would like to tell you some of the gains we will enjoy if we do adopt it.

DRI/McGraw-Hill, one of the country's leading nonpartisan economic analysis firms, has analyzed the economic impact of the balanced budget amendment and has concluded that it will result in a significant improvement for our Nation's citizens. Their study suggests that the balanced budget amendment would greatly brighten the future for Americans of all generations. Among the good news following adoption of a balanced budget amendment are these highlights:

As Government spending is reduced, resources will be freed up for private investment and interest rates will drop. Both of these factors will make it easier for businesses to expand, resulting in the creation of 2.5 million new jobs by the year 2002.

Further, fueled by the drop in interest rates, private investment will rise and real nonresidential investment could grow by 4 to 5 percent by the year 2002.

Last, by the end of the 10-year forecast, real GDP is projected to be up $170 billion from what it would be without the balanced budget amendment. That is about $1,000 per household in the United States.

The balanced budget amendment also serves to protect the civil rights of generations of young Americans. As we spend the money of generations not yet old enough to vote, we commit one of the most infamous offenses against liberty in the history of our country: No taxation without representation. Just as the 15th and 19th amendments stand as great defenders of our democracy and the right to vote, so, too, does the balanced budget amendment. It will prevent Congress from spending our children's future wages and preserve their future for them to shape their own destiny as all Americans have sought to do.

Mr. President, we have a clear choice between two visions of the future of our children and grandchildren. We can choose to continue down the path to oppressive Government and increased taxes, stagnant wages, fiscal chaos and economic servitude, or we can choose decreased Government burdens, a robust economy, and political freedom. So I think it is time for the Senate to pass House Joint Resolution 1 to end business as usual and leave a legacy to future generations we can be proud of, a legacy of responsible Government and greater personal and economic freedom.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 1 minute of the minority leader's time.

I have been looking at this chart now for 30 days. It is a beautiful chart, very impressive, all these microfigures, $4.6 trillion and so on.

We should remember one thing, between 1981 and 1992, the national debt tripled in 12 years—tripled. I am not going to go through the rest of it because you have heard it too many times. In 1993, we proposed to cut the deficit by $600 billion. I say "we," the Democrats proposed to cut the deficit by $600 billion in 5 years and we did it without one single Republican vote—50 Democrats plus the Vice President. That is the reason the deficit was down $100 billion less last year than anticipated.

If you want to be honest, add one-third to the top of each one of those green bars. Add one-third to the top of each one of those green bars and that is what it would have been if the Republicans had had their way in August 1993.

I yield 5 minutes to my distinguished colleague from Connecticut on behalf of the minority leader.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Arkansas.

Mr. President, let me say first that this has been a remarkable debate, a serious, thoughtful and important debate as befits the subject. I must say personally that the result of it has been my own increased respect for my colleagues and pride in service in this institution. As this debate ends, I wanted to rise briefly to explain why I will vote against the balanced budget amendment.

Our national books obviously are out of balance, and that should worry every American because it directly affects every American. We spend too

much of our wealth each year on interest payments on the debt, money that could otherwise remain with taxpayers for them to save or invest.

Because of the deficit, we jeopardize our capacity to fund vital programs that we need to enhance our security and our futures. We burden our children and their children with a debt that they must pay for obligations that we have incurred but not paid for. This is wrong and must be stopped.

That is why I introduced a deficit reduction program during the last session of Congress which would have cut more than $150 billion from our projected debt. That is why I joined with a bipartisan group of colleagues, including Senators KERREY and BROWN, ROBB, GREGG, and GRAHAM in introducing another deficit reduction package that would have cut $91 billion from the deficit. That is why I will work with that same group this year to enact further spending cuts. And that is why I will support a line-item veto as a reasonable test of whether greater Presidential authority will be used responsibly to prune unnecessary spending from our Nation's budget.

But, Mr. President, I will not support this balanced budget amendment because it freezes forever in our Constitution the response to a fiscal problem—that is budget deficits—that has been a serious problem for only a small part of our history, and it does so in a way that will alter the fundamental allocation of power in the Constitution from elected officials, the President and Congress to unelected judges who will inevitably end up interpreting and enforcing taxing and spending.

Mr. President, we should have more respect for the wisdom of those who founded and formed our democracy, if not for our personal capacity to govern responsibly than as expressed in this amendment.

I will also vote against this amendment because it takes our Government's responsibility to protect the American people and puts it in a straitjacket that will weaken the Government and make it difficult, if not impossible, for us to respond to serious military, economic or law enforcement threats to our Nation.

Reducing the deficit is and must be accepted as a very important national goal and responsibility. But it is not our only national goal and responsibility. Passing this amendment will effectively make everything else the Federal Government may need to do subservient to balancing the budget, and that, in my opinion, is not a prescription for good and strong Government.

In a given year, the elected leaders of the American people may decide that they need to spend more to protect our security or our health or our jobs than the balanced budget amendment will allow. They should be free to do that, subject to the will of the people as expressed at the next election.

Our aim should be to continue to reduce the deficit each year, both in absolute dollars and as a percentage of our gross domestic product, as we have in the last 2 fiscal years and as we in Congress must for the next fiscal year, even though, sadly, the Administration has not sent us a budget that will do so.

Mr. President, the best way to eliminate the deficit is not by forcing into the Constitution our promise to do so. The best way is the hard way—by doing so, by continuing the difficult work of reducing the size of the Federal Government and cutting its costs until we return to a balanced budget.

Today, Mr. President, I renew my personal commitment to that work, as I cast my vote against this amendment.

I thank the Chair and yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Georgia.

Mr. NUNN. I thank my friend from Utah.

Mr. President, as I noted last Thursday, adoption of the balanced budget amendment to me is very important, but I also noted that without a limitation on judicial review, a limitation which was accepted during our 1994 debate when offered by Senator DANFORTH of Missouri, we could radically alter the balance of powers among the three branches of Government that is fundamental to our democracy.

Former Federal Judge Robert Bork, who served as Solicitor General during the Reagan administration, has stated that a restriction on judicial intervention is "essential if Congress is not to risk ceding some of its most important powers to the Federal judiciary."

As Judge Bork has said, without some restriction on judicial review, the result—

> would likely be hundreds, if not thousands, of lawsuits around the country, many of them on contradictory theories and providing inconsistent results. By the time the Supreme Court straightened out the whole matter, the budget in question would be at least 4 years out of date and lawsuits involving the next 3 fiscal years would be slowly climbing toward the Supreme Court.

Former Attorney General Nicholas Katzenback has noted:

> [T]o open up even the possibility that judges appointed for life might end up making the most fundamental of all political decision[s] is not only an unprecedented shift of constitutional roles and responsibilities but one that should be totally unacceptable in a democratic society.

Mr. President, the Framers of the Constitution placed the constitutional taxing and spending powers in the two elected policy making branches of Government, not in unelected life-tenure members of the Federal bench, because our Founding Fathers knew well the dangers of taxation without representation. The single-most important motivating force in the American Revolution was the opposition of the American people to taxation without representation. They would have found it inconceivable that the power to tax might be vested in the unelected, lifetime-tenure members of the judicial branch.

Mr. President, I have listened with care to the arguments on the issue offered by my good friend and superb floor leader on this amendment, Senator HATCH, the chairman of the Judiciary Committee. I have also conferred at length on this subject with Senator SIMON, an individual I respect immensely, as well as Senator CRAIG, who has done a superb job on this. All are highly respected in their views and knowledge of the Constitution and in this amendment. Senator HATCH, in particular, has provided detailed arguments in the Judiciary Committee report, on the Senate floor, and in personal discussions with me in support of the proposition that an amendment is not needed to address the issue of judicial intervention. His arguments are carefully researched and well written.

If my amendment does not pass, if this constitutional amendment does pass, if this matter is adjudicated before the Supreme Court, I would want the Senator from Utah to make those arguments before the Supreme Court because I do not think anyone would be more effective. I just do not happen to agree with the arguments because I think, in spite of his arguments, there is considerable risk left that the courts would decide otherwise.

The issue before us, however, is not whether we would personally agree with Senator HATCH's views on how a court should resolve a case. I agree with those views. We are not in the process of filing an amicus brief with the Supreme Court. We are writing words that will become the text of the Constitution of the United States. We are engaged—and I think we all ought to think about this very, very heavily—in the same awesome task that was undertaken by the Framers in Philadelphia during the Constitutional Convention, and the States will be making those same decisions if this amendment is passed and sent to them.

The issue before us is whether we have taken reasonable and prudent action in drafting the balanced budget amendment to ensure that it does not result in judicial management of the taxing and spending process. In my judgment, we will not have done so unless we adopt an amendment on judicial review similar to the Danforth amendment we agreed to last year and the Johnston amendment, which was defeated last week by 47 to 51.

My concerns are based upon three considerations.

First, the legislative history of the balanced budget amendment is, at best,

ambiguous and, at worst, literally invites judicial intervention into the taxing and spending process.

Second, despite my high regard for the legal views of the Senator from Utah, I am constrained to note that there are other highly respected legal scholars who come to a different conclusion about the prospects of judicial intervention.

We cannot ignore respectable legal arguments based upon the hope that the arguments set forth in the Judiciary Committee report against the Court becoming unduly involved will prevail before the Supreme Court.

Finally, if we believe that judicial intervention is inappropriate, except as specifically provided by specific legislation, the only constitutionally certain means for eliminating the judicial role is to authorize the limitations in the text of the Constitution.

THE LEGISLATIVE HISTORY OF THE BALANCED BUDGET AMENDMENT

Mr. President, the legislative history of the balanced budget amendment contains a substantial amount of material indicating that Congress has contemplated a role for the courts:

The discussion in the report of the Judiciary Committee, on page 9, expressly declines to state that the amendment precludes judicial review. Instead, the report states:

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."

Mr. President, there is a vast difference between actually prohibiting judicial review as opposed to merely "refus[ing] to establish congressional sanction" for judicial review. An activist court, faced with a lawsuit based upon the balanced budget amendment, will have no trouble pointing out that Congress consciously decided not to prohibit judicial review.

The express actions of the Senate on this issue underscore the potential for such a ruling. Last year, the Senate adopted the Danforth amendment expressly restricting judicial review. This year, the Senate rejected a similar amendment offered by Senator JOHNSTON. While the defeat of an amendment does not necessarily provide conclusive legislative intent of a desire to achieve the opposite result, it constitutes powerful evidence of intent when the issue is separation of powers and the Congress specifically rejects a proposal to frame the constitutional amendment in a manner that would protect the prerogatives of the legislative branch.

The intent to provide for judicial review is highlighted by the remarks of Senator HATCH, floor manager of the amendment, during the debate on the Johnston amendment. During the debate on February 15, he made a number of statements reflecting an understanding that the courts could be involved in budget decisions, including the following:

[I]f the Senator writes the courts out of * * * this balanced budget amendment, he will be writing people out that we cannot foresee at this time—I do not know—who may have some legitimate, particularized injury to themselves that will enable them to have standing and a right to sue.

We do not want to take away anybody's rights that may develop sometime in the future.

Now we have people in both bodies who want the courts involved * * *. Can we satisfy those who do not want the courts involved in this to the exclusion of those who do?

I might add that some do like the courts involved in some of these areas.

Congress should not, as the distinguished Senator from Louisiana proposes, cut off all judicial review * * *. A litigant in such a narrow circumstance, if he or she can demonstrate standing, ought to be heard.

Similar statements were made by Senators BROWN, THOMPSON, SANTORUM, and CRAIG.

The legislative history in the House is even more of a problem. As Senator LEVIN noted on February 15, Representative SCHAEFER, a lead sponsor of the House amendment, has said:

A member of Congress or an appropriate administration official probably would have standing to file suit challenging legislation that subverted the amendment.

The courts * * * could invalidate an individual appropriation or tax Act. They could rule as to whether a given Act of Congress or action by the Executive violated the requirements of this amendment.

Representative SCHAEFER's statements echoed those set forth in a document prepared by an ad hoc group known as the Congressional Leaders United for a Balanced Budget Amendment, which was included in the RECORD last year by Senator CRAIG on March 1, 1994. The statements by a lead sponsor in the House represent a wide open invitation for the unelected, life-tenured members of the judicial branch to make fundamental policy decisions on budgetary matters.

Mr. President, I have the highest respect for the judiciary. As a general matter, the judiciary has treated questions involving the power to tax and spend as political questions that should not be addressed by the judicial branch. There will be a fundamental difference, however, when the balanced budget amendment becomes part of the Constitution, the fundamental law of the land.

Our constituents view the balanced budget amendment as a means to address taxation and spending decisions over which they feel less and less control. They would be sorely disappointed, if not outraged, if the result of the amendment is to transfer the power to tax and spend from elected officials to unelected, life-tenure judges.

CONTRASTING VIEWS ON THE ISSUE OF JUDICIAL INTERVENTION

The Judiciary Committee report, which reflects the committee's and Senator HATCH's thoughtful legal views, sets forth three basic arguments in support of the proposition that an amendment to the balanced budget amendment is not necessary to restrict judicial review:

(1) limitations on Federal courts contained in article III of the Constitution, primarily the doctrine of "standing"; (2) the deference courts owe to Congress under both the "political question" doctrine and section 6 of the amendment itself, which confers enforcement authority on Congress; and (3) the limits on judicial remedies to be imposed on a coordinate branch of government—limitations on remedies that are self-imposed by courts and that, in appropriate circumstances, may be imposed on the courts by Congress.

There are other views, however, from individuals who have served at the highest levels in the Justice Department in both Republican and Democratic administrations, as well as from distinguished legal scholars.

President Reagan's Solicitor General, Prof. Charles Fried of Harvard Law School, has testified that:

[M]ost constitutional scholars agree that recent Supreme Court jurisprudence would favor allowing a fair range of issues relating to the implementation of the amendment in the form now before you to become the subject of litigation and court determination.

Professor Fried also observed that:

[T]he amendment would surely precipitate us into subtle and intricate legal questions, and the litigation that would ensue would be gruesome, intrusive, and not at all edifying.

Professor Fried cautioned against reliance on the political question doctrine to limit judicial review under a balanced budget amendment:

I cannot be confident that the courts would treat as a political question a demand by a taxpayer or by a member of Congress that further spending * * * should be enjoined * * * I cannot be confident that the courts would stay out of this.

The current Assistant Attorney General for Legal Counsel, Walter Dellinger, who previously served as a professor law at Duke, testified last month that:

[T]his amendment, once part of the Constitution, may be read to authorize, or even mandate, judicial involvement in the budgeting process. When confronted with litigants claiming to have been harmed by the government's failure to comply with the amendment, or by impoundment undertaken by the President to enforce the amendment, courts may well feel compelled to intervene. * * *.

The proposal appears to contemplate a significant expansion of judicial authority: state and federal judges may be required to make fundamental decisions about taxing and spending in order to enforce the amendment. These are decisions that judges lack the institutional capacity to make in any remotely satisfactory manner.

Mr. Dellinger specifically addressed the possibility that the courts could mandate increases in Federal taxes:

[The amendment] fails to state whether federal courts would or would not be empowered to order tax increases in order to bring about compliance. In Missouri v. Jenkins, [495 U.S. 33 (1990)] the Supreme Court held that a federal district court could mandate that a state increase taxes in order to fund a desegregation program * * *. Once the outcome of the budgeting process has been specified in a constitutional amendment, a plaintiff with standing might successfully argue that he or she had a right to have a court issue whatever relief is necessary to remedy the constitutional violation. The failure of the amendment to preclude such powers might even be thought to suggest, in light of Jenkins that the possibility deliberately was left open.

Mr. President, I recognize, as Senator HATCH has argued, that Jenkins arose under the 14th amendment, which guarantees due process and equal protection, and not under a balanced budget amendment. The problem, however, is that the Supreme Court in Jenkins authorized a lower Federal court to mandate the imposition of taxes by a State, even though the imposition of taxes by the Judiciary was not contemplated by the Framers of the 14th amendment of the congressional legislation implementing the 14th amendment.

Justice Kennedy, concurring in the result in Jenkins, rejected the majority's conclusion that a court could order a State to raise taxes, citing the very concerns that motivate my amendment:

Our Federal Judiciary, by design, is not representative or responsible to the people in a political sense; it is independent. * * * It is not surprising that imposition of taxes by an authority so insulated from public communication or control can lead to deep feelings of frustration, powerlessness, and anger on the part of taxpaying citizens. 495 U.S. at 69.

Those are the very concerns that should compel us to ensure that the Federal Judiciary does not assert similar powers to mandate the issuance of Federal taxes.

Mr. Dellinger outlined other types of suits that could arise:

[I]t is possible that courts would hold that either taxpayers or Members of Congress would have standing to adjudicate various aspects of the budget process under a balanced budget amendment. Even if taxpayers and Members of Congress were not granted standing, the amendment could lead to litigation by recipients whose benefits, mandated by law, were curtailed by the President in reliance upon the amendment, in the event that he determines that he is compelled to enforce the amendment by impounding funds. In addition, a criminal defendant, prosecuted or sentenced under an omnibus crime bill that improved tax enforcement or authorized fines or forfeitures, could argue that the bill "increased revenues" within the meaning of Section 4. Surely such a defendant would have standing to challenge the failure of the Congress to enact the entire bill—not just the revenue-raising provisions by the constitutionally required means [under the Balanced Budget Amendment] of a majority rollcall vote of the whole number of each House of Congress. Budget bills that include enforcement provisions could prove similarly vulnerable.

Prof. Cass Sunstein, a well-known constitutional expert and the Karl N. Llewellyn Distinguished Service Professor of Jurisprudence at the University of Chicago Law School, sent me a letter yesterday commenting on this debate. I ask unanimous consent that the letter be included in the RECORD at the conclusion of my remarks.

Professor Sunstein, who makes it clear that he is not an opponent of the balanced budget amendment, argues forcefully for an constitutional provision restricting judicial review. He observes that:

Senator Hatch's arguments are of course reasonable, and it is to be hoped that courts would follow those arguments; but courts could find a sufficient basis in the text of the proposed amendment and in precedent to engage in judicial management under the amendment.

In his letter, Professor Sunstein notes:

There is a legitimate risk that the balanced budget amendment would produce a significant increase in judicial power. If it comes to fruition, this risk could compromise the democratic goals of the amendment.

Prof. Kathleen Sullivan of Stanford University Law School also wrote to me yesterday commenting on the need for an amendment restricting judicial review. According to Professor Sullivan:

There are at least three categories of litigants who might well be able to establish standing the challenge violations of the Amendment. First, taxpayers might claim that their rights to a balanced budget are violated, for example, by projections that outlays will exceed receipts. * * * Second, members of Congress might well have standing to claim that congressional actions have diluted the vote they were entitled to exercise under the amendment. * * * Third, persons aggrieved by actions taken by the government in claimed violation of the amendment might well have standing to challenge the violation.

Each of these claims poses plausible claims of injury in fact, and none of them poses insurmountable problems of redressability. In most of them, in fact, simple injunctions can be imagined that would redress the plaintiffs' claims.

I ask unanimous consent that a copy of Professor Sullivan's February 27, 1995, letter to me be included in the RECORD at the conclusion of my remarks.

STATUTORY LIMITATIONS ON JUDICIAL REVIEW MUST BE GROUND IN THE CONSTITUTION

Mr. President, there have been suggestions that my amendment is not necessary because a constitutional amendment is not needed to enable Congress by statute to restrict judicial intervention in the future. If my judicial review amendment is not passed and the constitutional amendment is ratified, I hope that my colleague and friend Senator HATCH will take the lead in making these arguments. I would hope that his arguments would prevail, but I do not believe that we should take the enormous risk that the courts would not agree.

In the first place, until we determine that there is a majority in favor of such a proposition, there is no guarantee that such limitations would be placed in the implementing legislation. I would like to believe that a conservative institution would not find it difficult to preclude judicial management of the budget process. I had much greater faith in the belief until the Johnston amendment was defeated February 15. Reviewing that debate, and the various statements by leading Members about the potential for judicial review, I do not believe it is responsible for us to postpone that decision.

Second, I am not certain that there will be a majority in favor of any specific proposition. Some favor a complete ban on judicial relief. Some favor declaratory judgments. Others appear to favor standing for Members of Congress. Still others believe that the rights of individuals or groups should be subject to vindication. Again, let's vote now and uphold the longstanding conservative principle that judges shouldn't be involved in taxing and spending decisions.

Third, I am not persuaded by the argument that section 6 of the amendment, which states that "Congress shall enforce and implement this article by appropriate legislation," precludes judicial review. Section 6 is not a grant of exclusive power—it does not state that "only Congress" shall enforce the legislation. In light of the legislative history that I have discussed earlier, there is no basis for concluding that section 6 was intended to exclude the Judiciary from enforcing the act. As Professor Sullivan noted in her February 27 letter to me:

The proposed Amendment, as did [the 13th, 14th, and 15th] Amendments gives Congress authority to legislate, but it does not oust the courts, who need not defer to Congress in these matters.

Fourth, although I agree that the courts have sustained certain statutory limitations on judicial review of statutory and common law rights, there is no case in which the Supreme Court has held that Congress could cut off all avenues of judicial review of a constitutional issue. As noted in the highly respected analysis of the Constitution prepared by the Congressional Research Service:

[T]hat Congress may through the exercise of its powers vitiate and overturn constitutional decisions and restrain the exercise of constitutional rights is an assertion often made but not sustained by any decision of the Court.

In *Webster* v. *Doe*, 486 U.S. 592 (1988), for example, the Supreme Court emphasized that a "'serious constitutional question' * * * would arise if a federal statute were construed to deny any judicial forum for a colorable constitutional claim."

Charles Fried, Solicitor General in President Reagan's administration, has stated:

[S]ection 6, as it is written, does not allow Congress to so limit jurisdiction, and it seems to me that if Congress tried to limit jurisdiction in this way without an express authorization, which there is not in this bill, that limitation itself might well be unconstitutional

Professor Sunstein, in his February 27 letter to me, expressed similar concerns:

If your proposed change, or some version of it, is not added, it is by no means clear that Congress can forbid judicial involvement by statute. Courts are quite reluctant to allow Congress to preclude judicial review of constitutional claims. . . . Courts would be especially reluctant, perhaps, to preclude judicial review of an amendment specifically designed to limit Congress' power to provide for budget deficits. One could easily imagine a judicial decision invalidating implementing legislation that denies a judicial role, on the theory that the balanced budget guarantee—without your amendment—is best understood to contemplate a firm judicial check on congressional activity.

THE RESPONSIBILITY OF CONGRESS

Mr. President, the report of the Judiciary Committee indicates there is little likelihood of judicial involvement in the taxing and spending process under the budget amendment, and they cite the history of this country in that regard. The difference is that now, if this amendment is in the Constitution, it will be a different Constitution than has framed the history of our country.

Mr. President, others including leading constitutional authorities from both the Republican and Democratic Parties believe there is a reasonable likelihood the amendment could transform the courts into the forum for managing the budgetary process.

To me, the risk is too high. In the face of conflicting legal views by respected authorities, it is our responsibility to act. If we believe, as I do, that we should not risk subjecting the budget process to judicial management, then we should adopt my amendment.

I have modified that amendment now. The amendment very simply —and I am not quoting it, but the very simple essence of the amendment is that the judicial power of the United States shall not extend to any case or controversy arising under this article except as may be specifically authorized by legislation adopted pursuant to this section.

In other words, Mr. President, the Congress will decide the jurisdiction of the courts. The courts will not decide it on the basis of constitutional interpretation. We can change the implementing statute if it does not work. We can mold it later. We can mold the statute after we have decided what the enforcement mechanism here is because those two things have to be considered together.

So it is my hope that this amendment, which is now modified, will be accepted by the managers of this bill and it will be accepted by my colleagues. If it is, then I plan to support this overall constitutional amendment because I think it is enormously important that we have a mandate to the Congress of the United States to get this budget and our fiscal house in order. Nothing else has worked. This is the last resort.

I wish we had not reached this point. I wish we had been able to use our normal political process, because I do not like amending the Constitution of the United States. However, I do believe it is the last resort.

Mr. President, I am concerned about other areas that my colleagues are concerned about. I am concerned about Social Security. I am concerned about economic emergency. But my bottom line has been and is today that it is my fervent hope this judicial article, this judicial amendment will be put into this constitutional amendment so there is no doubt about the intent of Congress and the authority of Congress in managing the taxing and spending of this great country.

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

UNIVERSITY OF CHICAGO LAW SCHOOL,
Chicago, IL, February 27, 1995.

Hon. SAM NUNN,
U.S. Congress, Washington, DC.

DEAR SENATOR NUNN: As a teacher of constitutional law, I am writing to endorse your remarks about the balanced budget amendment on the Senate floor on Thursday. There is a legitimate risk that the balanced budget amendment would produce a significant increase in judicial power. If it comes to fruition, this risk would compromise the democratic goals of the amendment.

It is certainly not clear that current political question and standing doctrines would bar judicial involvement under the proposed amendment. Issues involving spending and taxation do not necessarily involve political questions, and the balanced budget amendment, unaccompanied by a change of the sort you propose, would increase the risk that political questions would become legal questions. The political question doctrine is extremely narrow in the aftermath of Baker v. Carr, 369 US 186 (1962), and it is certainly possible that a court would find, in the amendment, "judicial administrable standards" for the grant or injunctive relief. Under existing law, no one can rule out the possibility that the political question doctrine would be held inapplicable to the balanced budget amendment. Cf. Michael v. Anderson, 14 F3d 623 (DC Cir 1994).

Taxpayers and citizens as such would probably lack standing to enforce the amendment, but as you stated, it is certainly possible to think of potential litigants with direct financial interests at stake who would claim that, if the amendment were not followed, and if the budget was not balanced, they would suffer from an "injury in fact" sufficient to trigger judicial review under Lujan v. Defenders of Wildlife, 112 S. Ct. 2130 (1992). At the very least, it can be said that costly and time-consuming debates about justiciability would ensue, and we cannot reasonably rule out, in advance, the prospect of undemocratic and unprecedented judicial involvement in the budgetary process.

In this light your proposal—limiting the judicial role—seems to me to make a great deal of sense. You are certainly correct to say that the legislative history of the balanced budget would not rule out judicial management. The legislative history of a constitutional amendment is relevant, but it does not resolve the question of constitutional meaning. Senator Hatch's arguments about likely judicial deference are of course reasonable, and it is to be hoped that courts would follow those arguments; but courts could find a sufficient basis in the text of the proposed amendment and in precedent to engage in judicial management under the amendment.

If your proposed change, or some version of it, is not added, it is by no means clear that Congress can forbid judicial involvement by statute. Courts are quite reluctant to allow Congress to preclude judicial review of constitutional claims. See Webster v. Doe, 486 US 592 (1988), allowing review of employment decisions by the Central Intelligence Agency in the face of a claim that a discharge of a homosexual employee was unconstitutional. *Webster* shows that even in highly sensitive areas, judges will be likely to allow review, in part because serious constitutional issues would be raised by an effort to insulate constitutional claims from judicial scrutiny.

Courts would be especially reluctant, perhaps, to allow Congress to preclude judicial review of an amendment specifically designed to limit Congress' power to provide for budget deficits. One could easily imagine a judicial decision invalidating implementing legislation that denies a judicial role on the theory that the balanced budget guarantee—without your amendment—is best understood to contemplate a firm judicial check on congressional activity. I add that you are entirely correct in your reading of Missouri v. Jenkins, 495 US 33 (1990), which is not limited to fourteenth amendment cases, and which refers to "a long and venerable line of cases in which this Court held that federal courts could issue the write of mandamus to compel local governmental bodies to levy taxes adequate to satisfy their debt obligations." Id. at 55. (While it is unlikely that courts would specifically order Congress to raise taxes under the proposed amendment, I share your concern about the issue, and think it would be best to avoid any reasonable risk that they might do so.)

I should add that I have not opposed the balanced budget amendment as such, and that I am writing as a teacher of constitutional law who is concerned that any amendment to this effect ought not to increase the power of the federal courts over an area in which they do not belong. Your proposed change—expecially the suggestion to the effect that "the judicial power of the United States shall not extend" to enforcement of the amendment except as authorized by statute—seems to me an admirable effort to deal with this problem. If some such revision is not included, there is a legitimate risk that the proposed amendment would transfer considerable power over budgetary matters from Congress to the Supreme Court or to lower federal courts. I very much hope that steps will be taken to ensure that this does not happen.

Sincerely,

CASS R. SUNSTEIN.

STANFORD LAW SCHOOL,
February 24, 1995.

Re proposed balanced budget amendment.

Senator SAM NUNN,
U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: I have had the opportunity to review your comments yesterday

in the floor debate regarding the role of the courts in cases that might arise under the proposed Balanced Budget Amendment to the Constitution. My views on the subject are very similar to your own, and I have taken the liberty of sending you the following thoughts, which were prompted by the testimony of former Attorney General William P. Barr before the Senate Committee on the Judiciary on January 5, 1995.

In that testimony, Mr. Barr argued that "the courts' role in enforcing the Balanced Budget Amendment will be quite limited." While I have great respect for Mr. Barr, and while I found his testimony to be considered and thoughtful, I must respectfully state that I disagree with him. I continue to believe that, as I testified before the Senate Appropriations Committee on February 16, 1994, the Balanced Budget Amendment in its current draft form is likely to produce numerous lawsuits in the federal and state courts, and that neither Article III justiciability doctrines nor practices of judicial deference will operate as automatic dams against that flood tide of litigation.

Let me begin with the doctrines of justiciability under Article III of the Constitution. Mr. Barr argues that "few plaintiffs would be able to establish the requisite standing to invoke federal court review." This is by no means clear. There are at least three categories of litigants who might well be able to establish standing to challenge violations of the Amendment.

First, taxpayers might claim that their rights to a balanced budget are violated, for example, by projections that outlays will exceed receipts. True, taxpayers are generally barred from suing the government for the redress of generalized grievances. But the Supreme Court a quarter of a century ago held that there is an exception to the general bar on taxpayer standing when the taxpayer claims that a government action "exceeds specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power." *Flast v. Cohen*, 392 U.S. 83 (1968). Mr. Barr suggests that this exception may be limited to Establishment Clause challenges, but there is nothing in the principle stated in Flast that so confines it. If anything, the proposed Balanced Budget Amendment more clearly limits congressional taxing and spending power than does the Establishment Clause. The Amendment is not confined, as Mr. Barr suggests, merely to the power of Congress to borrow. Thus taxpayers would have an entirely plausible argument for standing under existing law.

Second, members of Congress might well have standing to claim that congressional actions have diluted the vote they were entitled to exercise under the Amendment. For example, suppose that the Congress declined to hold a three-fifths vote required to approve deficit spending under section 1, or a rollcall vote required to increase revenue under section 4. This might occur, for example, because of a dispute over whether outlays really exceeded receipts, or over whether revenue was really being increased, because the meaning of those terms might be controversial as a matter of fact. Declining to implement the supermajority voting requirements in such a context, however, might be plausibly claimed to have diluted a Member's vote. This is arguably analogous to other circumstances of vote dilution in which the lower courts have held that Members of Congress have standing. See, e.g., *Vander Jact v. O'Neill*, 699 F.2d 1166, 1168–71 (D.C. Cir. 1982), cert. denied, 464 U.S. 823 (1983).

Third, persons aggrieved by actions taken by the government in claimed violation of the Amendment might well have standing to challenge the violation. For example, consider a criminal defendant charged under a law claimed to cost more to enforce than the government can finance through expected receipts. Or suppose that the President, believing himself bound by his Oath to support the Constitution, freezes federal wages and salaries to stop the budget from going out of balance. In that circumstance, a federal employee might well challenge the President's action, which plainly causes her pocketbook injury, as unauthorized by the Amendment, which is silent on the question of executive enforcement.

Each of these circumstances poses plausible claims of injury in fact, and none of them poses insurmountable problems of redressability. In most of them, in fact, simple injunctions can be imagined that would redress the plaintiffs' claims. Thus, contrary to Mr. Barr's prediction, the doctrine of standing is by no means certain to preclude federal judicial efforts at enforcement of the Amendment. And further, as Mr. Barr concedes, federal standing doctrine will do nothing to constrain litigation of the proposed Amendment in state courts, which are not bound by Article III requirements at all.

Nor is the political question doctrine likely to eliminate all such challenges from judicial review. True, the Supreme Court has held that a question is nonjusticiable when there is "a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it." *Baker v. Carr*, 369 U.S. 186 (1962). But the proposed Amendment implicates neither of these kinds of limitation. It does not reserve enforcement exclusively to the discretion of the Congress, as, for example, the Impeachment or Speech and Debate Clauses may be read to do. And it presents no matters that lie beyond judicial competence. Rather, here, as with apportionment, the question whether deficit spending or revenue increases "exceed whatever authority has been committed, [would] itself [be] a delicate exercise in constitutional interpretation," and thus would well within the ordinary interpretive responsibility of the courts. See *Baker v. Carr*, at 211.

Let me turn now from doctrines of justifiability to practices of judicial deference. Mr. Barr argues that, as a prudential matter, "a reviewing court is likely to accord the utmost deference to the choices made by Congress in carrying out its responsibilities under the Amendment," especially in light of the enforcement clause in section 6. This is by no means clear. The Reconstruction Congress expected that enforcement of the Thirteenth, Fourteenth and Fifteenth Amendments would be undertaken primarily by the Congress, and reflected that expectation in the Enforcement Clauses specifically included in those Amendments. But we have seen time and time again in our history that judicial review has played a pivotal role in the enforcement of those Amendments nonetheless. The proposed Amendment, as did those Amendments, gives Congress authority to legislate, but it does not oust the courts, who need not defer to Congress in these matters. Courts rightly have not hesitated to intervene in civil rights cases, even though those cases involved grave structural questions as well as questions of individual rights.

Finally, Mr. Barr argues that courts will, again as a matter of prudence and practice rather than doctrine, "hesitate to impose remedies that could embroil [them] in the supervision of the budget process." He is correct to observe that a direct judicial order of a tax levy such as that in *Missouri v. Jenkins*, 495 U.S. 33 (1990), is highly exceptional. But even if that is so, courts could issue a host of other kinds of injunctions to enforce against conceivable violations of the proposed Balanced Budget Amendment. For example, a court could restrain expenditures or order them stayed pending correction of procedural defaults, or a court could enjoin Congress simply to put the budget into balance while leaving to Congress the policy choices over the means by which to reach that end. Thus, there is little reason to expect that prudential considerations will keep enforcement lawsuits out of court, or keep judicial remedies from intruding into political choices.

In sum, the draft Balanced Budget Amendment in its present from has considerable potential to generate justiciable lawsuits, which in turn would have considerable potential to generate judicial remedies that would constrain political choices. Thank you for considering these remarks in the course of your current deliberations.

Sincerely,

KATHLEEN M. SULLIVAN.

Mr. HATCH. Mr. President, I appreciate the very kind remarks of the Senator from Georgia. With the Senator's permission, I would like to place in the RECORD, a copy of the written comments on the issue of judicial review and the balanced budget amendment that I prepared for his review. Mr. President, I so ask unanimous consent.

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

BALANCED BUDGET AMENDMENT AND JUDICIAL REVIEW

I. PRELIMINARY COMMENTS

The balanced budget amendment ("BBA" or the "amendment"), H.J. Res. 1, creates a constitutional procedure, a mechanism if you like, that requires Congress to adopt, or at a minimum, at least to move toward a balanced budget.

For instance, section 1 of H.J. Res. 1 requires that total outlays of the United States not exceed receipts unless three-fifths of the whole number of both Houses waives the requirement. Section 2 prohibits the raising of the debt ceiling unless three-fifths of the whole number of both Houses of Congress waives the requirement; and section 4 requires that there be no revenue increases unless approved by a majority of the whole number of each House of Congress (51 Senate; 218 House). Consequently, the BBA does not create a "right" to a balanced budget, much as the First Amendment recognizes a right to free speech. What it does do is establish a procedure which restricts Congress' budgetary authority by creating a strong presumption in favor of a balanced budget which can be overcome by a three-fifths vote of each Chamber of Commerce.

This is amply shown by section 6 of the BBA, which provides that "Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." Thus, there is no absolute requirement that Congress balance the budget to the penny. Congress may rely on estimates and is mandated to implement and enforce the amendment through some statutory scheme such as establishing, for example, a contingency or

"rainy day" fund, providing for automatic sequestration, or delegating to the President limited rescissionary authority. This is a strong indication that the Congress, and not the courts or the President, is the branch that is authorized to enforce the amendment.

The import of all of this is that the judiciary will be loathe to interfere in economic and budgetary matters, in what is a quintessential "political question." These are matters committed to Congress by Article I of the Constitution and the BBA does not disturb that allocation of powers. Courts have no ascertainable standards to determine exactly what the budget numbers ought to be, whether the budgetary figures are "good faith" estimates, or which spending program ought to be cut. In other words, there are no "justiciable" standards for the courts to provide broad based relief that interferes with the budgetary process. Whether one talks in terms of standing, justiciability, separation of powers, or the political question doctrine, courts will not be authorized to interfere with Congress' Article I powers—which, after all, are exclusively delegated by the Constitution to the legislative branch.

Furthermore, section 6 of the amendment, as well as Article III of the Constitution, provide authority to Congress to limit the jurisdiction of the courts. In this way, the equitable powers of the courts may be restricted in such a way that shields Congress' Article I spending, taxing, and borrowing powers.

Below are detailed responses to your concerns over particular judicial review and presidential impoundment issues arising out of the enforcement of H.J. Res. 1.

II. STANDING

You have stated that it is not difficult to contemplate scenarios where standing to sue under the BBA could occur. For instance, in your February 23, 1995, floor statement contained in the Congressional Record, you cite Assistant Attorney General Dellinger's example that a criminal defendant would have standing to challenge a forfeiture if a new forfeiture provision, which would raise revenue, was passed by a voice vote instead of a rollcall vote as required by the BBA.[1] I respectfully disagree.

I believe that the Dellinger example is faulty: criminal sanctions and fines are simply not commonly understood to be revenue or tax measures and as such would not be subject to the BBA. The basic point I want to make, however, is not that a court cannot ever find standing, but that standing would be highly improbable and that the courts, in an improbable cause where standing is found, could not provide relief that interferes with the budgetary process due to other jurisprudential doctrines such as justiciability and the political question doctrine.

As you know, as a preliminary obstacle, a litigant must demonstrate a standing to sue.[2] The sometimes arcane nature of the standing doctrine has enabled courts to avoid difficult and contentious decisions on the merits.[3] At a minimum, however, the Court traditionally has taken the position that Article III standing requires allegation of a "personal stake" in the outcome of a controversy sufficient to guarantee concrete (as opposed to speculative) adverseness.[4] Although application of the standing doctrine still divides the Court, all Justices would agree that to establish "personal stake" in the outcome of a case challenging the BBA, a litigant must show some actual or threatened concrete injury and that the injury is likely to be redressed if a court grants relief.[5] In suits involving the BBA, litigants seeking to meet the above general standing requirements fall into three categories: citizens, taxpayers, and Members of Congress.

A. Citizen suits

The most important recent Supreme Court pronouncement on the standing doctrine is contained in *Lujan* v. *Defenders of Wildlife*.[6] There, in an opinion by Justice Scalia, the Court in reviewing its own precedents made clear that standing has three elements: (1) the litigant must have suffered an "injury in fact" which is concrete, particularized, actual and imminent and not hypothetical,[7] (2) there must be a casual connection between the injury and conduct complained of, e.g., the injury must result from actions of the complained party and not a third party,[8] and (3) it must be likely, as opposed to speculative, and the injury must be "redressable" by a favorable court decision.[9]

Turning to the three-part test, it is doubtful that a citizen or citizen associations could demonstrate the "injury in fact" prong of the standing test because it is well settled that a mere interest in the constitutionality of a law or executive action is noncognizable.[10] Moreover, it is doubtful that a litigant could demonstrate that the challenged law was the one that "unbalanced" the budget:[11] in a sense, every spending program could be said to do so. And it is beyond cavil that a congressional reduction of a spending program, or eliminating it altogether, is not considered a constitutional harm and thus not actionable.[12]

As to the third prong, "redressability", this prong subsumes justiciability and the political question doctrine and will be discussed in greater detail below. Suffice it to say that except in highly unlikely circumstances, it is nearly certain that a judicial remedy which interferes with congressional control over the budgetary process or Congress' Article I powers would violate the separation of powers doctrine.

B. Taxpayer standing

In *Flast* v. *Cohen*,[13] the Court 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 has 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 three counters to this argument: (1) recent Court decisions appear to have severely limited the *Flast* doctrine;[14] indeed, the Court seems to limit *Flast* to Establishment Clause situations,[15] (2) implementing legislation would be enacted not for some illicit purpose that violates some specific provision of the Constitution, but to effectuate a balanced budget, and (3) 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*[16] and, as explained below, it is doubtful that *Lujan*'s "redressability" prong can be met by taxpayer-plaintiffs. This conclusion is supported by the *Lujan* decision itself, whereby taxpayer standing cases are discussed in context of concrete harm.

C. Congressional standing

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.[17] However, the D.C. Circuit recognizes congressional standing in the following limited circumstances:[18] (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),[19] and (3) substantial relief cannot be obtained from fellow legislators through the enactment, repeal or amendment of a statute ("equitable discretion" doctrine). Although there is an argument to be made that in certain limited and far-fetched circumstances (e.g., where Congress ignores the three-fifths vote requirement to raise the debt limitation) the voting rights of legislators are nullified and therefore there would be standing, the court could equally invoke the equitable discretion doctrine to dismiss the action because the Member of Congress could obtain relief by appealing to his other colleagues for a vote for reconsideration of the issue.

In other circumstances challenging the enforcement of spending measures, Members of Congress would be subject to the same exacting standards as citizens.

III. JUSTICIABILITY AND THE POLITICAL QUESTION DOCTRINE

Faced with a case challenging appropriations that allegedly cause outlays to exceed total receipts, federal courts historically would inquire first whether the litigant had standing and would then evaluate the content of the claim pursuant to the political question doctrine.[20] Although it is uncertain whether the doctrine rests upon prudence,[21] or inheres in the Constitution,[22] the doctrine is generally understood as "essentially a function of the separation of powers."[23]

The Court in *Baker* v. *Carr*,[24] 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").[25] Essentially 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 interferes with congressional Article I powers. In other words, federal courts may not exercise Congress' spending and taxing authority, such authority being exclusively delegated to Congress, a coordinate branch of the federal government, by the Constitution. Concerning the justiciability prong, budgetary, spending, and tax policies are quintessential areas of governance where there is a lack of judicially discoverable and manageable standards.[26] Certainly, there are no available standards for courts to determine which spending programs to cut or to declare unlawful.

There is another related justifiability issue: whether the granting of equitable or declaratory relief so interferes with the congressional budget process that courts should

[1] Footnotes at end of article.

abstain from granting such relief as a matter of prudence.[27] This is another theory by which courts can be constrained from interfering with congressional spending and taxing powers under the BBA.

Finally, there is an issue whether courts could simply grant declaratory relief[27] adjudicating an executive action or legislative act unconstitutional and leaving remedial action to the political branches. Outside of the bizarre,[29] courts generally will not grant declaratory relief to avoid the political question doctrine or where injunctive relief is not available.[30]

IV. THE CONCERN OVER JUDICIAL TAXATION

I know that you are concerned that the Supreme Court's 5-4 holding in *Missouri* v. *Jenkins*[31] is an invitation for courts to raise taxes in the event that there is an imbalanced budget. In this case, the Supreme Court in essence upheld a lower court remedy ordering 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.

The fear is that the BBA would allow a federal court to order Congress to raise taxes to reduce a budget deficit. This is virtually impossible. First, *Jenkins* is a Fourteenth Amendment case. Under Fourteenth Amendment jurisprudence, federal courts may[32] perhaps issue this type of remedial relief against the States, but not against Congress—a coequal branch of government. The Fourteenth Amendment, of course, does not apply to the federal government. Second, separation of powers concerns, as well as the political question doctrine, argue against courts arrogating to themselves congressional power by imposing taxes. This was implicitly recognized by the *Jenkins* Court which stated that the situation before the Court was not one in which it was asked to order a co-equal branch of government—Congress—to raise taxes. Indeed, the Court in *Jenkins* noted that the case before them was a Fourteenth Amendment case involving state action and not "an instance of one branch of the Federal Government invading the province of another."[33] Third, 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.[34] Consequently, there is no real "analogy" that a court can make between the *Jenkins* case— which involved state action under the Fourteenth Amendment—and a situation involving the enforcing of a federal statute implementing the BBA.

V. STATUTORY PROTECTION OF CONGRESSIONAL POWER

I think it just wrong that Congress cannot and will not protect its institutional prerogatives. The Framers of the Constitution designed a constitutional system whereby each branch of government would have the power to check the zeal of the other branches. In James Madison's words in The Federalist No. 51:

"[T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition."

Under the enforcement mechanism of the BBA,[35] the Congress could limit the type of equitable relief granted by federal courts and thereby limit court intrusiveness into the budget process and Congress' exercise of its Article I powers. It is well established that this authority may also arise out of Article III's delegation to Congress to define and limit the jurisdiction of lower federal courts.[36] Congress may not, however, use its authority to limit or define jurisdiction in a manner that violates specific provisions of the Constitution or denies any relief whatso-ever.[37] Congress may also limit judicial review to particular special tribunals with limited authority to grant relief.[38]

Use of Congress' authority under section 6 of the Amendment or Article III of the Constitution to limit the remedies a court may provide, does not mean in any way, as you suggested in your floor speech, a "cut off all avenues of judicial review of a constitutional issue." This I have readily conceded above is beyond congressional power. What it does mean is that Congress may protect its Article I prerogatives by limiting—not eliminating—the scope of remedies that courts may render.

VI. PRESIDENTIAL IMPOUNDMENT

A good deal of the "standing" examples you provided in your floor statement are really concerns over presidential impoundment.[39] I want to initially say that there is nothing in H.J. Res. 1 that authorizes or otherwise allows for impoundment. Nor is it the intent of the amendment to grant the President any impoundment authority under H.J. Res. 1. Indeed, H.J. Res. 1 imposes one new duty, and corresponding authority, on the President: to transmit to Congress a proposed budget for each fiscal year in which total outlays do not exceed total receipts.[40]

In fact, there is a "ripeness" problem to any attempted impoundment: up to the end of the fiscal year the President has no plausible basis to impound funds because Congress under the amendment has the power to ameliorate any budget shortfalls or ratify or specify the amount of deficit spending that may occur in that fiscal year.

Moreover, under section 6 of the amendment, Congress must—and I emphasize "must"—mandate exactly what type of enforcement mechanism it wants, whether it be sequestration, rescission, or the establishment of a contingency fund. The President, as Chief Executive, is duty bound to enforce a particular requisite congressional scheme to the exclusion of impoundment. That the President must enforce a mandatory congressional budgetary measure has been the established law since the nineteenth century case of *Kendall* v. *United States ex rel. Stokes*, 37 U.S. (1 Pet.) 54 (1838).[41] The *Kendall* case was given new vitality in the 1970s, when lower federal courts, as a matter of statutory construction, rejected attempts by President Nixon to impound funds where Congress did not give the President discretion to withhold funding.[42]

The position that section 6 implementing legislation would preclude presidential impoundment was seconded by Attorney General Barr at the recent Judiciary Committee hearing on the balanced budget amendment. Testifying that the impoundment issue was in reality incomprehensible, General Barr concluded that "the whip hand is in Congress' hand, so to speak; under Section 6 [the] Congress can provide the enforcement mechanism that the courts will defer to and that the President will be bound by."

What we have here then, is an argument based on a "mere possibility" or fear of impoundment. I strongly believe that the President is not given any new authority under the BBA to impound funds, and that the mandatory enforcement implementing legislation would preclude any real impoundment possibilities. This was all but conceded by Assistant Attorney General Dellinger in his testimony on the BBA before my Committee. I also want to emphasize that because section 6 of the amendment allows Congress to rely on estimates, the fact that there might be some budgetary shortfall in a given fiscal year's budget does not necessarily render that budget out of compliance with the BBA.

VII. OTHER CONCERNS

Finally, I want to address two additional concerns that you have expressed in your floor statement. First, I have to disagree with your statement that state balanced budget litigation is widespread. In fact, there are very few reported cases. We also have to take note that state balanced budget amendments are very different than H.J. Res. 1, in that there is usually a distinction made between state capital and operating budgets which sometimes results in litigation over the meaning of "state debt" and "capital expenditure." Also, many state courts do not have standing or justiciability requirements as barriers to bringing a lawsuit.[43]

Finally, concerning the statements of noted experts, such as Judge Bork, that there could indeed be judicial enforcement of the BBA. My response is that Judge Bork—who is a very close friend—and whose contentions are contained in a letter of January, 1994, has greatly exaggerated fears of judicial activism in a BBA context. In fact, he admits that there would probably be no standing to bring a challenge to actions taken under the amendment. The substance of his argument is "what if" courts took jurisdiction; what would stop them from interfering in the budgetary process. He did not consider at all in his letter, however, the well-accepted precept that implementing legislation could curtail the excesses of judicial activism.

FOOTNOTES

[1] The other "standing" examples you provide for in your February 23 floor statement implicate presidential impoundment and will be addressed below.

[2] An issue prior to standing is identification of the proper party defendant. The appropriate defendant in a case involving the BBA is the person acting unconstitutionally under the law, almost always an executive branch official, since that branch is charged with the administration of the law. See *Marbury* v. *Madison*, 5 U.S. (1 Cranch) 137, 163-66 (1803); *Reigle* v. *Federal Open Mkt. Comm.*, 656 F.2d 873, 879 n.6 (D.C. Cir.), cert. denied, 454 U.S. 1082 (1981). Another issue is "ripeness." Because under the BBA Congress may correct any budgetary shortfalls right up to the end of the fiscal year, potential plaintiffs are prevented from litigating until that time—another daunting hurdle litigants face in challenging congressional measures implementing the BBA.

[3] See, e.g., *Valley Forge Christian College* v. *Americans United, Inc.*, 454 U.S. 465, 475 (1982) ("We need not mince words when we say that the concept of 'Art. III standing' has not been defined with complete consistency . . . by this Court. . . .").

[4] E.g., *Baker* v. *Carr*, 369 U.S. 186, 204 (1962).

[5] It also is now clear that standing is an Article III requirement that can not be waived by Congress or the courts. See *Valley Forge*, 454 U.S. at 488 n.24; *Simon* v. *Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 41 n.22 (1976).

[6] 112 S.Ct. 2130 (1992). *Lujan* involved legal challenges to regulations promulgated under the Endangered Species Act of 1973. Conservation and environmental groups argued that standing inhered in anyone alleging an interest in studying or seeing endangered animals anywhere on earth and anyone with a professional interest in such animals. Suffice it to say that the Court held that there was no showing of "injury in fact".

[7] Citing, *Warth* v. *Seldin*, 422 U.S. 490, 508 (1975) and *Los Angeles* v. *Lyons*, 461 U.S. 95, 102 (1983).

[8] Quoting, *Simon*, 426 U.S. 26, 41–42.

[9] Quoting, *Simon*, 426 U.S. at 38, 43.

[10] E.g., *Frothingham* v. *Mellon*, 262 U.S. 447 (1923) (allegations that amount to a "generalized grievance" are not judicially cognizable.

[11] This too would therefore be a nonjusticiable "generalized grievance". See Id.

[12] Government is not under a duty to provide benefits, and, thus, Congress may cut or eliminate any program consistent with the protection of equal protection or individual rights. *Overton* v. *John Knox Retirement Tower, Inc.*, 720 F.Supp. 934, 937 (M.D. Ala. 1989).

[13] 392 U.S. 83 (1968).

[14] The test has suffered through application. The Court subsequently required detailed particularized pleading challenging specific spending measures promulgated under Article I, Section 8's Spending and Taxing Clause. These measures must violate specific provisions of the Constitution, See, e.g., *Schlesinger* v. *Reservists Comm. to Stop the War*, 418 U.S. 208 (1974); *United States* v. *Richardson*, 418 U.S. 166 (1974). Litigants have not been successful in recent times applying the *Flast* test.

[15] See *Valley Forge*, 454 U.S. 464 (1982). Indeed, in *Flast*, Justices Stewart and Fortas perceived the nexus test as simply a means of limiting federal taxpayer's suits to Establishment Clause challenges. *Flast*, 392 U.S. at 114–15.

[16] In *Valley Forge*, 454 U.S. at 471–82, the Court implicitly views the *Flast* test as a measure of a taxpayer's constitutionally required actual injury.

[17] Compare *Harrington* v. *Bush*, 553 F.2d 190 (D.C. Cir. 1977) (congressman seeking declaratory and injunctive relief against C.I.A. for allegedly illegal activities lacks concrete injury requisite for standing), with *Harrington* v. *Schlesinger*, 528 F.2d 455 (4th Cir. 1975) (same facts, opposite result).

[18] *Reigle* v. *Federal Open Market Committee*, 656 F.2d 873 (D.C. Cir.), cert. denied, 454 U.S. 1082 (1981).

[19] See *Coleman* v. *Miller*, 307 U.S. 433 (1939) (state senators denied the efficacy of their votes when Lieut. Governor by statute was allowed to break tie vote by casting ballot); *Kennedy* v. *Sampson*, 511 F.2d 430 (D.C. Cir. 1974) (challenging illegal use of Presidential pocket veto).

[20] The *Lujan* "redressability" prong of its standing test essentially merges the justiciability and the political question doctrine. Accord *Valley Forge*, 454 U.S. 464 (1982) (where the Court makes clear that separation of powers consequences play a vital role in the standing calculus).

[21] See Bickel, The Supreme Court, 1969 Term—Foreword: The Passive virtues, 75 Harv. L. Rev. 40, 46 (1961).

[22] See Wechsler, Toward Neutral Principles of Constitutional Law, 73 Harv. L. Rev. 1,9 (1959).

[23] *Baker* v. *Carr*, 369 U.S. 186, 217 (1962).

[24] Id.

[25] See, e.g., *Nixon* v. *United States*, 113 S.Ct. 732 (1993).

[26] While the BBA does, indeed, contain some "process" standards (e.g., the requirement of a three-fifths vote in each chamber to increase the debt ceiling), it is doubtful that standing could be found to enforce even such standards.

[27] See Henkin, Is There a Political Question Doctrine?, 85 Yale L. J. 597 (1976) (where Professor Henkin argues that the political question doctrine boils down to the discretionary equitable power of courts not to dispense relief). See *Colegrove* v. *Green*, 328 U.S. 549 (1946) (courts have duty to avoid constitutional issues where resolution will clash with the political branches of government).

[28] Declaratory relief is available under the Federal Declaratory Judgment Act, 28 U.S.C. sections 2201–2202.

[29] Where, for instance, both Chambers of Congress ignore the constitutional majority provision to raise taxes, presents the measure to the President, and the President refuses to veto the subsequent unlawful measure. The aggrieved taxpayer who sees his pay check decrease could probably receive declaratory relief.

[30] See *Colgrove* v. *Green*, 328 U.S. at 552 (where Justice Frankfurter opines that declaratory relief should not be granted in situations where injunctions are inappropriate).

[31] 495 U.S. 33 (1990).

[32] This power was hotly contested by the dissenters in *Jenkins* and may not command a majority today.

[33] 495 U.S. at 67.

[34] See *Reigle*, 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 legislature which enacted the statute," citing, *Marbury* v. *Madison*, 5. U.S. (1 Cranch) 137, 175–80, (1803)). Illustrative of this point is *Powell* v. *McCormack*, 395 U.S. 486 (1969), where Congressman Adam Clayton Powell was "excluded" by the House from taking his seat. Powell sued the enforcement official—Speaker McCormack, under whose jurisdiction the Sergeant-at-Arms was—and not the House of Congress as a whole. In contrast, Members of Congress have absolute immunity to suit for actions taken on the floor of the Chamber when acting in a legislative capacity, such as voting for or against a measure. See U.S. Const. art. I, sec. 6 ("Speech or Debate Clause").

[35] Section 6 of H.J. Res. 1 mandates that Congress promulgate enforcement legislation.

[36] E.G., the Norris-LaGuardia Act, 29 U.S.C. sections 101–115 (denial of court use of injunctions in labor disputes); the Federal Anti-Injunction Statute, 28 U.S.C. section 2283 (prohibition on enjoining state court proceedings); the Anti-Injunction Provisions of the Internal Revenue Code, Int. Rev. Code section 7421(a) (prohibition on enjoining the collection of taxes).

[37] E.g., *United States* v. *Bitty*, 298 U.S. 393 (1908); *Lauf* v. *E.G. Shinner & Co.*, 303 U.S. (1938). Furthermore, the BBA does not create an individual "right" akin to the First Amendment's Free Speech Clause. As stated above, there is no right to a balanced budget much as the Twenty-first Amendment repealing prohibition creates no right to drink alcohol; the BBA is simply a procedural limitation on Congress' taxing, spending, and borrowing powers which creates a presumption in favor of a balanced budget that may be overcome by a three-fifths vote of the whole number of each House.

[38] E.G., the Emergency Price Control Act, which established a special Emergency Court of Appeals vested with exclusive authority to determine the validity of claims under that Act. The Court in *Yakus* v. *United States*, 319 U.S. 182 (1943), upheld the constitutionality of this limited judicial enforcement mechanism. Accord *Dames & Moore* v. *Regan*, 453 U.S. 654 (1981) (upholding constitutionality of executive order, promulgated pursuant to congressional delegation of power, establishing Iranian-United States Claims Tribunal as exclusive forum to settle claims to Iranian assets).

[39] For example, you quote Walter Dellinger's example where a social security beneficiary would have standing to challenge a presidential order reducing benefits. The other Dellinger example given is a similar one, with welfare payments being substituted for social security payments. A twist is added, wherein a state would have standing to sue if a President does not impound funds. I, in all respect, believe these examples to be gross exaggerations of the law. First, a President must faithfully execute the law pursuant to his oath of office, and, therefore, must enforce these social spending programs. Second, neither a state nor an individual would have standing to challenge a spending program, as explained above. How are they individually harmed by the enforcement of the programs? Finally, and ironically, if the first example challenging impoundment somehow prevailed in litigation, it would be a vindication of congressional prerogatives over the budget.

[40] H.J. Res. 1, sec. 3.

[41] In *Kendall*, Congress had passed a private act ordering the Postmaster General to pay Kendall for services rendered. The Supreme Court rejected the argument that Kendall could not sue in mandamus because the Postmaster General was subject only to the orders of the President and not to the directives of Congress. The Court held that the President must enforce any mandated—as opposed to discretionary—congressional spending measure pursuant to his duty to faithfully execute the law pursuant to Article II, section 3 of the Constitution.

[42] E.g., *State Highway Commission* v. *Volpe*, 479F.2d 1099 (8th Cir. 1973).

[43] These factors were recognized by Asst. Attorney General Dellinger to me in a letter dated January 9, 1995. This letter also corrected a misstatement made to Senator Brown whereby Mr. Dellinger had erroneously contended that there was an avalanche of state litigation over their balanced budget requirements. Mr. Dellinger in the letter now admits that:

"Senator Brown is correct that there has not been a significant amount of litigation in the states interpreting their balanced budget provisions, and that this is a factor that weighs against the argument that there would be an avalanche of litigation under a federal balanced budget amendment."

Mr. HATCH. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. BREAUX. I thank the Senator for yielding his time.

Mr. President, my colleagues, amendments to the Constitution cannot be passed by the Congress alone. It is a partnership arrangement. The process must also include ratification by the various States. Three-fourths of the States, 38 States, must also join with the Congress in ratifying any proposed amendment to the Constitution before it comes part of the Constitution.

In order for me to justify not even voting to send this proposal to my State of Louisiana and the various other States for them to debate and to vote on this measure, I must be convinced that on its face this amendment is such bad public policy that it must die here in Washington. Is this amendment perfect? No, it certainly is not. Its faults are many and they raise serious concerns in a number of areas.

No. 1, can unelected Federal judges who are appointed for life raise taxes and cut programs to enforce this measure? The Nunn and Johnston amendments address this particular question. I understand that there are those this morning who are willing to correct it with the adoption of the Nunn amendment which would go a long ways to correcting this very serious problem. The question of how can the States cast an intelligent vote on ratification without having the right to know in advance, for instance what will happen to them if it is ratified, is a very serious concern that needs further debate and consideration. Are programs, such as those that have trust funds as a means of funding programs, like the Social Security Program, in danger of being cut under this amendment? There needs to be further discussion and further debate on that particular issue.

The answers to these questions are not clear and more debate, not less, must occur. It is an issue that has generated a great deal of justified emotion. National polls and polls of my State of Louisiana indicate that approximately 75 percent of American people support a balanced budget amendment. But the polls also indicate, at the same time, that they do not support the balanced budget amendment if it means that there will be cuts in Social Security, or there will be cuts in Medicare, or there are likely to be cuts in some other favorite program of our constituents.

I voted for a balanced budget amendment to the Constitution in the past as I believe the long-term debt of our Nation is a critical problem that, so far, we have been giving to our children and to our grandchildren. We have made good efforts on reducing the deficits, as we have in 1993 in adopting President Clinton's deficit reduction plan which cut the deficit by $500 billion over 5 years. I might add we made

that very difficult decision without a single Republican vote. But more needs to be done, and if this amendment passes there will be many more and difficult decisions to make. It will not be easy.

I cannot vote to kill this effort today, here in Washington. Our States must be involved. They should have the right to bring this measure up in our State legislatures, debate it, and then have the right and indeed the obligation to vote on it. For me to vote no here in Washington is to say to my State of Louisiana, and the other States, that I know so much more than you on this particular issue that I now vote no so that you cannot vote at all. I will not do that. So today I will vote yes on the balanced budget amendment and send it to the States for ratification and consideration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that it be in order for me to move to table the following amendments en bloc, and the ordering of the yeas and nays be in order, with one show of seconds.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia

Mr. BYRD. Mr. President, I ask the Senator to clarify his request to make sure that the request does not include the tabling of several amendments listed en bloc.

Mr. HATCH. As I understand it, what we are trying to do is make sure the motions to table on each of these amendments will be in place. They can be called up separately.

I modify my unanimous-consent request to make that clear.

Mr. LEAHY. Reserving the right to object, then, now that the unanimous consent has been modified, will the Chair restate it, please?

The PRESIDING OFFICER. It is the Chair's understanding that the Senator has requested to move to table each individual amendment en bloc, and to order the yeas and nays en bloc, but that the votes would actually be taken individually. Is that correct?

Mr. HATCH. That is correct. I now move to table the following amendments.

Mr. LEAHY. I am still reserving my right to object.

Mr. HATCH. Sure.

Mr. LEAHY. Those votes would occur beginning this afternoon, is that correct?

The PRESIDING OFFICER. It is the Chair's understanding that they would take place this afternoon.

Mr. LEAHY. I have no objection.

Mr. HATCH. Mr. President, with that understanding I now move to table the following amendments and motion and ask for the yeas and nays: The Kennedy amendment No. 267, Nunn amendment No. 299, Levin amendment No. 273, Levin amendment No. 310, Levin amendment No. 311, Pryor amendment No. 307, Byrd amendment No. 252, Byrd amendment No. 254, Byrd amendment No. 255, Byrd amendment No. 253, Byrd amendment No. 258, Kerry motion to commit to budget committee.

The Nunn amendment is as modified.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Excuse me—that is right. I withdraw that last statement. Just the amendments I read the numbers for.

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

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I want to personally chat with the distinguished Senators from Georgia and Louisiana. I have listened to their comments carefully and will agree that we would take the amendment of the distinguished Senator from Georgia, as modified—hopefully by a voice vote. It will save us all time but nevertheless to accommodate the distinguished Senator. And hope that would, of course, allow us to proceed from there.

Mr. NUNN. I thank my friend from Utah and my friend from Illinois, and also Senator CRAIG and Senator LOTT and others who have worked hard making this amendment acceptable.

The Senator from Washington State, Senator DORGAN, and I have had some conversations also. Some of the language in this amendment now as is modified has been suggested by the Senator from Washington.

Mr. President, I think this is enormously important, as I said. I will not repeat my remarks but I appreciate the fact that the managers of the bill have agreed to accept this amendment or to recommend its acceptance to the Senate. I urge my colleagues to vote for the amendment. Assuming as I do assume that the amendment will be part of this constitutional amendment, then I will vote for the final passage on the constitutional amendment and I urge my colleagues to join in that effort.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, there are a number of Senators who have expressed concerns about a voice vote on this amendment. Given the fact that it has been the subject of debate and people are on record on this amendment during the course of the last several weeks of debate, I suggest that we have a rollcall, just to provide Senators the opportunity to express themselves on this amendment.

But that is consistent with the unanimous-consent request. I urge we do that.

At this time I yield 7 minutes to the distinguished Senator from North Dakota.

Mr. DORGAN. Mr. President, I thank the Senator from South Dakota for yielding the time. Twelve years ago I was a member of the House Ways and Means Committee when we wrote a piece of legislation called the Social Security Reform Act, one of the most significant, important, and useful things we did during the entire decade of the 1980's. We raised payroll taxes on both the employees and employers, we did a whole series of things to make the Social Security system work for, we thought then, 50 years. And we solved it for that period of time.

During the writing of that bill, which I participated in, I expressed great concern about the fact that the surpluses that we designed to occur in the Social Security system would be misused unless we protected them. We created surpluses. This year the surplus alone is $69 billion and the question is, is it being protected? The answer is no.

All during the discussion of this constitutional amendment, and on previous occasions when we have debated it, I have raised this question. Unfortunately, following an hour and a half discussion yesterday with the proponents of this legislation, it appears that this question will not be resolved. I indicated two concerns, one of which has now been resolved, for which I am appreciative: The enforcement issue. I think that resolved that concern.

But I am also concerned about the Social Security trust fund. Does anyone in this room believe that it is appropriate to use Social Security trust funds for other purposes? That is what is happening. That is what will happen under the imprimatur of the Constitution if the balanced budget amendment is passed with this language.

The way to correct this problem is with the Reid amendment. We had a vote on that and lost. The way to correct it is with the substitute offered by Senator FEINSTEIN. We will have a vote on that, and I expect that will lose.

The other way to correct it is for the proponents to bring up implementing language today, before we pass the constitutional amendment, which defines expenditures and receipts as not including Social Security, and that will solve the problem as far as I am concerned. Pass the Reid amendment or pass the Feinstein substitute, either of which will solve this problem as far as I am concerned. If that does not happen, when the final roll is called, I will be voting against this amendment, and I want people to understand why.

This is three-fourths of a trillion dollars. This is not a $10 or $20 billion issue. It is three-fourths of a trillion dollars and deals with the promise between those who work and those who

have retired and deals with the agreement that we made in 1983 about how we would protect the future of the Social Security system in this country. We can protect it in this constitutional amendment to balance the budget. It is our decision. The will of the Senate will be expressed to determine whether we do that or do not. I am told that it is not possible to protect Social Security because there are not sufficient votes for it. If that is the case, then it is not possible for me to vote for this constitutional amendment to balance the budget. If between now and the end of the day people say that is possible, I say, fine, let us do it then. And then I will revisit this issue.

But I just want people to understand that my notion of this issue has not changed. It is an enormously important consideration. Social Security is one of the most important things this country has ever done. The 1983 reform act was one of the most significant pieces of legislation in the last decade and a half. And the question is whether we are going to be true to our word and stand for the solvency of the Social Security system for the long term.

On the broader question, do we need a balanced budget amendment? You had better believe we do. We need greater balanced budget discipline, whether it is a constitutional amendment or whether some new legislative initiative. We are sinking in a sea of debt. Yes, we need to do this. But you do not pull yourself out of a sea of debt by inappropriately spending three-forths of a trillion dollars of Social Security revenue. One is not a tradeoff for the other.

I will simply not vote for a constitutional amendment to balance the budget unless this problem is solved in one of two ways: either pass the implementing legislation to redefine what is meant by receipts and outlays before we pass the constitutional amendment, or pass the Reid amendment as embodied in Senator FEINSTEIN's substitute. One or the other is satisfactory to me. If it appears neither will be done, those who count votes should understand I will then vote no on the constitutional amendment.

I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I yield.

Mr. DASCHLE. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. We have about 8 minutes 10 seconds.

Mr. DASCHLE. I yield the remainder of my time to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished leader.

Mr. President, I compliment the distinguished Senator from Georgia [Mr. NUNN] on his efforts to cure a major flaw in this constitutional amendment to balance the budget. I shall vote for his amendment. Nevertheless, Mr. President, I do not feel that this amendment by Mr. NUNN will effectively bar the courts from intervening in cases or controversies that will arise outside this or even inside the article. Let us read the amendment. The "judicial power of the United States." Mr. President, that language does not appear to say anything about the State courts. In fact, by omitting any reference to State courts, the language impliedly invites them to come in.

> The judicial power of the United States shall not extend to any case or controversy arising under this article.

"Under this article." Suppose the case or controversy arises under some other article, under the takings clause, under the obligations of contract clause, or under the due process clause. The Supreme Court of the United States, if it construes a case or controversy as affected by this amendment, is going to take into consideration the whole document, the four corners of the Constitution and the other amendments thereto. And if there is a John Marshall on that court, he will find a way because, after all, the major purpose of this constitutional amendment is to bring into balance the outlays and receipts annually of the United States.

The amendment goes on to say—Mr. President, may we have order in the Senate? Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. We will not proceed until we have order in the Senate, please.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I will read the Nunn amendment again.

> The judicial power of the United States shall not extend to any case or controversy arising under this article, except as may be specifically authorized by legislation adopted pursuant to this section.

Mr. President, we say here that the judicial power of the United States shall not extend to any case or controversy arising under this article except as may be specifically authorized by legislation adopted pursuant to the article.

We all know that legislation that may be adopted to implement the article may change from Congress to Congress. A subsequent Congress can amend or repeal the implementing language enacted by a previous Congress.

So what we are setting up here is a situation in which uncertainty will continue to be a key factor in the judgments that are to be reached, not only uncertainty within the government itself but by the people. We are leaving it to the Congress to pass legislation authorizing thus and so, perhaps authorizing the courts to enter into this kind of case or that kind of case or another sort of controversy. So we are left with the same uncertainty with this amendment as we are without it.

Mr. President, the proposed language by Mr. NUNN seeks to—and it may effectively do so up to a point—eliminate court jurisdiction over legitimate claims raised under the balanced budget amendment. This means, in effect, that the Nunn amendment confers no right not to be convicted under a statute passed, for example, in violation of section 4 of the amendment. Section 4 reads:

> No bill to increase Federal revenue shall become law unless approved by a majority of the whole number of each House by rollcall vote.

Of course, the Constitution requires that bills that raise revenues originate in the other body. If a person is convicted under a criminal statute that originates in this body, but the contents of which criminal statute result in an increase in revenues, then the defendant who seeks relief will do well on the basis of a bill which raises revenue—even though it was a criminal statute under which he was indicted and convicted—which did not originate with the other body.

The Nunn amendment confers no right not to be convicted under a statute passed in violation of any of the sections of this amendment.

The Nunn amendment may, in certain cases, take away the right of an injured citizen to challenge any cuts in benefits—mandated by law—ordered by a President who is seeking to enforce the amendment by impounding funds. As to due process, this amendment is writing the due process clause out of the Constitution, as far as such claims are concerned. I have already indicated that citizens could be convicted of a crime in violation of the Constitution, or taxed in violation of the Constitution. Yet, Congress would have the power to deny these citizens access to the courts in which to vindicate their rights.

The courts could refuse to hear challenges to unconstitutional actions. It is unclear, Mr. President, whether this amendment can be raised as a defense. While the amendment seeks to bar plaintiffs from access to the Federal courts to claim a violation of their rights, it is not clear whether the proposed language also would bar governmental actors—for example, the President of the United States—from raising the balanced budget amendment as a defense. Here is an example: Suppose the President cuts Social Security. The plaintiff might sue, but he does not sue under the balanced budget amendment but under a statute. The President raises the defense that the balanced budget amendment justifies his action. How would a court rule? Would the court rule that the case should be dismissed because of the balanced budget amendment? But then, all the President has to do to escape scrutiny is to

invoke the amendment. Would the court rule that the plaintiff wins because the court has no power to review the defense? Then other plaintiffs could bring similar actions and the budget would go unbalanced.

Mr. President, let us say that the Nunn amendment is effective in barring intervention by the Federal courts into cases or controversies arising "under this article." Even then, the result could be a shift to the President of unreviewable power to impound funds. The Federal courts would be barred by this amendment from reviewing the President's action, despite the Framers' view that the power of the purse should be left in the hands of the Congress, the closest representatives of the people. And if Congress should respond to Presidential impoundment by granting the courts the power to review such actions, then the courts would again be embroiled in the budget process and, quite possibly, in the unseemly role of a conscripted ally of one branch against the other.

So, Mr. President, even if this amendment is effective in accomplishing the goal that the distinguished Senator from Georgia seeks, it seems to me that it creates a greater impetus to the flow of legislative power and the control of the purse from the legislative branch to the President. The amendment provides that the courts, in essence, may be authorized to intervene based on implementing legislation that may be passed or may not be passed and may be changed from Congress to Congress. And thus, it gives authority for the Congress to transfer legislative powers to the courts.

Subsequent legislation to implement the article may be vetoed. That would require two-thirds of both Houses to override the President's veto. Even if it becomes law, a subsequent Congress can change the law. The provision may be read as granting Congress the power to confer sweeping legislative powers over taxing and spending priorities on the courts, in the guise of implementing legislation.

This is a mess. Congress may very well, in implementing legislation, decide just to hand the whole mess over to the courts of the land. Such legislation would abdicate Congress' fundamental responsibility over taxing and spending and transfer it to unelected judges, and thus decrease the accountability of the Federal Government to the taxpayers. The courts would be blamed for making the tough choices, though it may be 2, 3 or 4, 5 years down the road. But by then the fingerprints of the proponents of this amendment would be cold, and the mess would be left in the hands of the courts. The courts would be blamed for making the tough choices, which should be the responsibility of the elected officials.

Assuming, Mr. President, that the amendment would be effective in stripping court jurisdiction and assuming further that Presidential impoundment is not the result—and those are large assumptions—the amendment would be an empty promise inscribed in the fundamental charter of our Nation.

Mr. President, the proponents of this amendment have thus far tabled all amendments. Their ears have been deaf to the pleas of those Senators who have sought to protect the Social Security trust fund. There was no give on that amendment. There was no give on amendments that would deal with the ups and downs, the rises and the falls in the economy—no give on that. But suddenly, here comes an amendment that the proponents on the other side of the aisle seem to be willing to take. What about all of the other amendments that they have rejected?

If the Nunn amendment is included in this overall constitutional article, then the balanced budget constitutional amendment as amended goes back to the House. If the House does not accept the Nunn language, then the balanced budget amendment will go to a conference. The whole balanced budget amendment may then be rewritten in that conference. When that conference report comes back to the Senate, it may not look like the balanced budget amendment that is presently before the Senate. Senators would certainly not have the opportunity to debate at length a conference report on a constitutional amendment that had been measurably changed in the conference process.

Mr. President, I see many slips between the cup and lip in connection with this amendment. It is well-intentioned. I intend to vote for it. But, Mr. President, it demonstrates the farce that we are about to vote on later today—the farce in the form of this constitutional amendment to balance the budget. It is a mess! It is a "quick fix", and there is no way to fix this quick fix. The Nunn amendment clearly demonstrates that.

I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah has 38 minutes under his control.

Mr. HATCH. Mr. President, I yield 4 minutes to the distinguished Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, today the Senate stands poised to vote on one of the most important measures that will come before this Congress. Indeed, for many in this Chamber, the vote on the balanced budget amendment will be the most important vote they cast in their career, and I urge each of my colleagues to support it.

As I have stated on this floor before, I chose a career in public service because, throughout my life, the public—through government—helped broaden my opportunities. 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 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, should help those who want to work to find jobs, should ensure that high-quality, affordable health care is available to all Americans, and 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 interest. 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.

As I learned through my work on the Entitlements Commission, 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.

There is simply no way to get around the fact that our present spending trends are not sustainable in the long term. In 1963, Mandatory spending—the combination of entitlement programs and interest on the national debt—comprised 29.6 percent of the Federal Budget. By 1983, that number has 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.

But what about the future? If we don't act now, by the year 2003—8 years from now—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 national debt. Obviously, if we are spending 72 percent of budget on mandatory spending, there is not much left over for defense, education, or infrastructure.

Consider this example. In real terms, AFDC benefits have actually declined since 1970. The significance of that fact should not be lost on anyone. We are spending ourselves into a deeper and deeper hole, yet people are not better off as result.

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's 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.

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 programs 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.

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.

I have heard opponents of House Joint Resolution 1 state that we should not be tinkering around with the Constitution. Well, I couldn't 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?

Last year I had the honor of reading George Washington's farewell address to the Nation on the floor of the Senate. 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.

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 America 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 firsthand the positive contributions a commitment to the American dream of equality and opportunity can make, I would not be here 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 every generation to come.

Poor people are not helped by the deficits and out-of-control spending habits we cannot seem to shake. Its 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, Mr. President, is that current recipients of Social Security—and even those of us in the baby boom generation who will be collecting checks in the not so distant future—have an absolute expectation that Social Security will provide for us in our retirement. The same cannot 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, he has never seen a balanced budget. He has no idea what it means to live under a Federal Government that spends within its means. He 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 of politicians 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. 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.

Mr. President, I want to take this debate back to the beginning—to the Constitution. The Constitution states, in its preamble:

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 to secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Mr. President, I believe that this constitutional preamble sets the stage for the vote we will soon cast on this balanced budget amendment, and tells us the direction in which we should go.

This Constitution gives Congress the power to protect Social Security, to respond to fiscal emergencies, and to foreclose judicial interference in budgeting. It gives us the power to do everything necessary to respond to concerns that have been raised in opposition to this balanced budget amendment.

Unfortunately, absent the balanced budget amendment, the Constitution does not give us what we now lack—the will to make the difficult decisions necessary for us to get our fiscal house in order. That is what the balanced budget amendment is calculated to do. It will impose on Congress the fiscal discipline to do what we should have done years ago, what George Washington exhorted us to do in his farewell address to the Nation, and what the preamble to this Constitution tells us to do.

This is not a partisan debate, or at least it shouldn't be. The essence of this debate boils down to whether each individual Senator, regardless of party, believes we have a fundamental obligation to our posterity, and a fundamental obligation to the American people, to abide by the Constitution that we are all sworn to uphold.

Mr. President, I call upon my colleagues to take the pledge by voting for this amendment that we will deficit spend no more, that we will be responsible for the debts that we incur, that we will be responsible for the budgets we pass, and that we will be responsible to future generations, and not saddle them with debt. I call on my fellow Senators to transcend the hysteria and fear that has fueled the opposition to this balanced budget amendment, and respond instead to our hopes, and to the responsibility that we are given as Members of this U.S. Congress to get our fiscal house in order, to discharge our debts, and not to ungenerously throw upon posterity the burdens which we ourselves ought to bear.

Mr. President I thank the Senator from Utah for his yielding, and I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I yield 4 minutes to the distinguished Senator from Virginia.

Mr. ROBB. Mr. President, I will be brief. My views are already known to most of the Members of this body. I support the balanced budget amendment reluctantly—as a bad idea whose time has come. What I really support are the balanced budgets this amendment seeks to achieve.

I support the amendment because I do not believe we are ever going to have the will to actually balance our budgets without it and that out failure to do so puts our future in doubt and demands extraordinary and uncommon action by this Congress.

Let me begin by saying that I endorsed this amendment more than a decade ago, not because I believed then or now, that it will, in and of itself, bring our budget into balance, but because it establishes both a call to action and a destination—and because it takes away an excuse for not making the hard choices we are going to have to make with or without the amendment. It forces us to confront—head-on—the fiscal disaster we have created, and it will force an essential discipline in our budget process that has been sadly absent.

President Clinton deserves enormous credit for the $500 billion deficit reduction package, which passed this body in 1993. It took courage and he did not have the bipartisan help he deserved. But it was not enough.

Mr. President, during the course of this debate, I have heard many thoughtful and sincere arguments in opposition to this amendment. This morning, I would like to address just two of them—whether or not the amendment will result in deep cuts to important programs and whether or not the amendment is worthy of constitutional consideration.

Mr. President, those who oppose this amendment because it will lead to painful cuts are arguing not against the amendment, but against actually balancing the budget. None of the choices are easy.

But to oppose this amendment because of the difficult choices it will force, is to say to the American people that we do not have the will to govern responsibly and live within our means.

Making these choices means establishing essential priorities for our Nation, identifying effective programs, that provide hope and opportunity for our people, programs that defend our freedom at home and abroad, and programs that invest in a better tomorrow for our children and our grandchildren.

Protecting these priorities means: saying "no" to less critical spending; and having the fortitude to turn to the revenue side when we cannot responsibly cut spending any more; and refusing to enact new tax cuts we cannot afford and tackling entitlement reform, the 800 pound gorilla of the 21st century.

If we do not, Mr. President, if we continue on our present course and speed, entitlements and interest on the debt—and nothing more—will absorb the entire tax revenue base of the Federal Government by the year 2012. It will absorb all of it, with nothing left for national defense or any other Federal program.

How then do we invest in our children?

Interest payments on the national debt will not ever put a single poor child through college. Interest payments on the national debt will not ever provide nutrition for a disadvantaged pregnant woman, special education for a child with disabilities, or the only hot meal of the day for a 6-year-old living in poverty.

I support this amendment, reluctantly, Mr. President, not because I want to endanger programs that provide real opportunity for our children, but because I fear for the strength and security of the world we leave them, and their children if we do not act today.

A child born today will be 17 years old—a senior in high school—the year entitlements and interest on the debt begins to absorb all our tax revenue.

What kind of a nation will that child inherit? Will it even resemble the world of unlimited possibilities that our parents left us?

Today, we make that decision, Mr. President. Today, we decide the future of the class of 2012. Today, we either begin to assume the responsibility for our own debt or we leave it to our children and our grandchildren.

Our Founding Fathers would be dismayed to know that we have reached the point where amending their Constitution is necessary to protect the strength and security of future generations of Americans. And if we had governed with the political courage of our forefathers, we would not be facing a fiscal crisis of such enormous proportion.

But I would argue, Mr. President, that paying our own bills is not a trivial matter. Protecting our ability to invest in the kind of America we want for our children, is not a minor academic argument. Tripling our debt in 15 years is not an inconsequential act. Mr. President, $6 trillion is not trivial.

To me our own lack of will in paying our bills trivializes our Constitution—and this institution—far more than a balanced budget amendment.

To the children graduating from high school in 2012, an amendment to balance our Federal budget will be more important to the kind of country they inherit than the last amendment we added to the Constitution. That amendment, the 27th, ratified in May, 1992, required intervening elections before congressional pay raises go into effect.

The legacy of debt we leave our children, can never be trivial nor inconsequential. It violates a sacred obligation that has passed through generations of Americans, an obligation

which has endured since the birth of our democracy and the adoption of our Constitution. That obligation is to leave a future brighter than our past. If we do not act today we are violating that obligation.

Mr. President, I yield the floor and I thank the manager.

Mr. HATCH. Mr. President, we are down to our last half-hour. It is my honor to yield 4 minutes to the distinguished Senator from South Carolina, who was the first to ever fight for a balanced budget amendment on our side and who deserves a lot of credit if this amendment passes.

Mr. THURMOND. Mr. President, we have seen the national debt and deficits rise because, in large part, the Federal Government has grown. It has grown tremendously out of reason.

The first $100 billion budget in the Nation occurred in 1962. This was almost 180 years after the Nation was founded. Yet it took only 9 years, from 1962 to 1971, for the Federal budget to reach $200 billion. Then, the Federal budget continued to skyrocket: $300 billion in 1975, $500 billion in 1979, $800 billion in 1983, and the first $1 trillion budget in 1987. The budget for fiscal year 1995 was over $1.5 trillion.

Federal spending has gripped the Congress as a narcotic. It is time to break the habit and restore order to the fiscal policy of the Nation. It is incumbent upon this body to send the balanced budget amendment to the American people for ratification. I am pleased that we have reached agreement to vote on final passage today.

I want to say this: The federal debt is $4.8 trillion. How did it come about? Big government, big spending, not following sound fiscal policy at all. The annual interest on this debt—the annual interest we pay for which we get nothing, it just goes down the drain—$235 billion. That is the second largest item in the budget.

The average annual deficit for each year during this decade has been $259 billion. It is unreasonable. How are we going to stop it? I have been here 40 years. We have balanced the budget only one time in 32 years. The budget has been balanced only eight times in the last 64 years. When are we going to stop it? When are we going to stop spending more than we take in? When are we going to stop putting this debt on our children and grandchildren and generations to come.

I say to Members that we must take action. Today is the day to do it. Today is the day to pass this amendment and let the American people know we mean business and we are going to protect this country. We have to protect it from this big spending just like we have to protect it in time of war. Either can ruin this Nation.

Now, I want to mention this: The leadership in both houses have stated that Social Security will be protected in the implementing legislation once the balanced budget amendment is adopted. I have long supported our senior citizens and believe that the promise of Social Security is not to be broken. The Federal debt is the greatest threat to Social Security. Adoption of the balanced budget amendment and strong language in the implementing legislation will ensure the viability of Social Security.

The Senate should pass this amendment. My home State of South Carolina has a balanced budget requirement. We have abided by it for years. We do not run any deficits. Why? Because we have the mandate of a balanced budget by constitutional provision. That is what we are trying to get here. We also have a statute.

I say to Members, if we do not pass this amendment today, we will miss a great opportunity. There is no one piece of legislation we can pass this year or any year to come that is more important than this balanced budget amendment. I hope we pass it today. It is for the good of America. It is for the good of our country. We ought to do it without delay. I yield the floor.

Mr. HATCH. Mr. President, I yield to the distinguished Senator from Tennessee for 1 minute.

Mr. THOMPSON. Thank you, Mr. President.

Mr. President, there is nothing more basic to human nature than looking out for the interests of those we bring into this world. Yet we are not doing that in this country. On the contrary, we are creating an economic disaster for the next generation, a debt that they will never be able to dig out of and the prospects of living in a second-rate country.

We are doing this not because of some great depression. We are doing this not because of some great war. We are doing this not because of some natural disaster. We are doing this simply because we have lacked the will to make the tough decisions.

Mr. President, through the history of the course of this country, in times of crisis, leaders of both parties have banded together to face that crisis and overcome it. We must do so again this very day because, indeed, it is a crisis we face. We must do so by passing this balanced budget amendment.

The people's voice could not be more clear on this matter. They have spoken in the polls. They have spoken through their legal, elected representatives in the House. They stand ready to speak again in State legislatures throughout this Nation once we have done our duty. Let it not be said that it was the Senate of the United States of America that stifled the strong, clear voice of the American people. I yield the floor.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Maine.

Ms. SNOWE. I thank the Senator.

Mr. President, Robert Louis Stevenson once said, "These are my politics: To change what we can to better what we can." With today's vote, we have the chance to do both.

Like so many other times in this great Nation's history, we are standing today before the American people on the cusp of monumental change. We have inherited the challenges and the responsibilities of leadership of previous generations of Americans, Americans who have stood in this Chamber and voted for difficult votes that molded the image of their generation.

In this century alone we had women's suffrage, the declaration of World War II, and civil rights laws. Each of these events ended the status quo of one generation and ushered in a new beginning for the next.

The prophetic nature of this debate cannot be understated in the annals of America's history. This is a defining moment for our generation. This is our chance to be remembered for what is just and right in our time. This is our last chance to roll back the years of indebtedness.

This legacy of debt is not just an imbalance between revenues and expenditures. It is an imbalance between trust and responsibilities. The last time the Congress balanced its budget was when America put a man on the noon.

If there is one thing that we have learned in the last 26 years, it is this: We cannot balance our budget in the absence of a stronger force than politics.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Arizona.

Mr. KYL. Mr. President, outside the Senate Chamber on the Capitol grounds, the debt clock is ticking: an additional $9,600 every second, $576,000 every minute, $35 million every hour, and $829 million every day. That is nearly $1 billion in additional debt the Federal Government is accumulating each and every day. It is a catastrophe waiting to happen.

The choice before the Senate today is clear. We can defuse that time bomb of debt by passing the balanced budget amendment and begin to make the tough decisions necessary to put our Nation's fiscal house in order, or we can bury our collective heads in the sand and pretend that spending $1 billion a day beyond our means will not have devastating economic consequences.

But we ought to be honest with the American people: Without the balanced budget amendment, there is no plan to balance the budget—not in 5 years, not in 10 years, or ever. The budget that President Clinton submitted to the Congress earlier this month proposes $200 billion deficits as far as the eye can see. The President has no plan to balance the budget.

Although the new Congress is poised to make significant cuts in spending,

there is no assurance that when the pain begins to be felt in a few years, it will not opt to mitigate pain by resuming Federal borrowing as Congresses in the past have done. That is why Gramm-Rudman failed several years ago. It is why nothing less than the balanced budget amendment will succeed in the future.

Mr. President, this is a debate about the future, about preserving what is best in America. It is about protecting senior citizens on Social Security. It is about letting our families keep what they earn. It is about protecting our children's future.

I am hopeful today when this day ends the U.S. Senate will have passed the balanced budget amendment.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Ohio.

Mr. DEWINE. Mr. President, the passage of a balanced budget amendment will do more to bring about the fundamental change that the American people voted for in 1994 than anything else that we can do. This is a vote about our future. This is a vote about our children.

Let me share some sobering facts. When my parents graduated from high school in the early 1940's, the debt on each child that graduated was about $360 dollars. By the time my wife and I graduated in the mid-1960's it was up to $1,600. When my children, Patrick and Jill and Becky, graduated in the mid-1980's, it was up to almost $9,000.

If we continue to go the way we have been going, by the time my grandson, Albert, graduates in the year 2012, it will be up to almost $25,000.

Mr. President, this is a defining moment. We vote today to change the Government. We vote today to carry out the mandate that was given to this Congress in 1994.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Wyoming.

The PRESIDING OFFICER (Mr. CRAIG). The Senator from Wyoming is recognized for 1 minute.

Mr. THOMAS. Mr. President, I am proud to rise today to urge the passage of House Joint Resolution 1, the balanced budget amendment to the Constitution. I am profoundly convinced that the future of our Government, indeed the future of our country, depends upon reaching a measure of financial responsibility. I am equally convinced that failure to pass this amendment will result in continued deficit spending and added burdens of debt and interest payments.

As Members of this body, we are honored to be trustees in the area of public policy for those who we represent, for the people of the United States. The financial stewardship of this Congress has not met the test of fiscal and moral responsibility.

I am persuaded that the people of Wyoming demand that Congress respond to their voice in November. They called for smaller Government, less expensive Government. The test of good Government is the responsiveness of that Government to the will of the people. We have that opportunity today.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 minute.

Mr. SANTORUM. Mr. President, we see here 11 freshmen who were elected in the last election, and sophomores who are with us. You do not see this many Members in the Senate—at least I do not usually when I have gotten up to speak.

We are here because we got the message. We are here because the American people sent us on a mission. They sent us on a mission to make Government leaner, smaller and more efficient, and this balanced budget amendment is the vehicle by which all of that happens.

If this does not pass, all those things that the people voted for on November 8 will not happen. But let me tell you something, the balanced budget amendment will pass. Oh, it may not pass today —I think it will—but it may not. But it will pass. The people who will stand in the way of this balanced budget amendment today will not be around long to stand in the way the next time. It will pass. It is just a matter of when.

It is a matter of when we are going to be able to look in the eyes, as I do, of my 2-year-old little boy and my 3-year-old little girl and say that "it is time to look out for your future, too. It is time that someone stands up and cares about you and your opportunities."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Minnesota.

Mr. GRAMS. Mr. President, at the State capital building in St. Paul, MN, lawmakers presented Gov. Arne Carlson with this petition yesterday. It says:

We, the undersigned officials, duly elected by the citizens of the great State of Minnesota, commit our support to congressional passage of the balanced budget amendment and its ratification by the Minnesota State Legislature.

Our petition is signed by 81 representatives on the Federal and State level, Republicans and Democrats, who are concerned that this debt that we are heaping onto the backs of our children is not just wrong, it is criminal.

I ask unanimous consent that this document be printed into the RECORD.

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

MINNESOTANS FOR A BALANCED BUDGET AMENDMENT

(As of February 25, 1995)

We the undersigned officials, duly elected by the Citizens of the Great State of Minnesota, commit our support to congressional passage of the Balanced Budget Amendment and its ratification by the Minnesota State Legislature:

United States Senator Rod Grams.

Governor Arne Carlson.

U.S. Representative Gil Gutknecht (IR-1st CD).

U.S. Representative David Minge (DFL-2nd CD).

U.S. Representative Collin Peterson (DFL-7th CD).

U.S. Representative Jim Ramstad (IR-6th CD).

State Senate Republican Leader Dean Johnson.

State House Republican Leader Steve Sviggum.

State Senator Charlie Berg (DFL-District 13).

State Senator Joe Bertram, Sr. (DFL-District 14).

State Senator Florian Chmielewski (DFL-District 8).

State Senator Dick Day (IR-District 28).

State Senator Steve Dille (IR-District 20).

State Senator Dennis Frederickson (IR-District 23).

State Senator Paula Hanson (DFL-50).

State Senator Terry Johnston (IR-District 35).

State Senator Sheila Kiscaden (IR-District 30).

State Senator Dave Kleis (IR-District 16).

State Senator Dave Knuston (IR-District 36).

State Senator Cal Larson (IR-District 10).

State Senator Arlene Lesewski (IR-District 21).

State Senator Warren Limmer (IR-District 33).

State Senator Bob Lessard (DFL-District 3).

State Senator Tom Neuville (IR-District 25).

State Senator Ed Oliver (IR-District 43).

State Senator Gen Olson (IR-District 34).

State Senator Mark Ourada (IR-District 19).

State Senator Pat Pariseau (IR-District 37).

State Senator Martha Robertson (IR-District 45).

State Senator Linda Runbeck (IR-District 53).

State Senator Kenric Scheevel (IR-District 31).

State Senator Dan Stevens (IR-District 17).

State Senator Roy Terwilliger (IR-District 42).

State Senator Jim Vickerman (DFL-District 22).

State Representative Ron Abrams (IR-District 45A).

State Representative Hilda Bettermann (IR-District 10B).

State Representative Dave Bishop (IR-District 30B).

State Representative Fran Bradley (IR-District 30A).

State Representative Sherry Broecker (IR-District 53B).

State Representative Tim Commers (IR-District 38A).

State Representative Roxann Daggett (IR-District 11A).

State Representative Steve Dehler (IR-District 14A).

State Representative Jerry Dempsey (IR-District 29A).

State Representative Ron Erhardt (IR-District 42A).

State Representative Don Frerichs (IR-District 31A).

State Representative Jim Girard (IR-District 21A).

State Representative Bill Haas (IR-District 48A).

State Representative Tom Hackbarth (IR-District 50A).

State Representative Elaine Harder (IR-District 22B).

State Representative Mark Holsten (IR-District 56A).

State Representative Virgil Johnson (IR-District 32B).

State Representative Kevin Knight (IR-District 40B).

State Representative Le Roy Koppendrayer (IR-District 17A).

State Representative Ron Kraus (IR-District 27A).

State Representative Philip Krinkie (IR-District 53A).

State Representative Peggy Leppik (IR-District 45B).

State Representative Arlon W. Kindner (IR-District 33A).

State Representative Bill Macklin (IR-District 37B).

State Representative Dan McElroy (IR-District 36B).

State Representative Carol Molnau (IR-District 35A).

State Representative R.D. Mulder (IR-District 21B).

State Representative Tony Onnen (IR-District 20B).

State Representative Mike Osskopp (IR-District 29).

State Representative Dennis Ozment (IR-District 37A).

State Representative Erik Paulsen (IR-District 42B).

State Representative Tim Pawlenty (IR-District 38B).

State Representative Dick Pellow (IR-District 52B).

State Representative Walt Perlt (DFL-District 57A).

State Representative Jim Rostberg (IR-District 18A).

State Representative Alice Seagren (IR-District 41A).

State Representative Steve Smith (IR-District 34A).

State Representative Doug Swenson (IR-District 51B).

State Representative Howard Swenson (IR-District 23B).

State Representative Barb Sykora (IR-District 43B).

State Representative Eileen Tompkins (IR-District 36A).

State Representative H. Todd Van Dellen (IR-District 34B).

State Representative Tom Van Engen (IR-District 15A).

State Representative Barb Vickerman (IR-District 23A).

State Representative Charlie Weaver (IR-District 49A).

State Representative Steve Wenzel (DFL-District 12B).

State Representative Gary Worke (IR-District 28A).

Mr. GRAMS. Mr. President, whether by fax or phone or during our conversations together in town halls, Minnesotans, just like the rest of America, are demanding action on this balanced budget amendment.

If this Senate is going to do the will of the people as we were elected to do, then this balanced budget amendment will pass and the final vote would be 100-0. Mr. President, let us make February 28, 1995, the day we finally take responsibility for the uncontrolled spending of Congress in the 1980's. Let us make February 28, 1995, the day that we, the Congress, keep our promise to the American taxpayers and deliver a balanced budget amendment.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 1 minute.

THREE WORST EXCUSES AGAINST THE BALANCED BUDGET AMENDMENT

Mr. ASHCROFT. Mr. President, here are the three worst excuses that have been made against voting for the balanced budget amendment in this Chamber.

Bad excuse No. 1: We do not need a balanced budget amendment because Congress already has the authority to balance the budget.

Of course, we have the authority to balance the budget. What we need is a prohibition against doing what is wrong. The Constitution is not needed to protect Americans from Congress doing what is right. Americans need the Constitution to protect them from Congress doing what is wrong: Spending the money of the next generation.

The first five words of the Bill of Rights are, "Congress shall make no law." These words shield the people from Congress. Now we need to protect the rights and resources of the next generation from debts incurred by Congress.

Bad excuse No. 2: Before we have a balanced budget amendment, we must specify every detail about how we will achieve it. When President Kennedy made the commitment to send a man to the Moon, he did not lay out the design for the Apollo spacecraft or the booster rocket. He did not decide which astronaut would be the first man to set foot on the Moon. No, President Kennedy called America to greatness, he challenged people to a higher standard, because it was critical to our future.

Today, we need to challenge America to greatness again, because balancing our budget is essential for our future.

Bad excuse No. 3: A supermajority requirement is undemocratic because it gives a minority the right to block the will of the majority.

What is undemocratic is that this Congress spends the resources of the unrepresented next generation. No taxation without representation was the cry of our Founding Fathers, and it is my cry on behalf of unrepresented generations yet to come.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. Mr. President, I yield 1 minute to the junior Senator from Tennessee.

The PRESIDING OFFICER (Mr. GRAMS). The junior Senator from Tennessee is recognized for 1 minute.

Mr. FRIST. Mr. President, 4 months ago, I was elected to the U.S. Senate with the mandate to aggressively treat problems that have been readily diagnosed by the American people. The national debt is a malignant cancer growing every second of every day, consuming the health and vitality of this Nation.

The future hard work and dreams of our children are being sacrificed every day to feed this cancer. Conventional treatment has failed.

Congress has demonstrated a lack of discipline to rein in Federal spending. The President has said he will tolerate increasing the debt from $18,000 to $24,000 for every individual.

But there is a cure: The balanced budget amendment.

Clearly, we are mortgaging the future of our children if we do not take action today. I want the children of America to inherit a prosperous future, not a legacy of debt. For this reason, I urge my colleagues to join me in supporting the balanced budget amendment.

I yield the floor.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. ABRAHAM. Mr. President, I will undoubtedly cast many hundreds of votes during my tenure in the Senate, but it is unlikely I will cast any more important vote than the one I will make later today.

With that vote, I will seek to amend the Constitution of our Nation to require that our national budget be balanced. There are many reasons why I will vote this way, but first among them is my conviction that our responsibility to secure the economic future of our country can only be fulfilled if we adopt this amendment.

Last night, when I said good night to my 20-month-old twin daughters, I thought about the country they will inherit when they grow up. I will not bequeath to them and their generation a legacy of debt.

For too long, this Congress has failed to meet this responsibility to future Americans. The failures have occurred on both sides of the political aisle, and so now the solution must be bipartisan as well.

I call on my colleagues to provide Betsy and Julie Abraham, and the other children of this country, the future they deserve—a future in which they will have the fullest opportunity to realize the promise of America.

Mr. President, I urge this Senate to adopt this amendment to the Constitution.

Mr. HATCH. Mr. President, I yield the distinguished Senator from Oklahoma 1 minute.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. Mr. President, for weeks on end now we have been debating this issue, and I think we know what the arguments are.

The other night I took to the floor and spent 1 hour and 10 minutes diffusing the 11 arguments that have been given against the balanced budget amendment. The bottom line is that those are not real arguments. The bottom line is that those individuals who are going to use arguments against the balanced budget amendment really do not want to cut spending.

Mr. President, the American people do. Let us look at what happened on last November 8. Last November 8, using the two indices of the stimulus bill for spending hikes and the National Taxpayers Union rating for tax increases, virtually everyone in the House and the Senate that was defeated on November 8 voted for the stimulus increase—that is the spending increase—and was rated either a "D" or an "F" by the National Taxpayers Union.

The bottom line is the big spenders and the big taxers do not want a balanced budget amendment, but the American people do. And we have the unique opportunity to give them what they asked for on November 8.

Mr. HATCH. Mr. President, I am really impressed that all 11 new Members to the Senate have spoken for the balanced budget amendment. It shows the difference between what has gone on in the past and what is really going to go on in the future.

I hope our colleagues pay attention, because this is the wave of the future, and we have to pass this balanced budget amendment.

I yield 1 minute to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 1 minute.

Mr. BENNETT. Mr. President, I am impressed by the unanimity of this freshman class. I am reminded of one great truth around here, and that is that people who come to Washington and stay a long time sometimes—and I underline sometimes because it is not universal. I see many Members on the floor for whom it is not true—sometimes lose touch with the people back home. It is always the most dangerous political thing that can happen to a Member of the Senate, is to lose touch. My father got to the Senate because his predecessor became too important in Washington to pay attention to the people of Utah. My colleague, the senior Senator from Utah, became a Senator because the man he defeated got out of touch. He was just reelected for a fourth term, indicating that has not happened to him.

But the 11 Members who have come here now, who are the most recent people to face the voters, come unanimously in favor of the balanced budget amendment. When I return home to Utah and conduct my efforts to stay in touch, I find, again, unanimously the voice of the people are demanding that we do this. So I rise to say I think the people in this body should listen to the people of the country who are telling us overwhelmingly this is what they want, and as their representatives here it is time for us to give them what they want.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I yield 1 minute to the distinguished Senator from New Hampshire.

Mr. SMITH. Mr. President, I say to my colleagues, I have only been around here 5 years. I am hardly considered a veteran. But I have never seen a more impressive display in my time in the Senate, indeed in all the years I have spent in the Congress, both the House and the Senate. This is a very personal appeal, talking about their children on behalf of the millions of other American children, and what this is going to do to them in the future. That kind of unanimity, speaking on behalf of the elections in November as you have, is something I hope my colleagues who are still on the fence will hear.

This is much bigger than any one Senator or any one Senator's views. This is the American people at stake here. This is the economic future of America. All this talk we hear about how we are going to get it done, we do not need the amendment—we are not getting it done.

This has been a crusade for me since the first day I ran for Congress and announced I was running in 1979. I am just proud to be with you, all of you, and appreciate what you have done.

If this passes it will be because of you.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATCH. Mr. President, I yield a minute to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, let me commend my colleagues, not only for their statements but for their clarity, the clarity they have brought to this argument, that they campaigned on. They did not just forget their campaign promises. They are committed to cutting down the size of Government.

We must pass the balanced budget amendment. Those who oppose this amendment will face the wrath of the people. We must force the Federal Government to live within its means. The Federal Government spends too much and taxes too much.

Today, as we vote on this amendment, it is ironic that the Denver International Airport is finally opening—more than 16 months late and $3 billion over its original budget.

This $4.9 billion boondoggle demonstrates why we need the balanced budget amendment. It demonstrates why we need less government, not more.

If you have any question about the balanced budget amendment, take a look at the Denver airport.

The FBI, SEC and the Denver district attorney are investigating allegations of fraud and public corruption involving the construction of DIA.

This airport is a monument to Government waste and mismanagement. The FAA has already poured almost $700 million of Federal dollars into this white elephant. How much more will be needed to keep this airport from crash landing?

In 1989, when Denver voters approved the construction of DIA, the politicians promised that the new airport would cost $1.7 billion and have 120 gates. The airport's price tax has now reached almost $5 billion, and the airport has only 87 gates. What happened to gates 88 to 120?

The taxpayers have a right to know why DIA's cost increased by $3 billion while the airport shrunk in size? Where did the extra $3 billion go?

The Denver airport was built on the expectation of 56 million passengers per year. But a total of only about 32 million passengers will fly in and out of Denver this year.

It is outrageous that Denver travelers will reportedly have to pay $40 extra on every round-trip ticket to support this airport.

Why was this Taj Mahal of the Rockies ever built? Why wasn't Denver's existing airport, Stapleton, simply expanded? Who is to blame for this folly?

The new Denver airport was built with almost $4 billion in municipal bonds. In the wake of the Orange County debacle, the Banking Committee is looking into the adequacy of disclosure to DIA bondholders.

Were bondholders adequately advised of DIA's projected revenues and costs? Was information about Denver's faulty baggage system withheld? What is the long-term viability of DIA? Will DIA's bondholders be paid in full?

The airport's bonds have a junk rating. Standard & Poor's says that "DIA faces major ongoing uncertainties that could lead to inadequate capacity to meet timely debt service payments." Will Denver's taxpayers have to pick up the tab if the airport defaults?

As we vote on the balanced budget amendment, we must remember the Denver airport. We must remember what happens when taxpayers' money is wasted on grandiose schemes. We must force Government to live within its means.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Utah.

Mr. HATCH. Mr. President, this has been a very good debate. I appreciate our friends and colleagues and the others who have spoken. There are a number of others who would like to speak.

Frankly, I would like to yield the remainder of our time to a person who I think has fought his guts out for this amendment, who I think has shown a great deal of courage, who I know has been badgered both ways, and for whom I have the utmost respect in this matter. That is the distinguished Senator from Illinois.

Mr. SIMON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 45 seconds.

Mr. SIMON. Mr. President, I thank Senator HATCH, Senator CRAIG, and everyone who has played a part in this. I got on the Dirksen elevator the other day and right after me came in Senator JOHN CHAFEE and he said, "What a horrible debt we are imposing on future generations." That sums it all up.

We heard precisely the same arguments in 1986. We had $2 trillion worth of debt and now we have $4.8 trillion worth of debt. This year we will spend $339 billion on interest. We will spend twice as much as what we spend on our poverty programs, 11 times as much as we spend on education, 22 times as much as we spend on foreign economic assistance. In fact, we spend twice as much money on foreign aid for the wealthy in terms of interest on bonds that are held overseas than we spend on foreign aid for the poor.

Will it be painful if we pass this? Yes. There is going to be some pain. There is going to be infinitely more pain for this Nation and a lowered standard of living if we continue to have these huge deficits. The pain we are asked to impose upon ourselves is small compared to some of the steps that, for example, Margaret Thatcher took in Great Britain to turn that country around.

If you assume no change in interest rates, and every projection is that if we pass this, interest rates are going to go lower—but if you assume no change in interest rates, and no deductions on Social Security, it means that we can grow 1.7 percent a year in income. Put another way, in the year 2002, it is anticipated we will have about $300 billion more in income than we are spending this year. We can have a gradual growth, but we will have to have restrained growth.

I have read the editorials, Mr. President, as have you, criticizing this. It is interesting that not a single editorial has mentioned economic history. Take a look at this chart right here. This is the latest CBO estimate of where we are going in deficit versus national income, GDP. Historically, as nations have come around 9 or 10 or 11 percent, right around here, they have started monetizing the debt, started the printing presses rolling, started devaluing their currency. Those who vote against this are taking the chance that we can be the first nation in history to go up to this kind of debt without monetizing the debt. But what a huge gamble with the future of our country. As responsible Members of this body we should not be making that gamble.

I have heard a lot of about Social Security on the floor of the Senate today and these past days. I want to protect Social Security. The only way you can protect Social Security is to make sure we do not devalue our currency. I think it is vital for the future of our Nation and our children and generations to come that we pass this constitutional amendment.

The PRESIDING OFFICER. The remaining time is under the control of Senator BYRD.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I note that we have the entire Republican response team on the floor here today. They are out in full numbers. I have thought heretofore, when only one or two members of the response team came to the floor, that the other seven might be compared with the Seven Sleepers of Ephesus, to whom Gibbon referred in his magnificent magisterial work, "The Decline and Fall of the Roman Empire." But they are all here today. They really did not sleep as long as the Seven Sleepers, who slumbered 187 years, from the reign of Decius, who reigned from 249 to 251 A.D., until the reign of Theodosius II, who reigned from 408 to 450 A.D. Congratulations to the Republican response team. They have worked hard and acquitted themselves well.

Mr. President, it may be of historical interest to some Senators, as it is to me, that on this very day 200 years ago, the Congress was debating public debt legislation—on February 28, 1795—just as we are today, on February 28, 1995.

I will ask to include in tomorrow's RECORD, for the information of Senators, the materials pertinent to that debate, and to the statute that resulted therefrom.

Mr. President, rarely have I seen in all my years in the Senate a measure so flawed as the one before us today. If adopted, this constitutional amendment will surely create more mischief, generate more surprise consequences, and spin-off more unfortunate crises than has any other single legislative proposal in the history of this Nation. How something that seems so simple and straightforward to the casual observer can be so truly diabolical and destructive in nature confounds conventional wisdom. But a closer look reveals the impossible nature of this oft-touted but little understood amendment.

Section VI of the amendment states that "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." The amendment is immediately rendered unworkable with those 20 words in section VI. If one looks at the history of budget forecasts, it quickly becomes apparent—and no one would know this better than the distinguished Chairman of the Budget Committee, Senator DOMENICI—that forecasting budget receipts and outlays is not unlike forecasting the weather. Both are far from exact sciences, although the local weatherman probably hits the bull's eye with much more frequency than even our best budget prognosticators.

Under Section VI of this balanced budget proposal, erroneous and changing budget forecasts would have us dealing with the budget almost continually. Planned spending enacted before the fiscal year could have to be changed one or more times during the fiscal year. In a constantly fluctuating economy, where outlays and receipts alter with business cycles, as well as with unemployment, earthquakes, fires, and overseas conflicts, requiring rigid end-of-year budget balance, to be determined by estimates is nothing short of a recipe for utter chaos. As if that were not enough, the problem of inaccurate estimates is compounded by the text of Section II. Section II requires that the limit on debt held by the public not be increased absent a three-fifths vote. Since an increase in debt closely correlates with an excess of outlays over receipts, the amendment actually requires Congress to take two actions to allow for a deficit in any given fiscal year: pass a law to increase the debt limit, and pass another law for a specific deficit for the year.

To further elaborate on the "shop of horrors" which this amendment offers, let us discuss for a moment the principle of majority rule. This amendment would, for the first time, I believe, overturn the principle of majority rule. The budget of this Nation and critical economic decisions that relate to that budget could, at the most critical of times, be placed in the hands of a minority. Minorities are not elected to control the Nation's policies. Majorities are charged with that duty. Yet, this amendment would actually hand a minority the power to determine economic policy, and it would hand that power over during times of domestic or foreign economic crises, natural disasters, international turmoil, recessions, or other economic emergencies. That makes no sense. It makes no sense at all.

Moreover, the amendment's wording in section II—"The limit on the debt of the United States held by the public shall not be increased. . . .," allows the Federal Government to keep borrowing from the trust funds, including the Social Security trust fund, because "debt held by the public" refers to externally-held debt, not internally-held debt. So, we can keep putting IOU's into the trust funds and borrowing to mask the true size of the deficit, without ever having to make good on our

IOU's. In the case of the Social Security trust fund, when the baby boomers reach retirement age and the revenues in the trust fund drop because fewer people are working and paying into the fund and more people are drawing benefits out of the fund, how will we ever be able to replace the nearly $3 trillion which we have borrowed?

The amendment is so full of flaws, so reflective of flabby thinking, so arrogant in its disregard for the traditional checks and balances and separation of powers, that its consequences could be nothing short of a calamity.

The amendment so blurs and smudges the historical balance among the three branches that it renders our traditional constitutional structure to a mere shadow of its former clarity. Congress's traditional power of the purse is seriously hamstrung by the yearly supermajority requirements to waive the provisions of the amendment, and by the possibility of unchecked impoundments of appropriated funds by the Executive. The President's flexibility on budgetary matters is also seriously impaired because he must present a balanced budget every year whether he deems it wise or not.

The courts will either gain tremendous power over both branches and over matters of budget policy or be rendered largely impotent, depending upon how the implementing legislation, if there ever is any, is written, and depending upon the course of events. One thing is certain: uncertainty will reign.

One additional thing is certain. The ghost of John Marshall was not looking over the shoulders of the authors of this most unfortunate amendment.

There is no reason to spoil our grandest historical document with this macabre twisting of the balance of powers. We can begin to address budget deficits right now by passing legislation to further reduce the deficits, and without waiting on any constitutional amendment to provide us cover for the hard choices we were elected to make.

Political cover has its place and can be helpful in some situations, but this cover is far too costly. Destroying the Constitution is too high a price to pay for political cover.

We can cut the deficit without this amendment. But, I fear that the paramount concern of some is whether, absent this amendment, they can vote to cut deficits and be re-elected. That is hardly a noble reason to proceed to rewrite our carefully preserved national charter, preserved for us with blood and protected through the statesmanship and the courage of the past membership of this and the other body through 200 years of time. It is now up to the Members of this current Senate to live up to the standard of patriotism and courage set by our predecessors on important and critical matters throughout our history. There will be no more important vote any of us will ever cast.

Before this day has passed, each of us will be tested as to strength of character and fealty to our sworn oath as Senators.

I hope, Mr. President, we will not, in this critical moment, be found wanting. The amendment will have consequences which no one can predict—no one. We have tried to explore some of those consequences throughout the 30 days of debate which have been consumed on this proposal. But it seems that the more one studies the amendment, the more flaws become apparent.

I am confident that should we go on another 30 days, additional flaws and problems would very likely be found. However, here we are at the 11 hour, witnessing desperate—desperate —last-minute efforts to salvage this amendment through a cut-and-paste process designed only to win votes and to somehow shove this extremely perilous proposal through the Senate. Have we lost all of our senses? What other flaws are we writing into the Constitution with this quick editing process which is currently going on on the Senate floor? What other checks and balances are we compromising with this insane bidding war for votes?

So here we are at the last minute, the 11th hour, the 59th minute of the 11th hour, and there is this hurried, desperate effort to find a way to garner another vote. Cut and paste. Change. We see this frenetic exercise being carried on here, all the hurry at the last moment now to try to patch over some of the flaws that have been brought to light.

Careful consideration has been thrown to the four winds, and all that seems to matter at this point now, Mr. President, is a victory for the proponents, at all costs. We are not filling in a crossword puzzle. We are not trying this word or that word out to win a prize. We are writing a constitutional amendment. John Marshall said: "Let us not forget that it is the Constitution we are expounding." I add my own modest footnote by saying that it is the Constitution that we are amending. We are writing a constitutional amendment—something that will affect the representative democracy for generations of Americans through the coming ages. I regret the rather tawdry attempt at the last-minute tinkering being made to try to salvage a proposal that is so flawed that it ought to be immediately rejected by the Senate. I hope that we will come to our senses and defeat this patched-up, pulled-together "Frankenstein" before it is too late.

Mr. President, on March 2, 1805—that is only 2 days away from being exactly 190 years ago—Aaron Burr, after he had presided over the impeachment trial of Samuel Chase and before leaving the Senate Chamber for the last time, spoke to the Members of that body over which he had presided for 4 years. The speech was one which left many of the Senators of that ancient day in tears. As we come to a close of this debate very soon, his closing words should ring in the ears of today's men and women who serve in this body. Aaron Burr said, with regard to the U.S. Senate: "This House is a sanctuary—a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge—here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagog or the usurper, which God avert, its expiring agonies will be witnessed on this floor."

Mr. President, the decision which the Senate will make before this day's sun has set can very well turn out to be the prophetic end of Burr's words. I have cast 13,744 votes in this Senate since I came to the Senate, now going on 37 years ago. This does not include the more than 400 votes that I cast in the other body before I came to the Senate. But barring none, this is the most important vote of my political career on Capitol Hill. It is important, because we are tampering with the Constitution of the United States, an immortal document that has served us well over a period of 206 years. And we are reaching a critical point in the history of this country and in the history of the Constitution when we face the awful prospect of an amendment, which has been rushed through the other body in 2 day's time, and which has the support all over this country of the overwhelming majority of the American people—because they have not been duly informed of its contents and of the ramifications that will flow from its adoption and ratification. It is said that there is only one vote that stands between the Senate and the Constitution and that awful end which Burr prognosticated which would be witnessed on this floor. "If the Constitution be destined ever to be destroyed by the sacrilegious hands of the demagog or the usurper, which God avert, its expiring agonies will be witnessed on this floor."

Mr. President, I pray to God that Senators will rise to the occasion—I have seen this Senate demonstrate courage and character before, and I hope it will do so today—and that Senators will cast their vote to protect for their children and their children's children throughout all the ages to come, this unique Constitution that was written by those illustrious men, like Hamilton and Madison and the other Framers who sat in Philadelphia in 1797, lacking only 2 years, Mr. President, of being 210 years ago.

Mr. President, I close with the urgent plea that we remember Marshall's admonition. Let us not forget that it is a Constitution that we are expounding and let us not forget also, Mr. President, that it is a Constitution that we are amending.

God save the United States of America! God save the Constitution of the United States! May this Senate rise to do its duty in order that our children may have cause to honor the memories of their fathers as we have cause to honor the memory of ours.

The PRESIDING OFFICER. The time has expired.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I ask unanimous consent to proceed for just 30 seconds.

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

Mr. SARBANES. Mr. President, I know time has expired. I asked for 30 seconds to express my very profound gratitude to the distinguished Senator from West Virginia for his powerful statement on behalf of the Constitution.

I know of no Member of the Congress who has a deeper, more enduring dedication to the Constitution than does the Senator from West Virginia. I take his wise and moving words to heart. I am privileged to serve with him. I want to thank him for standing resolutely on this floor day in and day out and eloquently championing the basic, fundamental document of our Republic—the Constitution—which has served us so well for 206 years.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

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

Mr. DODD. Mr. President, I just want to join my colleague from Maryland in commending our beloved colleague from West Virginia.

However the Senate decides this afternoon, I can speak with a great deal of certainty that the children, grandchildren, great grandchildren, and great-great-grandchildren of the distinguished Senator from West Virginia will indeed be proud of how he has stood for his country and has stood for the Constitution. I am deeply proud to stand with him.

I have cast no vote in the past 20 years that will be as important as the one I cast this afternoon. I am proud to cast my vote along with that of the Senator from Maryland and the Senator from West Virginia in defending our Constitution from this assault.

Mr. BYRD. Mr. President, I ask unanimous consent for 30 seconds.

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

Mr. BYRD. I wish to express my thanks to the Senator from Maryland and the Senator from Connecticut for their constant and vigilant defense of our Constitution of the United States against this assault that is being made on the Constitution.

I thank them for their vigor, for their constant diligence, and for their spirit of defense of a great Government.

RECESS UNTIL 2:15 P.M.

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

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SANTORUM).

The PRESIDING OFFICER. The Senate will now come to order.

Mr. DOLE. Mr. President, let me indicate to my colleagues the first vote will be a 20-minute vote. All subsequent votes will be 10 minutes.

It is my hope that it will not take 10 minutes on each vote. I urge my colleagues on both sides to stay on the floor. There will be 17, 18, 19, or 20 votes, and we can complete action on the votes, hopefully by 5 o'clock, if we all stay right here. There will not be time to go anywhere else. I urge my colleagues to stay on the floor.

VOTE ON MOTION TO TABLE AMENDMENT NO. 274

The PRESIDING OFFICER (Mr. THOMPSON). Under the previous order, the vote now occurs on the motion to table amendment No. 274 offered by the Senator from California [Mrs. FEINSTEIN].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KERRY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 80 Leg.]

YEAS—60

Abraham	Faircloth	Lugar
Ashcroft	Frist	Mack
Bennett	Gorton	McConnell
Bond	Gramm	Moseley-Braun
Brown	Grams	Murkowski
Burns	Grassley	Murray
Campbell	Gregg	Nickles
Chafee	Hatch	Packwood
Coats	Hatfield	Pressler
Cochran	Helms	Robb
Cohen	Hutchison	Rockefeller
Coverdell	Inhofe	Roth
Craig	Jeffords	Santorum
D'Amato	Kassebaum	Shelby
DeWine	Kempthorne	Simon
Dole	Kerrey	Simpson
Domenici	Kyl	Smith
Exon	Lott	Snowe
Specter	Thomas	Thurmond
Stevens	Thompson	Warner

NAYS—39

Akaka	Dorgan	Lautenberg
Baucus	Feingold	Leahy
Biden	Feinstein	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	McCain
Bradley	Graham	Mikulski
Breaux	Harkin	Moynihan
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Conrad	Johnston	Reid
Daschle	Kennedy	Sarbanes
Dodd	Kohl	Wellstone

NOT VOTING—1

Kerry

So the motion to lay on the table the amendment (No. 274) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 291

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 291, offered by the Senator from Wisconsin [Mr. FEINGOLD].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KERRY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 81 Leg.]

YEAS—99

Abraham	Feingold	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Glenn	Mikulski
Biden	Gorton	Moseley-Braun
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boxer	Grams	Murray
Bradley	Grassley	Nickles
Breaux	Gregg	Nunn
Brown	Harkin	Packwood
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kohl	Specter
Dodd	Kyl	Stevens
Dole	Lautenberg	Thomas
Domenici	Leahy	Thompson
Dorgan	Levin	Thurmond
Exon	Lieberman	Warner
Faircloth	Lott	Wellstone

NOT VOTING—1

Kerry

So the motion to lay on the table the amendment (No. 291) was agreed to.

VOTE ON THE MOTION TO TABLE AMENDMENT NO. 259

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion to lay on the table the amendment numbered 259 offered by the Senator from Florida [Mr.

GRAHAM]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Massachusetts [Mr. KERRY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 82 Leg.]

YEAS—59

Abraham	Gorton	McConnell
Ashcroft	Gramm	Moseley-Braun
Baucus	Grams	Murkowski
Bennett	Grassley	Nickles
Bond	Gregg	Packwood
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simon
Cochran	Inhofe	Simpson
Cohen	Jeffords	Smith
Coverdell	Kassebaum	Snowe
Craig	Kempthorne	Specter
D'Amato	Kerrey	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner
Frist	McCain	

NAYS—40

Akaka	Feingold	Lieberman
Biden	Feinstein	Mikulski
Bingaman	Ford	Moynihan
Boxer	Glenn	Murray
Bradley	Graham	Nunn
Breaux	Harkin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Conrad	Kennedy	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	
Exon	Levin	

NOT VOTING—1

Kerry

So, the motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 298

The PRESIDING OFFICER (Mr. ABRAHAM). Under the previous order, the question is on a motion to table amendment No. 298, offered by the Senator from Florida [Mr. GRAHAM].

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—57

Abraham	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Bennett	DeWine	Helms
Bond	Dole	Hutchison
Brown	Domenici	Inhofe
Burns	Faircloth	Jeffords
Campbell	Frist	Kassebaum
Chafee	Gorton	Kempthorne
Coats	Gramm	Kerrey
Cochran	Grams	Kyl
Cohen	Grassley	Lott
Coverdell	Gregg	Lugar
Mack	Robb	Snowe
McCain	Roth	Specter
McConnell	Santorum	Stevens
Murkowski	Shelby	Thomas
Nickles	Simon	Thompson
Packwood	Simpson	Thurmond
Pressler	Smith	Warner

NAYS—43

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Johnston	Reid
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	
Exon	Leahy	

So the motion to lay on the table the amendment (No. 298) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 267

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment numbered 267 offered by the Senator from Massachusetts [Mr. KENNEDY].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—62

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Packwood
Brown	Grassley	Pressler
Bryan	Gregg	Reid
Burns	Hatch	Robb
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hollings	Simon
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lott	Thompson
Exon	Lugar	Thurmond
Faircloth	Mack	Warner
Feinstein	McCain	

NAYS—38

Akaka	Feingold	Levin
Baucus	Ford	Lieberman
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Inouye	Murray
Breaux	Johnston	Nunn
Bumpers	Kennedy	Pell
Byrd	Kerrey	Pryor
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	

So the motion to lay on the table the amendment (No. 267) was agreed to.

VOTE ON MOTION TO TABLE MOTION TO REFER

The PRESIDING OFFICER. Under the previous order, the question now occurs on agreeing to the motion to lay on the table the motion to refer House Joint Resolution 1, offered by the Senator from Arkansas [Mr. BUMPERS].

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 85 Leg.]

YEAS—63

Abraham	Gorton	Moseley-Braun
Ashcroft	Graham	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Nunn
Bond	Grassley	Packwood
Boxer	Gregg	Pressler
Brown	Hatch	Reid
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simon
Cochran	Inhofe	Simpson
Cohen	Jeffords	Smith
Coverdell	Kassebaum	Snowe
Craig	Kempthorne	Specter
D'Amato	Kyl	Stevens
DeWine	Lott	Thomas
Dole	Lugar	Thompson
Domenici	Mack	Thurmond
Faircloth	McCain	Warner
Frist	McConnell	Wellstone

NAYS—37

Akaka	Feingold	Leahy
Biden	Feinstein	Levin
Bingaman	Ford	Lieberman
Bradley	Glenn	Mikulski
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Pell
Byrd	Johnston	Pryor
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	
Exon	Lautenberg	

So the motion to lay on the table the motion to refer House Joint Resolution 1 was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me caution all Members to stay on the floor. From now on the vote will end in 10 minutes regardless. Members have been cautioned to be on the floor. We would like to complete action. We have lost about 10 or 15 minutes waiting throughout the afternoon. That will not happen again. Ten minutes, that is it.

VOTE ON MOTION TO TABLE AMENDMENT NO. 299

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 299, offered by the Senator from Georgia [Mr. NUNN].

The yeas and nays have been ordered and the clerk will call the roll.

The result was announced—yeas 61, nays 39, as follows:

[Rollcall Vote No. 86 Leg.]

YEAS—61

Abraham	Coverdell	Grassley
Ashcroft	Craig	Gregg
Baucus	D'Amato	Hatch
Bennett	DeWine	Hatfield
Bond	Dole	Heflin
Brown	Domenici	Helms
Burns	Faircloth	Hutchison
Campbell	Frist	Inhofe
Chafee	Glenn	Jeffords
Coats	Gorton	Kassebaum
Cochran	Gramm	Kempthorne
Cohen	Grams	Kyl

Lott	Pressler	Snowe
Lugar	Reid	Specter
Mack	Robb	Stevens
McCain	Roth	Thomas
McConnell	Santorum	Thompson
Moseley-Braun	Shelby	Thurmond
Murkowski	Simon	Warner
Nickles	Simpson	
Packwood	Smith	

NAYS—39

Akaka	Exon	Lautenberg
Biden	Feingold	Leahy
Bingaman	Feinstein	Levin
Boxer	Ford	Lieberman
Bradley	Graham	Mikulski
Breaux	Harkin	Moynihan
Bryan	Hollings	Murray
Bumpers	Inouye	Nunn
Byrd	Johnston	Pell
Conrad	Kennedy	Pryor
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Wellstone

So the motion to lay on the table the amendment (No. 299) was agreed to.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the Nunn amendment.

The PRESIDING OFFICER. Is there a sufficient?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 300, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 300, as modified, offered by the Senator from Georgia [Mr. NUNN].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 92, nays 8, as follows:

[Rollcall Vote No. 87 Leg.]

YEAS—92

Abraham	Faircloth	Lugar
Akaka	Feinstein	Mack
Ashcroft	Ford	McConnell
Baucus	Frist	Mikulski
Bennett	Glenn	Murkowski
Biden	Gorton	Murray
Bingaman	Graham	Nickles
Bond	Grams	Nunn
Boxer	Grassley	Packwood
Bradley	Gregg	Pell
Breaux	Hatch	Pressler
Bryan	Hatfield	Pryor
Bumpers	Heflin	Reid
Burns	Helms	Robb
Byrd	Hollings	Rockefeller
Campbell	Hutchison	Roth
Chafee	Inhofe	Santorum
Coats	Inouye	Sarbanes
Cochran	Jeffords	Shelby
Cohen	Johnston	Simon
Conrad	Kassebaum	Simpson
Coverdell	Kempthorne	Smith
Craig	Kennedy	Snowe
D'Amato	Kerrey	Specter
Daschle	Kerry	Stevens
DeWine	Kohl	Thomas
Dodd	Kyl	Thompson
Dole	Lautenberg	Thurmond
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Exon	Lott	

NAYS—8

Brown	Harkin	Moseley-Braun
Feingold	Leahy	Moynihan
Gramm	McCain	

So the amendment (No. 300), as modified, was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 273

The PRESIDING OFFICER. Under the previous order, the question is on the motion to table amendment No. 273 offered by the Senator from Michigan [Mr. LEVIN].

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 88 Leg.]

YEAS—62

Abraham	Gorton	Murkowski
Ashcroft	Gramm	Nickles
Baucus	Grams	Packwood
Bennett	Grassley	Pressler
Bond	Gregg	Reid
Brown	Harkin	Rockefeller
Bryan	Hatch	Roth
Burns	Hatfield	Santorum
Campbell	Heflin	Shelby
Chafee	Helms	Simon
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Cohen	Jeffords	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Dole	Lugar	Thurmond
Domenici	Mack	Warner
Faircloth	McCain	Wellstone
Frist	McConnell	

NAYS—38

Akaka	Feingold	Leahy
Biden	Feinstein	Levin
Bingaman	Ford	Lieberman
Boxer	Glenn	Mikulski
Bradley	Graham	Moseley-Braun
Breaux	Hollings	Moynihan
Bumpers	Inouye	Murray
Byrd	Johnston	Nunn
Conrad	Kennedy	Pell
Daschle	Kerrey	Pryor
Dodd	Kerry	Robb
Dorgan	Kohl	Sarbanes
Exon	Lautenberg	

So the motion to table the amendment (No. 273) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 310

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 310, offered by the Senator from Michigan [Mr. LEVIN].

The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—57

Abraham	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Bennett	DeWine	Heflin
Bond	Dole	Helms
Brown	Domenici	Hutchison
Burns	Faircloth	Inhofe
Campbell	Frist	Jeffords
Chafee	Gorton	Kassebaum
Coats	Gramm	Kempthorne
Cochran	Grams	Kyl
Cohen	Grassley	Lott
Coverdell	Gregg	Lugar
Mack	Reid	Snowe
McCain	Roth	Specter
McConnell	Santorum	Stevens
Murkowski	Shelby	Thomas
Nickles	Simon	Thompson
Packwood	Simpson	Thurmond
Pressler	Smith	Warner

NAYS—43

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Hollings	Nunn
Bryan	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	
Exon	Leahy	

So the motion to lay on the table the amendment (No. 310) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 311

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table the amendment No. 311 offered by the Senator from Michigan [Mr. LEVIN].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 100, nays 0, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—100

Abraham	Feinstein	Mack
Akaka	Ford	McCain
Ashcroft	Frist	McConnell
Baucus	Glenn	Mikulski
Bennett	Gorton	Moseley-Braun
Biden	Graham	Moynihan
Bingaman	Gramm	Murkowski
Bond	Grams	Murray
Boxer	Grassley	Nickles
Bradley	Gregg	Nunn
Breaux	Harkin	Packwood
Brown	Hatch	Pell
Bryan	Hatfield	Pressler
Bumpers	Heflin	Pryor
Burns	Helms	Reid
Byrd	Hollings	Robb
Campbell	Hutchison	Rockefeller
Chafee	Inhofe	Roth
Coats	Inouye	Santorum
Cochran	Jeffords	Sarbanes
Cohen	Johnston	Shelby
Conrad	Kassebaum	Simon
Coverdell	Kempthorne	Simpson
Craig	Kennedy	Smith
D'Amato	Kerrey	Snowe
Daschle	Kerry	Specter
DeWine	Kohl	Stevens
Dodd	Kyl	Thomas
Dole	Lautenberg	Thompson
Domenici	Leahy	Thurmond
Dorgan	Levin	Warner
Exon	Lieberman	Wellstone
Faircloth	Lott	
Feingold	Lugar	

So the motion to lay on the table the amendment (No. 311) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 307

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 307, offered by the Senator from Arkansas [Mr. PRYOR].

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—63

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Graham	Murkowski
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Packwood
Burns	Gregg	Pressler
Campbell	Hatch	Reid
Chafee	Hatfield	Roth
Coats	Heflin	Santorum
Cochran	Helms	Shelby
Cohen	Hollings	Simon
Coverdell	Hutchison	Simpson
Craig	Inhofe	Smith
D'Amato	Jeffords	Snowe
DeWine	Kassebaum	Specter
Dole	Kempthorne	Stevens
Domenici	Kyl	Thomas
Exon	Lott	Thompson
Faircloth	Lugar	Thurmond
Feinstein	Mack	Warner

NAYS—37

Akaka	Feingold	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Boxer	Harkin	Moynihan
Bradley	Inouye	Murray
Breaux	Johnston	Pell
Bryan	Kennedy	Pryor
Bumpers	Kerrey	Robb
Byrd	Kerry	Rockefeller
Conrad	Kohl	Sarbanes
Daschle	Lautenberg	Wellstone
Dodd	Leahy	
Dorgan	Levin	

So the motion to lay on the table the amendment (No. 307) was agreed to.

VOTE ON THE MOTION TO TABLE AMENDMENT NO. 252

The PRESIDING OFFICER. Under the previous order, the question occurs on the motion to lay on the table amendment No. 252 offered by the Senator from West Virginia [Mr. BYRD].

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 31, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—69

Abraham	Dole	Kassebaum
Ashcroft	Domenici	Kempthorne
Baucus	Exon	Kohl
Bennett	Faircloth	Kyl
Biden	Feinstein	Lott
Bingaman	Frist	Lugar
Bond	Gorton	Mack
Brown	Graham	McCain
Bryan	Gramm	McConnell
Burns	Grams	Moseley-Braun
Campbell	Grassley	Murkowski
Chafee	Gregg	Nickles
Coats	Hatch	Nunn
Cochran	Hatfield	Pressler
Cohen	Heflin	Reid
Conrad	Helms	Robb
Coverdell	Hollings	Roth
Craig	Hutchison	Santorum
D'Amato	Inhofe	Shelby
DeWine	Jeffords	Simon
Simpson	Specter	Thompson
Smith	Stevens	Thurmond
Snowe	Thomas	Warner

NAYS—31

Akaka	Glenn	Mikulski
Boxer	Harkin	Moynihan
Bradley	Inouye	Murray
Breaux	Johnston	Packwood
Bumpers	Kennedy	Pell
Byrd	Kerrey	Pryor
Daschle	Kerry	Rockefeller
Dodd	Lautenberg	Sarbanes
Dorgan	Leahy	Wellstone
Feingold	Levin	
Ford	Lieberman	

So the motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 254

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 254, offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 32, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—68

Abraham	Feinstein	McConnell
Ashcroft	Frist	Moseley-Braun
Baucus	Gorton	Murkowski
Bennett	Gramm	Nickles
Bingaman	Grams	Nunn
Bond	Grassley	Packwood
Brown	Gregg	Pressler
Bryan	Harkin	Reid
Burns	Hatch	Robb
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simon
Cohen	Inhofe	Simpson
Conrad	Jeffords	Smith
Coverdell	Kassebaum	Snowe
Craig	Kempthorne	Specter
D'Amato	Kohl	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Exon	Mack	Warner
Faircloth	McCain	

NAYS—32

Akaka	Ford	Levin
Biden	Glenn	Lieberman
Boxer	Graham	Mikulski
Bradley	Hollings	Moynihan
Breaux	Inouye	Murray
Bumpers	Johnston	Pell
Byrd	Kennedy	Pryor
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Lautenberg	Wellstone
Feingold	Leahy	

So the motion to lay on the table the amendment (No. 254) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 255

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 255, offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. COATS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 62, nays 38, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—62

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Baucus	Gramm	Nickles
Bennett	Grams	Packwood
Bond	Grassley	Pressler
Brown	Gregg	Reid
Bryan	Hatch	Robb
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hollings	Simon
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Conrad	Jeffords	Snowe
Coverdell	Kassebaum	Specter
Craig	Kempthorne	Stevens
D'Amato	Kyl	Thomas
DeWine	Lott	Thompson
Dole	Lugar	Thurmond
Domenici	Mack	Warner
Faircloth	McCain	

NAYS—38

Akaka	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Bradley	Harkin	Moynihan
Breaux	Inouye	Murray
Bumpers	Johnston	Nunn
Byrd	Kennedy	Pell
Daschle	Kerrey	Pryor
Dodd	Kerry	Rockefeller
Dorgan	Kohl	Sarbanes
Exon	Lautenberg	Wellstone
Feingold	Leahy	

So the motion to lay on the table the amendment (No. 255) was agreed to.

MOTION TO TABLE AMENDMENT NO. 253

The PRESIDING OFFICER. Under the previous order the question now occurs on the motion to table amendment No. 253 offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 95 Leg.]

YEAS—63

Abraham	Feinstein	McCain
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Biden	Gramm	Nickles
Bond	Grams	Nunn
Brown	Grassley	Packwood
Bryan	Gregg	Pressler
Burns	Hatch	Reid
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hollings	Simon
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kyl	Thomas
Domenici	Lott	Thompson
Exon	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—37

Akaka	Byrd	Glenn
Baucus	Conrad	Graham
Bingaman	Daschle	Harkin
Boxer	Dodd	Inouye
Bradley	Dorgan	Johnston
Breaux	Feingold	Kennedy
Bumpers	Ford	Kerrey

Kerry	Mikulski	Robb
Kohl	Moseley-Braun	Rockefeller
Lautenberg	Moynihan	Sarbanes
Leahy	Murray	Wellstone
Levin	Pell	
Lieberman	Pryor	

So the motion to lay on the table the amendment (No. 253) was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 258

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table amendment No. 258 offered by the Senator from West Virginia [Mr. BYRD].

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 75, nays 25, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—75

Abraham	Feingold	McCain
Ashcroft	Feinstein	McConnell
Baucus	Frist	Moseley-Braun
Bennett	Gorton	Murkowski
Biden	Graham	Murray
Bingaman	Gramm	Nickles
Bond	Grams	Nunn
Bradley	Grassley	Packwood
Brown	Gregg	Pressler
Bryan	Harkin	Reid
Burns	Hatch	Robb
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hollings	Simon
Cohen	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Specter
DeWine	Kempthorne	Stevens
Dole	Kohl	Thomas
Domenici	Kyl	Thompson
Dorgan	Lott	Thurmond
Exon	Lugar	Warner
Faircloth	Mack	Wellstone

NAYS—25

Akaka	Glenn	Lieberman
Boxer	Inouye	Mikulski
Breaux	Johnston	Moynihan
Bumpers	Kennedy	Pell
Byrd	Kerrey	Pryor
Conrad	Kerry	Rockefeller
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	
Ford	Levin	

So the motion to table the amendment (No. 258) was agreed to.

VOTE ON MOTION TO TABLE THE MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, the question now occurs on the motion to table the motion to commit House Joint Resolution 1, offered by the Senator from Massachusetts [Mr. KERRY].

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 63, nays 37, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—63

Abraham	Baucus	Biden
Ashcroft	Bennett	Bond
Brown	Gramm	McConnell
Bryan	Grams	Murkowski
Burns	Grassley	Nickles
Campbell	Gregg	Packwood
Chafee	Harkin	Pressler
Coats	Hatch	Roth
Cochran	Hatfield	Santorum
Cohen	Heflin	Shelby
Coverdell	Helms	Simon
Craig	Hutchison	Simpson
D'Amato	Inhofe	Smith
DeWine	Jeffords	Snowe
Dole	Kassebaum	Specter
Domenici	Kempthorne	Stevens
Exon	Kyl	Thomas
Faircloth	Lott	Thompson
Frist	Lugar	Thurmond
Gorton	Mack	Warner
Graham	McCain	Wellstone

NAYS—37

Akaka	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Hollings	Moynihan
Bradley	Inouye	Murray
Breaux	Johnston	Nunn
Bumpers	Kennedy	Pell
Byrd	Kerrey	Pryor
Conrad	Kerry	Reid
Daschle	Kohl	Robb
Dodd	Lautenberg	Rockefeller
Dorgan	Leahy	Sarbanes
Feingold	Levin	
Feinstein	Lieberman	

So the motion to lay on the table the motion to commit was agreed to.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

MOTIONS WITHDRAWN

Mr. MACK. Mr. President, I ask unanimous consent that motions offered by Senator DOLE be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The motions were withdrawn.

MOTION TO RECONSIDER VOTES EN BLOC

Mr. MACK. I ask unanimous consent that I may move to reconsider and table all previous votes en bloc at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MACK. I move to reconsider and table en bloc the previous rollcall votes.

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for 15 minutes.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I first would like to commend the proponents of the constitutional amendment for their spirited defense of this balanced budget amendment, misnamed though it is. I cannot commend them, however, on the content of their proposal. I believe that the proposal is inherently flawed, wrong-headed and worth absolutely nothing in terms of real deficit reduction. But I do believe that the debate has been enlightening, and I also believe that an adequate amount of time has been accorded to a thorough discussion of the amendment. So I thank Senator HATCH and Senator DOLE and all of the proponents for the time that we have deliberated. And I thank them for their spirited defense of the amendment.

I also commend Senator SIMON. He obviously believes so wholeheartedly in this proposal that one must admire his constancy.

There have been many profiles in courage, Mr. President, and they will very soon make themselves manifest. But the profiles in courage displayed by Senator MARK HATFIELD and Senator TOM DASCHLE must not pass unnoticed—must not pass unnoticed—as we near the end of this long debate. Both of these Senators, and others who likewise will have displayed great courage in voting against this amendment, have lived up to the highest standards imagined by the Framers when they devised the marvelous institution of the Senate and envisioned Senators as men who would be able to withstand pressure, lift themselves above the political fray, and, according to their consciences, do the right and the honorable thing, regardless of political cover.

Mr. President, I ask for attention in this Senate, and I do not want the time to be charged against me.

The PRESIDING OFFICER. The Senate will be in order. The time will not be charged against the Senator from West Virginia. He will suspend while the Senate comes to order.

I ask that all Senators and staff please take the conversations off the floor.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I have spent most of my adult life in service to my country. No small part of that time has been engaged in trying to protect the Framers' views of the powers of the legislative branch, and particularly in attempting to thwart attacks on the powers of the U.S. Senate. I am so thoroughly in awe of the genius of the Framers, their foresight, their judgment, their tempered wisdom, that I would make any political sacrifice to protect the Constitution from permanent harm.

But we have entered an age, Mr. President, when reverence for our Constitution and for the wisdom of history have rather gone out of fashion. Talk shows, public opinion polls, bumper sticker slogans, and a so-called political Contract With America are the order of the day. There is little patience with going against the tide, and one man's courage may be judged as nothing more than foolhardy if that courage jeopardizes his chances for reelection.

Yet, I remain a believer in the old values. I believe that a solemn oath binds one. I believe that courage is eventually rewarded and has its own reward in any event. And I believe that preserving the constitutional system

intact for future generations, insofar as the constitutional system itself is concerned, is the most solemn and important thing that a Member of this body can ever do.

There are those who would scoff at these old-fashioned views. There are those who would put efficiency, expediency and political agenda before any considerations of courage, fealty to an oath, loyalty to a higher purpose, or the preservation of the genius of a 200-year-old charter.

"Change" is the watchword of the day—change, merely for the sake of change, is suddenly a virtue above all others, a goal to be achieved at all costs. But I will never, never, never bow to those messengers of expediency or to the managers of any political party's agenda when basic principles are at stake.

The hurricanes may blow, the tides may rise, but there still remain those of us who will never, never bend, because we believe it is our sworn duty not to yield to attacks on our constitutional system of mixed powers and checks and balances.

So whatever the final outcome of this vote, I will retire to my bed tonight satisfied that I have done all that one man can do to live up to the oath that I have taken over and over again to protect the written framework of our representative democracy.

If the amendment should pass, I shall fervently hope that the States will have the wisdom that the Senate could not find to reject this dangerous and unwise proposal. If the amendment should fail, I shall be enormously proud of this body to which I have devoted so much of my life. And, most particularly, I will be proud of those Senators who set their sails against the wind and who chose the harder course in order that our venerable Constitution might be saved for yet a little while longer.

Our cherished liberties were not easily won, and they are not easily maintained. The preservation of our hard-won freedoms always has a price. But we who serve here are charged with the awesome duty of preserving those freedoms for generations yet unborn. The bruising battle that we have just been through demonstrates, once again, that we who have the honor of calling ourselves United States Senators must be ever vigilant to guard what has been bequeathed to us by wise men—men of vision, men of courage, men of character.

The political seas may churn and boil, but our solemn duty as Senators must always be to drown out the noise and keep faith with our own inner voices. The Senate, from time to time, is the very last bulwark against the too-hot passions that rail in this land. However various Senators may vote today, it is my hope that each of us will take away from this debate some lessons learned and wisdom gained. As in no other institution of this great and marvelous democracy—in the Senate, one individual can make a difference. Service here is difficult and it is demanding. It requires the very best of one's nature and the most assiduous cultivation of one's character. When the battle is over and the roar of the debate has subsided, whether one's side has won or lost is not the final thing. In the final analysis, service here boils down to one quality. Horace Greeley expressed it best when he said:

Fame is a vapor, popularity an accident; riches take wings, and those who cheer today may curse tomorrow—only one thing endures; character!

Mr. President, to all those who have stood straight and tall in the fight I salute them with the words "morituri te salutamus." And may they, like I, feel as did the Apostle Paul in writing his second Epistle to Timothy, when he said: "I have fought a good fight, I have finished my course, I have kept the faith."

Mr. President, I ask unanimous consent that a series of pertinent commentaries from the press be printed in the RECORD.

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

[From the Washington Post, Feb. 28, 1995]

THE URGENCY OF POLITICAL COURAGE

It is hard to decide which would be worse: if the balanced budget amendment that the Senate is voting on today functioned as its sponsors intend, thereby locking the country into what would often be an ill-advised economic policy; or if Congress found a way to duck the command, thereby trivializing the Constitution and creating a permanent monument to political timidity.

Take the second possibility. The Constitution of the United States is remarkable because no country in the world has taken its written Constitution so seriously. It is a concise Constitution, and it has not been amended lightly. Other countries have acted as if their constitutions were merely pieces of legislation to be changed at will, but not the United States.

The balanced budget amendment marks the intrusion of the worst kind of legislative politics onto our constitutional tradition. For about a decade and a half, for mostly political reasons, Congress has not found the fortitude to come even close to balancing the budget. Instead of doing what it should and voting the spending cuts and taxes to narrow the deficit, Congress wants to dodge the hard choices by changing the Constitution. But as Sen. Daniel P. Moynihan argued on "Meet the Press" this Sunday: "My proposition is that you avoid trying to pretend a machine will do this for you. . . . You have to do it yourself." With or without the amendment, only Congress will get the budget balanced. And who is to say that the amendment, which becomes effective only in 2002, won't delay Congress from making the hard decisions until it is against the wall of its mandate, give it yet another excuse? "Gosh, we passed the balanced budget amendment," the unfailingly inventive members will be inclined to say, "and it goes into effect in just a few years. Isn't that enough? What do you want us to do? Balance the budget?"

Sen. Sam Nunn, whose vote could prove decisive, has argued forcefully that this amendment could lead to the judiciary's making decisions on spending cuts and tax increases that ought only be made by the legislative branch. Last night, Sen. Byron Dorgan, another whose vote had been in doubt, voiced a similar reservation. Supporters of the amendment are now trying to win their votes by arguing that legislation could be passed to protect against judicial supremacy. But surely Mr. Nunn's first instinct was right: No legislation can supersede the Constitution. If the amendment itself does not protect against judicial interference, there is no guarantee as to how a court will act. And if, on the other hand, there is no enforcement mechanism for the amendment, then why pass it in the first place? It becomes an utterly empty symbol, which is exactly what the United States Constitution has never been and never should be.

As bad as this prospect is, an effective balanced budget amendment might be even worse. By requiring three-fifths votes to pass unbalanced budgets, it would enshrine minority rule. And while deficits in periods of prosperity make little sense, modest deficits during economic downturns have been powerful engines for bringing the economy back to prosperity. This amendment, if it worked as planned, would shackle government to economic policies that are plainly foolish. Since government revenues drop during recessions and since payments for benefits such as food stamps and unemployment compensation increase, the amendment would require Congress by constitutional mandate to pursue exactly the policies that would only further economic distress: to raise taxes, to cut spending, or do both.

Moreover, as Mr. Moynihan and others have pointed out, the amendment could one day lead to the devastation of the banking system. This might happen because a balanced budget amendment could stall or stop the government from meeting its obligations to protect the depositors of banks that failed during an economic downturn. Mr. Moynihan is not exaggerating when he says that "everything we have learned about managing our economy since the Great Depression is at risk."

Voting against this amendment should be easy. It has been said that were today's vote secret, the amendment would certainly fail. But the political pressures on the undecided senators—Mr. Nunn, Mr. Dorgan, John Breaux, Kent Conrad and Wendell Ford—are immense and largely in the amendment's favor. These senators have an opportunity only rarely given public figures: to display genuine courage on an issue of enormous historical significance. They should seize their moment and vote this amendment down.

[From the New York Times, Feb. 28, 1995]

WHY FEAR DEBT?

(By Robert Heilbroner)

It is doubtful that the balanced-budget amendment, which the Senate votes on today, would be effective, even if ratified. The reason is there are many ways of placing expenditures outside the budget—Social Security, for example. What is not doubtful is that the real cause for worry is a balanced, not an unbalanced, budget.

Here's why: Deficit spending is legitimate when it is used to protect the future well-being of the nation.

Though one hears much about "living beyond our means," very few people can concisely define deficit spending. In fact, it means one and only one thing: borrowing. A

deficit refers to the amount the government has borrowed. If there is no borrowing, there cannot be a deficit. That introduces a ray of light into the darkness for it makes us ask whether there might be circumstances in which the Government ought to borrow.

Suppose a law enjoined households from any borrowing. That would cut down gambling losses, but it would also prevent families from buying houses by taking out mortgages. Similarly, a prohibition on all business borrowing might eliminate a few extravagances, but it would cripple private investment. In the same way, a blanket injunction against Federal borrowing might cause the Government to eliminate waste, but it also would make much public investment impossible.

That would mean goodbye to such improvements as bridges, tunnels, highways, public-health research centers and other undertakings that would normally be considered public-sector business but could not be financed by taxation, because, as is the case with mortgages and business capital expenditures, the outlay is too large to be charged against one year's income.

What about the Federal debt?

We hear pious declarations about the need to remove the burden of our profligacy from the shoulders of our innocent children. I often wonder how my own children would feel if they opened my safe deposit box at my death to find it stuffed with Government debt—bonds. Would my heirs feel I had burdened them unfairly, as they transferred the bonds to their own safe deposit boxes?

In a word, whatever its problems—and a debt, like all borrowing, always poses financial management considerations—a national debt also serves a vital purpose. It provides the only asset in which households, insurance companies, corporations, banks and, not least, pension funds, including Social Security, can invest whatever assets need to be placed in the least risky of all financial instruments.

Do not forget, there is no income-producing investment other than Government securities that enjoys the power of the Government to assure that it will be redeemed at full face value.

Obviously, these arguments are not an excuse for Government profligacy any more than the legitimacy of consumer or corporate debt is an excuse for mindless private borrowing. But these arguments do suggest that the Government needs to depict its borrowing in a more understandable way. Specifically, it should have what it does not now have: a formal capital budget in which its expenditures for investment are identified. Such an accounting method would reassure the anxious public that at least an identifiable part of the "deficit" represents borrowing for purposes that most would approve.

Since there is no such accounting system, all public borrowing is deemed to be the work of the devil—when, properly understood, it may be crucial to the future strength and vitality of the nation.

[From Business Week March 6, 1995]

THE WRONG WAY TO BALANCE THE BUDGET

(By Christopher Farrell)

In the early days of the American republic, financial panics often led to steep declines in economic activity. Yet the last time a financial crisis triggered an economic collapse was the Great Depression. In the half-century following World War II, financial blowups have had minimal impact, and the economy has enjoyed a relatively smooth ride.

Now, Congress confronts the possibility of returning us to the chaotic days of yore. In the coming weeks, after years of debate, the Senate will decide whether to require the federal government to balance its budget. Many GOP lawmakers back the amendment. They shouldn't. The Balanced Budget Amendment would strip away much of the government spending that cushions the economy in hard times—just when disinflation and the prospect of deflation are raising the odds of financial crises.

The U.S. economy is a remarkably stable system, in large part because of the government's expansive safety net. Federal deposit insurance, for example, prevented the collapse of the savings-and-loan industry in the late 1980s from turning into a depression of the 1990s. A market collapse in Mexico sparks jitters in the U.S. but not much more.

Needed Net. Impose the Balanced Budget Amendment, however, and the system breaks down. Today, as soon as the economy begins to slump, government tax collections fall, and government transfer payments, such as food stamps, increase. The result is higher deficit spending during recessions—but these automatic stabilizers also put more money into the hands of Americans precisely when they most need it.

A Balanced Budget Amendment, by contrast, would require an explicit vote of Congress to run a larger deficit to counteract an economic slow-down. Given the current climate against deficits, politicians may be reluctant to approve large-scale deficit spending until a recession is well under way. The result? Bigger swings in the economy and a far more volatile financial system.

This at a time when changing economic conditions are creating a world where stability will be particularly in demand. For years, the powerful interaction of inflation hawks at the Federal Reserve Board, bond-market vigilantes, and the new world economic order have been exerting a firm downward pressure on prices. As a result, "we are a lot closer to the edge of deflation than we have been in some time," says Edward E. Yardeni, chief economist at C.J. Lawrence Inc.

The Fed, for one, is pursuing an austere monetary policy toward its goal of wringing inflation out of the economy. By almost any measure, the U.S. money supply is growing at an anemic rate—hardly fertile ground for price increases. Similarly, bond-market investors send interest rates sharply higher on any hint of inflation news. "The bond market will do whatever is necessary to make sure inflation won't take off," says Charles I. Clough Jr., chief investment strategist at Merrill Lynch & Co.

Meanwhile, with the collapse of communism and the embrace of freer markets by much of the developing world, the supply of goods, services, capital, and labor is soaring. White-hot domestic and international competition helps explain why last year's inflation rate in the U.S., measured by hourly compensation, was the lowest since 1949—easily offsetting price increases of many commodities and crude-materials prices. Disinflation is here to stay.

Vicious Cycle. So what? In a world of low inflation, the risk from unexpected financial crises soars. A stock market crash, a bank failure, or a drop in the dollar's value could send asset prices plunging. Suddenly, interest payments become onerous. Credit contracts. This is the sort of vicious cycle that was common in the pre-World War II era—and that deficit spending later eased. "The stability of our economy is drastically diminished when the federal government is powerless to intervene to prevent a disastrous debt deflation," says Hyman P. Minsky, an economist at the Jerome Levy Economics Institute at Bard College.

The Balanced Budget Amendment wouldn't leave us completely defenseless. The Fed always can open the money spigots to offset the immediate impact of a financial panic, much as it did following the stock market crash of 1987. But monetary policy is a tool best used to control inflation, not to counteract the cyclical ebbs and flows of the economy and financial markets. Getting the government's finances in order makes sense. But the Balanced Budget Amendment is a dangerous step back into the 19th century.

[From the Baltimore Sun, Feb. 28, 1995]

RISKY CONSTITUTIONAL AMENDMENT

"The last thing we want to do is turn over taxing and spending to the federal courts," Sen. Sam Nunn told Ross Perot Sunday night, in explaining why he wants to amend the Balanced Budget Amendment to forbid courts to get involved in any "case or controversy" arising out of Congress' failure to balance the budget. "I don't think we want to vest [judges] with spending and tax decisions. I think that would stand the Constitution on its head. I think the taxpayers of this country would be in revolt the first time a federal judge came down and said, 'You're mandated to increase taxes by $50 billion.'"

You bet taxpayers would be in revolt. But what could they do?

Nothing without Senator Nunn's modification, which will be voted on today before the vote on the Balanced Budget Amendment itself (and maybe nothing with it). Senator Nunn fails and then the main amendment passes and ultimately becomes part of the Constitution, judges would soon be rewriting the budget, based on lawsuits demanding that this tax be raised and that one lowered, etc. And citizens whose benefits were cut would also be in court, arguing that welfare should go down but not agricultural price supports, etc.

That is what is really at stake if the Balanced Budget Amendment as now written becomes the law of the land.

Sen. Orrin Hatch, leading the effort for the amendment, says Senator Nunn's concerns can be met with legislation. We dispute that, and so do most legal scholars—from Robert Bork on the right to Laurence Tribe on the left. The result would likely be hundreds, if not thousands of lawsuits around the country," Judge Bork has written. And Professor Tribe says, "Someone who has been cut off from a program, a taxpayer—these people will be able to go to court. No question about it."

This nation has never constitutionalized its taxing and spending process, so saying with complete confidence what judges would do is in a sense speculation. But there is a record worth noting. In states which have balanced budget requirements in their constitutions, judges have taken over the legislative and executive function regarding spending and taxing a result of lawsuits. That has happened in recent years in New York, Georgia, Wisconsin, California and Louisiana.

We have made it clear that we oppose the Balanced Budget Amendment for many reasons, including the prospect of judges taking over the budgeting process. So even if the Nunn amendment is added, we would oppose it. And Senator Nunn and others who dread judicial control of taxing and spending better be careful. Even seemingly clear language in an amendment doesn't guarantee hands off. There's always a risk.

As Sen. Howell Heflin, a former chief justice of the Alabama Supreme Court recently put it, "Every constitutional amendment that has ever been adopted has had to be interpreted, has had the court to have to look at it and make some kind of interpretation."

[From the Washington Post, Feb. 28, 1995]

HOW STATES HANDLE DEBT MAY NOT WORK FOR NATION—STAYING IN BALANCE REQUIRES SOME JUGGLING

(By Dan Morgan)

If the Senate approves today a constitutional amendment requiring a balanced federal budget, 48 states will say, "Welcome to the club."

Only Vermont and Wyoming do not have some kind of similar statutory or constitutional requirement, and state officials have been among the loudest critics of the federal debt spree.

But studies of how these requirements work in practice show that states can find their ways around them when necessary. And some experts question whether the states are a good model for the federal government to be copying, given their vastly different responsibilities and fiscal systems.

"It is naive to believe that since states balance their budgets, the federal government should be able to do so as well," said Steven D. Gold, director of the Center for the Study of the States, who testified before the House Budget Committee in 1992. "States do not always balance their budgets. Many states avoid deficits only by using funds carried from previous years, or by relying on gimmicks that often represent unsound policy."

A 1993 study by the General Accounting Office for Congress, found that 10 states had carried over end-of-year deficits or borrowed money to finance such deficits in the previous three years. "Furthermore," the report noted, "some states reported balanced budgets at year end at least in part through one-time budget strategies," such as dipping into cash reserves, delaying payments to suppliers or using their accounting tricks.

States balance their budgets most of the time. But they have also been known to sell assets, temporarily reduce pension contributions and accelerate tax collection in order to stay within the letter of budget law.

Despite a requirement that the governor submit a balanced budget to the legislature, California has had at least four deficits since 1983, and its fiscal predicament "clearly shows that a balanced budget provision is no panacea—in fact, at present it seems almost an irrelevancy," Gold told the Budget Committee. Since then, California's financial plight has worsened.

States with large, persistent operating deficits, including Louisiana, New York, and Connecticut, have issued bonds to finance the shortfall, a device that is permitted under some state balanced budget requirements.

Most of the 35 constitutional and 13 statutory balanced budget requirements on the books of the states apply only to state general funds—the operating budgets that pay for basic, day-to-day governmental services out of revenues from taxes, fees and sometimes lottery proceeds.

Outside of this, however, states borrow heavily to finance longer-term needs for buildings, roads, education and other infrastructure. They also maintain numerous "off budget" public authorities (for ports, highways, pensions and mineral extraction, for example) that issue bonds and incur debts.

Some experts say that longstanding political tradition, and fear of a downgraded credit rating, exert at least as much pressure on governors to run tight fiscal ships as the balanced budget requirements.

Because of these pressures, governors often take harsh austerity measures that would face far more resistance in Washington. During the 1991 recession, 23 states did not give workers salary increases; 17 states cut welfare benefits and many cut funding for higher education. According to Gold, a widespread response to state fiscal stress has been to increase tuition at state colleges, enabling state governments to reduce contributions to higher education.

Some say this kind of austerity, if extended to the federal budget because of the sanctions of a balanced budget amendment, would increase the severity and pain of economic downturns in a way that has not been true since the Depression.

State balanced budget requirements "generally have worked for state and local government," said Philip M. Dearborn, director of government finance research at the U.S. Advisory Commission on Intergovernmental Relations. "But there is a substantial difference between the management of states and of the federal government."

(During today's session of the Senate, the following morning business was transacted.)

COMMENDING DR. ROBERT D. REISCHAUER

Mr. DOMENICI. Mr. President, today brings to an end the very distinguished term of the third Director of the Congressional Budget Office—Dr. Robert D. Reischauer. He has served in that office with the highest degree of professionalism. Under some very difficult conditions in his 6 years as Director he has been able to maintain the independence and high respect all of us have for the CBO. He has always given his best, and called them as he saw them—sometimes to the chagrin of both sides of the aisle.

In the 21 years of the CBO there have been only three Directors. The first, Dr. Alice Rivlin, followed by Dr. Rudy Penner and then Dr. Robert Reischauer. Dr. Reischauer will now be followed in the high tradition of those Directors by Dr. June O'Neill. Quite frankly, one of the difficulties in finding someone to replace Bob's expired term was the very high standards of professionalism and objectivity Bob and his predecessors have brought to that office.

This is as it should be. The CBO directorship is a critical position and one that must provide objective, nonbiased, and professional analysis to the Congress—not an easy task in this day of instant communications and many well funded, organized lobbyists' "think tanks." Just being able to sort out the wheat from the chaff has become a full time responsibility of the CBO. Over the years we have also given CBO more responsibilities as in the recent case of the unfunded mandates legislation. Of course, we have not necessarily always given them more resources to go along with the additional workload.

Last evening the U.S. Senate adopted by unanimous consent, Senate Resolution 81, commending Dr. Reischauer for his long and faithful service to the Congress and the American public. The resolution was cosponsored by myself and the ranking member of the Budget Committee, the distinguished majority and minority leaders of the Senate, all the members of the Senate Budget Committee, and many others. I am sure, had time and resources permitted we would have had 100 original cosponsors.

The resolution we adopted unanimously last evening can only be considered a very small token of the Senate's appreciation of Dr. Reischauer's service to the Congress. In this arena today, where making decisions about complicated, complex, and difficult public policy issues that can affect the future course of this country, Dr. Reischauer has been a clear and concise voice. We may not have always agreed with Dr. Reischauer's analysis, but we always respected his analysis. He always gave his best. He always was fair and honest in his analysis. Somehow, I think wherever Bob Reischauer's career now takes him, that mantle of honesty and integrity will always go with him.

I now wish him and his family the best and I congratulate him for his public service and a job well done.

HARRY V. McKENNA FUNERAL—THE PASSING OF A PIONEER

Mr. PELL. Mr. President, I rise to share with my colleagues the news that Harry V. McKenna died last week and I recently returned from his funeral in Rhode Island.

Harry McKenna was not only the dean of broadcast journalism in our State for many decades, he was a premier broadcast journalist whose high standards remain a challenge for his successors.

Harry became the touchstone for Rhode Island politicians until his retirement in 1983. It seems you would not be taken seriously as a candidate, unless you were interviewed by Harry McKenna.

When I first ran for the Senate, almost 36 years ago, my first public interview was with Harry. His weekly "Radio Press Conference" ran for 32 years and was Rhode Island's longest-running news broadcast.

I was saddened when I learned of his death and I was touched by the gathering that honored him at his funeral. He was a good friend and an exemplary journalist.

After he retired, I missed him. Now I miss him even more.

My wife's and my deepest sympathy go to his wonderful wife, Julie, and his children and grandchildren.

I ask unanimous consent that the text of an obituary that appeared in

the Feb. 22, 1995 issue of Providence (RI) Journal be printed in the RECORD.

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

HARRY V. MCKENNA; DIRECTED NEWS PROGRAM ON LOCAL RADIO

(By S. Robert Chiappinelli)

CRANSTON—Harry V. McKenna, the former WEAN news director who became an institution himself while interviewing Rhode Island's movers and shakers, died yesterday at the Roger Williams Medical Center.

Mr. McKenna, of *107 Grace St., was the husband of Jule (Lister) McKenna.*

A large man with a resonant voice, blustery style, and in later years, a shock of white hair, Mr. McKenna was called the dean of Rhode Island news correspondents.

His weekly *Radio Press Conference* ran for 32 years and was Rhode Island's longest-running news broadcast.

"He had kind of a special place," former Gov. J. Joseph Garrahy recalled yesterday. "He always sat at the right-hand corner of my desk at a press conference."

After each press conference, Mr. McKenna would collar the willing governor for a special telephone interview for WEAN.

"We had a wonderful relationship," Garrahy said.

Mr. McKenna, a member of the Rhode Island Heritage Hall of Fame, won respect both among politicians and fellow members of the press.

"For more than three decades, Rhode Island radio audiences tracked the course of state government and politics through the WEAN news reports of Harry McKenna," James V. Wyman, Journal-Bulletin vice president and executive editor, said.

"His familiar deep voice resonated with authority and credibility as he applied his aggressive style to interviews with key governmental officials," Wyman said.

"Harry's approach to newsgathering was both straightforward and relentless. But he was known and respected for his fairness."

Mr. McKenna joined the Journal-Bulletin in 1944 as nightside police and fire reporter. In 1949, he was named WEAN news director and was the station's news and public affairs director when he retired. More than 1,400 persons attended his retirement party in February, 1983.

John P. Hackett, former Journal-Bulletin chief editorial writer and longtime political writer who often teamed with Mr. McKenna on Radio Press Conference, said he was a skilled interrogator who frequently knew the answer to a question before he asked it.

"He was a good newsman," Hackett said. "He dug up more stuff. He'd pass tips on to me."

Mr. McKenna was in great demand as a master of ceremonies for community dinners, Hackett said, and his introductions would be a show in themselves.

"Before he got through," Hackett said, "he would have recognized everyone in the audience."

M. Charles Bakst, Journal-Bulletin political columnist, said: "He was a throwback to the days when radio coverage of the State House was an important part of the daily scene, and governors deferred to him, giving him extensive interviews and a seat of honor at press conferences."

"He was a big man who could get angry and sound tough, but who also had a playful, generous, patient side," Bakst said.

Mr. McKenna had served on the board of directors of the Associated Press Broadcasters Association, was a former international vice president of the Radio and Television News Directors Association, and was the first president of the Rhode Island Press Club.

In 1973, he caused a stir with a taped telephone interview with underworld informant Vincent "Big Vinnie" Teresa from a secret location. Teresa alleged that there was widespread corruption in the Providence Police Department, and said New England crime boss Raymond L.S. Patriarca had exerted influence on the department.

Mr. McKenna was chairman of the Traffic Safety Commission of Cranston for 20 years. He also served in numerous community organizations.

Besides his wife he leaves two daughters, Constance A. McKenna, and Deborah E.M. Brody, both of Cranston; a son, Robert W. McKenna of Warwick, and five grandchildren.

The funeral will be held Saturday at 8:30 a.m. from the Hoey Funeral Home, 168 Academy Ave., Providence, with a Mass of Christian Burial celebrated by Bishop Louis E. Gelineau at 10 at St. Matthew Church, Elmwood Avenue. Burial will be in Swan Point Cemetery in Providence.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as I pointed out yesterday in this daily report—which I began 3 years ago—Federal debt has risen to astronomical proportions. As of the close of business yesterday, Monday, February 27, the Federal debt stood at $4,839,489,402,270.31—or $18,370.79 on a per capita basis.

Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

Mr. President, I am convinced today, as I was back in 1973, that it is the absolute responsibility and duty of Congress to control Federal spending. The U.S. Senate has a momentous challenge later today in lowering this enormous debt by approving a balanced budget amendment to the U.S. Constitution and sending it to the 50 States for ratification.

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.)

MESSAGES FROM THE HOUSE

At 3 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 257. An act to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.

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–442. A communication from the Chairman of the Farm Credit Administration, transmitting, pursuant to law, the report of the 1995 salary structures; to the Committee on Agriculture, Nutrition, and Forestry.

EC–443. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on military expenditures for countries receiving U.S. assistance; to the Committee on Appropriations.

EC–444. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report of a violation of the Antideficiency Act, case number 94-2; to the Committee on Appropriations.

EC–445. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of a violation of the Antideficiency Act; to the Committee on Appropriations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Herman E. Gallegos, of California, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Lee C. Howley, of Ohio, to be a Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Isabelle Leeds, of New York, to be an Alternate Representative of the United States of America to the Forty-ninth Session of the General Assembly of the United Nations.

Frank G. Wisner, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period.

Robert E. Rubin, of New York, to be United States Governor of the International Monetary Fund for a term of five years; United States Governor of the International Bank for Reconstruction and Development for a term of five years; United States Governor of the Inter-American Development Bank for a term of five years; United States Governor of the African Development Bank for a term of five years; United States Governor of the Asian Development Bank; United States Governor of the African Development Fund;

United States Governor of the European Bank for Reconstruction and Development.

Jeanette W. Hyde, of North Carolina, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Antigua and Barbuda, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, and as Ambassador Extraordinary and Plenipotentiary of the United States of America to Grenada.

Nominee: Jeanette W. Hyde.

Post: Ambassador to Antigua and Barbuda to St. Kitts & Nevis, and to Grenada.

Contributions, Amount, Date, Donee.

1. Self, Jeanette W. Hyde's Federal Campaign Contributions: 1990-94:

1. Price for Congress Committee—$400 (1990).

2. Gantt for Senate Committee—$1,000 (1990.

3. Gore for Senate Committee—$1,000 (1990).

4. Americans for Kerry Committee—$250 (1991).

5. David Price Reelection Committee—$1,000 (1991).

6. Committee to Reelect Terry Sanford—$500 (1991).

7. Gephardt for Congress Committee—$250 (1991).

8. Clayton for Congress Committee—$500 (1992).

9. David Price for Congress Committee—$1,000 (1992).

10. Committee to Reelect Terry Sanford—$1500 (1992).

11. Committee to Elect Bill Clinton President—$1,000 (1992).

12. Braun for Senate Committee—$1,000 (1992).

13. NC Democratic Campaign (Federal Account)—$5,000 (1992).

14. DNC Victory Fund (Finance Council Membership)—$5,000 (1992).

15. DNC Victory Fund—$5,000 (1992).

16. DSCC—$200 (1992).

17. Clayton for Congress Committee—$150 (1993).

Spouse, Wallace N. Hyde's Federal Campaign Contributions, 1990-94:

1. David Price for Congress—$500 (1990).

2. Gantt for Senate Committee—$1,000 (1990).

3. Clark for Congress Committee—$500 (1990).

4. Democratic House and Senate Council—$1,500 (1990).

5. Gore for Senate Committee—$1,000 (1990).

6. Bill Clinton for President—$250 (1991).

7. David Price for Congress Committee—$300 (1991).

8. Clark for Congress Committee—$400 (1991).

9. Stevens for Congress Committee—$300 (1991).

10. Gephardt for Congress Committee—$250 (1991).

11. Democratic House and Senate Council—$1,500 (1991).

12. Bradley for Senate Committee—$1,000 (1991).

13. Americans for Kerry Committee—$250 (1991).

14. Terry Sanford for Senate Committee—$2,000 (1992).

15. Bill Clinton for President—$750 (1992).

16. Stevens for Congress Committee—$500 (1992).

17. DNC Victory Fund—$7,000 (1992).

18. Friend of Clayton and Watt for Congress—$200 (1992).

19. Democratic House and Senate Council—$1,500 (1992).

20. Democratic House and Senate Council—$625 (1993).

21. DNC Business Leadership Council—$10,000 (1994).

22. Sandy Sands for U.S. Congress—$1,000 (1994).

24. Gene Stucky for U.S. Congress—$500 (1994).

3a. Children and spouses Names; None.

3b. Stepchildren and spouses names, Martha Hyde Jones, None; Dan Jones (spouse), none; Charlie W. Hyde, none; Barbara Hyde White, none; Joseph White (spouse), none.

4. Parents names, Gurney C. Wallace, deceased; Effie W. Wallace, none.

5. Grandparents names, Nettie B. Whitlock, deceased; Jones J. Whitlock, deceased.

6. Brothers and spouses names; none.

7. Sisters and spouses names, June W. Smith, none; John G. Smith (spouse), none; Wanda W. Dobbins, none; Ralph A. Dobbins (spouse), none.

Martin S. Indyk, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: Martin S. Indyk.

Post: U.S. Ambassador to Israel.

Contributions, Amount, Date, Donee.

1. Self, None.

2. Spouse, $200.00, 1992, DNC.

3. Children and spouses names, None.

Johnnie Carson, of Illinois, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zimbabwe.

Nominee: Johnnie Carson.

Post: U.S. Ambassador, Republic of Zimbabwe.

Contributions, Amount, Date, Donee.

1. Self, None.

2. Spouse, None.

3. Children and spouses names, Elizabeth, Michael, Katherine, None.

4. Parents names, Dupree Carson, Aretha Carson, None.

5. Grandparents names, All deceased.

6. Brothers and spouses names, Ronald Carson, Gregory Carson, None.

7. Sisters and spouses names, Barbara Carson Latimer, None.

Bismarck Myrick, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Nominee: Bismarck Myrick.

Post: Lesotho.

Contributions, amount, date, donee.

1. Self, Bismarck Myrick, $100, 1993, Jean W. Cunningham (for the House of Representatives).

2. Children and spouses, Bismarck Myrick, Jr., none; Wesley Todd Myrick, none; Allison Elizabeth Myrick, none.

4. Parents, Elizabeth Lee Land, deceased; Maceo Lee Myrick, deceased.

5. Grandparents, Emmanuel Myrick, deceased.

6. Brother and spouse, James M. Lee, none.

7. Sisters and spouses, Carol Myrick Kitchen, none; Steve Kitchen, none; Emily D. Thomas, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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. McCAIN:

S. 479. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 479. A bill to provide for administrative procedures to extend Federal recognition to certain Indian groups, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1995

• Mr. McCAIN. Mr. President, today I am introducing the Indian Federal Recognition Administrative Procedures Act of 1995.

The Indian Federal Recognition Administrative Procedures Act provides for the creation of the Commission on Indian Recognition. The Commission will be an independent agency of the executive branch and will be composed of three members appointed by the President. The Commission would be authorized to hold hearings, take testimony and reach final determinations on petitions for recognition. The bill provides realistic timelines to guide the Commission in the review and decisionmaking process. Under the existing process in the Department of the Interior, some petitioners have waited 10 years or more for even a cursory review of their petition. The bill I am introducing today requires the Commission to set a date for a preliminary hearing on a petition not later than 60 days after the filing of a documented petition. Not later than 30 days after the conclusion of a preliminary hearing, the Commission would be required to either decide to extend Federal acknowledgement to the petitioner or to require the petitioner to proceed to an adjudicatory hearing.

To ensure fairness, the bill provides for appeals of adverse decisions to the U.S. District Court for the District of Columbia. To ensure promptness, the bill authorizes adequate funding for the costs of processing petitions through the Commission and to assist petitioners in the development of their petitions. This bill will also provide finality for both the petitioners and the Department of the Interior.

The Department has had a process of one type or another for recognizing Indian tribes since the 1930's. Great uncertainty has existed about how or when this process might be concluded and how many Indian tribes will ultimately be recognized. I believe that it is in the interests of all parties to have

a clear deadline for the completion of the recognition process. Accordingly, the bill requires all interested tribal groups to file their petitions within 6 years after the date of enactment and the Commission must complete all of its work within 12 years from the date of enactment.

This bill is similar to the bills which I have introduced in each of the last three Congresses. It is also similar to a bill which passed the House of Representatives in the 103d Congress, H.R. 4462, and which has been reintroduced in this Congress by Representative FALEOMAVAEGA, H.R. 671. The major differences between the bill I am introducing today and H.R. 671 are; First, H.R. 671 would make naive Hawaiians and Alaska Native villages eligible to petition for recognition while this bill does not; second, H.R. 671 would create a part-time Commission, while this bill creates a full-time independent entity in the executive branch, and H.R. 671 would not sunset the Commission or the recognition process while this bill would terminate the Commission and require the process to be completed in 12 years.

From the earliest times, the Congress has acted to recognize the unique government-to-government relationship with the Indian tribes. There are and always have been some Indian tribes which have not been recognized by the Federal Government. This lack of recognition does not alter the fact of the existence of the tribe or of its retained inherent sovereignty; it merely means that there is no formal political relationship between the tribal government and the Federal Government and that the enrolled members of the tribe are not eligible for the services and benefits accorded to Indians because of their status as members of federally recognized Indian tribes.

Over the years, the Federal courts have ruled that recognition, while solely within the authority of the Congress, may also be conferred through actions of the executive branch. Both the President and the Secretary of the Interior have historically acted in ways which the courts have found to constitute recognition of Indian tribes. And beginning in 1954, it was the established policy of the Congress to officially sanction the termination of the Federal/tribal relationship. This misguided policy was only effectively ended in 1970 when President Nixon called for the beginning of an era of self-determination and the end of termination.

In 1978, the Department of the Interior promulgated regulations to establish criteria and procedures for the recognition of Indian tribes by the Secretary. Since that time tribal groups have filed 147 petitions for review. Of those, 31 have been resolved and 75 are letters expressing an intent to petition, and 7 require legislative authority to proceed. The remainder are in various stages of consideration by the Department. During this same time, the Congress has recognized nine other tribal groups through legislation.

In 1978, 1983, 1988, 1989, and 1992, the Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of those hearings the record clearly showed that the process is not working properly. The process in the Department of the Interior is time consuming and costly, although it has improved somewhat in recent years. Some tribal groups allege that Interior Department's process leads to unfair and unfounded results. It has frequently been hindered by a lack of staff and resources needed to fairly and promptly review all petitions. At the same time, the Congress extends recognition to tribes with little or no reference to the legal standards and criteria employed by the Department. The result is yet another layer of inconsistency and apparent unfairness.

The record from our previous hearings reveals a clear need for the Congress to address the problems affecting the recognition process. I believe that the bill I am introducing today will go a long way toward resolving the problems which have plagued both the Department and the petitions over the years.

Mr. President, I ask unanimous consent that the full text of the Indian Federal Recognition Administrative Procedures Act of 1995 and a section-by-section summary be printed in the RECORD.

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

S. 479

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 "Indian Federal Recognition Administrative Procedures Act of 1995".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish an administrative procedure to extend Federal recognition to certain Indian groups;

(2) to extend to Indian groups that are determined to be Indian tribes the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility with respect to Indian tribes;

(3) to extend to Indian groups that are determined to be Indian tribes the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States;

(4) to ensure that when the Federal Government extends acknowledgment to an Indian tribe, the Federal Government does so with a consistent legal, factual, and historical basis;

(5) to establish a Commission on Indian Recognition to review and act upon petitions submitted by Indian groups that apply for Federal recognition;

(6) to provide clear and consistent standards of administrative review of documented petitions for Federal acknowledgment;

(7) to clarify evidentiary standards and expedite the administrative review process by providing adequate resources to process petitions; and

(8) to remove the Federal acknowledgment process from the Bureau of Indian Affairs and transfer the responsibility for the process to an independent Commission on Indian Recognition.

SEC. 3. DEFINITIONS.

Unless the context implies otherwise, for the purposes of this Act the following definitions shall apply:

(1) ACKNOWLEDGED.—The term "acknowledged" means, with respect to an Indian group, that the Commission on Indian Recognition has made an acknowledgment, as defined in paragraph (2), for such group.

(2) ACKNOWLEDGMENT.—The term "acknowledgment" means a determination by the Commission on Indian Recognition that an Indian group—

(A) constitutes an Indian tribe with a government-to-government relationship with the United States; and

(B) with respect to which the members are recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) AUTONOMOUS.—

(A) IN GENERAL.—The term "autonomous" means the exercise of political influence or authority independent of the control of any other Indian governing entity.

(B) CONTEXT OF TERM.—With respect to a petitioner, such term shall be understood in the context of the history, geography, culture, and social organization of the petitioner.

(4) BUREAU.—The term "Bureau" means the Bureau of Indian Affairs of the Department.

(5) COMMISSION.—The term "Commission" means the Commission on Indian Recognition established pursuant to section 4.

(6) COMMUNITY.—

(A) IN GENERAL.—The term "community" means any group of people, living within a reasonable territorial propinquity, that are able to demonstrate that—

(i) consistent interactions and significant social relationships exist within the membership; and

(ii) the members of such group are differentiated from and identified as distinct from nonmembers.

(B) CONTEXT OF TERM.—Such term shall be understood in the context of the history, culture, and social organization of the group, taking into account the geography of the region in which the group resides.

(7) CONTINUOUS OR CONTINUOUSLY.—With respect to a period of history of a group, the term "continuous" or "continuously" means extending from the first sustained contact with Euro-Americans throughout the history of the group to the present substantially without interruption.

(8) DEPARTMENT.—The term "Department" means the Department of the Interior.

(9) DOCUMENTED PETITION.—The term "documented petition" means the detailed, factual exposition and arguments, including all documentary evidence, necessary to demonstrate that such arguments specifically address the mandatory criteria established in section 5.

(10) GROUP.—The term "group" means an Indian group, as defined in paragraph (12).

(11) HISTORICALLY, HISTORICAL, HISTORY.—The terms "historically", "historical", and "history" refer to the period dating from the first sustained contact with Euro-Americans.

(12) INDIAN GROUP.—The term "Indian group" means any Indian, Alaska Native, or Native Hawaiian tribe, band, pueblo, village or community within the United States that the Secretary does not acknowledge to be an Indian tribe.

(13) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, pueblo, village, or community within the United States that—

(A) the Secretary has acknowledged as an Indian tribe as of the date of enactment of this Act, or acknowledges to be an Indian tribe pursuant to the procedures applicable to certain petitions under active consideration at the time of the transfer of petitions to the Commission under section 5(a)(3); or

(B) the Commission acknowledges as an Indian tribe under this Act.

(14) INDIGENOUS.—With respect to a petitioner, the term "indigenous" means native to the United States, in that at least part of the traditional territory of the petitioner at the time of first sustained contact with Euro-Americans extended into the United States.

(15) LETTER OF INTENT.—The term "letter of intent" means an undocumented letter or resolution that—

(A) is dated and signed by the governing body of an Indian group;

(B) is submitted to the Commission; and

(C) indicates the intent of the Indian group to submit a petition for Federal acknowledgment as an Indian tribe.

(16) MEMBER OF AN INDIAN GROUP.—The term "member of an Indian group" means an individual who—

(A) is recognized by an Indian group as meeting the membership criteria of the Indian group; and

(B) consents in writing to being listed as a member of such group.

(17) MEMBER OF AN INDIAN TRIBE.—The term "member of an Indian tribe" means an individual who—

(A)(i) meets the membership requirements of the tribe as set forth in its governing document; or

(ii) in the absence of a governing document which sets out such requirements, has been recognized as a member collectively by those persons comprising the tribal governing body; and

(B)(i) has consistently maintained tribal relations with the tribe; or

(ii) is listed on the tribal membership rolls as a member, if such rolls are kept.

(18) PETITION.—The term "petition" means a petition for acknowledgment submitted or transferred to the Commission pursuant to section 5.

(19) PETITIONER.—The term "petitioner" means any group that submits a letter of intent to the Commission requesting acknowledgment that the group is an Indian tribe.

(20) POLITICAL INFLUENCE OR AUTHORITY.—

(A) IN GENERAL.—The term "political influence or authority" means a tribal council, leadership, internal process, or other mechanism which a group has used as a means of—

(i) influencing or controlling the behavior of its members in a significant manner;

(ii) making decisions for the group which substantially affect its members; or

(iii) representing the group in dealing with nonmembers in matters of consequence to the group.

(B) CONTEXT OF TERM.—Such term shall be understood in the context of the history, culture, and social organization of the group.

(21) PREVIOUS FEDERAL ACKNOWLEDGMENT.—The term "previous Federal acknowledgment" means any action by the Federal Government, the character of which—

(A) is clearly premised on identification of a tribal political entity; and

(B) clearly indicates the recognition of a government-to-government relationship between that entity and the Federal Government.

(22) RESTORATION.—The term "restoration" means the reextension of acknowledgment to any previously acknowledged tribe with respect to which the acknowledged status may have been abrogated or diminished by reason of legislation enacted by Congress expressly terminating such status.

(23) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(24) SUSTAINED CONTACT.—The term "sustained contact" means the period of earliest sustained Euro-American settlement or governmental presence in the local area in which the tribe or tribes from which the petitioner claims descent was located historically.

(25) TREATY.—The term "treaty" means any treaty—

(A) negotiated and ratified by the United States on or before March 3, 1871, with, or on behalf of, any Indian group or tribe;

(B) made by any government with, or on behalf of, any Indian group or tribe, from which the Federal Government subsequently acquired territory by purchase, conquest, annexation, or cession; or

(C) negotiated by the United States with, or on behalf of, any Indian group in California, whether or not the treaty was subsequently ratified.

(26) TRIBE.—The term "tribe" means an Indian tribe.

(27) TRIBAL RELATIONS.—The term "tribal relations" means participation by an individual in a political and social relationship with an Indian tribe.

(28) TRIBAL ROLL.—The term "tribal roll" means a list exclusively of those individuals who—

(A)(i) have been determined by the tribe to meet the membership requirements of the tribe, as set forth in the governing document of the tribe; or

(ii) in the absence of a governing document that sets forth such requirements, have been recognized as members by the governing body of the tribe; and

(B) have affirmatively demonstrated consent to being listed as members of the tribe.

(29) UNITED STATES.—The term "United States" means the 48 contiguous States, and the States of Alaska and Hawaii. Such term does not include territories or possessions of the United States.

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

(a) ESTABLISHMENT.—There is established, as an independent commission, the Commission on Indian Recognition. The Commission shall be an independent establishment, as defined in section 104 of title 5, United States Code.

(b) MEMBERSHIP.—

(1) IN GENERAL.—

(A) MEMBERS.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(B) INDIVIDUALS TO BE CONSIDERED FOR MEMBERSHIP.—In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes; and

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history.

(2) POLITICAL AFFILIATION.—Not more than 2 members of the Commission may be members of the same political party.

(3) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each member of the Commission shall be appointed for a term of 4 years.

(B) INITIAL APPOINTMENTS.—As designated by the President at the time of appointment, of the members initially appointed under this subsection—

(i) 1 member shall be appointed for a term of 2 years;

(ii) 1 member shall be appointed for a term of 3 years; and

(iii) 1 member shall be appointed for a term of 4 years.

(4) VACANCIES.—Any vacancy in the Commission shall not affect the powers of the Commission, but shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of the term of such member until a successor has taken office.

(5) COMPENSATION.—

(A) IN GENERAL.—Each member of the Commission shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) TRAVEL.—All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from their homes or regular places of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) FULL-TIME EMPLOYMENT.—Each member of the Commission shall serve on the Commission as a full-time employee of the Federal Government. No member of the Commission may, while serving on the Commission, be otherwise employed as an officer or employee of the Federal Government. Service by a member who is an employee of the Federal Government at the time of nomination as a member shall be without interruption or loss of civil service status or privilege.

(7) CHAIRPERSON.—At the time appointments are made under paragraph (1), the President shall designate a Chairperson of the Commission (referred to in this section as the "Chairperson") from among the appointees.

(c) MEETINGS AND PROCEDURES.—

(1) IN GENERAL.—The Commission shall hold its first meeting not later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(2) QUORUM.—Two members of the Commission shall constitute a quorum for the transaction of business.

(3) RULES.—The Commission may adopt such rules (consistent with the provisions of this Act) as may be necessary to establish the procedures of the Commission and to govern the manner of operations, organization, and personnel of the Commission.

(4) PRINCIPAL OFFICE.—The principal office of the Commission shall be in the District of Columbia.

(d) DUTIES.—The Commission shall carry out the duties assigned to the Commission by this Act, and shall meet the requirements imposed on the Commission by this Act.

(e) POWERS AND AUTHORITIES.—

(1) POWERS AND AUTHORITIES OF CHAIRPERSON.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson may—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the Chairperson considers advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) GENERAL POWERS AND AUTHORITIES OF COMMISSION.—

(A) IN GENERAL.—The Commission may—

(i) hold such hearings and sit and act at such times;

(ii) take such testimony;

(iii) have such printing and binding done;

(iv) enter into such contracts and other arrangements, subject to the availability of funds;

(v) make such expenditures; and

(vi) take such other actions,

as the Commission may consider advisable.

(B) OATHS AND AFFIRMATIONS.—Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3) INFORMATION.—

(A) IN GENERAL.—The Commission may secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require to carry out this Act. Each such officer, department, agency, establishment, or instrumentality shall furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon the request of the Chairperson.

(B) FACILITIES, SERVICES, AND DETAILS.—Upon the request of the Chairperson, to assist the Commission in carrying out the duties of the Commission under this section, the head of any Federal department, agency, or instrumentality may—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis.

(C) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on the date that is 12 years after the date of enactment of this Act.

SEC. 5. PETITIONS FOR RECOGNITION.

(a) IN GENERAL.—

(1) PETITIONS.—Subject to subsection (d) and except as provided in paragraph (2), any Indian group may submit to the Commission a petition requesting that the Commission recognize an Indian group as an Indian tribe.

(2) EXCLUSION.—The following groups and entities shall not be eligible to submit a petition for recognition by the Commission under this Act:

(A) CERTAIN ENTITIES THAT ARE ELIGIBLE TO RECEIVE SERVICES FROM THE BUREAU.—Indian tribes, organized bands, pueblos, communities, and Alaska Native entities that are recognized by the Secretary as of the date of enactment of this Act as eligible to receive services from the Bureau.

(B) CERTAIN SPLINTER GROUPS, POLITICAL FACTIONS, AND COMMUNITIES.—Splinter groups, political factions, communities, or groups of any character that separate from the main body of an Indian tribe that, at the time of such separation, is recognized as an Indian tribe by the Secretary, unless the group, faction, or community is able to establish clearly that the group, faction, or community has functioned throughout history until the date of such petition as an autonomous Indian tribal entity.

(C) CERTAIN GROUPS THAT HAVE PREVIOUSLY SUBMITTED PETITIONS.—Groups, or successors in interest of groups, that prior to the date of enactment of this Act, have petitioned for and been denied or refused recognition as an Indian tribe under regulations prescribed by the Secretary.

(D) INDIAN GROUPS SUBJECT TO TERMINATION.—Any Indian group whose relationship with the Federal Government was expressly terminated by an Act of Congress.

(E) PARTIES TO CERTAIN ACTIONS.—Any Indian group that—

(i) in any action in a United States court of competent jurisdiction to which the group was a party, attempted to establish its status as an Indian tribe or a successor in interest to an Indian tribe that was a party to a treaty with the United States;

(ii) was determined by such court—

(I) not to be an Indian tribe; or

(II) not to be a successor in interest to an Indian tribe that was a party to a treaty with the United States; or

(iii) was the subject of findings of fact by such court which, if made by the Commission, would show that the group was incapable of establishing one or more of the criteria set forth in this section.

(3) TRANSFER OF PETITION.—

(A) IN GENERAL.—Notwithstanding any other provision of law, not later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate under section 4(b), the Secretary shall transfer to the Commission all petitions pending before the Department that—

(i) are not under active consideration of the Secretary at the time of the transfer; and

(ii) request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe.

(B) CESSATION OF CERTAIN AUTHORITIES OF SECRETARY.—Notwithstanding any other provision of law, on the date of the transfer under subparagraph (A), the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal Government, any Indian group as an Indian tribe, except for those groups under active consideration at the time of the transfer whose petitions have been retained by the Secretary pursuant to subparagraph (A).

(C) DETERMINATION OF ORDER OF SUBMISSION OF TRANSFERRED PETITIONS.—Petitions transferred to the Commission under subparagraph (A) shall, for purposes of this Act, be considered as having been submitted to the Commission in the same order as such petitions were submitted to the Department.

(b) PETITION FORM AND CONTENT.—Except as provided in subsection (c), any petition submitted under subsection (a) by an Indian group shall be in any readable form that clearly indicates that the petition is a petition requesting the Commission to recognize the Indian group as an Indian tribe and that contains detailed, specific evidence concerning each of the following items:

(1) STATEMENT OF FACTS.—A statement of facts establishing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. Evidence that the character of the group as an Indian entity has from time to time been denied shall not be considered to be conclusive evidence that this criterion has not been met. Evidence that the Commission may rely on in determining the Indian identity of a group may include any one or more of the following items:

(A) IDENTIFICATION OF PETITIONER.—An identification of the petitioner as an Indian entity by any department, agency, or instrumentality of the Federal Government.

(B) RELATIONSHIP OF PETITIONER WITH STATE GOVERNMENT.—A relationship between the petitioner and any State government, based on an identification of the petitioner as an Indian entity.

(C) RELATIONSHIP OF PETITIONER WITH A POLITICAL SUBDIVISION OF A STATE.—Dealings of the petitioner with a county or political subdivision of a State in a relationship based on the Indian identity of the petitioner.

(D) IDENTIFICATION OF PETITIONER ON THE BASIS OF CERTAIN RECORDS.—An identification of the petitioner as an Indian entity by records in a private or public archive, courthouse, church, or school.

(E) IDENTIFICATION OF PETITIONER BY CERTAIN EXPERTS.—An identification of the petitioner as an Indian entity by an anthropologist, historian, or other scholar.

(F) IDENTIFICATION OF PETITIONER BY CERTAIN MEDIA.—An identification of the petitioner as an Indian entity in a newspaper, book, or similar medium.

(G) IDENTIFICATION OF PETITIONER BY ANOTHER INDIAN TRIBE OR ORGANIZATION.—An identification of the petitioner as an Indian entity by another Indian tribe or by a national, regional, or State Indian organization.

(H) IDENTIFICATION OF PETITIONER BY A FOREIGN GOVERNMENT OR INTERNATIONAL ORGANIZATION.—An identification of the petitioner as an Indian entity by a foreign government or an international organization.

(I) OTHER EVIDENCE OF IDENTIFICATION.—Such other evidence of identification as may be provided by a person or entity other than the petitioner or a member of the membership of the petitioner.

(2) EVIDENCE OF COMMUNITY.—

(A) IN GENERAL.—A statement of facts establishing that a predominant portion of the membership of the petitioner—

(i) comprises a community distinct from those communities surrounding such community; and

(ii) has existed as a community from historical times to the present.

(B) EVIDENCE.—Evidence that the Commission may rely on in determining that the petitioner meets the criterion described in clauses (i) and (ii) of subparagraph (A) may include one or more of the following items:

(i) MARRIAGES.—Significant rates of marriage within the group, or, as may be culturally required, patterned out-marriages with other Indian populations.

(ii) SOCIAL RELATIONSHIPS.—Significant social relationships connecting individual members.

(iii) SOCIAL INTERACTION.—Significant rates of informal social interaction which exist broadly among the members of a group.

(iv) SHARED ECONOMIC ACTIVITY.—A significant degree of shared or cooperative labor or other economic activity among the membership.

(v) DISCRIMINATION OR OTHER SOCIAL DISTINCTIONS.—Evidence of strong patterns of discrimination or other social distinctions by nonmembers.

(vi) SHARED RITUAL ACTIVITY.—Shared sacred or secular ritual activity encompassing most of the group.

(vii) CULTURAL PATTERNS.—Cultural patterns that—

(I) are shared among a significant portion of the group that are different from the cultural patterns of the non-Indian populations with whom the group interacts;

(II) function as more than a symbolic identification of the group as Indian; and

(III) may include language, kinship or religious organizations, or religious beliefs and practices.

(viii) COLLECTIVE INDIAN IDENTITY.—The persistence of a named, collective Indian identity continuously over a period of more than 50 years, notwithstanding changes in name.

(ix) HISTORICAL POLITICAL INFLUENCE.—A demonstration of historical political influence pursuant to the criterion set forth in paragraph (3).

(C) CRITERIA FOR SUFFICIENT EVIDENCE.—The Commission shall consider the petitioner to have provided sufficient evidence of community at a given point in time if the petitioner has provided evidence that demonstrates any one of the following:

(i) RESIDENCE OF MEMBERS.—More than 50 percent of the members of the group of the petitioner reside in a particular geographical area exclusively or almost exclusively composed of members of the group, and the balance of the group maintains consistent social interaction with some members of the community.

(ii) MARRIAGES.—Not less than 50 percent of the marriages of the group are between members of the group.

(iii) DISTINCT CULTURAL PATTERNS.—Not less than 50 percent of the members of the group maintain distinct cultural patterns including language, kinship or religious organizations, or religious beliefs or practices.

(iv) COMMUNITY SOCIAL INSTITUTIONS.—Distinct community social institutions encompassing a substantial portion of the members of the group, such as kinship organizations, formal or informal economic cooperation, or religious organizations.

(v) APPLICABILITY OF CRITERIA.—The group has met the criterion in paragraph (3) using evidence described in paragraph (3)(B).

(3) AUTONOMOUS ENTITY.—

(A) IN GENERAL.—A statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the time of the petition. The Commission may rely on one or more of the following items in determining whether a petitioner meets the criterion described in the preceding sentence:

(i) MOBILIZATION OF MEMBERS.—The group is capable of mobilizing significant numbers of members and significant resources from its members for group purposes.

(ii) ISSUES OF PERSONAL IMPORTANCE.—Most of the membership of the group considers issues acted upon or taken by group leaders or governing bodies to be of personal importance.

(iii) POLITICAL PROCESS.—There is a widespread knowledge, communication, and involvement in political processes by most of the members of the group.

(iv) LEVEL OF APPLICATION OF CRITERIA.—The group meets the criterion described in paragraph (2) at more than a minimal level.

(v) INTRAGROUP CONFLICTS.—There are intragroup conflicts which show controversy over valued group goals, properties, policies, processes, or decisions.

(B) EVIDENCE OF EXERCISE OF POLITICAL INFLUENCE OR AUTHORITY.—The Commission shall consider that a petitioner has provided sufficient evidence to demonstrate the exercise of political influence or authority at a given point in time by demonstrating that group leaders or other mechanisms exist or have existed that accomplish the following:

(i) ALLOCATION OF GROUP RESOURCES.—Allocate group resources such as land, residence rights, or similar resources on a consistent basis.

(ii) SETTLEMENT OF DISPUTES.—Settle disputes between members or subgroups such as clans or moieties by mediation or other means on a regular basis.

(iii) INFLUENCE ON BEHAVIOR OF INDIVIDUAL MEMBERS.—Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior.

(iv) ECONOMIC SUBSISTENCE ACTIVITIES.—Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(C) TEMPORALITY OF SUFFICIENCY OF EVIDENCE.—A group that has met the requirements of paragraph (2)(C) at any point in time shall be considered to have provided sufficient evidence to meet the criterion described in subparagraph (A) at such point in time.

(4) GOVERNING DOCUMENT.—A copy of the then present governing document of the petitioner that includes the membership criteria of the petitioner. In the absence of a written document, the petitioner shall be required to provide a statement describing in full the membership criteria of the petitioner and the then current governing procedures of the petitioner.

(5) LIST OF MEMBERS.—

(A) IN GENERAL.—A list of all then current members of the petitioner, including the full name (and maiden name, if any), date, and place of birth, and then current residential address of each member, a copy of each available former list of members based on the criteria defined by the petitioner, and a statement describing the methods used in preparing such lists.

(B) REQUIREMENTS FOR MEMBERSHIP.—In order for the Commission to consider the members of the group to be members of an Indian tribe for the purposes of the petition, such membership shall be required to consist of established descendancy from an Indian group that existed historically, or from historical Indian groups that combined and functioned as a single autonomous entity.

(C) EVIDENCE OF TRIBAL MEMBERSHIP.—Evidence of tribal membership required by the Commission for a determination of tribal membership shall include the following items:

(i) DESCENDANCY ROLLS.—Descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes.

(ii) CERTAIN OFFICIAL RECORDS.—State, Federal, or other official records or evidence identifying then present members of the petitioner, or ancestors of then present members of the petitioner, as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

(iii) ENROLLMENT RECORDS.—Church, school, and other similar enrollment records identifying then present members or ancestors of then present members as being descendants of a historic tribe or historic tribes that combined and functioned as a single autonomous political entity.

(iv) AFFIDAVITS OF RECOGNITION.—Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(v) OTHER RECORDS OR EVIDENCE.—Other records or evidence identifying then present members or ancestors of then present members as being descendants of 1 or more historic tribes that combined and functioned as a single autonomous political entity.

(c) EXCEPTIONS.—A petition from an Indian group that is able to demonstrate by a preponderance of the evidence that the group was, or is the successor in interest to, a—

(1) party to a treaty or treaties;

(2) group acknowledged by any agency of the Federal Government as eligible to participate under the Act of June 18, 1934 (commonly referred to as the "Indian Reorganization Act") (48 Stat. 984 et seq., chapter 576; 25 U.S.C. 461 et seq.);

(3) group for the benefit of which the United States took into trust lands, or which the Federal Government has treated as having collective rights in tribal lands or funds; or

(4) group that has been denominated a tribe by an Act of Congress or Executive order,

shall be required to establish the criteria set forth in this section only with respect to the period beginning on the date of the applicable action described in paragraph (1), (2), (3), or (4) and ending on the date of submission of the petition.

(d) DEADLINE FOR SUBMISSION OF PETITIONS.—No Indian group may submit a petition to the Commission requesting that the Commission recognize an Indian group as an Indian tribe after the date that is 6 years after the date of enactment of this Act. After the Commission makes a determination on each petition submitted prior to such date, the Commission may not make any further determination under this Act to recognize any Indian group as an Indian tribe.

SEC. 6. NOTICE OF RECEIPT OF PETITION.

(a) PETITIONER.—

(1) IN GENERAL.—Not later than 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall—

(A) send an acknowledgement of receipt in writing to the petitioner; and

(B) publish in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that—

(i) identifies the entity that submitted the petition and the date the petition was received by the Commission;

(ii) indicates where a copy of the petition may be examined; and

(iii) indicates whether the petition is a transferred petition that is subject to the special provisions under paragraph (2).

(2) SPECIAL PROVISIONS FOR TRANSFERRED PETITIONS.—

(A) IN GENERAL.—With respect to a petition that is transferred to the Commission under section 5(a)(3), the notice provided to the petitioner, shall, in addition to providing the information specified in paragraph (1), inform the petitioner whether the petition constitutes a documented petition that meets the requirements of section 5.

(B) AMENDED PETITIONS.—If the petition described in subparagraph (A) is not a documented petition, the Commission shall notify the petitioner that the petitioner may, not later than 90 days after the date of the notice, submit to the Commission an amended petition that is a documented petition for review under section 7.

(C) EFFECT OF AMENDED PETITION.—To the extent practicable, the submission of an amended petition by a petitioner by the date specified in this paragraph shall not affect the order of consideration of the petition by the Commission.

(b) OTHERS.—In addition to providing the notification required under subsection (a), the Commission shall notify, in writing, the Governor and attorney general of, and each federally recognized Indian tribe within, any State in which a petitioner resides.

(c) PUBLICATION; OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—

(1) PUBLICATION.—The Commission shall publish the notice of receipt of each petition (including any amended petition submitted pursuant to subsection (a)(2)) in a major newspaper of general circulation in the town or city located nearest the location of the petitioner.

(2) OPPORTUNITY FOR SUPPORTING OR OPPOSING SUBMISSIONS.—

(A) IN GENERAL.—Each notice published under paragraph (1) shall include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of or in opposition to, the petition.

(B) COPY TO PETITIONER.—A copy of any submission made under subparagraph (A) shall be provided to the petitioner upon receipt by the Commission.

(C) RESPONSE.—The petitioner shall be provided an opportunity to respond to any submission made under subparagraph (A) prior to a determination on the petition by the Commission.

SEC. 7. PROCESSING THE PETITION.

(a) REVIEW.—

(1) IN GENERAL.—Upon receipt of a documented petition submitted or transferred under section 5(a) or submitted under section 6(a)(2)(B), the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) CONTENT OF REVIEW.—The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) OTHER RESEARCH.—In conducting a review under this subsection, the Commission may—

(A) initiate other research for any purpose relative to analyzing the petition and obtaining additional information about the status of the petitioner; and

(B) consider such evidence as may be submitted by other parties.

(4) ACCESS TO LIBRARY OF CONGRESS AND NATIONAL ARCHIVES.—Upon request by the petitioner, the appropriate officials of the Library of Congress and the National Archives shall allow access by the petitioner to the resources, records, and documents of such entities, for the purpose of conducting research and preparing evidence concerning the status of the petitioner.

(b) CONSIDERATION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, petitions submitted or transferred to the Commission shall be considered on a first come, first served basis, determined by the date of the original filing of each such petition with the Commission (or the Department if the petition is transferred to the Commission pursuant to section 5(a) or is an amended petition submitted pursuant to section 6(a)(2)(B)). The Commission shall establish a priority register that includes petitions that are pending before the Department on the date of enactment of this Act.

(2) PRIORITY CONSIDERATION.—Each petition (that is submitted or transferred to the Commission pursuant to section 5(a) or that is submitted to the Commission pursuant to section 6(a)(2)(B)) of an Indian group that meets one or more of the requirements set forth in section 5(c) shall receive priority consideration over a petition submitted by any other Indian group.

SEC. 8. PRELIMINARY HEARING.

(a) IN GENERAL.—Not later than 60 days after the receipt of a documented petition by the Commission submitted or transferred under section 5(a) or submitted to the Commission pursuant to section 6(a)(2)(B), the Commission shall set a date for a preliminary hearing. At the preliminary hearing, the petitioner and any other concerned party may provide evidence concerning the status of the petitioner.

(b) DETERMINATION.—

(1) IN GENERAL.—Not later than 30 days after the conclusion of a preliminary hearing under subsection (a), the Commission shall make a determination—

(A) to extend Federal acknowledgment of the petitioner as an Indian tribe to the petitioner; or

(B) that provides that the petitioner should proceed to an adjudicatory hearing.

(2) NOTICE OF DETERMINATION.—The Commission shall publish in the Federal Register a notice of each determination made under paragraph (1).

(c) INFORMATION TO BE PROVIDED PREPARATORY TO AN ADJUDICATORY HEARING.—

(1) IN GENERAL.—If the Commission makes a determination under subsection (b)(1)(B) that the petitioner should proceed to an adjudicatory hearing, the Commission shall—

(A)(i) make available appropriate evidentiary records of the Commission to the petitioner to assist the petitioner in preparing for the adjudicatory hearing; and

(ii) include such guidance as the Commission considers necessary or appropriate to assist the petitioner in preparing for the hearing; and

(B) not later than 30 days after the conclusion of the preliminary hearing under subsection (a), provide a written notification to the petitioner that includes a list of any deficiencies or omissions that the Commission relied on in making a determination under subsection (b)(1)(B).

(2) SUBJECT OF ADJUDICATORY HEARING.—The list of deficiencies and omissions provided by the Commission to a petitioner under paragraph (1)(B) shall be the subject of the adjudicatory hearing. The Commission may not make any additions to the list after the Commission issues the list.

SEC. 9. ADJUDICATORY HEARING.

(a) IN GENERAL.—Not later than 180 days after the conclusion of a preliminary hearing under section 8(a), the Commission shall afford a petitioner who is subject to section 8(b)(1)(B) an adjudicatory hearing. The subject of the adjudicatory hearing shall be the list of deficiencies and omissions provided under section 8(c)(1)(B) and shall be conducted pursuant to section 554 of title 5, United States Code.

(b) TESTIMONY FROM STAFF OF COMMISSION.—In any hearing held under subsection (a), the Commission may require testimony from the acknowledgement and research staff of the Commission or other witnesses. Any such testimony shall be subject to cross-examination by the petitioner.

(c) EVIDENCE BY PETITIONER.—In any hearing held under subsection (a), the petitioner may provide such evidence as the petitioner considers appropriate.

(d) DETERMINATION BY COMMISSION.—Not later than 60 days after the conclusion of any hearing held under subsection (a), the Commission shall—

(1) make a determination concerning the extension or denial of Federal acknowledgment of the petitioner as an Indian tribe to the petitioner;

(2) publish the determination of the Commission under paragraph (1) in the Federal Register; and

(3) deliver a copy of the determination to the petitioner, and to every other interested party.

SEC. 10. APPEALS.

(a) IN GENERAL.—Not later than 60 days after the date that the Commission publishes a determination under section 9(d), the petitioner may appeal the determination to the United States District Court for the District of Columbia.

(b) ATTORNEY FEES.—If the petitioner prevails in an appeal made under subsection (a), the petitioner shall be eligible for an award of reasonable attorney fees and costs under section 504 of title 5, United States Code, or section 2412 of title 28 of such Code, whichever is applicable.

SEC. 11. EFFECT OF DETERMINATIONS.

A determination by the Commission under section 9(d) that an Indian group is recognized by the Federal Government as an Indian tribe shall not have the effect of depriving or diminishing—

(1) the right of any other Indian tribe to govern the reservation of such other tribe as such reservation existed prior to the recognition of such Indian group, or as such reservation may exist thereafter;

(2) any property right held in trust or recognized by the United States for such other Indian tribe as such property existed prior to the recognition of such Indian group; or

(3) any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition by the Federal Government of such Indian group as an Indian tribe.

SEC. 12. IMPLEMENTATION OF DECISIONS.

(a) ELIGIBILITY FOR SERVICES AND BENEFITS.—

(1) IN GENERAL.—Subject to paragraph (2), upon recognition by the Commission of a petitioner as an Indian tribe under this Act, the Indian tribe shall—

(A) be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States; and

(B) have the responsibilities, obligations, privileges, and immunities of such Indian tribes.

(2) PROGRAMS OF THE BUREAU.—

(A) IN GENERAL.—The recognition of an Indian group as an Indian tribe by the Commission under this Act shall not create an immediate entitlement to programs of the Bureau in existence on the date of the recognition.

(B) AVAILABILITY OF PROGRAMS.—

(i) IN GENERAL.—The programs described in subparagraph (A) shall become available to the Indian tribe upon the appropriation of funds.

(ii) REQUESTS FOR APPROPRIATIONS.—The Secretary and the Secretary of Health and Human Services shall forward budget requests for funding the programs for the Indian tribe pursuant to the needs determination procedures established under subsection (b).

(b) NEEDS DETERMINATION AND BUDGET REQUEST.—

(1) IN GENERAL.—Not later than 180 days after an Indian group is recognized by the Commission as an Indian tribe under this Act, the appropriate officials of the Bureau and the Indian Health Service of the Department of Health and Human Services shall consult and develop in cooperation with the Indian tribe, and forward to the Secretary or the Secretary of Health and Human Services, as appropriate, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe.

(2) SUBMISSION OF BUDGET REQUEST.—Upon receipt of the information described in paragraph (1), the appropriate Secretary shall submit to the President a recommended budget along with recommendations, concerning the information received under paragraph (1), for inclusion in the annual budget submitted by the President to the Congress pursuant to section 1108 of title 31, United States Code.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

(a) LIST OF RECOGNIZED TRIBES.—Not later than 90 days after the first meeting of the Commission, and annually on or before each January 30 thereafter, the Commission shall publish in the Federal Register a list of all Indian tribes that—

(1) are recognized by the Federal Government; and

(2) receive services from the Bureau.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—Beginning on the date that is 1 year after the date of the enactment of this Act, and annually thereafter, the Commission shall prepare and submit a report to the Committee on Indian Affairs of the Senate and the Committee on Resources of the House of Representatives that describes the activities of the Commission.

(2) CONTENT OF REPORTS.—Each report submitted under this subsection shall include, at a minimum, for the year that is the subject of the report—

(A) the number of petitions pending at the beginning of the year and the names of the petitioners;

(B) the number of petitions received during the year and the names of the petitioners;

(C) the number of petitions the Commission approved for acknowledgment during the year and the names of the acknowledged petitioners;

(D) the number of petitions the Commission denied for acknowledgment during the year and the names of the petitioners; and

(E) the status of all pending petitions on the date of the report and the names of the petitioners.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act. The district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

SEC. 15. REGULATIONS.

The Commission may, in accordance with applicable requirements of title 5, United States Code, promulgate and publish such regulations as may be necessary to carry out this Act.

SEC. 16. GUIDELINES AND ADVICE.

(a) GUIDELINES.—Not later than 90 days after the first meeting of the Commission, the Commission shall make available to Indian groups suggested guidelines for the format of petitions, including general suggestions and guidelines concerning where and how to research information that is required to be included in a petition. The examples included in the guidelines shall not preclude the use of any other appropriate format.

(b) RESEARCH ADVICE.—The Commission may, upon request, provide suggestions and advice to any petitioner with respect to the research of the petitioner concerning the historical background and Indian identity of such petitioner. The Commission shall not be responsible for conducting research on behalf of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to Indian groups seeking Federal recognition as Indian tribes to enable the Indian groups to—

(A) conduct the research necessary to substantiate petitions under this Act; and

(B) prepare documentation necessary for the submission of a petition under this Act.

(2) TREATMENT OF GRANTS.—The grants made under this subsection shall be in addition to any other grants the Secretary of Health and Human Services is authorized to provide under any other provision of law.

(b) COMPETITIVE AWARD.—The grants made under subsection (a) shall be awarded competitively on the basis of objective criteria prescribed in regulations promulgated by the Secretary of Health and Human Services.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated to the Commission to carry out this Act (other than section 17)—

(1) $1,500,000 for fiscal year 1996; and

(2) $1,500,000 for each of fiscal years 1997 through 2008.

(b) SECRETARY OF HHS.—To carry out section 17, there are authorized to be appropriated to the Department of Health and Human Services for the Administration for Native Americans $500,000 for each of fiscal years 1996 through 2007.

SECTION-BY-SECTION SUMMARY OF THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1995

SECTION 1. SHORT TITLE.

This section provides that the Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1995".

SEC. 2. PURPOSES.

This section provides that the purposes of the Act are: to establish a procedure to extend Federal recognition to Indian groups; to extend to Indian groups that are found to be Indian tribes the protection, services, benefits and privileges and immunities which are available pursuant to the Federal trust responsibility and to those Indian tribes with a government-to-government relationship with the United States; to ensure that a consistent legal, factual and historical basis is utilized to determine when acknowledgement should be extended to an Indian tribe; to establish a Commission on Indian Recognition; to provide clear and consistent standards of administrative review of petitions for acknowledgement; to clarify evidentiary standards and provide adequate resources to process petitions; and to remove the Federal acknowledgement process from the Bureau of Indian Affairs.

SEC. 3. DEFINITIONS.

This section provides definitions for the following terms: "acknowledged", "acknowledgement", "autonomous", "Bureau", "Commission", "community", "continuous or continuously", "Department", "documented petition", "group", "historically, historical, history", "Indian group", "Indian tribe", "indigenous", "letter of intent", "member of an Indian group", "member of an Indian tribe", "petition", "petitioner", "political influence or authority", "previous federal acknowledgement", "restoration", "Secretary", "sustained contact", "treaty", "tribe", "tribal relations", "tribal roll", and "United States".

SEC. 4. COMMISSION ON INDIAN RECOGNITION.

Subsection (a) of this section authorizes the establishment of the Commission on Indian Recognition as a three member independent agency of the Executive Branch.

Subsection (b) provides that Commission members are to be appointed by the President with the advice and consent of the Senate. Indian tribes may make recommendations to the President and the President shall consider individuals with backgrounds in Indian law or policy, anthropology, genealogy or history in making appointments to the Commission. Commissioners will serve for a term of four years, except in the case of the initial commissioners, whose terms shall be staggered. Vacancies in the Commission will be filled in the same manner as original appointments. Commissioners are to be paid at a rate equivalent to level V of the Executive Schedule and are to be reimbursed for all travel and per diem expenses. Commissioners are to be full-time employees of the Federal Government and cannot be otherwise employed by the Federal Government during their service on the Commission. The Chairperson of the Commission is to be designated by the President at the time the Commissioners are nominated.

Subsection (c) provides that the first meeting of the Commission will occur no later than 30 days after all of the Commissioners have been confirmed by the Senate. Two members of the Commission will constitute a quorum for the conduct of business. The Commission is authorized to adopt any rules necessary to govern its operation, organization and personnel. The principal office of

the Commission is required to be in the District of Columbia.

Subsection (d) requires the Commission to carry out the duties assigned to it and to meet the requirements imposed on it by this Act.

Subsection (e) authorizes the Chairperson of the Commission to appoint, terminate and fix the compensation of an Executive Director of the Commission and such other personnel as the Chairperson considers advisable to assist in the work of the Commission. The Chairperson is also authorized to procure temporary and intermittent services. In general, the Commission is authorized to hold hearings, take testimony, enter into contracts and take such other actions as the Commission may consider advisable. Any member of the Commission may administer oaths to witnesses appearing before the Commission. The Commission is authorized to secure such information as it may need to carry out this Act from any officer or entity of the Federal Government. Other federal departments and agencies are authorized to provide personnel and facilities or services to the Commission on a nonreimbursable basis. The Commission is also authorized to use the U.S. Mails on the same terms and conditions as other Federal departments and agencies.

Subsection (f) provides that the Federal Advisory Committee Act does not apply to the Commission.

Subsection (g) provides that the Commission shall terminate 12 years after the date of enactment of this Act.

SEC. 5. PETITIONS FOR RECOGNITION

Subsection (a) of this section provides that any Indian group, subject to the exceptions in this section, may submit to the Commission a petition requesting that the Commission recognize the Indian group as an Indian tribe. Indian tribes already recognized by the United States, splinter groups or factions of such Indian tribes, groups which have previously been denied recognition groups which were terminated by an Act of Congress, and groups which have been denied recognition by a Federal court are not eligible to petition the Commission for recognition. Not later than 30 days after all members of the Commission have been confirmed by the Senate, the Secretary is required to transfer to the Commission all petitions pending before the Department of the Interior that are not under active consideration. All authority of the Secretary to recognize or acknowledge an Indian group as an Indian tribe, except for those groups under active consideration, shall cease on the date of transfer to the Commission. All petitions transferred to the Commission shall be considered as having been submitted to the Commission in the same order they were submitted to the Department.

Subsection (b)(1) provides that a petition must be readable and contain detailed, specific evidence showing that the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1871. The Commission can determine the Indian identity of a group based on any one or more of the following: Identification as an Indian entity by the Federal Government; a relationship of petitioner with a state government or a unit of local government based on the Indian identity of the petitioner; identification as an Indian entity by public or private records, by anthropologists or historians, newspapers, books, other Indian tribes and Indian organizations, or foreign governments.

Subsection (b)(2) provides that the petition must contain a statement of facts establishing that the membership of the petitioner comprises a distinct community which has existed from historical times to the present. The Commission can determine the existence of an Indian community based on one or more of the following items: marriages within the group; social relationships and interaction within the group; shared labor or economic activity; discrimination or other social distinctions by nonmembers; shared ritual activity and cultural patterns; collective Indian identity continuously over a period of more than 50 years; and a demonstration of historical political influence.

Subsection (b)(2) further provides that the Commission shall find that the petitioner has provided sufficient evidence of a community if the petitioner has provided evidence that demonstrates any one of the following: more than 50% of the members of the group reside in a particular geographic area exclusively composed of members of that group and the remainder of the group maintains consistent social interaction with some members of the community; not less than 50% of the marriages of the group are between members of the group; not less than 50% of the members of the group maintain distinct cultural patterns including language, kinship or religious beliefs and practices; and distinct community social institutions encompassing a substantial portion of the members of the group.

Subsection (b)(3) requires the petition to contain a statement of facts establishing that the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times. The Commission may rely on one or more of the following items to determine if the petitioner is an autonomous entity: the group is capable of mobilizing a significant number of its members and member resources for group purposes; most of the group considers issues acted upon by the group leadership to be of personal importance; there is widespread knowledge and involvement in political processes by most group members; and there are intragroup conflicts which show controversy over valued group goals, properties, policies and processes.

Subsection (b)(3) also provides that the Commission shall determine that a petitioner has provided sufficient evidence to demonstrate the exercise of political influence or authority by demonstrating that leaders or other mechanisms exist to accomplish the following: allocation of group resources; settlement of disputes between members or subgroups; influence the behavior of individual members; and organize or influence economic activities among the members.

Subsection (b)(4) provides that the petition must include a copy of the governing document of the petitioner that includes the petitioner's membership criteria or a description of the governing procedures and membership criteria.

Subsection (b)(5) requires the petition to contain a list of all of the petitioner's current members and a statement describing the methods used to prepare such list. A group's membership must consist of established descendancy from an Indian group that existed historically or from historical Indian groups that combined and functioned as a single autonomous entity. Evidence of tribal membership shall include the following items: descendancy rolls prepared by the Secretary; state, federal or other official records; church, school and similar enrollment records; and affidavits of recognition by tribal elders, leaders or the tribal governing body.

Subsection (c) provides that a petition from a group that is able to demonstrate by a preponderance of the evidence that the group was or is the successor in interest to a party to a treaty; or a group acknowledged by the Federal Government as eligible to participate in the Indian Reorganization Act; or a group for which the United States holds lands in trust; or a group that has been denominated a tribe by an Act of Congress or an Executive Order shall only have to prove continuity of its existence as an Indian group from the date of such event rather than from the date of 1871.

Subsection (d) provides that no petitions can be submitted to the Commission after the date that is 6 years after the date of enactment of this Act.

SEC. 6. NOTIFICATION OF RECEIPT OF PETITION.

Subsection (a) of this section provides that 30 days after a petition is submitted or transferred to the Commission, the Commission shall send a written acknowledgement of receipt to the petitioner and publish a notice of such receipt in the Federal Register. With regard to a petition that is transferred to the Commission from the Secretary, the Commission shall also advise the petitioner whether the petition meets the requirements of Section 5 of this Act and, if necessary, provide the petitioner with 90 days to submit a petition to the Commission which does meet the requirements of Section 5.

Subsection (b) provides that the Commission shall provide written notification to the Governor, attorney general and each federally recognized Indian tribe located in the state in which the petitioner resides.

Subsection (c) provides that the Commission shall publish the notice of the receipt of each petition in a major newspaper or general circulation in the town or city located nearest the petitioner. These notices shall include a statement of the opportunity for any interested parties to submit factual or legal arguments in support of or in opposition to the petition. A copy of any such statements shall be made available to the petitioner by the Commission and the petitioner shall be afforded an opportunity to respond to such statements from other parties.

SEC. 7. PROCESSING THE PETITION.

Subsection (a) requires the Commission to conduct a review of all documented petitions which it receives. The review shall include consideration of the petition, supporting evidence and the factual statements contained in the petition. The Commission may also initiate other research relative to an analysis of the petition and consider such evidence as may be submitted by other parties. Upon a request by a petitioner, the Library of Congress and the National Archives shall allow the petitioner access to their resources, records and documents to conduct research and prepare evidence concerning the status of the petitioner.

Subsection (b) provides that petitions shall be considered on a first come, first served basis, determined by the date of the original filing, except for those petitions which meet the requirements of Section 5(c) which shall receive priority consideration.

SEC. 8. PRELIMINARY HEARING.

Subsection (a) provides that not later than 60 days after the Commission receives a documented petition, it shall set a date for a preliminary hearing. At the preliminary hearing the petitioner or any other concerned party may provide evidence concerning the status of the petitioner.

Subsection (b) provides that not later than 30 days after the conclusion of a preliminary hearing, the Commission shall either decide

to extend Federal acknowledgement to the petitioner or to require the petitioner to proceed to an adjudicatory hearing.

Subsection (c) provides that if the Commission requires an adjudicatory hearing then it must: make appropriate records of the Commission available to the petitioner and provide such guidance as the Commission considers necessary to assist the petitioner in preparing for the hearing. Not later than 30 days after the conclusion of the preliminary hearing, the Commission is required to make available to the petitioner a written list of any deficiencies or omissions the Commission relied upon in the preliminary hearing. The scope of the adjudicatory hearing is limited to the list of deficiencies or omissions and the Commission cannot make any additions to the list after it is issued to the petitioner.

SEC. 9. ADJUDICATORY HEARING.

Subsection (a) provides that the adjudicatory hearing shall be held not late than 180 days after the preliminary hearing.

Subsection (b) provides that the Commission may require testimony from the acknowledgement and research staff of the Commission or from other witnesses. All such testimony shall be subject to cross examination by the petitioner.

Subsection (c) provides that the petitioner can provide such evidence as the petitioner considers appropriate.

Subsection (d) provides that not later than 60 days after the conclusion of an adjudicatory hearing the Commission shall make a determination concerning the acknowledgement of the petitioner as an Indian tribe. The determination shall be published in the Federal Register and shall be delivered to the petitioner and every other interested party.

SEC. 10. APPEALS.

Subsection (a) provides that not later than 60 days after the publication of a determination by the Commission, the petitioner may appeal the determination to the United States District Court for the District of Columbia.

Subsection (b) provides that petitioner may be awarded attorney fees and costs if the petitioner prevails on the appeal.

SEC. 11. EFFECT OF DETERMINATIONS.

This section provides that a determination by the Commission that a petitioner is recognized by the United States as an Indian tribe will not have the effect of depriving or diminishing: (1) the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of the Indian group; (2) any property right held in trust by the: United States for such other Indian tribe as such property existed prior to the recognition of such Indian group; or (3) any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition of the Indian group.

SEC. 12. IMPLEMENTATION OF DECISIONS.

Subsection (a) provides that upon recognition by the Commission of an Indian group as an Indian tribe, the Indian tribe shall be eligible for the benefits and services made available to Indian tribes by the Federal Government because of their status as Indian tribes with a government-to-government relationship with the United States. Newly recognized Indian tribes shall also have the responsibilities, obligations, privileges and immunities of such Indian tribes. The programs, services and benefits available to Indian tribes shall only become available to a newly recognized tribe upon the appropriation of funds.

Subsection (b) provides that not later than 180 days after an Indian group is recognized by the Commission, officials of the BIA and IHS shall consult with and develop in cooperation with the Indian tribe a determination of the needs of the Indian tribe and a recommended budget required to serve the tribe. The appropriate Secretary will forward the recommended budget to the President for inclusion in the President's annual budget request to the Congress.

SEC. 13. ANNUAL REPORT CONCERNING COMMISSION'S ACTIVITIES.

Subsection (a) provides that 90 days after the first meeting of the Commission and annually thereafter the Commission shall publish in the Federal Register a list of all Indian tribes that are recognized by the Federal Government and receive services from the BIA.

Subsection (b) provides that the Commission shall submit an annual report on its activities to the Congress prior to January 30 of each year. Each such report shall contain the number of petitions pending and the names of the petitioners; the number of petitions approved or denied during the year and the names of the petitioners and the status of all petitions pending on the date of the report.

SEC. 14. ACTIONS BY PETITIONERS FOR ENFORCEMENT.

This section authorizes any petitioner to bring an action in the Federal courts to enforce the provisions of the Act, including any time limitations within which actions are required to be taken.

SEC. 15. REGULATIONS.

This section authorizes the Commission to promulgate and publish regulations to carry out the Act.

SEC. 16. GUIDELINES AND ADVICE.

Subsection (a) provides that not later than 90 days after the first meeting of the Commission, the Commission shall make available to Indian groups suggested guidelines for the format of petitions.

Subsection (b) provides that the Commission may provide any petitioner with suggestions and advice with respect to research concerning the historical background and Indian identity of the petitioner.

SEC. 17. ASSISTANCE TO PETITIONERS.

Subsection (a) authorizes the Secretary of the Department of Health and Human Services to award grants to Indian groups seeking recognition as Indian tribes to enable such groups to conduct research and prepare the documentation necessary to submit a petition under this Act.

Subsection (b) provides that grants shall be awarded competitively on the basis of objective criteria prescribed in regulations which are published by the Secretary of HHS.

SEC. 18. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) authorizes $1.5 million to be appropriated to the Commission to carry out this Act for each fiscal year from 1996 through 2008.

Subsection (b) authorizes $500,000 to be appropriated to HHS for the fiscal years 1996 through 2007 to carry out the grant program authorized in Section 17 of this Act.●

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. PRESSLER, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 190, a bill to amend the Fair Labor Standards Act of 1938 to exempt employees who perform certain court reporting duties from the compensatory time requirements applicable to certain public agencies, and for other purposes.

S. 198

At the request of Mr. CHAFEE, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 198, a bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], and the Senator from Michigan [Mr. ABRAHAM] were added as cosponsors of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 351

At the request of Mr. HATCH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

AMENDMENT NO. 299

At the request of Mr. NUNN the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of amendment No. 299 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AMENDMENT NO. 300

At the request of Mr. CONRAD his name was added as a cosponsor of amendment No. 300 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AUTHORITY FOR COMMITTEES TO MEET

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, February 28, 1995, at 2 p.m. to hold a business meeting to vote on pending nominations.

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

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ADDITIONAL STATEMENTS

TRIBUTE TO STATE REPRESENTATIVE KATHY HOGANCAMP

• Mr. McCONNELL. Mr. President, I rise today in honor of an inspiring Kentucky leader—Kathy Hogancamp, State representative for Kentucky's Fourth District.

Representative Hogancamp's resiliency determination, and strong sense of community service is clearly reflected in the course of her career prior to political service. She is a former teacher, and also served as an official of the U.S. Department of Health and Human Services and Department of Education from 1985 to 1991. Most recently, Kathy applied her master's degree in guidance and educational psychology in her work as a private tutor.

As our Nation struggles to recapture the initiative and stamina essential to reviving the American Dream, Kathy Hogancamp exemplifies what self-empowerment and the courage to make a difference truly mean. Since age 17, Kathy has been wheel-chair bound. Yet, she has never allowed her physical limitations to deter her work in serving her community and fulfilling her Christian mission. Kathy believes that character and intellect are far more important than her physical condition. Her optimism and drive to achieve are the basis of her personal philosophy—if there are obstacles to overcome, then overcome them.

In 1994, Kathy Hogancamp set out to win Kentucky's Fourth District House seat. Despite the odds in a predominately Democratic district, Hogancamp won the confidence of the voters and the title of State representative. Representative Hogancamp's campaign reflected the needs and interests of her district, not herself, as her platform focused on cutting taxes and revising the Kentucky Education Reform Act.

In February, Representative Hogancamp encountered a challenge that tested her will and strength as a serious automobile accident left her battered and bruised in the hospital. I am pleased to tell the Chamber that Kathy is recovering quite well and is eager to return to her duties as State representative. Mr. President, I want to share with my colleagues her thoughts on public service and sense of responsibility in her role as a lawmaker and community leader. It is my hope that her words will serve to remind us what our role as Members of the U.S. Senate means to our constituents and the future of our Nation.

Mr. President, I ask that the Paducah Sun's February 14, 1995, article on Representative Hogancamp be printed in the RECORD.

The article follows:

[From the Paducah Sun, Feb. 14, 1995]

REP. HOGANCAMP RESOLVED, UPBEAT SINCE LAST BRUTAL BRUSH WITH DEATH

(By Donna Groves Haynes)

Bruised, battered and lying in a hospital bed, state Rep. Kathy Hogancamp still radiates strength and determination.

"That's the way God built me," said Hogancamp, who has been paralyzed since a car wreck 23 years ago and is now recovering from serious injuries sustained in a van wreck Feb. 7 near Beaver Dam.

"I could have decided to be a couch potato when I was 17 and would have been justified in doing so," Hogancamp said in an interview from her hospital room Monday. "I made the decision to make something of my life because I do believe I have something to give back to our culture."

Now after a second serious car crash, Hogancamp is displaying the same resilience. "I've learned that accidents do strike twice, and God still has His hand on my head," she said.

Doctors do not expect Hogancamp's mobility to be any more impaired than it was before the wreck. "It's just all the logistics—getting a new (wheel) chair, a new car . . . new makeup," she said jokingly, referring to the fact that her personal belongings were strewn over about a 30-foot area in the wreck.

Over the weekend, Hogancamp was moved out of intensive care and into a private room. Although she has been told she could be released Thursday, Hogancamp added, "but I don't trust doctors."

Even in the hospital, Hogancamp was beginning to talk about business again. When U.S. Sen. Mitch McConnell called Monday to ask her how she was feeling, she volunteered to speak at the upcoming Lincoln Day festivities "if at all possible."

Hogancamp views her latest ordeal as a "wake-up call from God," an attempt on His part to ensure she is properly motivated in her legislative endeavors. "God had to get my attention again, a second time, telling me to stay on the track. When you reach adulthood, it's easy to slip into lifeless faith, I had not escaped that.

"He was saying to me; 'I put you in this position of responsibility. Don't blow it.'"

Asked if she ever wanted to question, "Why me?" Hogancamp explained that she learned from the Biblical character Job that that would be futile. "Job never got his question answered. He just saw God, and his question paled in comparison.

"It's an insignificant question. You can waste your life on it. You just need to take what you can from your past and move on. A lot of the things I learned when I was walking are helpful to me now. I used to be in speech and drama. That helped me learn to write a heck of a speech."

Although Hogancamp is alert and making jokes, she realizes she has a long road of recovery ahead of her. "I'm a lot more recovered upstairs than my body is," she said. "My whole body is one big bruise."

Among her more serious injuries are a few cracked ribs and a compound fractured wrist. But because it's her left wrist, Hogancamp made light of that. "It's not my major makeup hand anyway," she said.

Hogancamp is optimistic that the wrist injury will not prevent her from using an adaptive device to write on her computer.

And she believes her injuries could even result in some benefits. "It banged up my legs pretty good, so much so that I may end up sitting straighter. It banged me around so much, I may end up with better posture. Isn't that ironic?"

Hogancamp said she remained conscious as the van tumbled out of control Tuesday night. "Bright lights, going round and round and wondering, 'When is this going to end?' I've never done drugs, but that's got to be close to what a drug experience would be."

When the van finally came to rest, Hogancamp found herself face down in the mud with her body twisted. She could see that her left wrist was severely mangled, but, being paralyzed, had no idea what her other injuries might be.

Still, she said, her faith helped her to remain calm. "I knew if God had brought me that far, it wasn't going to be the end."•

TRIBUTE TO ALEX MANOOGIAN

• Mr. LEVIN. Mr. President, this Friday, March 3, 1995, the Armenian General Benevolent Union of Detroit is holding a tribute banquet honoring Mr. Alex Manoogian. Mr. Manoogian is one of the most inspiring people I have ever met. This Friday evening at St. John's Armenian Church in Southfield, MI, the Republic of Armenia will award him the National Hero of Armenia Award and an honorary doctorate degree from Yerevan State University.

As an appropriate tribute to Mr. Manoogian's stature, the president of the Armenian Parliament, His Excellency Babken Ararktsian will be the keynote speaker.

Alex Manoogian's life is an affirmation of the American dream. And yet the key to understanding the meaning of his vast worldly success is to know of the love, fidelity, and loyalty that Alex Manoogian has held in his heart for his family, his people, and his community.

He was born in Asia Minor in 1901, and came to America in 1920. Settling in Detroit in 1924, he founded his own company in 1928 which has grown into the multinational Masco Corp.

He was married to Marie Tatian in 1931. In over 60 years of marriage they were blessed with two loving children and six adoring grandchildren. To understand the depth of his love of family and his embrace of the Armenian community is to understand the magnanimous actions of his remarkable life.

His involvement and generosity have created or expanded hospitals, museums, libraries, universities, schools, and other important institutions throughout the world. Close to home, it is his former residence, donated to the city of Detroit, that is the official residence for the mayor of Detroit.

Mr. President, the positive impact of his life cannot be overestimated, and his legacy will live forever through the countless people around the world that have been changed by, and benefited from, the vast array of cultural, educational, humanitarian, and charitable institutions that have thrived as the result of his efforts.

His awards and honors have been many, and his international renown is well-deserved. His life has been a tribute to all that is possible and good in

this great country, his adopted home. And the loyalty for and love of his heritage have been the guiding light and beneficiary of his remarkable life. It is an honor to know him, and an honor for me to pay tribute to him.•

AMERICAN HEART MONTH

• Mr. GORTON. Mr. President, I stand in support of February, American Heart Month. February 1995 marks the 32d annual American Heart Month. To convey the importance that all Americans participate in the battle against cardiovascular diseases, including heart attack and stroke, in 1963 the U.S. Congress passed a joint resolution requesting that the President proclaim each February as American Heart Month. But the battle has not been won, cardiovascular diseases remain America's No. 1 killer and a major cause of disability.

During American Heart Month, the American Heart Association and its more than 3.7 million volunteers canvass neighborhoods nationwide distributing educational materials and soliciting public support for the AHA mission, the reduction of disability and death from cardiovascular diseases, including heart attack and stroke. The American Heart Month theme this year is "Life. It's What We're Fighting For," highlighting the value of biomedical research and its significance in daily life for many Americans. AHA-sponsored activities and information during this American Heart Month focus on the importance of current medical research projects in the fight against cardiovascular diseases and outline some medical miracles responsible for longer and healthier lives of millions of Americans. Through these educational efforts, the AHA hopes to enhance public support and knowledge about the critical nature of biomedical research in the battle against cardiovascular diseases.

Since 1949, the American Heart Association has invested about $1.3 billion in medical research and hopes to reach the $2 billion mark by the year 2000. The AHA reports that it will contribute about $94 million in support of almost 2,900 medical research projects across this country in 1995.

American Heart Association-supported research has produced some significant results, such as CPR, life-extending drugs, bypass surgery, pacemakers and other surgical techniques to repair heart defects. In addition, four physicians who received the Nobel Prize in Physiology or Medicine had been supported, at one time, by the AHA, including Dr. Edwin G. Krebs of the University of Washington in Seattle. Doctor Krebs and Dr. Edmond H. Fischer, also of the University of Washington in Seattle, both were awarded the 1991 Nobel Prize in Physiology or Medicine for their discovery of how proteins in the body are switched on to perform functions within cells.

I can personally attest to the benefit of medical research. According to the American Heart Association, each year 1.5 million Americans suffer a heart attack—that is approximately 1 heart attack every 20 seconds. As my colleagues know, unfortunately, last November, I suffered a heart attack. But, thanks to medical research, I am living a healthy, productive life.

As a recent beneficiary of medical research, I welcome this opportunity to salute the American Heart Association for their research support and public and professional education and community service programs to advance the battle against heart attack and stroke. I am particularly proud of the contribution of the American Heart Association Washington affiliate. The AHA Washington affiliate in 1994–1995 will support about $797,332 on research being conducted at the following research facilities in Washington: University of Washington, Washington State University, Children's Hospital in Seattle, VA Medical Center, and the Fred Hutchinson Cancer Research Center.

However, I am still concerned about the federal commitment to the battle against cardiovascular diseases, including heart attack and stroke. The American Heart Association estimates that about 1 in 4 Americans suffers from cardiovascular diseases that will cost this Nation approximately $138 billion in medical expenses and lost productivity in 1995. But, the fiscal year 1993 National Institutes of Health budget for research on heart disease and stroke is only $855 million, representing a research investment of less than 1 percent of the expenditures for these diseases.

Again, I encourage my colleagues to reaffirm our dedication to the fight against cardiovascular diseases. A significant growth in Federal resources is needed to take advantage of promising research projects in this area.

I ask that this year's Presidential proclamation be printed in the RECORD.

The proclamation follows:

[Proclamation 6768 of February 10, 1995]

AMERICAN HEART MONTH, 1995

(By the President of the United States of America)

A PROCLAMATION

Throughout history, the heart has been a symbol of health and well-being. Yet nothing now overshadows Americans' health as much as heart disease—the leading cause of death among men and women. Diseases of the heart and blood vessels kill nearly a million Americans each year, most from the effects of atherosclerosis, the narrowing and stiffening of blood vessels from the buildup of plaque that usually begins early in life.

Today, Americans are enjoying the rewards of the progress humanity has made in understanding and treating cardiovascular disease. Advances in diagnosis make it possible to see the heart beat without the use of invasive procedures. Thousands of heart attack victims are being saved by the rapid administration of drugs to dissolve blood clots. Soon, gene therapy may be able to prevent the smooth muscle cell multiplication that contributes to the narrowing of blood vessels. Perhaps most important, we have greater understanding of how to prevent the development of heart disease. By controlling blood pressure and blood cholesterol, being physically active, and not smoking cigarettes, more Americans can have the chance to lead long, healthy lives.

The Federal Government has contributed to these successes by supporting research and education through the National Heart, Lung, and Blood Institute. Through its commitment to research, its programs to heighten public awareness, and its vital network of dedicated volunteers, the American Heart Association also has played a crucial role in bringing about these remarkable accomplishments.

Yet the heart has not revealed all of its mysteries. No one knows why heart disease begins. And, while it is known that heart disease develops differently in men and women, the reasons for those variations are still being studied. About 50 million Americans continue to suffer from hypertension, a major cause of stroke, and 1.25 million Americans have heart attacks every year.

Conquering these diseases requires unwavering national and personal commitment. On the national level, the Federal Government will continue to support research into the prevention, diagnosis, and treatment of heart disease. On the personal level, Americans can take steps to prevent heart disease from striking their families, including teaching their children heart-healthy habits. Working together, we can make the tragedy of heart disease a nightmare of the past.

In recognition of the need for all Americans to become involved in the ongoing fight against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843, 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

Now, Therefore, I, William J. Clinton, President of the United States of America, do hereby proclaim February 1995 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combating cardiovascular disease and stroke.

In Witness Whereof, I have hereunto set my hand this tenth day of February, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

WILLIAM J. CLINTON.•

LOUIS E. CURDES

• Mr. LUGAR. Mr. President, I rise today to pay tribute to the outstanding life and service of Louis E. Curdes. Mr. Curdes, who recently passed away at his home in Fort Wayne, IN, served his country with honor, and was a recognized hero of World War II.

Mr. Curdes demonstrated his skill and valor during his first 2 weeks as a fighter pilot in World War II, when he shot down a total of five German

planes to become a flying ace. Several months later, when his plane was damaged in fighting, he was forced down in Italy and spent months in war prisons, until his eventual escape and walk to freedom.

Late in the war, Louis Curdes saw action in the South Pacific. He shot down aircraft from Japan and Italy, as well as Germany. Two of the Italian aircraft he shot down are displayed at the Smithsonian Air and Space Museum.

In 1963, Mr. Curdes retired as a lieutenant colonel after 22 years of service in the U.S. Air Force. He earned numerous medals including the Distinguished Flying Cross, Purple Heart, and Air Medals. Upon his retirement, he began Curdes Builders Co., and devoted his life to his family and work in Fort Wayne, IN.

Mr. President, it is with great respect that I call to my colleagues' attention the contributions Louis Curdes made to his country. He is truly an example and inspiration for all who follow him.●

HOMICIDES BY GUNSHOT IN NEW YORK CITY

● Mr. MOYNIHAN. Mr. President, I rise today, as I have done each week of the 104th Congress, to announce to the Senate that during the past week, 6 people were murdered by gunshot in New York City, bringing this year's total to 95.

Today I received a letter from Sarah Brady, chairman of Handgun Control Inc., which brought some very welcome news. The letter, which not coincidentally arrives on the 1-year anniversary of the implementation of the Brady law, announces the results of a new survey unequivocally proving that the Brady law is working. Conducted jointly by the International Association of Chiefs of Police and Handgun Control, Inc., the survey of 115 law enforcement agencies in 27 States reveals that background checks in those jurisdictions prevented the sale of guns to over 19,000 persons prohibited by law from purchasing firearms. Mrs. Brady also informs me that, according to Bureau of Alcohol, Tobacco, and Firearms estimates, the Brady law has prevented some 70,000 persons nationwide from illegally purchasing firearms.

Mr. President, this demonstrates that Congress can make a difference in the fight to reduce gun violence. I hope it will convince the Senate to adopt future measures to address this terrible problem.

I ask that the letter from Mrs. Brady be printed in the RECORD.

The letter follows:

FEBRUARY 27, 1995.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Thanks to you, it's working. The results are in! Tuesday, February 28, 1995 marks the first anniversary of the implementation of the Brady Law and a new survey confirms that the new law is helping to keep guns out of the wrong hands.

Attached for your review are the results of a survey conducted by the International Association of Chiefs of Police (IACP) and Handgun Control, Inc. The survey found that background checks in 115 state and local jurisdictions, covering all or part of 27 states, stopped 19,000 felons and other prohibited persons from obtaining handguns.

While that is no national reporting requirement, the Bureau of Alcohol, Tobacco and Firearms estimates that background checks in the past year stopped 70,000 convicted felons and other prohibited persons from making an over-the-counter purchase of a handgun. Forty-thousand of those denials came from "new" states which did not previously meet the requirements of the Brady Law. As a result of these background checks, hundreds of arrests have been made of those wanted on outstanding warrants.

If you have any questions regarding this information, please do not hesitate to call HCI's Marie Carbone.

On behalf of Jim and myself, please accept our deepest appreciation for all that you did to make these results possible.

Sincerely,

SARAH BRADY,
Chair.●

RULES OF THE SENATE SPECIAL COMMITTEE ON AGING

● Mr. COHEN. Mr. President, today I am filing the committee rules of the Senate Special Committee on Aging. I ask that the rules be printed in the RECORD.

The rules follow:

SPECIAL COMMITTEE ON AGING—JURISDICTION AND AUTHORITY

(S. Res. 4 § 104, 95th Cong., 1st Sess. (1977)[1]

(a)(1) There is established a Special Committee on Aging (hereafter in this section referred to as the "special committee") which shall consist of nineteen Members. The Members and chairman of the special committee shall be appointed in the same manner and at the same time as the Members and chairman of a standing committee of the Senate. After the date on which the majority and minority Members of the special committee are initially appointed on or after the effective date of title I of the Committee System Reorganization Amendments of 1977, each time a vacancy occurs in the Membership of the special committee, the number of Members of the special committee shall be reduced by one until the number of Members of the special committee consists of nine Senators.

(2) For purposes of paragraph 1 of rule XXV; paragraphs 1, 7(a)(1)-(2), 9, and 10(a) of rule XXVI; and paragraphs 1(a)-(d), and 2 (a) and (d) of rule XXVII of the Standing Rules of the Senate; and for purposes of section 202 (i) and (j) of the Legislative Reorganization Act of 1946, the special committee shall be treated as a standing committee of the Senate.

(b)(1) It shall be the duty of the special committee to conduct a continuing study of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(2) The special committee shall, from time to time (but not less often than once each year), report to the Senate the results of the study conducted pursuant to paragraph (1), together with such recommendation as it considers appropriate.

(c)(1) For the purposes of this section, the special committee is authorized, in its discretion, (A) to make investigations into any matter within its jurisdiction, (B) to make expenditures from the contingent fund of the Senate, (C) to employ personnel, (D) to hold hearings, (E) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (F) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (G) to take depositions and other testimony, (H) to procure the services of individual consultations or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (I) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(2) The chairman of the special committee or any Member thereof may administer oaths to witnesses.

(3) Subpoenas authorized by the special committee may be issued over the signature of the chairman, or any Member of the special committee designated by the chairman, and may be served by any person designated by the chairman or the Member signing the subpoena.

(d) All records and papers of the temporary Special Committee on Aging established by Senate Resolution 33, Eighty-seventh Congress, are transferred to the special committee.

RULES OF PROCEDURE

(139 Cong. Rec. S1929 (Daily ed. Feb. 18, 1993))

I. CONVENING OF MEETINGS AND HEARINGS

1. MEETINGS. The Committee shall meet to conduct Committee business at the call of the Chairman.

2. SPECIAL MEETINGS. The Members of the Committee may call additional meetings as provided in Senate Rule XXVI (3).

3. NOTICE AND AGENDA:

(a) HEARINGS. The Committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement.

(b) MEETINGS. The Chairman shall give the Members written notice of any Committee meeting, accompanied by an agenda enumerating the items of business to be considered, at least 5 days in advance of such meeting.

(c) SHORTENED NOTICE. A hearing or meeting may be called on not less than 24 hours notice if the Chairman, with the concurrence of the Ranking Minority Member, determines that there is good cause to begin the hearing or meeting on shortened notice. An agenda will be furnished prior to such a meeting.

4. PRESIDING OFFICER. The Chairman shall preside when present. If the Chairman is not present at any meeting or hearing, the Ranking Majority Member present shall preside. Any Member of the Committee may preside over the conduct of a hearing.

[1] As amended by S. Res. 78, 95th Cong., 1st Sess. (1977), S. Res. 376, 95th Cong., 2d Sess. (1978), S. Res. 274, 96th Cong., 1st Sess. (1979), S. Res. 389, 96th Cong., 2d Sess. (1980).

II. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

1. PROCEDURE. All meetings and hearings shall be open to the public unless closed. To close a meting or hearing or portion thereof, a motion shall be made and seconded to go into closed discussion of whether the meeting or hearing will concern the matters enumerated in Rule II.3. Immediately after such discussion, the meeting or hearing may be closed by a vote in open session of a majority of the Members of the Committee present.

2. WITNESS REQUEST. Any witness called for a hearing may submit a written request to the Chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The Chairman shall inform the Committee of any such request.

3. CLOSED SESSION SUBJECTS. A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) Committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of the individuals; (4) Committee investigations; (5) other matters enumerated in Senate Rule XXVI (5)(b).

4. CONFIDENTIAL MATTER. No record made of a closed session, or material declared confidential by a majority of the Committee, or report of the proceedings of a closed session, shall be made public, in whole or in part or by way of summary, unless specifically authorized by the Chairman and Ranking Minority Member.

5. BROADCASTING.

(a) CONTROL. Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the Chairman may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) REQUEST. A witness may request of the Chairman, on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him.

III. QUORUMS AND VOTING

1. REPORTING. A majority shall constitute a quorum for reporting a resolution, recommendation or report to the Senate.

2. COMMITTEE BUSINESS. A third shall constitute a quorum for the conduct of Committee business, other than a final vote on reporting, providing a minority Member is present. One Member shall constitute a quorum for the receipt of evidence, the swearing of witnesses, and the taking of testimony at hearings.

3. POLLING.

(a) SUBJECTS. The Committee may poll (1) internal Committee matters including those concerning the Committee's staff, records, and budget; (2) other Committee business which has been designated for polling at a meeting.

(b) PROCEDURE. The Chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any Member so requests in advance of the meeting, the matter shall be held for meeting rather than being polled. The clerk shall keep a record of polls; if the Chairman determines that the polled matter is one of the areas enumerated in Rule II.3, the record of the poll shall be confidential. Any Member may move at the Committee meeting following a poll for a vote on the polled decision.

IV. INVESTIGATIONS

1. AUTHORIZATION FOR INVESTIGATIONS. All investigations shall be conducted on a bipartisan basis by Committee Staff. Investigations may be initiated by the Committee staff upon the approval of the Chairman and the Ranking Minority Member. Staff shall keep the Committee fully informed of the progress of continuing investigations, except where the Chairman and the Ranking Minority Member agree that there exists temporary cause for more limited knowledge.

2. SUBPOENAS. Subpoenas for the attendance of witnesses or the production of memoranda, documents, records, or any other materials shall be issued by the Chairman, or by any other Member of the Committee designated by him. Prior to the issuance of each subpoena, the Ranking Minority Member, and any other Member so requesting, shall be notified regarding the identity of the person to whom the subpoena will be issued and the nature of the information sought, and its relationship to the investigation.

3. INVESTIGATIVE REPORTS. All reports containing findings or recommendations stemming from Committee investigations shall be printed only with the approval of a majority of the Members of the Committee.

V. HEARINGS

1. NOTICE. Witnesses called before the Committee shall be given, absent extraordinary circumstances, at least forty-eight hours' notice, and all witnesses called shall be furnished with a copy of these rules upon request.

2. OATH. All witnesses who testify to matters of fact shall be sworn unless the Committee waives the oath. The Chairman, or any Member, may request and administer the oath.

3. STATEMENT. Any witness desiring to make an introductory statement shall file 50 copies of such statement with the Chairman or clerk of the Committee 24 hours in advance of his appearance, unless the Chairman and Ranking Minority Member determine that there is good cause for a witness's failure to do so. A witness shall be allowed no more than ten minutes to orally summarize his prepared statement.

4. COUNSEL:

(a) A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or depositions or staff interview to advise such witness of his rights, provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Chairman may rule that representation by counsel from the government, corporation, or association creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association.

(b) A witness who is unable for economic reasons to obtain counsel may inform the Committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the Committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

5. TRANSCRIPT. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. Any witness shall be afforded, upon request, the right to review that portion of such record, and for this purpose, a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk, a witness may request changes in testimony to correct errors of transcription, grammatical errors, and obvious errors of fact; the Chairman or a staff officer designated by him shall rule on such request.

6. IMPUGNED PERSONS. Any person who believes that evidence presented, or comment made by a Member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the Committee to testify in his own behalf; and

(c) submit questions in writing which he requests be used for the cross-examination of other witnesses called by the Committee. The Chairman shall inform the Committee of such requests for appearance or cross-examination. If the Committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witness by a Member of by staff.

7. MINORITY WITNESSES. Whenever any hearing is conducted by the Committee, the minority on the Committee shall be entitled, upon request made by a majority of the minority Members to the Chairman, to call witnesses selected by the minority to testify or produce documents with respect to the measure or matter under consideration during at least one day of the hearing. Such request must be made before the completion of the hearing or, if subpoenas are required to call the minority witnesses, no later than three days before the completion of the hearing.

8. CONDUCT OF WITNESSES, COUNSEL AND MEMBERS OF THE AUDIENCE. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing the Chairman or presiding Member of the Committee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

VI. DEPOSITIONS AND COMMISSIONS

1. NOTICE. Notices for the taking of depositions in an investigation authorized by the Committee shall be authorized and issued by the Chairman or by a staff officer designated by him. Such notices shall specify a time and place for examination, and the name of the staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a Committee subpoena.

2. COUNSEL. Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule V.4.

3. PROCEDURE. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee staff. Objections by the witnesses as to the form of questions shall be noted by the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Committee staff may proceed with the deposition, or may at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from a Member of the Committee. If the

Member overrules the objection, he may refer the matter to the Committee or he may order and direct the witness to answer the question, but the Committee shall not initiate the procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Committee.

4. FILING. The Committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review. No later than five days thereafter, the witness shall return a signed copy, and the staff shall enter the changes, if any, requested by the witness in accordance with Rule V.6. If the witness fails to return a signed copy, the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record to the testimony, and the transcript shall then be filed with the Committee clerk. Committee staff may stipulate with the witness to changes in this procedure; deviations from the procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

5. COMMISSIONS. The Committee may authorize the staff, by issuance of commissions, to fill in prepared subpoenas, conduct field hearings, inspect locations, facilities, or systems of records, or otherwise act on behalf of the Committee. Commissions shall be accompanied by instructions from the Committee regulating their use.

VII. SUBCOMMITTEES

1. ESTABLISHMENT. The Committee will operate as a Committee of the Whole, reserving to itself the right to establish temporary subcommittees at any time by majority vote. The Chairman of the full Committee and the Ranking Minority Member shall be ex-officio Members of all subcommittees.

2. JURISDICTION. Within its jurisdiction, as described in the Standing Rules of the Senate, each subcommittee is authorized to conduct investigations, including use of subpoenas, depositions, and commissions.

3. RULES. A subcommittee shall be governed by the Committee rules, except that its quorum for all business shall be one-third of the subcommittee Membership, and for hearings shall be one Member.

VIII. REPORTS

Committee reports incorporating Committee findings and recommendations shall be printed only with the prior approval of the Committee, after an adequate period for review and comment. The printing, as Committee documents, of materials prepared by staff for informational purposes, or the printing of materials not originating with the Committee or staff, shall require prior consultation with the minority staff; these publications shall have the following language printed on the cover of the document: "Note: This document has been printed for informational purposes. It does not represent either findings or recommendations formally adopted by the Committee."

IX. AMENDMENT OF RULES

The rules of the Committee may be amended or revised at any time, provided that not less than a majority of the Committee present so determine at a Committee meeting preceded by at least 3 days notice of the amendments or revisions proposed.●

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. ROTH. Mr. President, I herewith submit a copy of Rules of Procedure adopted by the Committee on Governmental Affairs pursuant to rule XXVI, section 2, Standing Rules of the Senate, and ask that they be printed in the RECORD at this point.

The Rules of Procedure follow:

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

(Pursuant to rule XXVI, Sec. 2, Standing Rules of the Senate)

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. Meeting dates. The Committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. Calling special Committee meetings. If at least three members of the Committee desire the chairman to call a special meeting, they may file in the offices of the Committee a written request therefor, addressed to the chairman. Immediately thereafter, the clerk of the Committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee members may file in the offices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee clerk shall notify all Committee members that such special meeting will be held and inform them of its date and hour. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

C. Meeting notices and agenda. Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee members at least three days in advance of such meetings, excluding Saturdays, Sundays, and legal holidays in which the Senate is not in session. In the event that unforeseen requirements or Committee business prevent a three-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to members or appropriate staff assistants in their offices.

D. Open business meetings. Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee or Subcommittee; provided, further, that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. Prior notice of first degree amendments. It shall not be in order for the Committee, or a subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee or Subcommittee.

F. Meeting transcript. The Committee or Subcommittee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee or Subcommittee members vote to forgo such a record. (Rule SSVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. Reporting measures and matters. A majority of the members of the Committee

shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. Transaction of routine business. Five members of the Committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. Taking testimony. One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2), and 7(c)(2) Standing Rules of the Senate.)

D. Subcommittee quorums. Subject to the provisions of sections 7(a)(1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. Proxies prohibited in establishment of quorum. Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. Quorum required. Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. Reporting measures and matters. No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee members are actually present, and the vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a)(1) and (3), Standing Rules of the Senate.)

C. Proxy voting. Proxy voting shall be allowed on all measures and matters before the Committee, or any Subcommittee thereof, except that, when the Committee, or any Subcommittee thereof, is voting to report a measure or matter, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question. Proxy voting shall be allowed only if the absent Committee or Subcommittee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be filed with the chief clerk of the Committee or Subcommittee thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it and to inform the Committee or Subcommittee as to how the member establishes his vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. Announcement of vote. (1) Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such a measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee. (Rule XXVI, Sec.7(c), Standing Rules of the Senate.)

(2) Whenever the Committee by roll call vote acts upon any measure or amendment thereto, other than reporting a measure or matter, the results thereof shall be announced in the Committee report on that measure unless previously announced by the Committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the Committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or matter. (Rule XXVI, Sec. 7(b) and (c), Standing Rules of the Senate.)

E. Polling. (1) The Committee, or any Subcommittee thereof, may poll (a) internal Committee or Subcommittee matters including the Committee's or Subcommittee's staff, records and budget; (b) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and (c) other Committee or Subcommittee business other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public.

(2) Only the chairman, or a Committee member or staff officer designated by him, may undertake any poll of the members of the Committee. If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of polls; if a majority of the members of the Committee determine that the polled matter is in one of the areas enumerated in subsection (D) of Rule 1, the record of the poll shall be confidential. Any Committee member may move at the Committee meeting following the poll for a vote on the polled decision, such motion and vote to be subject to the provisions of subsection (D) of Rule 1, where applicable.

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The chairman shall preside at all Committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the ranking majority member present shall preside until the chairman's arrival. If there is no member of the majority present, the ranking minority member present, with the prior approval of the chairman, may open and conduct the meeting or hearing until such time as a member of the majority arrives.

RULE 5. HEARINGS AND HEARINGS PROCEDURES

A. Announcement of hearings. The Committee, or any Subcommittee thereof, shall make public announcement of the date, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the Committee, or Subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. Open hearings. Each hearing conducted by the Committee, or any Subcommittee thereof, shall be open to the public, except that a hearing or series of hearings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the hearing to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such hearing or hearings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee or Subcommittee; provided, further, that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

C. Full Committee subpoenas. The chairman, with the approval of the ranking minority member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing of deposition, provided that the chairman may subpoena attendance or production without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this subsection, the subpoena may be authorized by vote of the members of the Committee. When the Committee or chairman authorizes subpoenas, subpoenas may be issued upon the signature of the chairman or any other member of the Committee designated by the chairman.

D. Witness counsel. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness while he or she is testifying, of his or her legal rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee chairman may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Committee by personal counsel not from the government, corporation, or association or by personal counsel not representing other witnesses. This subsection shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such manner so as to prevent, impede, disrupt, obstruct or interfere with the orderly administration of the hearings; nor shall this subsection be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. Witness transcripts. An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. the record of his or her testimony whether in public or executive session shall be made available for inspection by the witness or his or her counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be provided to any witness at his or her expense if he or she so requests. Upon inspecting his or her transcript, within a time limit set by the chief clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors; the chairman or a staff officer designated by him shall rule on such requests.

F. Impugned persons. Any person whose name is mentioned or is specifically identified, and who believes that evidence presented, or comment made by a member of the Committee or staff officer, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his or her character of adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which statement shall be considered for placement in the placement in the hearing record by the Committee;

(b) request the opportunity to appear personally before the Committee to testify in his or her own behalf, which request shall be considered by the Committee; and

(c) submit questions in writing which he or she requests be used for the cross-examination of other witnesses called by the Committee, which questions shall be considered for use by the Committee.

G. Radio, television, and photography. The Committee, or any Subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the Committee, or Subcommittee, may impose. (Rule XXVI, Sec.5(c), Standing Rules of the Senate.)

H. Advance statements of witnesses. A witness appearing before the Committee, or any Subcommittee thereof, shall provide 100 copies of a written statement and an executive summary or synopsis of his proposed testimony at least 48 hours prior to his appearance. This requirement may be waived by the chairman and the ranking minority member following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec.4(b), Standing Rules of the Senate.)

I. Minority witnesses. In any hearings conducted by the Committee, or any Subcommittee thereof, the minority members of the Committee or Subcommitee shall be entitled, upon request to the chairman by a majority of the minority members, to call witnesses of their selection during at least one day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

J. Full Committee depositions. Depositions may be taken prior to or after a hearing as provided in this subsection.

(1) Notices for the taking of depositions shall be authorized and issued by the chairman, with the approval of the ranking minority member of the Committee, provided that the chairman may initiate depositions without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the ranking minority member as provided in this subsection, the deposition notice may be authorized by a vote of the members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee member or members or staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 5D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee member or members or staff. If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee member or members or staff may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it, which shall be handled in accordance with the procedure set forth in subsection (E). If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The chairman or a staff officer designated by him may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

RULE 6. COMMITTEE REPORTING PROCEDURES

A. Timely filing. When the Committee has ordered a measure or matter reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec.10(b), Standing Rules of the Senate.)

B. Supplemental, minority, and additional views. A member of the Committee who gives notice of his intention to file supplemental, minority or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. Notice by Subcommittee chairmen. The chairman of each Subcommittee shall notify the chairman in writing whenever any measure has been ordered reported by such Subcommittee and is ready for consideration by the full Committee.

d. Draft reports of Subcommittees. All draft reports prepared by Subcommittees of this Committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the Committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the Committee at the earliest practicable time.

E. Impact statements in reports. All Committee reports, accompanying a bill or joint resolution of a public character reported by the Committee, shall contain (a) an estimate, made by the Committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five years thereafter (or for the authorized duration of the proposed legislation, if less than five years); and (2) a comparison of such cost estimates with any made by a Federal agency; or (3) in lieu of such estimate or comparison, or both, a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

Each such report shall also contain an evaluation, made by the Committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (a) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (b) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (c) a determination of the impact on the personal privacy of the individuals affected, and (d) a determination of the amount of paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and

financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution. Or, in lieu of the forgoing evaluation, the report shall include a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(b), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. Regularly established Subcommittees. The Committee shall have three regularly established Subcommittees. The Subcommittees are as follows:

Permanent Subcommittee on Investigations.

Oversight of Government Management and the District of Columbia.

Post Office and Civil Service.

B. Ad hoc Subcommittees. Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc Subcommittees as he deems necessary to expedite Committee business.

C. Subcommittee membership. Following consultation with the majority members, and the ranking minority member of the Committee, the chairman shall announce selections for membership on the Subcommittees referred to in paragraphs A and B, above.

D. Subcommittee meetings and hearings. Each Subcommittee of this Committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the Committee except as provided in Rules 2(D) and 7(E).

E. Subcommittee subpoenas. Each Subcommittee is authorized to adopt rules concerning subpoenas which need not be consistent with the rules of the Committee; provided, however, that in the event the Subcommittee authorizes the issuance of a subpoena pursuant to its own rules, a written notice of intent to issue the subpoena shall be provided to the chairman and ranking minority member of the Committee, or staff officers designated by them, by the Subcommittee chairman or a staff officer designated by him immediately upon such authorization, and no subpoena shall be issued for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the chairman and ranking minority member waive the 48 hour waiting period or unless the Subcommittee chairman certifies in writing to the chairman and ranking minority member that, in his opinion, it is necessary to issue a subpoena immediately.

F. Subcommittee budgets. Each Subcommittee of the Committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the Committee, not later than January 10 of the first year of each new Congress, its request for funds for the two (2) 12-month periods beginning on March 1 and extending through and including the last day of February of the two following years, which years comprise that Congress. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification addressed to the chairman of the Committee, which shall include (1) a statement of the Subcommittee's area of activities, (2) its accomplishments during the preceding Congress detailed year by year, and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding Congress detailed year by year, (b) the funds actually expended during that Congress detailed year by year, (c) the amount requested for each year of the Congress, and (d) the number of professional and clerical staff members and consultants employed by the Subcommittee during the preceding Congress detailed year by year and the number of such personnel requested for each year of the Congress. The chairman may request additional reports from the Subcommittees regarding their activities and budgets at any time during a Congress. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. Standards. In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. Information Concerning the Nominee. Each nominee shall submit the following information to the Committee:

(1) A detailed biographical résumé which contains information relating to education, employment and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee and tax returns for the 3 years preceding the time of his or her nomination, and copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement, necessary for the Committee's consideration; and,

(3) Copies of other relevant documents the Committee may request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office.

At the request of the chairman or the ranking minority member, a nominee shall be required to submit a certified financial statement compiled by an independent auditor.

Information received pursuant to this subsection shall be made available for public inspection; provided, however, that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. Procedures for Committee inquiry. The Committee shall conduct an inquiry into the experience, qualifications, suitability, and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including, but not limited to, any professional activities related to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the three years preceding the time of his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated.

For the purpose of assisting the Committee in the conduct of this inquiry, a majority investigator or investigators shall be designated by the chairman and a minority investigator or investigators shall be designated by the ranking minority member. The chairman, ranking minority member, other members of the Committee and designated investigators shall have access to all investigative reports on nominees prepared by any Federal agency, except that only the chairman, the ranking minority member, or other members of the Committee, upon request, shall have access to the report of the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office and any other such expert opinion as may be necessary in conducting its review of information provided by nominees.

D. Report on the Nominee. After a review of all information pertinent to the nomination, a confidential report on the nominee shall be made by the designated investigators to the chairman and the ranking minority member and, upon request, to any other member of the Committee. The report shall summarize the steps taken by the Committee during its investigation of the nominee and identify any unresolved or questionable matters that have been raised during the course of the inquiry.

E. Hearings. The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be held until at least 72 hours after the following events have occurred: the nominee has responded to prehearing questions submitted by the Committee; and the report required by subsection (D) has been made to the chairman and ranking minority member, and is available to other members of the Committee, upon request.

F. Action on confirmation. A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff may make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. Application. The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the chairman and ranking minority member, those procedures may apply to persons nominated by the President to serve on a part-time basis.

RULE 9. PERSONNEL ACTIONS AFFECTING COMMITTEE STAFF

In accordance with Rule XLII of the Standing Rules of the Senate and the Congressional Accountability Act of 1995 (P.L. 104–1), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, state of physical handicap, or disability.●

ORDER OF BUSINESS

Mr. BIDEN. Mr. President, my vote on the motion to table amendment No. 253 should have been "no." I was mistaken on the sequence of the amendments before us today. I believe that a simple majority, as now provided in the Constitution, is appropriate for decisions to increase revenues. I do not

believe that we—or future generations—should be constrained in the options available to keep the budget in balance.

(Ms. SNOWE assumed the Chair.)

Mr. HATCH. Madam President, I yield 3 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah has 15 minutes.

The Senator from Idaho is recognized for 3 minutes.

Mr. CRAIG. Madam President, thank you. Let me thank the Senator from Utah for yielding. There are so many people that I would like to thank this evening who have been direct participants in what I believe to have been one of the most important debates that the Senate of the United States has engaged in—at least in my tenure and in the tenure of many of our Senators.

I certainly would like to thank the Senator from Utah for his leadership on this issue and a good many others who have been directly responsible for bringing this most important issue and statement to the floor. I also thank the Senator from Illinois, PAUL SIMON, for his stalwart leadership in pursuit of the fiscal responsibility that most of us aspire to, which the Constitutional amendment would allow.

But tonight, let me talk to my colleagues here in the Chamber, for I believe we suffer the wrong idea. Somehow tonight, those who plan to vote against this amendment believe that their vote against it is like the passage of the vote for or against a bill that oftentimes comes to the floor. It is not that kind of vote.

Article V of our Constitution—the very organic document that we attempt to offer out an amendment to tonight—says this very clearly: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose an amendment."

So tonight we are not voting on an amendment to pass it or to fail it. We are voting on an amendment to propose it to the citizens of this country, to allow them to decide what the organic law of this land will be about.

And anyone who suggests tonight that they will stand in opposition to this amendment stands in opposition to the right of the people of their State to say, "Yes, we support it," or "No, we don't." And that is the fundamental issue.

So I ask you to search your soul tonight and decide whether you, as a Senator of the U.S. Senate, are going to stand in the way of the citizens of your State, if you know better than they, if you really have a better vision than the average citizen of this country that supports you and elects you and sends you to this Congress to represent their interest.

But in this instance, you are not allowed to do that. You are not allowed to say, "I know better." What you can say is, "I propose."

Let us allow tonight the right of the citizens to decide. The Constitution is a basic document. It protects the people's right. Tonight we want to protect the people's right against an overburdening debt structure that has denied this country the kind of economic freedom that all Americans are entitled to.

I ask all of you to join with us tonight in proposing to the citizens of this great Nation a constitutional amendment for their decision.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield 5 minutes to my distinguished colleague and prime cosponsor of this amendment, the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, and my colleagues, first, let me pay tribute to Senator BYRD, who is a very worthy foe and certainly one of the most distinguished Members of this body.

I also appreciate the leadership of Senator HATCH on this, Senator CRAIG, and my colleagues on this side, Senator HEFLIN, Senator ROBB, Senator MOSELEY-BRAUN, Senator EXON, Senator CAMPBELL, and I should be mentioning others.

If we had a proposal in here that said, two decades after we balance a budget, we are going to have an average increase in income of every American of 36 percent, we would vote for it overwhelmingly. And yet that is precisely what the General Accounting Office says will happen if we balance the budget in this country.

Data Resources, Inc., one of the two top econometric forecasters in this country, says if we balance the budget, the prime rate will go down 2.5 percent and we will have an increase in national income of 2 percent. CBO says at least 1 percent growth in income. The Wharton School in Philadelphia says the prime rate will go down 4 percent. We have an opportunity to do these things that can help our economy immensely. And I hope we do not muff that opportunity.

I heard a reference from Senator BYRD to history. It is important to remember that Thomas Jefferson, in 1787, said, "If I could add one amendment to the Constitution, it would be to prohibit the Federal Government from borrowing."

And remember the rallying cry of the American Revolution—taxation without representation.

What are we doing to our grandchildren and generations to come? If that is not taxation without representation, nothing is.

And talk about history, I have not heard one opponent talk about economic history here. I have not read one editorial talking about economic history. The reality is the history of nations is that when they pile up debt and they get around 9, 10 or 11 percent of deficit versus national income, they start monetizing the debt. They start the printing presses rolling.

CBO says we are headed for 18 percent. We can take a chance that we will be the first nation in history to go up 18 percent without monetizing the debt, but we are taking a huge, huge gamble.

The Declaration of Independence. We are making, every year as we add to the deficit, a declaration of dependence. We now owe roughly $800 billion in our bonds to other countries. If the SIMON family gets too deeply into debt, we start losing our independence; and if a nation does, it starts losing its independence.

Senator DODD and I are old enough to remember 1956, when three nation friends of ours—Israel, France, and Great Britain—went in and seized the Suez Canal, which President Nasser had taken. They did it because they were our friends; thought they could get by with it, and it was just before an election. President Eisenhower said, "This is wrong."

But something else happened we did not know about, or most of us did not know about until sometime later. The United States threatened to dump the British pound sterling. And without firing a shot, the troops of Great Britain, France, and Israel withdrew.

We are in that situation.

Talk about American foreign aid. We now spend twice as much in foreign aid to the wealthy through interest and bonds than we do in foreign economic assistance to poor people. This year, the current estimate is $339 billion on interest, 11 times as much on interest as education, twice as much on interest as all our poverty programs combined, 22 times as much on interest as foreign economic assistance. It gets worse each year, and it will continue to get worse unless we pass this amendment.

The PRESIDING OFFICER. The Senator has used his 5 minutes.

Mr. SIMON. I ask unanimous consent for 30 more seconds.

Mr. HATCH. I yield 30 seconds to the Senator.

Mr. SIMON. I would simply point out, is there going to be pain if we pass this? Yes. But it is very interesting, there were polls by the Wirthlin Group which showed 76 percent of the population favors this, and 53 percent said they favor it, but they also believe it is going to cause them pain.

The American people are yearning for leadership. Tonight, my friends in the Senate, let us give it to them.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield 2½ minutes to the distinguished Budget Committee chairman, Senator DOMENICI.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. I thank the distinguished chairman, Senator HATCH, for yielding me 2½ minutes.

Madam President, fellow Senators, this is a historic night. We have never been so close to putting our Nation's fiscal house in order as we will be in 40 minutes. It is on our shoulders, but I can tell you that our children and grandchildren, whether they are present, whether they are listening, whether they are capable of listening or they are too small, they will either thank us tonight for doing something for them or they will wonder where we were when they needed us most.

The truth of the matter is there are many risks, but the status quo will not work. For those who come to the floor and raise the risks of a balanced budget, the risks of this amendment, they should be asked what are the risks of doing nothing. I am convinced that the status quo, with reference to fiscal policy for our Nation, means that the legacy for our children is very close to zero.

I want to close by quoting Laurence Tribe, a very liberal constitutional scholar. He was testifying on the balanced budget. I asked him whether or not it made sense to do something like this. And listen carefully to what he said:

> Given the centrality in our revolutionary origins of the precept that there should be no taxation without representation, it seems especially fitting in principle that we seek somehow to tie our hands so we cannot spend our children's legacy.

That is the issue. Do we spend our children's legacy or do we leave a legacy to them? Plain and simple. That is the issue.

I thank the Senator for yielding, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I yield 1 minute to the distinguished Senator from Nebraska, the ranking member of the Budget Committee.

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

Mr. EXON. I thank my friend and colleague, the manager of the bill.

Let me be brief. I just want to say that I have listened to what Senator SIMON just said about the debt that continues to consume America. Even if we pass this in the next half-hour—which I hope and urge we do—we are still at least 8 years away from beginning to cut down the national debt. That shows how far we are behind the curve.

I just wish to say, Madam President, that it has been a real experience in working with the many people on both sides of the aisle. I hope we have the 67 votes in the next few minutes when we cast this historic vote. I think this amendment must be approved.

I yield back the remaining time.

The PRESIDING OFFICER. There is no remaining time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, as a Member of the Senate, I have had the great honor of voting on many historic bills, but few in the history of the Senate are as significant as this one. It is so rare that we have a vote that so dramatically and directly affects the future of our children and our grandchildren. This vote is clearly a vote for future generations.

This vote is especially significant because of who it will help and who it will hurt. It will help our children and our grandchildren. By removing the onerous burden of debt that we have been accumulating on their shoulders, we are helping to level the generational playing field. It will restore the American dream for another generation of Americans.

Who does this vote hurt if we prevail? For starters, the politics-as-usual crowd, the special interest groups, and those with vested interests in the status quo, all those groups who keep feeding at the trough and who think the gravy train will never run out of gas.

The balanced budget amendment means no more pork for the special interests. And while I am at it, I want to give the special interests and those with vested interests in the status quo one piece of advice: Pack your bags and hit the road. The show is over.

Do Members know who else is hurt by the balanced budget amendment? You may find this hard to believe—everyone in this Chamber. Gone are the days when politicians can take the easy way out. Gone are the days when politicians can say "Pass it; we will worry about how to pay for it later." We can no longer pass anything that we cannot come up with the money for. It is called accountability, and it starts right here, right now.

That is why I am so proud to have been a part of this debate. And when I see my grandchildren I can look them in the eye and tell them that today marks a new beginning in their lives. I can smile, knowing that when it comes time for them to go to college, to train for a career, to buy a house, to raise a family, they will be able to do so. The American dream will live on for another generation.

To the President of the United States, I have a caution for him: Mr. President, you have joined forces with the special interests. Let me ask you one simple question. How can you look your daughter, Chelsea, in the eye after what you are trying to do here? How can you justify the trillions of dollars of red ink that you and others who are voting against this have subjected the children of America to?

Madam President, over the next several months, we will be working late into the evening, examining every single line of the Federal budget, searching for waste, fraud and abuse, cutting programs that have outlived their usefulness, and finding the money for those that still work. It will all be worth it. For our grandchildren, it is worth it.

Madam President, I want to thank everybody who has participated. I want to pay tribute to the distinguished Senator from West Virginia for the dignified manner in which he has conducted his opposition to this amendment. I want to pay great tribute to my friend from Illinois, Senator SIMON, and to my friend from Idaho, Senator CRAIG, and all the others who have worked so hard on this floor, especially those 11 brandnew Senators. They have made a real difference here. They have shown Members that this is the new way.

Adopting this amendment is what we have to do. We have to do so to have a future for our children and grandchildren. We can no longer afford to spend this country into bankruptcy. I want to thank all of the loyal and dedicated staff people and those who have worked so hard during this debate and in preparation for it.

And above all, I thank all those who will vote for this amendment this evening. I urge my colleagues to vote for it. It is one of the most important votes we will ever cast. Our national life depends upon it. The salvation of this country depends on it. And the future of our children depends on it.

The PRESIDING OFFICER. The Chair now recognizes the Democratic leader, who has the next 15 minutes.

Mr. DASCHLE. Madam President, this has been a good debate. It has been a long and historic debate. But it has not been a debate about a balanced budget.

No one supports the current debt or deficit. Every Senator believes, as I believe, that deficit spending must end. We heard the figures. We have debated how we got to this point. We have noted all of our efforts so far. I have not heard anyone argue for doing nothing. The debate has been about how we achieve what we all say we want, and over what time period, and whether or not to accomplish what we say we all want, we amend the Constitution for the 28th time.

During this debate, we have heard many who have argued eloquently that there is no purpose in amending the Constitution for this reason. Our colleague, the senior Senator from New York, emphasizes over and over again that while 1 machine can do the work of 100 men and women, no machine can replace the need to take fundamental responsibility.

No provision in the Constitution can create a formula for automatic deficit reduction. Nothing we do here will embolden Senators to make decisions

which we are otherwise unable to make for ourselves.

This debate has also underscored the role the Federal Government plays within our economy. No one can deny that fiscal policy has moderated the extraordinary consequences of a deep recession.

This countercyclical strategy employed since World War II has had profoundly positive consequences for the economy during our lifetimes. We have seen them. We have seen the charts. We have seen all of the arguments made on the other side, and nothing will dissuade me that the fiscal policy initiated since World War II has had the desired result.

Many who will vote no today will do so out of legitimate fear that our ability to counter economic downturns will be severely jeopardized—severely jeopardized—with the passage of this amendment.

There are also many who believe that fiscal policy should never be written into the Constitution because it does not belong there. They have argued that, like the thousands of other amendments proposed in 200 years, this, too, should be defeated.

Many Members have listened to the logic of many of these arguments and appreciate each and every one. Many Members have also decided that the time has come for a balanced budget amendment—that the question of a constitutional amendment is before Members for a good reason.

But we also question the wisdom of the amendment that is now presented to the Senate, and we are deeply troubled by the attitude of many of our Republican colleagues that we take this amendment or there will be no amendment at all. We are troubled, really, for three reasons: First, it is our belief that this ought to be our very best effort. We cannot come back later as we can with statutes. We cannot come back later and say, if we could only change that phrase or that paragraph or even that word. That is not something we can do with the Constitution. We will have to admit that we made mistakes in drafting, and, if we have, we will have to live with them for all time. This is going to be with us a long, long time. Even the prohibition amendment was with us for 13 years, long after we came to the conclusion that it, too, was a mistake.

Second, this debate has been politicized, unfortunately. The RNC has used this debate as a membership drive. In fact, in my State of South Dakota, they are interrupting ads with programs, there are so many these days. The practical ramifications of this amendment, as well, as currently drafted, are profound, and we ought to realize that. We ought to understand the ramifications of this particular language, regardless of how we view the constitutional amendment itself. Let Members look at this language. Let Members examine this draft, and let each and every one ask, are we prepared, tonight, to put it into the United States Constitution?

This amendment could pass by 70 votes, yet it will fail perhaps by two tonight. Why? Not because two-thirds of a majority opposes the concept of a balanced budget amendment—I am sure that two-thirds and more support it—but because some of us have a grave concern about the specific draft our Republican colleagues tonight insist upon, a draft which is filled with promise but devoid of details.

That was the reason I offered, many weeks ago, the Right to Know amendment requiring that we spell out the details, insisting that we know how we get from here to there, recognizing the importance of a blueprint, of a glidepath, knowing that, as you cannot build a house without a blueprint, you cannot balance the budget without one, either.

Today the chairman of the Finance Committee indicated that Medicare and Medicaid may be cut by $400 billion over the course of the next several years. This is a detail that happens to be very important, that we recognize may be part of the mix. If we are not willing to spell it out, if we are not willing to put on paper the details, then, indeed, I think we are asking for a pig in the poke, and we are asking for it in the U.S. Constitution.

The Republicans promise, even though they are unwilling to spell it out, to leave Social Security untouched. But while they argue we need to put a balanced budget requirement into the Constitution for purposes of certainty, they are unwilling to do so for Social Security. Without the promise in writing, we cannot require future Congresses to comply with our expectations.

I will predict tonight, if this amendment passes, that the Social Security trust fund will be used, and that is wrong. The American people oppose it. We have made a commitment to them now for over 60 years. We compound the deficit reduction problem, and we mask the size of the deficit, but we invite the cynicism of the American people all over again. If we are prepared to reduce the deficit using Social Security trust funds, what confidence should they have in us with any future decision, after we have made the commitment that has stood for this long?

In my view, the amendment is also especially lacking when it comes to enforcement and the role of the courts. Something this important should not be unresolved. In spite of the best efforts of the senior Senator from Georgia, as written, it is very likely we will see a constitutional crisis as Congress and the courts face off on the very question of jurisdiction in the years ahead.

It is also unfortunate that the Federal Government cannot be allowed to function budgetarily like virtually everyone else does. We should not treat investment and operating costs alike, and yet that is exactly what we will require as a result of the actions taken in this body now for the last several weeks.

No one does that at any level of Government, no one does that in business, no one does that in their family budgeting. We should not do it either. And yet tonight, by the action taken on this amendment, we will be, if indeed the amendment passes, requiring the Federal Government to do something no one else does.

Madam President, the bottom line, regardless of whether we are talking about Social Security, a capital budget, the right to know, enforcement, or any one of a number of the issues that we have raised for the last several weeks, the bottom line is this: We can do better. This is not the best we can do. This is a shoot-now-ask-later approach, and we will regret it. That could destroy the very fabric upon which this Nation was built. And I hope—I just hope—that we all come to the realization of what the stakes are as we cast our vote tonight. It is, as others have said, one of the most critical votes we will cast, a vote which could change not only the budget but the economy and the perception of the very Constitution itself. Let us take care to do it right. Let us defeat this amendment and go back to the drawing board before it is too late. Future generations are counting upon us tonight to do just that.

I retain the remainder of my time and yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senate majority leader.

Mr. DOLE. Madam President, do I understand the Democratic leader retains the remainder of his time? Are there additional requests?

Mr. DASCHLE. Madam President, I was anticipating others who may ask for time, but if there is no other request for time, I yield it back.

The PRESIDING OFFICER. Is the Senator yielding back?

Mr. DASCHLE. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senate majority leader is recognized for 15 minutes.

Mr. DOLE. Madam President, the Senator from South Dakota asked earlier for 1 minute, which I am prepared to allow.

Mr. DOLE. Madam President, for those who follow this debate, we have had 19 days of consideration. We have had 115 hours 54 minutes of debate. That does not include votes or quorum calls or morning business, where a lot of the morning business was directed at

the balanced budget amendment. So we have had a lot of debate. I just say that for the RECORD for some who think maybe we have not been on this long enough.

My view is we are down to about one vote—one vote. Maybe it is 68; maybe it is 66. I think we do stand at the crossroads in American history. I think this vote is one of the most important many of us will have cast in decades because now we have an opportunity to do it, and we have not had that opportunity before. In fact, this may be the single most important vote we cast in our careers.

I will say at the outset, and I think the figures I quoted indicate, we do not take amending the Constitution lightly. This certainly has been considered at length. Everybody has had an opportunity to say just about everything they wanted to say. I think we also must understand that there was never a more serious time when Washington needed the discipline, when Congress needed the discipline, that the Constitution and only the Constitution can impose.

We heard a lot of talk about laws that were passed, and we passed since 1969—the last time we passed a balanced Federal budget—we passed seven different laws containing balanced budget requirements. And despite all the speeches and the good intentions and everything else that went with it over the past quarter of a century, the Federal debt has grown each year and every year.

Why is it so important to balance the budget? There are probably a lot of reasons that have been stated on this floor from people who oppose and people who support the balanced budget amendment. Oh, it is important to balance the budget and maybe it is even important to vote for the balanced budget amendment if you are in a tough race for reelection. But in 1969, the American taxpayers paid $12.7 billion for interest on the national debt. This year interest on the national debt will devour a staggering $234 billion, more than all the Government spent on agriculture, crime, crime fighting, veterans, space and technology, infrastructure, natural resources, the environment, education and training—all of that and more was spent for interest on the debt.

We have gone through this debate where some are trying to scare America's senior citizens, but by doing what we hope we can do in about 20 minutes, by passing a constitutional amendment with 67 votes, we take the opposite view, that we are protecting the very programs that they try to scare seniors with—Medicare and Social Security.

What they fail to mention is the national debt threatens every program. Every program is threatened—Medicare, Medicaid, Social Security, agriculture, nutrition programs, you name it. If the debt continues to escalate, as it will, each year interest payments are going to be larger and larger and consume more and more of its share of the Federal dollar.

According to President Clinton's budget, interest on the debt is going to consume 16 percent of every Federal dollar. And anyone who is still not convinced need look no further than President Clinton's recent budget, which essentially gave up on ever balancing the budget and ever balancing the Nation's books.

In 1992, Candidate Clinton seized on the $292 billion deficit, the highest in history, and he campaigned against the deficit. He was successful. He agreed to cut it in half. Now, 2 years into his administration, his own budget abandons the pledge, predicting a deficit of $196.7 billion next year and roughly $200 billion a year through the year 2000. In each of the next 5 years, the amount the Federal Government collects in taxes is projected to rise, but spending will go up much more.

The picture only gets worse in the next century when the deficit is projected to rise to $421 billion—$421 billion—by the year 2005. So we are going to double it, we are going to double it if we fail to take action in the next few moments.

If there was any message last November—and different people heard different messages; some did not hear any message at all and some are here, and some will be voting. There was a revolution last November. The American people said, "Stop. Stop. Wait a minute. We want less Government, we want to rein in Government, we want to dust off the 10th amendment, we want to return power to the States and power to the people, and one way to do that is to rein in Federal spending and not increase Federal taxes."

So the American people—Democrats, Republicans, Independents, voters generally—sent us a message. I am not certain what the precise message was, but I think the general message was, as I stated, "Rein in the Federal Government."

I believe adoption of this amendment is a big step in that effort. If we are ever going to rein in the Federal Government, rein in spending, we need help. We do not have the will in this body to do it. Oh, I have heard all the speeches, and then I checked the voting records and they do not match.

Oh, I hear speeches. I hear speeches at night when I cannot sleep.

People on the Senate floor say all we have to do is make these tough decisions. But then when the tough decision comes, oh, that is too tough, or it is not tough enough, or any other excuse to duck. We cannot wait for statutory changes. We cannot count on them. They have not worked, as I said, since 1969. I think the American people want us to stand up to the special interests and they want us to do the right thing.

Many say, oh, well this is the easy way out. You all vote for the balanced budget amendment. Then you go out and say, well, I voted for the balanced budget amendment. Then you continue to vote for all the spending programs.

I do not think so. My view is, if we adopt this amendment and three-fourths of the States ratify it, it is going to fundamentally change the way we do business in the Congress and all over Washington.

So this is an amendment whose time has come. Thomas Jefferson said in 1789:

> The question whether one generation has the right to bind another by the deficit it imposes is a question of such consequence as to place it among the fundamental principles of government. We should consider ourselves unauthorized to saddle posterity with our debts, and morally bound to pay them ourselves.

Now, if you think about that for a moment, this was just 1 year after the new Constitution went into effect. Thomas Jefferson himself was pondering whether a constitutional amendment requiring a balanced budget was needed.

So, Madam President, the time for a balanced budget amendment to the Constitution has come. Since our first Constitution went into effect in 1788, a total of 27 amendments have been adopted. The first 10, commonly referred to as the Bill of Rights, made the United States a model for the world by limiting the powers of Government and securing rights for individuals and States. The Bill of Rights was proposed to the legislatures of the several States by the first Congress on September 25, 1789, and ratified by December 15, 1791.

I think there is a common thread that runs through all the amendments that have been adopted, whether it is the first 10, the Bill of Rights—there is a common thread. Most have either limited the power of Government or provided constitutional protection to groups of Americans. And I believe the balanced budget amendment would do both. By limiting the Federal Government's ability to borrow, it will help provide constitutional protection to future generations of Americans and those who are not adequately represented in our current system.

Nobody has contacted me on behalf of the 5-year-olds or the 10-year-olds or the 15-year-olds about their future. Nobody is lobbying for them. They are waiting for us.

I do not believe we can continue to mortgage America's future. If we continue current tax-and-spend policies, we are going to saddle that future generation with lifetime tax rates, effective rates of more than 80 percent. So if we want to take away representation of our children and our grandchildren, if we want to take away the discipline,

if we want to have it one way in an election year and another way in the next year, then we can vote against the balanced budget amendment.

As I look around the Chamber, I see Democrats and Republicans saying, wait a minute; it is time we act. This is a bipartisan effort. We need Democrats and Republicans to make this happen. It is not going to happen unless it is bipartisan.

We also took an oath of office to support and defend the Constitution of the United States against all enemies, foreign and domestic. Well, I consider the rising debt and the interest rates to be sort of a domestic enemy, and I think that simple oath illustrates why the balanced budget amendment is so important. We have not been successful in the past. We have not balanced the budget in the past because the Federal budget never became a national priority, and if you want to make it a national priority, we adopt a balanced budget amendment and say we are going to have a balanced budget by the year 2002. That makes it clear to everyone in this body that balancing the budget is not only a national priority but also a constitutional duty and that every Senator will be sworn to uphold and defend this amendment to the Constitution. That is the way it works. That is the way it should work.

So we have had a healthy debate, as I have said, of 115 hours, or 116 hours, plus a lot of other morning business hours. I certainly wish to commend my colleague, Senator HATCH, who has been on this floor day after day after day, and my colleague, Senator CRAIG, who every morning in my office has had a meeting with the group to work on the balanced budget amendment, trying to find out what we need to address, how we can pick up one more vote. And if anybody ever questioned anybody's motives, you cannot question the motives of the Senator from Illinois, Senator SIMON. He has been for the balanced budget as long as I have known him. He can go any way he wants. He is not running again. This is not politics to PAUL SIMON. This is a commitment he has made to the people of Illinois and a commitment he has made to his colleagues on both sides of the aisle. So I appreciate the efforts made by my friend from Illinois.

Certainly the Senator from West Virginia deserves our thanks, hopefully not to overdo that. He has made a great contribution to the debate. In fact, I have been saying around the country that Senator BYRD is the expert, and I say it with admiration; he is a master of the game. He also understands Roman history, at least he understands it better than the rest of us because we never question what he says about Roman history. I am trying to get C-SPAN to give college credit to those who watch it. And it would be deserved because the Senator from West Virginia does understand it, and certainly he has contributed to this debate.

Then let me just have the last word. I think everybody has said out here from time to time that the Constitution is a living document, and that is why it includes article V, which outlines the process for proposing and ratifying constitutional amendments. The Founding Fathers did not make amending the Constitution easy, and the action we take today, if we succeed, is not the last word. And if we fail, it is not the last word, because the final word of whether or not there is going to be a balanced budget goes outside Washington, goes away from this body and out to our respective States.

I will say to those who still maybe have not quite decided which way to go—there may be two or three of those, maybe four—maybe you are not quite certain, but certainly you have some confidence in your State legislature, wherever it may be. Why not give them a chance? It takes three-fourths of the States to ratify. Why not say that we have some confidence in the people who live in our respective States and deal on a daily basis with problems that affect our constituents, too, because the Founding Fathers said in the final analysis it is going to be determined by the people, by those who are closest to the people, and those are the men and women who serve in statehouses around the country.

I think we ought to remember that as we vote. The Founding Fathers did not put the final authority in the hands of Congress; they put it in the people, members, men and women, State legislators who are closest to the people.

So I remind my colleagues as we prepare to vote here of just a few facts. I think many Senators referred to these earlier. Depending upon which poll you use—and polls change from time to time—about 80 percent of the American people favor the balanced budget amendment. Now, maybe 80 percent are wrong and the 20 percent are right. It has happened in the past. But these polls have been consistent—71, 75, 78, 81, somewhere between 75 and 80 percent. Three hundred Members of the other body voted for a balanced budget amendment, 72 Democrats and 228 Republicans. They joined together to give us this historic opportunity. And I would state what every Member already knows, that adoption of this amendment, if it is adopted, is only the first step in securing our Nation's financial future. Whatever happens, we are going to have to make difficult choices.

Republicans will begin work on a detailed 5-year plan to put the budget on a path of balance by the year 2002, and our plan will not raise taxes. Our plan will not touch Social Security. Everything else, from agriculture to zebra mussel research, will be on the table.

So, Madam President, as George Washington reminded us in his farewell address:

> The basis of our political system is the right of the people to make and alter their institutions of government.

The time has come for us to exercise that right. So I would just say, let us get prepared for this fundamental change. It is going to come. If not tonight, it will come maybe next month or the next month or the next year. It is not going to be business as usual in Washington.

So I just urge my colleagues to vote for this amendment—it will take 67 of us—and send it back to the States for ratification. Let those closest to the people then decide if we spelled out how we will reach the balanced budget amendment. Let us not take that judgment away from them.

Madam 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. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DOLE. Madam President, I move that the Senate stand in recess until 10 a.m.——

Mr. BYRD. Before the distinguished leader makes his motion, would he explain to the Senate why we are going out and why we are not having the vote, as we all anticipated we would be having a vote?

Mr. DOLE. Let me explain to my friend from West Virginia that we still think there is some chance of getting this resolved by tomorrow morning, because we could have 67 votes or maybe more.

We have been on this now for 115 hours. I do not know how many days. Everybody has had a right to debate. We are up to the critical time of the vote. This Senator wants to make every effort he can to see if we can reach the 67 votes. If we fail, we will fail, and it will be 10 o'clock or perhaps noon tomorrow morning.

Madam President, I renew the motion.

Mr. BYRD. Madam President, would the Senator allow me 5 minutes before he makes that motion?

The PRESIDING OFFICER. Debate is not in order at this point.

Mr. BYRD. Madam President, I ask unanimous consent to speak for 5 minutes.

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

Mr. BYRD. Madam President, I thank the distinguished majority leader for allowing me to have this privilege to address this question before he makes the motion to adjourn.

Madam President, I think this is a sad spectacle. We have had 30 days of

debate. Both sides have poured out their hearts, have worked hard, and we came to the moment that we thought we were going to have a rollcall vote. We entered into an agreement to that effect. Now, if we had known that we were going to reach this kind of a travesty, this Senator would never have agreed to that unanimous-consent request.

Madam President, the Framers intended that, before the people at the State level should have an opportunity to ratify a constitutional amendment, it must be approved by both Houses of the Congress by a two-thirds vote, and it was here that the amendment was supposed to be probed and examined and carefully studied before it was sent on its way to the States.

Now, here is what we see: We see the sad spectacle of Senators on the other side trying to go over until tomorrow in order to get another vote for this amendment. It should be obvious to everyone that the main object here is to get that vote, as the distinguished majority leader says.

It boils down to an insatiable, insatiable desire to get a vote for victory. We are tampering with the Constitution of the United States! This is no place for deal-making, back-room huddles. No wonder the people have such a low estimation of the Congress. Going to make deals in the back room. I do not imply by what I am saying—I do not want to cast any aspersions on any Senator in particular.

But this is a process that we have worked our way through. We were told there would be a vote. We have waited on a vote. Up here the press is gathered. They want to see the outcome of this debate.

(Disturbance in the visitors' galleries.)

The PRESIDING OFFICER. The Chair will remind the occupants of the galleries there will be no expressions of approval or disapproval.

Mr. BYRD. Madam President, this has every appearance of a sleazy, tawdry effort to win a victory at the cost of amending the Constitution of the United States.

We have had our chances, why do we not vote? I hope we will vote, Madam President. Let us not wait until tomorrow. Now is the time for the decision. That is what we were told.

I deplore this tawdry effort here to go over until tomorrow so that additional pressures can be made on some poor Member in the effort to get this vote. Laugh if you must. Laugh! This is no laughing matter. We are talking about the Constitution of the United States. We were ready for a vote. Obviously, the proponents on the other side felt they were going to lose. We cannot win them all. We cannot lose them all. I think it is a sad day for the U.S. Senate if this is the way that we are going to go about amending the Constitution of the United States.

I thank the distinguished majority leader. I hope we will vote tonight.

Mr. DOLE. I ask for 5 minutes to respond and then I will make the motion. This is probably, as I said in my statement, the most important vote we will cast around here, maybe in our careers.

We do not take amending the Constitution lightly. But to suggest that somehow this is unprecedented, tawdry, whatever, in my view, is out of bounds. We have every right to use the rules to determine if we have the votes or if we can pick up votes, and I intend to do that. We have been on this amendment 115 hours, plus 20-some hours of quorum calls and votes. Nobody complained about that.

What about the 80 percent of the American people? Do you think they care whether we vote at 7 o'clock or 7:30 or 10 o'clock in the morning, the 80 percent who want this passed? Do Members think they feel the way the Senator from West Virginia feels? Absolutely not.

Now, we have some obligation to ourselves. Obviously, nobody is trying to put the arm on anybody around here. We have not made house calls. We have not knocked on the doors. We have gone in their offices. But we have good-faith negotiations going, and maybe they have helped. That is fine. If they have ended, there are still other options.

So I just suggest, Madam President, this is an important vote. If I thought there was one more vote tomorrow morning or two more votes or three more votes next week, I would make every effort I could to secure those votes, just as the distinguished Senator from West Virginia has done time after time after time in this body.

I think the sad spectacle is that we may lose this vote, whether it is tonight—it is not going to be tonight—whether it is tomorrow or later, where people who voted for the amendment before their election, vote against it after their election. What are the American people to think? What are the American people to think about any Member in this body? They sent us a loud and clear message last November, and as I said, nobody knows what the precise message was, but generally, it was to rein in the Federal Government, to give power back to the people and back to the States. That is what this amendment does.

So, in my view, by postponing this vote, we will attempt to reflect the will of 76 to 80 percent of the American people and not the will of 20 percent. We may fail this time. I quoted earlier statements of Jefferson and Washington who had a little knowledge about what the Founding Fathers had in mind and who suggested themselves that there might come a time we would have to amend the Constitution. We should not pile up a debt on the next generation as we continue to do.

I want to commend, again, those who worked on both sides of the aisle. This has been bipartisan, and it should be, and it still can be. I know the President is very strongly opposed to the balanced budget amendment. I know he has called Members. I know what happens when your President calls. We have gone through it on this side. It puts a lot of pressure on a Senator or a Member of Congress.

We have tried to improve the conditions by accepting or agreeing to an amendment offered by the distinguished Senator from Georgia, Senator NUNN. I just hope that all Senators will think about this overnight. Somebody could decide to vote the other way. We take a gamble. We might lose a vote. But in my view the gamble is worth taking. The risk is worth taking. I know the Senator from West Virginia——

Mr. HOLLINGS. Will the distinguished Senator yield for a question?

Mr. DOLE. No, I will not yield for a question.

I know the Senator from West Virginia feels strongly about this amendment, and he has a right to feel strongly about it. It does not mean he is right. He might be wrong. We may be right. If we cannot determine that tonight or tomorrow night we will determine it the next time the voters have a chance to speak.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DOLE. Madam President, I move that the Senate stand in recess until 10 a.m., Wednesday, March 1.

The motion was agreed to, and at 7:41 p.m., the Senate recessed until Wednesday, March 1, 1995, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 28, 1995:

THE JUDICIARY

Peter C. Economus, of Ohio, to be U.S. District Judge for the Northern District of Ohio, vice Frank J. Battisti, resigned.

Joseph Robert Goodwin, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia, vice Robert J. Staker, retired.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years, vice M. Joycelyn Elders, resigned.

HOUSE OF REPRESENTATIVES—*Tuesday, February 28, 1995*

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. DICKEY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
February 28, 1995.

I hereby designate the Honorable JAY DICKEY 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 New York [Mr. SOLOMON] for 5 minutes.

ANNOUNCEMENT OF INTRODUCTION OF FLAG AMENDMENT

Mr. SOLOMON. Mr. Speaker, today marks the beginning of a grassroots movement to end the despicable acts of desecration to our national symbol, the American flag. On the west steps of the Capitol, a bipartisan group of Congressmen from the House and Senate will indicate their support for an amendment to the Constitution prohibiting such destruction of our flag. This announcement comes in conjunction with the Citizens Flag Alliance, a coalition of 89 civic and veterans organizations who have been pursuing this legislation for over 2 years.

In that regard, Mr. Speaker, allow me to emphasize that the introduction of this resolution is not in response to changes that have occurred within Washington. However, it is in response to a massive surge from outside the beltway among concerned Americans who wanted to effect this change for some time. As evidence of the effect of this movement, 46 State legislatures have passed memorializing resolutions calling on Congress to pass this amendment protecting the flag.

Mr. Speaker, we have a duty to respond to this overwhelming public outcry to protect our flag. To that end, today I will join with over 150 of my colleagues in the House and nearly 30 Senators, in introducing legislation which does just that. At this time, I would like to invite those colleagues interested in backing this historic and long overdue resolution to join these cosponsors and thousands of veterans and other supporters at 10:30 this morning on the west terrace of the Capitol.

Mr. Speaker, today marks the beginning of the grassroots movement which will ultimately put an end to the destruction of Old Glory.

In those 89 organizations that I have mentioned, they cover, of course, every major veterans organization in this Nation. It includes others from the private sector such as the Benevolent and Protective Order of Elks, the Grand Lodge of Fraternal Order of Police, the Grand Lodge of Masons, the Knights of Columbus, union organizations such as the Laborers' International Union of North America, the National Alliance of Families, and the National Grange.

Mr. Speaker, I could go on and on listing all 89, but time will not allow that.

Again, I would just call attention to the membership that we are having this rally on the Capitol steps, the west terrace, at 10:30 this morning. I invite you all to come and join this historic effort.

Mr. Speaker, I submit for the RECORD the complete list of the Citizens Flag Alliance, Inc. member organizations.

CITIZENS FLAG ALLIANCE, INC. MEMBER ORGANIZATIONS

AMVETS (American Veterans of WWII, Korea and Vietnam); African-American Women's Clergy Association; Air Force Association; Air Force Sergeants Association; Alliance of Women Veterans; American GI Forum of the US, Founding Chapter; The American Legion; American Legion Auxiliary; American Merchant Marine Veterans; American War Mothers; Ancient Order of Hibernians; Association of the U.S. Army; Baltic Women's Council; Benevolent & Protective Order of Elks; Congressional Medal of Honor Society of the USA.

Croatian American Association; Croatian Catholic Union; Czech Catholic Union; Czechoslovak Christian Democracy in the U.S.A.; Enlisted Association National Guard of the U.S.; Fleet Reserve Association; Forty and Eight; Fox Associates, Inc.; Gold Star Wives of America, Inc.; Grand Lodge, Fraternal Order of Police; Grand Lodge of Masons of Oklahoma; Hungarian Association; Hungarian Reformed Federation of America; Italian Sons and Daughters of America; Knights of Columbus; Korean American Association of Greater Washington; Laborers' International Union of N.A.; MBNA America.

Marine Corps League; Marine Corps Reserve Officers Association; Military Order of the Purple Heart of the USA; Moose International; National Alliance of Families; National Association for Uniformed Services; National Center for Public Policy Research; National Cosmetology Association; National Federation of Hungarian-Americans; National Federation of State High School Associations; National Flag Foundation; National Grange; National Guard Association of the U.S.; National League of Families of Am. Prisoners and Missing in SE Asia; National Officers Association (NOA); National Organization of World War Nurses; National Service Star Legion; National Vietnam Veterans Coalition; and Native Daughters of the Golden West.

Native Sons of the Golden West; Navy League of the U.S.; Navy Seabee Veterans of America; Navy Seabee Veterans of America Auxiliary; Non-Commissioned Officers Association; PAC Pennsylvania Eastern Division; Polish American Congress; Polish Army Veterans Association (S.W.A.P.); Polish Falcons of America; Polish Falcons of America—District II; Polish Home Army; Polish National Alliance; Polish National Union; Polish Roman Catholic Union of North America; Polish Scouting Organization; Polish Western Association; Polish Women's Alliance; RR Donnelley & Sons, Company; Scottish Rite of Freemasonry—Northern Masonic Jurisdiction; Scottish Rite of Freemasonry—Southern Jurisdiction; and Sons of The American Legion.

The Orchard Lakes Schools; The Retired Enlisted Association (TREA); The Travelers Protective Association; The Uniformed Services Association (TUSA); U.S. Marine Corps Combat Correspondents Association; U.S. Pan Asian American Chamber of Commerce; Ukrainian Gold Cross; Women's Army Corps Veterans Association; Women's Overseas Service League; and Woodmen of the World.

THE FEDERAL EMPLOYEE HEALTH BENEFITS ACCESS ACT

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 had been wondering when to introduce the bill that I introduced last year. When I got a letter today explaining the AMA's position on health care and preexisting conditions I decided this was the day.

You see, the AMA has a dictionary where they are talking about menopause as a preexisting condition. But when they were asked why they were defining that, they said they were only saying what the insurance companies were saying, and the insurance companies are saying that is why they consider menopause a preexisting condition and are denying payment.

If this continues, pretty soon women are going to be a preexisting condition, and no woman is going to get health care. But we know that this is going on with men, with women, with children, with families, and we have a true, true health care crisis.

This letter is what inspired me today to reintroduce my Federal employee health benefits bill that I introduced last year. It is very simple. It only says every American should be entitled to the same choices that we as Members of Congress have, the President has, and over 9 million Federal employees, retirees and their families have.

That means once a year you get a catalog of a whole series of choices. You are in a very large group. There are no preexisting conditions. Whether it is menopause or anything else, you can be in that pool, and it has been tremendously cost effective. I think that this is one thing we could certainly do that would make life a lot better for small employers, for self-employed people, and for many Americans.

One of the things we learned from the health care debate was that most Americans are really very poor consumers of health care. And why not? They have no choice anyway. Their only choice is what their employer can get, if he can get anything, or what they can get, if they can get anything. They do not have the catalog and the options we all have once a year under open season.

Now, this does not cost the Federal Government anything. All you do is get the catalog, figure out what you want, and then you have to pay the premium or you and your employer share the premium, or whatever works out, whatever your negotiated position is. But it gets you a wide range of choices. It gets you much better prices. It gets a much better cost relationship, and I think it is time we do it.

It is in the spirit of this Congress, which has been putting itself under the laws it makes for other people, and it is time we now open the door to many of the benefits that we have, that we now know because of the last 2 years' historic health care debate that other people do not have. This would be a terrific stress reliever for an awful lot of American families who are either locked into their job because they cannot get health care, or lost their job and cannot get health care, or many, many other things.

So I really hope that this body takes this bill very seriously, and that we pass it out of here, and we at least give people choices. That makes all the sense in the world.

Mr. Speaker, I would ask to put this letter from the American Medical Association in the RECORD on preexisting conditions and menopause.

Mr. Speaker, today I am introducing the Federal Employee Health Benefits Access Act. The purpose of this bill is simple: to give the general public access to the same health care benefits as Members of Congress.

We recently passed legislation requiring Congress to comply with the same laws that we pass for the rest of the country. Well, it is about time we gave everyone the same health care we get.

The Federal Employee Health Benefits Program provides health care to nearly 9 million Federal employees, retirees, and their families. It is a proven plan and model for the rest of the country. Enrollees are offered coverage at group rates, are not barred from coverage on the basis of a preeexisting health condition, and are free to enroll in a plan of their choice during an annual open season.

My bill requires health carriers under the Federal Employee Health Benefits [FEHB] Program to offer to the general public the same benefits that Federal employees and members of Congress receive. This means that small businesses and individuals will have access to the same deductibles, maximums, coverage, treatment, and quality care that every Member in this Chamber gets. Under the bill, health care plans available to the general public would be community rated and would not result in an increase cost or less of benefits to Federal employees.

FEHB access allows Americans to choose the plan that is right for them. It does not require a standard package of benefits. Rather, it maintains one of the most important features of the current FEHB Program—the ability to pick a plan that fits the needs of each individual or family.

The Federal Employee Health Access Act also contains some important cost savings provisions.

First, it requires that insurance carriers use standardized claims forms. This will reduce administration waste as well as save time and money.

Second, it requires insurance carriers to provide enrollees with information about advanced directives or "living wills." The use of living wills gives patients an opportunity to make critical decisions about their treatment. It can also save millions of unnecessary medical bills.

And finally, my bill establishes a demonstration project that allows enrollees the option to choose arbitration in order to settle malpractice disputes. Individuals who choose this option would either pay reduced premiums, copayments, or deductibles. Many health insurance plans already require participants to use alternative dispute resolution for malpractice claims. But, unlike my plan, they are not voluntary and they do not pass any of the savings on to enrollees.

The Federal Employee Health Benefits Access Act is a common sense proposal that makes health care available and affordable to every American. If it works for Members of Congress, why can't it work for the rest of the country?

I urge my colleagues to cosponsor the Federal Employee Health Benefits Access Act.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, February 13, 1995.

Dr. CAROL C. NADELSON, M.D.,
Editor in Chief, American Psychiatric Press, Inc., Washington, DC.

DEAR DOCTOR NADELSON: Thank you for your recent letter demonstrating the misuse of an American Medical Association [AMA] statement on menopause. I appreciate having the benefit of this information.

The statement quoted by the insurance company is not AMA policy, but rather is a definition taken from one of the AMA's many consumer books. The purpose of the AMA's consumer books is to educate the public about common medical conditions, not to serve as rationale for classification of conditions by the insurance industry. While the cited definition is supported by the medical literature, the AMA regrets that its statement is being used by the insurance industry to deny payment for treatments. In addition, I wish to assure you that the AMA supports equal rights for men and women and does not advocate any position that would lead to the discrimination of women in terms of their health care.

Again, thank you for sharing your concerns with me. I hope this information is helpful.

Sincerely,

JAMES S. TODD, M.D.

SUPPORT RISK ASSESSMENT AND COST-BENEFIT ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized during morning business for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I rise today in support of H.R. 1022, the Risk Assessment and Cost-Benefit Act. This legislation is necessary because of the immense cost piled onto the American economy by Federal bureaucrats. This bill establishes requirements for regulators to use risk assessment and cost-benefit analysis in creating the rules we live under. It requires development of peer review for regulations. It subjects decisions of agencies to judicial review. It requires the President to set regulatory priorities. It is a necessary step that we must take to free the American economy from burdensome regulations, but we have the opportunity to do better * * * to give small business the power to fight the bureaucrats on their own.

Mr. Speaker, this legislation will do the most for the small businesses that can afford new regulations the least. H.R. 1022 would help small business by allowing these companies to direct their scarce resources toward achieving the maximum environmental cleanup for the least cost. Small businesses are often more severely impacted by costly regulation than large businesses because the cost to comply with these regulations represents a larger percentage of the small business's operating expenses and profits. If a Federal agency is required to perform a risk analysis on regulations that impact small business, small business is likely to be better able to afford to comply with the resulting rule. H.R. 1022 will result in fewer small businesses being financially bankrupted because of excessively expensive regulations.

The wood preserving industry, which is very important to my district, is

made up mainly of small businesses. This industry could have been devastated in 1991 when the Environmental Protection Agency issued a hazardous waste listings regulation, under the Resource Conservation and Recovery Act. The tools of risk assessment and cost-benefit analysis were not applied in this act. The budget for the 1992 fiscal year stated that this RCRA regulation would have cost the wood preserving industry $5.7 trillion per premature death averted. This huge monetary amount would prevent one cancer case every 2.9 million years. That's one death every 2.9 million years. The regulation's costs, as noted in the 1992 budget, were so outrageous that the wood preserving industry was able to gain congressional support for a request that EPA work with the industry to craft a more cost-effective regulation. The negotiations resulted in a cost-effective regulation that was protective of human health and the environment. The wood preserving industry, with its heavy small business component, was able to stay alive and facilities were able to comply with the regulation.

Mr. Speaker, we cannot expect every industry to be able to rally support to save themselves from such bureaucratic nightmares. Mr. Speaker we should not expect every industry to be able to rally support to save themselves from such bureaucratic nightmares. We must give them the power to take on Federal regulators head on. We can do that if we approve the Barton amendment later today. The Barton amendment would give the average citizen the right to challenge Federal regulations themselves. It would force bureaucrats to review existing rules for their cost-benefit. Mr. Speaker, industries should not have to come to us to save them from overzealous bureaucrats. By passing the Barton amendment, we give individual American citizens the power to fight for themselves.

The main principle of our regulatory reform system must be common sense. The Risk Assessment and Cost-Benefit Act will force Federal bureaucrats to focus their regulatory efforts on what will benefit Americans the most. It will prevent Federal bureaucrats from forcing industries to spend millions, even billions of dollars without proving the responsibility of that action. It will force Federal bureaucrats to give cost-effective solutions the same consideration and the same weight as the extravagant ideal solutions they pursue today. This we must do. But, Mr. Speaker, I also hope my colleagues will realize that this is but a first step. We must also give our citizens the power to fight the bureaucrats themselves. I urge my colleagues to vote "yes" on the Barton amendment and empower individual Americans.

CONTRACT WITH AMERICA TOUGH ON CHILDREN AND ELDERLY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. MILLER] is recognized during morning business for 5 minutes.

Mr. MILLER of California. Mr. Speaker, there was great celebration by the Republicans on the 50th day of their Contract With America of the first 100 days that they had programmed to rewrite the Federal Government and its rules and regulations. Yet on the 51st and 52d day we found out what this contract was really about. It was a contract on the elderly and the children of this Nation, between the actions taken in the Committee on Education and Labor and the actions taken in the Committee on Appropriations.

We saw in the Committee on Appropriations in the rescissions bill to cut money out of existing programs, 63 percent of all the cuts affect low-income Americans, children, and seniors. These same people are only responsible for 12 percent of the discretionary spending within the budget. That means three times the amount is being cut from these programs for elderly housing, to help elderly people pay their heating bills, and nutrition for our children, and the most vulnerable, and that is pregnant women at risk of giving birth to a low-birth-weight child and a newborn child born at low birth weight that needs nutritional help at the first moments of life. That is what the Contract With America has become, a Contract on America's children.

In this morning's Washington Post, Louis Sullivan, the Secretary of HHS under President Bush, writes an article about the importance of the Women, Infants, and Children Program. This is a program that has now been in existence 20 years. It may be the most successful program in the world in combating low-birth-weight babies, premature births, and the results that flow from those two events.

This has been our insurance policy to protect the taxpayers against the hundreds of thousands of dollars that a premature birth of a low-birth-weight baby will cost those taxpayers in the first few days and weeks of life. This has been a program that has reduced the incidence of low-birth-weight births by some 33 percent among the participants in that program. This is a program that does that for about $1.50 a day, and this is a program that the Gingrich Republicans and the Committee on Education and Labor lockstep voted to cut the money from last week.

So as we move into the second 50 days of the contract, we see a much meaner, a much more callous approach to the children of this Nation. What is at stake here? What is at stake here is the ability of thousands of women who have been medically certified to be at nutritional risk and at risk of giving birth to a low-birth-weight baby of having a successful pregnancy. What these cuts mean, and the cuts in the Committee on Appropriations last week, is that this year 100,000 pregnant women and newborn infants will not be allowed to participate in this program that has had dramatic success in helping the brain development of these children, in helping carry these fetuses to term, and having healthy pregnancies.

That is what the Republicans' contract wants to do. That is what Speaker GINGRICH instructed the Committee on Education and Labor to do. Many of those Republicans privately were saying they hate to do this, this should not be done, they know it is wrong, but this is what the contract calls for. They have a greater allegiance to the contract, a public relations stunt drawn up by a pollster, than they do to America's children and to the pregnant women of this country that run the risk of having a pregnancy go wrong and to have to suffer all that that means.

What we are trying to assure with the Women, Infants, and Children Program is that these pregnant women will have the same joy I had at the birth of my two sons, the same joy that I had at the birth of my granddaughter; a healthy pregnancy and the kind of care that a woman needs before she delivers that birth, so that she can experience that joy, so that family can have that, and not have to experience the sadness of having a low-birth-weight baby and the critical care that must be delivered in the intensive care and the neonatal intensive care units of our hospitals around this country.

Yet we see that those are the ones that the Gingrich Republicans have focused in on like a laser. They went immediately to those programs to cut that out. Out of the child nutrition programs and the WIC programs, we see over $7 billion over the next 5 years being taken out of those programs. This year we see $25 million directly taken out of the Women, Infants, and Children Program. Surely—surely the voters of America, the Republicans of America, do not believe that the first efforts in trying to balance the budget should be on the backs of these poor children, of these women at risk in their pregnancies, and of these newborn infants that are struggling, struggling to hold on to life, because we were not able to give them the attention during the pregnancy that we should have.

□ 0950

Surely that is not what this is all about. Nor should it be allowed to stand. People should call their Members of Congress and tell them that they want this 20-year program of success maintained. We are talking about

$1.50 a day during the term of that pregnancy. That should not be on the chopping block out of humanity and out of caring for these children and for these pregnant women.

"THE PROJECT"

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Kentucky [Mr. WHITFIELD] is recognized during morning business for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, I rise today with great concern about an article which appeared in Sunday's Washington Post. Since I read articles in most newspapers with great skepticism, I hope that facts set out in this article are not true.

According to the article in the Washington Post, a prominent Democratic Congressman at a recent Washington dinner party enthusiastically discussed what he referred to as "The Project"—a coordinated, calculated effort designed to politically destroy Speaker NEWT GINGRICH.

A week later, another Member of the Democratic Party, in a keynote address to a party convention in Boca Raton, disclosed that the House Democratic leadership had embarked on a day-by-day plan to investigate the House Speaker, harass the Speaker, and drive him from office.

According to the article, members of the Democratic leadership in the House meet on a weekly basis for this purpose. Mr. GEPHARDT is represented at the meetings and the White House is also kept informed.

The Democratic National Committee also publishes a weekly "Newt Gram" trashing the Speaker.

Two senior liberal Democratic Members of Congress—not a part of "The Project"; that is, Newt bashing—said "Our party attacks GINGRICH because we don't have anything else to say."

If it is true, what a tragedy—the National Democratic Party and its leaders deliberately working on "The Project" to destroy another political leader.

Our great Nation faces many serious issues crying out for a solution. It is almost incomprehensible that a handful of Democratic leaders would be consumed with such a destructive compulsion for revenge.

It is not surprising that in so many issues we have debated on this floor during the last month that a handful of Democrats have used similar tactics to polarize America. Pitting the poor versus the middle class—and the middle class versus wealthy members of our society—in effect using scare tactics.

We are all Americans and we must develop solutions that will benefit our entire society not just one part of our society. The American people not only deserve but demand that Members of Congress devote their time and energy trying to solve very serious national issues instead of trying to destroy another political leader because they do not agree with his political philosophy.

The election box is the proper place to decide philosophical differences, not some sinister plan referred to as "The Project."

EFFECTS OF THE CONTRACT WITH AMERICA ON WOMEN AND CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Texas [Mr. GENE GREEN] is recognized during morning business for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I appreciate the gentleman's comments, but let us talk issues instead of speak personality.

When the Republicans talked about the contract for America, they did not tell anyone it would be women and children first. The first round of cuts were in the school breakfast and lunch programs. The second round of cuts include funding for safe and drug-free schools and the summer jobs program.

The Speaker may not believe liberals and even call some of us liars. This report that I will insert in the RECORD from the Houston Post talked about the "foes are lying about children." He says they are lying this last weekend.

Well, I am a Member from Texas. I am not lying about what my Texas State agency and my school district told me about the school lunch and breakfast program.

We would sustain a cut of almost 4 percent for our lunch and breakfast programs. I would hope we could tone down the rhetoric and talk about issues. I share the concern of my colleague who just spoke.

Again, we could see a definite cut of 4 percent in our Texas program and a half-million dollars in the Houston independent school district, the largest school district in the State of Texas.

The school breakfast and lunch programs, as estimated by the Texas Education Agency, will lose for the children of Texas $261 million in 1996. On the Committee on Economic and Educational Opportunities, we tried to strike the nutrition programs from the Republican reform bill, but we were outvoted on a party line vote by the Republican majority. I will go to that in a few minutes. Let us look at what this new amended contract for America talks about, not only cutting children nutrition programs and the WIC Program. Let us see now; we are having $11 million for two new executive airplanes for the Army that they did not request, $20 million more for a new runway for a base that is on the base closure commission list, a million dollars for a bike trail in North Miami Beach.

One thing that is apparent in this new amended Contract With America, there is no clause that our children will have a hot nutritious meal or a clause that our children will have a safe and drug-free school or that our children may have a summer youth job program.

Let me continue with the children's nutrition. A TV consumer reporter in Houston just last night said that it took the Republican majority 40 years to gain control of the House but only took them 40 days to cut food to children. The school-based nutrition grant program overall funding would be $104 million less in fiscal year 1996; $101.3 billion would be transferred out of the block grant in 1996 for nonfood programs, which would compromise the health of children.

The school-based nutrition block grant would eliminate the standards that guarantee America's children access to healthy meals.

There was an amendment adopted in the committee last week that said for the first year the States can all come up with 50 nutritional grant programs, but at the end of that year there would be some national standards. Well, we already have some national standards that apply whether you are in Texas or New York or California. We are building in additional costs into this program by having 50 States to develop their nutrition plans and then have to comply with some national standards.

The new school-based nutrition block grant would not respond to recessions or recoveries. If this bill had been enacted in 1989, it would have resulted in the 70-percent reduction in funding for school meals in 1994 alone. Between 1990 and 1994, the number of free lunches served to low-income children increased by 23 percent. During that period, the number of free meals served in child care centers increased by 45 percent. The block grants would not respond to the change in the school population, which is expected to increase by 4 to 6 percent. In the State of Texas alone we would lose 4 percent of our funding. Every September and all during the year we have new children who show up at our doors and qualify for these programs. We are not only cutting 4 percent, but if those new children show up, they would not have it.

Yesterday morning, before I left Houston, I went to a nutrition program in the Heights part of my district at the Field Elementary School. That is a school that has 90 percent of their children have free or reduced lunch. What 4 percent would we cut from those 90 percent of those children and next year when we have at least 20 more kids who show up or are qualified, are we going to tell that principal or that teacher or that food service worker, who does a hard job there, that they cannot serve those children?

There are reforms we can do in the program, but not cutting off the meals that those children have. I saw that

meal. They had cereal. They had the option of orange juice and milk. A number of kids actually drank both the orange juice and the milk. They had some little sausages.

I noticed this last Friday the Committee on Agriculture cut the effort for the Food Stamp Program.

I am glad they are concerned about that, but I know we have some concern about the food stamp abuses. But I know I saw those children eating that food. I would hope that the Republican majority would see the err of their ways on school nutrition and also change that, Mr. Speaker.

Mr. Speaker, I include for the RECORD the article to which I referred.

[From the Houston Post, Feb. 26, 1995]

SCHOOL LUNCH DEBATE SERVES UP HOT RHETORIC BUT FEW COLD FACTS—HOW KIDS WOULD FARE UNDER CHANGE UNCLEAR

(by Wendy Koch)

WASHINGTON.—Uncle Sam would no longer guarantee poor kids a free school lunch if a Republican measure now gaining momentum in Congress becomes law.

Instead, states would be free to decide who gets what.

Democratic critics say kids would suffer because funding would fall, and states won't have enough money in case a recession strikes. Republicans argue kids would benefit because the system would be more efficient.

But no one really knows—yet.

The GOP bill, which scraps the 49-year-old school lunch program, passed a House committee last week but needs the approval of the full House—considered likely—and the Senate—expected to be more difficult.

Even if it passes, its impact will depend on how each governor handles the new responsibility of feeding kids.

Still, there's no shortage of red-hot rhetoric.

Democrats have accused Republicans of trying to starve kids. "There are an awful lot of poor kids, and some not-so-poor kids, who will go home hungry," says Wisconsin Rep. Dave Obey, senior Democrat on the House Appropriations Committee.

"Absurd," responds Michigan's GOP Gov. John Engler, a leading proponent of giving states greater flexibility to administer programs. He says it's "offensive" to say Republicans would harm kids.

The school lunch program serves 24 million children every day. Lunch is free for those whose parents earn less than 130 percent of the poverty line and is heavily discounted for those whose parents earn less than 185 percent. It sets a small subsidy, 20 cents a lunch, for all other kids.

The school breakfast program serves about 5 million children daily and operates similarly.

Every child who meets the eligibility criteria is guaranteed a free meal if his or her school participates in the program. If a recession hits, federal funding increases to meet greater demand.

The meals must meet federal dietary standards, nationally recommended for all Americans.

The Republican measure, part of the effort to reform welfare, would end the federal guarantee that poor kids get meals. With that goes the nutritional guidelines.

It would instead lump school meal programs together and give states a set payment, or block grant, to administer as they choose. It also would allow states to set their own dietary standards.

The measure would allow legal immigrants—but not illegal ones—to get subsidized meals.

Proponents argue that by cutting the middleman—federal bureaucrats—less money would be wasted on paperwork and more would be spent on meals for poor kids.

They say their block grants would increase funding by 4.5 percent annually—more than the rate of inflation.

Yet Democrats say the increase is less than they would receive under the current system, which adjusts for the rising number of eligible school-age kids. And thus, they call it a cut.

"Every state will get less funding," says Walt Haake, a spokesman for the U.S. Agriculture Department. Overall, USDA estimates funding will be $309 million less next year and $2 billion less over five years.

He criticizes the GOP bill for allowing states to use up to 20 percent of their school lunch money for other programs.

Critics also say governors of poorer states—even if they wanted to help kids—would have a tough time meeting the greater demand in a recession because their funding would not automatically adjust.

"That is the unknown, and the scary part," says Tami Cline, director of nutrition for the American School Food Service Association, which represents the administrators of school meals.

Yet Republicans bristle at the notion that governors, who face re-election, won't be responsive.

"Why would state and local officials do that?" asks Kelly Presta, majority spokesman for the House Economic and Educational Opportunities Committee, which passed the bill.

[From the Houston Post, Feb. 26, 1995]

GINGRICH: FOES LYING ABOUT KIDS

ROSWELL, GA.—House Speaker Newt Gingrich lashed out at political opponents Saturday, saying anyone who claims Republicans want to hurt children is lying.

"They're going to argue meanness. They're going to argue Republicans are for the rich. And they're going to argue Republicans want to hurt children," he told a gymnasium full of loyal constituents here during a 2½-hour town hall meeting.

"It will be a deliberate, malicious lie. And they will repeat it, and repeat it and repeat it."

The Georgia Republican was addressing recent criticism from Democrats who charge that GOP proposals to end federal nutrition programs for children as well as Medicaid benefits for the poor would victimize the weakest members of society.

"Any liberal who tells you that we are cutting spending and hurting children is lying—L-Y-I-N-G," said the House speaker.

H.R. 1022, RISK ASSESSMENT/COST-BENEFIT ANALYSIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. GILLMOR] is recognized during morning business for 5 minutes.

Mr. GILLMOR. Mr. Speaker, I strongly support H.R. 1022, the risk assessment cost-benefit analysis bill. This legislation very simply puts common sense into the way the Government regulates.

All of us have heard the horror stories from businesses and municipalities about the Federal regulations and the way that they have strangled their budgets only to have miniscule benefits result.

Earlier today I hope my colleagues had the opportunity to review a dear colleague I circulated to all of them concerning the city of Columbus, OH. In it I noted that Federal regulations currently require the municipal water systems keep atrazine levels in drinking water below 3 parts per billion. A human being would have to drink 3,000 gallons of water a day with three parts per billion atrazine to equal the dose found to be cancerous in rats.

The U.S. Environmental Protection Agency, under its constitutionally mandated authority, sets this level by using the most exposed individual risk assessment model, which assumes a person is to be exposed to atrazine every day for 70 percent years. To show how absurd this regulation is, to consume enough water to come even close to causing any health risk, an individual would have to drink 38 bathtubs full of water every day. City officials in Columbus found that compliance with this regulation would require a new $80 million water purification plant. For the same amount of money 3,700 teachers could have been hired at the average State teacher's salary.

To further show how wasteful this three parts per billion Federal requirement is, consider the following: The U.S. EPA developed a health advisory for atrazine which states that a child could drink water containing 100 parts per billion for 10 days or 50 parts per billion for 7 years with no adverse effects.

Mr. Speaker, it is for reasons like this that I am supporting H.R. 1022. I believe it is reasonable to ask our Federal regulating bodies to prepare a cost-benefit analysis of proposed regulations. I support the idea of providing alternatives without making expense the sole determinant of the best strategy.

I believe that the peer review activities for more costly regulations are a good way to ensure the efficacy and the efficiency of our Federal rulemaking process. H.R. 1022 contains all of these provisions and makes the Federal Government a legitimate problem solver, not a problem maker.

Some of my colleagues who have opposed this legislation say it will create a new bureaucratic mess and will benefit lawyers more than individuals. I must say that I find their arguments to be basically an attempt to cover up the regulatory mess they instituted.

Risk assessment and cost-benefit analysis using the best available data and input will bring out the best governing decisions.

Mr. Speaker, this regulation protects the environment and public health because it means resources will be used to combat real environmental and public health risks and not be wasted on frivolous regulations and requirements.

MORE ON CUTS AFFECTING WOMEN AND CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized during morning business for 5 minutes.

Mr. DURBIN. Mr. Speaker, this morning I would like to share a few stories with you that I think are appropriate when you look at the debate which we are facing here in Washington, not only this week but for the next several weeks.

They are about some children. They are kids that I remember but I do not know their names. Let me tell you why.

The first child I remember was in St. John's Hospital in Springfield, IL in my district. I was invited to come to the unit there where premature infants are being cared for and of course you put on a gown and a mask and walk in with the nurse and the doctor. And they pointed to a tiny little isolette with a little baby in there, no larger than the size of my hand, a baby that had its eyes taped shut and had more tubes and monitors in its small body than were imaginable.

The story of course was that that baby was born too soon and as a result would be in this intensive care unit for at least a month and maybe longer with the hopes that when she did come out at the end, she would then be able to grow like a normal baby and lead a normal life.

The heroic efforts that were being undertaken for that infant are repeated every day across America. Unfortunately, repeated too many times.

Several years ago we took a look at the incidence of low-birth-weight babies in our country and found some shocking results. It turns out that the infant death rate in America was higher several years ago than in most industrialized countries in the world. Think about it. Our country, with the best medical resources, was still having children born of low birth weight with problems that really haunted them, many of them for the rest of their lives. When I talked to the head of the medical school, Dr. Richard Moy in Springfield, IL at the SIU Medical School, he said, "Congressman, the saddest part of it, this is entirely preventable; this is entirely preventable. If we can bring mothers in early in their regular pregnancy, give them prenatal care, we have the medical knowledge to deliver a healthy baby in virtually every case."

So the Federal Government, which is often the butt boy and the target of so many criticisms, decided to really invest money to reduce the number of low birth weight babies. The program we chose is one that has been around for awhile. It is called the WIC Program, the Women, Infants and Children's Supplemental Feeding Program. And we decided to take some of our precious Federal tax dollars and put it into our most precious asset, these children who will be tomorrow's leaders, our kids.

And you know what, it is working. It is working because now 40 percent of the infants in America are being brought into the WIC Program, kids especially vulnerable from low income families. I am proud to tell you that we are seeing the infant death rate in this country go down. Surely we still have low-birth-weight kids but not as many as we would without the WIC Program.

The reason I tell you this story and tell you the story about this little infant is that we are now debating whether or not to cut the money for that WIC Program. That is right, whether or not we are going to cut the money for the program that is trying to keep fewer low-birth-weight babies being born in America. In the name of a balanced budget, in the name of cutting spending, in the name of reducing the Federal role, we are going to cut this program.

My friends, the Republicans on the other side say it is the way to save money. Do you really save money with a low-birth-weight baby? Do you know how much it cost at St. John's Hospital several years ago for that low-birth-weight baby? At least $1,000 a day. So a pregnancy, which ordinarily would cost $1,500 to $2,000 under normal circumstances ended up with a baby that costs us, as taxpayers, $30,000 a month with the hopes that that little girl would come out of that experience and lead a normal life and not need more care afterward.

What a false economy. Yet the Republicans argue that reducing the money for WIC is what America really needs and really wants for its future.

Let me shift to another child, a child I saw in my own hometown again, at a school breakfast program. A happy child, a kid who was having fun, who got to school early so that she could get that little lunch or little breakfast, rather, and have her day ahead of her. She was happy and bouncing around and having a good time of it. I talked to a teacher about the school breakfast program and school lunch program. I said, what do they mean to you? And she said they mean everything. Did you ever consider the chore that faces a teacher trying to teach a child who is hungry? That child is listless, stares at its hands, stares at the floor, cannot concentrate. I do not have a chance, she said, in terms of teaching that child.

So we invest each year in the basics of providing nutrition for school lunch programs and school breakfasts so that kids can go through that learning experience and come out happy, healthy, and learning. The Republicans have told us we need to cut that program, too. I hope we keep those images in mind as we get into this budget debate. We certainly cannot have a strong America without strong children. It is a false economy for us to cut programs for children, and I hope that the Gingrich Republicans will think twice before they make these cuts.

□ 1010

THE 2-PERCENT SOLUTION

The SPEAKER pro tempore (Mr. DICKEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Colorado [Mr. ALLARD] is recognized during morning business for 5 minutes.

Mr. ALLARD. Mr. Speaker, the House of Representatives passed the balanced budget amendment last month. Today, the Senate will decide the fate of this critical reform. Whether the vote is yes or no, Congress will still need a statutory mechanism to ensure that spending is put on a glidepath to balance by the year 2002. I propose the 2-percent solution.

Shortly, I will introduce legislation to establish caps that will limit overall spending growth to 2 percent a year. If this level is exceeded in any year, an across-the-board sequester will kick in and force the necessary cuts, excluding Social Security and certain other contractual obligations.

With 2 percent growth the Federal Government can balance the budget of 2002 and still spend $1 trillion more over the next 7 years than it would under a 7 year freeze. Two percent growth will allow us to enact the tax cuts of the Contract With America and achieve the first balanced budget in 33 years.

Two weeks ago, I attended a Budget Committee field hearing outside of the beltway to hear the views of our constituents. Over 1,000 people showed up and the message was clear—cut spending. Just do it. Balance the budget. That is what the Republican majority plans to do.

During the debate on the balanced budget amendment, the rhetoric was thick with charges that the Congress does not need a constitutional amendment to balance the budget, all we need to do is offer a balanced budget. Well, the need for the balanced budget amendment is shown clearly by the President's just released budget.

The President's budget is a lost opportunity to do what he called for in his State of the Union speech, a balanced budget without the need for a constitutional amendment. In the President's budget, there is no entitlement reform, no welfare reform, and

spending in most major departments goes up. Department of the Interior spending is up; HUD and the Labor Department get an increase in spending; the EPA gets an increase in spending; the Energy Department gets a spending increase even though the administration once talked about abolishing the Department; and even the National Endowment for the Arts and the National Endowment for the Humanities get increases.

The bottom line is not a balanced budget, it is $200 billion deficits as far as the eye can see.

This is not what the average American is looking for. America wants a balanced budget. Unfortunately, the President has left the heavy lifting to the Republican Congress. Our goal is not $200 billion deficits, but a balanced budget with zero deficits. We must lead and meet the challenge and produce a budget that makes the tough cuts.

During the balanced budget debate, some questioned whether we can ever balanced the budget. Opponents like to point to the fact that over $1.2 trillion in spending must be reduced. This huge number is used to show how painful it would be to actually enforce a balanced budget amendment by 2002.

This argument could only occur inside the beltway. Though Republicans abolished baseline budgeting on opening day, much more must be done before the terms of the debate are changed.

Baseline budgeting is the process of assuming automatic spending increases every year. If Congress appropriates anything less than the baseline spending growth, there has been a cut. I suspect most Americans believe a cut is when you spend less than you did the year before, not less than you thought you would spend.

The current debate about a balanced budget amendment demonstrates why this issue of baseline budgeting is so important. Every nickel of the $1.2 trillion that must be cut is projected baseline growth.

As the chart next to me shows, the CBO projects that spending growth will average 5.3 percent a year through 2002. Under this scenario Federal spending will grow from $1.5 trillion this year to $2.2 trillion in 2002, and the deficit in 2002 will be well in excess of $300 billion.

Of course, this assumes Congress does nothing to alter current spending patterns. If Congress instead manages to hold overall spending growth to 2 percent per year, the payoff for this discipline will be the first balanced budget in 33 years. And as I noted earlier, $1 trillion more will still be spent over those 7 years than if spending had been frozen.

So let me answer the doubters. There is no doubt about it, we can balance the budget by 2002. It can be done in a reasoned and responsible manner—by holding overall spending growth to 2 percent a year.

It is not my intention to suggest that this will be easy. It will be difficult, particularly for those programs that are growing rapidly. But this is Congress' job, it is what the American people want.

Over the last three decades Congress has dropped the ball on the budget. This is why we need the balanced budget amendment and the 2-percent solution. With them we can build a secure future for our grandchildren.

A SCORCHED EARTH POLICY IN THE REPUBLICAN'S WAR ON CHILDREN

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. OLVER] is recognized during morning business for 3 minutes.

Mr. OLVER. Mr. Speaker, legend has it that Republicans know more about making profitable investments than Democrats, but with the Contract on America, that legend becomes a vicious myth.

The Republicans want to slash funding for children's foster care, and children's adoption assistance, and child abuse prevention, and children's care while parents have to work, and preschool children's Head Start, and Drug Free Schools for Children, and children's health care, and children's school lunches, and prenatal nutrition, which has saved billions of dollars by reducing the number of low birthweight babies born in this country, as the gentleman from Illinois [Mr. DURBIN] spoke so eloquently about just a few minutes ago.

These extremists are not even happy with hungry children. They want to cut every penny of home energy assistance, so thousands of children are going to go to bed cold as well as hungry.

Mr. Speaker, Americans should understand exactly what is going on with this extremist agenda. This is not about thoughtful, even-handed deficit reduction. It goes much further than the elimination of bureaucracy or waste. This is a scorched earth policy in the Republican war on children.

The radical right extremist agenda is to wash their hands of any responsibility for the welfare of the American family, shift that responsibility to the States, and at the same time, cut billions of dollars needed by the States to adequately protect children; protect their health, their safety, their schooling, and their stomachs.

It is even a myth that these cuts reduce the deficit. Our radical right is willing to hurt children so they can buy fantasy projects like the star wars antiballistic missile system, and so they can shovel out massive tax breaks to the very wealthiest few Americans.

Children cannot vote, so they are being trashed, and it is shameful. The health, the schooling, and the safety of children should be the first priority for every Member of Congress whose job it is to build a better nation. It is shameful to throw the responsibility to the States and then cut the dollars the States need to meet it.

When they cannot meet it, we will all find out that turning our backs on children is a terrible way to invest in America's future.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House will stand in recess until 12 noon.

Accordingly (at 10 o'clock and 17 minutes a.m.) the House stood in recess until 12 noon.

□ 1100

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ZELIFF].

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

For all the opportunities, O God, that lie before us and every person, we offer our thanks; for all the possibilities for knowledge and understanding, we are grateful; for friends and family and colleagues who support us and help show the way, we express our gratitude. May we be so fervent in our tasks, gracious God, that we will be worthy of the calling we have been given to be of service to other people in doing the deeds of justice and by providing leadership in the cause of peace and reconciliation for every person. Bless us this day and every day, 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 Ohio [Mr. HOBSON] come forward and lead the House in the Pledge of Allegiance.

Mr. HOBSON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will take 20 1-minutes on each side.

THE CONTRACT: BACK TO THE DRAWING BOARD

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

Mr. GEPHARDT. Mr. Speaker, for 2 months now, this Congress has been held hostage by the extremist trickle-down manifesto known as the Contract With America. Democrats have been saying all along that the American people do not need this contract. What they need are good jobs at good wages, more police to fight the scourge of violent crime, and access to affordable health care.

Republican pollsters who wrote the contract thought they knew better, but a New York Times poll published today makes it perfectly clear. If the Republicans really want to follow the will of the people, it is time to go back to the drawing board. First of all, more than half of all Americans have not even heard of the contract. So much for the Republican mandate. And on issue after issue, we find a wholesale rejection of the contract's extremist planks.

Americans overwhelmingly want the Federal commitment to 100,000 cops on the beat that the Republicans voted down. Americans overwhelmingly oppose a balanced budget amendment that puts Social Security on the chopping block as the contract does. Americans overwhelmingly oppose welfare reform that is tough on children but weak on work.

I suppose that is the problem with the Republican politics-of-opinion polls. When you live by the poll, you also die by the poll.

Based on today's poll results, I would offer these final words on the Contract With America: May it rest in peace, and now let us get down to the real business of the American people.

REPUBLICAN CONTRACT WITH AMERICA

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

Mr. HOBSON. Mr. Speaker, our Contract With America states the following:

On the first day of Congress, a Republican House will require Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget.

We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we are doing this now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America.

Mr. Speaker, this is our contract, we are doing it and living up to it, and I believe it is alive and well.

POLL DOUSES CONTRACT AND GINGRICH REVOLUTION

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

Mr. BONIOR. Mr. Speaker, every morning Republicans come to this floor and read NEWT GINGRICH's Contract With America.

But this morning's New York Times throws a bucket of ice water on both the contract and the Gingrich revolution.

In a poll released this morning, the American people say that the contract is:

Too extreme, too mean spirited, and out of touch with the priorities of the American people.

When asked what our priorities should be the American people say: jobs, health care, and crime.

Yet, after 55 days of Republican rule, and after casting over 150 votes, we have not passed a single amendment that deals with jobs or health care.

And nearly 6 of 10 Americans say the Republican idea to pull 100,000 police off the streets is a bad idea.

Mr. Speaker, this poll confirms what we have always known: The Contract With America will not make a dime's worth of difference in the lives of middle-class families.

Republicans can talk about the contract all they want.

But the longer we go, the more it becomes clear: Americans do not like what they are hearing.

COMMON SENSE NEEDED IN REGULATORY PROCESS

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

Mr. BALLENGER. Mr. Speaker, did you hear the one about the guy who was fined by OSHA for not having a comprehensive hazardous communication plan for his employees—all two of them.

How about the $100,000 spent on a study of quiet areas in restaurants.

Or the OSHA fine levied against a small business because they had a can of Pledge in a work trailer with no material safety data sheet on hand.

And, one of my favorites, the construction company that was fined because workers were not using disposable cups.

These are all great stories—and they would be very entertaining if they did not symbolize such a job crunching, budget busting, competition killing, business breaking, economic catastrophe in America.

It is time to restore common sense and civility to the regulatory process. The cost of doing nothing is too high for individuals and businesses in America. Let us act now.

IN SUPPORT OF CHILDREN'S NUTRITION PROGRAMS

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

Ms. BROWN of Florida. Mr. Speaker, yesterday I had an opportunity to speak to 95 3-year-olds and today I speak in their behalf, for the school lunch program that has worked well since 1946. It is not broken. America's children are our most important resource for the future.

Mr. Speaker, studies show that if a child is hungry, taxpayer dollars are wasted because hungry kids cannot learn. According to the Children's Defense Fund, millions of children will go hungry by cutting school lunches, food stamps, child care, Head Start meals, and WIC programs. Republican double-talk that "cuts to school lunches" are not "cuts," but block grants to States, and deceives the American people. As a 10-year veteran of the Florida legislature, I can tell you that sending Federal dollars to the States as block grants does not ensure that these funds will go to child nutrition programs.

Republicans seem to think they can fool some of the people, some of the time. But you cannot fool all of the people all of the time. The American people cannot be fooled. The Contract on America is a contract on children, the elderly and the hardest working Americans.

The school lunch program works, it feeds hungry children. As the saying goes, "If it's not broke, don't fix it."

FEDERAL REGULATIONS SHOULD USE COMMON SENSE

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

Mr. NORWOOD. Mr. Speaker, allow me to read a few OSHA rules written about chain saws for the logging industry. The chain saw shall be fueled at least 20 feet from any open flame; the chain-saw operator shall be certain of footing before starting to cut; prior to felling any tree, the chain-saw operator shall clear away brush or other potential obstacles which might interfere with cutting the tree; the chain saw

shall be carried in a manner that will prevent operator contact with the cutting chain. Mr. Speaker, Federal regulators should use common sense, not regulate common sense. If American taxpayer's hard-earned money is going to pay for someone to write rules like these, then I know where the budget chain saw should be put to use next.

MALICE: SAYING NO TO A DECENT LUNCH FOR CHILDREN

(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, my colleagues talk about a "second Reagan Revolution."

Well, they are right—when it comes to providing decent food and nutrition to the children of America.

In the mid-1980's, millions of children suffered because the Federal Government cut funding for the school lunch program.

Now, today, to pay for more defense spending and tax giveaways to the rich contributors to the Republican Party, we are going to let kids go hungry again.

Maybe what we need is a revolution that reaches back a little farther in Republican Party history.

In 1865, facing an enemy far more dangerous than our Nation's school children, our greatest President—a Republican President—stated that we would heal our Nation's wounds "with malice toward none, with charity for all."

I say to my colleagues in the majority—saying no to a decent lunch for our Nation's children is malice, pure and simple.

With malice toward none, with charity for all.

How empty and distant those words seem to the party of Abraham Lincoln today.

THE TOP 10 LIST

(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, from the home office in Scottsdale, AZ, the top 10 excuses liberal Democrats have for not voting for the balanced budget amendment.

No. 10, we might really have to slow spending.

No. 9, the dog ate my homework.

No. 8, fiscal responsibility phobia.

No. 7, the devil made me do it.

No. 6, if so many of the American people want it, it cannot be any good.

No. 5, contract-envy.

No. 4, it wasn't me, it was a space alien with a remarkable resemblance to me.

No. 3, I did what?

No. 2, let's feed big government bureaucrats instead of little school children.

And the No. 1 excuse liberal Democrats have for not voting for the balanced budget amendment, they want early retirement in the next election.

CONGRESS SHOULD PUT AMERICAN INTERESTS FIRST

(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, while one House committee voted to forgive a $50 million loan for Jordan, another House committee voted to kill hundreds of thousands of American youth jobs in our communities, kill the home-ownership counseling program that saves the family home and saves taxpayers $35,000 on every foreclosure. They also voted to kill all veterans' outpatient clinics that treat millions of American veterans.

Now think about it. Fifty-three billion dollars for Mexico but pink slips for American youth. Twelve billion dollars for Russia, but, ladies and gentlemen, mortgage foreclosure for American families. Fifty million dollars for Jordan, but cuts in health care for American veterans.

Think about it. No wonder America's bankrupt. Congress is either brain-dead or they're starting to drink some of that Boris vodka.

I say, ladies and gentlemen, take care of our own people before you take care of everybody all around the world. Beam me up on these cuts.

SUPPORT THE BALANCED BUDGET AMENDMENT

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

Mr. LATOURETTE. Mr. Speaker, it is no coincidence that the work and far-reaching goals of the 104th Congress are being compared to that of the Congress of 1933. Not since that time has Congress accomplished so much in so little time, when Franklin Delano Roosevelt presided over our Nation and steered the Congress to pass a bold new agenda called the New Deal, much of it during the first 100 days of his administration.

As we compare what happened then to what is taking place on the floor of this great House now, I am reminded of the prophetic words of FDR when he said, "It is common sense to take a method and try it. If it fails, admit it frankly and try another, but above all, try something."

"Above all, try something." Those four simple words cut right to the heart of the objectives of this Congress, the Contract With America, and in particular the balanced budget amendment. Only what we are proposing is to try something that works, something done by almost every State in the Union not to mention households and business.

For far too long, the U.S. Congress has been trying a method of balancing the budget which, quite simply, is a resounding failure.

Today the other body has an opportunity to do something magnificent for the future of this country, to do as FDR said, admit frankly that what we have tried in the past has failed and to try something new.

□ 1115

REPUBLICAN CONTRACT FAILS TO ADDRESS NATION'S CORE CHALLENGE

(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, it is time we talk about this so-called Contract on America. Income has not increased as a result of this contract. Not one single job has been created because of this contract. No family in America is more secure as a result of the progress made on the Republican contract. The quality of life has not been improved for hard-working middle-class Americans because of this contract.

The bottom line is the contract has no meaningful impact on the lives of average Americans. The Republican contract fails to address our Nation's core challenge and that is raising our standard of living as a people.

In western Pennsylvania, cities like Beaver Falls, Aliquippa, and New Castle have up to 25 percent of their households living in poverty. Yet the contract will whack people on Social Security, whack Medicare, whack school lunches. This truly is a Contract on America, Mr. Speaker.

CONSTITUTIONAL AMENDMENT TO BAN AMERICAN FLAG DESECRATION

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

Mr. QUINN. Mr. Speaker, it is with great pleasure that I rise today to join many of our colleague here in the House in support of a constitutional amendment to ban the desecration of the American flag.

Mr. Speaker, I just left an announcement on the left side of the Capitol with a group of Members, House Members, Senate Members, Republicans and Democrats, and hundreds of thousands of veterans from all over the country who are in support of this amendment.

The amendment states that "The Congress and the States shall have the

power to prohibit the physical desecration of the Flag of the United States." Almost every State, 46 of the States in this country have asked us to do just that.

Let us give the States and the American people what they want and what our flag deserves.

Our Stars and Stripes stands for the principle of democracy. It represents all the hard fought battles for freedom and preservation of the American way of life. I call on my colleagues to join Representative JERRY SOLOMON, Representative SONNY MONTGOMERY, myself, and others to cosponsor this legislation in the coming weeks.

A SAD DAY FOR VETERANS

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

Mr. VOLKMER. Mr. Speaker, today is the 56th day of the imperial speakership.

Mr. Speaker, 9 months ago a majority of my colleagues recognized the debt owed our veterans, and the need to ensure they receive proper and adequate medical care. Today I must rise to inform my colleagues that the contract we have with our Nation's veterans has been labeled expendable by the Republican majority, and I am here to issue a warning to the Nation's veterans that our contract pledged to our veterans is up for renegotiation under the Republican contract on America. Last week an appropriations subcommittee slashed $206 million from the Veterans Administration and eliminated funding for six veterans care facilities as a way to help pay for the tax cuts promised to the rich in their contract on America. Mr. Speaker, it is a sad day in America when we place the desires of wealthy special interests over the needs of men and women who risked their lives to defend America.

AMERICA NEEDS THE BALANCED BUDGET AMENDMENT

(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, today as we face final congressional action on passing the balanced budget amendment, it is a moment of national truth. Will we squirm and wiggle and sidestep our responsibility, will we cop out with politically palatable excuses or will we take the action because if we vote no today how much easier will it be to continue to vote for deficit spending?

Since 1969 we have not had a balanced budget. And every Democrat and Republican who has voted for this deficit spending has had a good excuse to do so. But it is time to stop this.

We need a balanced budget amendment. We can think of, and taxpayers above all can think of 4½ trillion reasons to vote for a balanced budget amendment.

Ladies and gentlemen of America, watch today carefully. It is a critical day in the history of our Nation.

BALANCE THE BUDGET WITHOUT JEOPARDIZING CHILDREN

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

Mr. HINCHEY. Mr. Speaker, the majority party of the House of Representatives has declared war on our Nation's children.

The leadership has taken their campaign against working Americans to one of its lowest points yet attacking the most vulnerable in our society—millions of American children who rely on school lunches for a well balanced meal every day.

The most profound effect will be upon the ability of our children to learn. Undernutrition effects a child's behavior and performance.

In support of a 1969 expansion of school nutrition programs, President Nixon once said: "A child ill fed is dulled in curiosity, lower in stamina, distracted from learning." What has happened to the Republican Party?

In my home State of New York, more than 1,700,000 children currently participating in the school lunch program will be affected by a cut in funding.

We can do better than to try to balance the budget by jeopardizing the health and nutrition of 13 million American children who depend on the School Nutrition Program each day for a balanced meal.

THE BATTLE LINES ARE DRAWN

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

Mr. TIAHRT. Mr. Speaker, the American people are clearly seeing where the battle lines are drawn. The Democrats will defend the Great Society of Lyndon Johnson and the $4.5 trillion we have already been spending on a failed system.

Republicans are working to transform the welfare state into a work-for-benefits system.

Democrats will fight to keep the money flowing for the beltway bureaucrats here in Washington.

The Republicans will keep the money flowing back to the States like Kansas to help the American people.

The liberal Democrats have accused the Republicans of being mean-spirited because Republicans want to change the system that promotes destruction to the family, hurts children and that seriously undermines the future of our Nation.

The Republicans will work to change a system that has failed the American people completely.

The battle lines have been drawn. May the best ideas win.

SUPPORT FOR THE RISK ASSESSMENT AND COST-BENEFIT ACT

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

Mr. STENHOLM. Mr. Speaker, as a long-time supporter of small business, I rise in support of H.R. 1022, the Risk Assessment and Cost-Benefit Act. It's simple: Risk anlaysis is good for small business.

Small business has had to contend with a literal blizzard of Government regulation in virtually every aspect of their operations. It is not just one or two big or major impacts from regulations, it is also death by a thousand cuts. It is the cumulative burden of paperwork, planning, and other compliance requirements that are often overlooked in the process of creating Federal regulations that are especially burdensome to smaller businesses. Mechanisms like those contained in H.R. 1022 will help to ensure that Government considers the total impact of the cumulative regulatory burden.

The small businesses impacted by many new regulations, especially in the environmental and worker safety area, do not have the resources to challenge or assess the increasingly scientific methods or exposure assumptions used by Federal agencies to justify new regulations.

Discussion and provision of regulatory options and risk scenarios early in the regulation development process will help small business by focusing resources and providing at least some assistance in an analysis process they cannot hope to shoulder on their own behalf.

In short, small business needs H.R. 1022 so that Federal agencies will be compelled to develop cost-effective regulations that will allow small businesses to both comply and remain economically viable.

THE REPUBLICAN CONTRACT WITH AMERICA IS ALIVE AND WELL

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

Mr. DREIER. Mr. Speaker, wishful thinking is all there is to the statements that were made by the minority leader and the minority whip, wishful thinking based on the New York Times poll that came out this morning which had people raising some understandable concerns about the Contract With America. The reason for that is that it has not been understood appropriately.

Is there really a desire on the part of Republican Members of this House to

ensure that young children are not able to gain lunches at school? Absolutely not. We believe that it can be done better.

The arrogance which is regularly shown by Members of the minority party in this House that only those of us here in Washington, DC, are in a position to make that decision is I believe reprehensible. The people who elected us also elected Governors, State legislators, city council members and school board members, and we believe that by eliminating this massive bureaucracy here which oversees the School Lunch Program we can better address those needs.

The Contract With America is alive and well and has the support of the American people; 80 percent of them support our balanced budget amendment which we hope will pass in the other body later today.

STAND UP FOR THE FREEDOM THE FLAG STANDS FOR

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

Mr. SKAGGS. Mr. Speaker, today several Members announced the introduction of an amendment to the Bill of Rights. While its purpose, to protect and encourage respect for the flag, is something we can all endorse, it means, a Government mandate, would do tragic violence to one of our most cherished freedoms: the first amendment guarantee of free speech.

The flag of our country stands for values and ideals that are enormously important and it is a symbol that we all cherish.

One of the things the flag stands for is a people and a government strong enough to tolerate diversity and to make room even for unpopular views. That is what the Bill of Rights and the first amendment is all about.

Respect for the flag does and will always flow from our patriotism, our love of country, but it is time again for us to stand up for what the flag stands for, the freedoms that we cherish in this land.

REPUBLICANS TRUST LOCAL LEADERS TO MAKE DECISIONS

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

Mr. LINDER. Mr. Speaker, Georgia's Governor Zell Miller favors the Republican school lunch plan. Nineteen of the Nation's governors want the money and the flexibility to feed the children of their State.

It does not take a straight A student to conclude that if we do not feed the Federal bureaucrats we can feed many more children.

Republicans trust local leaders to make better spending decisions than the Federal Government. The creativity of the Governors, State legislatures and parents will be critical to our block grant programs. They will decide where their money is spent. Imagine that. Individuals and localities, not the Federal Government, will decide how to spend their own money. That is what the November revolution was all about. This is the kind of change that we promised and it truly frightens the pencil-pushers in Washington. Money is power, and the Republicans aim to return that money and power to the States and the people.

Governor Miller—a Democrat—said it best, "Give us the money. We can use it more effectively and efficiently than any Federal bureaucrat."

EXPLAINING THE SCHOOL LUNCH PROGRAM TO CHILDREN

(Ms. SLAUGHTER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER. Mr. Speaker, in light of recent committee action I cannot help but be struck by the irony that next week is National School Breakfast Week. I cannot help wonder what I am saying today to students at Barnard School in Greece, NY, when I go to their breakfast and say what I heard this morning was the Republican contract said that if you give school lunches and school breakfasts it helps to break up American families.

What am I going to say to a group of homeless students tomorrow, students who would not be in school today if the Congress had not provided for their education? Do I explain to them that Congress no longer believes that they are worthy of our support?

Should I say to the school children in the city of Rochester, NY, where over 35,000 students are eligible for free or reduced-priced lunches that they need a more effective lobby? Should I say to the homeless students that perhaps if they were to tie their needs to that of the agricultural industry, they could expect their program to be preserved?

Mr. Speaker, we all love to talk about how our children are our future, but with the recent actions of this body, our children must be wondering how they are supposed to be prepared for it.

SCARE TACTICS

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

Mr. CUNNINGHAM. Mr. Speaker, I am tired of the scare tactics the Democrats are using. I legislated and helped write the school nutrition block grants. We had Governors that came before us and the welfare system has failed. I took and separated the school breakfast and school lunch program out of the welfare grants with our contract. I also separated Women, Infants and Children and increased them by 4½ percent, increased them a billion and one-half dollars, yet the Democrats are saying we cut the program. What we did is limit the growth to 4½ percent from 5.2 percent. We did not cut, we increased it a billion and one-half dollars.

What we did cut on this side of the aisle is big Government bureaucracy rules and regulations and made it cheaper to support those programs, and what they do not want to happen is to lose their little fiefdoms. That is what they are upset about. We support the children's nutrition program, and separated and increased the program. Even 80 percent of the money that goes to WIC is more than under the old plan.

□ 1130

MANY AMERICANS DUBIOUS ABOUT THE CONTRACT

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, many Americans are dubious about this contract on America, but I tell you one thing, they are not doubtful about their children. They know what they want for their children, education and an opportunity to learn and, yes, they want school breakfasts and school lunches.

Mr. Speaker, I rise to share the great concern of many of my constituents who have made it clear to me they want me to fight to protect America's children from the unprincipled and draconian budget cuts proposed by the Republican majority.

Texas will lose at least $1 billion through these cuts. While planning tax cuts and their sacred other cuts which will cause deficits to soar, my colleagues from the other side of the aisle have decided to declare war on America's children.

Mr. Speaker, included with various assaults on child nutrition contained in title V of H.R. 4 is a proposal to eliminate competitive bidding on infant formula purchases under existing programs. According to the Department of Agriculture, competitive bidding saved the States $1 billion.

Let me say, Mr. Speaker, that we must concern ourselves with all of America's children. Feed the children. Let us not feed our egos.

HONORING OUR CONTRACT WITH AMERICA

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

Mr. HOKE. Mr. Speaker, day after day after day they come to the well of

the House, the four horsemen of the liberal apocalypse: demagogery, distortion, obstruction, and hypocrisy.

The doomsday prophets of the lost battalion of the left, with chilling contempt and complete disregard for the will and wisdom of the American people, they ignore the call for change that sounded across this Nation last November. The question becomes: How long will they remain dead to the urgent pleas for a new direction and blind to the overwhelming evidence against the failed liberal agenda of the welfare state? How long will they pay headlong allegiance to a philosophy of unlimited government and limited personal freedom, more spending, higher deficits, and more bureaucratic regulation of our lives, our economy, our future? How long will they go on trivializing and reducing the national debate to its lowest common denominator? How long will they persist with the politics of fear and with scare tactics calculated to incite class warfare and divide Americans one against another?

It is time to end the futile mission of the lost battalion of the left and honor our Contract With America.

FEDERAL FOOD ASSISTANCE

(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, for more than 50 years this Nation has had a commitment to its children. In less than 50 days some have moved to abandon that commitment, and by doing so, to abandon our children.

This Nation is strong not because of its military might or its technology. This Nation is strong because of its compassion. We care about those among us who are weak; the young, the old, the poor, the frail, and the disabled.

If our citizens are weak, we are weak as a nation.

Last year we spent just $26 per American taxpayer for AFDC programs. Child nutrition programs represented just one-half of 1 percent of the total Federal budget outlay of 1994. The average food stamp benefit is served for 75 cents per meal, just 75 cents.

Children are not driving up our deficit. Senior citizens are not the cause of our economic woes. Programs for the poor do not represent pork.

Indeed, confronting hunger in America is a serious matter, not a partisan matter. It is a moral matter. It is irresponsible to put children's and our senior citizens' health at risk.

THE FOLKS AT HOME DO A BETTER JOB THAN THE FEDERAL GOVERNMENT

(Mrs. CUBIN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CUBIN. Mr. Speaker, I want everyone to understand, and I want them to understand clearly, spending for the school meal programs will actually increase next year by at least 4 percent.

In addition, cutting an entire layer of Washington bureaucracy and limiting administrative costs of these programs by 2 percent will give more money to be spent on food programs.

Listen to this, the Republican proposal spends more money on the school lunch program and the school breakfast programs.

Now, let us talk about who really cares here. There are 535 people in this organization in Washington here who make decisions for the whole country. There are three people who really care about the people in Wyoming, and the number of delegates that you have in your States that really care or know you. There are thousands of people in the State of Wyoming who care about feeding children, who care about our future, who care about our seniors, and those folks at home are responsive, and they will do a better job feeding our children than the Federal Government will.

CONTRACT OUT OF STEP WITH THE AMERICAN PEOPLE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, no matter how many of my colleagues on the other side of the aisle want to get up and tell us that what they did last week is untrue, they are, in fact, cutting the child nutrition programs. They are cutting the breakfast program. They are cutting the school lunch programs. Do not let them get away with it.

Mr. Speaker, as the American people learn more about the uncaring and extreme agenda of the Gingrich revolution, they are realizing that the Contract With America is not worth the laminated paper it is written on.

This New York Times poll released today confirms what Democrats have been saying—that we need to focus on crime, jobs, and health care. Those are the core challenges of our time.

But, instead of fighting crime by taking guns off our streets, the Gingrich revolution promises to overturn the assault weapons ban.

Instead of focusing on job creation, the Gingrich revolution promises to cut programs like the Summer Youth Program that creates public-private partnerships that put kids to work during the summer.

Instead of focusing on health care reform, the Gingrich revolution has produced legislation that will decimate the Medicare Program, hurt seniors, and shut down hospitals.

Contrary to what they want to say, Gingrich Republicans may walk in lockstep toward their 100 days, they are clearly out of step with the American people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The PRESIDING OFFICER (Mr. ZELIFF). The Chair would like to remind our colleagues not to interrupt or interfere with other Members' speeches.

REPUBLICAN MAJORITY OUT OF THE MAINSTREAM

(Mrs. LOWEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY. Mr. Speaker, today's New York Times poll demonstrates that the new right-wing Republican majority is thoroughly out of the mainstream and completely out of touch.

On issue after issue the American people overwhelmingly reject the extremist proposals being offered by the right-wing Republicans.

Just look at the Republican agenda: They refused to protect Social Security from the budget ax, they gutted legislation to put 100,000 new police on the beat, they promise to cut student loans, and they slashed school lunches for hungry children.

To middle-class parents struggling to send their children to college the Republicans say: Tough luck. They tell 7-year-old children who cannot afford a school lunch: Go hungry. To seniors worried about Social Security the Republicans say: Take our word for it—the check's in the mail.

Mr. Speaker, Democrats know that the American people want sensible change—not a radical right-wing revolution. It is time for the Republican reign of terror to end.

THE BRADY ANNIVERSARY

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

Mr. SCHUMER. Mr. Speaker, I rise proudly today to celebrate the Brady law.

Unlike so much of the ideological silliness that is being rammed through this House to meet the new majority's train schedule, the Brady law was carefully weighed in the legislative balance. The Brady law works.

The Brady law is saving lives.

Because of the Brady law, men, women, and children all over America are living today. These are living, breathing Americans who—without question—would have been murdered

by handguns if the Brady law did not exist.

Before the Brady law, convicted felons could walk into gun stores all over America. slap down their money, and walk out with a handgun. Those guns killed thousands of innocent people.

The Brady law stopped that madness. In 1 year alone it stopped at least 15,000 illegal gun sales, and probably as many as 40,000.

I am proud I sponsored this commonsense life-saver. And I warn the NRA and its allies who want to repeal Brady and put guns back into the hands of convicted felons.

Get ready for the fight of your life.

Because the American people demanded the Brady law. The American people want the Brady law to keep saving lives.

The American people will fight to keep it.

SAVE THE SCHOOL LUNCH PROGRAM

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

Mr. GENE GREEN of Texas. Mr. Speaker, obviously I am not going to talk about the Brady bill, being from Texas.

But let me talk about school lunch programs and the importance of making sure that we save that program.

In the Houston Independent School District next year we would lose a half-million dollars for the school lunch and breakfast program. In the State of Texas, we would lose $261 million in a 4-percent cut. The first round of cuts included the school breakfast and lunch programs. The second round of cuts last week from the Committee on Appropriations included funding for safe and drug-free schools.

I think this is a war on schools and a war on education and a war on children, and I would hope that we would then look at this Contract With America and see whether providing increased funding, including $11 million for two new airplanes the Army did not request, $20 million for a new runway for a base that is on the Base Closure Commission, $1 million for a bike trail in North Miami Beach, I think we see the priorities have changed.

We are taking money away from breakfast and lunch programs and providing it in this new Contract on America.

PROVIDING VFW MEMBERSHIP ELIGIBILITY TO VETERANS WHO SERVED IN SOUTH KOREA

Mr. HYDE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 257) to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. MONTGOMERY. Mr. Speaker, reserving the right to object, and I shall not object at a later time, I yield to the gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, for an explanation of the bill.

Mr. HYDE. Mr. Speaker, this is genuinely noncontroversial legislation. S. 257 would amend the Federal charter of incorporation granted by Congress to the Veterans of Foreign Wars in 1936. Specifically, this legislation would amend the eligibility requirements for membership in the VFW, so as to include those servicemen and servicewomen who served "honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949." This would recognize the heroic service and sacrifice of the American troops who have served in Korea, including those stationed in the demilitarized zone between North and South Korea.

This measure has already passed the other body on February 10, 1995. The principal sponsors of the counterpart House bill (H.R. 623) are the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Veterans' Affairs Committee; the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Rules Committee; and the gentleman from Mississippi [Mr. MONTGOMERY], the distinguished former chairman of the Veterans' Affairs Committee. All of these colleagues have been instrumental in moving this legislation forward.

Mr. MONTGOMERY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Arizona [Mr. STUMP], the distinguished chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Speaker, I rise in strong support of S. 257, a bill to amend the congressional charter of the Veterans of Foreign Wars. Recently, I introduced identical legislation in the House, H.R. 623, along with my good friends, SONNY MONTGOMERY and JERRY SOLOMON.

This legislation would allow virtually all veterans who have served in Korea to be eligible for VFW membership. We are all familiar with the extremely dangerous nature of duty along the DMZ and the constant threat of war in Korea. Clearly, those veterans of Korean service after June 30, 1949, who served honorably for not less than 30 days or a total of 60 days, should be able to belong to the VFW.

But under the VFW's current charter, only veterans who received an expeditionary badge are eligible to belong to the VFW. Many veterans who served honorably in Korea cannot belong to the VFW because they did not receive the required expeditionary badge due to restrictive DOD eligibility criteria. The VFW's initiative to include these veterans of Korean service among its membership is most commendable.

Mr. Speaker, today I mostly want to take time to thank the distinguished chairman of the Judiciary Committee, HENRY HYDE, and his staff for their expeditious consideration of this bill.

The Judiciary Committee has been working extremely long hours for several weeks. I sincerely appreciate their taking the additional time to consider this matter of great importance to the VFW.

Mr. MONTGOMERY. Mr. Speaker, further reserving the right to object, I rise in support of this measure and commend the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] for expediting the vote on this measure.

As they are well aware, I joined the gentleman from Arizona [Mr. STUMP] and the gentleman from New York [Mr. SOLOMON] in sponsoring this bill which is now before us.

Mr. Speaker, the Veterans of Foreign Wars is one of the most highly regarded of the many veterans' service organizations that exist today. The VFW is a volunteer organization, and this bill would simply make more veterans who served overseas in Korea eligible to join the organization.

Mr. Speaker, with that brief statement, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act of May 28, 1936 (36 U.S.C. 115), is amended to read as follows:

"SEC. 5. A person may not be a member of the corporation created by this Act unless that person—

"(1) served honorably as a member of the Armed Forces of the United States in a foreign war, insurrection, or expedition, which service has been recognized as campaign-medal service and is governed by the authorization of the award of a campaign badge by the Government of the United States; or

"(2) while a member of the Armed Forces of the United States, served honorably on the Korean peninsula or in its territorial waters for not less than 30 consecutive days, or a total of 60 days, after June 30, 1949."

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RISK ASSESSMENT AND COST-BENEFIT ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 96 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. 1022.

□ 1145

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. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, with Mr. HASTINGS of Washington in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, February 27, 1995, the amendment offered by the gentleman from Idaho [Mr. CRAPO] had been disposed of and the bill was open for amendment at any point.

Six hours and fifty-six minutes remain for consideration of amendments under the 5-minute rule.

Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of section 106 (page 18, line 25), add after the period the following:

For the purposes of this section, the term "non-United States-based entity" means—

(1) any foreign government and its agencies;

(2) the United Nations or any of its subsidiary organizations;

(3) any other international governmental body or international standards-making organization; or

(4) any other organization or private entity without a place of business located in the United States or its territories.

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, this is a compromise version of my amendment that fits in with the intent of the committee. I agree with the Chair that we must identify what in fact a non-United States-based entity is. I believe that that definition should be in the bill itself as we did with the gentleman from Idaho, Mr. CRAPO's, piece of legislation.

So, with that, what I am saying is a non-United States-based entity is any foreign nation or government and its agencies, United Nations or any of its subsidiary organizations, other international governmental bodies or standards-making organizations or any other organization or private entity without a place of business located in the United States or its territories.

That, basically, I think, captures the intent of the committee and defines the parameters that are safe enough for our country and for the world to understand.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Pennsylvania [Mr. WALKER], chairman of the committee.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has in fact provided, I think, a very useful clarifying amendment. The amendment does track language that was in the report in a manner similar to what the gentleman from Idaho [Mr. CRAPO] presented last evening on emergencies.

I think the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] is very helpful. I congratulate the gentleman for his vigor in pursuing this issue, he pursued it in committee. I think he has come up with language which is very helpful, and we are prepared to accept the gentleman's amendment.

Mr. TRAFICANT. I thank the gentleman from Pennsylvania and his staff for the assistance we have received on their side of the aisle.

Mr. BILIRAKIS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. I thank the gentleman for yielding to me.

Mr. Chairman, on behalf of the Committee on Commerce, the amendment is accepted. I too want to commend the gentleman from Ohio for his wisdom and diligence, really. It takes some diligence sometimes because there is no question that we were not able to afford as much time to this legislation as we ordinarily would like. Without the gentleman's amendment, who knows what the future might bode in terms of the definition of what was meant by the intent of the legislators.

So I commend the gentleman and thank him for his contribution.

Mr. TRAFICANT. I thank the gentleman, and also the fact his discussions on the World Health Organization and some of those other bodies makes an awful lot of sense.

Mr. Chairman, I urge support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OXLEY: Page 37, after line 2, insert:

(b) STATE, LOCAL, AND TRIBAL PRIORITIES.—In identifying national priorities, the President shall consider priorities developed and submitted by State, local, and tribal governments.

Page 37, line 12, after "report" insert "and priorities developed and submitted by State, local, and tribal governments.".

Mr. OXLEY (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. OXLEY. Mr. Chairman, this would merely add to the priority-setting provision in title VI of the bill to require the President to consider public health priorities developed by State and local governments.

The National Governors' Association recommended this amendment to me after it reviewed the bill.

It gets the priority-setting process closer to where the priorities really are, at the State and local levels.

This is noncontroversial amendment that I think improves the bill and is supported by the State governments.

In support of my amendment, I would point out some language that exists currently in the bill in section 17, where we talk about guidelines in consultation with State and local governments, in section 109, study participants may include people from State and local governments, and then in section 202, no final rule shall be promulgated unless the incremental risk reduction would be likely to jeopardize the incremental costs incurred by State and local governments.

I think, Mr. Chairman, you can see from the tenor of the language already in the bill that the amendment fits very well into the goals of the legislation where we take into consideration State and local governments.

As I indicated, the National Governors' Association asked me to offer the amendment on their behalf, which I have done.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman has offered a very worthwhile amendment, it is a good addition to the priority section and will ensure Federal officials are not operating in a vacuum.

Mr. Chairman, I am prepared to accept the amendment.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the gentleman for yielding to me

Mr. Chairman, we have viewed this amendment on our side, and we see that it makes some valuable contributions to the legislation, and we are happy to accept it. We note the good contributions from my friend, the gentleman from Ohio [Mr. OXLEY], with the President considering the priorities developed at the State and local levels.

Mr. Chairman, we accept the amendment.

Mr. OXLEY. I thank the gentleman.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. OXLEY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROEMER: Strike section 401 (page 34, lines 2 through 19) and insert the following:

SEC. 401. JUDICIAL REVIEW.

Nothing in this Act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person. If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting on invalidating such agency action, but statements and information prepared pursuant to this title which are otherwise part of the record may be considered as part of the record for the judicial or administrative review conducted under such other provision of law.

Strike section 202(b)(2) (page 29, line 24 through page 30, line 6) relating to substantial evidence and strike "(1) IN GENERAL.—" in section 202(b) (page 29, line 18).

Mr. ROEMER (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 Indiana?

There was no objection.

Mr. ROEMER. Mr. Chairman, I offer this amendment on behalf of myself and the gentleman from New York [Mr. BOEHLERT] as a bipartisan amendment to provide commonsense legal reform.

I rise as someone who has been a strong supporter of risk assessment, somebody who believes that, with diminishing resources at the Federal level, that we need to apply those diminished resources, monetary resources, in the most commonsense way possible to promote new public policies, especially as they relate to the environment and to other rulemaking procedures through our Federal agencies.

We are at a time, Mr. Chairman, where we do not have the ability nor the resources to go about throwing money at all kinds of problems, whether it be attaining clean air or clean water, and where we have attained 95 percent clean air or clean water and then mandating that we go ahead and clean up the remaining 2, 3, 4 percent and finding that that did not have a substantial risk to the population and that the money involved in cleaning that air or water would have been a substantial waste of taxpayers' money.

That simply is what we are trying to do in passing risk assessment cost-benefit analysis. It provides some common sense to rulemaking and to public policy-making at the Federal level.

Mr. Chairman, I strongly support this amendment.

Mr. Chairman, I strongly supported this legislation as a member of the majority last year when we had to fight the rules put forward by our own party that were considering elevating the EPA, and many of us made the argument if you are going to elevate EPA and give them more authority and more money, let us make sure they apply risk assessment and cost-benefit analysis procedures. We fought against rules proposed by our side.

So I am a very strong supporter of this legislation. However, the judicial review section of this bill opens up the legal process to all new forms of litigation. Just as we were arguing, Mr. Chairman, that because you can regulate does not mean it makes common sense to regulate, we apply the same standard with the Roemer-Boehlert amendment to legal reform, that because you can sue does not mean you should go forward and sue.

This bill opens up judicial review to a host of new rulemaking processes, not just at the end of the rulemaking, where we would like to keep it and maintain it, but it allows you several bites out of the apple now, not just one bite of litigation at the end but several bites during the rulemaking process.

This will hurt businesses, it will hurt environmental groups, it will cost more money, and it runs counter to the very kinds of things we are trying to do in this bill by using common sense.

If we are going to use common sense in rulemaking and limit regulations, let us use common sense in legal reform.

Now, if you love the Superfund bill and you think that makes consultants and the lobbyists rich, you are going to love this part of judicial review. This could be called the Full Employment Bill for Lawyers and Lobbyists, if this provision on judicial review is maintained.

Let me explain in two areas why I think this should be changed and would be changed by the Roemer-Boehlert bipartisan amendment.

First of all, the new standard established under this bill is substantial evidence of compliance. Now, I am not a lawyer, but merely reading those words in the bill, "substantial evidence," on pages 29 and 30, shows you have a new threshold and criterion to establish. Right now, we have the threshold of it simply being not arbitrary and capricious. That is what the court would rule on, not arbitrary and capricious.

Now, when you set this new standard of substantial evidence of compliance and open this up throughout the rulemaking process, we have the courts then taking over in science, in rulemaking, in regulation, delaying this process all throughout the course of litigation.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. ROEMER] has expired.

(By unanimous consent, Mr. ROEMER was allowed to proceed for 2 additional minutes.)

Mr. ROEMER. This drives up costs, diverts scarce resources that we are trying to maintain with the sensible cost-benefit analysis, and it builds in hosts of delays that could in fact hurt businesses.

Let me give you my second example. Not only is there a new higher standard that will allow all kinds of litigation, but let us say you are a business and you are applying through the Food and Drug Administration for a new pharmaceutical patent, and you are 2 years ahead of your competitor. Instead of waiting for the Food and Drug Administration to promulgate at the end their final rule, which would now be under the current law under judicial review, under this bill's judicial review, a competitor of that business, a competitor could delay the Food and Drug Administration from considering that business's application, delay this process, and hurt what was a natural advantage established by the private sector in developing that patent; it would delay them unfairly, catch up with them through the delay of 2 years and really use judicial review in a sense that we do not want to see it utilized.

So, Mr. Chairman, let me conclude by saying this is a bipartisan amendment. This received Republican votes in committee. The issue is common sense to the real reform process, not just as I have supported in the past, common sense on effectiveness and risk assessment; and finally, it uses the standard of not arbitrary and capricious, which is a much better standard than substantial evidence of compliance which this bill would establish.

Do not create a new cottage industry of lawyers in this town. Please support the bipartisan amendment offered by myself and the gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, today's debate on judicial review is really a debate about Congress abrogating its responsibilities to the courts and, in so doing creating what can only be characterized, as my

coauthor of this amendment has described, a full employment opportunity for lawyers.

As we did with such litigation nightmares like Superfund, we are creating potential for litigation that will choke our Nation's courtrooms and cost the American taxpayers and the Federal Government millions of dollars.

□ 1200

The Congressional Budget Office has estimated that the implementation of this legislation will cost in the neighborhood of $250 million. By keeping the current judicial review language that is found in H.R. 1022 in place, our society will likely spend far more than this on unnecessary litigation. To date billions of dollars have been spent on Superfund litigation, more than has actually been spent on cleaning up Superfund sites. We do not want to duplicate that.

If we do not adopt the Roemer-Boehlert amendment, we will end up spending more of the taxpayers' dollars and industry's resources on litigation than we are spending on doing risk assessments—once again, shades of Superfund. And, incidentally, who is going to pick up the tab? It is going to be the consumer who will pay the ultimate price.

Under current law the Administrative Procedures Act provides the regulated community with a clear and often-used tool for seeking relief from poorly crafted regulations.

If an agency has overstepped its bounds in writing regulations, this Congress through oversight committees and the control of every nickel that an agency receives has at its fingertips the ability to ensure that agencies promulgate reasonable regulations. But through H.R. 1022 we are saying that we cannot control, or will not make the effort to control, Federal agencies that are disregarding congressional intent. We are failing to do our job, so we are going to pass the burden of being vigilant on to the courts and the American people. I do not think that is the appropriate way to proceed.

Such an approach will clog Federal courtrooms, costing taxpayers millions of dollars and delaying actions on other activities that are of real importance to the safety of the American people. H.R. 1022 would create over 50 new specific procedures that will be reviewable by the courts.

This legislation was introduced to reduce burdens and relieve gridlock. We certainly want to reduce burdens and relieve gridlock, but the judicial review provisions here fly in the face of these very worthy goals.

The Roemer-Boehlert amendment, while maintaining current judicial review procedures for final agency actions, holds that risk assessments guidelines under this act are not reviewable. Without this clarification, H.R. 1022 can be manipulated by those with a vested interest in a particular regulatory proposal to impede the regulatory process.

Regulations, many of which are critical to the health and safety of every American, could be delayed for years in a quagmire of endless litigation. Judges should be engaged in making legal decisions and scientists should be making decisions on issues of science. A vote for the Roemer-Boehlert amendment preserves those roles and ensures that our courtrooms do not become a forum for regulatory delay.

The American people want timely, well-reasoned, cost-effective decisions on how regulations should be used. Dumping the burden of sorting out what regulations should go forward on the courts achieves none of these goals.

The need to prevent H.R. 1022 from generating mountains of frivolous litigation is an issue important to Members on both sides of the aisle, as evidenced by a "Dear Colleague" on this issue sent out by the gentleman from Louisiana [Mr. HAYES], myself, and 18 other distinguished Members of this body. This was a true bipartisan effort.

Mr. Chairman, a vote for the Roemer-Boehlert amendment is a vote to prevent the costly, unnecessary proliferation of litigation that the American people have expressed their unhappiness with.

Mr. Chairman, let me close by adding something here that I think is very important. We are always looking for legitimate case studies, examples that we can point to and say, "This is how it works." Let me share this with my colleagues.

Had H.R. 9 been in effect 25 years ago, it would have barred one of the most effective environmental health initiatives ever undertaken anywhere—the removal of lead from gasoline.

The CHAIRMAN. The time of the gentleman from New York [Mr. BOEHLERT] has expired.

(By unanimous consent, Mr. BOEHLERT was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, the phaseout of lead is widely accepted to have had tremendous benefits for our society, with children's average blood levels falling about 75 percent since the phaseout began in the mid-1970's. But substantial evidence of the relationship between lead and gasoline in our children's blood became available as a result of phaseout rules. It did not exist when the regulations were being developed. If the regulations had not been imposed, lead levels would not have fallen, creating a vicious circle of continued exposure and regulatory paralysis. In addition, the manufacturers of leaded gasoline additives could have delayed the regulation almost indefinitely by arguing that reducing lead exposure from other sources would have been more flexible.

Mr. Chairman, I am a strong supporter of risk assessment and the knowledge that it is an idea whose time has come. When we talk about billions of dollars being spent across this country for regulation, for the implementation of regulations, that is right, we do spend billions of dollars to implement regulations to guarantee the safety of our food supply, to make sure that the air we breathe is reasonably clear, and to make sure the water we drink is reasonably pure. We have had too many horror stories out there across America where things go wrong, and we do not want things to go wrong when we are dealing with the public's health and safety.

So I think we have a reasonable amendment here on the subject of judicial review and I urge my colleagues to give it the very serious consideration that it deserves.

Mr. Chairman, I might point out that in a bipartisan way, Republicans and Democrats alike have analyzed this, and there is a growing body of us on both sides of the aisle who think this amendment should go forward and that it would be a constructive addition to the bill.

Ms. HARMAN. Mr. Chairman, I move to strike the last word, and I rise in support of the Roemer-Boehlert amendment.

Mr. Chairman, I am proud to cosponsor this amendment and would identify precisely with the comments of my colleague from New York, Mr. BOEHLERT. It feels very good to have a Member from the other side reach for some of us here who have been supporting much of the program of the contract but who feel that some of it needs some correction. In the area of judicial review I feel very strongly a correction is needed to this bill, and I would say that many of us who support risk assessment would be extremely comforted if this correction were made. It would make it much easier for us to support the legislation on final passage.

Mr. Chairman, I have been a lawyer for over 26 years, most of that time in private practice, and I know that H.R. 1022's judicial review provisions will quickly turn regulatory reform, which we all support, into a lawyer's paradise by providing for interim judicial review. And that is what we are talking about here, interim judicial review of risk assessment and cost-effective analyses. H.R. 1022 will allow any individual to cause regulatory gridlock. This is any individual, as I say.

While one of the bill's goals is to improve the science underlying risk assessment, it is ironic that ultimately judges, not scientists, as the last speaker has pointed out, will become the final arbiters of cutting-edge risk-assessment science.

Some Members argue that H.R. 1022's judicial review provisions are necessary to guarantee enforcement of the

bill. Mr. Chairman, nothing could be further from the truth. We in Congress, a Republican-controlled Congress, continue to have oversight of Federal regulatory agencies. This Member is not ready to abdicate that responsibility.

While the Roemer-Boehlert amendment would prohibit interim judicial challenges, it does nothing to alter the Administrative Procedures Act, which provides for judicial review of final agency actions.

Let me point out that legal review will still be possible at the right time in the process, even with the passage of the Roemer-Boehlert amendment. Under such review, risk assessment and cost-benefit analyses will continue to be part of the record and will, therefore, be subject to court scrutiny.

Mr. Chairman, without the Roemer-Boehlert amendment, H.R. 1022 will soon become, as the gentleman from Indiana [Mr. ROEMER] has said, the "Full Employment for Lawyers and Lobbyists Act," and ultimately the taxpayers will be left footing the legal bills.

Mr. Chairman, let us adopt this bipartisan, good-spirited, and very sensible course correction to a risk analysis bill that many of us would like to support.

Mr. OXLEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, let me first say that I have great respect for the two gentlemen offering the amendment, but I have to say that, based on the debate we had last night, this is more of the same. This bill, not the amendment but the bill, is about accountability. It is about making the regulators accountable to somebody.

The reason we are here today is because the regulators over these last 40 years have been essentially unanswerable to anybody when these regulations come pouring out of the Federal Register. So the bill is about trying to get some accountability in the process, and I fear, and I know, that this amendment basically strips away that accountability and allows those regulators to run roughshod over businesses and industry in this country that are trying to create jobs and trying to create products.

My friend, the gentleman from Indiana, I think, is in error and totally misrepresents or misreads the bill or the provisions in the bill when he says that we are going to provide more than one bite of the apple.

Let me refer the gentleman to the language in title IV under Judicial Review, the section he seeks to amend. I quote as follows from line 7:

"The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review.* * *" Then it goes on in line 13 again to talk about final agency action, and that indeed is the target here that we are trying to emphasize.

This is really a business-as-usual amendment for the bureaucrats, and I am sure that most of the Members have probably gotten some entreaties from the bureaucrats asking them to support this amendment.

By the way, Mr. Chairman, this amendment was offered by the gentleman from Illinois [Mr. RUSH] in our committee. It was defeated on a bipartisan vote.

I think this amendment, if it were to be adopted, would essentially gut this bill. It would make it unenforceable and would provide no particular accountability. There is no hammer for some kind of regulation unless we have judicial review. Judicial review is really at the heart of what we are talking about.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I am pleased to yield to my friend, the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, the gentleman, I think, misrepresents both the intent and the effect of this amendment. Certainly if the Roemer-Boehlert amendment was adopted, judicial review would be alive and well. It just is not pervasive through the process.

What we are saying is that we still have OMB's ability for oversight, we have congressional oversight, and we have the Administrative Procedures Act. All this is still intact. We just do not want to see the expansion of new thresholds put in, and the ability to litigate throughout the rulemaking process.

Mr. OXLEY. Mr. Chairman, if I could take back my time, I guess essentially the gentleman says that he is satisfied with the status quo and what is going on in terms of what is happening out in the regulatory world. This bill is designed to limit and to get some common sense back in this regulatory process. If the gentleman would concede to me that he is willing to allow the existing regime to take place in all those statutes he has mentioned, I would say, fine, let us have an argument about that.

□ 1215

But do not try to essentially gut this particular bill and say we are going to rely on the existing statutes, when in fact those existing statutes, particularly the regulations that have emanated from them, have been a tragedy, have gone far beyond even the necessity for what the bill called for, the original bill called for, and in my estimation your amendment really does damage the bill.

Mr. ROEMER. If the gentleman will further yield, just as it would be a tragedy, as the gentleman from Ohio knows, to continue to let regulations tie up this country in terms of its scarce resources and its public policy debate, it is an equal travesty not to use common sense to reform the legal aspect here and to allow litigation to proliferate and explode.

That is what the bill will allow to happen. We are trying to prevent that. Let us use common sense both in limiting bureaucracy and regulation, and in applying common sense to legal reform.

Mr. OXLEY. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding. The gentleman from Indiana has referred to common sense. Common sense tells you that using OMB for the last 20 years or so has been disastrous.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(By unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Common sense will tell you using OMB for the last 20 years or so has not worked. Congressional oversight over the last 40 years has not worked. If we want to provide commonsense standards, look at what is happening. Common sense tells you the standards that the gentleman wants us to rely upon have not worked. We have ended up with a regulatory nightmare, and the gentleman wants to preserve that nightmare.

His admonition here just a moment ago is that those are what would be available to us if, in fact, his amendment passes. The fact is, even some of the standards under present law would not be available to us under the gentleman's amendment.

Mr. OXLEY. Mr. Chairman, reclaiming my time, the gentleman from Pennsylvania is absolutely right. This is a status quo amendment. If you are happy with the existing status quo as far as regulations are concerned, then you want to support this amendment. But let me read the language of the Roemer amendment: "Nothing in this act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person."

Then it goes on to say, "If any agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action * * *."

It essentially means bureaucrats, keep on turning out those regulations, and we do not have any way if this amendment passes to have any accountability whatsoever. I think that

is a travesty. We basically have rejected this argument last night in the Brown amendment, and I think that this is essentially part of the Brown substitute. It should be rejected just like the Brown substitute was last night, and I yield back the balance of my time.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is really a deep problem with the legislation and the provision that we are considering at this point in time, and that is a question of judicial review. Historically, in this country the courts have vacillated between micromanaging administrative agencies in rare circumstances, and adopting an essentially hands-off approach. The standards for judicial review of rulemaking has essentially been one that grants very substantial deferences to the agency process. This is review of rulemaking as opposed to adjudicatory procedures within the agency.

The legislation that we are considering extends the requirements for rulemaking to include peer review, to include risk analysis, cost-benefit analysis. These are very far-reaching extensions. And the question that is before the body is if we have such far-reaching extensions, what is the role of judicial review in this context? Because essentially what we have now are three different documents that the court could review. First, it would have the rule itself and whatever agency explanation there is for the rule. Second, there would be the risk assessment. Third, there would be the peer review.

Now, assuming that all of these steps, all of these documents are necessary as a part of the process, the question is should we take this to its logical extreme and have the courts then comparing the rule with the risk analysis and with the peer review process, and the courts ultimately deciding how should that peer review process and the risk analysis be interpreted by the agency in the preparation of the final rule.

I submit that at this point we are taking historic action to begin with by extending the risk analysis and the peer review process to all agency rulemaking. To take this to the further point of having full and complete judicial review of how that risk assessment and peer review was conducted and how it was considered by the agency, would in my opinion result in the courts' micromanaging the administrative process.

Now, you may say this is desirable, because we feel the agencies have defaulted. I submit that that fails to recognize at least two critical considerations. First of all, most of the agency rulemaking that is so controversial in this country did not come full-blown from the heads of the agencies themselves. Instead, these rules can be traced back to acts of Congress which in amazing detail told the agencies what they were supposed to do. And if we only would look at what we did in Congress, we would better understand why the American public is so frustrated with what our administrative agencies have done.

Second, we fail to recognize that this tool of judicial review can be used and abused by every interest group in our society that is unhappy with the rule, both to challenge the rule on the merits and to delay its implementation. Litigation quite often is an exercise in delay. Litigation is quite often used by the loser, who decides that that group or he or she cannot win in the political process, so now they will resort to the courts.

Sometimes these groups are environmental, consumer, conservation and similar groups. Other times they are business groups. And if we provide full opportunity for any group that feels aggrieved by a rule to relitigate the rulemaking process in court, we are going to find that we have hamstrung effective decisionmaking in the executive branch of government.

Now, this may, indeed, be the goal of some Members of this body, but I know that in my visits with the business and financial community in my district, that they find that a very significant part of the rulemaking process is important for the well-being of their industry, and they want Government that works and works effectively and is fair, but they do not want Government that is ineffective and incompetent.

So I urge that this amendment be adopted, that we take a go-slow approach, and not take this to the opposite extreme where the pendulum will simply be returning in the other direction and we will be revisiting this only a regular basis.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. The rigid discussion here is about who has the responsibility of overzealous regulators and who has defaulted on that responsibility, has it been the regulators or has it been Congress? Who has not taken the accountable, responsible position to follow the law through the regulatory process to see how it has impacted on business, on industry, on the private sector, on environmental regulations, on all of these things? Who has reneged on their responsibility?

I would tell you in this room today that it is the Congress that has reneged on the responsibility to follow through, to see where the regulations have gone too far.

Who should the regulators be responsible to then? Should they be responsible to the courts, or should they be responsible to us, Members of Congress? And I would tell you emphatically that the regulators who we appoint, who we give responsibility to, who we determine what their latitude is, ultimately the responsibility of the regulators is not the courts, it is the Congress.

Mr. Chairman, if there is an irony here in this bill, it is that at the same time that the House committees are considering legislation to deal with the real problem of excessive litigation in our society, we are about to pass a bill which is going to throw final decisions of resolving these problems in the courts. The defendant will be the Government, and the legal bills will be paid by the taxpayer.

I am not opposed to efforts to put cost-benefit analysis into the regulatory process. I am not opposed to that, and I may very well support this bill with some of the modifications, including this. But allowing parties to challenge final regulations on the benefit of cost-benefit is certainly not a step toward more efficient government.

Opponents of this amendment will argue that judicial review is the only way to force the agencies to implement risk assessment. I disagree. We, the Congress, through the oversight responsibilities of these regulatory agencies, are eminently capable of making the agencies do exactly what we want them to do, and it is our ultimate responsibility, we, Members of Congress, and not the courts.

I know the supporters of the bill included the amendment out of fear, and this is real fear and this is historical fear, this is the real thing, that the agencies would simply ignore the requirements of the bill, and I am sure that judicial review language is well-intentioned.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. GILCHREST. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I just wanted to go back. I do not want the gentleman to get too far away from the point he made earlier. Are final agency rules available for judicial review now? Under existing law, when final rules are made, are they eligible for judicial review at the present time?

Mr. GILCHREST. The answer is yes, but it has not been done sufficiently enough so the idea that we should have judicial review in this context for cost-benefit analysis is appropriate.

Mr. WALKER. If the gentleman will yield further, I am confused. The gentleman says we are going to add a whole new wave of litigation. The fact is the exact standard in the bill, that final agency regulations and rules are in fact subject to judicial review is in fact the law right now. If we do not do it in this bill, that backtracks from where the law is right now. The gentleman appears to be looking to backtrack.

Mr. GILCHREST. Mr. Chairman, reclaiming my time, the judicial review

section of this bill is in my judgment a much more onerous requirement that has not been in the law in the past.

Mr. WALKER. If the gentleman would yield further, could the gentleman tell me where this is more onerous than the present law is?

Mr. GILCHREST. Let me give an example of the practical effect of this provision as it now exists and has not existed in the past. This provision will provide parties who are opposed to regulatory actions with the means to delay or stop them, regardless of whether the agency complied with the bill. Anyone opposed to a regulation need merely challenge the propriety of the cost-benefit analysis to tie the regulation up in court, and every analysis would be subject to challenge.

There are 60 different ways that this challenge can be litigated. Just let me read some of the proposed challenges. Does risk assessment appropriately address the reasonable range of scientific uncertainties? If no single best estimate to risk is given, does risk assessment include an appropriate discussion of multiple estimates? If a risk assessment includes multiple estimates of risks, are the assumptions, inferences, and models associated with such multiple estimates equally plausible? There are 60 of these things.

Mr. Chairman, I would request the Members support the Roemer-Boehlert substitute.

Mr. BILIRAKIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. The other side has made an awful lot of arguments in support of the amendment, trying to defeat the judicial review provisions of the bill. One of the arguments that was made was that it takes two bites from the apple.

I would like to read maybe pertinent sentences, if you will, of section 401, Judicial Review. "Compliance or noncompliance by a Federal agency with the requirements of this Act shall be reviewable pursuant to the statute granting the agency authority to act or, as applicable, that statute and the Administrative Procedure Act. The court with jurisdiction to review final agency action," underlined, "final agency action under the statute granting the agency authority to act shall have jurisdiction to review, as the same time, the agency's compliance with the requirements of this Act. When a significant risk assessment document or risk characterization document subject to title I is part of the administrative record in a final agency action," and then it goes on.

□ 1230

The point of the matter is that if we had underlined final agency action, maybe the point would have gotten across. There is not any attempt under this legislation to have more than one bite at the apple. It is the final agency action that is reviewable and only that.

I would go further here. It was said by my very close friend, my colleague, we came into the Congress together, we are very close friends, disagree on this issue, the gentleman from New York [Mr. BOEHLERT], he is my close friend, but anyhow basically he referred to the environmental revolution, I suppose, that has taken place over the last 20 years and how many of those good things would not have taken place were this type of language in effect at that point in time.

He used the illustration of the lead gasoline ban. In truth, a recent article published by the Harvard Center for Risk Analysis shows that risk assessment and cost-benefit analysis, the same procedures, the same procedures required in our bill were central to the EPA's lead gasoline ban.

I quote,

> EPA chose not to use the traditional methods of regulatory toxicology and instead employed modern methods of risk assessment in phasing out lead in gasoline.

The point I think is that this is considered to be such a terrible, radical way to go. In all of our hearings, in all of our markups, throughout all of our days of markups, the other side who opposed this legislation basically got up and said, well, we agree with risk analysis, with risk assessment, with cost-benefit analysis. The gentleman from Maryland just made the same comment. Well, if there is an agreement, then what is wrong with this bill?

I would suggest to Members that it is very possible that if we had this legislation in effect at that point in time, that quite a few, if not all of the environmental radical revolutions that took place over the years probably would have taken place in any case.

A point that I guess was not made as yet is that the gentleman's amendment would remove the substantial evidence test. Under the Administrative Procedures Act, final agency action as we know is only overturned when it is arbitrary and capricious. Of course, that is, I think most everyone would agree, very deferential to the agency because of the very high burden for people to bear to prove that an agency is acting in an arbitrary and capricious manner.

Of course. The legislation applies a substantial evidence test, which means that an agency must present substantial evidence that it complied with the act. I see nothing wrong with that. The bill substitutes a substantial evidence test for the arbitrary and capricious test so that the agencies must really demonstrate to a court that they are complying with the act's cost-benefit requirements.

Mr. Chairman, for all of those reasons I oppose the amendment.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, just reading through the report, it certainly appears from the report language that such things as risk assessment guidelines, are they subject to judicial review under this new language?

Mr. BILIRAKIS. In terms of the final agency action, yes.

Mr. ROEMER. So that is new, that does expand the scope.

Mr. DOYLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. ROEMER] cosponsored by the gentleman from New York [Mr. BOEHLERT] and also cosponsored by myself and several other of us who serve on the Science Committee.

This amendment is necessary to ensure that the regulatory process does not become an eternal playground for lawyers. In asking agencies to use the tool of risk assessment, we are trying to ensure that regulation is based on sound science. As currently written, passage of this bill will allow any party to litigate agency actions before they have even been completed. Judicial review can be used to interfere in the scientific process and delay timely consideration of new medicines and other products.

Currently, the courts can review a final agency action on the basis of whether the action was arbitrary and capricious. In this law, we are requiring agencies to use over 50 new specific procedures in carrying out risk assessment and cost-benefit analysis. If an agency's action does not meet these new criteria, that error will be considered by the courts as part of their review of a final agency action.

I believe that our Nation needs to use risk assessment and cost-benefit analysis, but they are relatively new processes which will undoubtedly be refined with the passage of time. The inclusion in the bill of a National Peer Review Board and Office of Management and Budget review of risk assessment and cost-benefit analysis will provide adequate guidance and oversight to ensure that these tools are being properly utilized. The idea that lawyers and judges are somehow equipped to assess the quality of scientific procedures is almost humorous.

Without this amendment, we will permit any party to engage in dilatory tactics by going to court to force an agency to provide substantial evidence that it is complying with each criteria outlined in this bill. If we demand that an agency justify its action before it has completed that action, nothing will ever get accomplished. In order to move our economy forward with new medicines, chemicals, pesticides, and other products, we will have to assign

an attorney to every Federal bureaucrat because everything we try to do to improve our economic well-being and our overall quality of life will be litigated to death before the process gets off the ground.

Under this amendment, judicial review will still exist, but it will occur at the end of the process. And as a gentleman from the Republican side pointed out during our consideration of this amendment in the Science Committee, this is the same arrangement that was agreed on for the unfunded mandates legislation. So if you supported the judicial review provisions of the unfunded mandates bill, you should be able to support this amendment.

I am not a scientist or a lawyer, but I can assure you that litigation is not an essential component of the scientific process. Let us keep the lawyers out of the laboratories and judges from gauging the quality of science. Let the professionals make scientific and technical determinations. Once their action is complete, there will still be plenty of opportunity for the lawyers to work their magic. Vote for this amendment and stop the insanity.

Mr. McINTOSH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I believe that the judicial review provision of this bill is one of the key features in protecting the regulated community, average Americans, from the threat of over regulations and regulations that do not meet the test of good science and cost-benefit analysis.

The question has been raised about whether we will create a plethora of legal actions and increase the problem in the United States of too many lawsuits. The key difference here is that what this provision does is allow citizens to challenge the Government when they have not followed their own law and their own requirements. It is very different from a situation where we are creating lawsuits between citizens in the private sector.

Historically, if we look at two acts that had very broad general application, the NEPA Act and the Regulatory Flexibility Act, NEPA contained a judicial review provision which allowed members of the private sector to require agencies to do an environmental impact statement. Now, only when that was established as a matter of law did that law become effective. Government agencies had to determine what their actions would do to affect the environment. It has become a very successful act in terms of requiring Government to be responsive to environmental concerns.

The Regulatory Flexibility Act, however, did not contain a judicial review provision and for years now agencies have had routine boilerplate that says, yes, we have complied with the regulatory flexibility provisions that require us to give small business special consideration in reducing regulatory burdens.

The clear examples that these two show is that without judicial enforcement, without allowing citizens to be able to keep a check on their government agencies, provisions that they have to live by will be ignored at least in their intent, if not in fact.

So for that reason, I strongly support the judicial review provisions in this bill and would urge all of my colleagues to vote against the amendment.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by my good friend, the gentleman from Indiana [Mr. ROEMER], and urge its defeat. The amendment and the bill have one thing in common. The amendment and the bill refer to the judicial review that is already available in the statutes that create the regulatory authority that is affected by this bill.

Currently the law permits judicial review of agency actions across a broad span of regulatory authority. That judicial review occurs at the final option of the agency. Nothing has changed in this bill in that regard.

There is still a judicial review provided by the current law for agency actions at the end when the agency makes a final determination.

The only difference between this amendment and the bill is where this amendment says that in that agency action judicial review no question can be raised regarding the adequacy of certification or other documents prepared pursuant to this act. And here is the most important and relevant part, and any alleged failure to comply with this act may not be used as grounds for affecting or invalidating the rule.

What this amendment says, in effect, is that you can have judicial review of the agency's action but the agency's failure to follow this law is not grounds in that judicial review for affecting or invalidating the rulemaking by the agency. In short, this amendment says it is OK for the agency to violate the law, not to follow risk assessment and cost-benefit analysis, to ignore the will of this Congress, the will of the people of this country expressed in its representative body, to ignore it completely and do what they have been doing for years and that is never do a proper risk assessment, cost-benefit analysis.

What purpose is there in passing such an amendment, if it is not to defeat the very purposes of the bill? If an agency never has to answer in court for its failure to follow the law in this country, what on earth are we here doing passing laws requiring agencies to follow the law? If we, in the same law we pass, say it is OK not to follow the law, what are we doing here? The bottom line is, if you believe in this law, if you believe that agencies ought to do relevant and important risk analysis, risk characterizations, and they do what all of us hope this Nation will begin to do, consider cost in the equation and look for the least-cost alternatives by which we regulate our society and in all these important areas, if you really believe in that principle, how can you possibly vote for an amendment that says in the judicial review of whether or not the statute has been followed, it does not matter whether the agency followed the statue, it will have no effect upon the judicial interpretation of the rulemaking by the agency?

If on the other hand you believe in this bill, you must defeat this amendment, because this amendment literally defeats the bill.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just say to the gentleman from Louisiana, who I know is a strong supporter of this legislation, what the Roemer-Boehlert amendment concentrates on is the final action, the substance of what that agency finally promulgates as a rule, not all the little piddly procedures that go into making that rule that this bill opens up as possible action on judicial review. We are focused on the final action and the substance, not the procedure and the processes.

Mr. TAUZIN. Reclaiming my time, the gentleman's amendment does not just say do not look at the procedure. The gentleman's amendment says that the alleged failure to comply with this act, the alleged failure to conduct risk assessment, the alleged failure to do a cost-benefit analysis has nothing to do with the court's ability to say that this rulemaking is invalid.

□ 1245

Mr. Chairman, the gentleman's amendment says it does not matter whether you did not even follow any procedure, whether you ignore this law completely, the rulemaking is still going to be valid because the judicial department cannot review the agency's failure to follow this act. That is what the gentleman's amendment does.

If it did only what the gentleman said, I might understand this amendment. It goes well beyond that. It says clearly "any alleged failure to comply with this act." What does a common, normal reading of that mean? It means if you did not follow the act, if you did not do risk assessment cost analysis at all, by any procedure, the alleged failure to follow this act does not make any difference. Therefore, the agency can ignore this law and go on its way, and no judicial review will ever happen.

Mr. Chairman, if we want that effect in this bill, just vote against the bill, do not ask us to pass this amendment.

Mr. BILBRAY. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I oppose this amendment. We have an amendment that is trying to say that we will not enforce the regulations, or not allow the citizens to enforce the process to be able to identify what is true risk, what is true benefit. I think one of the concerns I have is that if we applied this amendment to every environmental regulation and every environmental law in this country, I think both sides of the aisle would agree that it would gut the public health protection aspects of the laws of this Nation. I think that that is the intent of this amendment, is to gut this bill, not to protect it, not to enhance it.

Mr. Chairman, all I have to say is that those who stood in this House and spoke about the concerns about the lawyer full employment act, I sure hope to see them standing in line to support us as we get into tort reform. I think that is a problem. I agree with my colleagues that that is a major problem, one we must address, but this is not the source of the problem. That is going to be another day, another battle, another agenda.

The source of the problem here is that we need that dose of reality in our environmental and public health strategy to make sure we protect the public health. What this amendment will do is say that the public would not have the right to be able to draw on the facts of the process to come to conclusions; that the judicial system would not be able to consider the fact that flawed data causes flawed results.

Mr. Chairman, garbage in, garbage out. If the science that goes into making the conclusion is not sound, then the result is not going to be sound, and we have to look at the process as we get into it. I think the result is absolutely essential. I agree with my colleague that the result is what really matters.

However, to judge the result we have to look at the evidence as it was being developed. If we ignore good science in the development of a strategy, we are ignoring the public's health and we are ignoring good public strategy. Therefore, Mr. Chairman, I ask strongly that this amendment either be defeated or we have the guts to stand up and say "This is what we want to do across the board, we want to do this with all our environmental regulations, we want to eliminate judicial review and deny the public the ability to look at how bureaucrats come to these conclusions," but do not do it just with this bill. Have the guts to do it with all the bills that have been passed for the last 40 years through this House, because without that then we are picking up this alone.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from Indiana.

Mr. ROEMER. I just want to say, Mr. Chairman, the gentleman is impugning that many of us are saying we want to gut this bill. Much before this gentleman entered this body, Members on this side were working to pass this legislation last year. We do not intend to gut this bill. We have been working hard in a bipartisan way to pass risk assessment.

Second, Mr. Chairman, the gentleman's comments are very interesting in that they admit that the gentleman wants evidence from the rulemaking process entered into judicial review. That is what we are saying should not happen. We are saying, look at the substance in the final rule, not all the evidence that goes in through the past 3 or 4 years in the rulemaking.

Last, I would just say to the gentleman that we are not eliminating judicial review. We still have OMB oversight, we have peer review, substantial peer review and sunshine. We have congressional oversight. We still have the Administrative Procedures Act.

All that will make sure that that process works. We are not eliminating judicial review.

Mr. BILBRAY. Reclaiming my time, Mr. Chairman, on the items that are being used to make the determination, the gentleman is. The trouble is when we eliminate that judicial review of the merits of the components to come to the conclusion, we are then denying all the facts to be on the table when these things are being considered.

I would just like to say to my colleague, I am not impugning his intention. I am pointing out the fault of his strategy when it comes down to this, that the fact is that we do have a judicial system that is part of the environmental strategies of this country. It has always been, right from the beginning.

Without that review you will then be saying that one group of environmental strategy will have judicial muscle throughout the entire process and one part from now on will not be allowed to flex that muscle, will not have access to that.

Mr. ROEMER. Mr. Chairman, will the gentleman further yield?

Mr. BILBRAY. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, is the gentleman then saying, in terms of evidence, did a certain agency read a scientific review article; were the laboratories in sufficient cleanliness or shape for this rule to be promulgated?

Are we really trying to open up this kind of minutiae for judicial review of the evidence put together in the final rulemaking? We are going to see an explosion of litigation.

The CHAIRMAN. The time of the gentleman from California [Mr. BILBRAY] has expired.

(By unanimous consent, Mr. BILBRAY was allowed to proceed for 1 additional minute.)

Mr. BILBRAY. Mr. Chairman, what we are saying is if and when those details are considered, they should be considered to see if that is minutiae that would have determined or could determine fact from fantasy.

If the gentleman is scared of judicial review looking at that fact or fantasy, then please understand that every other environmental law that we have on the books goes through the same process in the courts one way or the other. The trouble is it does not look at the cost-effectiveness, it just looks at how the process was followed going towards the execution of the law.

What has happened now is we are trying to add this reasonable clause in, that it is a mandate that Government not only try to do something, it tries to do it intelligently. That is all we are asking.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Boehlert-Roemer amendment, and to assert in the strongest possible terms that this is not an attempt to gut the bill. It is not the intent to gut the bill.

Mr. Chairman, I think this issue is really very simple: Do we want more lawyers and more litigation at every state of the creation of Federal regulations, or do we want better science involved in our risk assessment program.

I am one of that half a handful of physical scientists among this membership, and I can tell the Members that scientists are really not meant to be exhibit A in a court battle as to what the precise level is at which a given chemical may cause cancer, chemical or any substance may cause cancer. Science is not capable of telling what that level is.

One of the purposes of this bill, I think, is to point out that there are uncertainties over what the exact risks of a given substance or activity may be. In fact, Dr. Graham, from the Harvard Center for Risk Analysis, while he was testifying in favor of this bill, nevertheless said, and I quote, "We are not able to validate or know for sure whether or not the prediction of the model in fact proved to be correct."

Even after the fact, we cannot know the right answer for a given cost-benefit analysis.

Mr. Chairman, with the bill without the amendment offered by the gentleman from Indiana [Mr. ROEMER] and the gentleman from New York [Mr. BOEHLERT] what we would have, on court battles on cost-benefit analysis and risk assessments, and we would have thousands of those court battles, both sides are going to be able to find legitimate scientists, perhaps armies of them, who are willing to contest the validity of a single cost-benefit analysis.

By encouraging the judicial review of every one of these cost-benefit analyses, this bill makes the court the final arbiter of disagreements within the scientific community, while the Roemer-Boehlert amendment brings a measure of sanity by saying, Yes, the courts will review the entire, the final, the whole record, but should not get into the minutiae of the scientific debates involved in the risk assessment and the cost-benefit analysis.

Mr. Chairman, I do not believe that this amendment weakens the bill. In fact, I would assert it does not weaken the bill. Lawsuits under the bill can just as well increase regulation as to decrease it, and certainly colleagues from California would know that it was not the EPA that decided to impose the Clean Air Act, the Federal implementation plan in that State.

EPA was forced to do so as a result of a review in Federal court by environmental organizations, and there are going to be a great many public interest groups willing to sue individuals, public interest groups willing to sue the Federal Government, to require implementation of even stronger regulations.

What we are going to end up with, Mr. Chairman, is a great deal of expenditure of time and money and energy, and to what purpose? Who will be better off for spending all of that money on the individual points in the final regulation, in the final rule that is being made? Certainly not Americans who want to see reasonable cleanups without endless wrangling.

Mr. Chairman, I do not think industry will benefit, since they will lack any ability to rely on agency decisions and plans for the impact of regulations that are subject to incessant court challenges and court reviews.

I submit, Mr. Chairman, that the only beneficiaries are really going to be the lawyers, the lawyers on both sides of these issues, who are surely going to be the beneficiaries if we do not adopt the Boehlert-Roemer amendment.

Mr. Chairman, let us limit the fun that the lawyers have in this process and support the Roemer-Boehlert amendment.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Roemer-Boehlert amendment. H.R. 1022 contains new, expansive language on court review which was actually not in the Committee on Science markup.

This language would direct the courts to examine the scientific basis of the risk assessment. They would have to follow section 104 and 105, which would hold the rules unlawful if they did not do that.

Mr. Chairman, the courts, I believe, lack the expertise. They are not scientific experts. They lack the expertise; they lack the time; they lack the interest, also, to do this for hundreds of regulations which would come before them.

Mr. Chairman, in the Committee on Science markup, the gentleman from Pennsylvania [Mr. WALKER] promoted the sort of one-bite-at-the-apple concept, and saying that the Administrative Procedures Act would apply. The Roemer-Boehlert amendment I think would make this the case explicitly, that only final action is reviewable.

Therefore, Mr. Chairman, I rise in support of the amendment.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, there is no difference in the bill than what we did in the committee. We have expanded the language to some extent, simply to spell out what we were doing in terms of the Administrative Procedures Act, but we are doing exactly what the Administrative Procedures Act now requires agencies to do under the bill, so I would say to the gentlewoman that I worked very hard to protect the Committee on Science's position with regard to judicial review.

I think we have done that. I think the Committee on Commerce and the Committee on Science are very much in agreement on this.

Mr. Chairman, I simply would not want it on the record that what we have done here is in any way different from what the Committee on Science decided to do. That is not the case.

Mrs. MORELLA. Mr. Chairman, the gentleman did a great job in committee. My understanding is, however, that what we are saying is that the Administrative Procedures Act would apply, would be lawful, unless there are arbitrary and capricious, unlawful statements that occur.

Right now in the bill the agency would have to prove with substantial evidence that the activity was environmentally risky.

Mr. WALKER. If the gentlewoman will continue to yield, substantial evidence is in the Administrative Procedures Act.

Mrs. MORELLA. Yes, arbitrary and capricious.

Mr. WALKER. If the gentlewoman will continue to yield, if I understand the gentlewoman, Mr. Chairman, what she is objecting to is if the agency takes arbitrary and capricious action, she does not believe that that should be subject to somebody's review?

Mrs. MORELLA. Mr. Chairman, that should be subject to review.

Mr. WALKER. Mr. Chairman, if the gentlewoman will yield further, the Roemer amendment prevents that. It says specifically—and I will read, "* * * any alleged failure to comply with this Act, may not be used as a grounds for affecting or invalidating such agency action"—it does not matter how egregious it is.

The Roemer amendment wipes it out. The Roemer amendment says you cannot do it.

□ 1300

Mr. BOEHLERT. Will the gentlewoman yield?

Mrs. MORELLA. I believe it relies on the APA. I yield to the gentleman from New York, one of the sponsors.

Mr. BOEHLERT. We have got the Administrative Procedures Act. We know that. That is the vehicle to challenge any final rulemaking, and we have got the arbitrary and capricious standard. What this would do is subject the whole risk assessment process to judicial review, which means we would be tied up—talk about the full employment act for lawyers, we would be tied up in courts forevermore at a cost of millions and millions and millions of dollars for everybody involved. That is why we so strongly object to it. I thank the gentlewoman for yielding.

Mrs. MORELLA. Already over $100 million is going to be exhaustively peer-reviewed. So we certainly, I think, need the Roemer-Boehlert amendment.

Mr. WALKER. Mr. Chairman, will the gentlewoman yield again?

Mrs. MORELLA. I yield to the gentleman from Pennsylvania.

Mr. WALKER. One of the problems is, what we have just heard from everybody is they do not want the Administrative Procedures Act to apply to this act. They want the Administrative Procedures Act to be out there applying to other things, but they do not want the Administrative Procedures Act to apply to this act.

Mrs. MORELLA. The final action.

Mr. WALKER. The standard we have set is a standard which is exactly similar to the Administrative Procedures Act.

Mr. BOEHLERT. Mr. Chairman, if the gentlewoman will yield further, what we want is we want the Administrative Procedures Act to apply to the final rule. We want to have a system where a final rule which is wacko, which does not make any sense, does not pass the commonsense test, we want to have a way to challenge that.

But we do not want to have a way—all through this risk assessment process, if an agency comes up with a rule that makes sense, that addresses public health and public concerns, we do not want to be able to throw out that rule because somewhere along the process somebody did not fill out a form on page 12, line 3, section 2.

The CHAIRMAN. The time of the gentlewoman from Maryland [Mrs. MORELLA] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mrs. MORELLA was allowed to proceed for 2 additional minutes.)

Mrs. MORELLA. I continue to yield to the gentleman from Pennsylvania.

Mr. WALKER. The fact is that the language in the bill says substantially comply so that we can deal with the problem, but the gentleman seems to be ignoring the language of his own amendment.

I simply would point out that the language within the Roemer amendment says any alleged failure to comply with this act may not be used as grounds for affecting or invalidating the agency action.

You cannot even get to where the gentleman says he wants to be under the amendment that you have before us.

Mr. ROEMER. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentleman from Indiana.

Mr. ROEMER. It has been said over and over and over again, there is nothing in the Roemer-Boehlert amendment that would erode the Administrative Procedures Act. If that is passed and put into effect and we try to mitigate the litigation that is going to simply explode as a result of this new expansion under judicial review, there is no risk to this doing any kind of threat to the Administrative Procedures Act, and you still have the ability of OMB, peer review panels, and a host of other sunshine to be shone upon the regulations in the final action.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is important that we clear up some of the argument that is being made here today, and perhaps we ought to start by reading the amendment, itself. I understand the reading of the amendment was suspended earlier.

But if we want to find our whether this amendment eliminates judicial review entirely, whether this amendment basically guts the bill, let's read the amendment.

It says, "Nothing in this act creates any right to judicial or administrative review, nor creates any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person."

It goes on to say, "If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act and any alleged failure to comply with this Act may not be used as grounds for affecting or invalidating such agency action."

I do not know how you can more clearly state that you are saying we are passing this bill but it cannot be enforced, it creates no rights for judicial review, and if there does happen to be judicial review under some other law, nothing in this act shall give anybody any rights for any protection under the very provisions which we are putting into effect.

The fact is that this statute is critical. It is a process that America has needed badly to require our administrative agencies to review the effectiveness of their conduct. They must assess the risk which they are addressing, assess the cost of meeting that risk in their regulation, and determine whether the cost is justified by the benefit that is intended to be gained.

If we cannot put that into law and then require that the agencies meet that test when they are promulgating regulation, then we are truly fooling the American people when we tell them that we are trying to somehow bring the agencies under control in the rulemaking process.

If that is not enough, the amendment goes on to say that it strikes the substantial evidence standard in the judicial review that this act contains.

Let's clarify what we are talking about here. If we do not have the substantial evidence standard in this legislation, that means that when there is judicial review, and, by the way, I will back up a minute.

It has been argued that we do not want to open up the opportunity for the courts to look at the entire administrative record and see what has gone on.

Ladies and gentlemen, that is exactly what happens right now, under the administrative review that is given to each rule as it is reviewed under the previous statutes that authorized those rules.

What we are saying is that in final agency action, not at each stage but in final agency action, when the rule is already being reviewed, when the entire administrative record is already being reviewed, it must also be reviewed for purposes of cost-benefit analysis.

We are going further to say that the standard of review shall be substantial evidence. The court must look to see whether the agency acting had substantial evidence to document its claim that there was or was not a cost-benefit to the rule which it is enforcing.

What this amendment seeks to do is to make it so the agency can get by with whatever it wants if it can simply meet an arbitrary and capricious standard.

That means that all the court has to do is to say that there was a little slim piece of evidence in this record that justified what the agency wanted to do and so it was not arbitrary or it was not capricious, but it does not have to look further to see whether the weight of the evidence was on one side or the other.

There is already going to be the administrative review of these agency rules under the Administrative Procedures Act which governs the statute which generate the rules themselves. What this statute does is say that when that review takes place, then there must be administrative review also of the cost-benefit analysis and that cost-benefit analysis must be justified by substantial evidence in the record that is already under review.

That is eminently reasonable, and all you have to do is read the words in this amendment to see that it is clearly a killing amendment. It is saying, "We've got a right here, we are creating a great statute that allows us to have cost-benefit analysis, but we don't want any agency to have to be forced to follow it, we don't want any person in America to have any right created under this statute to have the agency follow this legislation, and we want to be darned sure that it is not enforceable if anybody goes to court."

Last, there has been the argument made here that this is going to generate mounds and mounds of additional litigation across the country. Again, this legislation authorizes judicial review only when there is final agency action under a rulemaking which is already under way under a previous statute.

That means that there is already going to be agency review under each review required by this statute. It is not going to increase litigation.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this is the ultimate old order amendment. This is an attempt to step back to the idea that big government has solutions to all of our problems and if we would only listen to big government, big government will always tell us the right things to do.

This is an amendment by people who do not want to see middle-class Americans use the law against the Government but are perfectly happy to see the Government use the law against middle-class Americans. That is exactly the effect of adopting the Roemer amendment.

You adopt the Roemer amendment, you say the lawyers of the Government can go out and pound the middle-class Americans all they want, but middle-class Americans are not allowed to in any way use the law to protect themselves against Government. I think that is the reverse of what we should be doing.

First of all, let me tell you, anyone who tells you that they are for risk assessment and they are for cost-benefit analysis and then supports this amendment is trying to make a fool of you. There is no way that you can say that you are for risk assessment and you are for doing all these things but, "Oh, by the way, let's not make it enforceable."

Because the ultimate effect of this amendment is to say, "Let's not have any enforcement of it."

To suggest that judicial review is being able to take it to OMB or being able to take it to the Congress, that is not judicial review. It does not even fit the title. All that says is that you can take it back into the political establishment in hopes that the politicians will always be too nervous to do anything that is real.

What we have done here is we have tracked the Administrative Procedures Act, we know what the effect of this would be, and we do not believe that there is any way here of exploding litigation. That is not what we are seeking to do at all. But we do believe that there needs to be some kind of assurance that when agencies are doing the procedures necessary for risk assessment and cost-benefit analysis, they in fact do what they are supposed to do under the law.

This idea that minor flaws in the process will bring about major litigation is just absolutely clearly wrong. The proponents of this amendment have not bothered to read what is under the judicial review section on page 34 of the bill, because what it says is that the documents, if they do not substantially comply, then the fact is that there is no judicial review. We have a substantial compliance test under the bill.

This idea that we are going to explode a whole bunch of litigation on minor points, it is completely dealt with. No minor discrepancies are in fact going to be the cause for litigation.

I would also go back to pointing out that the legislative language that the gentleman from Indiana and the gentleman from New York bring us here, maybe it does not do what they intended it to do, but the fact is that it is misdrafted and it is a bad amendment.

Because if in fact they are clear in what they are saying here on the floor, their amendment is specifically opposite of that. Their amendment is meant, by words, to wipe out any chance whatsoever to have even the most egregious procedural flaw nonreviewable.

The agency can do anything they want. They can disobey the law, they can completely set the law aside, they can go ahead and do anything they want, and under the language of your amendment, what you say is that that cannot be used as a grounds for affecting or invalidating such agency action.

I cannot believe that you are standing up saying you are for risk assessment and then offering an amendment that says that you can do all these things in an agency and so on, you can violate the law in any way you want, and nobody can ask you about it. Nobody can review it. Nobody can change it.

"Go ahead, bureaucrats. Do your thing. Whatever it is you bureaucrats want to do, it's OK with us. It's fine. We love it. Just continue to regulate like you've been regulating. Continue to pound America the way you've been pounding America. Continue to wipe out the small businessmen the way you've been wiping out the small businessmen because they shouldn't have any rights under this act at all."

If that is what you want to do, your language certainly accomplishes it.

I would suggest, also, that the gentleman from New York told us that if H.R. 9 had been in effect, we would not be able to do the things that we have done in the past such as the Clean Air Act. That is specifically refuted by John D. Graham who is director of the Center for Risk Analysis at Harvard School of Public Health. He makes a statement in this morning's newspaper indicating that both the air bag standard for automobiles and the phaseout of lead in gasoline, each of which transpired during Republican administrations, involved substantial uncertainty yet both were approved after cost-benefit analysis.

The fact is that the standards under this bill would have been used in those instances and it would have resulted in regulation.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. BOEHLERT. I would point out that with lead particularly——

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. I continue to yield to the gentleman from New York.

Mr. BOEHLERT. I would suggest that the substantial evidence test would not have been passed and that is why we would have had the problem today with lead in gasoline, for example.

The substantial evidence did not come until after we had the test to prove the point.

Mr. WALKER. Substantial compliance is in the legislation we have before us.

Mr. BOEHLERT. The substantial evidence test is, yes, but the substantial evidence test was not applicable 25 years ago and had this legislation that you are proposing right now been applicable 25 years ago, we would not have had that standard.

Mr. WALKER. We have substantial compliance in the bill that is before you. That is exactly my point.

Under the bill that is before us, we have substantial compliance in here which is exactly what the gentleman is suggesting.

Mr. BOEHLERT. But what I point out to the gentleman is this. That we are after the final rule. If the final rule does not pass the commonsense test, there is a way to do with it under the Administrative Procedures Act.

□ 1315

What the gentleman is suggesting is all during the risk assessment process the lawyers would just line up one behind the other and challenge everything that happens during the risk assessment process.

Mr. WALKER. The gentleman is specifically wrong. If he goes and checks he will find out that ours applies to the final agency action. That is where our judicial review takes place, is with final agency action as well. It does not allow judicial review at each phase along the way; it simply says there is review possible on the final agency action.

Read the amendment; read what is the judicial review in the bill.

Mr. BOEHLERT. That is where we are, and the gentleman makes my point, and he makes it in a very glib way, I might add. The fact of the matter is the gentleman wants to challenge the risk assessment process every step of the way. We are saying we will challenge the final rule if it does not make sense, it is not cost-effective, and if it does not protect women, infants and children, we will check that.

Mr. WALKER. The gentleman is specifically wrong. The gentleman is absolutely and specifically wrong. There are no challenges all the way along the way. Under our amendment it is involved with the final agency rule. The final agency rule is what we try to do.

The gentleman whips out even the ability to even review the final agency rule. The gentleman from Indiana is shaking his head. Read your amendment, read your amendment. It says in the legislation, failure to comply with this Act "may not be used as grounds for affecting or invalidating such agency action." That is the final rules the gentleman is talking about. You cannot invalidate it even if the agency has absolutely disobeyed the rule. The gentleman is knocking out the ability to do this thing, so you have totally obliterated the ability for judicial review.

Do not tell us that you have not done it; it is specific to your language.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, we are talking about the final rule on the risk assessment, not the regulation, which is what we want to challenge, the final regulation if it does not pass the common-sense test.

Mr. WALKER. But the gentleman should read his own amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. WALKER

was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, let me read to the gentleman his own bill. His own amendment says, "If an agency action is subject to judicial or administrative review under any other provision of law, the adequacy of any certification or other document prepared pursuant to this Act, and any alleged failure to comply with this Act, may not be used as grounds for affecting or invalidating such agency action." That is exactly the opposite of what the gentleman just told us.

Mr. BOEHLERT. Mr. Chairman, there again we both agree we are reading the same thing, but if the gentleman says what I am saying is wrong often enough, that does not mean he is right. The fact of the matter is we want final review of the regulation, not the risk assessment.

Mr. WALKER. I am saying to the gentleman from New York I am simply reading back his own words to him that he would commit to law.

Mr. BOEHLERT. I agree 100 percent, the words are exactly as the gentleman read them, but his interpretation is wrong.

Mr. WALKER. My interpretation is not wrong because I will tell the gentleman the bottom line is what this would do. The bottom line is what this would do is it would assure that we would have even weaker laws than we do right now. The fact is because of what the gentleman is going to do here he would wipe out the ability that people now have to take action. And so, he is invalidating law. What he is saying is with regard to this particular compliance law, we simply will not allow the public in, that the agencies can have all of the lawyers that they want on their side but the public cannot have any lawyers on their side; the people cannot bring actions against the Government, but the Government can continue to bring action against the people. That is what the amendment is all about.

Mr. CRAPO. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Idaho.

Mr. CRAPO. Mr. Chairman, I think it is important to point out, as the chairman has pointed out, that the regulatory action we were talking about in this bill occurs only when the final rule has been promulgated and the rule is already under review. I read from the judicial review portion of this statute. It says, "The court with jurisdiction to review the final agency action under the statute granting the agency authority to act." That is the authority to issue the rule, "shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act."

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

Mr. CRAPO. Mr. Chairman, I ask unanimous consent the gentleman from Pennsylvania be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

Mr. BROWN of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard by the gentleman from California.

Mr. BROWN of California. I have been sorely tempted by the inaccuracies that have been forthcoming. But I withdraw my objection for the time being.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania is recognized for 2 additional minutes.

Mr. CRAPO. Mr. Chairman, if the gentleman will continue to yield, the legislation we are debating goes further to say that "When a significant risk assessment document or characterization document subject to title I is part of the administrative record in a final agency action, in addition to any other matters that the court may consider in deciding whether the agency's action was lawful, the court shall consider the agency action unlawful if such significant risk assessment document or significant risk characterization document does not substantially comply with the requirements of this section."

The point is when agencies promulgate a rule it does so under statutory authority. When it has finalized its statutory authority and has promulgated a rule, then and only then does this allow the requirements of this statute to be brought in under administrative review. It does not allow a piece-by-piece administrative review and does not increase litigations by one case over what is already the situation in current law.

Mr. WALKER. The gentleman is absolutely correct.

Mr. BOEHLERT. Mr. Chairman, will the gentleman from Pennsylvania yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, let me stress, I want to add this for about the 16th time, the rule is reviewable, but the risk assessment process is not. That is what we want to have accomplished as a result of what we are doing today.

Mr. WALKER. But the gentleman is not tracking his own language in that. We want in fact the rule and that is what we want to do. But the agency cannot, the agency is not allowed under our procedure to totally violate all of the procedures. Under what the gentleman is suggesting they are allowed to violate all of their procedures and, oh, by the way, then you can have a review.

That is not possible. That makes no sense, and I would suggest to the gentleman that that is exactly where his amendment takes us.

So, I would simply point out that under the Administrative Procedures Act this is something which would be backtracked on.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am reminded of an old legal adage which goes something like this: If the facts are on your side, you pound on the facts; if the law is on your side, you pound on the law; if neither are on your side, you pound on the table. And I sense an awful lot of pounding on the table going on here.

I agree with the gentleman from New York [Mr. BOEHLERT] that the gentleman from Pennsylvania [Mr. WALKER] is extremely glib in his exposition and he is also extremely emphatic and does a lot of pounding on the table.

I would like to call all of my colleagues' attention to an article in the Post this morning which describes in great detail some of the aspects of this legislation, and the point that it particularly makes is that a great deal of the risk assessment, risk characterization, cost-benefit analysis is very tenuous in its scientific basis. It is difficult and in some cases impossible to characterize risk, to assess risk or to make cost-benefit analyses that come anywhere close to the mark. You can be a thousand percent off, and one reason that you do not want all of these processes, assessment characterization and cost-benefit analysis subjected to judicial review is exactly that. You can tie up the process for ages on something that there is no answer to. And it would be extremely undesirable to have that happen.

It is the intention of this amendment to preclude that kind of an effect from happening. It is perfectly okay to review the adequacy of these various processes at the time of the final rule, but I call to Members' attention the fact that the agency itself has the right to waive many of these things when it finds that there is no way of achieving it.

For the court to be able to review the adequacy of something that could be and may have already been waived because there is no way to achieve it is just a ridiculous waste of time.

I do not want to belabor this. I think there has been adequate attention to it. But I am disturbed at the frequent repetition of nonfacts as horror stories.

I had hand delivered to me on the floor a few minutes ago a letter from the Administrator of the EPA which states her concern over some of the misstatements made yesterday. I am not going to read it. I will include the letter and the examples in the RECORD.

In addition to that, I have another half a dozen which I have personally investigated, and I attempted yesterday to respond to some of the more obvious ones on the floor, but was unable to cover them. I have another half dozen, and I will place those in the RECORD after the Administrator's letter outlining the ones that she was concerned about.

I urge upon all of my colleagues not to pound on the table quite so much, and to be a little bit more assured of the facts as we proceed with what has otherwise been what I consider to be a very helpful debate.

The material referred to follows:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, February 28, 1995.

Hon. JOHN D. DINGELL,
Hon. GEORGE E. BROWN JR.,
House of Representatives,
Washington, DC.

DEAR CONGRESSMEN DINGELL AND BROWN: I am concerned that during the course of the Floor debate on H.R. 1022, The Risk Assessment and Cost-Benefit Act of 1995, there have been mischaracterizations of policies and actions taken by the Environmental Protection Agency. I am writing in an effort to ensure that the debate before Congress is based on full facts. I will address several of the issues that have been used in this debate.

First, I would like to point out that I have already changed the way EPA does business. EPA has instituted major reforms in its rulemaking processes and programs. Since coming to EPA, I have worked diligently to instill common sense into the Agency's efforts to protect public health and the environment, by moving beyond one-size-fits-all regulatory approaches. This commitment has been translated to concrete action by our Common Sense Initiative. It addresses comprehensively a new, more cost effective framework for six leading industrial sectors. A further demonstration of this change is our Brownfields effort to turn contaminated urban areas into productive redevelopment sites. The very practical approach that we've taken in resolving implementation issues in the Clean Air Act also demonstrates the new EPA. These administrative solutions we have developed in partnerships with State and local governments for implementing the Clean Air Act show our success.

I am committed to flexibility and consensus—driven by firm public health protection goals, but flexible means for achieving them. EPA has made major improvements to its science program through directing its research program toward risk reduction and new policies to assure peer review of science used in decision making. And the Clinton Administration has made it clear we would support risk assessment legislation that is fair, effective and affordable.

Unfortunately the proponents of H.R. 1022 have not only failed to recognize these improvements, but in floor debate have put forth as the rationale for H.R. 1022 a series of examples that purport to represent EPA's decision making processes as severely flawed. In fact, these tales are fraught with misinformation and sometime involve decisions made over a decade ago—many are flatly wrong. Among the numerous misstatements these proponents have made are:

It was stated that EPA set a drinking water standard at 2–3 parts per billion (ppb) of arsenic in drinking water, while shrimp has a level of 30 ppb.

This is not the standard that EPA set. EPA set a standard for arsenic in drinking water of 50 ppb. And the arsenic in shrimp is not scientifically comparable to that in drinking water. The arsenic in drinking water is toxic—the type in shrimp is not.

A "Dear Colleague" letter stated that someone would need to drink 38 bathtubs of water to experience a risk from atrazine in drinking water.

This is inaccurate. Even at the standard set by the EPA, drinking just two liters of water per day results in a one in 100,000 cancer risk, which is equivalent to a projected 2600 additional cancers. Not only are people exposed to atrazine through drinking water, but through ingestion of pesticide residues as well, thereby potentially increasing the risks of exposure. In addition, two other pesticides found on food and in drinking water may cause risks to farmworkers and consumers via the same mechanism, and their risks should be considered collectively.

It was said on the floor that EPA requires the City of Anchorage, because its wastewater is already so clean, to add fish wastes so that its sewerage can achieve sufficient reductions to meet Clean Water Act requirements.

This is incorrect. EPA has never required Anchorage to do this. Anchorage already has a lower reduction requirement because it has been granted a waiver from the stricter reduction limits. Anchorage now successfully meets this standard with existing equipment and would be required to add extra capacity only if it faces an increase in population, as would any city. Anchorage chose to accept fish waste at the request of fish processors because it is a more cost effective way to manage these wastes.

It was alleged that EPA regulates "white out" correction fluid and caused extensive record-keeping problems for a small business in California as a result.

This is wrong. EPA has never regulated "white out". The State of California did require warning labels on products that contain certain chemicals through a Proposition.

Despite these inaccuracies, I am hopeful that the House debate on risk can focus on our common goals. We are working to be strong proponents of quality science and prioritizing government resources toward the most significant public health and environmental problems. Our concern is that this legislation, in its current form, will undermine these laudatory goals by elevating simplistic slogans to unworkable public policy—a policy that will instead freeze science, lead to tremendous regulatory gridlock, impulsively sweep away carefully thought through health and environmental frameworks, and empower the courts to resolve fundamental public policy issues.

I appreciate your efforts to focus discussions on H.R. 1022 on the significant issues this proposal presents.

Sincerely,

CAROL M. BROWNER,
Administrator.

RESPONSE TO CONGRESSMAN WALKER ON ASBESTOS

Congressman Walker alleged that children have a 1 in 2 and one half million lifetime cancer risk from asbestos. He further alleged that EPA required removal of asbestos from schools and that it would have made more common sense to allow management in place.

The Congressman is misinformed: EPA did take a risk based approach to the problem of asbestos in schools.

Lets look at the history of this rule. EPA's approach to asbestos in schools has evolved with the science:

As early as 1982 EPA, required removal of friable asbestos, or asbestos that is crumbling and therefore releasing fibers that could be breathed into children's lung where they could cause cancer. The Agency offered other approaches like encapsulation for intact asbestos.

In 1985 EPA provided updated guidance (the "purple book") which placed more emphasis on "management in place," but also recommended removal.

From 1987–1990 EPA conducted new studies based on a new method (electron microsposy) for monitoring asbestos before, during, and after removal.

As the science improved, EPA's approach evolved:

In 1990, based on EPA's studies, EPA released new guidance ("purple book") which recommended management in place whenever possible and removal only to prevent exposure in building renovation and remodeling (the NESHAP regulation).

In 1992 EPA completed a study of the asbestos-in-schools bill (AHERA). The vast majority of asbestos actions (85%) involved management in place, not removal.

RESPONSE TO ALLEGATION FROM CONGRESSMAN BILIRAKIS ON MSWLF BENEFITS

I would like to respond to Congressman Bilirakis's allegation that the recent revised criteria for Municipal Solid Waste Landfills cost $19.1 trillion per life saved. This is an unsound manipulation of EPA's analysis, presents an exaggerated and one sided view of the benefits of the regulation, and is a good example of precisely why the use of net benefits in this way is be misleading.

First, the cost per cancer case avoided was inflated by using economic maneuvering to minimize lives saved in the future by discounting. If you refer to EPA's analysis, you'll see that for one set of landfills (which would provide disposal to our nation for 30 years), EPA estimated that 2 cancer cases would be avoided at a present value cost of $5.7 trillion.

Second, and more importantly, Bilirakas's estimate completely disregards other benefits associated with the rule. EPA identified a very important other benefit from the Municipal Landfill regulation: that of avoided permanent contamination of one of our nation's precious natural resources, i.e., groundwater. Even with EPA's conservative cost estimates, which did not include remediation of contaminated groundwater, but simply importing water from another source, EPA estimated that without the regulation, US taxpayers would spend a present value of $270 million to import water to replace groundwater which had been contaminated by one set of landfills.

RESPONSE TO CONGRESSMAN LONGLEY ON MAINE INSPECTION/MAINTENANCE PROGRAM

Rep. Longley asserted that EPA imposed a requirement for motor vehicle inspection and maintenance (I/M) program for Maine without conducting the required scientific studies and in violation of the law.

EPA in fact violated no laws relating to the imposition of the I/M program in Maine. Maine is a part of the Northeast Ozone Transport Region established by Sec. 184 of the Clean Air Act. Congress determined in Sec. 184 that ozone in the U.S. northeast is a

regional, not a local, problem, and that certain measures should be adopted throughout that region regardless of the particular local air quality conditions.

In particular, the Congress mandated that each metropolitan area with a population greater than 100,000 adopt and implement an enhanced I/M program. As with all other areas in the region, EPA required Maine to adopt enhanced I/M for its larger metropolitan areas.

RESPONSE TO CONGRESSMAN SOLOMON'S ALLEGATION THAT EPA WILL SHUT DOWN THE PULP AND PAPER INDUSTRY

In debate on the House floor Congressman Solomon alleged that EPA's rule to reduce dioxin emissions from the Pulp and Paper Industry will shut down the industry because of the high cost of complying with the rule.

This is untrue:

EPA proposed this rule in 1992. After reviewing the extensive public comments, the EPA is now extensively revising its original approach. The rule now regulates no one because it has not yet been finalized. How can any one say its shutting anyone down? In addition, EPA is listening to the industry and working to resolve these problems before the final rule comes out. I think that's a healthy sign of the way rules should be developed: As the President said last week: Consultation—not confrontation, as the increased judicial review in this bill will cause.

Just as the comment period envisions, the Agency has since, for well over a year, pursued an extensive and exhaustive process of consultation with all affected stakeholders, including industry and environmentalists to respond to substantial evidence presented to it of the need to change the proposed rule.

The pulp and paper industry, including the industry's trade association and individual paper companies, have been active and much-listened-to participants in these revisions.

The proposed pulp and paper Cluster Rule is being specifically revised in response and in recognition of the many concerns, comments and factual data brought to the Agency by numerous participants in this consultation process.

This process of proposal, public comment and revision in response to important data brought to regulatory agencies by the outside participants is exactly the way the regulatory process is supposed to work. To cite a proposal that is likely to be dramatically different from the final product of this process, as if that proposal was actually being imposed on that regulated community as the final product, is a grossly misleading characterization.

RESPONSE TO CONGRESSMAN BILIRAKIS' ALLEGATION CONCERNING ALAR AND APPLES

In debate on the House floor, Congressman Bilirakis stated that Alar was never shown to be carcinogenic in either mice or rats, and that only UDMH, a breakdown product had ever been shown to cause cancer. Furthermore, he stated that one would have to drink 19,000 quarts of apple juice daily to be at risk.

This is mistaken:

UDMH, a potent carcinogen, is formed from Alar both in the fruit (apples), and when Alar is ingested by people. It is formed in the body, and is carried by the blood stream throughout the body, where it can wreak its toxic effects.

It is only sensible that such highly toxic breakdown products should be considered when assessing whether or not a chemical can cause cancer in humans. Doing this is well established scientifically, and is recognized as valid by toxicologists, as well as by scientists from many other disciplines.

In the case of Alar and UDMH, it is not necessary to ingest 19,000 quarts of apple juice to increase the risk of cancer, a much smaller amount was calculated to be risky. This is particularly important, because it is young children who often drink large quantities of apple juice, and whose young, growing bodies, may be particularly sensitive.

Clearly, we do not want ourselves or our children to be exposed to doses of a chemical that have been shown to be overtly toxic and capable of causing cancer. As a result, we use scientifically accepted principles to extrapolate to levels at which risk assessments indicate that the risk is less.

Finally, it should be pointed out that the economic impact of the Alar crisis was caused not by an EPA regulation or decision, but rather, by a public interest group publishing its concerns about these exposures.

RESPONSE TO ALLEGATION FROM CONGRESSMAN BILIRAKIS ON BENEFITS OF WOOD PRESERVING

I would like to respond to Congressman Bilirakis's allegation that the wood preserving hazardous waste listing resulted in a cost of $7 trillion per life saved. The 7 trillion dollar per statistical life associated with the wood preserving listing is a perfect example the distortion and misinformation that cost benefit analysis can impose on the regulatory development process. EPA's estimates of the cost effectiveness were nowhere near this amount—remember there are many ways to calculate cost/benefit ratios and there is no clear consensus on the proper method.

What is of greatest concern is that the 7 trillion number ignore noncancer health benefits which could include avoidance of liver disease or birth defects. The 7 trillion also ignore adverse water quality impacts on ecosystems such as wetlands, rivers, and lakes that the agency determined would be severely impacted if wood preserving wastes continued to be uncontrolled.

What is also of interest is that the Agency in developing this rule was particularly concerned about small business impacts; worked with the SBA; did extensive analysis of the industry; and between proposal and final worked closely with the wood preserving industry and others to carefully tailor the regulation to achieve a sound environmental outcome with minimal economic impact. In fact, most telling of EPAs work in this regard was this rule stands as one of the few rules promulgated under RCRA that the agency was not sued on! Cost benefit outcomes are clearly no measure of and in fact often misstate regulatory quality, environmental outcome, or economic impact.

RESPONSE TO REP. SALMON'S COMMENTS ON ARIZONA'S AUTOMOBILE INSPECTION/MAINTENANCE PROGRAM

Claim 1: States have no discretion in implementation of the "I/M 240" auto inspection/maintenance program.

Response: This is not true. States have a great deal of flexibility and discretion in the design of auto inspection/maintenance programs.

Arizona was not required to adopt the high-end I/M 240 program but chose to do so.

Arizona chose I/M 240 because the State found the program extremely cost-effective and preferable to putting tighter controls on factories, and other stationary sources.

I/M 240 controls pollution at $500/ton, where controls on other sources cost $2000–10,000/ton.

Claim 2: People had to wait in line 4–5 times as long.

Response: This problem has gone away. Waiting lines were a problem only during the first week of the program in December. There are no long lines now.

Claim 3: Program increased costs 4 times.

Response: The old Arizona program cost consumers $6 per year. The new program costs $24 every 2 years, or $12 per year.

Bottom line: The new program is more effective, more convenient, less frequent, only $6 more per year, and clearly preferable to putting more expensive controls on other sources.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would like to say we are all arguing back and forth as legislators and attorneys about our interpretation of this amendment. The gentleman from Pennsylvania [Mr. WALKER] just cited John Graham, the director of the Center for Risk Analysis at Harvard School of Public Health, and I think he is a good referee. He just cited him saying good things about this legislation. Here is what Dr. Graham said in the Post this morning: "I'm not too crazy about this idea of opening up all regulations to judicial challenge."

Now, that is somebody that the gentleman from Pennsylvania [Mr. WALKER] cited. That is precisely what we are trying to do with this amendment, is not open up all of these things to judicial review, have one bite of the apple at the end of the process, just as the Administrative Procedures Act does right now. And I think the distinguished ranking member for yielding.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to my colleague from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think that it is interesting to note that if we read Dr. Graham's statement, he says he is not too crazy about the idea of opening up all regulations to judicial challenge. The fact is we are not opening all of it up to judicial challenge. I think what he is probably referring to is all of the past regulations and so on. We are not doing that, this bill does not do that at all.

Second, it seems somewhat interesting to me that we now have the argument that if we have no knowledge about things we ough go ahead and regulate, but because we have no knowledge we ought not be able to do risk analysis and do the cost-benefit analysis; that the lack of knowledge should increase our ability to regulate, but should not increase our ability to review.

That strikes me as exactly the opposite of what the public has been saying

now for some time. They would like us to regulate on the basis of knowledge. And to have the argument on the floor that the lack of knowledge means that the regulations should go forward is to me the inverse of what we ought to be endorsing in the U.S. Congress.

Mr. ROHRABACHER. Mr. Chairman, we should not lose sight of what this is all about. What has happened is that the American people over the last 10 years, and over the last 20 years, have seen that enormous power has been granted to unelected officials in Washington, DC. What we have seen is that Washington, DC, has absorbed and centralized enormous powers and it is not in the hands of elected officials, but instead in the hands of the bureaucracy, in the hands of people who never put themselves before the electorate.

This is an attempt to try to readdress or to redress that issue, to bring some balance back to Washington, DC, to the democratic process, to respect the rights of our people who feel that they are being basically ordered around, that they are being driven out of business, that they are being damaged by the mandates of people who have never been elected.

If a citizen believes that he or she is being hurt or suffering damage because an unelected official, someone in an agency has not followed the new rule that we are setting down which says they should be basing their decisions on good science, there should be peer review of the decisions, we should make sure that there is a risk assessment and that there is a cost-benefit analysis. If an agency is not following those rules, and one of our citizens feels that the decision that they have made is hurting them, we are just saying they should have redress.

□ 1330

This is the way citizens have protected their rights throughout our country's history. If the Government is not following the law, whether it is the bureaucracy or elected officials, our citizens have felt they could go to the courts to seek a solution to their problems to prevent themselves from being hurt and being damaged by an agency that is not following the rules as set down by the Congress. This makes all the sense in the world.

Gutting this from the Republican proposal is a way to basically restore the power to the bureaucracy to do whatever they damn well want to do because they have got the best motives and the best intentions. Well, best of intentions do not cut it. The American people know what the best intentions of the bureaucracy are all about. The best of intentions of the bureaucracy are to say we have got to rip the asbestos out of the walls of our schools to protect our children, and find out that tens of billions of dollars have been wasted that should have gone to the education of our children instead of having gone and been spent by public officials with the best of intentions, directing our people to do exactly the opposite thing they should be doing.

We expect a procedure to be followed. We expect there to be cost-benefit, risk-benefit analysis. We expect there to be peer review. That is what is in the legislation, and we expect that if the unelected official, the bureaucracy, is not following the law as we are setting it down, the citizens of this country will have a right to appeal that through the judicial process. That is what this debate is all about.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I want to say to the gentleman you have stated, I think very well, some of the same objectives that I share. Certainly I want peer review.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, I want peer review. I am not sure I would want O.J. sitting on his own jury, for example, so we have some questions about that. There are a number of questions we have, but in the final analysis, we want what you want.

But I am concerned. I am thinking of offering an amendment requiring a cost-benefit analysis on the entire bill, because I do not think anyone has the first clue on how much this is going to cost in terms of litigation.

I am wondering if there is anyone, the gentleman or anyone advocating passage of this legislation as is, if anyone has an idea how much thei is this going to cost American industry, American families, in terms of dollars and cents.

Mr. ROHRABACHER. Reclaiming my time to answer, we know how many hundreds of billions of dollars are being wasted right now. We do know in California, because of unreasonable regulation by unelected officials, hundreds of homes were burned down because, why, they were not permitted to clear the brush away from their homes because it might hurt the habitat of a few little birdies, and those birdies, by the way, flew away, and their homes were burned as well. We think that that type of regulation, we need a cost-benefit analysis of that regulation, and if, indeed, that cost-benefit analysis is not given by the agency, that the homeowner who might lose his home has a right to appeal this to the courts, and the fact is, by the way, in terms of O.J., we do expect every citizen in this country to be judged by his peers, and that includes maybe having people who are O.J. Simpsons or whoever it is, peers, to be able to be part of the decisionmaking process. That is what democracy is. That is what our Government has been all about.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the specter of the cost of this is often raised by people who simply do not want to do it. The fact is there is just as good a chance that we will, in fact, end up saving money, because we will have higher-quality legislation based upon good science and based upon a cost-benefit analysis before we do it. So you get higher quality regulation, and it costs you a little bit less, it costs you less money.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has again expired.

(By unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. GILCHREST. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to my friend, the gentleman from Maryland.

Mr. GILCHREST. This is an extraordinary period of time where all of us are almost to the point of agreeing that regulations have been too onerous in the past.

But the gentleman made a comment about people in California that were not able to get the brush away from their homes because of a rat that was placed under the Endangered species Act, and I have heard that argument before on the floor. It simply is not true. The Fish and Wildlife and the State game people worked with the people in the area that happened to be the most flammatory, most fire-prone area on the face of the Earth. They allowed them to clear the brush up to a point even sometimes 1,000 feet away from the house. The point is during that fire, a year or so ago, flaming cinders were flying at 80 miles an hour more than a mile away, so the argument you had to protect the endangered species in lieu of their houses burning down simply is not true.

Mr. ROHRABACHER. Well, if I could just answer that by saying in the particular case you are talking about, that may or may not have been the case. You may be accurate in that sense.

We have had lots of brushfires in California, and we are very aware of the nonsense that comes down from regulators in the name of protecting endangered species, maybe not in that particular case, but I will tell you there are numerous cases in the Laguna Beach fire, and I am not sure if that is the one you are referring to or not, the people who have had their homes burned down believed that a

nonsensical rulemaking process by unelected officials caused them to lose their homes. We think there should be a judicial application of that.

Mr. GILCHREST. That is the area where they could clear the brush. That is what I was referring to.

Mr. ROHRABACHER. In fact, in Laguna Beach, we feel, the way I read it, is they could not.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from California.

Mr. BILBRAY. There has been a major problem in trying to clear and grub around residential areas. Now, the incidence of wind, homes were lost. That may be debatable. But the fact is there has been obstructionism to the protection of homes through the firebreaks, and the coastal sage shrub, because it has been identified as an endangered species habitat, is a major problem.

Mr. ROHRABACHER. If people are going to lose their homes, they should be able to go to court to challenge those people making those decisions. That is what this debate is about.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has again expired.

(At the request of Mr. BOEHLERT and by unanimous consent, Mr. ROHRABACHER was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. If the gentleman will yield further, I have great regard for the gentleman. We serve on the committee together. We oftentimes agree. But it concerns me when we have stories, apocryphal stories, that are told. You know, I think President Reagan, and I love him dearly, is still searching the country for that welfare queen who was driving around in a Cadillac living high on the hog.

Mr. ROHRABACHER. She was actually living in the bureaucracy.

Mr. BOEHLERT. The story told is simply not so.

The General Accounting Office concluded,

> The loss of homes during the California fire was not related, not related to the prohibition of disking in areas inhabited by the Stephens kangaroo rat.

I can go on at great length, and it is more than we would care to hear about on that story.

Mr. ROHRABACHER. The gentleman is talking about one fire at one time. We in California know there are lots of fires, and many of them have been attributed because people cannot clear the brush.

Mr. BOEHLERT. I understand. It is very clever to sort of give a story. Everybody thinks we are just heartless if you are for the Roemer-Boehlert amendment, that you are against women, infants, and children and everything under the Sun. It simply is not so. We are for the American people. What we are trying to prevent is endless litigation.

We want the ability to challenge rules that do not pass the commonsense test. But we do not want to challenge the process. Some bureaucrat screws up on a bad day and go in and challenge the whole rule simply because something happens during the risk-assessment process, that we do not find acceptable, and that is what we are saying.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. There is nothing in the legislation as it is that says if some bureaucrat has a bad day that it is going to foul up the whole process, because again, if you read, unless there is substantial compliance and so on, that the requirements of section 104–105, it just does not apply.

Mr. ROHRABACHER. The bureaucracy, basically there is a feeling out in America, that the bureaucracy people whom they do not elect are making decisions that in the end may impact on whether they will be able to feed their families, whether they can live in their home safely or not, and if we determine today, and that is what we are talking about, today, that they should be able to appeal to a court if those unelected officials are not doing their job as is laid out by elected officials.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 192, noes 231, not voting 11, as follows:

[Roll No. 177]

AYES—192

Abercrombie	Collins (MI)	Frank (MA)
Ackerman	Conyers	Frost
Baldacci	Costello	Furse
Barcia	Coyne	Gejdenson
Barrett (WI)	Danner	Gephardt
Becerra	Davis	Gibbons
Beilenson	de la Garza	Gilchrest
Bentsen	DeFazio	Gilman
Bereuter	DeLauro	Gordon
Berman	Dellums	Green
Bishop	Deutsch	Gutierrez
Blute	Dicks	Hall (OH)
Boehlert	Dingell	Hall (TX)
Bonior	Dixon	Harman
Borski	Doggett	Hastings (FL)
Boucher	Doyle	Hayes
Brown (CA)	Durbin	Hefner
Brown (FL)	Engel	Hilliard
Brown (OH)	Eshoo	Hinchey
Bryant (TX)	Evans	Holden
Cardin	Farr	Hoyer
Castle	Fattah	Jackson-Lee
Clay	Fazio	Jefferson
Clayton	Fields (LA)	Johnson (CT)
Clement	Filner	Johnson (SD)
Clyburn	Flake	Johnson, E. B.
Coleman	Foglietta	Johnston
Collins (IL)	Ford	Kanjorski
Kaptur	Mollohan	Schroeder
Kennedy (MA)	Moran	Schumer
Kennedy (RI)	Morella	Scott
Kennelly	Murtha	Serrano
Kildee	Nadler	Shays
Kleczka	Neal	Skaggs
Klink	Oberstar	Slaughter
Klug	Obey	Spratt
LaFalce	Olver	Stark
Lantos	Orton	Stokes
Leach	Owens	Studds
Levin	Pallone	Stupak
Lewis (GA)	Pastor	Tanner
Lincoln	Payne (NJ)	Taylor (MS)
Lofgren	Payne (VA)	Thompson
Lowey	Pelosi	Thornton
Luther	Peterson (FL)	Thurman
Maloney	Peterson (MN)	Torkildsen
Manton	Pomeroy	Torres
Markey	Porter	Torricelli
Martinez	Poshard	Towns
Mascara	Rahall	Traficant
Matsui	Ramstad	Tucker
McCarthy	Rangel	Vento
McDermott	Reed	Visclosky
McHale	Reynolds	Volkmer
McKinney	Richardson	Waters
McNulty	Rivers	Watt (NC)
Meehan	Roemer	Waxman
Meek	Rose	Weldon (PA)
Menendez	Roukema	Williams
Mfume	Roybal-Allard	Wise
Mineta	Sabo	Woolsey
Minge	Sanders	Wyden
Mink	Sawyer	Wynn
Moakley	Saxton	Yates

NOES—231

Allard	Dickey	Jacobs
Andrews	Dooley	Johnson, Sam
Archer	Doolittle	Jones
Armey	Dornan	Kasich
Bachus	Dreier	Kelly
Baesler	Dunn	Kim
Baker (CA)	Edwards	King
Baker (LA)	Ehlers	Kingston
Ballenger	Ehrlich	Knollenberg
Barr	Emerson	Kolbe
Barrett (NE)	English	LaHood
Bartlett	Ensign	Largent
Barton	Everett	Latham
Bass	Ewing	LaTourette
Bateman	Fawell	Laughlin
Bevill	Fields (TX)	Lazio
Bilbray	Flanagan	Lewis (CA)
Bilirakis	Foley	Lewis (KY)
Bliley	Forbes	Lightfoot
Boehner	Fowler	Linder
Bonilla	Fox	Livingston
Bono	Franks (CT)	LoBiondo
Brewster	Franks (NJ)	Longley
Browder	Frelinghuysen	Lucas
Brownback	Frisa	Manzullo
Bryant (TN)	Funderburk	Martini
Bunn	Gallegly	McCollum
Bunning	Ganske	McCrery
Burr	Gekas	McDade
Burton	Geren	McHugh
Buyer	Gillmor	McInnis
Callahan	Goodlatte	McIntosh
Calvert	Goodling	McKeon
Camp	Goss	Metcalf
Canady	Greenwood	Meyers
Chabot	Gunderson	Mica
Chambliss	Gutknecht	Miller (FL)
Chapman	Hamilton	Molinari
Christensen	Hancock	Montgomery
Chrysler	Hansen	Moorhead
Clinger	Hastert	Myers
Coble	Hastings (WA)	Myrick
Coburn	Hayworth	Nethercutt
Collins (GA)	Hefley	Neumann
Combest	Heineman	Ney
Condit	Herger	Norwood
Cooley	Hilleary	Nussle
Cox	Hobson	Ortiz
Cramer	Hoekstra	Oxley
Crane	Hoke	Packard
Crapo	Horn	Parker
Cremeans	Hostettler	Paxon
Cubin	Houghton	Petri
Cunningham	Hutchinson	Pickett
Deal	Hyde	Pombo
DeLay	Inglis	Portman
Diaz-Balart	Istook	Pryce

Quillen	Shuster	Thornberry
Quinn	Sisisky	Tiahrt
Radanovich	Skeen	Upton
Regula	Skelton	Vucanovich
Riggs	Smith (MI)	Waldholtz
Roberts	Smith (NJ)	Walker
Rogers	Smith (TX)	Walsh
Rohrabacher	Solomon	Wamp
Ros-Lehtinen	Souder	Watts (OK)
Roth	Spence	Weldon (FL)
Royce	Stearns	Weller
Salmon	Stenholm	White
Sanford	Stockman	Whitfield
Scarborough	Stump	Wicker
Schaefer	Talent	Wilson
Schiff	Tate	Wolf
Seastrand	Tauzin	Young (AK)
Sensenbrenner	Taylor (NC)	Young (FL)
Shadegg	Tejeda	Zeliff
Shaw	Thomas	Zimmer

NOT VOTING—11

Chenoweth	Hunter	Smith (WA)
Duncan	Lipinski	Velazquez
Gonzalez	Miller (CA)	Ward
Graham	Rush	

□ 1357

The Clerk announced the following pairs:

On this vote:

Mr. Rush for, with Mrs. Chenoweth against.

Mr. Ward for, Mrs. Smith of Washington against.

Mr. LEWIS of California changed his vote from "aye" to "no."

Mr. SKAGGS 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?

AMENDMENT OFFERED BY MR. SMITH OF MICHIGAN

Mr. SMITH of Michigan. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Michigan: Page 5, after line 18, insert the following new section:

SEC. 5. AVAILABILITY OF INFORMATION AMONG FEDERAL AGENCIES

Covered Federal agencies shall make existing databases and information developed under this Act available to other Federal agencies, subject to applicable confidentiality requirements, for the purpose of meeting the requirements of this Act. Within 15 months after the date of enactment of this Act, the President shall issue guidelines for Federal agencies to comply with this section.

□ 1400

Mr. SMITH of Michigan. Mr. Chairman, the amendment before this body is simply an amendment calling on the different agencies that might be working on associated risk assessment to share that information and for the President to develop the guidelines on the basis for which they share that information.

I would just like to mention that, as a former Michigan OSHA commissioner, 1 of 9 commissioners, I was tremendously frustrated as a member of that commission on having the direction to sit around a table and develop all of the things we could think of to make the workplace safer.

Let me just say that risk assessment has been supported by both sides of this aisle, Democrats and Republicans, for several years. I am delighted it is coming to a culmination. I am offering an amendment to bring the best available information for risk assessments and cost-benefit analysis to the decisionmakers.

A quick look though at the Federal Government directory reveals that there are dozens of Federal offices whose purpose is to collect statistics, and data, and information, and the Members here may think that Federal agencies already share information, but I have found that this is not the case. Recently negotiations between the U.S. Department of Agriculture and the EPA were fruitless, and the individual Administrators were unwilling to share that information, and it ended up having to go to the Secretaries to demand the kind of relationship where one agency would share basic database information with another agency, and in that particular case it was on pesticides, and we ended up showing the information that USDA had ended up showing EPA that the risks were much lower than they assumed. It seems to me this gets to the heart of H.R. 1022's objective of common sense regulation.

Mr. Chairman, I hope this body will support this amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to commend the gentleman for his excellent amendment. I can assure him from long experience there is a breakdown in data sharing quite frequently amongst the agencies. This should help correct it, and on our side we would be glad to see it.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman from California.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Michigan. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman from Michigan [Mr. SMITH] has identified what is a very relevant problem, has corrected it, I think, with the wording of his amendment, and we are pleased to accept the amendment as well.

Mr. SMITH of Michigan. Mr. Chairman, I thank the gentleman.

I have quite a bit of experience in the need for regulatory reform.

As a former Michigan OSHA commissioner, I cannot begin to explain the frustration I had being a member of the OSHA who were continually asked to think of additional safety measures.

The group was asked to develop recommendations not based on safety needs—but on a continuous volume of safety regulations.

I fully support H.R. 1022's efforts to bring realistic risk and economic information into regulatory decisions.

In addition, I am offering an amendment to bring the best available information for risk assessments and cost-benefit analyses to the decisionmakers. A quick look at the Federal Government Directory reveals that there are dozens of Federal offices whose purpose is to collect statistics, data, and information.

You may think that Federal agencies already share information but I have found that this is not the case.

Recently negotiations were needed just to get USDA and EPA to share agricultural data. This data was needed to refine risk assessments—to show that pesticide use was actually much lower than EPA had assumed. How can we expect better regulation if agencies refuse to share taxpayer funded research?

This gets to the heart of H.R. 1022's objective of commonsense regulation.

This amendment takes into account that some information is confidential for business and security reasons. But if we are to be assured good regulation, we must have the Federal agencies share crucial information.

H.R. 1022 requires agencies to consider all of the pertinent information for commonsense regulation—my amendment makes sure they get that information.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. SMITH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. MARKEY: Page 31, strike line 23 and all that follows down through line 5 on page 32 (all of section 301(a)(3)) and insert:

(3) shall exclude peer reviewers who are associated with entities that may have a financial or other interest in the outcome unless such interest is disclosed to the agency and the agency has determined that such interest will not reasonably be expected to create a bias in favor of obtaining an outcome that is consistent with such interest.

Mr. MARKEY. Mr. Chairman, this is a quite simple amendment, and it goes towards the objective of curing what is a very glaring error which has been built in.

Mr. Chairman, the problem with this legislation is that it, unbelievably, allows for the corporate insiders, the lobbyists, the scientists, of companies that are, in fact, with financial interest in the regulation which is being considered, to be able to sit on the peer review group which is going to be evaluating that risk, that regulation which will be put on the books.

Here is the language from H.R. 1022 that we are considering out here on the floor today. Here is what it says. It says that peer review panels, quote, shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency.

Well, what that means, my colleagues, is that the Gucci-clad lobbyists that are surrounding this building right now wondering how the legislation is going to turn out will have the

capacity to actually serve on the peer review panels. So, after they get done sitting in our committees, listening to and lobbying on the legislation itself, they are then able to put themselves on the peer review panel and ultimately insert their views into the record, and, if they are unsuccessful, to then turn over to their own corporate lawyers their dissents that can be used as the basis for an appeal in the courts if they are unhappy with the regulations.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

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

Mr. DOGGETT. Mr. Chairman, I ask the gentleman, "Do you think that's why they call this the job creation and wage enhancement act? Is this a full employment act for lobbyists to serve on peer review committees in those rare times when we're not meeting?"

Mr. MARKEY. There is absolutely no question that right now law firms all across this country are looking at new real estate space to hire the new junior attorneys who are going to have to come on board in order to begin the process of appealing each and every part of this process and for their service on the peer review panels for every regulation which is going to be put on the books.

Now let us take this example. Let us look at the example of a nuclear power plant that is very concerned that a new regulation might go on the books which will ensure that all cracked or rotting pipes in nuclear power plants are, in fact, replaced so that the pipes do not break, and the water is lost, and the nuclear core is exposed without proper water.

Now under this regulation the nuclear industry will be able to put their own doctor, Dr. Pangloss in fact; Dr. Pangloss will be placed on the panel, and Dr. Pangloss of course always wears his rose-colored glasses when he is looking at regulatory changes that could impact on the nuclear industry. Well, Dr. Pangloss would, in the words of Voltaire, say, "Well, all is for the best in that this is the best of all possible worlds. There is nothing wrong with our industry, and therefore no new regulations need to be placed upon the nuclear industry."

Now, Mr. Chairman, all of his fellow Dr. Panglosses on the panel, all the other nuclear scientists on the panel, will agree, of course, with Dr. Pangloss.

Now should the regulators proceed with the adoption of the regulation notwithstanding the objection of Dr. Pangloss and all of the other nuclear scientists who have been present on this panel, notwithstanding their obvious conflict of interest? The nuclear industry lawyers who are hired can then sue the agency using the Panglossian dissent as exhibit A in their lawsuits saying that the regulation should be invalidated.

Now this conflict of interest is so obvious and at such odds with the whole history of peer review panels in the history of our country that it should be removed.

The entire process here has other problems as well. It excludes automatically an industry lobbyist if, in fact, there is only one company that is being reviewed for a regulatory change. That would be such an obvious conflict of interest. However, the lobbyists and the scientists for its competitors can serve on the peer review panel, so if the regulation is put in place, and it may hurt the competitors or it may help the competitors if this one company is now restrained, they serve on the——

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. MARKEY. Now although a single company with a hundred percent cannot put a hundred percent interest in that particular regulation, cannot have its lobbyist serve on the panel, what if there are two companies and one company happens to be 90 percent of the entire industry, and one other company 10 percent? In that instance, the industry lobbyists and scientists for that company with 90 percent control can put their own lobbyist on the peer review group as this scientific evaluation is going on. Absolutely unnecessary and in fact something which is going to compromise the integrity of any evaluation that is going to be made.

Now let us think about, as we move down the line as well, why we should not do it. Quite simply because on the books right now there is a law. There is a law. It is 18 U.S.C. 208 which includes penalty of 2 years, or imprisonment, or a $10,000 fine if, in fact, peer reviewers who participate personally and substantially in Government decisions have a conflict of interest unless that conflict is explicitly waived by the agency.

That is the law today. It has served our country very well. We do not want these peer review panels to be packed with the very people who have a financial conflict of interest.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

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

Mr. DOGGETT. I ask, Do you mean to tell me that you can get 2 years of hard time right now for doing what this piece of legislation now authorizes and approves as a conflict of interest, a conflict of interest that, I gather from your remarks, is mandated by this statute?

Mr. MARKEY. Right now under the law any person who has this kind of a conflict is absolutely prohibited, and if they try to get around it without getting an exemption, then they do face the penalty of 2 years in jail or a $10,000 fine, and I think that changing that kind of a law that has protected our country quite well from conflict of interest is something that we should very seriously deliberate on before the vote this afternoon.

□ 1415

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition of the amendment. We had a long debate about this provision and this amendment in the committee. It was defeated handily on a bipartisan vote. This is nothing else but a smokescreen, a red herring. Essentially it says, if the Markey amendment were to be adopted, then if you know anything at all about the subject matter at hand, then you cannot be on the peer review panel. You are essentially eliminated because you know something. It kinds of reminds me, Mr. Chairman, of the First Lady's Health Care Task Force, where to be qualified you did not know anything about health care or be a participant in any of the health care delivery systems.

I would suggest to my friend from Massachusetts that the language of the bill is very clear on peer review. Let me read it to my friend. Peer review panels "shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations."

That is a pretty broad category that is included.

Now, we had testimony from a Professor Lave from Carnegie Mellon who has served on numerous peer review panels. I asked the professor directly during the testimony exactly what happens to those folks who would be perceived as using that information to their own benefit or their company's benefit, and Professor Lave said "We simply beat the H out of them."

The point is that we, that the people who testified, virtually every individual who testified told our committee that the peer review process under this bill makes common sense, it allows people who know what they are talking about to participate in this, and that in fact this is the most appropriate way to get the broadest possible input into the peer review process.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is a terrible amendment. You can consider it a good amendment only if you want to keep the thinking we have kept for the last 40 years. That is precisely the cycle that we want to break.

No, God forbid that we have somebody on the review boards that knows what they are doing. Our good friend from Massachusetts mentioned the power plants. Well, who do we want sitting on the review board? Do we want somebody sitting on the review board that knows nothing about the power plants, or do we want somebody there that knows what they are doing and what they are talking about? Certainly the people in Congress do not know enough or they would not have been passing these laws for the last 40 years.

I just walked over to the dictionary and what is a peer? It is a person who is equal to another in ability, qualifications, age, background and social status. That is what Webster's has to say about it. And that is what this language is saying.

But the reason I want to take this time, and I am delighted you yield me this time, is because I am really concerned about what these regulations are doing to the people you and I are representing. OSHA has come out with a rule, I could not believe this at our last town hall meeting on Saturday, has come out now with a rule, if you are building a little three bedroom ranch, like you have in your place in Ohio, or Wisconsin or Massachusetts, in order to put on shingles or put on roof boards, you have to encase this house now with a net. That costs thousands of dollars and additional time.

When you put on shingles, you have to have mountain climbing equipment. I mean, you talk about common sense? And who has to pay for it? The poor guy that is working in the mills that has to pay the mortgage, he has to pay additional thousands of dollars so the regulators in Washington can live high off the hog. No. The time for this legislation is long past.

Listen to in this. In the last 2 years, the current administration has put out 125,000 pages of additional regulation. That is staggering. Who is paying for that? The people you are representing.

Now, the prestigious industrial counsel said more than 1,000 businesses and their tens of thousands of hard-working employees, have estimated that our Nation's regulations bill now amounts to $600 billion a year. Let me repeat that. The regulations that the people in this Congress, the majority, have put on the people of this country, is $600 billion each year. That comes out to $2,000 for every man, woman, and child in America.

If you want to give the people a tax break, or give the people a break, give them a break with these regulations. Take a look at what OSHA is doing to your people, the people that you are representing. Take a look at what these regulations are doing to our economy.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. OXLEY] has expired.

(By unanimous consent, Mr. OXLEY was allowed to proceed for 2 additional minutes.)

Mr. OXLEY. Mr. Chairman, let me simply point out there is no difference between serving on a peer review panel and having expert witnesses in court. We have expert witnesses in court day after day in this country. Many of them are paid for their services, but they provide expert testimony. They are not going to foul the process by the fact they become expert witnesses.

We have to understand in the peer review process, Mr. Chairman, that is what experts are for, to give their best information. Nothing is withheld from the public. They understand that they have to reveal their employment and whatever particular ax they may have to grind.

But that I think is a cynical attempt on the part of the sponsors of the amendment to basically say anybody who has any interest in the issue is somehow going to take advantage of that and take advantage of the system. That is just an entirely unrealistic viewpoint of what this peer review process is all about.

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

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I cannot believe that my Republican colleagues do not understand the language of the bill, and I cannot believe that they do not understand the language of the amendment. The language of the amendment corrects an obvious error in the bill. The bill provides that peer reviewers may not be excluded simply because they represent entities that have a potential interest in the outcome. That is really what is at question here. Is peer review going to be conducted by people who have an interest in the outcome?

Then it goes on to say, "provided the interest is fully disclosed and, in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included in the panel."

What is the practical result of this language on the question of whether or not PCB's should be regulated in a special way, or whether clean air emissions, or water pollutants, or a particular kind of contaminant should be permitted in the food or drugs that are sold in this country, or whether a question involving safety in the workplace should be dealt with because of the presence of a particular pollutant or a particularly hazardous practice? In those instances, if it affected the entire industry, the entire panel, the entire panel of peer reviewers could be composed of people who had a financial interest, if only they had disclosed what that particular interest was.

Now, I ask my colleagues, do you want to have peer review conducted by people who have an interest in the outcome? I think not. The amendment offered by the gentleman from Massachusetts [Mr. MARKEY] says that peer reviewers shall be excluded if they are associated with entities that have a financial or other interest in the outcome, unless such interest is disclosed to the agency and the agency has made a determination that such interests will not reasonably be expected to create a bias in favor of obtaining an outcome that is consistent with the special interest that is held by that peer reviewer.

That is something which permits us to obtain the necessary expertise of people who know something on the subject, if they have an interest. But it also provides a very careful screen through which rascals may not proceed, and in which we can have a reasonable assurance that the protections which are here for the people in peer review of important scientific and technical questions will be done in such a way as to assure that the result will not be tainted with the determination or an inclination on the part of the reviewer to secure on behalf of himself and the special interests which he serves a result favorable to that particular interest.

Without this amendment, the entirety of the panel may be composed of people who have a financial interest in the matter. I will repeat that, because I saw somebody nodding a no. Without this amendment, the entire panel may be composed of people who have a particular interest in the result.

I think for this Congress to pass legislation which would sanctify such a consequence is a great shame. Shame on us, shame on the country. And the consequences of peer reviews which is tainted in this evil way will not only jeopardize the faith of the people in this body, but will justifiably jeopardize the faith of the American people in the peer review system we are authorizing under this legislation which we consider today.

I urge my colleagues to consider not only the consequences of this legislation as it is written here, but the consequences of a tainted peer review conducted under the provisions of the bill without the protection of the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

I would urge my colleagues to think about what can happen to the American people. And while they are thinking on that particular matter, I would urge them to reflect on what this means to them in the future when some opponent gets up at election time

and says, "Why was it that you supported a proposal in the Congress which permitted special interest peer reviews to override the Food and Drug Administration or the Environmental Protection Agency or OSHA or any other agency charged with protection of the public interest? And why was it, why was it, that you permitted a peer review panel to be set up which could be composed entirely of special interest representatives?" Think on it, my colleagues, and vote wisely.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am on the two committees that have reported this legislation to the floor, and I think we need to make a few basic points. No. 1, I do not even think the gentleman from Massachusetts [Mr. MARKEY], the author of this amendment, is opposing the peer review, because he lets the first two subparagraphs stand. He is substituting subparagraph (3), and I want to read the paragraph that he is substituting for. It says, in the bill, "shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that the interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel."

Well, we are trying to do, I think, in the bill what the gentleman from Massachusetts [Mr. MARKEY] is attempting to do, but we do say that they are not automatically excluded given, No. 1, that they fully disclose what their interest is, and, No. 2, if it is a decision that only affects their interest, affects their entity, then they are not going to be on the panel at all.

Now, the gentleman from Massachusetts says we shall exclude. We say shall not automatically. The gentleman from Massachusetts [Mr. MARKEY] says they shall be excluded unless they disclose their interest, and the agency reasonably determines they are not going to create a bias in favor of obtaining an outcome.

Well, we both want to disclose. We just change the burden of proof to say they are not automatically going to be excluded unless the decision directly affects the entity they represent, in which case they would be excluded.

Well, as I read the amendment of the gentleman from Massachusetts [Mr. MARKEY], that exclusion does not stand. If I read it correctly, they could actually even impact a decision that directly affects them if the agency says it is OK.

In some ways what we have in the bill is stronger, except for the fact that we say the burden of proof is not in the beginning automatically to exclude them. In your burden of proof, they are automatically excluded.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, is the gentleman referring to the language at the end of the subsection (3) that deals with single entities that are excluded from having peer reviewers represent them?

Mr. BARTON of Texas. Yes. No peer reviewer representing such entity may be included on the panel if the decision affects that single entity that they represent.

□ 1430

Mr. MARKEY. Do not forget, in that language itself, we do not exclude the competitors to the entity, which could have, which could have a financial interest in the outcome as well. So although we have excluded the company that might have the most direct financial interest, we have not excluded their competitors from stacking the panel with their own scientists. They should not be allowed to participate either, if there is bias.

The point of this provision is that there is an obvious bias if you are the only company affected. The truth is, it is additional bias amongst other companies if their competitor would not have this——

Mr. BARTON of Texas. Mr. Chairman, my comment was directly on the specific entity, the specific entity. And under the language in the bill, if that entity, if they represented a specific entity, they are automatically excluded. Under the gentleman's language, they are not.

Mr. MARKEY. Mr. Chairman, if the gentleman will continue to yield, I would be more than willing to accept the gentleman's language to exclude any single entity. I would be more than willing to accept that language.

Mr. BARTON of Texas. I am rising in opposition to the gentleman's amendment. I support the provision that is in the bill. I am just trying to point out that we have got, I believe, that the bill as stands has the protections that the gentleman is trying to attempt, because we require full disclosure.

Mr. MARKEY. Again, the point here is that there is a palpable conflict of interest when you are the only company that is going to be directly affected by the regulation. But the truth is, there is built-in bias for companies when there are three or four or five that are going to be affected by the regulation.

Here we basically say that they cannot, "shall not" be excluded.

Mr. BARTON of Texas. Automatically.

Mr. MARKEY. You are building in a mandate that they not be excluded merely because their lobbyist happens to be someone that has an interest in the outcome. We are saying that that is not a high enough standard that can be established in order to protect the public health and safety.

Mr. BARTON of Texas. Reclaiming my time, Mr. Chairman, I thank the gentleman for his comments. The point is, we do not feel they should automatically be excluded.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 1 additional minute.)

Mr. BARTON of Texas. Mr. Chairman, we do not automatically exclude people because they happen to represent an interest that has an interest in the pending rule or regulation and the peer review. We understand that there are many of these rules and regulations that are so technically complex that we have to have experts. As long as we fully disclose and guarantee that if the regulation specifically affects a single entity they are not going on the panel, for example, given the fact that in subparagraphs 1 and 2 we are providing for a broad range of peer review, that it is not just this one individual, that we think the bill as is should stand. We get the outcome the gentleman from Massachusetts is attempting to obtain, but we do not put the burden of proof on the peer reviewer.

Mr. DOGGETT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Markey amendment.

This reduces the danger of conflict of interest that is inherent in this bill. The concept of peer review, of having a jury of one's peers, in this case scientific peers, to review the work and ensure we have good science is a very good concept. But what we have here is not true peer review but, as the gentleman from Massachusetts has pointed out, phony peer review. Because we are going to ensure that lobbyists, when they finish their work in this great Capital, can go out and sign up for the peer review committee.

I know the gentleman from Massachusetts had some further words on that subject.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, for those who are listening right now, think about it in these terms: for every regulation that is placed upon the books or has been placed upon the books by any of these agencies, there are 25 experts in America on the subject who could potentially qualify for the peer review group. Twenty of them have no conflict of interest; five of them have a conflict of interest.

The history of this country has been that the agency selects amongst the 20

that have no conflict of interest so that the public can be sure that the health and safety regulation has in fact been analyzed by people who are not going to financially benefit.

Under the amendment which I have proffered, if in fact the company that has a conflict of interest has a Nobel laureate with a de minimis stake in the company, then they could make an exception saying there is no bias for that Nobel laureate. But throughout the history of our country, every time there is a regulation put on the books, they always select from the 20 with no conflict of interest. We have a lot of experts in America on a lot of subjects.

The misimpression being left by the authors of the legislation is that in fact there will be no experts that will be allowed to participate. Just the opposite is the case. We will have just as many experts as we have ever had, but we will ensure that, as we have in the past, they will not have a financial conflict of interest. In that way the public can be sure of the outcome.

I think that the misrepresentation that goes on with regard to the amendment and these horrific examples of regulations that have been placed upon the books, assume that they would not be placed upon the books if, in fact, the lobbyist for the company that was going to be affected by the regulation could serve on the peer review group. In fact, as we know, if that had been the case throughout the history of our country, we would have had no regulations to protect the health and safety of this country because the drug companies and the chemical companies and the nuclear industry and every other industry would have packed every one of these peer review groups.

Let us not, for God's sake, leave any misimpression for anyone who is listening that there are not plenty of independent experts available to serve on every single panel that would ever be constructed by every single agency. Let us not for a second again think that if in fact the Markey amendment is accepted that the first thing that they would decide is that a single company would, and the only company that could be affected by a particular regulation, of course, would be in a clear conflict of interest and bias, if their scientists and their lobbyists sat on the panel. So to a certain extent the gentleman's amendment, while clarifying, is redundant in terms of what is already offered as a real protection inside of the Markey amendment.

This is a conflict of interest, clear and simple, loaded with potential for lawsuits from here to eternity, if, in fact, the Markey amendment is not adopted.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding. Here is the question.

This conflict of interest, when the regulator is paid for partially by fines that he levies, is that not a conflict of interest?

Mr. DOGGETT. I thought the best example on conflict of interest was the last one the gentleman had with the silly regulation about covering the net over the house, because there are a lot of Members here on both sides of aisles that are concerned about eliminating silly regulations.

But under the bill as you propose it, OSHA has to have somebody from the net manufacturer on the peer review committee to decide whether it is reasonable to put a net over the house. That is what the gentleman from Massachusetts [Mr. MARKEY] is trying to prevent.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. The example which the gentleman uses is absolutely ridiculous. When a regulator fines a company for polluting, the money does not go back to the regulator. The money goes back to the Federal Treasury. When a lobbyist is on a peer review panel, proposing that a regulation pass, he gets rich if that regulation is blocked.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has again expired.

(At the request of Mr. BARTON of Texas and by unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. In the gentleman's earlier comment, he said that the bill is going to create phony review panels or at least has the potential to create phony review panels. I would ask if the gentleman has read subparagraph 1 where it says, panels consisting of experts shall be broadly representative and balanced, and then it goes on to say, represent State, local, tribal governments, small business, other representatives of industry.

Do you not believe that that paragraph which remains intact under the Markey amendment is going to ensure that there is a true review panel?

Mr. DOGGETT. Certainly that paragraph, which was read by the distinguished chair of the committee last night in suggesting that I had misrepresented what this legislation does, which I certainly had not, is the kind of general claim for a lack of bias in these panels. But we cannot just read that one section. We have to move down to the next section, and that is where we tell each one of these agencies that they cannot keep a lobbyist off of these peer review committees. They have to put them on. It is not a may or a maybe. It is a shall not. It is a commandment to every one of these regulatory agencies that they cannot keep off these panels lobbyists.

As the distinguished former chair of the Committee on Commerce indicated, while there may have to be balance, there is nothing in this legislation that prevents an agency from having every single member on the panel being someone who has a financial interest. They may have somebody who is a consumer, but they may still have a financial interest in this.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Massachusetts.

Mr. MARKEY. They do have a balance requirement in the law. It has to be a balanced panel. But the balance, for example, for a nuclear regulation could be they have a nuclear manufacturer. They have a nuclear chemist. They have a nuclear waste disposal company. They have a nuclear, nuclear, nuclear. They all have conflicts of interest, but it is balanced in its conflicts although they all are against the public health and safety.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will continue to yield, they also have State government, local government, small business.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has again expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 1 additional minute.)

Mr. DOGGETT. Mr. Chairman, this is like saying we are going to have a jury of our peers for the O.J. trial, and we will have a fair cross section of peers for that, but we are also going to let the lawyers for one side or the other serve on the jury panel. What we want is good science, not good advocacy.

I could not disagree more with the gentleman earlier who said, well, we have got all these paid experts in court going back and forth. It will not be any different than that.

That is the problem. In too many of these cases, you get whatever degree of expertise you pay for. We are not interested in paid science. We are not interested in advocacy. We are interested in balance and in keeping those who have an axe to grind off of these peer review committees. That is what the amendment of the gentleman from Massachusetts is designed to accomplish and why I rise in support of his amendment.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we ought to be clear about what we are doing here.

Some Members just have not bothered to read the language in the bill. It requires an independent and external peer review. "Independent" means that there does have to be some degree of work to make certain that the people are independent. Then it also says that they shall provide, it does not make it voluntary, "they shall provide for the creation of peer review panels consisting of experts," not Gucci shoe lobbyists, but experts and shall be broadly representative and balanced. So much of what we have heard here today just does not bear to the language that we begin with when we set forth the section.

Why did we go down and put a section in that says we shall not exclude peer reviewers with substantial and relevant expertise? In large part because the testimony before our committee anyhow was somewhat different from the way the gentleman from Massachusetts portrays it.

The fact is we are creating a system now where we are likely to be looking at things that involve a good deal of technical expertise, that involve a good deal of technical knowledge. We may, in fact, be writing regulation that at some point, for instance, affects an ecosystem such as the Chesapeake Bay. We might want to have the premier experts on the Chesapeake Bay as part of a peer review panel. That premier expert might be someone who works for the University of Maryland that might have a direct interest in the outcome of something with regard to the Chesapeake Bay but under the gentleman's amendment would be excluded from the panel.

And so the fact is that what we are doing is assuring, under the gentleman's amendment, that the dumber you are about the issue, the more likely you are to be able to participate in the peer review.

I am not certain that that is what we want to set up. I think what we want to set up is exactly what we do in the bill to assure that those people who have some knowledge about the issue are, in fact, involved in the peer review.

The gentleman from Texas suggests that this is somewhat analogous to a jury. It is not a jury. These are people who are reviewing technical data. They do not determine the outcome. They simply review the technical data to find out whether or not it was honestly arrived at.

It seems to me that that is where we want to have some people who are very knowledgeable about the subjects. And yet what there is an attempt to do here is to take knowledgeable people out of the process.

I understand why the gentleman from Michigan [Mr. DINGELL] and the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Texas [Mr. DOGGETT] and so on come up with this kinds of language. They are opposed to this bill. They do not like it. They do not want this bill. They are going to vote against it. They will do everything possible to destroy it.

□ 1445

One of the things they are attempting to do here is destroy it by assuring that it becomes unworkable, and it becomes unworkable when in fact what you have is the dumbness test for peer review, rather than the smartness test.

Mr. DOGGETT. Will the gentleman yield, Mr. Chairman?

Mr. WALKER. The gentleman interrupts me in the middle of my speech, but I am happy to yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, will the gentleman do us the courtesy by just taking away that argument completely by excluding lobbyists from these peer review panels?

Mr. WALKER. I would say to the gentleman that I am perfectly willing to exclude lobbyists, but we did exclude them when we said we had to have experts as a part of it.

This idea of lobbyists is in fact a term being thrown around by gentlemen who want to play to public sentiments, and so on.

Mr. DOGGETT. Mr. Chairman, I agree, we have a little expertise among the lobbyists, but some of them are scientists, and some do come here on bills like this and offer their testimony.

Mr. WALKER. Some of the ones who are true scientific experts might actually be someone we would want to have review.

Mr. DOGGETT. So the gentleman wants them on these peer review panels?

Mr. WALKER. As far as I am concerned, we can exclude lobbyists. I want to have experts.

Neither the amendment of the gentleman from Massachusetts [Mr. MARKEY] nor what is in the bill is anything but permissive. Both permit people to participate.

It is just that with the gentleman from Massachusetts, what they want is an insider game to be played where only the agency gets to choose, the agency gets the choice here, and what they are going to do is pick the people who like the agency bias.

The gentleman from Massachusetts [Mr. MARKEY] wants to make certain if this law goes into effect what we get is exactly the same kind of regulations we have always gotten, those kinds of regulations that the agency wanted in the first place, where they set out to do something good and end up doing something harmful because they did not get broadly relevant expertise in the review.

We want to change that. We want to go to a new order solution that changes things in a way that makes some degree of sense. Most of all in this, Mr. Chairman, what we are trying to do is to make certain that where we get down to those narrow activities that involve some real technical expertise, that we can in fact bring people onto panels who are truly knowledgeable about those subjects.

I would be happy to narrow the focus of the language in the bill in a way that gets to that subject matter.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. Mr. Chairman, If in fact what we need to do is just make certain that there is language to assure that the only time this applies is if there are no other experts available, I am perfectly willing to modify the language in the bill to do that.

However, with the gentleman's amendment, what we do is we exclude people who might have relevant expertise to bring to a highly technical subject, and do it in a way that I do not think makes any sense.

Mr. Chairman, I would hope this amendment would be rejected. Dumbness should not be the standard for peer review, it ought to be a smartness test.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. MARKEY. Mr. Chairman, I do not want to prolong the debate, except to, here at its conclusion, make a simple point, once again. We do not want any of these agencies to exclude experts. We do not want anyone who can contribute to an evaluation of any of these scientific questions to not be able to serve on any of these peer review panels.

The issue is bias. If in fact the scientist, the lawyer, the lobbyist who is being offered as an expert has a bias on that issue, we are arguing that they should not serve on that peer review panel unless the agency determines that there is a significant contribution that can be made, and the bias is incidental.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, I am glad to hear the gentleman make the statement. I wish we could have had his support in the last Congress, when EPA was doing its risk assessment on secondary smoke and there was a gentleman on our risk review panel that I pointed out from California who was a leading antismoking crusader, but I did not hear anything from the gentleman.

I thank him for yielding to me.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, I think it is noteworthy that in our language we make it clear that it is not just financial, but other interests in the outcome, which would qualify as bias. We would want the agencies to look at other interests as well that may not be financial.

That is why I deliberately included those words after the full committee markup when that subject was raised, because I agree with the gentleman, where there is bias, regardless of whether there is a financial interest, there should be an ability to remove those people from the panel.

However, that is the whole point. It does not really make any difference whether you are going to get rich because the regulation is coming out your way, or your whole career is obviously so tainted by a pattern of behavior that that person should be excluded as well.

Mr. Chairman, I understand that there are some people who want industry lobbyists to serve on the panel, who want a biased position to be represented as part of these hearings. That is what the bill allows.

The amendment bans that. It puts up a wall, and if Members want, I will add in the extra language which I have which keeps out bias other than financial, so that the gentleman can legitimately object when in fact there are those who have other interests.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

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

Mr. ROTH. Mr. Chairman, before we talked about OSHA, and this is important because it is something relevant that is happening in our society today. When OSHA pays its staff, when OSHA pays its bills, does that not come out of the fines they impose? The answer is yes. OSHA is hiring new people. OSHA is out there levying fines.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, let us not confuse whether or not other people are hired at agencies with the issue of whether or not the person gets personally enriched by a decision which is made. No Federal employee can profit, by law, from any decision which they make. There is absolutely a total prohibition against that.

I do not think it is proper to equate that situation with a Federal regulator with the lobbyists' interests which a chemical, a tobacco, a drug, or a toy manufacturing concern would have with the promulgation of a regulation and personal enrichment of the individual.

Mr. ROTH. If the gentleman will continue to yield, Mr. Chairman, I think the gentleman is being a little too disingenuous. I think it is relevant. If OSHA hires additional people, they have to levy additional fines.

Just the last couple of weeks ago when OSHA put out their latest regulation, they promulgated the rule on day 1 at 7 o'clock in the morning, and at 8 o'clock they were imposing fines. There was no publication that this is a new rule.

I say that there is a conflict of interest in these industries, in these agencies.

Mr. MARKEY. Mr. Chairman, if I may reclaim my time one final moment, the point is if there is a lobbyist, if there is a scientist, we will not even call them lobbyists, we will just say employees of the company, if they have stock options in the company that personally enrich them if a regulation does not go on the books, let us not kid ourselves, there is a tremendous bias with regard to how the individual will view that regulation going forward.

If a Federal regulator passes a regulation, he does not personally or she does not personally find any monetary remuneration because of the passage of that regulation or defeat of that regulation. One might say they have a professional stake, no question about it, but they do not have a financial concern, and that is really the whole heart of this debate.

I urge anyone listening, if they do not believe people should have a financial stake, please vote for the Markey amendment. It still allows for every other expert in every field to serve on the peer review panels.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think I heard the gentleman say a little while ago that he is sensitive about the concern.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MARKEY was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

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

Mr. WALKER. Mr. Chairman, the gentleman has indicated that he is sensitive to the concern that there might be areas where you have a particular expert that serves and there could be some modest conflict of interest or something, and that is what he tried to correct in his amendment.

I think maybe he is even, from what he said, sensitive to the fact of what we heard in the committee, that there are in fact people who might have expertise in very, very narrow technical areas that would have to be included in these peer reviews if the peer review is going to be done in a good sense.

Mr. Chairman, let me ask the gentleman, as I said, I am willing to narrow the scope of the amendment. What if we put language up front in the amendment that said "Unless there are available peer reviewers with the equivalent or superior expertise and experience and no potential interest in the outcome, they shall not exclude peer reviewers."

In other words, the only way that the provisions in the bill would apply is if there were absolutely no other kinds of peer reviewers with the kind of expertise that is needed in order to make these judgments; then we would have language that would say where there would be no potential interest in the outcome.

Let me ask the gentleman, is that something that the gentleman would be willing to accept to solve the committee's problem, as well as his?

Mr. MARKEY. Mr. Chairman, if I may reclaim my time, the amendment which I have offered already provides that flexibility to the Federal agency. It allows for the agency to make a determination that the interest would not be reasonably expected to create a bias, and therefore, to allow that expert to testify.

Mr. WALKER. The problem with the gentleman's amendment, Mr. Chairman, if he will continue to yield, is that it presupposes that these people are bad people and should not be brought in.

What we are suggesting is that maybe there is a need for some language that would suggest that if there are other kinds of peer reviewers available that have no interest, the agency ought to look to those people, but if there was nobody else, the agency should have the discretion.

I wonder if the gentleman would go along with that.

The CHAIRMAN. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(At the request of Mr. WALKER and by unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. Mr. Chairman, again, I think the gentleman is heading in the right direction, but it is not enough, and it is already covered by the language which I have in my amendment. We make it a ban, but a ban which can be waived by the agency if they need the experts.

By the way, that is how every Federal agency today now operates. We are not changing anything, we are not adding anything new here. There are peer review groups today, there have been for 50 years, and they have always used experts. They will continue to use experts.

The only change we are debating here today is whether or not people with financial conflicts of interest should be able to serve on the panel. That is the only thing in the debate.

Historically, they have always had the latitude of waiving, if they want

to, under the U.S.C. 208 that allows for the Federal agency to let those people in if they needed them, so the law is already there to do it. I do not know why we are changing it at all.

Again, to avoid the conflict of interest, and again, if I may in conclusion just say to the gentleman from Pennsylvania [Mr. WALKER], it is not with the intention of killing this legislation that we are offering the amendments. It is just the opposite, it is to improve it before it does become the law of the land.

Mr. BILBRAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I understand the concern of my friend, the gentleman from Massachusetts [Mr. MARKEY], that there may be a major problem here.

However, let me just sort of quote a representative of the Environmental Defense Fund, who stated at testimony before the Committee on Commerce, "I think in principle there are probably very few exclusions that I would make, as long as members of peer review panels are experts in their area and there is an appropriate balance."

I wish to say to my friend, the gentleman from Massachusetts, that I have seen different peer review processes work. It is essential to get everybody who has expertise to be included in the process, and not to exclude them.

I think what the gentleman fears with regard to conflicts, the conflicts come from many directions. I would not feel it would be appropriate that just because somebody happens to be employed by the Lung Association and actively involved in that process, that they should somehow be treated as if they are tainted and unacceptable to the review process.

In fact, Mr. Chairman, as long as we understand that there is an agenda, and where they come from, it is a major contribution, because in reality we want those who may come from different spectrums to be at the table to build the consensus.

There may be those that are scared of what may be termed the extremes finding consensus. I think we should not only not fear it, we should embrace the fact that consensus is what we want to find on these issues, and that is where we can.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. BILBRAY. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, again, we are not excluding the companies that are affected. They can still participate legally by commenting upon the regulation, by meeting with the regulators, by participating in any number of ways.

What we are talking about here is, as the gentleman from Texas calls it, the jury over here on the peer review panel. Except for that one part of the process, they are allowed to fully participate in making their case and in ensuring that all the evidence and information is before the agency.

Mr. BILBRAY. Mr. Chairman, reclaiming my time, the fact is, as the gentleman said, except for participating in that process, they can participate in the rest of the process. The gentleman and I know this is the core of being able to be proactive rather than reactive.

I do not care if you are a representative of the industry or a representative of an environmental group, to be involved in the initial process is absolutely essential for not only your agenda, be it one way or the other, but for the process itself and the finished product.

□ 1500

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. MARKEY].

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

RECORDED VOTE

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

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 247, not voting 10, as follows:

[Roll No. 178]

AYES—177

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
LaTourette
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Mineta
Minge
Mink
Moakley
Mollohan
Montgomery
Morella
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—247

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas

Thornberry	Wamp	Wilson
Thurman	Watts (OK)	Wolf
Tiahrt	Weldon (FL)	Young (AK)
Torkildsen	Weldon (PA)	Young (FL)
Upton	Weller	Zeliff
Waldholtz	White	Zimmer
Walker	Whitfield	
Walsh	Wicker	

NOT VOTING—10

Gonzalez	Lipinski	Vucanovich
Gutierrez	Meek	Ward
Hunter	Miller (CA)	
Lantos	Rush	

□ 1517

The Clerk announced the following pairs:

On this vote:

Mr. Rush for, with Mrs. Vucanovich against.

Mr. BAESLER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. BARCIA. Mr. Chairman, on roll No. 178, the Markey amendment to H.R. 1022, I intended to vote "no", and inadvertently voted "yes". I would like the RECORD to reflect this, and as such I submit the following February 24 correspondence to my colleagues for the RECORD to illustrate my support.

SUPPORT PEER REVIEW IN RISK ASSESSMENT

We strongly support requiring Federal regulations to be based on sound scientific principles, and urge our colleagues to support the peer review provisions of title III in H.R. 1022. This provision would establish a systematic program for sound scientific review of risk assessments used by agencies when promulgating regulations addressing human health, safety, or the environment. We believe that peer review is a critical component of sound science, and is necessary for accurate risk assessment analyses involving complex issues.

We spend an exorbitant amount complying with regulations. These costs totaled a whopping $581 billion in 1993, and ultimately increased the price for every good and service purchased by the American people. These regulatory costs are nothing more than a hidden tax on American consumers and business.

Some critics of the risk assessment provisions in H.R. 1022 believe those organizations or sectors impacted by a regulations should not be allowed to serve on their review panels. This notion, however, subverts the very intention of sound science—to base decisions on all relevant and available information without color or prejudice.

Peer review panels should include scientists from affected sectors as well as consumer interests and any outside interest. Doing so will allow risk-based analyses to maintain balance and flexibility, thereby ensuring agencies use sound science in their decisionmaking.

Some critics have suggested that including interested parties in the peer review process compromises the integrity of human health, safety, or environment regulations. However, the precedent for peer review already exists. Congress has consistently supported legislation requiring the use of comprehensive peer review panels for environmental and safety issues.

For example, the Science Advisory Board [SAB], created under the 1969 National Environmental Policy Act, was established to conduct peer reviews for EPA regulations. To be a member of the SAB you must have the proper education, training, and experience; there are no restrictions on affiliation. Further, the National Advisory Committee on Occupational Safety and Health as mandated under the Occupational Safety and Health Act is to be composed of "representatives of management, labor, occupational safety and occupational health professionals and the public." The Energy Policy Act, which Congress passed in 1992, requires a peer review panel on electrical and magnetic fields. This peer review panel must contain representatives from the electric utility industry, labor, government, and researchers.

Peer review is a commonsense approach that must include all interested parties, and as such we urge you to support the peer review provisions in title III of H.R. 1022.

AMENDMENT OFFERED BY MR. BARTON OF TEXAS

Mr. BARTON of Texas. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTON of Texas: Page 36, after line 2, insert the following new title, redesignate title VI as title VII, and redesignate section 601 on page 36, line 4, as section 701:

TITLE VI—PETITION PROCESS

SEC. 601. PETITION PROCESS.

(2) PURPOSE.—The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliance or in a more flexible manner.

(b) ACCELERATED PROCESS FOR CERTAIN PETITIONS.—Within 1 year after the date of enactment of this Act, the head of each Federal agency administering any program designed to protect human health, safety, or the environment shall establish accelerated procedures for accepting and considering petitions for the review of any rule or program element promulgated prior to the effective date of this Act which is part of such program, if the annual costs of compliance with such rule or program element are at least $25,000,000.

(c) WHO MAY SUBMIT PETITIONS.—Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection (b) may submit a petition under this section.

(d) CONTENTS OF PETITIONS.—Each petition submitted under this section shall include adequate supporting documentation, including, where appropriate, the following:

(1) New studies or other relevant information that provide the basis for a proposed revision of a risk assessment or risk characterization used as a basis of a rule or program element.

(2) Information documenting the costs of compliance with any rule or program element which is the subject of the petition and information demonstrating that a revision could achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but at a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities. Such documentation may include information concerning investments and other actions taken by persons subject to the rule or program element in good faith to comply.

(e) DEADLINES FOR AGENCY RESPONSE.—Each agency head receiving petitions under this section shall assemble and review all such petitions received during the 6-month period commencing upon the promulgation of procedures under subsection (b) and during 15 successive 6-month periods thereafter. Not later than 180 days after the expiration of each such review period, the agency head shall complete the review of such petitions, make a determination under subsection (f) to accept or to reject each such petition, and establish a schedule and priorities for taking final action under subsection (g) with respect to each accepted petition. For petitions accepted for consideration under this section, the schedule shall provide for final action under subsection (g) within 18 months after the expiration of each such 180-day period and may provide for consolidation of reasonably related petitions. The schedule and priorities shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors as such Federal agency considers appropriate.

(f) CRITERIA FOR ACCEPTANCE OF PETITIONS.

(1) IN GENERAL.—An agency head shall accept a petition for consideration under this section if the petition meets the applicable requirements of subsections (b), (c), and (d) and if there is a reasonable likelihood that the revision requested in the petition would achieve protection of human health, safety or the environment substantially equivalent to that achieved by the rule or program element concerned but a substantially lower cost of compliance or in a manner which provides more flexibility to States, local, or tribal governments, or regulated entities.

(2) FINAL AGENCY ACTION.—If the agency head rejects the petition, the agency head shall publish the reasons for doing so in the Federal Register. Any petition rejected for consideration under this section may be considered by the agency under any other applicable procedures, but a rejection of a petition under this section shall be considered final agency action.

(3) CONSIDERATION.—In determining whether to accept or reject a petition with respect to any rule or program element, the agency shall take into account any information provided by the petitioner concerning costs incurred in complying with the rule or program element prior to the date of the petition and the costs that could be incurred by changing the rule or program element as proposed in the petition.

(g) FINAL AGENCY ACTION.—In accordance with the schedule established under subsection (e), and after notice and opportunity for comment, the agency head shall take final action regarding petitions accepted under subsection (f) by either revising a rule or program element or determining not to make any such revision. When reviewing any final agency action under this subsection, the court shall hold unlawful and set aside the agency action if found to be unsupported by substantial evidence.

(h) OTHER PROCEDURES REMAIN AVAILABLE.—Nothing in this section shall be construed to preclude the review or revision of

any risk characterization document, risk assessment document, rule or program element at any time under any other procedures.

SEC. 602. REVIEWS OF HEALTH EFFECTS VALUES.

Within 5 years after the enactment of this Act, the Administrator of the Environmental Protection Agency shall review each health or environmental effects value placed, before the effective date of title I, on the Integrated Risk Information System (IRIS) Database maintained by the Agency and revise such value to comply with the provisions of title I.

SEC. 603. DEFINITIONS.

As used in this title:

(1) The term "Federal agency" has the same meaning as when used in section 110.

(2) The terms "rule" and "program element" shall include reasonably related provisions of the Code of Federal Regulations and any guidance, including protocols of general applicability establishing policy regarding risk assessment or risk characterization, but shall not include any permit or license or any regulation or other action by an agency to authorize or approve any individual substance or product.

Mr. BARTON of Texas (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 Texas?

There was no objection.

Mr. BROWN of California. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BARTON of Texas. Mr. Chairman, I am very happy to offer this amendment on behalf of myself, the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Idaho [Mr. CRAPO].

The basic point of this amendment goes to the thrust of the bill. Under the bill that is before us today we are putting in place a mechanism by which we can do a valid scientific risk assessment. We are putting in place a process by which new laws and rules and regulations that flow from them, there has to be a scientific risk assessment done.

The bill before us today, however, does nothing to require a review of existing rules and regulations. The economy today is laboring under a burden of somewhere between 400 and 600 billion dollars' worth of the existing regulations and costs the average American family about $6,000 per year.

If Members think that some of the existing rules and regulations should be reviewed, if Members believe that some of the existing rules and regulations should be subject to review, then they should vote for this amendment. If Members think that every existing rule and regulation that is on the books today is sacrosanct and should not be reviewed, vote against the Barton-Tauzin-Crapo amendment, because what the amendment does is set up a very structured process by which any affected party out in the country can petition the relevant agency for a particular rule or regulation to be reviewed.

It has to be a major rule as defined under the bill, in other words, has a cost impact of $25 million or more on an annual basis.

We allow a 6-month window by which parties petition the affected agency. We then allow the 6-month window for the agency to consolidate the petitions and decide which if any of the petitions have merit. Then we allow an 18-month period for the rules and regulations that do have merit that need to be reviewed, and as each of these windows opens and shuts, the first 6 months' window to petition, when it closes then you have a second 6-month window open up. Altogether there are 8 years' worth of windows for the petition, there are 8 years' worth of windows for agencies to review the petition and then there are 9½ years of windows for the agencies to actually make a decision on a petition process.

We have done everything we can in drafting the amendment to make sure that there are no frivolous petitions offered. We require that when the petitioner comes forward that they supply document that there is an alternative that will have the same amount of impact on either a most cost-effective basis to society or give more flexibility to State and local governments.

We do not try to supersede any of the other procedures in place that may allow for rules and regulations to be reviewed under some other natural process.

Our amendment has tremendous support. The Alliance for Reasonable Regulation supports it. There are over 1,500 organizations in that alliance. The Chemical Manufacturers Alliance supports our amendment, the National Federation of Independent Businesses support our amendment. Altogether there are over 3,000 groups around the country that are strongly supporting this amendment.

Again, the bottom line is if Members think the existing rules and regulations that are on the books today need to be reviewed then the petition process, if adopted, is the only thing that guarantees such a review may occur.

If Members think everything that has been passed in the past 100 years is OK, then Members would vote against it.

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Virginia, the distinguished chairman of the committee.

Mr. BLILEY. Mr. Chairman, I support the gentleman's amendment. I think it is reasonable. I think there ought to be some way for citizens to appeal what they consider to be unreasonable rules. There then ought to be a mechanism to consider this appeal. I think the gentleman has answered both questions in a very nice way, and I urge support of the amendment.

Mr. BARTON of Texas. I thank the distinguished gentleman for his support.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to see how this works. An aggrieved party petitions for a rule to be reopened; then who makes the decision in that first instance?

Mr. BARTON of Texas. There is a 6-month period for all petitions to be received by that particular agency. The agency will consolidate those petitions if they are similar in nature, and then the agency makes a decision as to whether to accept the petition.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(At the request of Mr. WAXMAN and by unanimous consent, Mr. BARTON of Texas was allowed to proceed for 2 additional minutes.)

Mr. BARTON of Texas. If in the petition the petitioner has shown that there is adequate documentation to show that there is reasonable cause that the petition should be reviewed, then the agency has to review it.

Mr. WAXMAN. The agency must review at that point?

Mr. BARTON of Texas. But based on the petitioner presenting evidence. You cannot just say I think it all ought to be looked at; there are very substantial evidentiary requirements that are required for the petition.

Mr. WAXMAN. And if the agency still disagrees, what happens then?

Mr. BARTON of Texas. You have 6 months in which to present your petition and then the agency has 6 months to look at the petition. The agency then makes a determination. If it is a negative determination that says no, we do not want to review it, the agency has to publish reasons why it reached the negative determination and show that it had substantial evidence to prove that it should not review the regulation.

Mr. WAXMAN. Is that challengeable in court?

Mr. BARTON of Texas. It is challengeable under the existing laws. We do not put in a new burden of proof in terms of judicial review.

Mr. WAXMAN. Under the Administrative Procedures Act.

Mr. BARTON of Texas. That is correct. If the agency says yes, we are going to review it, then there is an 18-month period during which the agency has to review it. It is not an open-ended review. We create an 18-month period, once they have made the decision they shall review it. Then there is 18 months in which they have to review it, so they cannot let it go on indefinitely.

Mr. WAXMAN. The gentleman indicated they would have to come up with

the same result in some other way. How is that spelled out in the gentleman's amendment?

□ 1530

Mr. BARTON of Texas. In the "purpose" it says,

The purpose of this section is to provide an accelerated process for the review of Federal programs designated to protect human health, safety, or the environment and to revise rules and program elements where possible to achieve substantially equivalent protection of human health, safety, or the environment at a substantially lower cost of compliance or in a more flexible manner.

The CHAIRMAN. Does the gentleman from California [Mr. BROWN] insist on his point of order?

Mr. BROWN of California. Mr. Chairman, the gentleman withdraws his point of order.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if the gentleman from Texas [Mr. BARTON] would engage in a colloquy and answer a couple of questions, in the committee report from the Committee on Energy and Commerce, I say to my friend from Texas, the language in the section 3401, in paragraph 2, "any person may petition" was the language that the Committee on Energy and Commerce adopted. The Committee on Science, Space, and Technology adopted no language whatsoever on looking back like that. The language you have adopted is any person who demonstrates that he or she is affected by a rule may submit a petition.

What is the difference?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, the difference is the language that we adopted in the Committee on Energy and Commerce, the gentleman from Massachusetts [Mr. MARKEY] wanted to substitute any person, which would literally be anybody breathing in this country. In consultation with people both for the amendment and opposed to the amendment after the markup in the Committee on Energy and Commerce, we decided to seek a middle ground between any person and a person who has a direct financial interest, so the standard we chose was an affected person. Now, an affected person is still a very broad definition. It is somebody affected in a cost way by the rule or regulation or living in an area that is affected by the consequences of the regulation.

So an affected person is not quite as broad as any person, but it is still a very broad definition.

Mr. BROWN of Ohio. Reclaiming my time and posing another question, the CBO scored or estimated $250 million for the cost of this bill, moving, raising the threshold from $25 to $100 million. It would cost the Government $250 million.

Have you calculated, or has CBO calculated, the difference in cost, the additional cost in bureaucracy and litigation and hiring more employees and all of that to do a lookback at all of these cases over the next 8 years, a lookback at all of these regulations that could be brought up?

Mr. BARTON of Texas. If the gentleman will yield further, first of all, we do require that anybody that petitions be able to show that there is going to be substantially lower cost of compliance and more flexible cost of compliance. So on a net basis we think it is going to save money on a net basis.

No. 2, we do not require that any additional employees be retained to do this review. We happen to believe that there are enough Federal employees in the affected agencies that can do the review.

So I am not going to prevaricate and say that I have done an extensive cost analysis of our amendment. But we do not believe that it is going to bear an additional cost to society. In fact, we think it will save money.

Mr. BROWN of Ohio. Reclaiming my time, I think that is the reason this amendment in the end makes no sense. It is a question of, again, as much as the rest of the bill does, it is more lawyers, more litigation, more employees working for these agencies because they are going to be swamped with petitions.

Business after business after business is going to file against regulations that have been handed down; consumer groups, citizen groups, environmental groups, other people are going to open up these rules, again, rules that have already been agreed to, rules that businesses are living under, rules that the public benefits from in many cases, clean air, clean water, pure food, safe consumer products, all of that, and we are opening this up again. It is more bureaucracy, more layers of government, more costs.

At the same time it is more judicial review, and it is again another reason that this bill in the whole is a problem, and this amendment particularly takes the bill that is already loaded down with too much bureaucracy and litigation and loads it down even further, and it loads it down for the next 8 years, for the next 16 6-month periods, if you will, and ends up putting us behind the eight ball more.

For us not to calculate the cost and just say, yes, Government is going to be able to do that, is simply misleading the public and misleading the other Members of this House.

Mr. BARTON of Texas. If the gentleman will yield further, I make a couple of points on his point. No. 1, if the bill passes, there are not going to be as many new rules and regulations promulgated. I think that is a given. So there are going to be people that have time to do that.

No. 2, in the petition, the system that we set up, we require that as part of the petition the information be shown that which shows that the rule or program element concerned can be administered at a substantially lower cost of compliance or in a manner which provides more flexibility to the States. So we are attempting, you know, nothing is certain in this life except death and taxes, But we are attempting.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. BROWN] has expired.

(By unanimous consent, Mr. BROWN of Ohio was allowed to proceed for 1 additional minute.)

Mr. BARTON of Texas. If the gentleman will yield further, we put language in the amendment where we are attempting to mandate there be a lower compliance cost.

Mr. BROWN of Ohio. I am not a lawyer, but you can drive a truck through that kind of language, and anybody that feels harmed or hurt in any way by a regulation, whether it is a business that is trying to run around a regulation and wants to dispose of waste in Lake Erie or an environmental group that thinks they have been wronged by a regulation, they always can find a way to fit their complaint into that language and open this back up. There will be plenty of rules and regulations suggested or handed down by agencies that will go through all of this 23-step process. It will cost all of us as taxpayers more money, and it is simply not being honest with the public to say that it is not really going to cost more money, because in the end it is going to cost government a whole lot more money. It is going to mean more judicial review, more expense, more litigation, more government, more bureaucracy. It simply does not make sense.

Mr. CRAPO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I speak on behalf of the amendment.

Mr. Chairman, I think we are once again faced with a critical decision in the debate as it is setting up here; it is showing the basic difference in philosophy in how we are going to approach the critical concerns in this country about Federal regulation.

This process will change the bill in a very fundamental and important way. The bill, as it now stands, stops the Federal regulators from continuing the abusive growth of Federal regulations in unjustified ways for the future.

This process, the petition process, allows a look back at some of the existing regulations. It has already been said in debate on this floor that the existing regulatory burden we face in this country is the issue that is bringing us

to this debate itself. If all we do is protect ourselves against future abuses, we fail to look back at the very reason that brings us to the floor for this debate, and that is the existing Federal regulatory bureaucracy that is crushing our economy and invading the lives of Americans in almost every aspect of their lives.

It has been discussed today that we have, and I have seen studies that show the burden on the American economy from the Federal regulatory system is anywhere from $400 billion to over $1 trillion, and that is every bit as real as a tax, as the taxes collected from the taxpayer every April.

We have got to recognize that we must allow us to look back and correct the abuses in the regulatory system.

The arguments being made against it are the same as well. First, it is thrown up this is going to allow for more lawyers to get into the act and for us to have more litigation. It seems that every time we want to correct the abuse in the Federal regulatory system, the counterargument is, well, that we take lawyers.

The fact is we have got to decide as a Congress whether we want to move forward and create the mechanism for people to fight back against the regulatory abuse and the explosion of regulations in this country, or whether we want to say because we are afraid that it might take some legal review that we are going to take no action. I do not think that is a justification.

The argument has been made that it is going to open up rules that businesses and people across this country are already adjusted to living under, and we ought to leave it alone.

Frankly, as I have said, that is the very reason we are here. Yes, people in this country are living under those rules and regulations, but, no, they are not happy; no, it is not right for this Congress to just wink its eye at what has happened in the past and say we are going to go on in the future and let what now stands be unchecked and unreviewed.

And then it is said, well, this legislation lets any person bring a proposal before the agencies for review. Well, frankly, I think that any person ought to have, who is affected by these regulations, the ability to bring it forward and have it reviewed.

But we have provided in the bill for protections. Every 6 months the agency is entitled to collect the various petitions, organize them, and assemble them and review them under a specific regulation to which they apply. We have a funneling system put in place that will keep the agencies from being inundated by repeated petitions. They collect them all in a 6-month period and act on them one at a time.

Mr. Speaker, this legislation is critical. You could say it is the core of the issue we are facing here today. We have got the vehicle there. Let us allow us now to look back.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is an old saying, "Be careful of what you ask for, because you might get it." And I would urge my colleagues to keep that saying in mind, because if you ask for this, you very well just might get it.

What is this amendment going to require of the Government? And what rights is it going to permit? Is this going to permit somebody to petition who is aggrieved in business, who feels he has been wronged with regard to a regulation which is imposing unnecessary costs on him? Yes, it is. But it is also going to permit Ralph Nader, the Sierra Club, the Natural Resources Defense Council, and ordinary individuals to do the same, because the language of the amendment says, "Any person," any person without limitation as to who. And they can submit this petition each 6 months for 8 years, 15 times, and if they do not get what they want the first time, they can resubmit it, and in resubmitting it, they can again ask for the same relief.

And when the agency has decided whether they are or are not entitled to the relief they have sought with regard to having the matter reopened, it is a final action. Now, for the benefit of my colleagues who do not understand these things, "a final action" is a word of art in the Federal law which says that that final action then is reviewable in court.

So let us look. Any chemical company is subject to having a reopening on any of their additives or any of their agricultural pesticides every 6 months for 8 years. They can be in court constantly and can be harassed under the provisions of this particular amendment.

The auto industry, on fuel efficiency or auto safety or clean air, can be in court constantly, and the subject of whether or not they are entitled to have a particular regulation that is in place remain in place or be subject to having it reopened by some outsider is settled by this amendment. What it says is anybody who wants to can go in and force this process and can then, on the conclusion of the action of the regulatory body in approving or disapproving, have the matter opened to litigation by any person who has an interest.

Now, let us look at an electrical utility. Let's suppose an electrical utility has gotten a particular ruling from the EPA with regard to emissions of sulfur. That particular judgment is open to review every 6 months for 8 years, and again it is subject not only to regulatory action of the agency but to judicial review. Imagine the harassment that can take place of the American electrical utility industry or any other industry in this situation.

Let us go to others. A food additive, or fluoridation of water in a community, comes open at every turn, because that regulation is subject to this particular provision. The individuals affected can demand that this be done every 6 months for 8 years, and every American water company, every American municipality that delivers water is going to be subject to being sued under this and to have the whole matter carried through not only the entire administrative process but then subject to judicial review as often as a complainant may want. Every 6 months it can be done.

I do not think this body wants anything of this character to be put in place. There are regulations in place which make sense, and there are regulations in place which do not, but if you are going to address the ones that do not make sense, I would beg you to understand that this is not just limited to one particular regulation, or one particular kind of regulation which might be hostile to industry, or which might cost too much, nor is this legislation going to be used only by responsible citizens or American businessmen concerned about competitiveness, but malefactors and irresponsible parties as well.

It is going to open the door of the regulatory process to every crackpot, nut, special interest group that you might care to name, and they are going to run all the way from the environmental extremists to the right wing reactionaries, and all the way from crackpot left-wing advocates to reactionaries who think that industry is being excessively hurt by sensible regulations.

□ 1545

The result of the adoption of this amendment, very frankly, is not only going to be to bring the administrative process in this Government to a halt by compelling tremendous relitigation, reexamination of every existing rule but it is going to go further. It is going to harass and drive American industry to its knees.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words, and I rise to engage in a colloquy with the gentleman from Virginia [Mr. BLILEY].

Mr. Chairman, I would like to ask my colleague a series of questions that relate to the impact of this bill on the Great Lakes States, because my district has more shoreline than any other district except Alaska.

As you know, the Army Corps of Engineers operates and maintains approximately 12,000 miles of commercial navigation channels; it maintains 297 deep draft harbors and 549 shallow draft harbors. Under the River and Harbors Act of 1899, the Corps of Engineers issues permits to private contractors for most harbor dredging. In addition,

the Corps of Engineers issues general and regional permits for dredging—for instance, in New York and New Jersey.

Under title I, dealing with risk assessment, on page 8, beginning on line 5 and ending on line 9, it says that this title applies to "any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior."

Later in the same title, on page 25, on lines 12 and 13, the U.S. Army Corps of Engineers is listed as a "covered Federal agency"; I assume for purposes of the rest of the title.

My question to the gentleman is: Does this bill apply to individual, regional, or general permitting actions by the Corps of Engineers for dredging?

Mr. BLILEY. Mr. Chairman, will the gentleman yield?

Mr. STUPAK. I yield to the gentleman from Virginia [BLILEY].

Mr. BLILEY. I thank the gentleman for yielding.

Mr. Chairman, individual, regional, or general permitting actions by the Corps of Engineers for dredging under the Rivers and Harbors Act are not included as significant risk assessment or characterization documents for purposes of title I. The corps could, by rulemaking, add such actions to the scope of title I but the act does not mandate this outcome. Title II applies to major rulemaking and such major rulemakings may subsequently affect the permit program.

Mr. STUPAK. In addition to dredging activities, the Corps of Engineers has 376 projects under construction. Does this bill apply to construction projects under the jurisdiction of the Army Corps of Engineers?

The corps also owns or operates 273 navigation lock chambers, including one in my district—the Poe Lock System at Sault Ste. Marie, MI. Does this bill apply to the lock systems under the jurisdiction of the Army Corps of Engineers?

Mr. BLILEY. The bill does not apply to construction projects or operations of lock systems per se. The bill only addresses regulatory programs to protect health, safety, or the environment.

Mr. STUPAK. As I said, I am concerned about the impact of H.R. 1022 on the Great Lakes. As you may know, the Great Lakes shoreline covers more than 11,000 miles—a distance equal to almost 45 percent of the Earth's circumference.

About 25 million people get their drinking water from the Great Lakes and the St. Lawrence River, and each day, 655 billion gallons of Great Lakes water are used for various purposes. Ninety-four percent of this water produces 20 billion kilowatt-hours of electricity by passing through hydroelectric plants.

Which brings me to my next question. In 1986, a Russian-flagged ship introduced into the Great Lakes a nonindigenous species—the zebra mussel. Zebra mussels attach themselves to hard surfaces like pipes, making them very difficult to remove. They quickly gang up on a desired target, clogging water intake and distribution systems.

These animals have cost municipal and industrial water facilities millions of dollars in cleanup and control costs. They've disrupted Great Lakes recreation, causing thousands of dollars in damage to boats, docks, buoys, and beaches. Over the next decade, scientists estimate that the cost of the zebra mussel invasion for Great Lakes water users could go as high as $5 billion.

And they're spreading beyond the Great Lakes. The flood of 1993 has helped the mussel spread as far south as Louisiana; it pushed the zebra mussel over levees, up rivers and drainage ditches and into sewage treatment plants and other riverside facilities.

Section 1201(f) of the Nonindigenous Aquatic Nuisance Prevention and Control Act authorizes the National Oceanic and Atmospheric Administration to conduct research to find a solution to the problem of nonindigenous species like the zebra mussel, sea lamprey, and European ruffe.

My question to the gentleman is: Does this bill apply to research projects conducted by NOAA?

Mr. BLILEY. Research projects, themselves, do not fall into the mandatory definition of significant risk assessment or characterization documents. If such a document were used as a basis for a major rulemaking or report to Congress, then title I would apply for the rulemaking or report to Congress. NOAA, however, can add risk assessment or characterization documents to coverage through a new rulemaking.

If title I requirements applied, they would require disclosure, best estimates, and comparisons. These requirements are broadly viewed as important benchmarks which should be followed for all risk assessments and characterization.

Mr. STUPAK. Mr. Chairman, I thank the gentleman from Virginia for engaging me in a colloquy and creating this legislative history.

Mr. GRAHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, of all the things that I have had a chance to vote on, I am more excited in voting on this amendment than just about anything we have done here, because to me the November 8 election said something pretty strong, that we feel distant from our government. The gentleman from Michigan talked about groups that were extreme in nature being able to talk to their government. I think one of the reasons we had such an extreme change in the way the country is being run is because people felt very alienated from this country, they felt alien from regulatory bodies that could pass on huge costs of doing business in private and public life, and nobody could ask commonsense questions.

Of all the things that I voted on in this Congress, I am very proud to support the opportunity for average citizens, not crackpots, not nuts, to be able to come and talk to their government in a meaningful fashion, something that has been lost in this country.

There are triggers in this bill. It has to have a $25 million effect in the aggregate before you can petition your government. Twenty-five million dollars is still a lot of money in South Carolina, and still a lot of burden to bear in this country. And when $25 million gets to be nothing, then we really do have a problem here.

The exciting thing to me, Mr. Chairman, about this amendment is it allows average, everyday citizens, people trying to make a living, trying to pay the bills, to come to their government and ask them to give answers to commonsense questions, making the government accountable, having to explain why they regulate the way they do, having to explain the benefit and, yes, the cost. That is something that is missing in government in 1995, and, yes, this amendment will bring government back to the people more than anything I can think of.

I would ask every Member of this body who believes that the U.S. Government has gotten distant from its people to vote for this amendment which allows you to petition your government to answer your questions. What a novel concept in democracy.

I move very urgently that we pass it.

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I want to point out that a good part of the debate, at least yesterday, was on the point this bill was going to be prospective. We are not going to open up all the laws on the books now to protect the public health and environment.

This particular amendment specifically goes backward and says we are going to look at and review Federal programs designed to protect human health, safety or the environment, to revise rules and program elements, where possible, to achieve certain results.

Now I want to give a real-life example of what is likely to happen under the circumstances under this proposal so that we can understand that this is a likely result that I think the proponents of this amendment would not want to see happen.

Under the Clean Air Act, in order to achieve the pollution reductions of

VOC's, which cause ozone, there is a requirement that there be a strategy to reduce pollution on those that cause the pollution.

The pollution caused by big polluters, like automobiles or smokestacks or factories, the reduction is anywhere from $2,000 to $10,000 per ton, according the testimony from the head of the Environmental Protection Agency.

But if you ask that the reductions not be from the major polluters but from individuals by requiring them to spend money to be sure that their older vehicles achieve the reduction requirements or achieve what their cars are supposed to achieve by way of emission reductions, the Environmental Protection Agency has told us that would be nearly $500 a ton. Now, that could mean that the auto industry, or a factory or a big polluter can come into EPA and complain about the regulations that have been imposed on them by their own States and say that, "We don't think it is reasonable because you can achieve an equivalent reduction but going after individual drivers and owners of vehicles." And they will be right because it is more cost effective to achieve the same pollution reduction.

But what we have to ask ourselves is, is that the result we would want to see? If individuals are going to have to bear the costs to repair their cars, the older the car the more polluting it will be and therefore the more it may cost to repair it. That means, often, low-income people will have to spend that money. But it is a more cost-effective way to achieve the result.

I would like to ask the gentleman from Texas [Mr. BARTON], who is the proponent of this amendment, would he want to see a regulation that imposes controls on a major polluter be relieved of that responsibility by having the burden placed on individuals to bear the costs because it would be a less costly may to achieve the same results?

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman for yielding.

Mr. Chairman, I point out that we do not change the law, we do not change the Clean Air Act. The Clean Air Act specifics that if a certain percent of environmental increase in air quality is going to come from stationary sources, we do not change that, but we could under this amendment——

Mr. WAXMAN. Reclaiming my time, the gentleman is wrong on that point, because the Clean Air Act says you achieve the reduction and achieve it any way that the State thinks is appropriate. They develop an implementation plan. They can develop a mix of strategies; they do not have to go after stationary sources for a certain amount or vehicles for a certain amount. They factor in all the sources of pollution.

The point I am making is they may well have decided to tell a factory to spend a couple of thousand dollars per ton in order to achieve the reductions from a major source. But that major source can now come in and say, "Wait a second, you can get the same result from an individual car owner at a less expensive rate, and we demand that you do that."

As I read that the gentleman's amendment, the EPA would have to go along with that petition.

Mr. BARTON of Texas. If the petitioner, in the gentleman's case, the mobile source industry, shows substantial evidence they can achieve the same result with greater flexibility and lower costs, EPA does have to agree to review it. Then it has to make a final decision, and it has to prove that final decision with substantial evidence. Then the current law kicks in on the review.

Mr. WAXMAN. My point is that, using the criteria the gentleman set out in his amendment, they are going to establish that case that they do not have to have the burden placed on them as a major polluter because they can achieve the same result by requiring individual consumers who own vehicles, through an inspection and maintenance program, to achieve those same reductions, but at a cheaper rate.

Therefore, as I read the gentleman's amendment, they would be mandated to grant that petition.

Mr. BARTON of Texas. But the bottom line is we want cleaner air at lower cost or more flexibility. And I think we both agree on that.

Mr. WAXMAN. But I do not think that is the bottom line because I do not think the major polluters ought to get out from under by shifting the burden on individual citizens, since ordinary people that are going to have to pay the cost out of their pockets, many of whom would not be able to repair their cars sufficiently to achieve the standard, and that is why I object to this amendment.

□ 1600

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, members of the committee, on a visit to the British parliament recently I learned something rather interesting about a phrase we use in America, a phrase called "in the bag," and when we say something is in the bag, we normally mean it is completed, it is a done deal.

Mr. Chairman, the phrase comes from something that refers to this amendment and is appropriate to the discussion of why this amendment is vitally important and why it should be passed.

In the history of the British parliament and the fight for democracy with the monarchs in Great Britain the concept of petitioning the government for redress was a very important concept, one that was won at great cost and great loss of life in that struggle between monarchy and tyranny and the rights under a democracy. The British Parliament has come to respect that right to petition as such a strong right that it now includes in its construction a bag, literally a bag, that is placed at the door of the Parliament, and, when a petition arrives from the people of Great Britain and is accepted by the Parliament, that petition goes in that bag. Hence the expression "It's in the bag."

The expression means it is a done deal, the Parliament can no longer ignore the wishes, the petition, of the people of the country. The government must respond to the people in their request for some action, some redress of wrongs, some correction of some grievance, and so it is with the Barton-Crapo-Tauzin amendment.

Mr. Chairman, this amendment literally does the same thing for the people of America. It says that when the people of this country who are affected by rules and regulations of this Government honestly believe and can substantiate with documentation to that effect, that our Government has passed a rule or regulation which unduly burdens their life which could be amended to provide the same equivalent protection to safety, health, and the environment as the old regulation does, which could be revised so that they could live with it with less cost, fewer job losses, fewer plant closures, fewer property damages, fewer impacts upon small businesses; if there is a way to have the same protection, and yet do it with less of an impact of regulation in our lives, this amendment says the people shall have the right to petition the Government and that petition is in the bag. Government cannot ignore it, but it must act upon it in a given and expressed time period where the Government must review it.

Now it does not say that the Government must take the action that I petitioned them to take. It simply says, "If I support my petition with enough documentation to justify a request that substantial protection, the same equivalent protection provided under the old rule, can be made available with a more flexible rule, one that will cost our citizens less, one that will employ, in fact fewer lost jobs in our society, one that will shut down fewer plants, one that will let us continue to be a productive society and yet have the same safety, health and environmental protection as the old rule, that the Government cannot ignore that petition. It is in the bag, and the Government must consider it.

Now let me read to my colleagues the most important section in our amendment. It says that the purpose is to revise rules and program elements where

possible to achieve substantially equivalent protection of human health, safety or the environment at a substantially lower cost of compliancy or a much more flexible manner.

Mr. Chairman, those are the goals of this thing, and that is the only basis upon which petitions can be filed and accepted by the Government agency. I ask,

Who among you would not want our Government to review its rules to find out if we can have the same protection and still have people employed in this country? Who among you would not want our government to review its rules to make sure that small businesses did not have to shut down, that mills don't have to close, that our country can go on working and producing food and fiber for our families and have the same equivalent protection?"

Mr. Chairman, that is what this amendment does. It says when the people of our country affected by the rules this Government makes petitions this Government to look over its rules and to see whether or not there is not a better way to do it, that the Government ought to hear it and the Government ought not deny those petitions. It ought to accept them, take them into the bag, if my colleagues will, and give us a chance to get a better rule.

That is all it says, that is all it does, and anyone who opposes this amendment, says that they are just happy as a lark with any old rule that puts people out of work, and costs us too much in small businesses, and creates to much of a problem in our society, and we are not going to do anything about it. If risk assessment cost analysis has value for the future, it also has value for citizens who want to petition this Government about wrongs and to redress those wrongs with a petition process that looks back at an old rule that could be made better. This is all this does.

Mr. Chairman, I want to call to my colleagues' attention one last section of the amendment that is probably equally important. It says that nothing in this section shall be construed to preclude the review of revision of any risk assessment or risk characterization document, rule or program element at any time under any other procedures. It says in effect that while we create the accelerated review process where Government has to take account of the petitions filed by people in this country, that we still reserve the right of our people to petition this Government and to seek changes under any other procedures, any other rights guaranteed under our Constitution, protected.

In fact, Mr. Chairman, under that Constitution is a right bought and paid for with many, many lives in the history of the struggle for democracy against tyranny. The right to petition Government is what we are debating today on this amendment.

I say to my colleagues, "Those of you who believe in that right, who believe that Government ought not ignore the wishes of the people of this country when they petition Government, ought to vote for this amendment."

Mr. STEARNS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would say to my colleagues we could almost call the Barton amendment the hallelujah amendment because for many of us who have been in the private sector and have worked all our lives trying to live with all the regulations, the fact that we can now finally petition the Federal Government, hallelujah! So I compliment my colleague for what he is doing here.

We have heard examples from the gentleman from California [Mr. WAXMAN], these hypothetical examples, but let me give my colleagues a clear example that has occurred which could have been petitioned, it could have been redressed, and it could have been stopped:

In the early 1980's, Mr. Chairman, Government scientists argued that asbestos exposure could cause thousands of deaths. Congress responded by passing a sweeping law which led cities and States to spend between $15 and $20 billion to remove asbestos from public buildings. However 3 years ago EPA officials acknowledged further research. Ripping out the asbestos had been a mistake. In fact they pointed out that this mistake had really raised the exposure of the public to the dangerous asbestos fibers which became airborne during removal.

To the EPA it was a mistake. To the American taxpayers it was a $20 billion mistake. Wasted. I ask, "Wouldn't it have been nice, colleagues, to have had a second chance at that rule, to have the opportunity to petition the EPA to change its needless rule to save the American taxpayers $20 billion?" Again and again examples like that are going to occur.

To those colleagues that are watching on television, we need to pass this amendment, hallelujah amendment.

I want to conclude. Last term I was involved as a ranking member of a committee called Commerce, Consumer Protection and Trade. We had discussion on redesigning a 5-gallon bucket that is used for painting and hauling water. The Consumer Product Safety Commission analyzed it because a few children got caught in it, and their heads got caught in it because of negligence by the parents. They issued—the Consumer Product Safety Commission issued—a 101-page report. In the report the staff notes that one of their suggestions to the industry was making the bucket so that they deliberately leak. It is being objected to by the bucket makers. Naturally the bucket maker is a little concerned about designing a bucket that deliberately leaks. According to the report, quote, industry representatives claim that they do not envision any use for a bucket that leaks.

My colleagues, now is the time to pass the hallelujah amendment. I compliment my colleague, the gentleman from Texas, for what he is doing.

Mr. NORWOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment.

Mr. Chairman, I also would like to congratulate the gentleman who produced this amendment in a bipartisan fashion. I think that this probably is the most exciting thing that I have witnessed in my 54 days in Congress.

There are two parts of this amendment that I believe are very important.

What have we been doing for 2 days? For 2 days we have debated the changes needed with the rules and regulations that have been oppressive to the American people.

Why did we ever write H.R. 1022? Because the American people have finally said that they have had enough of a bureaucracy that tells them what to do from morning until night.

What is my standing in this bill, in this debate? Well, I have only been a Congressman for 54 days. I have not had the last 10–15 years writing legislation in terms of our air quality. But I have lived in the economy of this country, and I have lived under the impressive oppressive rules and regulations that this great large bureaucracy in Washington, DC, feels that they know best how I should live.

Part of the problem is I guess I am a rebel. I am much like those rebels who opposed the king, who did not want to be told what to do from the minute they get up to the minute they go to bed, and I do not want to be told what to do from the Federal Government, 435 elected officials and millions of bureaucrats.

This bill is not, my colleagues, necessarily just about General Motors and Dow Chemical. I agree with my friend from South Carolina when he says that this is a bill for the people, and it excites me every time I read this part of the bill, and if I may, Mr. Chairman, I will.

Any person who demonstrates that he or she is affected by a rule or program element referred to in subsection B may submit a petition.

That is what is important here. People at home do not believe they have any control over their lives. They believe we want to control their lives right up here. This will give them great good feelings to know that they, as an individual, can petition their government to change what we are doing.

I heard earlier this afternoon the question asked what does it require of the Government, what does this

amendment require of the Government. I ask, "Who amongst you is standing up and saying, 'What does this rule require of the small business man?'" I am ready to hear a little bit more of that in this body than just what does it require of the Government.

I ask each of my colleagues to consider strongly passing and voting for this amendment, and I congratulate the gentleman from Texas [Mr. BARTON] and the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from Idaho [Mr. CRAPO]. I think this is exciting legislation.

Mr. STENHOLM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Barton-Tauzin-Crapo amendment. Too often we hear about how Washington works in a vacuum. Too often, when the American public thinks of Washington, they think of government bureaucrats sitting behind a desk doing their own thing. To often they see a government which thinks it has all the answers. Too often they also see a government that is afraid to admit when it is wrong.

Well, Mr. Chairman, maybe we do not have all the answers. Maybe we did make some mistakes in the past. Maybe someone else knows something we do not. And maybe, just maybe, it is time we started listening and then acting.

This amendment establishes a process for agencies to update old regulations using the most current scientific data. The public would be able to submit scientific data to Federal agencies and have those agencies check the findings of old rules against new information.

Right now, when a private party asks a Federal agency, particularly EPA, to review new data and possibly modify the current understanding of a particular substance or activity, there is no guarantee that the study will even be looked at. And often it isn't.

This amendment simply requires agencies to consider and respond to new information in an open and timely manner. It keeps the scientific underpinnings of regulations evergreen.

This amendment is really about continuous improvement. It is about making government respond to scientific changes and advancements. Mr. Chairman, it's about common sense—regulations should be based on the best available information. I strongly urge my colleagues to support the Barton-Tauzin-Crapo amendment.

□ 1615

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. We have heard a lot of compelling arguments as to why we ought to do this particular amendment, and many of them make a great deal of sense. The fact is that many people are disturbed about regulations that are already on the books.

I personally am concerned about making the regular legislation before us work, because I feel very strongly that putting a process into place that brings good science and common sense and smart actions into the process is in fact the right thing to do. But I also know that if you take the step too far, that makes this into a litigious bill that in fact destroys our ability to do all of that kind of work, and we will in fact destroy that which we are attempting to do out here.

Now, I want Members to think for a moment about that whole cart of regulations that was rolled in on the floor when we were debating another bill the other day, stacks and stacks of books and paper, of Federal Registers of all the regulations that were done in just 1 year, and virtually every one of those regulations has somebody out there that does not like them.

Now, you think of all those pages and pages and pages of regulation, and then you think of all the people that have some complaint about each of those regulations, and you think about the numbers of petitions that could potentially be filed and the amount of litigation that is going to come from all of those filings, and all of a sudden you are going to have these agencies at a point where they will not be able to do some of the things we want them to do; namely, to put into effect a process for good science and common sense.

I would like to see this process work. I do not want to pass a bill that is simply an employment policy for lawyers. That is what I am afraid this amendment does. I am afraid that our attempts thus far to limit the amount of litigation that would be necessary under the bill are in fact undermined by what we do with this amendment, and I do not want to turn this bill into a lawyers' employment act.

The amendment by opposing reachback does something different from what we have done in the bill thus far. We have made a prospective bill. We have said that from now on in we are going to require regulations to come under the kinds of reviews that we have. The reviews that are in the bill are in fact designed for that kind of prospective status. You undermine our ability to do that when you pass this particular amendment.

The fact is that we can get to a lot of the regulations and the laws that are presently on the books over the next several years as this process rolls forward. Put the bill into effect that sets up a good process, and what you will have then is a series of bills coming up for reauthorization. At every one of those reauthorizations the bill then becomes covered under what we have brought to the floor today. That seems to me to be the right kind of process.

I know that the big guys, the National Association of Manufacturers, the chemical manufacturers, the petroleum people and so on, they all want this amendment. They have all worked very, very hard. But I have got to tell you, I think that it stands the possibility of being the exact kind of lawyers' employment bill that will destroy exactly the things that we are trying to accomplish here.

I would hope the Members would reject this. I think it is being done with good intent. I realize there is a body of regulation out there we would all like to get to, but let us get a process that works. Let us make this thing work as a way of demonstrating then that we can handle the whole body of regulation. There are literally tens of thousands of pages of regulation.

I have got to tell you one other thing that bothers me. I agree with some of the Members who have stood up and talked about the fact that any person can bring an action under this bill, and that sounds like a great American tradition. Trouble is, "any person" also includes foreigners, my friend, any person who wants to bring some damage to this whole process. But remember we are in a global environment, and by doing that, it also means any foreign interest can make a determination they are going to come in and disrupt regulations that may in fact in some cases protect our businesses.

It seems to me that is not something we want to do just haphazardly on the floor. I have got a concern that we are doing something here that we may not understand the full implications of. I would like to think that we could do this bill the right way, and it seems to me doing it the right way is to reject the amendment.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I appreciate the gentleman yielding. His eloquence in opposition to this has moved me to rise in order to compliment him for his good judgment.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. I yield to the gentleman from California.

Mr. BROWN of California. It was my feeling initially that this bill might not be germane to the legislation because as the gentleman correctly points out, this is an effort, through the improvement of risk assessment, characterization and cost-benefit analysis, to improve prospectively the regulatory process. This goes way beyond

that to retrospectively in effect seek to review every kind of regulation that is on the books.

But I was persuaded by the ambiguity of the Parliamentarian that this might be germane.

Mr. WALKER. Parliamentarians are often ambiguous.

Mr. BROWN of California. It is true that the impact of this amendment overwhelms the impact of the rest of the bill, and it is more appropriately considered in connection with other efforts at regulatory reform.

It was also my feeling, since you and I are primarily concerned with the nonregulatory aspects, that others should carry the burden of opposing this. But I think that it is appropriate that we suggest that this would in effect hamstring the entire, not improve, hamstring the entire regulatory process.

Now, some have said that most Members would not like that. I think there are Members here who do want to hamstring the Federal Government in every way that they can. While I can understand that, I cannot support it. My only reason for possibly supporting this would be that I guarantee you it would cause the bill to be vetoed if it ever were to get through.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. I thank the gentleman and certainly respect his opposition. I would like to see if the gentleman could tell me where there is additional litigation required by the petition process, because we do not preclude any potential litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(At the request of Mr. BARTON of Texas and by unanimous consent, Mr. WALKER was allowed to proceed for 3 additional minutes.)

Mr. WALKER. I yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Chairman, we do not add anything in the petition process that requires litigation or precludes litigation that could exist under current law.

Mr. WALKER. Mr. Chairman, reclaiming my time, first of all to bring the process in the first place, you are going to require it to come in in a form that can in fact be done by the agencies, and the agencies, in collecting all of this material and so on, are going to have to put it in a form that legally reflects the regulations. So right away you set up that process.

Ultimately, I assume, it is my understanding that under the bill you subject it to the same judicial review that is already in the bill. You do not include judicial review in your petition, but in relating to the rest of the bill, you bring it to the stage of judicial review. So all of that regulation, all of that cart of regulations brought on to the floor the other day, if all of that was challenged, it would also be subjected at some point to judicial review.

So while it is not stated in your amendment, the effect of your amendment is to dramatically increase the amount of regulation that would come under judicial review.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman would yield further, I would respectfully disagree with that, because we set up a process that is fairly circumscribed as to what has to be in the petition, the time frame the petitions can be reviewed, and we do have a date certain in which if the agency determines to take a petition, that they have to consider it and make a ruling. So none of that is litigious.

Mr. WALKER. Mr. Chairman, reclaiming my time, but under that ruling, under the provisions of the bill, this is a final action subject to judicial review at that point.

Mr. BARTON of Texas. Mr. Chairman, if the gentleman will continue to yield, the bottom line, and I respect the gentleman for letting me ask some questions, we simply have to have a way to at least review existing rules and regulations that allows America to come in and request this. We disagree on that.

Mr. WALKER. No. But I understand that. But we have some idea of what we are dealing with in terms of regulations. For instance, we know that in a period of time in the early nineties, about 2000 EPA regulations were written. We know how many of those fall over the $100 million mark. We have some idea how many fall over the $25 million mark. We have some idea how much we are going to be dealing with over the next few years as these agencies write the regulations.

What we do not know under the gentleman's process, since any person can come in and complain about anything ever done in the regulatory sense of the Federal Government, we have no idea how that may explode.

Mr. BARTON of Texas. We have the same requirements. It has to be the $25 million threshold. We do not change that. We require quite a bit of documentation in the petition process. We also require they show it would be cost effective.

Mr. WALKER. All of that documentation process is going to involve attorneys and all kinds of people in order to do the appropriate documentation. That to me is litigation. The idea that any citizen is going to be able to pop out of the woodwork and bring it in, the gentleman describes it correctly, that is not really going to happen. You are going to have monied interests that are going to be involved here.

Mr. EHLERS. Mr. Chairman, I rise to oppose the amendment and support the comments made by the committee chairman, who spoke just a few moments ago, although I come at it from a somewhat different angle, speaking from my scientific background.

Mr. Chairman, I simply want to repeat a warning I gave during our discussion of this bill in the Committee on Science. Risk assessment is in fact an idea whose time has come. It is a good idea. But at the same time, let us not assume that this is a panacea, that it is going to resolve regulatory difficulties, and that everyone is going to agree with the results and say hallelujah, this is wonderful, and now we can do this and save money and still protect the environment.

It is difficult to do. There are many factors involved which are not fully understood, as we can see just from the debate here over the past day. It is not going to be a panacea, it is going to be difficult to implement. The number of people who truly understand risk assessment and how it proceeds is limited in this Nation, and we have a considerable amount of expertise to build up.

In other words, I support the bill. I am anxious to see it go into effect. I hope it works as well as I think it will. But I believe that we have to evaluate how well it works and get a better handle on it before we try to broaden it too much. For that reason, I oppose this amendment, even though I do commend the gentleman from Texas [Mr. BARTON] because the amendment is indeed better than the original version that was contained in the Committee on Commerce version of the bill.

I believe that as written, and given the nature of the backlog of cases out there that people are concerned about, this amendment would result in overwhelming the process and perhaps in fact very likely making the entire risk assessment process unworkable. I think it is very important to put this bill in place, prove that it does work when properly applied, and develop the experience and expertise that we need to really make risk assessment work and work well.

We will have ample opportunity in the future to broaden the process, to adopt the petition process, and to go back and review other regulations. But I truly worry that we will overwhelm the system, we will overwhelm the process, we will overwhelm the people who are available to do risk assessment, unless we proceed carefully and first of all establish the process according to the bill, demonstrate that it works, and then it is going to become, if we succeed, as I hope we do, so self-evident that this process should be used in all cases, that in fact we should go ahead and apply it to other cases.

□ 1630

In other words, I oppose the amendment because I believe it is going to be deleterious to the bill and deleterious to the goals of the sponsor of the amendment.

I urge the defeat of the amendment and the passage of the bill.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, H.R. 1022 is a good bill. It will dramatically change the way regulations are promulgated in this country and bring some common sense into the process. However, there is one serious flaw—it does nothing to improve regulations that were promulgated under standards lacking in cost-effectiveness or based on poor science. The Barton-Tauzin-Crapo amendment addresses this problem.

The current cost of regulation on the economy is conservatively estimated to be $500 billion annually. This translates into $10,000 for a family of four. To put it another way, 10 cents out of every dollar goes to pay for the cost of regulation. The current lack of risk assessment and cost/benefit analysis means resources are being used inefficiently and only adding to this burden.

We need to address the issue not only of unreasonable prospective regulations, but also of those that are currently weighing down the economy. Under this amendment, any party affected by a major regulation or risk assessment covered in H.R. 1022 can ask the Federal agency to review its rule to take into account new information on risk and/or cost.

The review is only available in cases where the petitioner demonstrates that existing regulations are not cost-effective methods of addressing the targeted risks. The point of this amendment is to give citizens the opportunity to find better ways to achieve the same protections currently provided.

Some concerns have been raised about the potential for increased lawsuits as a result of this process. Several points should be made in response:

In the first place, remember that a petition process already exists under the Administrative Procedures Act, complete with judicial review. The Barton amendment simply expedites the process for the agencies covered by this bill.

Further, no new rights to go to court are created by this amendment. Citizens retain their right to judicial review under the petition process currently in the APA.

To prevent frivolous petitions, the amendment sets up many hurdles. The burden is placed on the petitioner to provide the scientific and economic evidence to support the rule revision. The result is that few petitions are likely to be offered.

Additionally, because petitions can be filed only to decrease costs imposed by regulations or to make them more flexible, antibusiness interests are not likely to file petitions. Nor can antibusiness interests use this amendment to increase the costs or make regulations more inflexible.

The bottom line is this: H.R. 1022 establishes improved risk assessment and cost/benefit standards for new regulations; why should we leave untouched the scores of current regulations that fall short of these standards? Instead, we should allow citizens to petition agencies with their ideas for revising existing regulations to achieve the same amount of protection at a lower cost of compliance, in a more flexible manner, and using sounder science.

There are many who have had years of experience complying with these regulations and seeing firsthand the inefficiencies of how they work—or do not work. Where they can identify a way to do things better for less cost, we should welcome the opportunity to take advantage of their experience to make the process more efficient and more effective.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the gentleman referred throughout his remarks to American citizens. The gentleman would grant that the language in the bill would give the same rights to foreign citizens as Americans citizens, would it not?

Mr. DELAY. Mr. Chairman, yes, I would assume so.

Mr. WALKER. Mr. Chairman, I thank the gentleman.

Mr. DELAY. I find no problem with that. If foreign citizens are creating jobs in this country and are being regulated by this country, they ought to have the right to petition, if they have a better idea on how to save costs and implement these regulations in a more efficient way.

The CHAIRMAN. The time of the gentleman from Texas, [Mr. DELAY], has expired.

(On request of Mr. COLEMAN, and by unanimous consent, Mr. DELAY was allowed to proceed for 1 additional minute.)

Mr. DELAY. Mr. Chairman, I yield to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Chairman, I thank the gentleman from Texas for yielding to me.

Being in opposition to H.R. 1022, in many ways I viewed this as really a character of many of the valuable aspects of risk assessment.

Instead of imposing a $100 million threshold before setting into play the complex cost-benefit analysis proposed by the bill, this bill sets a $25 million threshold; is that correct?

Mr. DELAY. Mr. Chairman, that is correct. We set a $25 million threshold because we said if you set a $100 million threshold, you eliminate 95 percent of the regulations that we are trying to bring good, efficient cost-benefit analysis to.

Mr. COLEMAN. Mr. Chairman, if the gentleman will continue to yield, I notice the Wall Street Journal pointed out that the bill "is harder on Federal regulators than even industry thinks wise."

I just thought I would point that out. Another little problem which I consider a missed opportunity.

Mr. DELAY. Mr. Chairman, that is one of the fallacies of the arrogance of the elite into thinking that it is more important for the bureaucrats to have an easier time to impose regulations rather than American citizens.

Mr. COLEMAN. Mr. Chairman, I thank the gentleman for yielding to me.

I rise today in opposition to H.R. 1022, the Risk Assessment and Cost-Benefit Analysis Act. I do so with some reluctance, because I made a concerted effort to find reasons to vote in favor of this legislation. I am a firm believer in the benefits of cost-benefit analysis. Indeed, when I worked in the Texas State Legislature, we operated under the principles of cost-benefit analysis, and the results were quite positive.

Under such a system, we were required to determine whether the costs imposed by our legislation would be more than offset by the benefits to public health, safety, and economic well-being. I strongly support such a system. I know that it eliminates wasteful and unnecessary regulation, and that it lends greater legitimacy and force to those regulations that provide important safeguards for human health and the environment. I know the Congress needs to pass a similar bill. But once again, I find myself confronted with a bill that I simply cannot support.

The current administration has already made substantial gains in streamlining and improving the Federal regulatory process. Under an Executive order issued in September of 1993, every regulation with an economic cost of over $100 million is subject to an agency cost-benefit analysis. This is an important first step, and there is a great deal that we can do to further this efforts. We need to give greater consideration to the views of those affected by regulations, including those who must perform regulatory tasks. We need to move away from litigation as the solution to the regulatory nightmare, and instead solve the problems at their source: the regulatory agencies. We need to show flexibility in our evaluation of existing regulations. The administration supports such initiatives. We have the opportunity to draft legislation that will complement this endeavor. H.R. 1022 represents a missed opportunity.

The bill before us today is, in many ways, a caricature of many of the valuable aspects of risk assessment. Instead of imposing a $100 million dollar threshold before setting into play the complex cost-benefit analysis proposed in this bill, H.R. 1022 sets a $25 million threshold. The Wall Street Journal noted on February 9 that in this respect, the bill "is harder on Federal regulators than even industry thinks wise." The $25 million threshold is simply too low. It will impose a costly and time-consuming examination process on regulations with economic effects so minor that they do not warrant this level of scrutiny. That translates into the squandering of taxpayer dollars.

Additionally, rather than eliminate the legalistic nightmares often associated with regulations, this bill will compound them. By allowing judicial review for regulations deemed noncompliant with the terms of H.R. 1022, we are inviting years of litigation on numerous regulations. This will not be good for business; it will not be good for the environment; it will not be good for human health. No one will really benefit from the glut of court cases that will occur as the result of this bill. And we have rejected an amendment that would prevent this litigation explosion.

Furthermore, under the guise of giving increased consideration to the views of affected groups and front-line regulators, this bill allows for review panels with inexcusable biases. Those industries with large financial interest in regulatory issues at stake would, under the terms of the bill, participate on a Federal peer review panel. Major polluters will now play a legitimate role in illustrating why their financial interests are more important than clean air or water. Peer review should not be skewed so far in favor of powerful industrialists. Yet that is the situation created by H.R. 1022.

Finally, I have stated that we should look with critical eyes upon past regulations, and see what can be fixed. But H.R. 1022 fails to take a rational course of action with respect to this aspect of regulatory reform. Instead, it threatens all of the progress that we have made over the past few decades through regulation. The bill ensures that in cases where the new law conflicts with old regulations, the old regulations are systematically superseded. This puts important legislation such as the Clean Air Act and the Safe Drinking Water Act at risk.

In the name of numerical scientific analysis, we are threatening to gut regulations which, through the years, have had extremely positive effects on the lives of the people of this country. In short, Dr. Gibbon, Director of the Office of Science and Technology Policy testified the bill "would place the safety of all Americans in the hands of recipe-following number-crunchers whose idea of public health is the bottom line on a ledger sheet—the very antithesis of what we should be doing."

I am not ready to give up on regulatory reform. I believe there is still time for an effective and prudent bill to be passed by this body. We still have the opportunity to work with the Senate in crafting a piece of legislation that will stop the relentless regulatory regime. We can still create a law that will allow us to work with the Clinton administration in their efforts to change the regulatory system.

I would like to have the future opportunity to vote in favor of a more carefully framed risk assessment and cost-benefit analysis act. But I am disappointed that the rush to meet the 100-day deadline of the Republican contract has resulted in such shortsighted legislation, which I believe will put many Americans at risk. Therefore, I am voting against H.R. 1022.

Mr. LARGENT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of this amendment.

Mr. Chairman, there has been a lot of questions, a lot of debate, a lot of rhetoric about whether this amendment would in fact increase the amount of litigation in this country. There is no question about that. It certainly would increase the amount of litigation. There is good reason for that.

Who would question in this body that there have been a number, a large number of laws, regulations and rules that have been enacted in this country that are both egregious and punitive, that have had the law of unintended consequences take place.

And if I have the picture correct on the arguments as to why this bill should be defeated, it is this, that Mr. Constituent, Mrs. Constituent, the reason I had to vote against the Barton amendment was that we have passed so many laws and so many rules and so many regulations that are egregious and punitive and that are wrong and that have had unintended consequences that we now are afraid that there is going to be so many legal actions taken that we have to vote against the Barton amendment because we have overwhelmed you with this type of rules and regulations and so now we are afraid of the brunt of your anger and the brunt of your legal actions against the Government for the rules that we have passed that we cannot allow you the opportunity to redress those situations.

I want to speak and give one particular example from my district. As I campaigned before the election in November, I had the opportunity to talk to a gentleman in my district who is the CEO of a large oil and gas company that owns and operates an oil refinery in Louisiana. And he said in their budget over the next 5 years they have budgeted $1.5 billion to meet EPA standards as they impact their oil refinery in Louisiana.

And his comment was this, we have no problem with the goal that the EPA establishes for us for clean air and clean water for those citizens that live in and near the community that our refinery operates in, but the problem we have is this, we have no problem with the goal. But the problem is the rules that establish how we reach the goal are so rigid that in fact if we could use our own ingenuity, our own enterprise and left to our own device, that we could meet or exceed the goals established by the EPA and cut the cost $1.5 billion, we could cut the cost in half, save $750 million.

You want to know what the cost of this regulation is, the cost of this amendment? It is that we will improve the efficiency and the effectiveness of the business community, thereby increasing the number of jobs. We talk a lot about improving the living conditions and the wages of the common man. That is what this amendment is all about, is by relieving the regulatory burden that we have already placed upon the backs of our business community and the industries in this country today, we want to give them an opportunity to relieve themselves of the burden, the law of unintended consequences, thereby creating more jobs, improving the standard of living. That is what the Barton amendment is all about, and that is why I rise in support of the Barton amendment today.

Mr. BARTON of Texas. Mr. Chairman, will the gentleman yield?

Mr. LARGENT. I yield to the gentleman from Texas.

Mr. BARTON of Texas. There has been some talk that somehow it is just the big business interests that support this amendment. The American Petroleum Institute does support it. The Chemical Manufacturers Association does support it. But the National Federation of Independent Businesses, which is a small business organization, supports it. And if you look at the list, the Alliance for Reasonable Regulation and you look through all the companies that support the bill, they also specifically support the Barton-Tauzin-Crapo amendment. There is some companies in here, while I am not personally cognizant of them, I do not think Barney Machinery Co. is a big business. I do not think the American Lawn Mower Co. is a big business. So it is small business, the people that exist, and as the gentleman pointed out, have to live day to day under these regulations that are supporting this very important amendment.

Mr. TIAHRT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, with all due respect to my chairman of the Committee on Science, I rise in support of the Barton amendment, because I think that it is important to stop the Government regulation and the strangulation that is happening to the American jobs. This Barton amendment is going to allow the average American citizen to rise against regulations. It sets up a process that allows them to have a voice in this, because I think many of these regulations were developed, they implemented using some type of a risk assessment approach that would be somewhere between a 5-year weather forecast and voodoo.

Unfortunately, it has not stopped the long arm of big Government from getting into my home State of Kansas. There is a heavy equipment dealership in Kansas City, KS. Dean runs it, and he has fallen subject to the net of CERCLA, which is the Comprehensive Environmental Response Compensation Liability Act. His name showed up on a 1972 ledger. This came up last December so it had been brewing for some time, 22 years, but he had $127 worth of waste that was put into the now closed Doepke-Holliday landfill in Kansas City, KS.

The company had shipped some paper cardboard boxes, some similar debris. It was not hazardous waste. Yet the law places a burden on Dean to prove

it. Because Dean and 17 other companies are minimal contributors to this landfill, the EPA has given them the option of paying $10,000 to $20,000 each to settle potential cleanup problems. If they do not pay this amount of money, then they will run the risk of paying that portion of the bill later on which could be as high as $10 million.

So this current regulation is putting them under a problem. They would like to fight against this problem, this regulation. But under current law they have not.

We talked about the increased amount of litigation that would go on here. I think there are safeguards in place. I have another man in my district that would really like to get at some current regulations. He recently sent me a Privacy Information Act that was given to him by the ATF when he applied for a gun license. He is not going to be able to fight this even under the Barton amendment because he will not be able to prove the $25 million threshold as a safeguard that is in place. But under this form it says that the information that he will provide to this Federal U.S. Government bureaucracy says that they may disclose this information to a foreign government. And he is upset by that and would like to fight it. But because of the safeguards that are in place, there will be no court action on this one issue.

So I think that there are safeguards in place. I think it allows the average American citizen to fight against the loss of his job by grouping together inside the guidelines, and I would stand here in support of this amendment.

□ 1645

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. BARTON].

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

RECORDED VOTE

Mr. DINGELL. Mr. CHAIRMAN, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 220, not voting 8, as follows:

[Roll No. 179]

AYES—206

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barton
Bass
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Forbes
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Geren
Gillmor
Goodlatte
Goodling
Gordon
Graham
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kleczka
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Mica
Mollohan
Montgomery
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Pombo
Poshard
Pryce
Quillen
Quinn
Radanovich
Riggs
Rogers
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Shadegg
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Upton
Vucanovich
Waldholtz
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOES—220

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Bartlett
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Cardin
Castle
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dingell
Dixon
Doggett
Doyle
Durbin
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Goss
Green
Greenwood
Gunderson
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kingston
Klink
Klug
Knollenberg
Kolbe
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Moorhead
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roberts
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stark
Stokes
Studds
Stupak
Taylor (MS)
Thompson
Thornton
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Wamp
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—8

Gonzalez
Gutierrez
Hunter
Lipinski
Miller (CA)
Pickett
Rush
Ward

□ 1703

Messrs. DEUTSCH, OWENS, MARTINEZ, MANZULLO, TOWNS, NETHERCUTT, MOAKLEY, JOHNSON of South Dakota, and DOYLE changed their vote from "aye" to "no."

Messrs. HYDE, ROTH, BURTON of Indiana, and KASICH, and Ms. PRYCE changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. HAYES: On page 8, at the end of line 3, add the following:

"Nothing in this Section (iii) shall apply to the requirements of Section 404 of the Clean Water Act."

Mr. HAYES. Mr. Chairman, this is an amendment that simply furthers the purposes of this act, the purposes which I wholeheartedly support in regulatory reform.

It merely says that under the permit section that there are some permits like section 404 of the Clean Water Act that ought to be clearly distinguished from some of the language of the bill in its application.

I have spoken to the majority, and I would certainly yield to the distinguished chairman for any comments he may have.

Mr. BLILEY. Mr. Chairman, we in the Committee on Commerce see what the gentleman from Louisiana is attempting to do. We in the majority have examined the gentleman's amendment and agree that there was no intention to include wetlands permits under the Clean Water Act. Section 404 is also sometimes coordinated with the

Corps of Engineers. An exclusion would be consistent with the colloquy I had earlier today with the gentleman from Michigan [Mr. STUPAK].

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. This is the gentleman's amendment on page 8, is that correct?

Mr. HAYES. That is correct, yes, sir.

Mr. WALKER. We have no objection to the amendment.

Mr. HAYES. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BOEHLERT

Mr. BOEHLERT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHLERT: Page 29, strike line 18 and all that follows through line 6 on page 30, and insert in lieu thereof the following:

(1) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

(2) FAILURE TO CERTIFY.—In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefore in such report and publish such statement together with the final rule.

Mr. BOEHLERT (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 New York?

There was no objection.

Mr. BOEHLERT. Mr. Chairman, I would like to point out at the outset, this amendment has bipartisan support and is strongly endorsed by every environmental and consumer advocate group that is identified with this legislation. That is critically important.

H.R. 1022 makes regulations that are being issued pursuant to existing laws subject to risk and cost-benefit analysis. I agree with the authors of H.R. 1022 that these analyses should be done. By conducting the analysis outlined in H.R. 1022, agencies will be assessing regulations in a manner which should lead to more reasonable regulations, and that is something we all want, more reasonable regulations.

However, H.R. 1022 carries the use of risk and cost-benefit analysis one step too far. Under this bill, critically important health and safety regulations could be stopped if one of the many elaborate analyses required under this measure could not be certified.

This means that existing statutes debated and approved by Congress could be, in effect, gutted because some administrative bureaucrat could not certify, for example, that the regulations was the most flexible regulation option. Existing law would be superseded by the supermandate language of H.R. 1022.

Let me read this language. It appears on page 29 of the bill, lines 18 through 23.

Nothwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

What my amendment would do, Mr. Chairman, is ensure that risk assessments and cost-benefit analyses are done. However, when there is a conflict between a regulation arising from legislation debated and approved by this Congress and an assessment done by some bureaucrat, the head of the relevant agency will report the conflict to Congress.

Congress, the people's elected body, will then examine the conflict and, where appropriate, amend the statute giving rise to the regulation. The U.S. Congress, not some nameless, faceless bureaucrat, will decide our Nation's health, environment and safety policies.

I would like to now read the amendment that the gentleman from Louisiana [Mr. HAYES] and I are offering.

Section 1. Rule of Construction. Nothing in this Act shall be construed to modify any statutory standard or requirement or to alter any statutory or judicial deadline. No failure or inability of an agency to make the certifications required under this section shall be construed to bar an agency from acting, or to authorize an agency to fail to act, under other statutory authorities.

Section 2. Failure to Certify. In the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Mr. Chairman, this amendment has broad bipartisan support, and for good reason. It provides for risk assessment to be used in a manner that improves our laws, not gut them on an ad hoc basis. We support taking a hard look and revising where warranted existing health, safety and environmental standards. But the way to accomplish this is through a statute-by-statute examination, not through a shotgun approach that will likely do more damage than good to the American people.

I urge my colleagues to join the bipartisan coalition led by the gentleman from Louisiana [Mr. HAYES] and myself is assuring that risk assessments are used effectively. I urge support of the Boehlert-Hayes amendment. We have a very, very important responsibility in this House. Let me stress, every single environmental agency that has examined this proposed legislation and this amendment is supportive of this effort as is every consumer advocate group.

Ms. ESHOO. Mr. Chairman, I rise in strong support of the Boehlert amendment which ensures that the risk assessment bill does not override existing laws.

The Boehlert language is necessary to safeguard critical safety and health regulations and the people which these regulations are designed to protect.

Mr. Chairman, despite the good intentions of this bill, the Boehlert amendment is needed because this legislation is poorly drafted, hastily reviewed, and now before us without a clear understanding of its consequences.

Let me give my colleagues one ominous example of what we are faced with here:

During the Commerce Committee markup of the bill, I offered an amendment which highlighted the unintended dangers posed to women's health by this bill, specifically breast cancer.

What I did was subject one bill—the Mammography Quality Standards Act—to the requirements of the risk assessment bill. Not only did this example show how dangerous this bill is to women's health and mammography standards, it demonstrated how little the framers understand it and the effects it will have on current laws and regulations.

The Mammography Quality Standards Act helps ensure sound mammography services by regulating facilities which provide mammograms.

Under the bill considered by the Commerce Committee, the FDA, which implements the mammography act would have needed to perform a series of complex, costly, and time-consuming risk assessments and cost-benefit analyses before those regulations could take effect.

As a result, this important law could have gone unenforced or been subject to lengthy court procedures.

Mr. Chairman, breast cancer is already the second leading cause of death in American women and 50,000 women die each year from this disease.

We all know that without a known cure, the key to battling this devastating killer is early detection. Mammograms can detect breast cancer up to 2 years before a woman or her doctor can feel a lump and if the disease is found at these early stages, it is 90–100 percent curable.

Prior to passage of the Mammography Quality Standards Act, there were no national, comprehensive quality standards for mammograms that applied to all facilities.

Quality needs to be assured at these facilities—studies show that faulty diagnoses or early tumors due to poor image quality or incorrect interpretations result in delayed treatment, more

costly medical procedures, and higher mortality rates.

Mr. Chairman, when I offered my amendment at the Commerce Committee I asked if the mammography bill would be affected by the risk assessment bill. With the assistance of the majority counsel, the majority response was "yes" the risk assessment bill would affect provisions of the Mammography Quality Standards Act.

Despite this acknowledgement by the majority, my amendment to exempt critical women's health protections from this drawn out process was defeated along party lines. In fact, one of my Republican colleagues said he could not support the amendment because it would prevent us from setting appropriate priorities—in other words, there might be higher priorities than providing women with good-quality mammograms; there might be higher risks than the deadly disease of breast cancer.

After the committee reported out the bill, I received a memo from the chairman of the Health and Environment Subcommittee informing me that after taking another look at the bill, the Mammography Quality Standards Act would not be subject to the requirements of the risk assessment bill because it is administered by the Department of Health and Human Services which is not subject to the requirements of the bill. The chairman said in the memo that the point would be clarified in the committee's report.

This point was never clarified in the committee's report.

And upon checking myself, I learned that although HHS has statutory authority over the bill, the FDA, which is subject to the bill, implements the Mammography Quality Standards Act and therefore has administrative authority over the bill.

□ 1715

The large bells went off. The reason why I take this time to explain all of this, which is a long story but a very important one, is that if we take the laws of the land today, and have to subject them to the language, and I only use this one example, the Mammography Standards Act, it does not pass muster.

So I pay tribute to my colleague from New York and to the bipartisanship of this effort with this amendment. I think it is needed. I hope I have given a very good example of why it is needed.

Mr. WALKER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment and I do so for much the same reason that I opposed the previous amendment. In the case of the previous amendment there was an attempt to reach back, and in my view that does not make good sense in terms of this legislation. But this legislation is designed to do regulations prospectively, and that is what the author of this amendment now comes to us and tells us we should not be able to do. He says that under the laws that presently exist, even amendments written in the future ought not be covered by the provisions of the bill that we are passing.

I just think that makes no sense. It seems to me that if in fact we are going to require good science on legislation that we pass now, we ought to require good science on things that were passed before. If we are going to require cost-benefits on legislation we pass now, we ought to require cost-benefit analysis on things that were passed before.

This is not anything talking about regulations already in place. This is talking about regulations that the agencies are going to write in the months and years ahead. And it seems to me that the provisions of this bill should apply to those kinds of things.

All we are requiring is risk assessments and cost-benefit analysis that are objective and unbiased. We are saying that the incremental risk reduction benefits of a major rule will be likely to justify and be reasonably related to the incremental cost of the rule and that regulation is either more cost-effective or provides more flexibility to State and local government or regulated entities or other options.

That is all this bill is about, and all we are saying is regulations which are pursuant to the laws that are presently in place ought to meet that kind of criteria.

In short, this legislation would supplement and if inconsistent with prior law would supersede the requirements of prior law when that prior law prohibits regulators from considering the criteria just described.

Regulators should be forced to justify their laws. Why? We have already seen the kinds of things that too often happen and could be stopped if we had good patterns. For instance, under the Safe Drinking Water Act, Columbus, OH, must monitor a pesticide that is only used to grow pineapples. I do not know how many pineapples are grown in Columbus. That is probably some overkill that is in the laws. Maybe some of that overkill could be utilized in better ways.

The Superfund Program has cleaned up fewer than 20 percent of the hazardous wastes sites at a cost of $25 million per site. Much of this money has been used to clean up sites that pose no health risks. According to EPA's own data, only 10 percent of the Superfund sites pose actual health risks. The other 90 percent pose hypothetical risks dependent upon future behavior.

Now once again, I think we ought to have some criteria that judges that, and if what we are doing is spending our money to clean up hypothetical problems rather than real problems, maybe we ought to get real, maybe we ought to start cleaning up real problems and have some process by which we evaluate that.

There is the now famous incident where EPA required a hazardous waste dump site to be cleaned up to a point where a child with a teaspoon eating the dirt could eat a teaspoonful of dirt for 70 years under the provisions of the agreement.

Well, I do not know, I mean kids in my area I know do from time to time go out and eat some dirt. Most of them, though, sometime before they reach age 70 stop that behavior. And it seems to me that once again we have a regulation that was written in a way that makes no sense. We ought to require regulators to have a higher standard.

Mr. OXLEY. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding. He points out a very interesting issue that we are going to be dealing with, wrestling with in our committee as far as Superfund is concerned, and the gentleman is absolutely right. The cleanup standards are beyond belief. They have driven the cost of the Superfund Program skyward when we are not really getting the cleanup where needed. It is based on poor science, it is based on politics, it is based on scare tactics instead of real science. And this bill is to address those kinds of inconsistent, very expensive kinds of propositions in the regulations.

So, if the amendment were to be adopted, it would destroy the ability to really solve the problem of these new regulations that are coming about.

We want to do them by each program and we will be doing those within the Superfund Program, but obviously if you believe in the regulatory madness that is going on right now, you would support this amendment.

I suggest quite the contrary, so I appreciate the gentleman pointing out the Superfund Program. It is an excellent example of these regulations run amok.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. BOEHLERT. Mr. Chairman, I thank my chairman for bringing this up, but I want to point out that if the agency cannot certify all of the things that are required in H.R. 1022, then the agency has to come back to the Congress and the Congress, the people's representative body, would make the determination.

Mr. WALKER. But all we are saying in terms of prospective regulations is why do we have to have the extra step of coming back to the Congress for every regulation that is issued? Under present law they have to comply with these regulations. There is no need to come back to the Congress. All we want to say is for any new regulations written under old law there should be no need to come back to the Congress. All of this is going to come back to the Congress anyway because we are going to go back to reauthorization approaches. The gentleman wants to add an extra step with regard to old law and I think that makes the risk assessment more inflexible and does not make any sense in terms of where we are headed.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from New York.

Mr. BOEHLERT. I would point out if the rule the gentleman is advocating were applicable 25 years ago, we would not have had the progress we have had with lead in gasoline.

Mr. WALKER. I just absolutely disagree with that. The head of the Harvard School of Public Health, the risk analysis portion, says absolutely the opposite. Lead-based gasoline would have been approved under science-based application.

Mr. TAUZIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. If I were trying to draft an amendment that very clearly defeated this bill, I could not have done a better job than the author of this amendment.

This bill provides for two requirements in the law basically. It says that when a new rule is going to be promulgated by an agency it needs to do two things. It needs to do a risk assessment and it needs to do a cost analysis.

Now if I were drafting an amendment designed to kill this bill I would see to it that I gave the agency a chance to avoid both of those requirements, and guess what? This amendment does exactly that.

If the agency currently is writing rules under a statutory requirement that costs cannot be considered in the implementation of those rules, and many of our regulatory laws have such a provision, the endangered species is a good example. It says that once a species is listed you have to cover it, regardless of costs, regardless of how many people are put out of jobs, regardless of how many businesses have to shut down, regardless of how much private property has to be put out of commerce. It says you protect that species regardless of the cost of it.

So, if you were operating under a statutory requirement that says do this and you do not have to worry about costs, under this amendment you would be protected in that statutory requirement. You would never have to do a cost analysis.

Let us assume that you want to avoid doing a risk assessment as well. Under this amendment the author has included words to say that nothing in this act shall be construed to modify or to alter any statutory or judicial deadline. Here is the way you avoid risk assessment under this deal. You simply say we are under a statutory deadline. We do not have time to do a risk assessment, cost-benefit analysis. We have to meet this deadline, therefore, we have promulgated this rule without the benefit of risk assessment, cost-analysis.

How do you avoid it under a judicial deadline? Let me tell my colleagues how cleverly some of these agencies work. Friends of the Earth sued our Interior Department recently and sued the Department on a claim that the Interior Department was not listing species fast enough. There were 4,000 candidates for listing before the Interior Department, by the way, nominated by a single biologist in most cases, and they were not moving fast enough to list these species. So Friends of the Earth filed a suit, and guess what our Interior Department did? It did not contest the suit, it did not go to court and argue that we really have to do a scientific study before we list a species. It instead went into closed doors, behind chambers and agreed to a consent judgment that said okay, we give up; we are going to list 200 new species within the next 18 months, regardless of whether we do any scientific review of whether those species ought to be listed as threatened or endangered. We automatically list 250 new species and under this amendment you have to meet this new judicial deadline of 18 months so we cannot do a risk assessment, cost-benefit analysis of that rule listing 250 new species which may not be threatened, may not be endangered, but the Interior Department has consented to judicial judgment agreeing to do so.

□ 1730

If I wanted to defeat this bill, if I wanted to make sure you never did risk assessment, if I wanted to make sure all the statutes that say you cannot take cost into account are not changed by this bill, I would adopt this amendment. This amendment says you do not have to take cost into account. If the statute says that currently, this amendment says you do not have to do risk assessment if you do not have time. This amendment says you do not have to worry about risk assessment, cost-benefit analysis if you are operating under a consent judgment that you agreed to, so list 250 new species even though they may not be threatened or endangered.

This amendment ought to be defeated.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. TAUZIN. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress to my colleague from Louisiana that I am fully supportive of risk assessment and cost-benefit analysis. Let us make that very clear at the outset. But if the agency involved could not make the certification required under H.R. 1022, that agency would have to report to Congress, and the People's House would make the ultimate determination, not some bureaucrat in the bowels of some building downtown. The People's House, the Congress.

Mr. TAUZIN. The problem, if I can respond, is this House has already spoken in many of these regulatory statutes, and in many cases unfortunately those statutes were written in another day and time. Those statutes say you cannot take cost into account. This bill would change that. It would say from now on you take cost into account. You provide the same level of protection. You simply try to do it with the least-cost option. You do it with more flexibility.

If this amendment is adopted, you go back to the old law. This bill to create risk-assessment, cost-benefit-analysis requirements is defeated by this amendment. This amendment ought to be defeated.

Mr. BARTON of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out that the substitution the gentleman from New York is attempting to offer, if he offers it successfully, in my opinion, it really guts the intent of this bill, because the whole reason that we are doing risk assessment is to say that we ought to put in process a basis, a system, that uses scientifically valid risk-assessment principles in a forward way in terms of new laws and new rules and in terms of existing law.

If there is something underway already, they have to use these principles that we put in the legislation, and the amendment offered by the gentleman from New York [Mr. BOEHLERT] very, very plainly states that nothing in the act shall be construed to modify any statutory standard or requirement in existing law.

He also eliminates the substantial-evidence test that has been put into the legislation that says when we do risk assessment in the future, promulgate a new rule or regulation, you have to show there is substantial evidence proving it should be done.

So there are a number of reasons that I think this is an unwise substitution. I oppose it. I would hope my colleagues would oppose it.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me stress what is said in my amendment under that section entitled "Failure to Certify," it says in the event that the agency head cannot make any certification required under this section, the agency head shall report to Congress that such certification cannot be made and shall include a statement of the reasons therefor in such report and publish such statement together with the final rule.

Then Congress would work its will. We are the people elected by the citizens of America. We have the public trust in hand.

Mr. BARTON of Texas. Reclaiming my time, what we have said in this act of Congress that is before us, H.R. 1022, we are saying in earlier sections that we want scientifically valid risk assessment to be used in the future, and we say in this section notwithstanding any other provision of Federal law, we want it to be used from now on if there is a conflict.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania [Mr. WALKER], who just defeated me on my amendment.

Mr. WALKER. Mr. Chairman, well, the gentleman and I are together on this one.

Mr. BARTON of Texas. Hallelujah.

Mr. WALKER. But the question is here what happens in terms of regulations, and the gentleman from New York keeps reading this statement about coming to Congress. All they are doing is reporting to Congress. The final rule goes ahead despite the fact it is in violation of the cost-benefit analysis, so the gentleman has come up with a way of reporting to the Congress that we, the agency are going to disobey the law and the heck with you. That is exactly the kind of arrogance that we are hoping to stop with the bill that we are writing.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I think it is even worse than that. If you read the language, it says no failure or inability of an agency to make the certification is required under this section. The language of the line just above it says you are not required to do it. You are not required to do a cost-benefit analysis if it is going to alter any statutory requirement, for example, you have to consider cost. You are not required to do it if you are under an agency deadline. You are not required to do it if you are under a judicial deadline. If you are not required to do it, you do not have to issue any certifications either. It is a very clever set of language. If you read it together, it makes pretty good sense. If you can make sense out if it, it kills the bill, It ought not pass.

Mr. BARTON of Texas. That is why I am opposed to it. The gentleman from Pennsylvania [Mr. WALKER] is opposed to it.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from New York.

Mr. BOEHLERT. Let me tell you the case about Milwaukee, the cryptosporidium when 104 people died, 400,000 people were made ill because they drank the water from a public water system in one of our Nation's premier cities.

I would suggest if we are able to determine the likely cause of that problem to protect other cities and other millions in the future, and there was a proposed rulemaking and somewhere along the line some bureaucrat screwed up, you would say then stop everything, we cannot go forward.

Mr. BARTON of Texas. Reclaiming my time, on section 3, line 5, page 4, it says the situation that the head of an affected Federal agency determines to be an emergency, the act does not apply.

Mr. WALKER. If the gentleman will yield further, the gentleman is absolutely correct. He cites exactly the right chapter, and the fact is that that is an emergency situation that was raised by the gentleman from New York that certainly would covered under the provisions of the bill, and the agency head would be permitted to go forward without doing anything that is required under our bill.

The CHAIRMAN. The time of the gentleman from Texas [Mr. BARTON] has expired.

(By unanimous consent, Mr. BARTON of Texas was allowed to proceed for 2 additional minutes.)

Mr. BOEHLERT. Mr. Chairman, if the gentleman will yield further, I would point out that the dire emergency is behind us, not prospective, and what we are trying to do is prevent something like Milwaukee occurring again. We cannot foresee a dire emergency in the future.

But if we analyze what happened in Milwaukee and we are trying to protect future millions in other cities and we come up with a proposed rulemaking that somewhere along the way something went awry during the development of that rule and someone made a mistake, we would stop everything in its tracks and say, sorry, millions of Americans, we cannot protect your water supply, we cannot protect you because somebody made a mistake and we cannot do it.

Mr. BARTON of Texas. Reclaiming my time, what we are saying is we can protect you but we want to use sound science to promulgate rules in the future and rules in the present that are based on existing law.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are being called upon today to legislate on the basis of anecdote and to pass a bill of rather doubtful benefit to the society on the basis of anecdote.

My good friend, the chairman of Committee on Science, got up and talked about a pineapple pesticide which was used. This is required to be tested by the EPA. Why? Because it has been widely used in some 40 States in crops until 1979. It is highly persistent. It is a carcinogen, and it has been found in the drinking water of 19 States, one of which would be Hawaii.

I think we ought to look at what it is we are doing. If we are talking about cost-benefit analysis, let us have some cost-benefit analysis. Let us try and understand what this bill is really about.

The bill is really about cost. I have been as critical of the EPA and other agencies for the inadequacy and the impropriety of their science. I am the only fellow around here who held hearings to denounce the misbehavior of EPA in terms of bad science, but let us talk about what we are concerned with here.

This is a draconian bill. They have talked about science and peer review, but mostly, again, what has been discussed here has been cost.

The question is that are we going to supersede all health, safety, and environment and other regulations if they cost too much?

Well, let us look, and let us look at what really counts, and that is the benefits: Public health, public safety, safe and a wholesome environment. How can we tell that the benefit and the costs can be properly equated? What is the cost-benefit analysis that is going to determine the price of a healthy child? What is going to determine what is a safe workplace, and what is this worth to the American society?

We have talked about infestation of microorganisms in water in a major U.S. city. What is the price of a clear glass of water? What is the price and the cost of the benefit of 400,000 people who do not get sick or 100 people who do not die? What is the price of a safe airplane ride to the American citizen? What is the price of a safe workplace? What is the price of a clean Lake Erie in which you can fish and swim? That lake was about to be a dead lake. What is the price of seeing an eagle flying overhead, and how are we to fix the cost-benefit ratio for removal of DDT from the society and that eagle flying above us which was about to be wiped out because of that?

We are talking about the overturn of standards that have been regarded by the American people for years, indeed, for scores of years, and as the basis of their safety, as the basis of a healthy environment.

People rely on these standards every time they get a drink of water, every time they take an airplane ride, every time they get in a car, every time they walk out of their house to breathe. Go to California now and look at the situation in Los Angeles. The air is safe, the air is clean. Why? because we passed legislation which did it.

Was it as good as it should have been? No. I was roundly castigated for years because I sat on that legislation until we could work out a situation where it was going to make good sense.

This House passed that legislation. That legislation says you will not consider costs in determining the safety of standards and regulations.

This legislation is going to put that at risk and raise questions about it. The bill is purported to be about assessment of risk, but what this bill, again, is really about is just simply pulling the plug.

I know my colleagues who support this legislation would say they do not support the idea we pull the plug on life, but today, without this amendment that is exactly what we are going to be doing. We are going to be pulling the plug on health standards. We are going to be pulling the plug on standards which protect the environment and which enable us to live with safety and with comfort with the environment of which we are a part.

Now, I think it is better for our citizens to have the current law. If we have to address the problem of legislation to deal with the problem of inadequacy of cost assessment, and I think we have to do it, then let us do it by addressing the problem under amendment of each of the specific statutes that are involved here. Why? Because here we are seeking to add one enormously complex set of regulatory practices on top of another set of regulatory practices which we complain.

As I have pointed out to my colleagues in earlier comments, what we are doing is not just stopping legislation and regulations which are going to protect the health and safety and the welfare of the American people, but also which are going to adversely impact upon regulations and changes in regulations which will be of benefit to business.

I urge my colleagues to adopt the amendment and to reject the bill.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment, which would strike the supermandate provision contained in H.R. 1022. I have reviewed H.R. 1022, and I have grave reservations about the bill in its current form. There is no question that we do need to reevaluate our environmental, health, and safety laws in order to reduce regulatory burdens and costs and to improve the protection of our citizenry. This reevaluation should be undertaken carefully and deliberately, on a statute by statute basis, with a full airing of views by all interested groups.

This is not however, the approach that is taken in H.R. 1022. H.R. 1022 would explicitly supersede every environmental and safety law on the books. This bill would prevent any new regulation from being issued unless the agency could muster substantial evidence that the benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs.

We all believe that agencies should execute the mandates of this body in the most cost-effective manner possible. However, the cost-benefit test embodied in H.R. 1022 would make it extremely difficult for an agency to take any rulemaking action whatever—whether good, or bad, or indifferent. Unless the agency was prepared to show in court that the benefits from a rule justified its costs, the agency would be unable to move forward. Agencies would be compelled to place a dollar value on the survival of an endangered species, the purity of a river, the breathability of our air. If the balance sheet did not come out even, or if a judge disagreed with the agency evaluations, then the regulation would be held unlawful under the bill before us.

Make no mistake: H.R. is retroactive in its effect, whether or not it contains a reach-back petition process for reopening existing rules. H.R. 1022 is retroactive because for key statutes like the Clean Air Act, most of the regulations mandated by Congress have not yet been issued by the agencies. According to the Congressional Research Service, EPA has yet to promulgate 75 percent of the air toxics rules required by the act. These 75 percent of the clean air standards would fall within the purview of H.R. 1022 and most likely would never be issued at all if this bill passes in its current form.

The Clean Air Act is but one of many laws that would be superseded by H.R. 1022. Laws governing hunting and fisheries management, the Atomic Energy Act, the Safe Drinking Water Act, the Poison Prevention Packaging Act—these are just a few of the laws whose fate is in the balance today. Who among us can say with any degree of confidence what would be the effect of this risk/cost/benefit bill on these important statutes?

Enviromentalists, consumer organizations, and labor unions are not the only groups to oppose H.R. 1022. Industry too has some significant misgivings about this legislation. Several major manufacturers have told us, over the past several days, that H.R. 1022 goes too far. Industry does not want a rollback of environmental regulation; industry does not want to risk another popular backlash against its activities. In the recent Newsweek article on this bill, an official of Occidental Petroleum is quoted as saying, "This reminds me of 1981, when industry shot itself in the foot." Industry has invested billions of dollars in emissions control equipment already: To rescind the rules that made that equipment necessary is to squander industry's prior investment.

Mr. Chairman, in enacting the past 25 years environmental legislation, Congress has reflected the widespread public belief that protection of public health and the global environment are objectives of paramount importance to society. In my opinion, the public at large continues to hold these views.I therefore urge adoption of this amendment.

□ 1745

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

I will confess I am not an expert on regulatory proceedings, but based upon what I have heard here this evening and on our earlier expressions that this method of revising badly needed risk assessment and cost-benefit analysis should really be applied on a department-by-department basis in order to achieve the maximum effect.

I think that this amendment moves us in that direction.

What the basic point that it seems to me needs to be made is that in H.R. 1022 we have a valuable new process that is set into place which would help us make better regulatory decisions, but it requires that there be a certification process according to the criteria which result from this which override existing law.

Now, it is my view that it is not desirable to override the existing law, for the reasons set forth far more eloquently than I can by the gentleman from Michigan [Mr. DINGELL] and others, that what we really need is to reconsider existing law and see if the original basis for that law's criteria—that is, whether or not it should not require cost-benefit analysis or risk assessment—still are valid. We can then proceed, ourselves, to make the judgment that is necessary to either correct the law or to bring it into accordance with the decision criteria resulting from the operation of H.R. 1022.

This is a more moderate approach. I agree with that. It certainly is not satisfactory to those who want a revolution today. But I can feel much more comfortable with this kind of a process because I have been a party to putting into effect most of these regulatory laws over the last 30 years.

On the air pollution legislation, for example, I should not have to repeat this, but 30 years ago this was the key to getting elected to Congress in California, to promise to cure air pollution, and I made that promise, and I failed

to do so. But I have supported every effort to do so that has been made in Congress.

And I think most of what we have done has been reasonable and valuable, and in southern California I can certify today we are far better off than we were 30 years ago or 20 years ago or 10 years ago.

Now, we seek to pass this all-encompassing legislation which contains many valuable additions which I fully support, but we put into this a provision that says if the process results in decision criteria which are different from existing law, it overrides the existing law. And I think that is unwise.

I think we need to reconsider the existing law, and the amendment provides for that, through the reporting process to Congress. But I think we should be very reluctant to override much of the health and safety and other legislation that we have passed.

The gentlewoman from California spoke eloquently of the impact upon mammography standards, for example. I think we should be very careful to be put into the position of having the women of this country say the Congress neglected or showed no concern for the importance of proceeding with the laws that we put into place already, and proposing to override them through the effect of this risk assessment and cost-benefit analysis legislation.

So I am very strongly supportive of the legislation offered by the gentleman from New York [Mr. BOEHLERT]. I join the gentleman from Michigan [Mr. DINGELL] in fearing for the consequences of the legislation before us unless it is amended in such a fashion, and I hope that you can all support the amendment of the gentleman from New York.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, let us first of all make something very clear; that is, the supermandate language in this bill is the guts of the legislation. If you are against the supermandate, you are against the bill; then vote for the Boehlert amendment. But if you want to have a reasonable risk assessment and cost-benefit analysis bill, then vote against the Boehlert amendment and vote for the bill.

That is basically as simple as it can be. The gentleman from Louisiana [Mr. TAUZIN] made it very clear, and he is right, that if you are against the bill, you want to vote for this amendment. So I think most Members recognize it is important we look forward in dealing with these kinds of legislation and give the opportunity for the Congress to set these kinds of standards. That is exactly what we get elected to do.

I want to point out for the edification of the Members that we tried to carefully deal with the question that came up in our committee about mammography screening.

The gentlewoman from California who has spoken earlier raised that issue. We worked very hard to make certain that that was taken care of. I want to stress that in the language in the legislation, on page 5, line 14, section 4:

> Program designed to protect human health. The term "program designed to protect human health" does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

Now, the last time I looked, mammography screening would be covered under health care diagnostic services. So I put that issue to rest.

We listened to the gentlewoman from California and others in our committee. That issue is not an issue in this amendment, nor is it an issue in this bill because we took care of it, as a result.

Now, we spend some $430 billion to $700 billion on regulations. Does it not make sense, since we have already defeated an amendment that would look back that would keep us from looking back, to now take a look at an opportunity to take the new regulations that are coming out and apply reasonable cost-benefit analysis and risk assessment to those regulations?

That really is the issue. The question is do you want to do that, or do you not? Do you want to stick with the status quo of these old regulations that are in many ways totally not based on science, or do we want to simply give regulators an opportunity to use good science? That is really what this is all about.

Now, if we are going to believe our friend from New York, we are going to say we are just going to walk in place, we are going to, essentially, freeze the decisionmaking process and go back to what cost billions of dollars. I do not think that makes a whole lot of sense, and that is why the Boehlert amendment should be defeated, because it goes against the heart of what we are trying to do here, the very heart of this supermandate language.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from New York.

Mr. BOEHLERT. I thank the gentleman for yielding to me.

Mr. Chairman, I stress that I too favor cost-benefit analysis and risk assessment. What this amendment points out is that there are going to be disagreements in the future sometime and where there is a failure on the part of the agency to be able to certify all the certifications required in the bill, then that agency has to report back to the Congress, the people's House, and we debate it and we make the necessary changes.

Mr. OXLEY. Mr. Chairman, I have perhaps less confidence that that particular procedure will work. If they report back, they report back.

The gentleman from Michigan [Mr. DINGELL] said he has had a lot of hearings about some of the abuses in the regulatory process. It is true we have had a lot of hearings, but until today we have not done very much about it. Today we have a chance to strike a blow for reasonable regulations. That is why this bill is so important, and that is why, in my humble estimation, the amendment of the gentleman from New York cripples our ability to do that.

Mr. BOEHLERT. If the gentleman would yield further, I want to increase the comfort zone a little bit by telling the gentleman that we are part of the new majority now, so things will be different now and in the future, in the Congress, in the way Congress responds to agencies.

Mr. OXLEY. I am concerned that we get an overburdened effort. That is what the job is, it is for those regulators to make those regulations based on good science. That is what we want them to do. We do not want them to dump their problems into the Congress' lap. We are going to be authorizing Superfund, I say to my friend from California, we are going to be reauthorizing other programs, and that is clearly one of our goals.

But it seems to me that in the overall scheme of things, we are dealing with regulations, this bill now, this bill now is a chance to get some common sense into that procedure, and then when we start to reauthorize these kinds of regulations and the regime that is used in the regulations, the regulators will be very used to them and they are going to be able to come up with a good response.

Mr. HAYES. Mr. Chairman, I move to strike the requisite number of words, and I rise reluctantly, but not reluctant in support of the gentleman's amendment.

Mr. Chairman, I say reluctantly rise because there is no one in the course of the last several years who has seen more of the consequences injurious to people by having regulators make rules not reflective of laws made by their elected officials and to make those rules without any correlation to actual risk and without any consultation of actual cost.

So I rise reluctantly because I am in strong support of a legislative initiative, in support of the chairmen of both committees to which it was referred. But here is the problem I have and why I welcome the amendment offered by the gentleman from New York [Mr. BOEHLERT]: This is breaking ground on important new legislation. In doing, section 202 of the bill establishes a prohibition for the issuance of a rule that has not been certified to comply with

the section's decision criteria. That is fine. But the decision criteria listed and described are described in terms that are not duplicated in any other Federal law.

The point I am making is they are standards with which I happen to agree. It is an initiative on which I happen to be supportive. But it is new, and therefore it will be at variance with existing application of standards.

The bottom line, I am saying, is there will always be a conflict between H.R. 1022 and other laws. And an administrative proceeding is going to leave a judge without previous decisions to look to for interpretation of this new language.

Now, that being the case, we would wonder why we do not have a fallback and a recognition there should be a safety valve. And the answer is, once again, in the committee, a fallback was placed. There is language under one title of the bill dealing with risk assessment, saying, "Hold it, here is a safety net. When there is a conflict we have got some exceptions, and we are going to make sure this escape clause works."

But for some reason that language is not incorporated in both titles of the bill. It is omitted in the one dealing with cost analysis.

□ 1800

I am simply saying, "If you recognize the one, you ought to recognize the other, and we ought to have the sanity added so that, when we have this legislation go forward, and I believe this legislation should and will go forward, then we have not done untold harm to untold beings."

Mr. Chairman, there was a terrible news report earlier, a few days ago, about a hospital, I believe was in Florida, where an incredible and horrendous event occurred in which the wrong foot was amputated.

Let me tell my colleagues, "If we don't have some legislative language to be certain that the goal of this assessment, the goal of cost assessment, has a means by which we can actually enter into administrative law and review, and do so in the same process, we are going to cut off the wrong foot in the name of risk assessment." I, for one, do not want to be part of that process.

I do want to be part of a signing ceremony at the White House where the President hands a pen and says, "Here is a bill for the kind of risk assessment that you and others have been fighting for for 8 years." I want to be there for that event. I do not want to be going home to explain why I supported unintended consequences that were never envisioned by the best of intentions.

Mr. Chairman, I rise in reluctant—but strong—support of this amendment to keep from overriding, at this time, in a one-size-fits-all fashion, the statutory standards of virtually every Federal law protecting health, safety and the environment.

I do so reluctantly because, as my colleagues know, I have long been a proponent of real risk assessment and cost benefit reforms. I am an original cosponsor, along with BUD SHUSTER and 14 other Transportation Committee members on a bipartisan basis, of legislation amending the Clean Water Act to add strong, new risk assessment and benefit-cost requirements.

I stood shoulder-to-shoulder last Congress with most of my colleagues on the other side of the aisle and with many Democrats in working to have real risk assessment language added to the EPA Cabinet bill. As the Science Committee's Investigation and Oversight Committee Chairman, I held the first hearing of the 103d Congress stating the need for more and better risk assessment in our public policy decisionmaking process.

There should be no doubt in the minds of H.R. 1022's managers, or others, that I support their efforts to build risk assessment and cost-benefit analysis into our laws to prevent wasteful, counterproductive regulations.

In spite of this, or, more accurately, because I feel so strongly on this subject, I support this amendment based on the fear that the supermandate being proposed in H.R. 1022 is likely to be worse than the regulatory waste that we are attempting to address.

I believe—and I don't say this lightly—that we are on the verge of committing the legislative equivalent of the terrible incident that occurred a few days ago in a Florida hospital. In this incident, which was widely reported by the media, a patient went into surgery to have an injured leg amputated. The doctors, though well-intentioned, removed the wrong leg by accident. My point is that it is the result and not the intentions that matter, and I firmly believe that the results of H.R. 1022's supermandate language may prove to be disastrous.

The supermandate approach being taken in H.R. 1022 is flawed substantively, procedurally and tactically. Perhaps most alarming, however, is that no one on this floor—or anywhere else, I submit—can provide us with any meaningful explanation of how the bill's supermandate language is going to affect the individual statutes that underpin our system of health, safety and environmental protections.

From a substantive perspective, section 202 of the bill prohibits the issuance of any rule that has not been certified to comply with that section's decision criteria. These criteria are listed and described in terms not duplicated in any other Federal law pertaining to health, safety or the environment. Subsection (b) of section 202 provides, however, that H.R. 1022's decision criteria supersede current law whenever there is a conflict between the two. Because every Federal health, safety and environmental statute contains standards and criteria that are at odds with today's bill, there will always be a conflict between H.R. 1022 and the other laws. All that remains to be determined is which conflicts can be described and which interest groups will benefit from these pre-ordained conflicts. The pursuit and debate of these conflicts will grind our legitimate regulatory processes, and our already-clogged courts to a complete halt as contestants—industry or public interest group; competitors within an industry; or private property owners and environmental organizations—take their controversies to the courts based on their own conflict-based arguments stating why H.R. 1022 should prohibit the rule in question from being promulgated.

For a group of well-intentioned legislators, whom I am certain want to cure the ills our constituents suffer because of overregulation, this bill's approach is insane. It's worse than cutting off the wrong leg. It's like cutting off both legs to make sure you get the problem, wherever it is.

My second reason for supporting this amendment is procedural. There is absolutely no good reason for us to be taking, at this time, the extraordinary and extreme step represented by the supermandate language. If we were in the last two weeks of the 104th Congress, then at least there would be an argument that there was not time to make changes properly. But we haven't even finished the second month of this Congress, and there will be plenty of opportunity in the next 18 months to address overregulation problems in a more reasonable, tailored and understood fashion.

We will be reauthorizing the Clean Water Act, the Safe Drinking Water Act, Superfund, and the Endangered Species Act this Congress. As each of these bills move through committee and the floor, we should include the kind of risk assessment and cost-benefit provisions that make sense in light of particular structure, standards and experience of each statute. Where overregulation problems are being experienced with statutes not expected to be reauthorized this Congress, appropriations bills will be available as legislative vehicles to carry necessary corrections. And if, for some reason, there is a more pressing need, Speaker GINGRICH has announced that we will soon be having "Correction Days" each month to do away with the most destructive and least useful Federal regulatory requirements.

My third reason for supporting the amendment is tactical. The rushed, shotgun approach of H.R. 1022's supermandate language is producing a public relations backlash, reflected in numerous media stories like Time magazine's, "Environmental Chain Saw Massacre," last week, that may do serious damage to our shared objective of incorporating risk assessment and cost benefit principles into the body of our Nation's laws. Taking the overbroad supermandate approach of H.R. 1022 may result in "throwing the—risk assessment/cost-benefit—baby out with the bath water." That would be a tragedy.

Finally, Mr. Chairman, it is no comfort at all to me to hear from some of the supermandate language, "Don't worry Jimmy, the Senate will fix it." We here in the House of Representatives are not staff for the real legislators in the Senate. Under the Constitution, we have an equal responsibility—indeed a duty—to develop laws in the best interest of our great Nation. It is a complete abdication of our constitutional obligation, as well as of the duty we own our constituents to pass legislation in the House that we know is defective.

H.R. 1022's supermandate provision is seriously defective. It must be amended. Please join us in our efforts to do just that.

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am going to be very simple and very brief. I say to my colleagues:

You've heard a lot of discussion, you've heard a lot of legal language, you've heard a lot of lawyers talk on this piece of legislation, but very simple what this bill does, and what this amendment does, and what the, quote unquote, supermandate does, is allow, when we have to authorize or reauthorize pieces of legislation, that the regulation that comes out of that is based on the new law, that we actually can do cost based regulation. So all the discussion here, when you boil it down, is saying, whether you take an old law, whether it's the Clean Water Act or the Clean Air Act, and when you apply new law to that or reauthorize it, is that the regulations that come out of that hence forward are the same type of regulations under the same type of regulation writing that comes out of any new law that we'd write. So, if you want consistency, and if you want fairness, and if you want the ability for this country not be overwhelmed by old legislation and old regulation, you simply say that we do not pass this amendment that guts, quote unquote, supermandate, but what it does is allow us to go forward when we write, when we reauthorize, old bills or old pieces of legislation, and we write new regulation out of it that is very simple, very concise and very consistent.

Mr. BOEHLERT. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from New York.

Mr. BOEHLERT. I would like to point out to the chief deputy whip that this year Congress is going to consider the reauthorization of the Clean Water Act, the Safe Drinking Water Act, the Superfund legislation, the Endangered Species Act. That is the time for this Congress to make the changes during that reauthorizing process.

Mr. HASTERT. Absolutely, and, reclaiming my time, if the gentleman understands when we do those that, if we change that bill, or we write it, the regulations henceforth will be under the language of this bill, and that only seems sensible to do.

Mr. BOEHLERT. Mr. Chairman, if I may ask the gentleman to yield one more time, well, I think then we have got some area of common ground, some agreement. We want the Congress, the elected Representatives of the people, to be making the decisions, the important decisions, not some nameless, faceless bureaucrat.

Mr. HASTERT. If the gentleman from New York will listen for a second, Mr. Chairman, I would say, "You know, we don't write the regulation. We write the law. We write the policy. And regulation that follows is done by the bureaucrats, you know, down the street. And what we're saying is when we write the regulation, that the regulations they write are based on the law that we're trying to establish here, and it's only fair that we do this, or we set this policy, and when you reauthorize and new legislation that comes forward from reauthorization is written on the same type of language and basis."

Mr. WAXMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in favor of the amendment. This supermandate in this legislation is about the most far-reaching proposal, has sweeping impact on existing environmental laws.

Now those laws are up occasionally for renewal, and, when we revisit those laws, we ought to deal with problems in those laws, but under this legislation they are going to supersede all those laws as if they did not exist.

The gentleman from Louisiana [Mr. HAYES] said that all the precedents, all the court decisions interpreting the statutes involved, would be thrown out. They would have to look at it in the light of this one bill.

This is what they call one-size-fits-all. Forget whether the Clean Air Act operates in a health based standard, or the Toxic Substances Act is a risk assessment bill, or some other legislation were designed to have a technology standard. Whatever those laws might have said on those points, we are going to ignore, and we are going to let this bill supersede those laws.

Mr. Chairman, what is really at stake is a rollback of protections for people. The reason those laws were designed the way they were is based on the historical experiences.

For example, in the Clean Air Act we had a law saying that, if there are toxic air pollutants, they ought to do a risk analysis before they set a standard, and so, when we had toxic pollutants that cause cancer, or birth defects, or neurological problems, in 1970 to 1990 the law was to do a risk based standard, and EPA could not figure out how to do that. So, after 20 years only seven standards were set for pollutants.

Finally in 1990 we said in the Clean Air Act, "This doesn't make any sense. Let's require the use of the technologies that will reduce these pollutants that cause such enormous harm," and that made a lot of sense, and, after the law was adopted in 1990, we have seen an enormous amount of progress in protecting people from tons and tons of these toxic air pollutants.

In the urban areas of our cities we have a health based standard, and we say, "Let's achieve the health based standard set of strategies to do it," and we have a law that has been working, it has been successful, but with the supermandate under this legislation we would not have a health based standard anymore. It would have to go to a cost-benefit analysis.

The point that I want to make is really what is at stake are all these existing laws. If someone does not like the Clean Air Act, or the Toxic Substances Act, or the Endangered Species Act, when those bills come up for renewal let us fight the fight out. Let us debate those issues, not adopt something that has such sweeping consequences.

Now we have to ask why are we facing something with such sweeping consequences. It is one of two, and maybe a combination of the two, motives. One is to, I think, not having thought through what the implications are going to be, or the second is, if they thought through very carefully what the implications will be, and those that have thought it through would like to weaken all of those environmental laws. I think this legislation before us is seriously flawed in that it goes back to existing laws, weakens them.

I say to my colleagues, "If you want to say for the future we ought to do cost-benefit analysis, risk assessment, as a tool, that's fine, but not to take that analysis and tie up things for years."

In the toxic substances law, not under the clean air law, but the toxic substances law, they spent a decade trying to set one standard, and they finally set one standard, and it was challenged in court and then thrown out because not the standard was flawed, because they challenged the analysis.

Economists can come up with different points of view when they look at an analysis. Everyone knows economists disagree with each other. But we are going to allow courts and judicial review to throw out laws and regulations to enforce those laws based on whether the analysis met some court's viewpoint.

Mr. HASTERT. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Chairman, I thank the gentleman from southern California, my good friend, and let us talk about the Clean Air Act for just a second.

When we wrote the Clean Air Act in 1990, there was a provision in there for employer trip reduction. It was based off technologies that were going on in southern California, in my State, in Texas and other—Pennsylvania and other States around the country. It has not worked, but yet that technology is in the law, and what we are saying, if we reauthorize that, that ought to be looked at as a cost-benefit analysis. If it does not——

Mr. WAXMAN. If I can reclaim my time, Mr. Chairman, just to tell the gentleman, I don't disagree with you, if you want to look at that issue on a cost-benefit analysis. But why take the whole Clean Air Act, which by the way was adopted by a vote of 401 people in the House voted aye, 25 voted no? There was an initiative by President

Bush and signed by him. Why take that whole law and toss it out because you have a supermandate in this risk bill?

Mr. Chairman, I do not want to see this bill override, and destroy, the progress this Nation is finally making, after decades of inaction, to protect the American people from cancer-causing air pollution. This savings amendment would allow that progress to continue.

From 1970 to 1990, the Nation conducted a full-scale experiment in the use of risk assessment to regulate toxic chemicals. During those years, the Clean Air Act directed EPA to use risk assessment to control air pollutants that can cause cancer, birth defects, neurotoxicity, and respiratory disease. More than 2.5 billion pounds of toxic chemicals were released into America's air every year, according to industry's own right-to-know records from the late 1980's.

By 1990 everyone—industry, environmentalists, the States, and EPA—was united in agreement that this experiment had failed. Over a 20-year period EPA was paralyzed in endless debates over risk assessments and cost-benefit analyses for cancer risks. In all this time, EPA managed to set standards for only seven toxic air pollutants.

In 1990, Congress replaced the failed risk-based approach with a technology-based system that even many industries agree is proving to be practical, effective, and affordable. In the 4 years since 1990, EPA has achieved many times what was accomplished in the prior 20 years.

Since 1990, EPA has taken steps that will eliminate more than 1 billion pounds of toxic emissions annually from nearly a dozen types of industrial emitters, including chemical plants and steel industry coke ovens.

H.R. 1022 would erase this breakthrough in a single stroke: It would reinstitute the paralysis that reigned from 1970 to 1990.

The 1990 Clean Air Act amendments establish a practical, affordable technology-based approach to controlling air toxics sources. The law lists 189 toxic air pollutants, establishes a clear footing for technology-based standards, and sets a detailed schedule for action.

This approach is bringing clear results. Since 1990, EPA has set standards for nearly a dozen major industries, reducing toxic emissions by more than 1 billion pounds per year.

EPA has also proposed standards for municipal waste incinerators and medical waste incinerators that will reduce emissions of dioxin—one of the most toxic chemicals known—by more than 99 percent. The standards will also cut thousands of tons of mercury, lead, cadmium, and other highly toxic pollutants.

The reason so much progress has been made so fast is that the act establishes a simple, workable criterion for standards: all major facilities of a given type must upgrade their pollution controls at least to the quality that has been achieved by the better-controlled facilities already in operation.

Risk assessment still plays a role. It is used to add or remove chemicals or sources from the lists that require regulatory control. It will also be used, at the turn of the century, to see if high risks remain after the technology-based first step. If so, the act calls for further progress through risk-based control measures.

H.R. 1022 would return us to 20 years of risk-based paralysis. The bill's risk assessment and cost-benefit decision-making criteria would supersede the 1990 Clean Air Act's technology-based approach. These requirements are even more onerous than those that failed before 1990.

Under these criteria, lives of the most exposed and most vulnerable Americans may not be worth saving. EPA would protect the most exposed or most vulnerable Americans only if the extra lives saved—compared to the next weaker standard—justify the extra cost to industry.

What's worse, Americans' right to protection from cancer-causing air pollution could depend on what region they lived in or what company they lived next to.

These daunting requirements would effectively hogtie the future efforts to continue reducing toxic air pollutants. The data simply are not available to perform risk assessments for 189 different toxic emission sources emitted in innumerable combinations from hundreds of different kinds of facilities.

In short, unless we pass this savings clause, both the industries that release toxic air pollutants and the Americans who still breathe them would be condemned again to the 1970–1990 situation of paralysis by analysis.

The CHAIRMAN. The time of the gentleman from California [Mr. WAXMAN] has expired.

Mr. OLVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Hayes-Boehlert amendment. In fact, I offered a similar amendment in the Committee on Science a week or so ago. This, I think, is a fairly straightforward issue.

I agree with the purpose of the amendment which is namely that, when the results of a cost-benefit analysis under this new law, H.R. 1022, appear to conflict with an existing statutory requirement, the existing law should not be overwritten except by a specific new act of Congress. Without this amendment, Mr. Chairman, H.R. 1022 has the potential to reach back to eviscerate every law on the books designed to protect peoples' health and/or environment.

Congress already has a process, as has been pointed out, for fixing laws which are not working as we wanted them to do, and that is the reauthorization process. Hopefully we will reauthorize the Clean Water Act, the Superfund law and a number of others this year, and many of them have been criticized for requiring extensive and expensive remedies not consistent with cost-benefit criteria. But the right time to deal with that is during the reauthorization process.

Mr. Chairman, this becomes fish-or-cut-bait time. Did Congress mean it when Congress decided by huge votes to reduce sewage pollution in our rivers, or are we going to reopen and reverse those gains? Did Congress mean it when Congress decided to reduce industrial air pollution, or are we going to reopen that issue at this time and reverse those gains?

Mr. Chairman, ultimately this Congress in those cases has the responsibility to determine the necessary levels of protection for public health and environmental protection, and in the reauthorization process that is the time to make that decision, not reaching back through the provisions of H.R. 1022 to do that aside from the reauthorization process.

In a few weeks, we have the so-called Personal Responsibility Act on the floor of this House. I challenge every member of this House to show some personal responsibility. Reject this blind, blanket overhaul of our laws and do the hard work of making changes statute-by-statute.

Support the Hayes-Boehlert amendment.

Mr. DELAY. Mr. Chairman, this amendment would create two different classes of regulations for the purposes of risk assessment and cost/benefit analysis—the first would be the post-H.R. 1022 class, and the second would be the pre-H.R. 1022 class.

The post-H.R. 1022 class of regulations would be subject to modern risk assessment and cost/benefit analysis procedures based on sound science, while the pre-H.R. 1022 class of regulations would be promulgated under outdated, inefficient, and inflexible procedures with sometimes no attention paid to their cost on the economy.

Does this make sense?

The American people have asked us to establish a reasonable regulatory system based on scientifically sound risk assessment with attention paid to the costs versus the benefits incurred. That is what this bill accomplishes.

Some are claiming that the bill will roll back all of our health, safety, and environmental protection regulations. Those who would make this claim have unfortunately resorted to scare tactics.

As the chairman of the Commerce Committee, Mr. BLILEY, has written, "Nothing in the bill itself changes a single existing health, safety, or environmental regulation currently on the books. This bill only applies to new regulations and situations where the agency revises an old regulation through a public notice and comment process."

H.R. 1022 is not a supermandate—instead, it establishes consistent, clear standards under which all new regulations will be promulgated. The Boehlert amendment would gut this bill and I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. BOEHLERT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 238, not voting 15, as follows:

[Roll No 180]

AYES—181

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gordon
Goss
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lantos
Lazio
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Meyers
Mfume
Mineta
Minge
Moakley
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Porter
Poshard
Rahall
Ramstad
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—238

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Pryce
Quillen
Quinn
Radanovich
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—15

Baesler
Brewster
Cox
Gonzalez
Gutierrez
Hunter
Lipinski
Livingston
Miller (CA)
Mink
Rangel
Rush
Torres
Ward
Williams

□ 1830

The Clerk announced the following pairs:

On the vote:

Mr. Rush for, with Mr. Cox against.

Mr. Ward for, with Mr. Livingston against.

Messrs. McINNIS, SKELTON, and ROHRABACHER changed their vote from "aye" to "no."

Mr. KENNEDY of Massachusetts 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 the bill?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 30, after line 23, insert:

SEC. 204. ENVIRONMENTAL CLEAN-UP

For purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental cleanup plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as major rule subject to the provisions of this title (other than the provisions of section 201(a)(5). As used in this section, the term "environmental clean-up" means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

Page 4, after line 18, insert the following new section and redesignate section 4 as section 5:

SEC. 4. UNFUNDED MANDATES

Nothing in this Act itself shall, without Federal funding and further Federal agency action, create any new obligation or burden on any State or local government or otherwise impose any financial burden on any State or local government in the absence of Federal funding, except with respect to routine information requests.

Page 16, beginning on line 8, after "uncertainties" add:

"Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women and disabled persons."

Mr. WALKER (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 Pennsylvania?

There was no objection.

The CHAIRMAN. Under the rule, there are 8 minutes remaining for debate. The gentleman from Pennsylvania [Mr. WALKER] will be recognized for 4 minutes, and a Member on the other side will be recognized for 4 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. WALKER].

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

I will try to go quickly so we might be able to get to another amendment, if this could be taken on a voice vote.

This amendment is offered by myself, the gentleman from Ohio [Mr. OXLEY], the gentleman from Pennsylvania, [Mr. SHUSTER], the gentleman from Louisiana [Mr. TAUZIN], and the gentleman from Pennsylvania [Mr. CLINGER]. What is says is that we are going to include environmental cleanup under 1022. We want to be sure the cleanup dollars are used wisely; subjecting major cleanups to this legislation will go a long way in doing that. Also, there is some concern about any kind of unfunded mandates. The mandates are some of the most costly of mandates when we deal with the environment. Accordingly the Conference of Mayors, of the top 10 most burdensome unfunded mandates on State and local

governments, 7 are environmental mandates. H.R. 1022 speaks to ease the burden of regulation. We certainly do not want to add to it. CBO was not able to cost out what, if any, costs may be passed onto the States. With this amendment that I am offering on behalf of the gentleman from Pennsylvania [Mr. CLINGER] and myself, we offer protection against unfunded mandates.

There is also some concern about definitions of the bill that refer to sensitive subpopulations. That is included in this language as well to make certain that sensitive subpopulations would include children, elderly, pregnant women, and disabled persons. It clarifies what is in the committee report.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Chairman, I thank the gentleman for yielding to me.

I also am in support of this legislation. I also support the amendment en bloc and want to thank my colleague, the gentlewoman from Arkansas [Mrs. LINCOLN] for her good work on this and also the gentleman from New York [Mr. TOWNS], a member of our committee.

These amendments make a good deal of sense. They track the specifics of this bill very well.

I also want to thank the gentleman from Pennsylvania [Mr. SHUSTER] for his work on this.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, I simply want to say I support this amendment. It ought to be passed.

Mr. WALKER. Mr. Chairman, I yield to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment and the bill.

Mr. WALKER. Mr. Chairman, I yield to the gentlewoman from Arkansas [Mrs. LINCOLN].

Mrs. LINCOLN. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, this is an amendment that has been worked out with Mr. OXLEY and Mr. CLINGER. Last month many of us supported H.R. 5, a bill that would ease the amount of unfunded mandates on the States. This amendment is aimed to ensure that provisions in this bill achieve the goal set forth under the unfunded mandates bill by not adversely affecting States. It has the full support from the National Conference of State Legislatures and the State of Arkansas.

As you well know, States often act as agents of the Federal Government in enforcing Federal statutes. For example, under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Resource Conservation and Recovery Act, to name a few, the States are delegated the authority to carry out the requirements of the statutes and enforce their provisions. Because H.R. 1022 as written explicitly requires risk assessments for documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, States might be required to conduct risk assessments when carrying out the provisions of Federal statutes. Such documents include the issuance of permits under the Clean Water Act and the Clean Air Act.

Over 40 States have delegated authority over the Clean Water Act's section 402 permitting program. Under this bill, States acting on behalf of the Federal Government might be forced to conduct risk assessments for each permit they issue. States neither have the financial nor the personnel resources to take on such a burden.

The ultimate financial impacts of this bill on the States are unknown. Even in the committee report, CBO was unable to calculate the potential costs. CBO stated that the effect of this bill on State and local governments was "unclear." "CBO has no basis for predicting the direction, magnitude, or timing of such impacts."

Because of the ambiguity associated with the potential costs and burdens placed on the States under the mandates of this bill, we have agreed to this amendment to protect States against unfunded mandates. This amendment requires further Federal action along with Federal funding in order for States to comply with the requirements under this act.

I encourage my colleagues to support this commonsense amendment.

Ms. MCCARTHY. Mr. Chairman, this amendment will alleviate concerns that have been raised in both the Science and Commerce Committees by myself and the Congresswoman from Arkansas regarding the placement of risk assessment and cost-benefit analysis requirements on State and local governments.

This amendment hopes to clarify that enactment of this bill will not place unfunded mandates on State and local government jurisdictions. This savings clause is needed because as currently written, the bill is unclear on the question of whether State and localities will have to engage in costly risk assessments and cost-benefit analyses. It should be remembered that States often act as agents for the Federal Government in administering laws such as the Clean Air Act and the Safe Drinking Water Act.

In fact, the Commerce Committee report states on page 50 that if we enact H.R. 1022, the "affect on budgets of State and local governments is unclear." This bipartisan amendment, supported by the National Conference on State Legislatures, would make clear that the bill will not impose an unfunded mandate on States and local governments. Therefore, I urge my colleagues, who overwhelmingly supported the passage of the unfunded mandate bill last month, to support this amendment.

Mr. TOWNS. Mr. Chairman, I would like to thank my dear colleague from Pennsylvania, Mr. WALKER, for including the amendment dealing with subpopulations offered by myself and the gentlelady from California [Ms. LOFGREN]. Also, I would like to thank the gentleman from Ohio [Mr. OXLEY] for his support in getting this amendment in.

This amendment seeks to cure one of the many problems that arise when we try to put good and responsive science into law. Risk assessment may help improve regulatory decisions, but good risk assessment doesn't guarantee good regulatory decisions. Risk assessment should supplement the regulatory goal of safeguarding public health, but should not stand alone in the analysis.

This bill requires that a number of numerical estimates be made; yet it expresses those estimates in a crude way that fails to take account of the special needs of vulnerable subpopulations such as children, the elderly, and disabled individuals.

It is the concern for these vulnerable subpopulations that encouraged me to sponsor this amendment.

As we have learned in recent years, averages and best estimates often tell us almost nothing about the way in which a risk will have an impact on real people. On average a drug or device, a chemical or compound may be safe and effective, however, it may have terrible unsafe or ineffective consequences for special subpopulations such as the elderly, children, pregnant women, disabled people, or individuals with certain chronic illnesses.

Those who are vulnerable in our society need to be concerned about health care expenditures, salary loss for a lengthy illness, and years of work lost to premature death. And this is all because they have no option to choose the level of risk to which they are exposed to a health hazard. I believe that science cannot always explain complex or unusual relationships between the exposure to hazards and the potential health effects to all people.

This amendment simply says that when numerical risks are provided, estimates shall also be provided for these subpopulations where such estimates are relevant.

I urge adoption of this amendment.

Mr. WALKER. Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. WALKER

Mr. BROWN of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California to the amendment offered by Mr. WALKER: At the end of the amendment, insert the following:

Page 4, strike lines 5 through 9 (all of paragraph (1) of section 3) and insert the following and redesignate paragraphs (2) through (4) as paragraphs (3) through (5), respectively:

(1) A situation that the head of the agency considers an emergency.

(2) A situation that the head of the agency considers to be reasonably expected to cause death or serious injury or illness to humans, or substantial endangerment to private property or the environment unless prompt action is taken to avoid death or to avoid or mitigate serious injury or illness to humans, or substantial endangerment to private property or the environment.

Mr. BROWN of California (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. BROWN of California. Mr. Chairman, this is a very simple amendment.

Mr. Chairman, I yield to the gentleman from Ohio [Mr. BROWN] to explain.

Mr. BROWN of Ohio. Mr. Chairman, I rise in support of this amendment which the gentleman from California [Mr. BROWN], the gentlewoman from Texas [Ms. JACKSON-LEE], and I are offering. This amendment allows a critical element to the protection of our public health and safety to continue.

This amendment ensures that agencies be provided the flexibility to act rapidly in the event of a serious threat to public health or public safety.

Our history is replete with examples where the prompt action by a Federal agency prevented death or prevented serious injury.

In Lorain County, OH, in northeast Ohio in the 13th district, the Centers for Disease Control and the Environmental Protection Agency are currently working with the Ohio Department of Public Health to avoid calamity from the use of a deadly pesticide in a residential area in Elyria. Within days these agencies were working together to mitigate the contamination, to relocate families, and to clean up the problem.

Without this amendment, agencies will spend more time in risk analysis and litigation than responding to these urgent situations.

In addition, while lawyers will have full employment, many of our constituents could become seriously ill or die waiting for Federal action.

The CHAIRMAN. The Chair will allocate 30 seconds to the proponents. If there is a Member on the other side that wants to have permission to speak, the gentleman from Pennsylvania [Mr. WALKER] may close.

Mr. BROWN of Ohio. Mr. Chairman, I ask for support of the Brown amendment.

Mr. BROWN of California. Mr. Chairman, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Chairman, let me say that the American people should not have to wait for agencies to study risks for months before acting to abate serious and in some cases life-threatening conditions.

Last year, for example, the FDA received a report from Canada of two cases of salmonella poisoning in infants using a particular infant formula manufactured in the United States.

We have to be able to save our infants and be responsive in having this provision to provide for our American citizens.

Mr. Chairman, the Brown-Jackson-Lee amendment to H.R. 1022 would allow agencies to take rapid response actions to address significant threats from toxic chemicals or discharged oil, without the need to wait for lengthy risk assessments to be completed. The amendment would expand section 3(l) to exempt from risk assessment requirements from not only classic emergencies, but also those situations where prompt action is needed to avoid death, illness, or serious injury to the environment.

The American people shouldn't have to wait for agencies to study risks for months before acting to abate serious, and in some cases, life-threatening conditions.

For example, the amendment would allow, without the delay of additional studies: repacking corroding drums before they leak; quickly relocating those people living in dangerously contaminated areas that require cleanup—moving them out of harm's way; stopping the spread of contaminants from leaking underground storage tanks before drinking water is affected; acting promptly to save wildlife and beaches harmed by oil spills; and quickly supplying alternate drinking water where community water has been contaminated with toxic chemicals.

Often these are not classic emergency situations, but they are always situations where fast action is critical to preventing greater harm to surrounding communities and the environment. Would we not want agencies to be free to respond quickly to such serious situations?

Taking timely action before the contamination spreads would also serve to avoid more costly cleanups in the future, saving money for both taxpayers as well as industry.

This amendment makes good economic sense, and it makes good sense. I ask for your support.

Mr. MANTON. Mr. Chairman, I want to thank my colleague, Mr. BROWN, for offering this amendment designed to ensure that Federal agencies maintain the ability to respond quickly to serious risks to the public's health and safety.

In particular, I am concerned about how H.R. 1022's copious risk assessment requirements would impact the safety of our Nation's water supply.

The central importance of a safe drinking water supply was reinforced for me last November when cryptosporidium, the parasite which caused more than 100 deaths in Milwaukee in 1993, was detected in New York City's water supply.

There are few if any among us who are willing to accept a risk of significant exposure to serious disease through our water supply. I am pleased that my city of New York aggressively monitors for cryptosporidium through a watershed protection strategy. As of today, the New York City water supply is in avoidance, meaning that our water meets EPA standards for avoidance of cryptosporidium parasite.

There are no Federal regulations which cover this deadly parasite. However, New York City has tested for this pathogen since 1992 as part of a cooperative effort with EPA.

Unfortunately, there is a dearth of data about how to avoid illness from cryptosporidium, which has only been a reportable disease since March 1994.

The bill before us today would require a rigid approach to addressing unusual and new health problems, like cryptosporidium. H.R. 1022 would require agencies like EPA to complete more than 20 risk assessments before working with localities to address new-found hazards.

H.R 1022 would effectively tie the hands of cities like New York which currently are working jointly with EPA to address urgent situations like this public health issue. Furthermore, H.R. 1022 would lead to unnecessary and potentially life-threatening delays in regulatory action to protect the people of New York.

I want to congratulate my colleague for offering this amendment designed to allow EPA, the Centers for Disease Control, and other agencies the flexibility they need to work with localities to respond quickly to serious threats to health or safety.

I urge my colleagues to join me in supporting this critical amendment.

The CHAIRMAN. The time of the gentleman from California [Mr. BROWN] has expired.

PARLIAMENTARY INQUIRIES

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, on what basis does the Chair rule that in this 10-hour rule that the Committee on Rules has generously given us and under the 5-minute rule for our time, that the time of the gentleman from California [Mr. BROWN] is taken away and part of it is given to someone else when he did not yield? Under what parliamentary rule is that, Mr. Chairman?

The CHAIRMAN. The Chair has discretion and the right to reallocate time when there is a limitation on time.

Mr. BROWN of Ohio. Mr. Chairman, under what rule is that? Would the Chair cite the rule?

The CHAIRMAN. Rule XXIII.

Mr. BROWN of Ohio. Mr. Chairman, a further parliamentary inquiry. It looks to me that it is past 6:40. I call for a vote, Mr. Chairman.

The CHAIRMAN. The Chairman recognizes the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, the amendment to the amendment ought to be opposed.

Mr. BROWN of Ohio. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROWN of Ohio. Mr. Chairman, we were told by the Parliamentarian that 6:40 is the final time.

The CHAIRMAN. That is correct.

Mr. BROWN of Ohio. Under what rule may we exceed 6:40?

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BROWN] to the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

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

RECORDED VOTE

Mr. BROWN of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair announces that there will be a 5-minute vote on the Walker amendment, if a recorded vote is ordered.

The vote was taken by electronic device and there were—ayes 157, noes 263, not voting 14, as follows:

[Roll No. 181]

AYES—157

Abercrombie
Ackerman
Andrews
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
Coyne
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Moakley
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Thompson
Thornton
Torricelli
Traficant
Tucker
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOES—263

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
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
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Towns
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Baesler
Brewster
Gonzalez
Gutierrez
Hunter
Lipinski
Martinez
Miller (CA)
Mink
Rush
Torres
Ward
Williams
Wilson

□ 1858

Mr. TAYLOR of Mississippi changed his vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. YOUNG of Alaska. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act of 1995, is long overdue. I agree with the bill's authors that it is essential that a cost-benefit analysis be performed on the thousands of Federal regulations that are prepared each year. Without this measure, the Federal Government would simply continue to create, without any accountability, a growing mountain of new Federal requirements. In far too many cases, these regulations provide little, if any, benefit to our economy, our environment, or our Nation as a whole.

While H.R. 1022 is not a perfect product and it will be refined throughout the legislative process, there are several very sound provisions which I would like to highlight.

First, the term "major rule" has been defined to cover any regulation that is likely to result in an annual cost of $25 million or more. It is, therefore, highly unlikely that this bill would require a full blown cost-benefit analysis for annual and routine housekeeping regulations like those that simply open or close various fisheries or stipulate the dates, hunting times, and bag limits for migratory bird species. Concerns about the effects on these types of activities by the regulatory moratorium bill passed last week required us to exempt them from the moratorium. The concern is not present here.

Second, although this legislation does require cost-benefit analyses for major rules, it does not mandate an outcome nor does it prevent the implementation of any regulations once a department or agency has certified the impact of a proposed rule. The fundamental goal of this legislation is to allow the American people and their elected representatives to know the true cost of a proposed Federal regulatory action. With this information, which is often currently lacking, policymakers can make rational decisions that prioritize and balance the diverse needs of this Nation.

Finally, this legislation contains a phase-in provision before the requirement of a cost-benefit and risk-assessment analysis kicks in. By postponing the effective date, Federal agencies will have at least 18 months to gear up to perform these important analyses in a scientific and unbiased manner.

I compliment the sponsors of this measure for providing this transition period. I am confident that because of this language, there will not be any unnecessary or unanticipated burdens placed on the executive branch of our Government.

The requirement of cost-benefit and risk-assessment analyses is neither a new nor a radical idea. The Army Corps of Engineers has, for instance, been performing these studies for many years. I believe it is time for the rest of the Federal Government to get with the program.

Mr. JOHNSON of South Dakota. Mr. Chairman, H.R. 1022, the Risk Assessment and Cost-Benefit Act is flawed legislation and needs to be much improved by the Senate and by the conference committee before I could vote for it on final passage. Nonetheless, I support the general thrust of requiring risk assessment and cost-benefit tests for Federal regulations and I will vote for this bill today as a means of allowing the debate to continue. The current version of this legislation would lead to costly increases in Federal bureaucracy, an enormous increase in litigation and possibly a risk for health and safety concerns. I am disappointed that the House leadership seems to be more concerned over making political statements with this bill than in crafting legal language which would actually serve the public interest. I do, however, believe that this issue should be moved on to the

Senate and conference committees for, hopefully, more deliberate and responsible consideration. I will not vote for this legislation at that time unless it has been significantly improved.

Mr. CONDIT. Mr. Chairman, as many of you are already aware I am a strong proponent of risk assessment and cost-benefit analysis.

I have formed this opinion because I recognize that we do not have infinite resources and we cannot address every risk to health, the environment or society.

How then should we determine which risks to address?

The way things are being done today has to change. Risks are regulated in a complete absence of scientific fact. Tonight's news magazine show becomes tomorrow's regulation. Never mind that there might be 20 problems that are more pressing—they haven't been on TV yet.

In 1987 EPA experts conducted a review of what they felt were the greatest risks. When they collected all of the opinions, they produced a report titled "Unfinished Business." This report concluded that what experts felt were the greatest risks had funding priority and the smallest risk had the highest funding priority.

Another problem is the approach to regulations in one agency might not resemble that of another. For example, a resources for the future expert was attempting to determine the amount of lives that would be saved by an EPA regulation. Using the EPA method he determined that 6,400 deaths would be prevented. However, when the same researcher used the same data with the FDA method, he came up with a figure of 1,400.

To put this in perspective, it is absolutely necessary to assess the risk, determine how much it is going to cost to address it and how great the benefit is if we do it. And this must be done consistently throughout the Federal Government.

This is not some far-out concept, this is simply common sense.

I have been very active in this area and worked hard to convince people in the administration that we need a policy on this. During the 103d Congress I successfully added an amendment to the Agriculture reorganization bill which creates an Office of Risk Assessment.

I think the time to act is now. H.R. 1022 presents the 104th Congress with a real opportunity to begin assessing risks in a coherent and consistent manner. People need to understand the purpose and price of regulations—and they need to be done in an understandable manner. As it is done today, regulations are complex and written in an inconsistent manner.

Supreme Court Justice Stephen Breyer is a great supporter of risk assessment. In his book on the topic "Breaking the Vicious Circle" he made the following observation:

> When we treat tiny, moderate and large too much alike, we begin to resemble the boy who cried wolf. Who now reads the warnings on aspirin bottles, or the pharmaceutical drug warnings that run on for several pages? Will a public that hears these warnings too often and too loudly begin too often to ignore them?

This is exactly what I am talking about. We need to restore some credibility to our regulatory process. H.R. 1022 helps this process along. As it stands today, when you say the words Federal regulation, people cringe. It should not be that way.

Mr. PORTMAN. Mr. Chairman, one of the goals of the Contract With America is to generate economic growth and encourage job creation. Relieving the regulatory burden on individuals and businesses is essential to achieving this objective. Today, the House of Representatives took a step in this direction by requiring Federal bureaucrats to assess the cost of their actions.

Washington bureaucrats are costing us $430 billion a year with regulations that often do more harm than good. They are coming up with $50 solutions for $5 problems. It's time for common sense in Washington.

Last year 69,000 pages of Federal rules and regulations were published. The process of regulating has become an industry in lawyers, lobbyists, and special interests.

These rules and regulations—9 feet of regulations, if laid end-to-end—impact every aspect of Americans' lives. The rules are often contradictory, and frequently conflict with State, county and local rules.

Specifically, H.R. 1022 would ensure that risk assessments are objective, unbiased, and subject to peer review. The cost these rules will eventually have on Americans must be taken into account, alternatives to complicated rules that might be more cost-effective must be considered, and a sound reason for the regulation in the first place must be demonstrated.

This legislation would simply require that the Federal bureaucracy assess the costs of their actions on the rest of us. We are living in an era of declining revenues, and we must make choices and set priorities. And our Government—bureaucrats as well as elected officials—must be accountable.

The problem is that we now tend to direct our resources to relatively low-risk concerns while other, more serious concerns receive little attention. Since there's no standarized method of risk-assessment to be used throughout the Government, policymakers are unable to prioritize regulatory strategies in a common-sense manner. This bill allows us to concentrate scarce dollars where they will do the most good, and analyze alternatives to achieve the goal of public safety at the lowest possible cost.

Mr. BENTSEN. Mr. Chairman, I rise today in opposition to House Resolution 1022, the Risk Assessment and Cost-Benefit Act. I am extremely disappointed with the lack of full consideration of this important piece of legislation.

I support regulatory reform. In particular, I support cost-benefit analysis and risk assessment as tools to develop rational regulations. I have spoken with small business owners, oil and chemical companies, and other constituents who have relayed to me their stories of frustration over the regulatory process. I've also talked to constituents who are concerned about health, safety, and the environment their kids will grow up in. Our job is to find the appropriate, delicate balance between the interests of commerce, industry, and the environment. This legislation is too quick of a fix to solve such a complex problem.

Reforming Federal regulations will help our economy to grow. The time-consuming process of filling out environmental impact statements or hundreds of pages of small business loan forms are good examples of why reform is necessary. But this bill doesn't guarantee regulations that are sensible. On the contrary, conducting across-the-board risk-assessments will lengthen the review process, transform simple rules into complex monstrosities, and cost taxpayers millions.

Given time for thorough consideration, I believe that this body might have crafted a sensible compromise. Unfortunately, this is not that bill. Mr. Chairman, I must add that I cannot support a process which limits debate to only 10 hours and restricts the number of amendments allowed for consideration. This is not full and fair disclosure. The American people expect and deserve a full airing of these important issues in the Congress, and not this reckless, hasty display.

Once again, the job of fair and bipartisan legislating is left to the other body. That is a terrible shame, because regulatory reform is deserving of much more thorough consideration.

Ms. PELOSI. Mr. Chairman, H.R. 1022 is regulation by strangulation. If you think government red tape has been tied in knots, just wait until you experience the results of this Republican red flag against public health and safety and the environment.

The cumbersome imposition of regulations on top of regulations will only serve to delay approval of anything to protect public health and safety and the environment. The resulting delay will threaten the lives of many and the future of all Americans. In our daily lives, the delay will translate into unregulated food and chemical products and in the longer term, the risk will be the loss of our national patrimony.

Once again, the contract is placing financial interests over the interests of American public. A CNN/Time poll taken at the end of January determined that Americans consider environmental protection one of the most important problems—23 percent—or very important—65 percent. Only 23 percent of the people surveyed believed that protection from pollution had gone too far.

The risk in risk assessment is great. You cannot put a price on preventing illness, saving lives or preserving natural lands. Common sense should be brought to this debate on dollars and cents. A petroleum industry official had this comment about H.R. 1022:

> This reminds of 1981, when the industry shot itself in the foot * * * Business not only lost but managed to engender much of the strident public environmental sentiment that later resulted in far stricter laws.

H.R. 1022 does not discriminate between regulations—ones where the process should be re-examined or streamlined and ones that should be eliminated. The indiscriminate overriding of existing protections throws out the good with the bad.

Like other components of the Republican regulatory reform package, H.R. 1022 represents another opportunity for special interests to paralyze the Federal regulatory process at the expense of average, taxpaying Americans.

In this case, Mr. Chairman, less government means more government. The layers of bureaucracy that will be added to the regulatory

process by H.R. 1022 will put more lives in harm's way. If you want to vote for more government and less public health and environmental protection, then you have the right bill in front of you. If you want to vote for government reform, you will need to look elsewhere.

I urge my colleagues to vote for less government—vote "no" on H.R. 1022.÷

Mrs. COLLINS of Illinois. Mr. Chairman, I have many of the same concerns about H.R. 1022 as I did about the regulatory moratorium bill and the unfunded mandates bill when they were considered on the House floor. Rather than improving the efficiency of Government, these bills establish complex procedures and endless possibilities for legal challenge.

Each of these bills, for example, provides for judicial review of agency decisions. this simply means that clever lawyers can tie up regulations and other agency actions in litigation for months, even if an agency thinks it has acted within its authority.

This is an especially critical problem for health and safety matters that may need to be exempted from requirements risk assessment, cost benefit analysis, and peer review under H.R. 1022. With the courts looking over their shoulders, agencies may be inhibited from acting quickly when quick action is needed to save lives.

I do not believe that making it more difficult for agencies to protect the public health and safety is something the American people, nor I hope most of my colleagues, would support.

I also believe it is wrong to force all regulations to go through the same type of risk assessment, cost-benefit analysis, and peer review, as provided in H.R. 1022.

If we let risk assessment become our goal, rather than a tool to achieve our goal, then risk assessment itself can be harmful and an obstacle to serving the public interest.

What happened in the early years of the AIDS outbreak is a good example. In the early 1980's, a few scientists proposed that AIDS could be transmitted to others through transfusions of blood from a person with the AIDS virus.

The Food and Drug Administration and the blood products industry thought there would be alarm and panic, if the public were warned of this possibility. Instead, they insisted they had to be absolutely sure before they could say anything publicly.

As a result, all kinds of risk assessments were done—Comparison risks, substitution risks, as well as cost benefit analysis. For more than 2 years, the proposal that AIDS could be transmitted through transfusions was analyzed before evidence was so overwhelmingly conclusive, that the FDA and the blood products industry finally issued their warnings to the public.

During that 2-year period, tens of thousands of people were exposed to AIDS contaminated blood. Had the blood banks initiated their policies earlier to screen for AIDS contaminated blood, countless lives could have been saved.

The lesson to be learned from the FDA's experience is that agencies need flexibility. A one-size-fits-all approach to risk assessment and cost benefit analysis can be harmful and contrary to the public interest. We need to be encouraging agencies to evaluate possibilities, but we do not want to insist that they continue to perform risk assessment and cost benefit analysis in order to satisfy some requirement of law, when what they are looking for might be right in front of their eyes.

For this reason, I oppose H.R. 1022 and believe that rather than reducing regulatory burden, its most significant effect will be to prevent Federal agencies from performing their most important function: protecting the public health and safety.

I urge may colleagues to oppose this legislation.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. KNOLLENBERG) having assumed the chair, Mr. HASTINGS of Washington, 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. 1022) to provide regulatory reform and to focus national economic resources on the greatest risks to human health, safety, and the environment through scientifically objective and unbiased risk assessments and through the consideration of costs and benefits in major rules, and for other purposes, pursuant to House Resolution 96, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. DOGGETT

Mr. DOGGETT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DOGGETT. I am, most definitely, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DOGGET moves to recommit the bill H.R. 1022 to the Committee on Science with instructions to report the same back to the House forthwith with the following amendments:

Amend the heading of section 301 (page 31, line 2) to read as follows:

SEC. 301. PEER REVIEW PROGRAM AND PROHIBITION OF CONFLICTS OF INTEREST.

Strike paragraph (3) of section 301(a) (page 31, line 23 through page 32, line 5) and insert the following:

(3) shall exclude peer reviewers who have a potential financial interest in the outcome:

Mr. DOGGETT. Mr. Speaker, this is a short amendment, 13 words, and it is a short presentation on it after a lengthy debate in which one Member after another has attempted to clean up this bill.

Mr. Speaker, throughout the course of this lengthy debate, one Member after another has sought to clean up this bill and has been thwarted at every turn. There is one recurring theme throughout the debate, and, that is, whether we are going to turn the public's business over to special interests and their lobbyists.

All this very simple motion to recommit does is to send the bill back to recommit it to the committee to put in a conflict of interest provision instead of committing it and our Government to special interests.

That is what the American people want. They are tired of special interests coming to this House and getting special treatment while the hard-working families across this Nation get only the leftovers.

Mr. Speaker, this is supposed to be a bill about science, about risk assessment. But it has not really worked out that way. Because what this bill has ended up being is a matter of placing the risk on ordinary Americans as far as their health and safety and placing the benefits in the hands of a few. One of the things we can do about it is to try to sever the ties that bind the special interests to this bill and give us not good science but good special treatment for the few. That is what this conflict of interest amendment is about.

The House needs to know that a vote against this motion to recommit is a vote to mandate that registered lobbyists will rule, perhaps with a veto power, in these peer review committees.

I thought that perhaps the gentleman from Pennsylvania was going to do something about this. He talked about the possibility of doing something about it during the course of the amendment offered by the gentleman from Massachusetts this afternoon, but we have had plenty of time. We had some time in committee, and nothing has been done about it.

This bill as written for the first time will mandate that an agency of this Federal Government charged with protecting public health and safety cannot, shall not, indeed, exclude a lobbyist for a special interest group from serving on a peer review committee, exercising a potential veto power over regulations to protect the public health and safety.

I do not believe there has been a day recently that I have not received a letter from some lobbyist promoting this bill. They can salivate over the prospects under this bill. Every one of these letters has begun by telling me about the desire for good science, but when all was said and done, all they really wanted was delay and reduction of regulations.

That is why I am sure, Mr. Speaker, that the distinguished Republican Senator from Rhode Island, Senator CHAFEE, has described this bill in its current form as a prescription for gridlock and indeed it is.

What we can do at least is clean it up through this motion to recommit so that there is not this kind of blatant conflict of interest. That is all this one-sentence amendment and a new title on conflict of interest will do.

With this recommittal and the amendment, we will see that the peer review process is not converted from being an objective scientific process into only the best science that money can buy, and we will not let the special interests capture the whole regulatory process.

Think about what that means and take the practical example of tobacco. Two or three decades after we first heard about the dangers of tobacco and cancer, we still cannot find a single tobacco company study that shows there is any link. They have had some of the best scientists that money can buy but when they are asked whether there is any link between tobacco and cancer, you can see them, they are just scratching their heads again, saying, "Well, there might be, but not until my retirement vests."

That is the kind of scientists that this bill mandates have to be on peer review panels across this country, and it is wrong.

We began with a desire for good science, good science over good politics, good science over silly regulations, some of which have come out under Democratic administrations and some of which have come out in 12 of the last 14 years under Republican administrations. What we have gotten is not good science but good protection for special interests. We can do something about that. We can rewrite this bill to attack special interests, to attack silly regulations, all in the same process. If you believe that we ought not to turn over our Government to special interests, vote in favor of this motion to recommit and do something about it with a strong conflict of interest provision.

Mr. WALKER. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, this is an amendment similar to an amendment that was turned down by a vote of 247 to 177 earlier.

What this does is make certain that the peer review process would fail because it assures that only those who know nothing about the subject would serve on the peer review panels. It is one of those dumb and dumber amendments that probably should not come before the House.

I yield to the majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I think the chairman has pretty well summed it up very quickly. Let me just say that in all of this cry for special interests being part of the peer review process, what the author of the motion to recommit wants to happen is his special interests get to serve on the peer review panels rather than our special interests. They want to load the system so that they can continue to control and manipulate the American economy and the American business men and women. That is what is going on here.

For years they get a study and they make sure that the conclusion is written before the study is even done on these regulations. That is what they want to continue. They want to load the system with their special interests, with their environmental extremist groups, or with the labor unions, or the other special interests, the Ralph Nader groups, the Public Citizens, they want to load them up.

What we want is a peer review process that brings everybody into the process and gets all points of view, particularly those people that have to deal with these oppressive regulations. They should have a say in this process and that is what we want.

Vote "no" on the motion to recommit.

Mr. Chairman, a New York Times article from a couple of years ago summed up perfectly the prevailing criticism of Congress' and EPA's choice of priorities:

> In the last 15 years, environmental policy has too often evolved largely in reaction to popular panics, not in response to sound scientific analysis of which environmental hazards present the greatest risks. As a result . . . billions of dollars are wasted each year in battling problems that are no longer considered especially dangerous, leaving little money for others that cause far more harm.

No one who supports this bill wants to harm children or hurt our environment—the fact of the matter is, every time you get out of bed and start a new day you are faced with risks, and every day you make decisions about whether to accept those risks based on an analysis of the costs versus the benefits associated with them.

Likewise, the Federal Government must set priorities on how to spend its limited resources. There is no way the Government could ever protect everyone from every risk there is, and I don't believe Americans expect that. Risk assessment and cost/benefit analysis will both help us focus on those areas that are the greatest threat to the public, and provide the data needed to make those tough budgetary choices.

When granting a tolerance for a new pesticide or an air pollutant, EPA's standard is protection against a lifetime risk of one in a million for cancer. For a little perspective, the chance of death by lightning is 35 times as great; by accidental falls, 4,000 times as great; and in a motor vehicle, 16,000 times as great.

Just to demonstrate the need for reform, I'd like to present a few examples of how our system has gone haywire:

First, under the Clean Water Act, if flooding creates pools of water on someone's property as the result of a clogged-up drainage system, the owner may not clear the clog to drain the new wetland without Government permission.

Second, EPA regulations require that municipal water treatment plants remove 30 percent of organic material before discharging treated water into the ocean. Because water in Anchorage, AK is already very clean, the town has had to recruit local fish processors to purposely dump 5,000 pounds of fish guts into its sewage system each day so that it would have something to clean up and meet EPA's requirement.

Third, the Cleveland Plain Dealer, a newspaper company, wanted to build a new production plant near Lake Erie, a plant which would bring 400 new jobs to the otherwise abandoned inner-city industrial area. But because of cleanup costs of $200,000 for residual chemicals, the newspaper chose to build the plant in cleaner suburbs.

Another socially conscious Cleveland developer also wanted to develop a 200-acre industrial park downtown, but discovered he would have to spend $200 million just to clean up the property before beginning construction. He abandoned the project.

I think everyone would agree that these are not the intended consequences of Federal rules and regulations, and yet these things continue to happen over and over again. What we want is to bring some common sense and sound science into the process, so that regulations will serve the people, rather than people serve the regulations.

Vote "no" on this motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, this amendment really is not about the peer review process. That was dealt with in the Markey amendment. The Markey amendment went down as it should have.

The provision in this bill provides for everybody of every interest, labor and environmental groups and business groups and everyone, to participate in the peer review process, and they have to report any potential conflict of interest. That is what makes this bill so strong.

But really the opponents of this bill who are trying to hide behind the motion to recommit are worried about three strikes and you're out, changing a $25 million coverage to $100 million, changing the enforceable law in not allowing judicial review, and providing for prior law to prevent consideration and to change the risk and cost-benefit analysis.

This is an effort to try to stifle the ability to change the way Washington works in its regulatory process. Members should vote against the motion to recommit.

Mr. WALKER. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I too want to urge a vote against this motion to recommit.

The bill as presently constructed says that anyone with any interest in the rule has to disclose that interest, whether you have an interest from an environmental standpoint, whether you have an interest from wherever you are coming from, from a labor or management standpoint. It allows all

of those with expertise to serve on the panel provided you disclose your interest. That is they way it ought to be.

This motion to recommit will defeat that provision of the bill. We need to defeat this motion to recommit.

Mr. WALKER. The gentleman from Louisiana is absolutely correct. The bill calls for peer review panels that are broadly representative and balanced and include representatives from State and local governments, industries, small businesses, universities, agriculture, labor, consumers, conservation organizations, and public interest groups.

We ought to keep that kind of broad language and reject that which the gentleman from Texas has offered.

Mr. DINGELL. Mr. Chairman, I rise in support of the motion to recommit. During the final minutes of consideration of H.R. 1022, Mr. WALKER amended the bill to apply all of the cost-benefit and other decisionmaking criteria to cleanups of our Nation's hazardous and radioactive waste site. Previously the bill applied only to major rulemakings above $25 million and did not impact cleanups.

The Walker amendment which was offered without time for debate, will have profound adverse consequences for Superfund cleanups, for transferring property back to communities at closing military bases, and for the Department of Energy's program to dispose of high-level nuclear waste at Yucca Mountain and the WIPP facility in New Mexico.

This amendment was adopted with no hearings by the committees of jurisdiction. It will slow down cleanups by years while the new factors are grafted onto the existing program. For Members with closing military bases or property in urban cities awaiting redevelopment—you can forget reutilizing the property for economic redevelopment if the amendment is retained in the bill.

State laws which are now integrated into a process for deciding the appropriate level of cleanup will be preempted. Cleanups under the Walker amendment will be based strictly on a Federal cost/benefit analysis.

Litigation opportunities will abound. How do the new criteria work with the existing law? Do cleanups still have to be protective of human health and the environment? How do factors like cost-effectiveness, cost-benefit, and flexibility apply in the context of cleanup? All are rich opportunities for lawyers and litigation while no cleanup occurs.

Support this motion, allow cleanups to go forward, and let the committee's of jurisdiction reform the Superfund Program in a comprehensive manner.÷

□ 1015

The SPEAKER pro tempore (Mr. KNOLLENBERG). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

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

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

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

[Roll No 182]

AYES—174

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Montgomery
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—250

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
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
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Moran
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
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—10

Browder
Gonzalez
Gutierrez
Hunter
LaTourette
Lipinski
Martinez
Metcalf
Rush
Ward

□ 1931

The Clerk announced the following pair:

On this vote:

Mr. Rush for, with Mr. Metcalf against.

Mr. PARKER changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. KNOLLENBERG). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. BROWN of California. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 286, noes 141, not voting 7, as follows:

[Roll No 183]

AYES—286

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
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
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
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
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
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
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Towns
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—141

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Boehlert
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
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
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rahall
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Thompson
Torres
Torricelli
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—7

Gonzalez
Gutierrez
Hunter
Lipinski
Martinez
Rush
Ward

□ 1940

Mr. VISCLOSKY changed his vote from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WARD. Mr. Speaker, due to the fact that I had to be in my district on official business, I missed several rollcall votes during consideration of H.R. 1022, Risk Assessment and Cost Benefit Act of 1995, on February 28, 1995. Had I been present, on rollcall vote 177, I would have voted "aye." Had I been present, on rollcall vote 178, I would have voted "aye." Had I been present, on rollcall vote 179, I would have voted "noe." Had I been present, on rollcall vote 180, I would have voted "aye." Had I been present, on rollcall vote 181, I would have voted "aye." Had I been present, on rollcall vote 182, I would have voted "aye." And on final passage of the bill, had I been present, on rollcall vote 183, I would have voted "noe."

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, at the end of the afternoon of Tuesday, February 28, 1995, I was unavoidably absent from this Chamber and therefore missed rollcall votes Nos. 178, 179, 180, 181, 182, 183—all votes regarding amendments and final passage of H.R. 1022—the Risk Assessment and Cost Benefit Act of 1995. I want the RECORD to show that if I had had the opportunity to be in this Chamber when these votes were cast, I would have voted the following way: rollcall vote No. 178, "yea"; roll call vote No. 179, "nay"; rollcall vote No. 180, "yea"; rollcall vote No.181, "yea"; rollcall vote No. 182—"yea"; rollcall vote No. 183, "nay."

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mrs. WALDHOLTZ, from the Committee on Rules, submitted a privileged report (Rept. No. 104-61) on the resolution (H. Res. 101) providing for the consideration of the bill (H.R. 925), to compensate owners of private property for the effect of certain regulatory restrictions, which was referred to the House Calendar and ordered to be printed.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 70

Mr. TORRES. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of H.R. 70.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF MS. JUNE ELLENOFF O'NEILL AS DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE

The SPEAKER pro tempore. Pursuant to the provisions of section 201(a)(2) of the Congressional Budget and Impoundment Control Act of 1974, Public Law 93-344, the Chair announces that the Speaker and the President pro tempore of the Senate on Wednesday, February 22, 1995 did jointly appoint Ms. June Ellenoff O'Neill as director of the Congressional Budget Office, effective March 1, 1995, for the term of office beginning January 3, 1995.

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES ON AMENDMENTS TO H.R. 956, THE COMMON SENSE LEGAL REFORM BILL

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

Mr. SOLOMON. Mr. Speaker, I wish to announce to House Members that the Rules Committee is planning to meet on Tuesday, March 7, to grant a rule which may restrict amendments for the consideration of H.R. 956, the Common Sense Legal Standards Reform Act of 1995.

Any Member contemplating an amendment to H.R. 956—the product liability bill—should submit 55 copies of the amendment and a brief explanation to the Rules Committee, no later than 3 p.m. on Friday, March 3.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

It is the intention of the Rules Committee to make the text of H.R. 1075 in order as a substitute to the reported text of H.R. 956 for amendment purposes. This new text reflects the work of both the Judiciary Committee and the Commerce Committee on this issue. The copies of H.R. 1075 can be obtained from the majority offices of the Commerce Committee or the Judiciary Committee. Legislative Counsel will draft all amendments to this revised text.

□ 1945

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT TOMORROW, MARCH 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; The Committee on Banking and Financial Services; The Committee on Economic and Educational Opportunities; The Committee on Government Reform and Oversight; The Committee on House Oversight; The Committee on International Relations; The Committee on Transportation and Infrastructure; and The Committee on Veterans Affairs.

Mr. Speaker, it is my understanding that the minority has been consulted and that there is no objection to these requests.

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

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I just want to concur that these are the lists of committees that the minority was consulted on, and we have no objection.

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.

HOUR OF MEETING ON TOMORROW, MARCH 1, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, once again I would acknowledge that this was discussed with the minority.

The minority has no objection.

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.

NOTICE OF INTENT TO TAKE UP RESOLUTION OF INQUIRY ON MEXICAN PESO CRISIS

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

Mr. ARMEY. Mr. Speaker, let me just take this moment to report to the House, pursuant to the agreement that I made with the minority leader last week, that we would give Members a day's notice before we take up the resolution of inquiry on the Mexican peso crisis, and we do intend to take that up late tomorrow afternoon or tomorrow evening. I wanted to notify the body of that at this time.

CLARIFICATION OF WAIVER WITH RESPECT TO RESOLUTION OF INQUIRY ON THE MEXICAN PESO CRISIS

(By unanimous consent, Mr. FRANK of Massachusetts was allowed to proceed for 1 minute.)

Mr. FRANK of Massachusetts. Let me address the majority leader. It was my understanding that in order to do that, it would require a waiver of the 3-day layover rule. Is the majority leader asking for that permission?

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Texas.

Mr. ARMEY. I thank the gentleman for yielding.

GRANTING OF PERMISSION ON REQUEST TO WAIVE THE THREE-DAY LAYOVER RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to waive the 3-day layover rule with the point that the minority has agreed to that.

The SPEAKER pro tempore. Is there objection to the request to the gentleman from Texas?

Mr. FRANK of Massachusetts. Mr. Speaker, reserving the right to object, I have never thought that waiving the 3-day rule was a big deal, like my friends on the other side. I am glad to welcome them to the position that occasionally waiving that rule is a perfectly reasonable thing to do. I think the gentleman for doing it explicitly. I does seem a bad idea to me to waive it implicitly.

But since this is also cleared with the minority and since this precedent of waiving a 3-day rule when it is inconvenient is not such a bad one, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. BURTON of Indiana. Mr. Speaker, reserving the right to object, I would like to ask the majority leader a question. This resolution of inquiry does not preclude any other legislative action pertaining to the Mexican bailout program?

Mr. ARMEY. If the gentleman would yield, no, it does not.

Mr. BURTON of Indiana. I thank the gentleman, and 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.

PROVIDING FOR CONSIDERATION OF H.R. 926, REGULATORY REFORM AND RELIEF ACT

Mr. McINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 100 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 100

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 926) to promote regulatory flexibility and enhance public participation in Federal agency rulemaking, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed ninety minutes, with sixty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary and thirty minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee

amendment in the nature of a substitute shall be considered by title rather than by section. Each title shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. KNOLLENBERG). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

Mr. MCINNIS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, House Resolution 100 is a very simple resolution. It is an open rule providing for 90 minutes of general debate. Sixty minutes shall be equally divided between the chairman and the ranking minority member of the Committee on the Judiciary. Additionally, 30 minutes is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Small Business. After general debate, the bill shall be considered for amendment under the 5-minute rule. Finally, this resolution provides one motion to recommit, with or without instructions. This open rule was reported out of the Committee on Rules by voice vote.

This open rule demonstrates that the new majority intends to honor its commitment to have a more fair and open legislative process. The resolution provides the House with an opportunity to review the bill, debate it, and yes, if necessary, to amend the legislation. To date, 83 percent of the rules reported out of the Committee on Rules have been open, or modified open, rules. This is a dramatic contrast between the 44 percent of open, or modified open, rules reported out of the committee during the 103d Congress.

The legislation is designed to improve the Federal regulatory system by: First, strengthening the Regulatory Flexibility Act of 1980, second, amending the Administrative Procedure Act to require the preparation of regulatory impact analyses whenever a major rule is promulgated by a Federal agency, and third, directing the President to prescribe regulations for the executive branch aimed at protecting citizens from abuse and retaliation in their dealing with the regulatory system.

One particular provision of this legislation is very important. By deleting the prohibition against judicial review contained in section 611 of the Regulatory Flexibility Act, we will prevent Federal agencies from merely including boilerplate provisions certifying that a proposed regulation will not have a significant impact upon a substantial number of small entities. Even the National Performance Review, which was chaired by Vice President GORE, made the deletion of the ban against judicial review its primary recommendation with respect to the Small Business Administration. I am pleased to see this provision included in the legislation. I urge my colleagues to support the rule, and the underlying legislation.

Mr. Speaker, I insert into the RECORD the following:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of Feb. 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/modified-open[2]	46	44	15	83
Modified closed[3]	49	47	3	17
Closed[4]	9	9	0	0
Totals	104	100	18	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of Feb. 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded mandate reform	A: 350–71 (1/19/95)
H. Res. 44 (1/24/95)	MC	H. Con Res. 17	Social Security	A: 255–172 (1/25/95)
		H.J. Res. 1	Balanced budget amendment	
H. Res. 51 (1/31/95)	O	H.R. 101	Land transfer, Taos Pueblo Indians	A: voice vote (2/1/95)
H. Res. 52 (1/31/95)	O	H.R. 400	Land exchange, Arctic National Park and Preserve	A: voice vote (2/1/95)
H. Res. 53 (1/31/95)	O	H.R. 440	Land conveyance, Butte County, CA	A: voice vote (2/1/95)
H. Res. 55 (2/1/95)	O	H.R. 2	Line item veto	A: voice vote (2/2/95)
H. Res. 60 (2/6/95)	O	H.R. 665	Victim restitution	A: voice vote (2/7/95)
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary rule reform	A: voice vote (2/7/95)
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent criminal incarceration	A: voice vote (2/9/95)
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal alien deportation	A: voice vote (2/10/95)
H. Res. 79 (2/10/95)	MO	H.R. 728	Law enforcement block grants	A: voice vote (2/10/95)
H. Res. 83 (2/13/95)	MO	H.R. 7	National security revitalization	PQ: 229–100; A: 227–127 (2/15/95)
H. Res. 88 (2/16/95)	MC	H.R. 831	Health insurance deductibility	PQ: 230–191 A: 229–188 (2/21/95)
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/2/95)
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense supplemental	A: 282–144 (2/22/95)
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95)
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk assessment	A: 253–165 (2/27/95)
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress, as of Feb. 27, 1995.

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

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

Mr. Speaker, I yield myself such time as I may consume and I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I would like to commend my colleague from Colorado, Mr. MCINNIS, as well as my colleagues on the other side of the aisle for bringing this resolution to the Floor. H. Res. 100 is an open rule which will allow full and fair debate on the Regulatory Reform and Relief Act. As my colleague from Colorado has ably described, this rule provides 90 minutes of general debate, 60 minutes for the Committee on the Judiciary and 30 minutes for the Committee on Small Business.

Under this rule, germane amendments will be allowed under the 5-minute rule, the normal amending process in the House of Representatives. Most importantly, there is no overall time cap required by the rule which will ensure that all Members, on both sides of the aisle, will have the opportunity to offer their amendments. I am pleased that the Rule Committee

was able to report this rule without opposition in a voice vote and I plan to support it.

Although I do support the rule, I am concerned about the broad nature of this legislation, and I want to explore its actual impact on the regulatory process before casting my vote on the bill itself. I am well aware of the need to make the regulatory process more sensitive to the reality of running a small business. I was a small businessman myself and can sympathize with the overwhelmingly difficult task of conforming to government requirements. Certainly reform needs to be taken and the regulatory process simplified.

However, I am troubled by the fact that this bill makes no attempt to identify specific problem areas and correct them. Rather, it utilizes a blanket approach by requiring complicated, costly and time-consuming studies on any major rule with an annual effect on the economy of $50 million. For the past 20 years, every Administration, Republican and Democratic alike, has defined a major rule with a $100 million benchmark. Lowering the threshold in this way will only create more work and paper for the bureaucracy at a time in which we are reducing government.

Another problem with this legislation is that it is very costly. EPA alone estimates it will cost taxpayers up to $1.6 million for each Regulatory Impact Analysis and risk assessment. In addition, regulations could be delayed for up to 2 years. While a delay of this length may not be harmful in some areas, it is not acceptable for rules that pertain to true health and safety—drinking water, airplane safety, disaster assistance, food protection, and many others.

Mr. Speaker, I hope the amending process will enable improvements to be made to this legislation. We need regulatory reform. But we need to slow down and do this in a deliberative way so that our reform is sensible and responds to real problems, not rhetoric.

Finally, Mr. Speaker, as I indicated before, we have an open rule on this bill which I will support. I urge my colleagues to join me in voting for it.

Mr. MCGINNIS. Mr. Speaker, I yield such time as may consume to my friend, the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman from Colorado for yielding me this time. The gentleman is a very valuable new member of the Committee on Rules, and we appreciate his being there.

Mr. Speaker, I rise today in support of another completely open rule from the Committee on Rules. I rise further to enthusiastically support this bill. H.R. 926 is the fourth of five bills that make up what was H.R. 9, the Job Creation Wage and Enhancement Act in the Contract With America. This bill improves that bill, which was signed into law by President Jimmy Carter on September 19, 1980.

Later this week the House will take up H.R. 925, the Private Property Protection Act, which is the last of the regulatory reform bills and which is the one that really excites me. I cannot wait to get this bill onto this floor and get it passed after all these years.

Mr. Speaker, I have said this often in the past 2 weeks, but I will say it again: Legislation like the measure before this House today is exactly why I came to Congress 16 years ago. The Federal regulatory process is just as out of control today as it was in 1978 and, as a matter of fact, perhaps it may be even worse.

Mr. Speaker, we in this Congress must change the philosophy of the Federal Government to regulate every facet of our lives. Throughout our deliberations we must be conscious of the small businessman. I will say to my friend, TONY HALL, I was a small businessman too when I came here, so-called little guy, who just happens to create 75 percent of all the new jobs in America every single year, 75 percent of the new jobs.

H.R. 926 will help free the small businessman from these kind of burdensome, job-killing regulations and direct the President to enact a citizens regulatory bill of rights, something he does not appear to want to do.

□ 2000

Mr. Speaker, H.R. 926 amends the Regulatory Flexibility Act which sought to ensure that agencies fit regulations and informational requirements to the scale of the business or organization or governmental jurisdictions subject to regulation.

This is based on the idea that the size of an entity significantly affects the cost of regulatory compliance. In other words, what that means is, regulations have a greater cost on smaller business than they do on larger business.

This bill also will require Federal agencies to produce a regulatory impact analysis for regulations with an economic impact of more than $50 million, which means that the Federal Government will be more aware of the effect proposed rules will have on business.

For example, the EPA is threatening thousands of jobs in upstate New York in the district which regulates, that sets emission standards for the pulp and paper industry. The EPA regulations were created without a cost-benefit analysis. Now, the costs of the same regulations are now threatening to close paper mills in my hometown of Glens Falls, NY, killing jobs and placing many hard-working people on the unemployment roles.

Let me tell my colleagues, in upstate northern New York, where it is so cold there are few jobs up there, we cannot afford to lose one more much less thousands.

I would like to finish my statement by pointing out that there appears to be a great deal of consensus on this bill. I understand that both Republican and Democrat amendments were adopted in the committee, that the bill was favorably reported out of committee by a voice vote and that the rule was unanimously voted out of the Committee on Rules. That does not always happen. But when we have an open rule like this, it is a pleasure to bring it to the floor.

With that, I urge strong support of the rule on this much-needed bill.

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

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

Mr. MCINNIS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS], a member of the Committee on the Judiciary who chairs the subcommittee that reported this legislation.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding time to me.

The gentleman from Colorado, aided and abetted by the gentleman from Ohio and later by the gentleman from New York have very amply outlined the parameters of the legislation in the debate that is forthcoming as we begin the process again tomorrow.

What I wanted to add to their preview is what has been generally understood, that this is from the very beginning a bipartisan effort, at least to bring the issue to the floor.

In the committee, where hearings, extensive hearings were held, the testimony was such that it actually created the basis for the final language that appears in this legislation.

Members will recall that the original bill, which we changed as bit, had reference to an executive order issued by then-President Reagan. It formed the level of provisions that were found in the bill that was referred to our committee. But we, working together, were able to provide a new bill reflecting the best of the executive orders, adding some zest of our own into the process and listening very carefully to the witnesses on the whole host of issues that found themselves resolved in the final language.

This does not mean that all of the issues were resolved. The gentleman from Rhode Island [Mr. REED] and I have agreed that there is going to be disagreement. We also have agreed that jointly we are going to offer an en bloc amendment that will satisfy some of the other problems which we encountered and which we jointly decided to resolve.

After that, who knows what is going to happen, but in the final analysis,

when we have completed this bill, we will have gone a long way in bringing to fruition another part of the Contract With America which just happens to coincide with the will of many of the Members on the Democratic side who never even knew about the Contract With America and who are not, of course, signatories of the Contract With America, but who have the joint feel for the necessity to do something about regulatory reform.

We will begin tomorrow. I will end by thanking now in advance, because I might be angered by the time debate is over tomorrow, but I will now thank the gentleman from Rhode Island for his cooperation and all those who will be participating.

I will save my anger for those who oppose me tomorrow.

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

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Speaker, I, too, want to thank the gentleman for his cooperation today, and I look forward to tomorrow and for a vigorous debate.

Mr. GEKAS. Vigorous and vitriolic, maybe.

Mr. REED. And educational.

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

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. KNOLLENBERG). Under the Speaker's announced policy on January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

FACTS ON WIC AND THE SCHOOL LUNCH PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I have got an article here from the Washington Times, and it says "Democrats Lie About Lunch." And I would like to submit it for the RECORD, and I would like to explain what the article means.

First of all, there has been a lot of politically motivated criticism and partisan purposeful misrepresentation of the facts. And I think it has gotten to the extreme level, Mr. Speaker. What we have done is kill the big Federal bureaucracy versus putting Government control where it does the most good, and that is at the effective, closest level to the people and taking it out of Washington. And a lot of the Clinton liberals do not like that.

Facts: The school-based block grant ensures that increased funding levels for the school breakfast and lunch, that funding level is increased by 4.5 percent. CBO had originally requested or taken a look and said the average growth is about 5.2 percent. There was a large concern and they wanted to put the nutrition programs in with the welfare block grant.

As the subcommittee chairman, I determined that if we did that, we would hurt those nutrition programs. So I separated the school breakfast and the school lunch program and guaranteed that 80 percent of it would be spent on the most needy children, those children, 185 percent and below poverty level. That protected those.

The States and the Governors also wanted a 20 percent remaining to be flexible, that they could either add, if that particular State needed it, to the school breakfast or school lunch program or other nutritional programs. For example, what may work for Tommy Thompson in Wisconsin may be a little bit different than Governor Wilson of California, but it gives them the flexibility. We increased the spending level by 4.9 percent.

I would like to submit this chart also for the RECORD, Mr. Speaker. It shows incrementally, for example, in 1995, for the school breakfast program, it was $4.59 billion. In 1996, it is $4.7. In 1997, it is 4.9. In 1998, it is 5.1. And in 1999, it is 5.4. And in the year 2000, it is 5.6. As you can see, each year we have increased spending for the school breakfast and lunch program. Also for the Women, Infants and Children Program that we have increased funding and, again, if we would have block granted it with the welfare block grants, it would have been in competition and I protected it.

[Chart not reproducible in the RECORD.]

Mr. CUNNINGHAM. I also mandated that 80 percent of the funds in that block grant must go to the WIC Program. And the 80 percent funding is more money than current law gives to the WIC Program. Why? Because the WIC Program in California and most States across the country is very effective and it is the Women, Infants and Children Program.

For example, currently it is 3.5. In 1996, under our block grant, it goes to 3.7, this is from 3.5. That is not a cut, my colleagues. In 1997, it is 3.8; in 1998, it is 4.0; 4.1 in 1999, and in the year 2000, 4.2, nearly 4.3. That is not a cut.

I would like to submit this for the RECORD also, Mr. Speaker.

What the other side would have you believe is that we are actually trying to kill and cut children's nutrition programs. It is not true. The Governors came to us and said there was 366 welfare programs, very noneffective, if you look. And the American people understand that those programs have failed. The monumental paperwork, the Government bureaucracy, the reporting documents. I listened to State Senator Hoffer from the State of Colorado and he said they literally in the State have two full computer system programs and computers dedicated to just the reporting data of the children's nutrition program. We have eliminated that. We have made it easier for the States to work. And so that we do not build State bureaucracies, we have limited the administration of States to 2 percent. In the case of WIC because it is more demanding, 5 percent. And what we are doing is getting the dollars to the kids.

We are growing kids, not Federal bureaucracies. I think that is important also. I included the language to make sure that the nutrition standards were maintained. But yet, the gentleman from Wisconsin [Mr. GUNDERSON], and the gentlewoman from New Jersey [Mrs. ROUKEMA], and the gentleman from Michigan [Mr. KILDEE], came and said, can we add language to ensure, even stronger language, that we maintain those nutritional levels? Both those amendments were accepted in the committee. They passed with bipartisan support.

But yet they still say we are killing the programs. Let me tell you what we are doing. We limit Federal bureaucracy, paperwork, increase local flexibility. We allow for the expansion of the children's nutrition programs. And that is a fact, Mr. Speaker. It is backed up with facts and figures.

Mr. Speaker, I include for the RECORD the documents to which I referred.

[From the Washington Times, Feb. 28, 1995]

DEMOCRATS "LIE" ABOUT LUNCH

(By Nancy E. Roman)

Democrats continued to spin the GOP's proposed "cuts' to the school-lunch program yesterday as "mean-spirited" and "cruel," herding a troop of preschoolers from Cheverly Early Childhood Center into the Capitol to make the point.

Rep. Steny H. Hoyer, Maryland Democrat, said if the Republican plan succeeds, it will "roll back years of progress."

Vermont Gov. Howard Dean, M.D., said it is "despicable" and accused Republicans of targeting nutrition programs for children because they cannot vote.

In fact, under the Republican proposal, the federal school lunch program will grow by 4.5 percent or $203 million. In the current budget year, the federal government spends $4.5 billion. Republicans would spend $4.7 billion.

The "cuts" that have received so much press attention, refer to a reduction in the 5.2 percent average increase in the school-lunch program, as projected by the Congressional Budget Office. The GOP increase is 4.5 percent.

Rep. John Boehner, Ohio Republican and chairman of the Republican Conference, called talk of cuts in the school-lunch program "the biggest lie in Washington, D.C., this last week."

"What we're doing is guaranteeing that states will get more money," he said.

Republicans propose to spend 4.5 percent more on school lunches in 1996—an average of 4 percent more every year for the next five years. They hope that by eliminating federal paperwork, the states will be able to serve even more free and subsidized lunches.

"If they [the governors] can't take more money and do a better job, they should step down," said Rep. Bill Goodling, Pennsylvania Republican and chairman of the committee that crafted the bill.

The failure to get that message out foreshadows the trouble Republicans face when they get to real cutting necessary to balance the budget.

"It points out the job we are going to have to do in going over the heads of special-interest groups who want to portray whatever we do as a cut," said Brian Cuthbertson, press secretary for Rep. John Kasich, chairman of the House Budget Committee.

He said he routinely explains to reporters that even after budget cuts, some programs will grow.

"I had to explain that to a local reporter from Columbus, Ohio, on Friday," he said. "I said, 'Would it surprise you to learn that it is not being cut? That we are gong to spend more on school lunches?'"

The reporter said "Oh," Mr. Cuthbertson recalled.

"Let's focus on facts," Rep. Steven Gunderson, Wisconsin Republican and welfare-reform point man, said when House Economic and Educational Opportunities Committee was marking up its welfare reform last week. The "toughest accusation" that can be made about the block-grant approach "is that it reduces growth."

Mr. Hoyer said because of an expected increase in children using the school lunch program, a 4 percent increase in overall spending amounts to a cut.

The Democrat barrage continued yesterday with Donna E. Shalala, secretary of health and human services, telling members of the American Public Welfare Association conference: "Cruel is the only way to describe provisions that would abolish nutrition programs for children, deny benefits to children of teen mothers, and reduce assistance to thousands of abused, neglected and abandoned children."

Senate Minority Leader Tom Daschle, South Dakota Democrat, said he, too, is appalled.

"How ironic that in the name of reducing the debt on our children, we take their meals instead," he said.

Ed Gillespie, spokesman for House Majority Leader Dick Armey, said it has been difficult to counter the Democratic assault on the Republican bill as stealing food from the mouths of children.

"I don't know what else you can do when the Democrat Party has a concerted strategy to lie to the American people other than to tell the truth," he said.

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IN MEMORY OF SHAWN LEINEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. MCINNIS] is recognized for 5 minutes.

Mr. MCINNIS. Mr. Speaker, I stand before you to advise the House of news that another police officer has fallen in the line of duty. The officer, Shawn Leinen, was 27 years old and married to Susan Leinen, who is 6 months pregnant with their first child. Shawn was an officer with the Denver Police Department, and on seven separate occasions, he was cited for professionalism as an officer. He loved his duties and understood the risks, but always kept the risk as secondary, having it overridden by protection of the citizens.

Shawn was brave, not foolish; Shawn was honest, energetic, and even praised by individuals whom he had previously arrested.

His death was senseless and as a former police officer, myself, it is hard not to feel deep bitterness and want for retribution against the 16-year-old kid who is now only a suspect. This death was not just senseless, but cold-blooded murder.

Shawn's widow, Susan, sits alone tonight, but she must know that Shawn's sacrifice, his call to duty, is recognized by the people who he protected. Their child will be born without its father, but will soon understand that dad was a hero. Our tears are in part for Susan's task in passing to that young child a response to the question, "Why?" Maybe our remembrance here in the Halls of Congress will assist in that effort. Maybe our thoughts and sympathies here in the Halls of the Capitol of this Nation will help Susan, as a policeman's widow, find some comfort in her days ahead.

Mr. Speaker, our men and women in blue have again suffered a loss, but in their loss their resolve becomes only more firm.

May God be with Shawn his widow, Susan, both their families and with that small yet-to-be-born child.

DEALING WITH AMERICA'S DRUG PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, I rise to talk about the Contract With America. As we look at the Contract With America, there is one thing that for some reason as I look at it and I examine it is left out. We have left out dealing with the drug problem. The drug problem is something that is not going to go away. We must address it.

As we look at what is happening in many of our urban areas and we look in terms of our prisons, we find that many of the people who are in prison have been involved in drugs. But at the same time for some reason or another, we do not want to spend the kind of money that we need to spend to be able to address the drug problem.

We have people who will come into our district offices seeking help, and we cannot provide help for them because there is no place for them to go because there are no funds available for them to be able to go and get treatment.

I recognize that there is no one solution to the problem and that we need to have several types of treatment programs, but for some reason we have sort of ignored this problem.

I know that some districts have a greater problem than others, but I think the time has come when we need to look at what is happening in the United States of America and that regardless of where you are in terms of your district, if you have the problem now, I think you need programs to begin to work with it. And for some reason you do not have it, I would like to say to you, "It's coming. It's on its way to you right now."

I would hope that the people who do not have the problem would come and rally with the people who do have the problem to begin to come up with some solutions to the drug addiction problem.

We are spending a lot of money on the back end that if we would address this problem on the front end, we would not have to spend the money on the back end.

It costs a lot of money to keep a person in prison, when we could spend the money to be able to detoxify a person and to be able to assist them in terms of counseling and to hope to put them back on the road to work.

We talk about welfare reform, we talk about health care reform, we talk about all the different types of reform, but at the same time we still do not spend the kind of time talking about dealing with the drug problem.

The Speaker came up with an idea, and I must admit that I like the idea very, very much, that he is going to encourage Members from various districts to go and visit other districts. In other words, he is going to encourage people from the rural areas to go into the urban areas and to visit those areas. I think that is an excellent idea and I think that is one that should take place and should take place right away, because I think that there are some Members in the House that do not realize what is happening in some of the urban areas. That is the reason why that sometimes that when you feel that you need support, that you are not getting support, that they do not understand the problems you are having in those areas.

I am hoping that people in the urban areas will go into the rural areas and take a look at what is happening there and be able to give the assistance that needs to be given in the rural areas.

America is not the same. It is different in terms of its regions. The cost of living, when we talk about wages and we talk about increasing the minimum wage. Some people say, "Well, it's not necessary." But then if you come from a high cost-of-living area, it is very necessary.

I think that we have to sit down, take a look at where we are to begin to address some of these problems. I think that the best way to do it would be able to look at this drug problem and say, "Well, let's face it, there is a region that has a serious problem. We're going to give them the necessary resources to be able to address the problem and to be able to help them to be able to work it through." Because if not, eventually they would have to incarcerate the person and it would cost a whole lot more.

Recognizing that there is a dispute going on about the best possible treatment for addicts, I understand that. But I think that the treatment that the person will respond to is the kind of treatment that we should be able to get them into.

Some people say the methadone maintenance program does not work. There are some people who have responded to the treatment of methadone maintenance, and if they have responded to it, I think we should work it out where we would have funds available to set up programs for people that could benefit from that particular treatment.

Then I think the drug-free program, some people can benefit from that. I think that we should be able to set it up where they can go into that. Then if they need cyclaozine or whatever it is to be able to provide the kind of treatment they need, that we should be able to provide that care for them.

I think the worst thing in the world that is happening now, that for an addict to walk into a facility and say, "I would like to be treated," and then after you talk to them, you find out that a waiting list of a year, a year and a half, or 2 years.

My goodness, what will happen to a person who has to wait to get treatment, to get care for 2 years? I think the time has come when we should roll up our sleeves and be able to provide the kind of necessary care for people that have those problems.

TRIBUTE TO AFRICAN-AMERICANS DURING BLACK HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. FRANKS] is recognized for 5 minutes.

Mr. FRANKS of Connecticut. Mr. Speaker, the following is my tribute to African-Americans during Black History Month.

At one time teaching a black child how to read was against the law. For blacks to congregate other than for church was against the law. For blacks to vote was against the law. Our forefathers proved their imperfection by claiming that blacks were not to be counted as full human beings.

Just 40 plus years ago, the separate-but-equal schools debate was going on which led to the historic desegregation of our schools. Terms like inferior, discrimination, States rights, racism, segregation, civil rights were part of the lingo of the past, or are they, Mr. Speaker?

States rights. States argued that if they did not want to treat a black child fairly, it was fine. If a State wanted blacks to use separate water fountains, it was fine. If a State wanted blacks to use separate lavatories, it was fine. Thanks to the Federal Government, we have come a long way.

The logic of blacks being inferior was the reason why blacks were not allowed to go to school with white children. Some would say that today being inferior is the reason why blacks should not be admitted into certain schools with whites. For those who hold those beliefs, both ideas would restrict blacks from receiving the highest quality education, and that, Mr. Speaker, would be wrong.

Both then and to a degree now some would like people to believe that blacks are inferior to whites. They would want people to believe that God made lesser people. They would produce one study after another to try to convince the masses that blacks are doomed to their fate because they just do not have the same abilities as whites.

Mr. Speaker, they fail to note that children with college-educated parents do better on standardized tests than children of non-college-educated parents. It is very simple.

They refuse to appreciate that strong family values, education, a willingness to work hard, and the availability of opportunities can help strengthen all of our Nation's people.

As an example, Mr. Speaker, my mother graduated from high school but my father only had a sixth-grade education. He could barely read or write. Yet today, three of my sisters hold doctorate degrees, one of my brothers is a colonel in the Army, and my other brother is a schoolteacher in Ansonia, CT. Mr. Speaker, I am the only one in my family with one college degree.

Let us remember that we help our Nation by strengthening our weakest link, not by crushing it. Being compassionate toward the less fortunate is not a liberal or a conservative concept, because we are all Americans.

I thank the voters of the Fifth Congressional District of Connecticut, a 90-percent white district, for three times electing me, an African-American, to serve in this august body representing them.

Mr. Speaker, in conclusion, I would like to thank all the African-American leaders who have waged a fight for equality and justice over the decades. We must not forget our history, or else we may be subject to repeating it again.

IN SUPPORT OF FORT McCLELLAN, ALABAMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BROWDER] is recognized for 5 minutes.

Mr. BROWDER. Mr. Speaker, I know something about chemical warfare. I represent Fort McClellan, AL, home of the chemical school that trains our Army, Navy, Air Force, and Marine personnel at the only live agent chemical defense facility in the free world.

I represent Anniston Army Depot, home of a huge stockpile of dangerous deteriorating chemical weapons which pose a threat to more than 100,000 civilians who live or work in the impact zone of those weapons.

I serve on the House Committee on National Security as a specialist on chemical warfare, chemical weapons, and chemical defense.

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I chaired a congressional study of the chemical weapons threat and what our country needs to do to counter that threat.

I have worked with the administration at home and abroad to facilitate progress on the Chemical Weapons Convention which would ban chemical weapons and the Bilateral Destruction Agreement which commits the United States and Russia to destroy our huge stockpile of old chemical weapons.

I have worked with the Chemical Weapons Convention Preparatory Commission at The Hague to support implementation of the Chemical Weapons Convention and the Bilateral Destruction Agreement.

I have traveled to Russia several times to monitor their chemical weapons and help military and civilian leaders meet the requirements of the Chemical Weapons Convention and Bilateral Destruction Agreement.

To repeat, I know something about chemical warfare. And Mr. Speaker, I tell you that to demonstrate that while what I am about to say involves my own congressional constituency, my outrage goes beyond parochialism to our national and international security.

I am convinced that Secretary of Defense William Perry's recommendation to the Base Realignment and Closure [BRAC] Commission—specifically the proposal to close Fort McClellan, AL—is a mistake with significant and dangerous ramifications.

With this recommendation, the Pentagon jeopardizes the American soldier's ability to survive chemical warfare, breaks faith with the 100,000 Alabamians at risk from their neighboring stockpile of aging chemical weapons, and seriously undermines the Chemical Weapons Convention and Bilateral Destruction Agreement.

Mr. Speaker, time does not allow me to go into this discussion any further

tonight but I will return for other special orders on other nights to point out what is wrong with this recommendation, and why it is significant, and dangerous for our world, and I will return to detail what I intend to do to correct this situation.

PROGRESS IN HAITI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOGLIETTA] is recognized for 5 minutes.

Mr. FOGLIETTA. Mr. Speaker, yesterday I returned from Haiti. When I arrived there on Saturday I was emotionally overcome by what I saw. On my last visits to Haiti, prior to the return by President Aristide, I walked into the airport and there were soldiers with assault rifles, no citizens, no activity whatsoever, and few people standing around the airport, and as I walked into the town itself I had drawn empty stares, stares of fright.

The people of Haiti that I saw when I returned were a totally different situation. I walked into the airport and I saw happy people, smiling people, ladies dressed in native costumes, bands playing, stalls selling trinkets, but most of all, the people of Haiti were no longer afraid.

Upon reflection I realized that the drawn faces carried a look of hopelessness, of impending death, of a life without direction or inspiration on my prior visits. These looks were reminiscent of photographs of men and women who suffered in concentration camps in the Second World War.

For close to 3 years the people of Haiti were imprisoned in an island concentration camp. The names of the criminals who operated the camps were different, but atrocities committed in these places were very similar.

These nightly arrests, systematic executions and random beatings were taking place only 500 miles from our border and as a result of this brutality people were willing to risk their lives by taking to the high seas in leaky boats to escape. Sadly, hundreds of these men, women and children will not live to see the day that they could walk freely on the streets of their native country.

However, thanks to the actions of President Clinton and the American men and women in uniform who have served and who continue to serve in Haiti, people no longer live in fear. Democratic government and the rule of law have returned to Haiti. The army which under the direction of the murderous dictators, Cedras and Francois terrorized and murdered innocent Haitians has been abolished and a civilian-controlled police force is now being trained.

Much remains to be done in Haiti. It will take time and hard work to reverse the decades of violence, desperate poverty and fear which have plagued that country, and, much of the work is being undertaken by the Haitian people.

On my visit to Haiti this weekend, I saw more than just smiles. I saw Haitians cleaning their streets and their neighborhoods. I saw Haitians rebuilding small businesses and street vendors hawking their wares. I saw Haitians fixing and cleaning schools and classrooms.

Since his return, President Aristide has facilitated this change by preaching a message of reconciliation and peace. The Haitian people are responding. They are rebuilding their lives—not resorting to revenge against their former oppressors. Unlike Somalia, our soldiers are greeted with hugs—not rock throwing mobs.

Our mission to Haiti is one of the great military success stories of our time. Our troops have done a miraculous job. As our troops liberated Dachau and Auschwitz some fifty years ago, tho not as horrific the men and women of our armed forces liberated an island concentration camp in the Carribean.

We have done the right thing in Haiti. You can see it in the neighborhoods, in the schools, you can see it in the churches and most of all you can see it on the smiling faces of the people of Haiti, for they are no longer afraid.

EFFECTS OF THE RESCISSION BILLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. NADLER] is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, I am here today to protest the mean-spirited and draconian rescissions that have been reported out of the Labor, Health and Human Services, and Education and the VA/HUD and Independent Agencies Appropriations Subcommittees.

An excellent statement released yesterday by ACT-UP expresses quite directly the severity of these cuts.

> Two House Subcommittees voted to rescind funding for AIDS programs that is already in the pipeline. The VA/HUD Appropriations Subcommittee voted to eliminate all $188 million allocated for HOPWA, the Housing Opportunities for People with AIDS Program, eliminate all 3,000 Section 8 rental assistance vouchers set-aside for HIV-positive people, and cut $2.7 billion in general Section 8 vouchers. The Labor/HHS Appropriations Subcommittee cut $13 million from the Ryan White CARE Act, which pays for medical care and services for people with HIV, and cut $23 million from the Centers for Disease Control and Prevention's HIV prevention program.
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> The HUD funding cuts alone mean that New York City will lose $41.7 million, Upstate New York $2.2 million and Long Island $1.2 million. In New York City, 700 units now housing over 1,000 people with AIDS and HIV disease and their family members will be lost.

Mr. Speaker, these severe slashes in housing funding will touch a wide range of American people—families, children, and seniors—but perhaps the most striking examples of heartlessness is putting sick and dying people out on the streets. It is, Mr. Speaker, nothing but immoral. I am absolutely appalled at the insensitivity to human life that I have seen over the past 50 or so days here in the Congress. We must put an end to this slashing and burning of America's middle and low-income people and families, and of the most needy members of our society.

For more than a decade, the devastation of the AIDS pandemic has affected every American community and has touched most Americans in some way personally. AIDS cuts across gender, ethnic, racial, and socio-economic lines. The rate of increased infection is alarming. Ryan White CARE funding is essential for AIDS service providers to keep pace with the pandemic to continue and provide effective and cost-efficient HIV-related medical and social services.

Mr. Speaker, according to a recent and very disturbing, New York Times article,

> AIDS has become the leading cause of death among all Americans aged 25 to 44 . . . this number has surpassed unintentional injury, which dropped to second place in this age group.

Since AIDS was first identified in the early 1980's, more than 440,000 cases have been documented and more than 250,000 AIDS-related deaths have resulted in the United States. More than 1 million people in the United States are believed to be HIV-positive, but have not yet contracted AIDS.

The Congressional district I represent in New York City is among the hardest hit by AIDS. With over 65,000 cases of AIDS—the highest number of any city in the country—in fact, more than 40,000 more cases than the next highest city, New York City has been the city most affected. Additionally, New York State, has approximately 20 percent of the Nation's AIDS cases, 81,386 cases. Ryan White funding is absolutely vital to many New Yorkers living with HIV/AIDS.

But the AIDS crisis goes far beyond New York—Americans in communities across the Nation have felt the effects of AIDS in some way.

Mr. Speaker, the impact of the AIDS epidemic is felt by everyone, from all walks of life. As the number of people living with HIV and AIDS continues to rise and access to private health care remains an obstacle to treatment, Ryan White Comprehensive AIDS Resources Act and Housing Opportunities for People with AIDS funds are more critical than ever. Slashing these programs will interrupt early intervention and health care to thousands of Americans living with AIDS and will merely escalate the pain and suffering that

millions of people with AIDS experience.

I call on my good colleagues in Congress to unite against these immoral attacks by the big bad wolf. If we are not careful they will come and huff and puff and blow our houses down. We can not allow our Nation's seniors, children, families and people with AIDS to be put out in the streets.

Mr. Speaker, I urge my colleagues to take a leadership role and join me in speaking out and working to oppose these Draconian, and mean-spirited cuts.

CLOUDS OVER THE WHITE HOUSE

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 designee of the majority leader.

Mr. BURTON of Indiana. Mr. Speaker, over the past year to year and one-half, we have seen some very disturbing things come out of this administration. A lot of people that the American people put their confidence in have left under a cloud.

Let me just mention a few of them. Webster Hubbell, the second most powerful person in the Justice Department, a very close personal friend of President Clinton, he was Associate Attorney General. He left the Justice Department after having been accused of fraudulent billing practices in his old law firm and he pled guilty to Federal crimes and he is under indictment right now, and I understand he is plea bargaining. He was the second most important, if you will, person in the Justice Department, and he himself is indicted and will probably go to prison unless he plea bargains his way out of that. He was the person who helped influence, in my opinion, helped influence the decision not to indict Ron Brown when they sent the associate justice down to the Miami grand jury about a year ago, and instead of letting the local U.S. attorney down there handle the case, they came back and said they did not indict Mr. Brown because of the Vietnamese affair, because they did not have enough evidence. There was not enough evidence to indict. They did not say they did not have evidence, they said there was not enough to indict.

David Watkins, a White House official, was forced to resign after using Marine helicopters to go play golf. He also was accused of sexual harassment by a Clinton campaign worker, and the campaign, the Clinton campaign settled and attempted to receive Federal matching funds, your tax dollars, to pay for the settlement. They were trying to get taxpayers' moneys as matching funds to help pay this sexual harassment suit. He left under a cloud.

Richard Altman, the Deputy Treasury Secretary, he resigned after congressional hearings exposed the improper contacts he had with the White House officials about the Whitewater investigation.

Bernard Nussbaum, the chief White House counsel, the right-hand legal man at the White House for President Clinton, he resigned after improper contacts with the Treasury Department over the Whitewater investigation came out. He is also the person who went into Vince Foster's office and took files out right after they found Vince Foster dead under suspicious conditions over at Fort Marcy Park. Mike Espy, the Agriculture Secretary, he resigned under investigation by independent counsel for accepting illegal gifts. Joycelyn Elders, the Surgeon General, resigned after advocating legalization of drugs and teaching masturbation in schools.

There are other Clinton administration nominees that were controversial who were not confirmed, Lani Guinier, Morton Halperin. Morton Halperin could not be confirmed as Assistant Secretary of Defense. What did they do? Because of his leftist policies, they took him over to the White House, put him in the NSC, National Security Council, advising the President where he would not have to be confirmed. Zoe Baird and Kimba Wood, nominees for Attorney General, they withdrew them after they investigated them.

Those are just a few of the nominees and people in the administration who left under a cloud. This administration has had a policy of picking people that had not been thoroughly examined and people who have come, we have come to find out, have done some things very questionable, of very questionable nature.

Now, I want to talk about Secretary of Commerce Ron Brown. He was the fellow about 1½ years ago or 2 years ago that was accused of taking a $700,000 bribe from the Vietnamese Government to normalize relations with that country. The FBI conducted a 6-hour lie detector on his chief accuser, a man named Ben Lee, and the man passed it. They even put a bug on this man. Yet when Webster Hubbell was over at the Justice Department in the No. 2 position after President Clinton took office, they took the FBI off of the case, and when the press got so hot on this issue and a grant jury was impaneled down in Miami, the Justice Department, again, Webster Hubbell was still second in command over there, they sent one of the assistants down to conduct the grand jury investigation instead of having it done locally, and they did not have enough evidence to indict. That was the Vietnamese affair.

Now, we have a lot of other problems with Mr. Brown, Secretary of Commerce. I doubt if any Cabinet Secretary in recent history has had as many bad investments and delinquent loans as Commerce Secretary Ron Brown. He and his business partners have on several occasions borrowed large sums of money through shell corporations to avoid personal responsibility for the loans, and then failed to repay them.

Ron Brown is now the subject of a second Justice Department investigation into his finances. In 1993, the Justice Department investigated allegations that he was offered this $700,000 bribe to have the embargo against Vietnam lifted even though we did not have a full accounting of the 2,300 POW–MIA's, and we still do not have that.

The Justice Department did not indict Mr. Brown in that case, but they did not exonerate him either. They said they just did not have enough evidence to indict him.

The Justice Department has launched a second investigation, this one into Secretary Brown's financial relationship with a lady named Nolanda Hill. Under the independent counsel law, the Attorney General has 90 days to recommend to a three-judge panel whether to appoint an independent counsel.

Now, let me give you some highlights of Secretary Brown's bad debts and forgiven loans. The first one is really interesting. NBC, the National Broadcasting Co., forgave a $10 million loan to Ron Brown. The Washington Post reported this weekend that NBC has agreed to forgive a $10 million loan to one of Ron Brown's companies, Albimar Communications.

In 1988, NBC agreed to sell Washington, DC, radio station WKYS–FM to Albimar Communications for $42½ million. Albimar was formed by Ron Brown, Secretary of Commerce, and his partners, Bertram Lee and James Kelly, husband of former D.C. Mayor Sharon Pratt Kelly.

To make the deal possible, NBC loaned Albimar and Ron Brown $10 million, because Brown, Lee, and Kelly are all black. NBC received a $15 million tax break for minority business people as a result of the sale.

The House just voted to rescind this tax break with some justification, I might add. The investment quickly went sour, and Ron Brown and his partners became seriously delinquent on the loan from NBC.

Earlier this year, Brown, Kelly, and Lee agreed to sell WKYS to another company for an $8.5 million loss. The key to the deal was NBC forgiving the $10 million loan.

Now, here are some questions that the Congress and this Government need to have answered. First, was this arrangement with NBC approved by the Office of Government Ethics? And if it was not, why not?

Second, is it legal for a sitting Cabinet Secretary in a Presidential administration to receive a financial windfall of this magnitude from a major corporation over which he has some control? Agricultural Secretary Mike Espy

is being investigated for accepting a pair of football tickets from a company regulated by his agency, much less than the $10 million loan that was forgiven I just talked about from NBC.

Third, does NBC have an interest in any matters pending before the Commerce Department? Now, it is hard to believe that a major broadcasting company would not have something pending before the U.S. Commerce Department, and here they are forgiving a $10 million loan to the Secretary of Commerce. NBC is owned by RCA, Radio Corporation of America. How many Federal agencies are considering regulatory matters that RCA has a stock in, cellular phones, all kinds of new technologies that are being developed by RCA and other corporations that go before the Commerce Department? And do those companies that NBC is affiliated with, do they have any interest in things pending before the Commerce Department?

Fifth, what did NBC and RCA expect to get in return for forgiving this loan, if anything?

Now, this is not the only thing Ron Brown has been involved in. First International, Inc., and Corridor Broadcasting cost the taxpayers $40 million. In the 1980's Ron Brown and Democratic activist Nolanda Hill formed a corporation named First International Communications.Nolanda Hill owned a second corporation named Corridor Broadcasting. Corridor operated out of the same office as First International and used all of the same computers, the same phones, and the same office equipment.

Corridor Broadcasting defaulted on $40 million in loans and left the taxpayers holding the bag. While it could not repay these loans, it was paying, at the same time they could not repay the loans to the taxpayers, it was paying $12,000 a month in interest to Ron Brown and Nolanda Hill through First International. They were in the same office using the same phones, same computers, and everything else.

Ron Brown said he did not know anything about what was going on with Corridor Broadcasting. It was in the same office, and Corridor Broadcasting, which defaulted on a $40 million obligation to the taxpayers, was paying $12,000 a month in interest to Ron Brown's company. Although Ron Brown invested none of his own money in the company and the company had no known successful ventures, Nolanda Hill paid Secretary Brown, now get this, she paid him $400,000 for his share of the company. He put no money into the company, no investment whatsoever. The company that was paying the freight, Corridor Broadcasting, Inc., Corridor defaulted. The taxpayers are soaking up $40 million in losses.

Ron Brown made no financial investment in the company that was in the same office, and yet he was paid $400,000, and the company went defunct. The company went belly up, and he gets $400,000. For what? That is the question. For what?

Now, Ron Brown, in addition to the $400,000, had $190,000 in personal debts. According to Secretary Brown's lawyer, part of the payout from First International was $190,000 Nolanda Hill spent in 1994 paying off Ron Brown's debts. She paid off $190,000 of his debts. He paid no money for the company, got $400,000 out of it, and she pays $190,000 off on his personal debts.

Question: To whom did Secretary Brown owe the $190,000? This is information that the Congress and the public deserves to know.

And then there was another company in that same office. This is the third company in the same office called Know, Inc. In 1992 Nolanda Hill, through a third shell company, called Know, Inc., loaned Ron Brown $78,000. Brown used this money to repay a personal debt to the National Bank of Washington. This was done just before his confirmation hearings before the U.S. Senate. After his nomination had been confirmed, now get this, Nolanda Hill forgave this debt also, so he got $190,000 that she forgave, paid for, I assume out of the $40 million that they defaulted on, $190,000 she loaned him, and forgave or paid, and $78,000 she loaned him and forgave, and then $400,000 he got for no investment. Boy, I want to tell you, that is the kind of investment I would like to make.

Now, I serve on the Committee on Government Reform and Oversight, and the chairman of that committee is Chairman CLINGER, and he and the staff of our committee have conducted an investigation, and he has contacted Attorney General Janet Reno and asked there be a special investigator, special counsel, appointed, independent counsel, to investigate allegations against Ron Brown. This investigation has developed specific allegations which the committee believes are sufficient to warrant the appointment of an independent counsel, Mr. CLINGER said. The allegations are divided into five categories: First, submission of incomplete, inaccurate, and misleading financial disclosure statements; second, supplementation of salary; third, potential conflicts of interest; fourth, misinformation to Congress, and fifth refusing to respond to Congress.

Now, let us go through these allegations real quickly. The first allegation, Secretary Brown failed to report his interest in and income from First International Communications, Limited Partnership, on his annual incumbent financial disclosure form. Why did he not put that on that report? The factual basis for the allegation is this; Secretary Brown's annual incumbent financial disclosure report, signed May 16, 1994, failed to identify an interest in First International Communications, Limited Partnership. He did not even tell he was involved in that corporation, and he got $400,000 for it for no investment. Although it is unclear whether the Secretary still held an interest in First International Communications, Limited Partnership, on December 31, 1993, the Secretary received three $45,000 payments from First International Communications, Limited Partnership, during that year 1993. The first two checks dated April 15 and July 21 state that the checks were for "Partnership distribution." Distribution of what? The company was going under. They had no assets except what was in that office that was owned also by Corridor, Inc., and yet he has getting all this money for no investment.

The third check, dated October 15, simply says "Distribution." Secretary Brown should have reported these payments as income during 1993 even though he no longer held an interest in the partnership at the end of that year.

(B) First International Communications Corp. and First International, Inc., allegations, Secretary Brown failed to accurately describe the basic activities of First International on his new entrant financial disclosure report. On his new entrant financial disclosure report signed January 1, 1993, Secretary Brown stated First International "is a company that provides international and domestic consulting and investment services." Contrary to the Secretary's contention, the committee's evidence indicates First International was not involved in any sort of consulting or investment services at all. He misled what the intent of the company was on his report.

Rather, its primary source of income was interest generated by a promissory note worth approximately $875,000 payable by Corridor Broadcasting. I would like to know where that $875,000 came from.

Despite having defaulted on federally insured loans in excess of $40 million by 1993, Corridor Broadcasting apparently continued to pay monthly interest payments of approximately $12,000 to First International on the $875,000 note. In short, while the American taxpayers were forced to absorb more than $40 million of Corridor's indebtedness, Corridor continued to pay $12,000 a month to Mr. Brown's company.

Third, well, let me give you some factual basis on that real quickly. According to his annual incumbent financial disclosure report, Secretary Brown divested his interest in First International December 15, 1993, receiving between $250,000 and $500,000. We believe it was around $400,000.

Secretary Brown states in exchange for his share of First International he received direct payment of $135,000 and on and on and on. I covered a lot of this already. I will not go into it again.

(D) purchase of a town house. Allegation: On his annual incumbent financial disclosure report, Secretary Brown

failed to report either the execution of a promissory note or a gift of $108,000 used as downpayment for a town house located in Washington, DC. According to his annual incumbent financial disclosure report in 1993, Secretary Brown had a mortgage of $250,000 to $500,000 on a town house located at 4303 Westover Place in Washington, DC. The mortgage was held by First Federal Savings and Loan of Rochester. In addition, Secretary Brown disclosed $5,000 to $15,000 in rental income generated by this property in 1993.

Although this townhouse is the residence of Secretary Brown's friend, Lillian Madsen, the deed of trust lists Ronald H. Brown and Michael Brown, his son, as owners of the property. Other relevant real estate documents indicate that a down payment of $108,000 was made to purchase the property.

As reported by U.S. News & World Report in February of 1995, Brazilian businessman Jose Amaro Pinto Ramos arranged for a substantial loan for a down payment on the townhouse to be made to Lillian Madsen through a bank in Paris, France. Ramos claimed he never spoke to Secretary Brown about the loan, and he was unaware that the Secretary owned the property. Unaware?

According to the deed of trust now in effect, Ronald Brown and Michael Brown jointly own the property, subject only to the first mortgage of $252,000. No second mortgage or other encumbrance is listed on the property. Thus the Browns are the owners of $108,000 equity down payment. If Ms. Madsen provided the down payment, ifMs. Madsen provided the $108,000 down payment which is now owned by the Browns, the Secretary should have reported that down payment as a gift or as income. Where did she get $108,000 to pay down on that?

You know, it was alleged Ron Brown got $700,000 in payment from the Vietnamese Government to normalize relations with Vietnam. The FBI verified that there was an electronic transfer of funds from the North Vietnamese Communist Government to a bank in Singapore just like the accuser, Mr. Bun Lee said. So maybe that $700,000 was paid. The money was transferred. There was a large sum of money transferred to a bank in Singapore, just as the accuser said.

On the other hand, if Ronald Brown or Michael Brown arranged some sort of off-the-record agreement to eventually repay Ms. Madsen, Secretary Brown should have reported that agreement as a liability on his annual incumbent financial disclosure report.

Funds provided by Ms. Madsen were not reported as a gift, as income, or as a liability on Secretary Brown's annual incumbent financial disclosure reports.

Next allegation: Secretary Brown failed to report on his financial disclosure report that his interest in Boston Bank of Commerce Associates was a general partnership. Secretary Brown's new-entrant financial disclosure report does not identify Boston Bank of Commerce Associates as a general partnership. According to the Office of Government Ethics, the fact that the Boston Bank of Commerce Associates is a general partnership was discovered in April 1993. According to ethics law, the known interests of a general partner are imputed to the other owners, the other general partners. One of Secretary Brown's partners in Boston Bank of Commerce Associates provided Digital Equipment Corp. stock as capital in return for his partnership share. Thus imputing an interest in Digital to Boston Bank of Commerce Associates and the Secretary.

Upon discovery, an apparent screening process was instituted to bar the Secretary from taking official action that would affect Digital.

Albimar Communications, Inc., allegations: Secretary Brown failed to report on his new-entrant financial disclosure report and his annual incumbent financial disclosure report that his interests in Albimar Communications was a general partnership. According to both of his financial disclosure reports, Secretary Brown held an interest in Albimar Communications, which owns a radio station, WKYS, in Washington, DC. I have already gone into that. That is the loan that was forgiven, $10 million, by NBC.

Payment of Secretary Brown's personal debt obligation, allegation: Secretary Brown failed to accurately report the future income he knew he would receive in 1994 on his annual incumbent financial disclosure report. According to his own incumbent report, Secretary Brown divested himself of his interest in First International on December 15, 1993, receiving, we believe, around $400,000. They say between $250,000 to $500,000 in this report. Secretary Brown claimed his divestiture of First International, which allegedly occurred on December 15, 1993, included, in part, the payment of some of his personal debt obligations. The evidence shows that the debt obligations were paid by or through Noland Hill, but on December 15, 1993; rather the payments were made during the summer of 1994, specifically nine payments totaling $190,995, against various debt obligations of Secretary Brown, were made to the following entities on the following dates—and they are all listed here.

I can go on and on and on and on. I would like to submit the rest of these things for the RECORD. I pretty much covered that. But these are things that need to be investigated, if not by the Justice Department, through an independent counsel, they ought to be investigated by the Congress itself. But I talked to Representative CLINGER today, and if the Justice Department does not ask for an independent counsel, it is my belief that we will hold hearings on this and Congress will get to the bottom of it. In other words, we are going to let an independent counsel, if he is duly appointed by a three-judge panel after being asked by Attorney General Reno, we will let it go that route. But if it does not, then the House of Representatives, I believe, will hold hearings and call Mr. Brown to testify to answer these allegations and questions.

The second thing I want to talk about before I get to my good friend, the gentleman from Pennsylvania [Mr. FOX], is something that happened today in Little Rock, AR. The special prosecutor, a special prosecutor appointed by the three-judge panel to replace Mr. Fiske, today indicted a man named Neal T. Ainley, who is a bank president in Little Rock, AR. He was president of the Perry County Bank in Perryville, AR, from 1989 until March 1994.

According to this indictment, he loaned $180,000 to Mr. Clinton during the 1990 gubernatorial campaign. That money was used by the Clinton campaign to buy or try to get some votes. It is alleged that some black ministers were the beneficiaries of a lot of this money that was used in order to get out some of the votes in critical precincts in Arkansas.

The interesting thing about this is, right after the election took place and Mr. Clinton was reelected Governor, the owner of the bank became the secretary of transportation for the State, secretary of the highway department in Little Rock. And he, along with the bank officials, according to the indictment, helped repay the $180,000 loan that Mr. Clinton incurred during the campaign.

The question is where did that $180,000 come from? Did it come from highway contractors that the new head of the highway department twisted their arms in order to get those moneys to repay those loans? Where did that money come from? That is something that needs to be looked into.

I am sure Mr. Star is doing that.

I might say at this point that Mr. Starr is doing an outstanding job as the independent counsel, and I think everybody in the country ultimately will see that and owe him a great debt of gratitude.

But there are so many cases like that in Arkansas; there is another bank down there where was a $400,000 loan that was given to try to get legislation through the Arkansas State Legislature, and that money was never repaid either by the person that borrowed the money. And it was in the Clinton administration.

Here you have $180,000 borrowed that was repaid by a person who got a job in the administration, running the highway department and the person that

got the job at the highway department was the owner of the bank that loaned the money.

It sure does smell bad.

Then we come to the Mexican bailout, which 80 percent of the American people oppose. January 31, President Clinton and Treasury Secretary Robert Rubin announced a $49.8 billion—$49.8 billion; that is not millions, that is billions, three extra zeros—$49,800,000,000 bailout package for Mexico.

The package included $20 billion in loans and loan guarantees from the Treasury Department's exchange stabilization fund, which was established in the 1930's to protect the value of the dollar and not other currencies. This exchange stabilization fund was established to protect the dollar in the international financial markets against an assault from other currencies, to protect the dollar. We are using $20 billion of it to protect the Mexican peso, which is in a free fall right now. So the United States taxpayer is underwriting the Mexican Government's economic mistakes. The key underwriters of Mexico's dollar-denominated bonds, called tesobonos, have been the major United States investment banking firms. Treasury Secretary Robert Rubin, and this is very important, Treasury Secretary Robert Rubin was formerly cochairman of the Goldman-Sachs Investment Co. from 1992 to 1994. Goldman-Sachs was the largest United States underwriter of Mexican bonds. Although Rubin divested himself of his interest in Goldman-Sachs, there is still a conflict of interest. There was $5.17 billion in investments made by Goldman-Sachs into the Mexican markets, more than double the other companies, the next two highest companies that invested in Mexico.

When Secretary Rubin joined the White House staff in 1993 as Chairman of the National Economic Council, he recused himself, stepped aside for 1 year on all issues affecting Mexico. At that time, he was with the National Economic Council. Now he is the Treasury Secretary, and the Treasury Secretary has sole control over the exchange stabilization fund, where they took that $20 billion out of to give to Mexico. The only person that could stop him from doing that is the President himself, and yet he did not recuse himself this year. He did 2 years ago, when he did not have any power. Now, as Secretary of the Treasury, he can send $20 billion down there, he does not recuse himself, he stays involved.

Now, there are a lot of questions that arise from that. Why did not he recuse himself? Could it be because of $5.17 billion that he had his clients invest in Mexico was under assault? That many of the people he recommended put their money into these Mexican financial instruments were going to lose their shirt because the peso was in free fall? And that he might be held responsible? He said he had a very large insurance policy to protect him against suits emanating from his recommendations. But, you know, I used to sell insurance, and I can tell you, if you got a million-dollar policy or $10 million or even a $50 million policy, it costs an arm and a leg. Here we are talking about not $50 million but $5,000,000,000, $5 billion. And if he were sued because of making—giving bad financial advice and investing in very bad speculative securities in Mexico, he probably could have been sued and it could have wiped out not only maybe his company, in large part, but himself and his whole personal fortune.

So he had a vested interest, a vested interest in making sure that the money got down to Mexico to try to stabilize the peso in that economy. He should have recused himself. That is why there should be a complete congressional investigation.

I understand the Committee on Banking is going to do that. We had a press conference today, and the chairman of the Subcommittee on Banking said they were going to call Mr. Rubin before them to ask questions about these things.

Now, let me tell you some other things about Mr. Rubin. Employees of his company, Goldman-Sachs, especially Mr. Rubin himself, contributed heavily to the Clinton campaign and the Democrat Party. Goldman-Sachs employees and families were responsible for the largest contribution the Clinton campaign got in 1992 from a single firm, almost $100,000.

Robert Rubin and his wife contributed $275,000 to the New York Host Committee for the Democrat National Convention in 1992. A Washington lobbyist for Goldman-Sachs, Michael Berman, was instrumental in setting up President Clinton's legal defense fund and is actively soliciting contributions to it. The fund was established to pay his expenses, President Clinton's expenses in the sexual harassment lawsuit filed by Paul Cobin Jones.

So this company, Goldman-Sachs, and Mr. Rubin are tied inextricably together, and they are the largest investor in Mexico, investing so much of their clients' funds down there and now he is trying to stabilize the Mexican economy, which will help protect his investors' money. If that is not a conflict of interest, I do not know what is. Yet he did not recuse himself and says he did nothing wrong.

This is something that is very, very serious. Mr. Rubin and the administration are evidently using the United States taxpayers' money not to the tune of $20 billion but overall to the tune of about $55 billion to help stabilize the Mexican economy, and that is a real crap shoot because if that economy continues to go like it is, the American people, taxpayers, might very well have to pay the $55 billion. And it will not be worth a dime.

They say that they are going to use the oil sales of Mexico to guarantee repayment of the loan, but there are so many financial obligations against the Mexican Government, not to mention what is coming out of the United States from the exchange stabilization fund and these other funds that if they went under, if they had an economic collapse down there, they could not repay all of these loans. And I doubt seriously if the United States of America would ask them to pay out of their oil sales because they would need that money for current expenses. How would the government, how would the country survive if they did not have any income coming in? They would not have, if we took away something like their oil sales.

So this whole Mexican bailout in a debacle. They could not get it through the Congress of the United States. They could not get the votes so unilaterally the President and Mr. Rubin decided to do it. Now we find out that there may have been some ulterior motives for Mr. Rubin taking this action and President Clinton for going along with it. It is a real mess. I think that my colleagues and I ought to take a hard look at this.

Mr. Speaker, I yield to the gentleman from Pennsylvania. [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, with the gentleman's permission, I would like to ask a few questions based on the discussions you have had here in the House this evening about the very important questions dealing with Secretary Brown and as well the crisis that we have now in Mexico and with the intervention of the United States precipitously by the President without any congressional involvement.

Let me first ask you, with regard to Secretary Brown and the Clinton administration, is it your opinion that the lawyers resigning and the Cabinet members leaving under a cloud, does this tell you anything unusual about the Clinton administration, whether or not there was sufficient investigations done?

Mr. BURTON of Indiana. Well, we have found through our investigation, we used to have what was called the Republican Study Committee. I chaired that. We did extensive investigation into Whitewater, Whitewater Development Corp. and the Arkansas Development Financial Authority and a lot of other things. We have found an awful lot of questionable activity that took place under the Clinton administration in Arkansas. And a lot of the people who were involved in the Clinton administration in Arkansas were brought to Washington by President Clinton to help in his administration.

If you look at the things that we are finding out about many of those people, some of their activities, like Webster Hubbell, his illegal activities were

taking place prior to the time he came to be in the administration. It seems to me that the President, when he was Governor, would have known or should have known about some of the activities of these people, because he surrounded himself with them during the entire time he was Governor, which was over a long period of time, over 10 years. So it is inconceivable that he could not have known at least something about these people.

It is unfortunate that he brought them to Washington, because now they are leaving. As one of my colleagues said today, it is like a rusty door on rusty hinges. It is about to fall over. It does a disservice not only to the administration but to the entire country.

Mr. FOX of Pennsylvania. What about the $700,000 bribe? What was the final upshot of that case.

Mr. BURTON of Indiana. The $700,000 alleged bribe, the man who made the allegation was a man named Binh Ly who was working with a Korean or a Vietnamese agent named Mr. Hao. Mr. Ly and Mr. Hao went to Vietnam to try to normalize relations with that government, tried to work out some kind of a normalization relationship. Mr. Ly wanted to do it because he is a patriot. He believed that they ought to get away from the Communist regime and get to free enterprise over there. He thought this was a way to do it.

When he got over there, he found out from Mr. Hao that there was an alleged $700,000 payment to be made to Mr. Brown as a first installment, a first installment on payments to him as a good-faith installment to get him to help use his position in the government to normalize relations with Vietnam.

We found many cases where Mr. Brown or people on his staff at the Commerce Department did take action at various high level meetings over at the White House to try to get the normalization process started. As you know, they were successful. We are on a path toward complete normalization with Vietnam, even though we have never gotten a full accounting on the POW/MIAs that were left behind and we never did find out if the $700,000 wasreally paid, because Mr. Hubbell and Janet Reno, they sent one of their top lieutenants down there to whitewash the grand jury investigation in Miami, I believe.

As a result, we do not know whether the money was paid. The FBI did say, however, that what Mr. Ly said in the lie detector test, which he passed, took 6 hours, that the money that was alleged to have been sent from the Vietnamese Government to a bank in Singapore could very well have happened because there was a large transfer of funds from the Vietnamese Government to a bank in Singapore at the same time that all this took place. So Mr. Brown could have received that money.

Mr. STOCKMAN. Mr. Speaker, if the gentleman will yield, do I understand you correctly, where we have possible prisoners in Vietnam, we have somebody working for the White House willing to sell out their country for $700,000? Is that correct?

Mr. BURTON of Indiana. That is the allegation that was made because there are still people who believe there are POW/MIAs that may still be alive over there. A lot of people who served in Vietnam believe that. Even if they are not alive, we had a commitment from every single President since the Vietnam war who has said we would not do business or normalize relations with Vietnam until we had a complete accounting. Of the 2,300 that are still unaccounted for over there, I would say probably 2,000 still are unaccounted for. And yet we are normalizing relations. American industry is being allowed to invest over there. Mr. Brown is playing a very key role in getting that down.

The allegation that Mr. Ly made was that the $700,000 was just a down payment and that Mr. Brown was supposed to get royalties or a percentage of the oil that was developed from the oil fields off the shore of Vietnam, which is supposed to be the third largest oil field in the world.

We are talking about tens and hundreds of millions of dollars.

Mr. STOCKMAN. I just personally find that offensive that we could have our boys back there possibly still in the field before we got a total accounting, that some individual was willing to sell out his country for $700,000.

Mr. BURTON of Indiana. I am sure it was more than that. But the bottom line is that when the grand jury investigated Mr. Brown, they did not exonerate him. They said they did not have enough evidence to indict. And when the FBI was pulled off the case, I believe at the request of the Justice Department and Web Hubbell and Janet Reno, I think they did a real disservice to the country and to those families that have those 2,000 or 2,300 people still left unaccounted for over there.

Mr. FOX of Pennsylvania. Mr. Speaker, I know the Members of the House would like to know as well as the public, what is it with regard, if we have delinquent loans and we have forgiven loans which are questionable and we have failure to file with the government authorities on limited partnerships with the Secretary of Commerce here, in your opinion, do you think that we have sufficient evidence or information so that the independent counsel could be appointed?

Mr. BURTON of Indiana. Yes. I think that the gentleman from Pennsylvania, Chairman CLINGER, of the Committee on Government Reform and Oversight, made a very, very strong case when he wrote to Janet Reno this week, when he asked her, he cited case after case after case after case where there are allegations of wrongdoing and breaking of the law by Mr. Brown. And he said that he would allow her to and he urged her to pick an independent counsel through the three-judge panel. And if she does that and we get a truly independent counsel to investigate these allegations, then he felt like there would not be a necessity for the Congress to conduct hearings.

However, as I said before, if that does not take place, I talked to Chairman CLINGER today, and I am convinced or under the impression that we will hold hearings if we do not get that independent counsel.

Mr. FOX of Pennsylvania. If there would not be an independent counsel, in your opinion, you believe that the Committee on the Judiciary or the Government Reform and Oversight Committee would have the right to do its own investigation.

Mr. BURTON of Indiana. The Committee on Government Reform and Oversight, I think, would have jurisdiction in this case. And I think we would be the committee that would hold the hearings. I would urge the chairman to do that, and I believe he will.

Mr. FOX of Pennsylvania. Mr. Speaker, on this latest indictment, we have Neal Ainley that is connected to a questionable campaign loan back to the Clinton administration.

Mr. BURTON of Indiana. Yes. That was a $180,000 non-secured loan, and that loan was made by this Mr. Neal Ainley. He was president of this bank in Perryville, AR, called the Perry County Bank. And this guy, I do not know, he may be the scapegoat, I do not know.

The thing that is interesting is, as I said before, the owner of the bank, not the president, but the owner of the bank became the head of the State Highway Department. And he assisted, as I understand it, the bank officials in raising the money to pay off the loan.

And all I can think of is some of the highway scandals I heard of before where highway contractors were urged to cough up money to take care of various needs of administration officials in other States. And it seems to me a $180,000 loan that was made by a bank and then the owner of that bank becomes a State highway official, the top dog there, and then he helps repay the loan, it seems to me he had to get that money from someplace so we ought to investigate where that money came from.

Mr. FOX of Pennsylvania. I know that you and Congressman STOCKMAN have been very much at the forefront of the public outcry about this whole Mexican bailout. I wanted to ask you a couple of questions so that we can have our colleagues understand where we are at this point.

In your opinion, is the Clinton $20 billion loan guarantee an overreaching

by the executive branch without congressional intervention whatsoever, an obligation that should have been to the American people first in forming the Congress, and that the executive branch, through the President, should not have taken action?

Mr. BURTON of Indiana. Yes. It is an absolute travesty, in my opinion, that the American people were not listened to and that the people's House and the Senate were not consulted about this bailout.

The fact of the matter is, and I wanted to congratulate Mr. STOCKMAN for his hard work in trying to bring this issue to the floor, I think he will prevail to get it to the floor, but the fact of the matter is, I was one of the people that worked on the initial legislation that was being drafted to try to work out the kinks to be able to help stabilize the economy in Mexico. And some of the things that we put in there in the legislation before we would guarantee the loan was that there had to be at least about 30 percent of the loan put into American banks in the form of negotiable securities so if the Government of Mexico defaulted, we could get right off the top real fast 30 percent of the loan back. And if we did that in a timely fashion, we probably would not suffer any loss and the taxpayer would suffer no loss in this country, even though we did help stabilize the economy down there.

In addition to that, we have provisions in the bill that said Mexico could no longer help the Communist Government of Cuba. Right now the Mexican Government, through direct or indirect financial assistance to Castro, are giving him $200 million to $400 million a year. We guaranteed these loans, and they continue to do business with Castro. We have an embargo against Castro, 90 miles from our shore, the last bastion of communism in the world. And here the Mexican Government is helping Cuba to a large degree, and we are bailing them out. And I would not be a bit surprised if some of the money that we are giving to them to bail them out is not funneling its way over to Castro to keep him afloat. So we put a provision in there that said that no money could get to Castro. We also put a provision in there that said that we had to protect our borders and Mexico had to help. They had to work with us on both sides of the 1,980-mile border between us and Mexico to keep illegal aliens from coming out. And we alsohad a provision in there to send prisoners in United States jails, and we have hundreds, probably have a couple hundred thousand of them, back to Mexico for execution of sentence, because it is costing the American taxpayers $30,000 to $35,000 apiece to keep them incarcerated here. So we had a lot of provisions in the bill to protect the taxpayer.

Now, the President and Mr. Rubin and the Mexican officials said, we do not want any conditions on the money. Get that. They did not want any conditions on the money.

And so we said, you are not going to get the votes in the Congress to pass that, or the Senate, and the American people are not going to support a loan bailout unless there is protections on the money.

We can guarantee we are going to get at least so much of our money back and that these other provisions in there to protect our borders and to stop them from doing business with Castro and in violation of the embargo. So what happens is the President says, hey, if we cannot get Congress to do it, I will do it myself. And he used the Exchange Stabilization Fund in violation of what we believe the law is because that money is supposed to only be used to stabilize the dollar. And he is using it to stabilize the peso. So he did an end around the American taxpayer and the Congress of the United States.

Mr. STOCKMAN. I would like to understand that. He transferred from what I understand, Rubin transferred $7 billion as opposed to the loan guarantees already $7 billion. He originally asked for $40 billion. It is up now to $53 billion. And this thing keeps spiraling out of control. And today shocking news that was reported over the Mexican airwaves, I do not know if it is true or not, but the brother of the former president of Mexico participated in the assassination down there in Mexico. That is going to drive the markets down further. I think we have just been ripped off, and the American taxpayer is going to end up paying for this failure of Clinton to realize that this is a bad deal. This is a ripoff, and originally it was loan guarantees. Now it is outright payments to Mexico. This is a travesty.

Mr. BURTON of Indiana. I think the gentleman is absolutely right, $7 billion has already gone down there. The peso continues to drop. And every time it drops, that means its relationship to the dollar drops, which means that they are going to have to use this money to bail themselves out. And that $7 billion is very likely done. We might as well have burned it up in the middle of the street. It is not saving the Mexican economy. The taxpayers of this country, 80 percent of them did not want us to do it anyhow. So since the President cannot get it down through Congress, he does it by himself. This is not a dictatorship.

Mr. STOCKMAN. Not only that, the people of Mexico were opposed to it. The people in the United States were opposed to it. This is like a shotgun wedding where both participants did not want to participate. This is just outrageous. The day they announced the agreement, the stock market and peso dropped. That shows you that both business and government oppose this deal.

It is ridiculous that we are proceeding with this and continuing after all the signs in the market.

Rubin is a smart guy. He knows what the markets say is true and the markets are speaking and they say this is a bad deal, yet Rubin is proceeding with it. The reason he is proceeding with it is because it is not his money, it is the taxpayers' money.

Mr. BURTON of Indiana. Yet the one thing we talked about earlier, you and I talked about at the press conference today, is questions need to be answered about why Mr. Rubin was so insistent that we use the exchange stabilization fund and that $20 billion to send down there. A lot of people think it was because he was trying to protect his former company and his own hindquarters because he advised those people to put their money down there to the tune of $5.17 billion. And if he did it for that reason, that is certainly a violation.

Mr. STOCKMAN. He knows what is in that blind trust. He says it is a blind trust, but he just put it in that blind trust. He knows what is in there.

Mr. BURTON of Indiana. The people who may be paying attention in their offices, other Congressmen, need to know what you are talking about. He said he put his money into a blind trust so he did not know what that money was being invested in. But Goldman Sachs and he are very close. He was a partner in that company, and you are absolutely right, he does know in my opinion.

Mr. STOCKMAN. He is a financial expert. He knows exactly what is in there.

Mr. FOX of Pennsylvania. Mr. Speaker, if the gentleman will yield, I appreciate what Congressman STOCKMAN and you have brought out here. But I think the problem the American public wants to know about is not only do we have a contract, or loan guarantees without Congress' intervention, we do not have the Border Patrol with the illegal immigration you spoke of, we do not have the reduction that we want to see in the illegal drug sales, and we also do not have, I do not think, any guarantee that the collateral is sufficient.

Mr. BURTON of Indiana. The collateral is not sufficient. Anybody who really knows what is going on with the oil sales in Mexico and that kind of a deal will tell you that if they were to default, and it is very likely that they will at least on a large part of this loan, or gift or whatever you want to call it, if they default, for us to take the revenues from their oil production, that State-owned oil company down there, would leave that company with no money to operate the government. There would be absolute chaos down there, and we would probably see millions more people coming across that border because of the destabilization of the economy.

So that money that is being guaranteed from those oil sales to seb repay this loan in the event of a default, I do not think is going to be there. So the American taxpayer really in my opinion has no collateral whatsoever for this $53 billion or $54 billion loan bailout.

Mr. FOX of Pennsylvania. As a result of your work on the committee, there is going to be, with the help of Congressman KING, an information request of the White House with regard to 80 or 90 pieces of information on what documentation they have to use the stabilization fund, what legal authority they are operating under, and when we get that information, what do you think we should be doing next?

Mr. BURTON of Indiana. I think that information is essential, but in addition to that, we need to get Mr. STOCKMAN's bill to the floor which would stop this loan program completely. Because we represent the American people. And we cannot take care of a lot of the problems we have in this country. Right now, we are cutting spending dramatically. Six subcommittees of appropriations I understand last week cut $17 billion out of programs here in the United States. That is $17 billion. And while we are cutting U.S. programs, as we should, to get this Government under control and to reduce the size of Government, we are spending up to $53 billion bailing out Mexico with no collateral. It makes absolutely no sense. None whatsoever.

Mr. STOCKMAN. Mr. Speaker, if the gentleman will yield, I would like to point out, too, that there is some critical factor here. The first request, a lot of people do not know this. There had already been $17 billion put into the Mexican economy, they came back and asked for $40 billion, now it is up to $53 billion.

My question is, at what point do we say, $100 billion, $200 billion, at what point do we say we are throwing good money after bad?

This is a clear indication to me that the economy down there is unraveling. It is kind of like Visine, you stick it in your eye, it gets the red out but it comes back with a vengeance.

We are just postponing in my belief the inevitable, which is that the company and the bonds, the tesebonos, are going to default and I think we need to take that bitter pill now instead of having the American taxpayer take the bitter pill. I think it is outrageous.

Mr. BURTON of Indiana. I agree with my colleague entirely, and I cannot believe if there is a default on the loan that our Government and the people we represent are going to stand still for pouring good money after bad.

Mr. STOCKMAN. It is over $100 million per district. I tell you, $100 million, I could run a darn good campaign on that, too.

Mr. BURTON of Indiana. I hope everyone got that; $100 million for every congressional district in the country is going down there.

Mr. FOX of Pennsylvania. If the gentleman will yield, I would ask you or Congressman STOCKMAN, what would be the effect of your legislation with regard to this loan guarantee by the President which has been done?

Mr. STOCKMAN. What it would do is stop any loan guarantee, anything at all in the form of any kind of payments to the country of Mexico. This is not a racist thing. It has nothing to do with that. It is a financial deal. And the finances of it is that it is wrong for America.

In fact, I will tell you, it is on both sides of the aisle that oppose this, and I bet you if we put the bill to the floor, it would pass with flying colors with very little opposition.

This is a bill that just says, enough is enough. We gave them already billions and billions of dollars. We had the Brady bill, we had many other bills of rescue packages since 1982. In fact, seven packages, all have been rescuing Mexico, and each time we come back to the well.

We need to say to a country which has socialized industry, a lot of people do not know that. They have a nationalized oil industry, they have a nationalized, they are just unnationalizing their telephone company.

By the way, Rubin was the negotiator to unnationalize that. That is incredible. We are going through these series of processes and we are not looking at what the country is doing.

Let's face it. Just today we found out that the brother is connected to the murder. This country is not the same country as the United States. We are dealing with a totally different Third-World country. We are not even bailing out Orange County. Yet we are bailing out Mexico. I just find it appalling. But the bill would stop it all.

Mr. BURTON of Indiana. Your bill would stop it immediately.

Mr. STOCKMAN. Immediately. The only way that he could get around it is if Clinton vetoed it.

Mr. BURTON of Indiana. The interesting thing about Mr. Rubin is that one of the clients that he represented was the Mexican Government itself. I mean, that was one of his clients when he was with Goldman Sachs.

Mr. STOCKMAN. I think he is still representing them.

Mr. BURTON of Indiana. Right. And here he was representing the Mexican Government with his company Goldman Sachs and now as Treasury Secretary, he is putting all this money down there, taxpayers' money. There is a conflict, there is no question.

Mr. STOCKMAN. He came before our committee, and I asked him, I said, "Who is the No. 1 adviser to the President on this issue?"

He said, "I am."

I said, "Did you receive any calls from outside interests?"

At first he said no. He said, "Yes, I think I did."

I think we need to know who that was and what they discussed.

Mr. BURTON of Indiana. He did not testify the outside person?

Mr. STOCKMAN. No, he did not.

Mr. BURTON of Indiana. Were any of them the people that paid him $26 million in salary last year?

Mr. STOCKMAN. That is all you need is one phone call from them.

Mr. BURTON of Indiana. Anything else from my colleague?

Mr. FOX of Pennsylvania. Yes, I would ask the Congressman, at this point where can the public help you and help us move forward in this debate?

Mr. BURTON of Indiana. I would say to my colleague and all of the Members here, if their constituents were interested, I would urge them to contact their Congressman, their Senator, and the White House and say, we want an up-or-down vote in the U.S. House of Representatives just like the votes are taken on any appropriation bill, any spending bill. There needs to be an up-or-down vote on whether or not our Congressmen and our Senators want to send this amount of money to Mexico as a bailout. And if the American people scream loudly enough, then I think there is a real possibility that Mr. STOCKMAN's bill will not only come to the floor but it will pass the House and pass the Senate and we will stop this nonsense very quickly.

There is a question about what is going to happen if we cut off these funds. There could very well be some upheaval down there. But I believe that upheaval is likely to take place, anyhow, and what we are doing is throwing good money after bad and the American taxpayer is going to lose this money and they are still going to have these problems.

If they are going to have those problems, anyhow, we might as well let them happen and deal with them as they happen and save the taxpayer this money.

Mr. STOCKMAN. I would like to point out that $53 billion would buy an incredible fence.

Mr. BURTON of Indiana. I am not sure that we want to build a fence between us and Mexico. But you are absolutely right.

Mr. STOCKMAN. Who is going to get us out when we collapse? We are arguing on the floor every day over a billion dollars. Yet we are doing $53 billion. We are arguing over $100 million. We are talking about, we are being accused of cutting school lunches. Yet we turn around and give $53 billion. I think the upheaval will happen here if we collapse and we cannot handle ourselves.

Mr. BURTON of Indiana. I think the American people, it is hard for them to comprehend 53,000 million. It is not 53

million, it is 53,000 million dollars total that you are talking about. And the American people, I think many people cannot comprehend that amount of money. But when you think about the national debt being what it is and the deficit being what it is and what we are going to face in the next few years if we do not get control of spending and here we are taking all this money that could be used to reduce the deficit or be used for projects here in the United States like in Orange County where they have got a terrible problem, or maybe in your district, yours or mine, and we are sending it down there, the American people I think would be very, very upset.

The problem is, they need to know about it and they really have not I think heard enough about this issue.

Mr. STOCKMAN. I am offering to pay my staff now in pesos. I think it is a fair deal.

Mr. BURTON of Indiana. Very good.

Mr. FOX of Pennsylvania. I think the fact is that your dialog tonight with our colleagues here on the House floor and hopefully Members of the public who may be listening along here in the gallery will find that in fact this dialog is important, because here we have an opportunity to look at America's needs first. And while we are looking to trim our government here in the Contract With America, let's look to see what America's needs are first and when we get involved with any other country, and we can do that, let's do it in a way that Congress has the involvement, that Congress is going to be obligated and we have the opportunity to make the conditions that are important to protect our American citizens.

It did not take place in this instance because the White House, I believe, had an overreaching.

Mr. BURTON of Indiana. They usurped the authority of the spending house of the Congress, the U.S. House of Representatives.

We spend about $13 or $14 billion a year all over the world in foreign aid, $13 or $14 billion, maybe $15 billion total in foreign aid and our constituents holler to high heaven when we have town meetings about the foreign aid. They say, "Why are you sending that money overseas when we have these problems here at home?"

And that is $14 billion. Here in one country we are talking about as much as $53 billion or almost four times, about four times what we are spending in all the foreign aid all around the world. So this is really a debacle. And the President has taken this upon himself without any act of the Congress.

One of the things that is interesting about President Clinton is that he decided to go into Haiti when he knew the Congress would not support that. If you have been to Haiti, you know it is a real mess and we are going to spenda billion and a half dollars at least down there.

In the Mexican bailout, he took that action unilaterally. There have been other cases where the Congress was not consulted where we should have been. It just seems to me that a message needs to be sent down to the White House very clearly that this is a republic, not a dictatorship, and the President should not be doing these things unilaterally and we need to express that very clearly.

That is why it is extremely important tomorrow when we have our Republican conference that we get all of our colleagues there to try to make sure that we are allowed to bring a bill to the floor so we can have an up-or-down vote on this issue.

Mr. STOCKMAN. It is H.R. 480, by the way.

Mr. BURTON of Indiana. H.R. 480. You have me on as a cosponsor, I hope?

Mr. STOCKMAN. Yes, sir, right there at the top.

Mr. BURTON of Indiana. Very good.

Mr. STOCKMAN. I just want to thank the gentleman for bringing this to light and your efforts and your guidance. As a freshman we oftentimes do not know what to do here. We are real frustrated.

I know I was talking with the gentleman from Pennsylvania, and we were pleased that you helped on the leadership on this and really told us which way to go. A lot of times, you are new here, you do not know it. You have really taken this thing forward. I just want to thank you publicly for your leadership and for your guidance on this. I really appreciate it.

Mr. BURTON of Indiana. I appreciate that very much. But if it was not for you introducing the bill and working so hard getting all those cosigners on that letter, we would not be at this point right now. But the battle is not over. We need to fight very hard in the next few days to bring a bill to the floor so we can have an up-or-down vote. If we do that, get it to the floor, it will pass and it will pass, as you said, handily.

Mr. FOX of Pennsylvania. I also wanted to join the gentleman from Texas in acknowledging our appreciation for your leadership in this. We look forward to working with you in committee for a positive result for the people.

Mr. BURTON of Indiana. Thank you very much.

As we conclude, Mr. Speaker, this special order, let me just say there are a lot of issues we have raised tonight. I hope my colleagues will pay attention to all of those as well as anybody else that might be paying attention.

There are so many things that have been going wrong with this administration that need to be corrected. We as a Congress need to exert our oversight rights to make sure that the American people are well-represented.

Mr. Speaker, I include the following for the RECORD:

Re Request for an Independent Counsel to Investigate the Financial Holdings and Activities of Secretary of Commerce Ronald H. Brown.

Hon. JANET RENO,
Attorney General, U.S. Department of Justice, Washington, DC.

DEAR ATTORNEY GENERAL RENO: For over a year, I, as then-Ranking Member of the Government Operations Committee and now as Chairman of the Government Reform and Oversight Committee, have been conducting an investigation into the financial holdings and activities of Secretary of Commerce Ronald H. Brown, pursuant to my authority under Rules X and XI of the House of Representatives. And, for over a year, in response to direct questions posed to the Secretary, I have received inaccurate, incomplete, and misleading responses, or no response at all.

This investigation has developed specific allegations which the Committee believes are sufficient to warrant the appointment of an Independent Counsel. As you have previously determined that Secretary Brown is a "covered individual" under the Independent Counsel Act, 28 U.S.C. §591 et. seq., the Committee requests that you add the allegations set forth in the attached appendix to those matters already under review as part of your preliminary investigation.

The allegations are divided into five categories: (I) Submission of Incomplete, Inaccurate and Misleading Financial Disclosure Statements; (II) Supplementation of Salary; (III) Potential Conflicts of Interest;+ (IV) Misinformation to Congress, and; (V) Refusing to Respond to Congress. Under each category are specific allegations followed by a factual basis for each assertion and the relevant statutory and regulatory citations. In some instances, the factual basis for an allegation is reiterated under more than one category because the facts support multiple allegations.

As requested in Deputy Assistant Attorney General John Keeney's letter of February 23, 1995 to me, I will provide to your office copies of the documents obtained to date in the investigation of Secretary Brown. These documents serve as the underlying support for the allegations set forth in the attached appendix. I expect to complete that process not later than March 10, 1995.

Some of the information obtained during our investigation was provided by confidential sources. These documents will be identified for your information. Because I pledged anonymity in consideration of this material, I am not prepared to reveal the identity of the sources at this time.

Please understand that the Committee will continue its investigation. As new information is developed, and adequately substantiated, we will provide it to you. Although I do not presently plan to hold hearings on this matter, I reserve the right to schedule hearings as circumstances warrant.

Please feel free to contact me if you have any questions. I appreciate your cooperation in this matter.

Sincerely,

WILLIAM F. CLINGER, Jr.,
Chairman.

Enclosure.

THE MORAL IMPLICATIONS OF ASSAULT ON AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from New

York [Mr. OWENS] is recognized for 60 minutes as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, all of the members of the Congressional Black Caucus are very concerned about the latest development with respect to an announcement that affirmative action and the elimination of all aspects of affirmative action has been placed on the agenda of the Republican Party.

That concern is expressed in many different ways. Several of my colleagues were here yesterday, and they talked about the details of affirmative action from a very legalistic perspective. Several of them are lawyers and they understand the legal wranglings related to affirmative action, some are very familiar with the history of affirmative action laws, and they gave an interesting and useful background on affirmative action.

They make their contribution in their way, and I am, on the other hand, concerned about affirmative action from another point of view, the moral implications of the assault on affirmative action that is being projected by the Republican Party, by their leadership.

I am concerned about the fact that when you couple an assault on affirmative action with the nastier parts of the Contract With America, and the Contract With America is just beginning to manifest itself in all of its barbarity, and I use that word deliberately, because the aspects of the Contract With America which are going forward now have to do with taking school lunch programs away, limiting school lunch programs, and denying the entitlement to a free lunch to children in need.

□ 2145

It has to do with rescissions which are taking place to wipe out the summer youth program, one of the most practical, successful and much needed programs that we have, employing teenagers, young people during the summer. There are all too few jobs already, but in the rescission process the committees have begun to eliminate, first they want to water down this year's program and cut that drastically and then they want to eliminate it completely and on it goes. There are education programs, child nutrition programs, programs that are very vital to poor people and certainly vital to the people in my district that are being cut.

And this is just the beginning. It is the beginning of a process of finding in the budget the money needed to give a tax cut which would go mostly to people who are very well off. It is a revision of a process of finding money in a budget in order to increase the defense budget, and if there is any part of the budget that does not need to be increased, certainly it is the defense budget. I think a recent poll shows that the American people in their great wisdom, the common sense of the American people is astonishing, they have in a poll indicated, a large percentage, I think about 60 percent indicated that things should stay the way they are. I do not want to quote the numbers but the overwhelming percentage of people who responded to the poll felt that things should at least stay the way they are or there should be a cut in defense.

The smallest group of people who responded, the smallest category of people who responded were people who wanted the defense budget increased. So the leadership of the majority party here is out of step with the common sense and the wisdom of the American people. But their being out of step and having the power, of course, they have the votes, does not mean they are going to cease the folly of increasing the defense budget at the expense of much needed programs like school lunch programs and summer youth employment programs.

So, I am very troubled by those cuts, and those cuts are not a game of Republican versus Democrats. The Republicans make one move, Democrats make another. These are cuts which go to the heart of what the Federal Government is all about in terms of providing a safety net for people who are most in need.

We are going to snatch away this safety net, we are going to kick people out into the streets. We are going to do some horrendous things in an attempt to balance the budget and in an attempt to find money for greater defense expenditures and for a tax cut for people who need a tax cut least of all.

Those are terrible prospects. But when you add to that an announcement that we are going to have an assault on affirmative action, we are going to make affirmative action a major issue in the coming 1996 election campaign, it means that the Contract With America authors and the people who signed the contract, the leadership promoting the contract, the people who are pushing these tremendous domestic cuts and the defense increase, they are not willing to take their package and go to the American people and say well, this is the way we see it, we agree, we disagree with the Democrats, we are in charge now, we are able to push our program through and, therefore, you pass judgment on it. I think it would be fair, although I profoundly disagree with the tremendous budget cuts and I disagree with the thrust and essence of the Contract With America, I still think it is a legitimate opposition program, and the opposition, I call them the elite, oppressive minority. The elite oppressive minority, should take their program to the people and have them pass judgment on it at the ballot box.

But when the elite oppressive minority decides that it wants an insurance marker, it wants to guarantee victory by moving into another arena, by attacking affirmative action, already we have an attack on immigrants, now we are going to add an attack on affirmative action, we are adding something to the brew, we are pouring poison into the situation, and saying that we are going to resort to exacerbating racial tensions and playing on racial fears in order to win the 1996 election. It is race-baiting, it is the oldest trick in the world. It is scapegoating and it is going to be, you know, Willy Horton to the maximum degree.

We are going to have a situation where people do not think about the budget cuts. They will not think about the merits of the Contract With America. It will just be gut reactions to a racist appeal. That is the way I see the announcement that affirmative action is now going to be a major target between now and 1996.

I hope we do not go that way. I hope that the leadership of the majority party here in the Congress will reconsider. I hope that we will go forward and have a contest in 1996 which will be on the merits of the programs offered by the Contract With America, authors and signers versus the Democratic Party, its President, the opposition here in Congress, and that we will have a decent election based on what is best for America and having people make that choice.

I do not think we will have a decent election. I think we will go down the road toward disaster if we wage a full-scale attack on affirmative action and we make the next election a racial referendum.

It is something that is very tempting. The easy road to power or the easy road to a consolidation of power is very tempting. The people who are the cause of the problems in Yugoslavia, the Serbians, the Serbians who put in motion ethnic cleansing, they wanted an easy road to power, the easiest road to power to exacerbate and excite people's racial fears and to pray on racial tensions.

The people in Rwanda, the Hutus, the Hutus sought an easy road to power by exacerbating the differences between the two tribes and the Tutsis. All that started as a matter of political expediency and they were using it to consolidate power. It got out of hand and it became such a frenzy until it spilled over into the streets and people went out and massacred people. It is estimated that 500,000 people were massacred. The Hutus massacred 500,000 Tutsis. It all started with some egomaniac in power, politicians in power who wanted to consolidate their power and made an appeal to the worst in people in order to do that.

You might say well, your exaggerating, that could never happen here. No,

it could not happen here, overnight certainly, and it will not happen here between now and 1996. But whenever the easy route to power is taken, whenever you choose to play on racial fears, there is no way you can guarantee you are going to be able to turn it off when the time comes to turn it off.

The appeal to racial fears at this point in our history I think would be a disaster, and I want to take the time to make my appeal. You know, 100 seems to be a magic number, so if I have to come here to the floor 100 times to make 100 appeals for justice and 100 appeals for us to turn aside from this course of action, then I will do that because I think it is just that important, I think it is just that dangerous that the movement toward racism in our next election will set in motion something that would be disastrous for our country.

At a time of maximum prosperity in the richest nation that has ever existed in the history of the world, as we move into the 21st Century Americans must not yield to destruction of our society through the use of a barbaric political process. If we cannot do it any other way we certainly should not resort to playing on racial fears.

When you combine an assault on affirmative action with a Republican Contract With America, you create a kind of scorched Earth approach to the reordering of our society. Government by an elite minority, for the benefit of the elite minority, becomes the driving philosophy. We would have to call it the way we see it. I do not think it is exaggerating to say that we have a high-technology, a group that has a great knowledge of high-technology, and they will use electronic witchcraft to promote this oppressive elite minority. And now they want to spread, use that power to spread a racist, anti-immigrant brew throughout the minds of America, to poison the minds of the American voters.

The goal of this oppressive minority is to turn democracy on its head by stampeding the majority into voting against its own interests. Assaults on affirmative action, attacks on immigrants, these are actions which are the key elements of a stampeding kind of approach to politics. You do not want people to think, you would want them to feel a gut reaction and act as a result.

I think all poor and disadvantaged people whose needs inconvenience the needs, and the programs which serve poor and disadvantaged people inconvenience this oppressive elite minority, I think they become targets as a rule of wanting to get them out of the way, they become the targets of a rather ruthless set of actions.

The rescissions that have been announced, the bills that are moving through committees that block grant school lunch programs, and block grant child care programs, and block grant child nutrition programs, and WIC Programs—block grants become a kind of a swindle. We know from experience that when the Federal Government moves from entitlements at the Federal level to block grants at the local level it means that you are setting up a situation where the responsibility to provide for all of those in need will be taken away. You do not have to have an entitlement. If you have a block grant, the State will spend as much money as it has and when the money runs out, no matter how great the need is, it will not spend any more, and the people will have to do without, whether it is hungry children or people in need of child care or any other block-granted function.

So the block grant is not just an administrative move, it is not an administrative convenience. The block grant is a swindle that is perpetrated. You start the block grant with an amount of money at one level and you stop. And as the years go by, the block grant is cut. It automatically is cut because no money is added to it to keep up with inflation, and then, of course, sometimes the Committee on Appropriations actively begins a process of cutting. This is the history of block grants, so we have no reason to believe that block grants are not just another way to swindle people out of their entitlements. People who are in great need will be forced to go without as a result of the block grants being instituted.

The most specific and the most intensely pursued target of the oppressive elite minority are not just the poor and the disadvantaged. That in general is the way this is being approached, is that all poor and disadvantaged people become obstacles in the way. Their needs inconvenience this oppressive elite minority that is in charge. But among the poor and the disadvantaged, the minority that becomes the group that becomes the biggest target and the most intensely pursued target becomes the American of African descent. The Americans of African descent, the people who are the descendants of slaves, are in a very special category. It is not that we are the only beneficiaries of affirmative action; affirmative action, of course, benefits a lot of other people other than African-Americans. You know, women are the beneficiaries of affirmative action, Asians, Hispanics, a number of people benefit from affirmative action.

□ 2200

And they will be hurt in the process. But I think the drive and the focus and the intensity of the move is focused on African-Americans, and that is the way we see it, and that is why we are responding with such intensity.

It was the African-American population, the descendants of slaves, who fought the battles during the civil rights era during the fifties and sixties, and we fought for the Civil Rights Act, the Voting Rights Act. We fought for set-asides. We have pressured and pushed and gotten Presidents to issue Executive orders on affirmative action. We have been on the cutting edge, and we are the driving force, so any attempt to wage an assault on affirmative action is an assault on African-Americans, people of African descent. That is the primary thrust of what is happening here.

The Contract With America, which started by focusing on the destruction of all poor and working families, has now added an assault on affirmative action to its blitzkrieg. This new aggression makes it crystal clear the primary objective, the No. 1 target, of the oppressive elite minority are African-Americans, the descendants of slaves.

If you crush the African-Americans, if you crush the core of the resistance to the planned tyranny of the oppressive minority, this is the merciless logic, crush them first, this is the merciless logic of the opposition, and when the blacks are silenced, the other components will fall in line.

Some people will acquiesce after the blacks are silenced. They will acquiesce with a guilty conscience, but they will acquiesce. Many others will find it convenient and comfortable to be bought off or sell out. This is a scenario we see.

In the 1996 election, they will turn the election into a racist election. You stampede people into a situation where you consolidate power not on the basis of the programs that you have come forward with or your ideology or your achievements, but on the basis of deep-seated primitive racial fears.

While others stumble about in confusion, I think African-Americans clearly see what is happening. We see the enemy converging down upon us. Our intense reaction is based on the fact that we understand. We are not going to wait until it unfolds, and, you know, the details are in place. The very fact that at this particular moment you get an attack on affirmative action, a concerted assault, tells us a great deal, and we understand the implications.

The Contract With America is a contract against us to begin with, and then the assault on affirmative action continues that attack. The combination of budget cuts and assaults on affirmative action are definitely designed to bombard the African-American community until it becomes a kind of political Hiroshima, beat it to death. The goals of this oppressive minority, the goal of the oppressive elite minority which is in charge now, is to paralyze us and incapacitate us. They want to bring African-Americans to the point where they are incapable of ever counterattacking.

We cannot finish the fight that we have begun for full rights, and we cannot pursue the fight that we started for

equal justice if we are the subject of this kind of ruthless attack in 1996. The goal of the ruthless elite, this oppressive minority, is to terminate our vanguard role, to destroy our leadership position in the struggle for justice and opportunity, which African-Americans have traditionally occupied.

The situation is that serious, and I would like to plead to the leadership of the Republican Party, the leadership in control of this House, to drop their agenda for the assault on affirmative action. I would like to plead for a different approach to winning the 1996 election in line with the merits of your case and not igniting a racial war that none of us will be able to control.

I would like to also, if you are determined to pursue affirmative action and the assault on affirmative action, I would like to also make an appeal for you to take a close look at why we need affirmative action. Affirmative action is a set of activities and programs which are designed to, in the present again, compensate for past wrongs. Affirmative actions are put forth by nations and groups and not by individuals.

Individuals who are living now may not have been guilty of the wrongs that led to the implementation of affirmative-action policies, just as the average German alive today is not in any way guilty for what Hitler did in World War II. Nevertheless, his nation is responsible, and his nation pays reparations to those people who were victims. The Nation is a continuing entity in the same way America, the United States of America, is a continuing entity, and we are responsible for the wrongs that were done to a group of people, the African-Americans who were brought here against their will and thrown into slavery.

I appeal to all concerned to take a hard look at slavery and not make us force the issue of an examination of slavery and what the implications are. We ought to be concerned about what we did to African-Americans. We ought to be concerned about the descendants of the victims of those crimes. We ought to be concerned about the fact that certain people are the descendants of the beneficiaries of the slave industry.

Slavery was an industry, and it went on for 200 years in America. And, therefore, I think, you know, great masses of people were wittingly and unwittingly beneficiaries of the economy that was generated by slavery. It made America richer faster. It built a lot of the institutions that we have, not just in the South. They hang slavery around the neck of the South and leave it there, but in New York City we had one of the largest slave ports in the country, I think the third largest place where you had slaves brought in in the early days of America, which was New York City. It was a port where slaves came in in large numbers, and New York City was built by slave labor.

Large numbers of slaves were imported into that area. So it is not just one area of the country. It is the whole country benefited from the slave industry.

I think it is fitting and proper to discuss slavery and the crimes involved in slavery as we look at affirmative action. Affirmative action is designed to correct past wrongs. Past wrongs, the most immediate past wrongs were 100 years after the Emancipation Proclamation and after the 13th amendment when we had a long history of discrimination, oppression, Klu Klux Klan, lynchings and all kind of things happened for a whole 100 years after slavery was ended.

But before that, you had 200 years of slavery.

When you put it all together, there is a need to do something, to atone for those sins and to compensate for those crimes.

Slavery in America lasted for more than 200 years. The slave industry, as I said before, encompassed more than half the world. It was not just America. It permeated the lives of the citizens of all of the nations of Europe, Africa, South America, North America. Slavery was a dominant driving force at the heart of the economy of the Western World for more than 100 years.

At that period of history the slave trade and slave labor was far more valuable than gold, diamonds, oil. Slave labor was a primary means for the accumulation of vast amounts of capital. Slavery was a monstrous, enduring, all-encompassing, overwhelming crime, and it occupies a unique place in human history. In duration, no other crime of that kind against a group has lasted for so long, more than 200 years, that America's slavery lasted.

In volume, the number of people involved and the amount of human misery generated and the amount of murder and other phenomena, torture, not other phenomenon matches this global crime.

Now, as I spoke here last week, I mentioned in the process that merely crossing the Atlantic, large numbers of slaves perished, and I started that as an introduction to my discussion of slavery as a background for justifying affirmative action.

Large numbers of people perished crossing the Atlantic. It was just a figure that I thought was interesting. I mentioned that 200 million people perished in the Atlantic slave crossings, because that is a figure I have heard repeatedly, given by certain historians and lecturers, and this aroused a lot of interest.

So I want to just take a moment before I continue to mention the fact that I had gotten a large amount of inquiries and a large amount of comments about the statement about the large number of people who had perished in the crossing, just crossing the Atlantic, a large amount of slaves.

There were people who called who merely wanted to use racial epithets and let off steam, and I want to tell them I do not appreciate that. I prefer for you to keep your dirt at home. We are not interested in your racial epithets.

You know, other people who called seriously wanted to know, you know, how such a large figure was generated. On some well-known TV show, they ridiculed the number and talked about it and generated a lot of interest, and I am glad that we started a dialog about slavery.

□ 2210

I am glad that the process has begun. The figure of 200 million certainly was questioned. I got serious people, some historians and experts who were upset about the fact that that figure was being used. But they also, some of those same experts who called and discussed it, said that they understood where I got the figure from, that there are a set of people, historians and experts on the subject, supposed to be experts, who take the position that the number was that high. In fact I really read it as recently as last June in a New York Times column, if you want to know where the figure came from.

It is not just from the column that I referred to, I had heard it many times from various people whom I heard talking. I did not know there was so much controversy. I did not even think about the fact that the figure seems to be a little large due to the fact that the capacity of the slave ships was limited and all the other things. I just have heard it mentioned so many times I recited it as a fact.

In this New York Times column that appeared on June 19, 1994, just this past summer, there was a statement which explains some of what has been happening. It let me know that among the people who are supposed to know the subject very well, there is a lot of disagreement.

I will read one quote from the article. It says,

> Estimates of how many blacks were lost at sea in roughly 400 years of the slave trade in the Americas vary widely. Some place the figure between 100 and 200 million; others say perhaps as many as 14 million. Whichever is true, many historians note that the number of enslaved Africans who died at sea was so great that sharks learned to follow the slave routes because they fed on the bodies thrown overboard.

That is an article in the New York Times, June 19, 1994, page 25, column 1. It is a longer article about the whole matter of slaves who perished at sea.

But among the historians, there is a great deal of controversy. I do not want to get into the middle of that. Some say one of reasons you have such wild estimates, differences are so

great, is that some historians and experts are estimating the number of people who were lost due to slavery over a period of 400 years, not just the 200 years that the North American slave trade existed, but the period of slavery extended over 400 years. They are not looking at just slavery as it affected North America but also the slave ships that went to South America, the Caribbean, and all over. That is how they get some of the divergence in their totals, the differences in their totals.

They also say many experts refused to accept the records that are available and that the citations of some historians who have looked at the record that are available from the British and the French, Portuguese and the Spanish, that these records are a joke, that they are not reliable, that slavery has always been a kind of a bandit unground operation. Even during the period when it was regulated—most of the time it was not regulated—but during the period when nations attempted to regulate slavery, the records were ridiculous because they made rules and nobody checked or tried to enforce them.

The British, for instance, had a rule that any slave ship could only carry slaves in relation to their tonnage. It could only carry a certain number of slaves.

The size of ships determined the number of slaves it would carry. Therefore, the number of slave berths on the ship had to be in accordance with the tonnage of the ship. Immediately, it was noted that most of those same ships, they doubled the number of slaves that they carried regardless of the berths.They crowded, put two people into every berth for one. That kind of practice was a regular practice. They noted that when they recorded their cargoes, they just told the lies and they did not record their cargoes. Sometimes when they arrived in parts, what they recorded as the number of slaves on board had nothing to do with the real number, and some ships off loaded slaves before they got into ports where they kept records. Pirates took ships, in many cases, and did not obey any regulations, and they landed cargoes in various places. On and on it goes.

There were so many holes in the recordkeeping until these people have estimates that are far greater than most conservative estimates say, the records were ridiculous and could not be relied upon. That was the matter of legal slavery, there was illegal slavery.

After the practice was outlawed, there was no attempt to regulate it, it was just outlawed, it went on for many, many years, decades after it was outlawed. There were no regulations, and nobody attempted to abide by regulations. So you have wildly gyrating numbers.

I would say this is a debate that I will leave to the historians and experts on slavery. I did not mean to get off on that tangent. I think I will stop counting at 10 million or 20 million. You know, when you are dealing with human beings, human suffering, human murder, 10 million, 20 million, that is enough for me. I will not argue about the rest.

My example was that here was such a horrendous crime, starting with the slave trade and the delivery of the cargo from one continent to another, that we ought to take a close look at it as we deliberate about affirmative action.

It was one of the most cruel and inhuman tortures ever inflicted on mankind, this transport from Africa to New World in packed slave ships. It was only the beginning of the kind of torture and pain and suffering that the slaves endured. When they arrived at the markets in America, of course they were sold at auction, they were declared property of the slave owner, and once that happened, the daily lives of the slaves in America was as bad as any torture that the devil in hell could heap upon the backs of the worst sinners.

In their daily routine, slaves were forced to endure hunger, filth, rape, torture, murder. The life of a slave was often treated with less sanctity than the life of a horse. Day after day, week after week, month after month, year after year, more than 200 years in America, the crimes against slaves went on and on. It was a unique kind of human destruction. The object of the slave industry was not to incinerate or destroy the body of the slave, the object of America's slavery was to obliterate the soul of the slave. They wanted to keep the body, make it a more efficient beast of burden, but they wanted to destroy the human soul. Slave owners were seeking to breed, to condition, to train the world's most efficient beast of burden, enhance and build up the slave body but destroy and obliterate the slave's soul. This was the monstrous mission of the slave economy. It was illegal to teach a slave to read. Strict punishment was inflicted upon anyone who tried to teach a slave to read.

No sense of family was permitted to slaves. Slave children were regularly sold away from their mothers. Most slaves were never allowed to know who their fathers were. And on and on it goes.

I am not interested in giving a lecture on slavery. What my concern is is that as we look at affirmative action, the set-asides, all the kinds of things that we have done in the very recent past, in the last three decades, in the last three decades we have taken some steps to begin to deal with the impact, the fallout, the results; some of the results, that is, of what was done during that period.

□ 2220

This is only in the last three decades. So after three decades of taking steps which were positive steps, removing the barriers of segregation, establishing set-aside programs, establishing affirmative action programs, promoting diversity in the marketplace, we have done some wonderful things in the last three decades. But we had two centuries of the institution of slavery. After that 100 years, another century of oppression.

My point is, we as Americans, black and white, should take a closer look at the origin of the wrongs, the nature of the wrongs, the nature of the crime, the nature of the since that affirmative action is seeking to overcome. We should take a closer look and we should perhaps establish a commission to look at slavery and is implications, to look at maybe the need to go beyond affirmative action, do something different from affirmative action, maybe reparations. There is a bill that is introduced every year by my colleague, JOHN CONYERS, which deals with setting up a commission to study reparations, just to study the possibility of reparations for the descendants of slaves because the descendants of slaves are descendants of victims. Maybe we should take a close look at that. Maybe we should do that in some kind of reasonable way and not shout at each other about it. If we have an assault on affirmative action on the one hand and demagogues in the streets trying to arouse people's racial fears, then we will have to answer with other shouts and screams about the victimization and the cruelty, and I do not think it is the best way to approach this. Let us look at it in a reasonable atmosphere. Let us look at it with a commission. Let us take a look at whether affirmative action meets the need.

The President has said he wants to review affirmative action programs. My answer to that is, good, my response to that is, good, Mr. President. Review affirmative action programs, and you may find there is a need to strengthen many of them or you may find that many of them are not adequate to accomplish the purpose we want to accomplish and we want to do something stronger, something beyond the affirmative action.

I hope that we could enter that kind of dialog and could have a look at affirmative action in a positive way instead of the use of affirmative action as a weapon, the use of affirmative action as a short cut to power, the use of affirmative action to poison the atmosphere, the use of the assault on affirmative to whip people into a frenzy and to have American voters stampede on election day against their own interests.

Let me just take one more step that I am sure will not be a pleasant one for

most of you. In examining slavery, you are going to find many, many very interesting things. Maybe we ought to have parents teach their kids about slavery and not have them learn about it in the streets because there are horrors that need to certainly be discussed in gentle tones. We are very concerned at this point, some people have made us very concerned about teenage pregnancy. Teenage pregnancy is always an evil in my opinion. It is a double evil because you destroy the life of a child who is the mother, not prepared for that kind of responsibility, and you certainly destroy the life or run the risk of destroying the life of the child who has to be raised by a child. No one would like to see teenage pregnancies reduced as much as I would or people who have large numbers of pregnant teenagers in their districts. No one would like to see welfare not be used as a tool to perpetuate teenage pregnancies. I think that there have been some abuses in this area. There is a need to take a hard look at it and to approach it in a reasonable manner and try to do the things that are positive to end large numbers of teenage pregnancies.

I think that the wrong way to approach it is to demonize teenage mothers and make them all monsters, teenage mothers suddenly become monsters and some people sort of imply that it is a threat to the moral fabric of America, these teenage pregnancies. I think that there was a time when teenage pregnancies were a threat to the moral fabric of America.

I am just going to close with an example of the kind of way in which teenage pregnancies were once a threat to the moral fabric of America. During slavery, teenage pregnancies were promoted by slave owners. During slavery, it benefited the industry to have teenagers become pregnant as fast as possible. During slavery, every girl who was a slave was expected to become a mother as fast as possible.

The horrors of this need to be considered. We had a threat to the moral fabric of the Nation. We should be thankful that we ended slavery. We should be thankful that there was an Abraham Lincoln. We should be thankful that there was a 13th amendment, the Emancipation Proclamation. We should be thankful that we, in 1995, are out of all of that grotesque, those grotesque practices, because they were horrendous and unbearable and it was a threat to the Nation.

But the people who are in control of the present society and who determine what happens to teenage mothers in many cases need to hear that they are in control. If teenagers had some hope, if teenage males as well as teenage females could look forward to a future where a job was possible, if they could look forward to going to college, those who have what it takes and those who qualify, that they are going to be able to get into college without having to have that determined about whether or not their parents have money, if they are going to be able to enjoy the benefits of the Pell grants which are being threatened, enjoy the benefits of certain other higher education programs that we have right now which are being threatened by the budget cuts, if they are going to be able to look forward to getting jobs when they come out of college because we have an economy which is doing the things necessary to keep the quality of life at a certain level and, therefore, you need people for that purpose, then we would have a different story in terms of teenage pregnancies, if young people could look forward to a better life.

There is a great concentration of teenage pregnancy among black youth, black teenagers. But I assure you, just like every other social ill in America, if we do not attend to it, if we do not provide some hope for black teenagers, the same kind of problem will drift into the white community and the other ethnic groups. It will result in the same, it will have the same result. No hope, an economy which offers no hope, a world which does not care about allowing people to develop to their fullest capacity, that will produce the same results in any ethnic group eventually.

But the present situation that we control, we are not providing any jobs. We have just taken steps to cut off teenager summer jobs. The Department of Labor has just transferred from the category of jobs for urban youth, they have transferred that money, large amounts, into a category for displaced workers. Displaced workers need it. We ought to have the guts to go at the appropriate amount for displaced workers and not take the money away from teenage youth in the cities to go to displaced workers or anybody else. All of these policies add up to a control of the economy, a control of the society which determines the lives of these teenagers.

In a less direct way, slave owners determined the lives of teenagers. Slave owners had direct control of the life of their slaves. They had direct control of the lives of the teenage girls. And here is how they behaved. And here is something we still, a crime we still have to atone for.

"When a girl became a woman"—I am reading from a book called Bullwhip Days, "Bullwhip Days, the Slaves Remember." It is an oral history and Bullwhip Days was compiled by the Federal Writers Project. During the depression, the WPA funded writers to do projects so the Federal Writers Project went out and they interviewed slaves. They determined that there were a limited number of slaves who still were alive. People who had been born slaves, lived as slaves. They went out and they interviewed them. They recorded the interviews. And then the results of those interviews, some of those, these are excerpts that were taken from those interviews of actual slaves. So I am going to read in the next few weeks from Bullwhip Days.

I am just going to read a small section of it today dealing with teenage pregnancy. "When a girl became a woman," this is the voice of a slave talking, "when a girl became a woman, she was required to go to a man and become a mother. The master would sometimes go and get a large hale, hardy Negro man from some other plantation to go to his Negro woman. He would ask the other master to let this man come over to his place to go to his slave girls. A slave girl was expected to have children as soon as she became a woman. Some of them had children at the age of 12 and 13 years old. Negro men six feet tall went to some of these children."

Slave masters were in control of the lives of the teenagers. Part of the industry was to make the teenagers pregnant.

□ 2230

That was from a slave named Hilliard Yellerday.

From the voice of Hannah Jones, Hannah Jones talks in very crude terms:

> Ben Oil had a hundred niggers. He just raised niggers, on his plantation. His brother-in-law, John Cross, raised niggers, too. He had a hundred and twenty-five niggers. He had a nigger farm. His older brother-in-law, old man English, had a hundred niggers. Dey all hes' had nothin' else but niggers.

That was what their business was, raising niggers. Hannah Jones.

Lewis Jones, the voice of Lewis Jones:

> My mammy am owned by Massa Fred Tate and so am my pappy and all my brudders and sisters. How many brudders and sisters? Lawd A'mighty! I'll tell you, 'cause you asks, and dis nigger gives de facts as 'tis. Let's see; I can't lect de number. My pappy have twelve chillun by my mammy and twelve by anudder nigger, name' Mary. You keep de cout. Den, dere am Lisa. Him have ten by her. And dere am Mandy. Him have eight by her. And dere am Betty. Him have six by her. Now, let me 'lect some more. I can't bring de names to mind, but dere am two or three others what have jus' one or two chillun by my pappy. Dat am right—close to fifty chillun, 'cause my mammy done told me.

"You've got to understand, the master told my pappy that he is the breeding nigger." He is the breeding nigger. Lewis Jones.

Finally, I close with John Smith, another slave. The voice of John Smith:

> My master owned three plantations and three hundred slaves. He started out wid two 'oman slaves and raised three hundred slaves. One wuz called "Short Peggy," and the udder wuz called "Long Peggy." Long Peggy had twenty-five chilluns. Long Peggy, a black 'oman, wuz boss ob de plantation. Master freed her after she had twenty-five

chilluns. Just think o'dat—raising three hundred slaves wid two 'omans. It sho' is de trufe, do.'

And that was the voice of John Smith.

Every time a teen-aged daughter or granddaughter or great granddaughter of these two women became of age, they had to become pregnant and have children as part of the slave industry.

I think pregnancy, teenage pregnancy under those conditions, was a threat to the moral fiber of America. If it had continued, of course, this Nation would have gone down, down, down, and not been able to supply the moral leadership for the free world.

We ended that kind of condition, but the results of it en masse, it was not just done in this one plantation. It was all across the South, breeding farms, and nobody ever talks about this.

It is just one aspect of the crime of slavery, one aspect that needs to be brought to light, and you can take a look at it. We may take a look at rape, we may take a look at torture, we may take a look at murder, we may take a look at all the efforts made to deny the slaves the right to learn to read and write even after they were freed. We may take a look at the Ku Klux Klan. I hope we do not have to take a look at all these things in defense of affirmative action, to prove how great the wrong was.

But if affirmative action and programs like affirmative action exist to correct past wrongs, then people need to understand how deep and how broad and how ugly those wrongs were as part of the discussion.

If we are going to have a discussion to eliminate and erase, if we are going to denigrate and castigate people who are the beneficiaries of affirmative action today, then take a look at their ancestors and what they had to go through. They are descendants of the victims, and there are other people who are descendants of the beneficiaries. People benefited. They got rich from slavery. The economy boomed in many places. The descendants of the beneficiaries now want to further punish and persecute the descendants of the victims.

This is an odd way, perhaps you think, to approach the discussion of affirmative action. But I think that it has to be done if we are not to commit a sin, an error, a set of crimes greater than even slavery was.

If we set off racial wars, if we play on racial fears, if we heighten the race fears in the country just to win the next election, we may set in motion something we can never stop.

In one election we had Willie Horton, now we are going to have an assault on affirmative action. If they keep working these appeals to race, where do we go from there?

We have seen what happened in Serbia when people played the race card. We have seen what happened in Rwanda when people, leaders, demagog played the race card. We have seen what happened in Germany when demagogues played the race card, the religion card, sent one group off after another in a scapegoating process.

That is the direction we are headed in, and some of us are alarmed, so alarmed that we come to you with these very unpleasant discussions. We need to take a look at what wrongs were committed and be chastened by that as we go forward.

Let's stop the people who want to destroy America with race-baiting. Let's stop the assault on affirmative action now.

OUR DEMOCRACY DOES NOT ADDRESS OUR MOST SENSITIVE AND IMPORTANT ISSUES

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Vermont [Mr. SANDERS] is recognized for 60 minutes.

Mr. SANDERS. Mr. Speaker, I am delighted to be joined by Representative MAURICE HINCHEY of the 26th District of New York State.

Mr. Speaker, I think that one of the problems in our democracy is that we have a tendency not to address some of the most sensitive and important issues. We seem to get a little bit consumed with O.J. Simpson and soap operas and the baseball games and so forth. Yet the country faces enormous pressures, enormous problems, and we really do not get into them very often in any great depth.

Let me begin the discussion with Representative HINCHEY by raising a question, if I might, and, that is, many people in this country are concerned today about the degree to which in fact this Nation remains a democracy in which ordinary people are able to control their lives and control the future, as opposed to big-money interests which have such a profound impact on the political and economic life of this country.

Representative HINCHEY, do you have some thoughts on that?

Mr. HINCHEY. I think it is obvious that we still have a democracy electorally. Everyone is encouraged, they are allowed and encouraged to participate in the electoral process. But more and more we are seeing a decline of economic democracy, and I think that the concentration of wealth in the hands of fewer and fewer people is becoming more apparent almost yearly. I think that that has been particularly so over the course of the last 20 years. We have witnessed the decline of the middle class. We have witnessed a growing underclass in America, and obviously the concentration of wealth in the hands of fewer and fewer people.

Also, the concentration of the ability to distribute information, the ownership of the instruments of communication in our society has become more and more concentrated, particularly over the course of the last decade.

For example, we have had laws in this country up until fairly recently which said that if you owned a major newspaper in a particular city, you were not then to own a major television station, a radio station.

The idea behind that, of course, was to prevent single individuals or single corporate individuals from controlling the means of communications or the means of distribution of information in a particular media market.

That, unfortunately, was done away with in the decade of the 1980's. So what we are seeing now, and we have seen evidence of it here, I think, in this Congress, the relationship between some mass media moguls and the Speaker of this House currently, the concentration of the ability to distribute information in the hands of fewer and fewer people, and I think that is a means of eroding democratic principles and the idea of democracy.

Mr. SANDERS. Let me ask you, you have been here now for over 2 years, I have been here for over 4 years. Is it your impression that if you were to turn on the television tonight and watch CBS or NBC that you would get an accurate understanding of, in fact, what is taking place in the U.S. Congress?

Mr. HINCHEY. No, I don't think so. And I think that that is very unfortunate.

The abdication of responsibility by the major networks to provide real information and real news is evident certainly in the period of my adulthood. I can recall a time when news broadcasts back in the 1960's and even in the 1970's were real, material broadcasts.

The networks competed with each other in a way to try to distribute the best quality information through their news vehicles and a variety of important news items in their major newscasts, in the evening, and then late at night.

We have seen recently the transformation of media news into more of a tabloid kind of presentation of information, sort of titillating things, having to do with a variety of things that do not really relate to the most important aspects of what is occurring in our country, politically, culturally, and economically.

□ 2240

Mr. SANDERS. If I may. There are some writers who have pointed out that increasingly the media, the corporate media, is owned by fewer and fewer larger multinational corporations. It is of concern to me, for example, that NBC is owned by the General Electric Corp., a company which is a major manufacturer of military hardware, a company which has a very poor

labor relations record, a company which for a period of time under the Reagan administration paid very, very, little in taxes. The Fox network is owned by the huge international media corporation run by Rupert Murdoch who runs and controls media in several countries around the world.

I think there is increasingly a danger not only in the United States but around the world that the people are getting their information from fewer and fewer people who will not tell people I think the truth, but will use their ownership of the media to protect their own private interests.

As the gentleman knows, there has been a lot of discussion about the November 8 election in which the Republican Party took control of both the House and the Senate, but what is not often I think pointed out enough is that in that election 62 percent of the American people did not bother to vote. And that all over this country we have tens and tens of millions of people, primarily working people and low-income people, who are feeling enormous pain these days; they often do not have health insurance, they are working for low wages, their kids are unable to afford to go to college. For the first time in the history of the modern United States their children will have a lower standard of living than they do, yet with all of these problems, people do not go out and vote, because, I think, to a large degree they have given up on the political system, they do not see politics and government as it is presently constituted as a mechanism for them to improve their lives. Is that something the gentleman observes in his district?

Mr. HINCHEY. I think so. I think it is something you can observe, a phenomena that is occurring across America in various places to one degree or another. More and more people are disaffected from the political process because they believe it is irrelevant to their lives, and there are few things that are happening, frankly, in this Chamber on a routine basis over the course of the last couple of months, there are few things that have happened here that are going to make in any way a material difference in the lives of any people.

The kind of activity that has been going on here is not going to create one job, is not going to raise the standard of living of one person, is not going to make a material difference in the lives of anybody in this country, and that I think is very unfortunate.

I think also the assault that we have seen on the public broadcasting system is also one that is alarming, because in the public broadcasting system we have the last vestiges of an attempt by the communications media to really communicate information that is relevant, that is important, that means something to people, and in a very serious way.

Mr. SANDERS. I found it interesting that in the last month, as you know, the Speaker of the House, who is leading the effort to defund public television and public radio, held a fund raiser for his own private television network, and do you recall how much it cost a plate to attend that fund-raiser?

Mr. HINCHEY. I am not really certain but I remember it was an extraordinary amount.

Mr. SANDERS. Fifty thousand dollars a plate. It must have been a really good dinner for $50,000, but this is money that came from obviously some of the very wealthiest people in America who wanted to give the Speaker and his friends the opportunity to communicate with America, with their particular point of view. But at the same time, by accepting that money, they are in the process of trying to shut down the public broadcasting system. I suspect that that is not just a coincidence.

Mr. HINCHEY. I do not think it is a coincidence at all. I think there is a very direct relationship to that and I suspect there is a very direct relationship between the book contract we have seen and the controversy around that with regard to the Speaker and his relationship to Mr. Murdoch. And it has been alleged there are some of these people who are interested, if they could manage to achieve it in some way, of taking over the public broadcasting system, because as I indicated and I think as anyone who has thought about it for 30 seconds realizes, the public broadcasting system is unfortunately, unfortunately because there ought to be many more aspects of this in American life, but unfortunately the last system that really attempts to communicate anything that is meaningful about what is happening in the American political process, and that is meaningful in an economic way to the lives of the vast majority of the American citizens.

Mr. SANDERS. When I turn on the television and I sometimes go surfing as they say with the flipper and I am amazed that you can have a cable network, not a network but cable system with 20, 30, 40 channels and how little there is of value on any of those stations. We get a great deal of violence, we get our share of soap operas, we get old movies, we get all kinds of stuff, but it is amazing to me how little of television today is actually reflecting the reality of the lives that tens and millions of working people are living. The truth of the matter is in our country today we just do not talk about the pain that so many people are going through, just trying to get through the day.

I think that one of the reasons that so few low-income people participate in the political process is that literally they almost do not have the energy to do it. If you go out and you work for 40 or 50 hours a week, if you have kids to take care of, if you have a car that you have got to keep running, if you have to worry about the electric bill and the telephone bill, you know, you do not have a lot of free time to participate in the political process.

And I think the more that people are hurting, the more they are obliged to pay attention to their own most basic needs and the needs of their families. Meanwhile, our wealthy friends can go flying around the country to go to meetings, they have large staffs of people.

I find it very interesting and very alarming, when you talk about the role of money in politics, just some of the events that have taken place in the last month or two. We talked for a moment about the fact that Mr. GINGRICH was able to have a fund-raiser for his television network for $50,000 a plate. Several weeks ago the Republican Party had a fund-raiser, they brought people together and in one night they raised $11 million for the Republican Party. Senator PHIL GRAMM who is one of the candidates seeking the Republican nomination for President held a fund-raiser, and on one night be raised over $3 million.

One does not have to be a genius or a great political scientist to figure out why people are throwing so much money at political candidates. They are not donating that money, they are investing that money. They feel that if they can elect certain people, they will benefit from the decisions that those people make once they are office. And I think we are beginning to see that in terms of the Contract With America that we are debating virtually every day on the floor of the House.

Representative HINCHEY, how do you see the relationship between big money and the Republican Contract With America?

Mr. HINCHEY. Well, I think the contract is first of all a very elitist document. It is elitist in the sense that whatever benefits are going to accrue as a result of the passage of these items that are contained in the contract, should any of them actually become law, will accrue to the richest 1 percent or the richest 5 percent perhaps of the American population.

It is also a very radical document. It is radical in the sense that it is a departure in many ways from the historical context of the American experience going back over the 206 years of our history, and particularly over the course of the last 50 years when there has been a concentration and an effort really by both parties, more or less, to try to achieve a greater sense of economic justice and economic prosperity for the vast majority of Americans. Going back to the Eisenhower administration, and even during the Nixon administration, this country continued

to make economic progress, and the middle-class people had jobs and had economic opportunity.

□ 2250

That is not part of this agenda. In fact, over the course of recent history, we have seen a loss in the standard of living, a loss of economic opportunity, a loss of availability of jobs, particularly decent-paying jobs that have associated with them the kinds of benefits that we are accustomed to, medical benefits and pension benefits and things of that nature. We have seen a dramatic decline in those jobs.

Mr. SANDERS. If I may, I think the major point that we should be discussing on the floor of this House every single day and that should be discussed at length on the television and on the radio is why it is that over the last 20 years we have become a significantly poorer country, why the standard of living of working people has declined, why the gap between the rich and the poor has grown wider, why we have lost some 3 million manufacturing jobs as large corporations throw American workers out on the street and head to Mexico or to China, why it is that more and more people lack health insurance or are underinsured, why it is we have that. I wonder how many Americans know this. We have in the United States today by far the highest rate of childhood poverty in the industrialized world. Over 22 percent of the children in America are living in poverty. Many of our elderly people are living in poverty.

The new jobs that are being created are significantly lower-wage jobs than was the case even 15 years ago, especially for the young men and women who are just graduating college. Why is all of this happening?

Clearly those are the issues that we should be discussing, but unfortunately, we spend very little time doing that.

Mr. HINCHEY. I think obviously you are right. These are the issues that concern me, and these are the issues that we ought to be talking about here in this institution, in this Chamber, in this room. We ought to be talking about the economic conditions that are afflicting the American people more and more.

We have seen a stagnation in the standard of living of the vast majority of the American people, and even a decline in that standard of living substantially over the course of the last 20 years, going back to 1973, and especially since 1979, and I think that that is clearly associated with the decline in manufacturing jobs and other productive jobs, manufacturing, construction, the kinds of jobs that add value to material things and, therefore, create wealth. We have lost most of those jobs, many of those jobs, such that only 26 percent of the American work force today is engaged in those productive kinds of activities such as manufacturing, mining, and construction.

When you contrast that with those statistics for other countries, you find that of the major industrial powers, we now have among the smallest percentage of people working in those kinds of occupations, and that is why we have had the decline in wealth and a decline in the standard of living of the majority of Americans.

People are insecure. They do not know if their job is going to be there tomorrow or next week or next month. They worry deeply about the availability of meaningful employment for their children. They worry substantially about whether or not their children are going to enjoy the same standard of living that they have enjoyed, and they fear, in fact, their children's standard of living is going to be less than theirs. That is a dramatic departure from the experience of this country, particularly over the last 50 years since the Second World War.

Mr. SANDERS. In a few moments, I hope we can get to the issue of trade and our current trade policy, because I think that relates very much to the circumstances you are talking about.

Let us get back to the Contract With America. It seems to me that the essence of what the Contract With America is about are several things: No, 1, our Republicans want to provide very, very substantial tax breaks, primarily for the wealthiest people in this country. People earning over $100,000 a year would get at least half of the tax breaks, and as I understand it, people earning $200,000 a year or more would get about one-third of the tax breaks. These are the people whose incomes have soared during the last decade, who, in many instances, are already not paying their fair share of tax, but these are the people who are targeted for the major tax breaks under the Republicans.

The second point that I think we should consider in the Republican Contract With America is that these folks who are talking about the need to move toward a balanced budget, balanced budget in 7 years, first, they are talking about huge tax breaks for the wealthy and, second of all, they are talking about a major increase in military spending, tax breaks for the rich and increase in military spending.

Last week we had a rather vigorous debate here right on the floor of the House when our Republican friends suggested they wanted to bring back the star wars program; again, no one is clear about how much more money they want for it. We were not specific about the dollars. I think the estimate is another $30 or $40 billion for star wars alone, let alone for some other military programs.

Mr. HINCHEY. It sounds eerily familiar, tax cuts for the very rich, substantial increases in military spending, balanced budget amendment.

In the words of the great American philosopher, Yogi Berra, "Deja vu all over again." It is 1981 all over again. It is the same prescription that brought us record budget deficits, the same prescription that brought us record debt, the budget deficit, and debt that we are trying to dig our way out of.

The irony is, the inexplicable irony is that the same people in this House who pushed through those budgets in the 1980's that brought us that incredible debt fueled by those budget deficits year after year after year are now going back to try to bring us the same kind of disastrous economic policies now in the last few years of the decade of the 1990's, the same kind of prescription that is going to bring us the same disastrous consequences.

Mr. SANDERS. If the Contract With America is going to provide tremendous tax breaks for the wealthy, and if it is going to provide enormous profits for military contractors and the others who are involved in star wars, and if we are to move toward a balanced budget within 7 years, clearly it does not take a Ph.D. in economics to figure out something has got to give. You cannot move toward a balanced budget, give tax breaks to the rich, expand military spending without making savage cutbacks in a wide variety of areas.

And in the last week or two, we have finally begun to get some of the specifics as to where those rather savage cuts are going to come.

Do you want to say a word on that?

Mr. HINCHEY. Yes, I would.

But first let me remind ourselves and anybody who might be watching this that during the debate on the balanced budget amendment in this House, we attempted to pass an amendment that would exclude Social Security which would take Social Security off the table, and an attempt to balance the budget so Social Security would not be in jeopardy. That amendment failed here. The majority party in this House defeated that amendment, so we can sense from that where lies one of the sources from which they intend to derive the revenue to balance this budget after the year 2002.

Also, Medicare, the Medicare Program which is a health care program for our elderly citizens, the majority leader in the other House of this institution, when he was a Member of the House of Representatives, voted against Medicare. It is no surprise why he is against national health insurance and why he is for the balanced budget amendment today. They are going to go after Social Security. They are going to go after Medicare.

Already we have seen them going after programs that affect the most vulnerable Americans, children, for example. They are cutting away at the school lunch program. There is going

to be less availability of school lunches. They want to put it in a block grant, reduce the amount of money that is available for it, and send it down to the States. We know the consequences of that.

The school lunch program is going to be less effective. Fewer children are going to benefit from it. Their learning is going to decline as a result of that. Their health is going to decline as a result of that, and we are going to have a weaker America.

So those are the programs they are after, the WIC program, the food stamp program. That is where they are going to get the money for their tax cut for their wealthy friends.

Mr. SANDERS. That is right. I think we should be very clear about what is going on.

In this instance, we are not being rhetorical or cute by saying that literally we are talking about food coming out of the mouths of hungry children in order to provide tax breaks for some of the wealthiest people in this country, and I think that is, you know, there has been a whole lot of discussion about family values. I do not think that cutting back on school breakfast programs, school lunch programs, and in my State of Vermont, the WIC Program, which is the women and infants and children program by which low-income pregnant women are provided good nutrition and little kids are provided good nutrition, to eliminate that program and put it into the block grants is, to me, just incomprehensible.

Furthermore, I think, as you know, and I know this affects your district which also has some cold winter as my district does, as the State of Vermont does, last week one of the subcommittees on Appropriations proposed, voted to, to eliminate the LIHEAP program, which is a program that provides fuel assistance for low income people in our districts where the weather gets 20 below zero. This is a serious matter. It is a question of whether people stay alive or not.

Many of the recipients of that program in the State of Vermont are elderly people. So once more, tax breaks for the rich, increases in military spending, and star wars, and cutbacks for the most vulnerable people in our Nation.

□ 2300

Mr. HINCHEY. You are precisely correct. The HEAP, the Home Energy Assistance Program, is a program that assists primarily elderly people. It helps them heat their homes in the wintertime. When you live at the latitude that we do in New York and Vermont, we know the winters get quite cold.

Elderly people are particularly susceptible to hypothermia. It does not have to stay too cold for too long for the life of an elderly person to become in jeopardy and for them to lose that life. So this HEAP program is literally, for people like that a matter of life and death.

In another sense, though, the hypocrisy of the agenda of the majority party in this House is becoming more and more apparent. Their attack on the WIC program, which the gentleman mentioned, is a clear indication of that.

The WIC Program is one of the most effective and efficient programs that we have, domestic programs that we have in the country. It has been shown statistically that for every dollar spent on the WIC Program we spend as a Nation, the American taxpayer saves $4. How does that happen? It happens in this way: The WIC Program provides nutrition for pregnant women, lactating mothers, and small infants. If a pregnant woman gets proper nutrition during her pregnancy, she is much less likely to give birth to a low-birthweight baby or a child that encounters other postnatal problems. When a child is born of low birthweight or has some other postnatal problem, all of the resources of the medical institution wherein that child is born are brought to bear to save that child's life. That requires an expenditure of ten's of thousands, if not, in some instances, hundreds of thousands of dollars. How much wiser to spend a few dollars to insure good nutrition for pregnant women in this country.

This attack on WIC, mind you, is coming from people who profess to be pro-life, who profess themselves, sanctimoniously, as the guardians of the infants and small children. While they say that out of one side of their mouth, they are attacking children, pregnant women, and the most vulnerable, and people least able fend for themselves in this society, children, elderly people, pregnant women. Those are the ones they are going after to get the money for their tax cuts for their wealthy friends.

Mr. SANDERS. I think the gentleman is exactly right. He has characterized the WIC program exactly right. It is not only the right thing to do, it is the cost-effective, sensible thing to do. How much more sensible it is to keep low-income pregnant women healthy so they can give birth to healthy babies rather than have them give birth to low-birthweight babies and spending thousands of dollars to keep those babies alive. The WIC program has been shown time and time again to be a very successful and fully effective program.

I must say that to understand fully what goes on in this Congress, we should examine the decency, the propriety of people who contribute or accept $50,000-a-plate contributions and then go out and cut back on programs for low-income pregnant women and hungry kids.

We have talked about the impact of the Contract With America on the elderly, on children. But there are other constituencies who are also going to be affected by the Contract With America.

One of the areas the contract is pointing its ugly finger at right now is at the young college students in America. Time and time again we hear on the floor of this House, we hear the leading business people of this country, we hear the President, we hear anybody who knows anything about what is going on in the international global economy, make the sensible and correct point that this country will not survive economically unless we have a well-educated workforce.

The competition in Europe, in Asia, against as is very, very powerful. We need to have a well-educated workforce. Everybody agrees with that.

Second of all, what everybody agrees with is that if young people are not able to get a college education, if they simply go out into the workforce with a high school degree, it is increasingly difficult to make a living.

The new jobs that are being created for high school graduates are paying significantly lower wages than they paid 15 years ago.

So, given that reality that we need a well-educated work force, that the jobs out there for high school graduates are low-paying, what sense in the world does it make to be cutting back drastically on the student grants and loan programs that enable millions of middle-income and working-class and low-income families to be able to afford to send their kids to college?

We are talking about cutbacks in the Pell Grant program, cutbacks in the Stafford Loan Program, cutbacks in the work-study program, all of which will make it extremely hard for young people to go to college because the cost of higher education today is very high.

Imagine how difficult it would be if we did not have the Federal assistance which currently exists. It doesn't make a whole lot of sense to me.

Mr. HINCHEY. It does not make any sense. I cannot help but wonder what has happened to the great Republican Party, a party which had care and concern for the middle-class people of this country, particularly. Even Richard Nixon, when he was President, commented on the school lunch program, and he did so by saying that he knew a child would be able to learn much better if he has good nutrition. That child will be stronger, be able to accept knowledge easier, to learn, he will be able to be a better participant in school. President Nixon knew the value of the school lunch program.

In my State, Nelson Rockefeller was responsible for the establishment of the State University of New York. He took a system of scattered and disparate normal schools and small colleges and brought them together in the most

magnificent way and created one of the best State university systems in the Nation and one of the best public systems of higher education anywhere in the world. This was done by a great Republican Governor.

Now we found Republicans in this House, the majority party in this House, attacking public education in the way that the gentleman described, hacking away at Pell grants, hacking away at new student loans, depriving more and more people of the opportunity to get a good education.

Back in my State, the new administration in New York wants to raise the tuition at the State university system by over $1,000, $1,300. It is going to price out of the opportunity for higher education many middle-income people, concentrated more and more in the hands of wealthier and wealthier people. That is not what Nelson Rockefeller wanted that State university to be. He wanted it there for all people regardless of their income. And this new Republican Party inexplicably has gone far to the right and is destroying some of the basic elements of this society which were created by good, solid, responsible Republicans in prior times.

Mr. SANDERS. It seems to me to be very sad to be contemplating the likelihood, the reality that if these trends continue, that higher education in America, which at good schools today costs $25,000, $28,000 a year, that if the Federal Government is not helping out middle class, the working-class families, higher education will simply be an avenue open only to the very wealthy. That seems to me to be a terrible thing not only for millions of families but a terrible thing for this country as well.

Let me shift for a moment. We have talked about the impact of the Contract With America on those families hoping to send their kids to college. What about veterans? I find it interesting and I just this morning actually met with Secretary of Veterans Affairs Jesse Brown, who I think is doing an excellent job in advocating for the rights of veterans, who is deeply concerned about the rescission, the cutback of money already appropriated, which took place just last week, of some $200 million for veterans already.

□ 2310

He and I think many of us share the concern that next year under the Republican proposals there will be major cutbacks in veterans programs, including programs and money needed by the VA hospitals. It seems to me that we can disagree about the wisdom of this or that war. But if you are going to ask a young man or woman to go to war, to put his or her life on the line, you are signing, talk about a contract, there is not a deeper contract than you can sign. When the government declares a war and says, go out, you have made a contract in perpetuity, I think, with that individual. They cannot do more than put their life on the line. And it seems to me in absolute disgrace that anyone would contemplate, when the elderly now in our VA hospitals who fought in World War II, who fought in Korea, who need the help, to say to those people, we have a real deficit problem here, guys, we are going to have to cut back on your needs. Thanks for putting your life on the line. But now you are somewhat disposable. That seems to me to be very wrong.

Mr. HINCHEY. I think absolutely so. There is no class of Americans to whom we owe a greater debt of gratitude than those who served in the military, particularly during times of conflict, during times of war, when they put themselves in jeopardy, put their lives on the line, were certainly in danger of that at any moment. We need to live up to our responsibilities to our veterans.

The majority party in this House has just slashed away at veterans benefits. Outreach programs for veterans at veterans hospitals are going to be virtually eliminated if we pass what they have reported out of the committee so far. That is just one example of the way that they are striking away at veterans benefits.

But the irony of it is that while they attack the veterans and the benefits and the responsibilities and obligations that we as a country owe to veterans, they wrap themselves in the flag by talking about a constitutional amendment against burning the flag. There was a great British parliamentarian who once observed that patriotism is the last refuge of a scoundrel. I have a friend who says that patriotism is often the first refuge of a scoundrel.

I think that we may be seeing a little bit of that here in this proposed flag amendment, because I think that they are using this proposed flag amendment to hide their real agenda, which is to slash away at veterans benefits, to deprive veterans of what we owe them really for what they have done for this country, and take that money, again, to use it for tax cuts for the wealthiest Americans. It is a scandalous part, only one of many scandalous parts of this so-called Contract on America.

Mr. SANDERS. You and I are members of the Progressive Caucus. The Progressive Caucus has brought forth a number of alternative ideas to the contract, and maybe it would be useful if we talked about some of the ideas and some of the legislation that we are working on.

Recently, as you know, the president has come out to increase the minimum wage. You and I have supported legislation for several years which would raise the minimum wage to an even higher level. I introduced legislation 4 years ago which would raise the minimum wage to $5.50 an hour. It seems to me that at a time when the purchasing power of the minimum wage today is 26 percent less than it was in 1970, in other words, our low-wage workers are significantly poorer and worse off than they were 25 years ago, that the time is long overdue, that we should be saying that if you are going to work 40 hours a week in the United States of America, you should not be living in poverty.

Does that not make sense to you?

Mr. HINCHEY. It makes a great deal of sense to me. It makes it even more difficult for me to understand how the majority leader in this House can say that he would like to see the minimum wage done away with completely. If he had anything to say about it, that is what would happen. He also said that he would fight with every fiber of his being an increase in the minimum wage.

Well, look what has happened to the minimum wage. The president has proposed a modest increase from where it is now, at $4.25 an hour, to $5.15 an hour over the course of 2 years.

If the minimum wage had kept pace with the cost of living in our country over the course of the last several years, it would at this moment as we stand here today, the last day of February 1995, the minimum wage would be more than $6 an hour. So even what the president is proposing will not take us to where the minimum wage ought to be at this moment, let alone where it ought to be 2 years from now.

The minimum wage is a basic standard from which we attempt to elevate the standard of living of all Americans by placing a floor under the salary that should be paid for someone's labor. What more can a person give outside of family experience to someone else but their labor? They ought to be compensated for that appropriately. And in this, the wealthiest nation in the world, with the biggest economy in the world, we ought to be able to pay our workers at a rate that will afford them a decent standard of living.

Mr. SANDERS. I think we should point out that one of the additional reasons why we need to raise the minimum wage is that many, many of the new jobs that are currently being created are, in fact, low-wage jobs. They are often part-time jobs. They are jobs without any health care or any other benefits. And it seems to me that if anyone is going to talk about welfare reform or anything else, we must make sure that in this country that those people who are working for a living have the right to live in dignity, have the right after 40 hours of work to keep their heads above poverty.

I think you and I are going to go forward as vigorously as we can to demand hearings here in the House and in the Senate and pass the minimum wage. The President's bill does not go

as far as I would like to see it go, but it is a step forward which would impact not only on those workers making $4.25, but obviously those workers making $4.50, $5 or $5.20 an hour as well.

Mr. HINCHEY. And workers who are making higher levels than that because it will have a tendency to push up the wages of others as well. Because as we discussed earlier in our colloquy here this evening, we have seen the standard of living of Americans not keep pace with the cost of living or advance ahead of the cost of living but actually decline so that people are living today in a more difficult circumstance. The vast majority of Americans are having a tougher time making ends meet, paying the electric bill, as you said before, paying the rent, paying the mortgage, worrying about how they are going to put their kids through school. It is a more difficult proposition today as a result of the declining standard of living and one of the aspects of that is the failure of the minimum wage to keep pace with the cost of living.

Mr. SANDERS. What particularly outrages me is that there is no country in the world where the gap not only between the rich and the poor but between the chief executive officers of the large corporations and their workers is as wide as it is in the United States. The last figure that I saw was that at a time when the CEO's are seeing tremendous increases in their incomes and workers incomes are declining, the gap is now 150 to one. I do not think, you used the words economic democracy a moment ago, I do not think that is what this country is supposed to be. It is not supposed to be an oligarchy. It is supposed to be a country in which we have a solid middle class where people who are working for a living are able to earn enough money to pay the bills and to raise their kids with a little bit of dignity.

I think we should also point out, because the media does not do this terribly often, that one of the reasons that European and Scandinavian companies are coming to the United States today is that they find in America today the opportunity, unbelievable as it may sound, to hire cheap labor. For the same reason that American companies go to Mexico and China, some of the European companies are coming to America where you can get skilled, hard-working people who will work for 7 bucks an hour, $8 an hour, with very limited benefits. And clearly in Europe, workers earn a lot more than that.

I think another point that I want to make, there was an article in, I think it was Newsweek recently, maybe it was Time, where they talked about the stress that the average American family is under. People are working longer and longer hours, having less vacation time. I think that is an issue that we should address as well.

Mr. HINCHEY. Well, I think it is very clear that the working conditions here in the United States have deteriorated. The quality of the jobs is not keeping pace with what it ought to be. The level of benefits are far lower than they are in European countries where in many European countries it is customary for a person working in the first year to get 4 weeks vacation and some countries, Australia, it is even 6 weeks vacation. But here in the United States it is, you are lucky to get 2. And more importantly, more and more American companies are moving toward a situation where they hire part-time employees so that they do not have to provide benefits such as pension systems, things of that nature, health insurance. And that is one of the reasons why we have a larger growing number of people in the United States who are without health insurance. And that is one of the principal driving forces, forcing up the cost of health care for all the rest of us.

It is a major part of our economic problems over the course of the next several years. We need to get a handle, get control of our health care costs. And we cannot do it, because one of the reasons we cannot do it is because so many more people are without health insurance. And when they get health care they get it under the most expensive circumstances.

So these are all part of pieces, part of a larger entity that has to do with what we ought to be doing in this House, and that is working to improve the standard of living of the majority of American people, making education more accessible to middle class working people, making good jobs available to middle class working people, jobs that pay a decent salary and provide health insurance and other reasonable benefits, the kinds of things that we have taken for granted in the past and which are being taken away from us insidiously as a result of the failure of this Congress to operate the way that it ought to.

□ 2320

If it was operating in the best interests of the American people, that is what it would be doing. It would be developing programs to create jobs and improve the standard of living, and making sure that when people work, they are compensated appropriately for that work and included in that compensation is basic health insurance and other kinds of fundamental benefits.

Mr. SANDERS. Maybe when we talk about the decline in the standard of living of working people and the shrinking of the middle class, I think it ties, and we might want to end our discussion on this note, it ties into the whole issue of trade which has gotten a lot of attention recently in terms of the passage of NAFTA and GATT.

NAFTA was passed some 14 or 15 months ago. We were told that with the passage of NAFTA, many new jobs would be created here in the United States. It would improve the Mexican economy. Fifteen months have come and gone.

What is your impression about the impact of NAFTA?

Mr. HINCHEY. I think we could spend, I tell the gentleman from Vermont [Mr. SANDERS], more than an hour on that discussion alone here this evening.

But to make it brief, the effects have been frankly what you and I and others who voted against NAFTA predicted they would be. We said at that time that the peso was overvalued, that the Mexican economy was riddled with corruption and that if we were to pass NAFTA, it was really not a trade agreement but an investment agreement, it would siphon off investment capital from the United States down to Mexico and there would be a net loss of jobs from this country, and that is precisely what we have seen.

We have seen a loss of 10,000 jobs, a net loss of 10,000 jobs from the United States to Mexico as a direct result of NAFTA. And we have seen the collapse of the Mexican economy.

Our trade policies since 1979 and perhaps as early as 1973 have been a disaster for this country. We have taken it on the chin. We have been a sap for other countries. We have a built-in trade deficit now which is of historic proportions. That trade deficit means that we are subsidizing good jobs in other countries while we lose those good jobs here in America.

We need to reverse our trade policies and focus on our own domestic economic needs. Trade is important only to the extent that it provides value to the United States, that it helps us improve the standard of living of the American people, that it provides more jobs for Americans.

Our trade policies have taken us precisely 180 degrees in the opposite direction. That has been going on now for nearly 20 years. No wonder we are suffering the economic circumstances we are. That is a major part of our problem.

Mr. SANDERS. I agree. And there is no question that with a $150 plus billion trade deficit, what that translates into is millions of decent manufacturing jobs that should exist in this country but that do not.

When we talk about the global economy, I think what we have got to deal with is the fact that major corporations would much prefer to go to China where they could pay workers 20 cents an hour in an undemocratic society where workers cannot form free unions, where the environmental conditions or the workers' conditions are very, very bad.

Obviously what has happened is companies have invested tens of billions of dollars in China. They have invested

huge amounts of money in Mexico, in Malaysia, in countries where desperate people are forced to work for starvation wages, and at the same time they have thrown American workers out on the street.

We must demand and create a process by which large American corporations reinvest in America and put our people back to work at good wages. Clearly as you indicate, current trade policy is doing exactly the opposite.

Mr. HINCHEY. I want to thank you very much for giving me the opportunity to join you in this discussion this evening and for focusing the discussion exactly where it ought to be focused, on the economic issues, on ways that we can take in this Congress to improve the standard of living of American people.

There is nothing more important for me. I know that is true with you. We have got to make sure as best we can that it becomes equally important for a larger number of people who serve in this Congress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUNTER (at the request of Mr. ARMEY), for today and on Wednesday, March 1, 1995, on account of family medical reasons.

Mr. WARD (at the request of Mr. GEPHARDT), for today, 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. NADLER) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.
Mr. HOYER, for 5 minutes, today.
Mr. TOWNS, for 5 minutes, today.
Mr. BROWDER, for 5 minutes, today.
Mr. FOGLIETTA, for 5 minutes, today.
Mr. MFUME, for 5 minutes, today.
Mr. NADLER, for 5 minutes, today.

(The following Members (at the request of Mr. NORWOOD) to revise and extend their remarks and include extraneous material:)

Mr. CUNNINGHAM, for 5 minutes, today.
Mr. MCINNIS, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, on March 1.
Mr. FRANKS of Connecticut, for 5 minutes, today.
Mr. SHAYS, for 5 minutes, on March 1.
Mr. KINGSTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. BROWN of California and to insert extraneous material in the RECORD in the Committee of the Whole on today, on H.R. 1022.)

(The following Members (at the request of Mr. NADLER) and to include extraneous matter:)

Mr. FRANK of Massachusetts.
Mr. MFUME.
Mr. FROST.
Mr. LAFALCE.
Mr. HASTINGS of Florida.
Mr. FOGLIETTA.
Mr. DIXON.
Mr. HOYER.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Mr. MARTINI.
Mr. GOODLING.
Mrs. MORELLA.
Mr. PORTMAN.

ADJOURNMENT

Mr. HINCHEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, March 1, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

418. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation entitled, "Panama Canal Commission Authorization Act, Fiscal Year 1996", pursuant to 31 U.S.C. 1110; to the Committee on National Security.

419. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving U.S. exports to a variety of overseas entities, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

420. A letter from the Director, Defense Security Assistance Agency, transmitting the price and availability report for the quarter ending December 31, 1994, pursuant to 22 U.S.C. 2768; to the Committee on International Relations.

421. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of original reports of political contributions by nominees, Ambassadors-designate and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

422. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio Free Europe/Radio Liberty for the period October 1, 1993, through September 30, 1994, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on International Relations.

423. A letter from the Auditor, District of Columbia, transmitting a copy of report entitled, "Operational Review of the Escheated Estate Fund—How It Does Not Serve The Poor," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

424. A letter from the Comptroller General of the United States, General Accounting Office, transmitting the list of all reports issued or released in January 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

425. A letter from the Chair, Federal Labor Relations Authority, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

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:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 517. A bill to amend title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, and for other purposes (Rept. 104-56). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 536. A bill to extend indefinitely the authority of the Secretary of the Interior to collect a commercial operation fee in the Delaware Water Gap National Recreation Area, and for other purposes; with amendments (Rept. 104-57). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 606. A bill to amend the Dayton Aviation Heritage Preservation Act of 1992, and for other purposes (Rept. 104-58). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 694. A bill entitled the "Minor Boundary Adjustments and Miscellaneous Park Amendment Act of 1995"; with an amendment (Rept. 104-59). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 562. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; with an amendment (Rept. 104-60). Referred to the Committee of the Whole House on the State of the Union.

Mrs. WALDHOLTZ: Committee on Rules. House Resolution 101. Resolution providing for the consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions (Rept. 104-61). 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 Mr. HERGER:

H.R. 1070. A bill to designate the reservoir created by Trinity Dam in the Central Valley project, CA, as "Trinity Lake"; to the Committee on Resources.

By Mr. BARRETT of Nebraska:

H.R. 1071. A bill to direct the Secretary of the Army to deposit $1,400,000 into the judgment fund of the Department of Justice to cover those costs of the project for flood control, Lost Creek, Columbus, NE, which are in

excess of the $4,000,000 limit on projects carried out under section 205 of the Flood Control Act of 1948; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 1072. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage corporations to provide financing and management support services to small business concerns operating in urban areas designated as enterprise zones; to the Committee on Ways and Means.

By Ms. FURSE (for herself, Mr. GEJDENSON, Mr. NETHERCUTT, and Mr. LIPINSKI):

H.R. 1073. A bill to amend title XVIII of the Social Security Act to provide for coverage of diabetes outpatient self-management training services under part B of the Medicare Program; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. FURSE (for herself, Mr. GEJDENSON, Mr. NETHERCUTT, and Mr. LIPINSKI):

H.R. 1074. A bill to amend title XVIII of the Social Security Act to provide for uniform coverage under part B of the Medicare Program of blood-testing strips for individuals with diabetes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. BLILEY):

H.R. 1075. A bill to establish legal standards and procedures for product liability litigation, 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. GOODLING (for himself, Mr. UNDERWOOD, Mr. MCDADE, Mr. GENE GREEN of Texas, Mr. FATTAH, Mr. GRAHAM, Mr. SHUSTER, Mr. PAYNE of Virginia, Mrs. MORELLA, Mr. BARCIA, Mr. FOX, Mr. ROMERO-BARCELO, Mr. BORSKI, and Mr. FALEOMAVAEGA):

H.R. 1076. A bill to amend the Internal Revenue Code of 1986 to allow the installment method to be used to report income from the sale of certain residential real property, and for other purposes; to the Committee on Ways and Means.

By Mr. HANSEN (for himself, Mr. YOUNG of Alaska, Mr. REGULA, Mr. HEFLEY, Mr. TORKILDSEN, Mr. COOLEY, Mrs. SMITH of Washington, and Mr. SHADEGG):

H.R. 1077. A bill to authorize the Bureau of Land Management; to the Committee on Resources.

By Mr. LAFALCE:

H.R. 1078. A bill to amend title XVIII of the Social Security Act to provide for coverage of beta interferons approved by the FDA for self-administration for treatment of multiple sclerosis under the Medicare Program, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MINETA (for himself, Mr. LIVINGSTON, and Mr. SAM JOHNSON):

H.R. 1079. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 150th anniversary of the founding of the Smithsonian Institution; to the Committee on Banking and Financial Services.

By Mr. MINGE (for himself, Mr. VENTO, Mr. OBERSTAR, Mr. PETERSON of Minnesota, Mr. LUTHER, Mr. GUTKNECHT, and Mr. SMITH of New Jersey):

H.R. 1080. A bill to authorize States and political subdivisions of States to control the movement of municipal solid waste generated within their jurisdictions; to the Committee on Commerce.

By Mr. OBERSTAR:

H.R. 1081. A bill to amend the Shipping Act of 1984 to reform certain ocean shipping practices, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ROBERTS:

H.R. 1082. A bill to amend the Internal Code of 1986 to provide that certain cash rentals of farmland will not cause recapture of the special estate tax valuation; to the Committee on Ways and Means.

By Mr. ROTH:

H.R. 1083. A bill to amend the Internal Code of 1986 to promote travel and tourism; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 1084. A bill to amend title 5, United States Code, to make the Federal Employees Health Benefits Program available to the general public, and for other purposes; to the Committee on Government Reform and Oversight, 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. SMITH of New Jersey (for himself, Mr. OXLEY, Mr. PALLONE, Mr. MINGE, Mrs. ROUKEMA, and Mr. SAXTON);

H.R. 1085. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for State and local flow control authority over solid waste, and for other purposes; to the Committee on Commerce.

By Mrs. SMITH of Washington:

H.R. 1086. A bill to direct the Secretary of the Army to complete work for the protection of Point Chehalis as part of the operation and maintenance of the project of navigation, Grays Harbor and Chehalis River, WA; to the Committee on Transportation and Infrastructure.

By Mrs. MORELLA (for herself, Mr. DIXON, Mr. JACOBS, Mr. HASTINGS of Florida, Ms. PELOSI, Mr. STOKES, Mrs. KENNELLY, Mr. LIPINSKI, Mr. GILMAN, Mr. STARK, Mr. FROST, Mrs. MINK of Hawaii, Mr. DELLUMS, Mr. HYDE, Mrs. SCHROEDER, Mr. FALEOMAVAEGA, Mr. TOWNS, Ms. SLAUGHTER, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. VELAZQUEZ, and Mr. RANGEL);

H.J. Res. 70. Joint resolution authorizing the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia or its environs; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII.

18. The SPEAKER presented a memorial of the Senate of the Commonwealth of Pennsylvania, relative to the Low-Income Energy Assistance Program [LIEAP]; jointly, to the Committees on Commerce and Economic and Educational Opportunities.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Ms. LOFGREN introduced a bill (H.R. 1087) for the relief of Nguyen Quy An and Nguyen Ngoc Kim Quy; 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. 28: Mr. LAHOOD.

H.R. 40: Mr. ORTON, Mr. NETHERCUTT, Mrs. SEASTRAND, Mr. WALSH, Mr. FIELDS of Texas, Mr. TALENT, Mr. PAXON, Mr. EMERSON, Mr. CHRYSLER, and Mr. HOSTETTLER.

H.R. 70: Mr. BILBRAY.

H.R. 200: Mr. ROEMER, Mr. CANADY, and Mr. VISCLOSKY.

H.R. 246: Mr. BASS, Mr. HOEKSTRA, Mr. GRAHAM, Mr. BARRETT of Nebraska, Mr. HUTCHINSON, Mr. NORWOOD, and Mr. GREENWOOD.

H.R. 315: Ms. LOFGREN.

H.R. 325: Mr. BENTSEN, Mrs. WALDHOLTZ, Mrs. SEASTRAND, Mr. COX, Mr. QUINN, Mr. DREIER, Mr. HANCOCK, Mr. KLUG, Mr. PETRI, Mr. STEARNS, Mr. NETHERCUTT, Mr. BACHUS, Mr. ROGERS, Mr. LEWIS of California, and Mr. HAYES.

H.R. 328: Mr. HAYES.

H.R. 353: Mr. RICHARDSON, Mr. FALEOMAVAEGA, and Mr. EVANS.

H.R. 354: Mr. BAKER of Louisiana and Mr. WICKER.

H.R. 363: Mr. NADLER and Mr. SERRANO.

H.R. 394: Mr. KIM, Mr. FALEOMAVAEGA, Mr. WELDON of Florida, Mr. CHAPMAN, Mr. HERGER, and Mr. LEWIS of California.

H.R. 427: Mr. PETE GEREN of Texas, Mr. STENHOLM, Mr. FOLEY, Mr. FIELDS of Texas, and Mr. MCKEON.

H.R. 502: Mr. RIGGS, Mr. KIM, Mrs. MEYERS of Kansas, Mr. SMITH of Texas, and Mr. JOHNSTON of Florida.

H.R. 526: Mr. DOOLITTLE, Mr. WELLER, Mr. LAHOOD, and Mr. REGULA.

H.R. 580: Mr. MCCRERY and Mr. TAYLOR of North Carolina.

H.R. 645: Mr. FROST and Mr. TUCKER.

H.R. 662: Mr. BACHUS and Mr. ALLARD.

H.R. 699: Mr. PETE GEREN of Texas, Mr. BREWSTER, and Mr. RICHARDSON.

H.R. 710: Mr. ENGEL.

H.R. 736: Mr. BAKER of Louisiana and Mr. LAHOOD.

H.R. 739: Mr. WELDON of Florida, Mr. STOCKMAN, Mr. COX, Mr. HERGER, and Mr. SHUSTER.

H.R. 743: Mr. HUTCHINSON, Mr. DEAL of Georgia, Mr. KLUG, and Mr. MILLER of Florida.

H.R. 773: Mr. KNOLLENBERG, Ms. RIVERS, Mr. ROYCE, Mr. BEILENSON, Mr. SCHUMER, Mr. GUNDERSON, Ms. SLAUGHTER, Mr. MARKEY, Mr. SHAYS, Mr. KLUG, and Mr. RICHARDSON.

H.R. 774: Mr. EHLERS, Mr. FIELDS of Texas, and Mr. CALVERT.

H.R. 789: Mr. MCKEON and Mr. LIPINSKI.

H.R. 791: Mr. GOSS and Mr. BARTON of Texas.

H.R. 793: Mr. WICKER.

H.R. 849: Mr. CUNNINGHAM, Mr. WELDON of Pennsylvania, Mr. VENTO, Mr. PALLONE, Mr. FROST, Mr. LANTOS, Mr. JOHNSTON of Florida, Mr. HUTCHINSON, and Mr. KLINK.

H.R. 860: Mr. SENSENBRENNER and Mr. WHITFIELD.

H.R. 862: Mr. SMITH of New Jersey.

H.R. 911: Mr. PASTOR.

H.R. 922: Ms. LOFGREN, Mr. PALLONE, and Mr. BORSKI.

H.R. 930: Mr. FILNER.

H.R. 939: Mr. EMERSON and Mr. STUPAK.

H.R. 940: Mr. DEFAZIO, Mr. BORSKI, and Mr. JOHNSTON of Florida.

H.R. 941: Mr. PAYNE of Virginia, Mr. TORRICELLI, Ms. WATERS, Mr. YATES, Mr. JOHNSTON of Florida, Ms. ESHOO, Mr. WARD, Mr. MORAN, Mr. MILLER of California, Mr. GEJDENSON, and Mr. ACKERMAN.

H.R. 966: Mr. MILLER of California and Mr. MARTINEZ.

H.R. 971: Mr. OBERSTAR and Mr. GEJDENSON.

H.R. 1021: Mr. RICHARDSON.

H.R. 1024: Mr. LAHOOD.

H.R. 1033: Mr. TOWNS and Mr. SMITH of New Jersey.

H. Con. Res. 18: Mr. KLINK, Ms. KAPTUR, Mr. DELLUMS, Mr. EVANS, Mr. NEY, and Ms. MCKINNEY.

H. Con. Res. 21: Mr. DEFAZIO, Mr. PALLONE, Ms. ROYBAL-ALLARD, Mrs. SCHROEDER, and Mr. WOLF.

H. Res. 30: Mr. SHAW, Mr. ACKERMAN, Mr. THORNBERRY, Mr. ALLARD, Mr. FOLEY, Mr. NADLER, Mr. OLVER, Mr. DAVIS, and Mr. MEEHAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 70: Mr. TORRES.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 925

OFFERED BY: MR. CANADY OF FLORIDA

AMENDMENT NO. 6: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Protection Act of 1995".

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(a) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action that diminishes the fair market value of that portion by 10 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

No compensation shall be made under this Act if the use limited by Federal agency action is proscribed under the law of the State in which the property is located (other than a proscription required by a Federal law, either directly or as a condition for assistance). If a use is a nuisance as defined by the law of a State or is prohibited under a local zoning ordinance, that use is proscribed for the purposes of this subsection.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

(1) hazard to public health or safety; or

(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

(b) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term "property" means land and includes the right to use or receive water;

(2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;

(3) the term "agency action" has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency;

(4) the term "agency" has the meaning given that term in section 551 of title 5, United States Code;

(5) the term "State" includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(6) the term "law of the State" includes the law of a political subdivision of a State.

H.R. 925

OFFERED BY: MR. TAUZIN

AMENDMENT NO. 7: In section 3(a) after "agency action" the first place it appears insert ", under a specified regulatory law".

Add at the end of section 3(a) "If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.".

In section 4, strike the first sentence and amend the second sentence to read "If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use."

In the heading for section 8, strike "Rule" and insert "Rules".

At the beginning of section 8, strike "Nothing" and insert

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing

At the end of section 8, insert the following:

(b) EFFECT OF PAYMENT.—Payment of compensation under this act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

In section 9, after paragraph (4) insert the following:

(5) the term "specified regulatory law" means—

(A) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the "Reclamation Acts" (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

Redesignate succeeding paragraphs accordingly.

H.R. 925

OFFERED BY: MR. CONYERS

AMENDMENT No. 8: Page 3, after line 11, insert the following:

(c) AMERICANS WITH DISABILITIES ACT OF 1990.—No compensation shall be made under this Act with respect to an agency action pursuant to the Americans With Disabilities At of 1990 (42 U.S.C. 1201 et seq.).

H.R. 926

OFFERED BY: MR. EWING

AMENDMENT No. 5: Page 2, line 11, strike "180 days" and insert "one year notwithstanding any other provision of law", in line 24, strike "(2)(A)" and all that follows through "(B)" in line 4 on page 3, and beginning in line 7 strike the dash and all that follows through line 13 and insert "one year notwithstanding any other provision of law".

H.R. 926

OFFERED BY: MR. FRANKS OF NEW JERSEY

AMENDMENT No. 6: Page 13, line 10, before the period insert the following: ", and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications including specification of any associated fees or fines".

H.R. 926

OFFERED BY: MR. HEFLEY

AMENDMENT No. 7: Page 2, line 15, strike "small entities" and insert "entities", in line 18, strike "small entity" and insert "entity", on page 3, strike lines 15 through 17 and redesignate the succeeding paragraphs accordingly, and in line 24 on page 3, strike "small entities" and insert "entities".

EXTENSIONS OF REMARKS

OCEAN SHIPPING REFORM ACT OF 1995

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. OBERSTAR. Mr. Speaker, today, I am introducing the Ocean Shipping Reform Act of 1995. There has been a great deal of discussion lately about the future of the Federal Maritime Commission and the Shipping Act of 1984. Some are suggesting that both the Federal Maritime Commission and the Shipping Act of 1984 be scrapped. I do not agree with that approach, but I do recognize that significant changes are needed at the Commission and in the Shipping Act of 1984. The bill I am introducing today accomplishes those changes.

The Shipping Act of 1984 sets out the legal framework that governs ocean liner cargo transportation. With a broad grant of antitrust immunity, conferences of oceanliner companies meet to establish common rates for the shipment of freight across the oceans. These rates are filed with the Federal Maritime Commission and made public. While broad grants of antitrust immunity are usually antithetical to the way the United States expects business to operate, I see no consensus within our ocean carrier and shipping industries, nor internationally, that immediate wholesale removal of antitrust immunity will bring the competitive benefits some expect. In fact, there was considerable testimony at the hearing held in the Subcommittee on Coast Guard and Maritime Transportation on February 2 that U.S. commercial interests could be harmed in doing so.

My approach is straightforward. Continue the present system of ocean carrier conferences with immunization from the antitrust laws. Within that framework, give shippers and conference carriers increased flexibility to enter into certain business arrangements not encumbered by conference agreements, procedures, or vetos of other conference carriers.

Within the ocean shipping industry there is the concept of service contract which is a contract between a shipper and a carrier or a conference of carriers in which a minimum quantity of cargo over a fixed period of time is shipped at a certain rate and level of service. Typically, this translates into a large volume/long-term arrangement at a reduced rate below the filed tariff. These sorts of contracts are permitted and recognized in the law, but the carrier conferences are permitted and recognized in the law, but the carrier conferences are allowed to restrict and even prohibit their use. This bill would prohibit a conference or a conference carrier from limiting the ability of another member of the conference from entering into or performing under a service contract. This will provide shippers and conference carriers, that elect to, the opportunity to enter into arrangements outside of the conference.

Also in the carrier conference system, there is the concept of independent action. Under the Shipping Act of 1984, carriers can charge a rate different than the conference filed tariff, if notice is given to the conference and filed with the Federal Maritime Commission 10 days in advance of that independent action for a different rate. The bill would shorten that 10-day notice to 2 days. Again, this would provide shippers and carriers with a great deal more flexibility to enter into arrangements with much reduced interference by other conference members. By shortening the notice period, a rate different than the conference rate can be made effective before the other conference members have a lengthy period in which they could convince and pursuade the independent action taker to not take the independent action.

The bill also provides a new declaration of policy. Section 2 of the Shipping Act of 1984 sets out the purposes of the act. Among the purposes are establishment of a nondiscriminatory regulatory process; provision of an efficient and economic ocean transportation system; and encouragement of the development of an economically sound and efficient U.S.-flag liner fleet. This bill would add a new declaration of policy—promotion of the growth and development of United States exports through competitive, nondiscriminatory, and efficient ocean transportation. There are some who believe that the Shipping Act of 1984 is too oriented toward the interests of the carriers at the expense of the shippers. This provision in the bill would give strong policy guidance to the Federal Maritime Commission that in administering the act that the interests of U.S. exporters should be just as paramount in its mind as the interests of the carriers.

The bill also directs the Secretary of Transportation to develop and implement a negotiation strategy to persuade foreign governments to divest themselves of ownership and control of ocean common carriers. Government ownership and control of oceanliner companies puts our carriers at a tremendous disadvantage in the international marketplace. While there is little we can do to force foreign governments to get out of the business of oceanliner shipping, it certainly should be the U.S. Government policy to bring that issue to the negotiating table when it is engaged in trade and commercial discussions with our trading partners. Over time, I am confident that progress can be made in this area to the benefit of U.S. carriers and the shipping public.

These changes to the Shipping Act of 1984 represent significant steps toward a more competitive and deregulated environment in the ocean transportation business, and I urge people to consider them in that regard.

Finally, the bill would make some significant reforms at the Federal Maritime Commission itself. Government agencies are downsizing and rightsizing across the board in the effort to reduce Government spending. The Federal Maritime Commission needs to contribute to this effort just as all other Government agencies are doing. There has been discussion of outright eliminating the Commission all together. This would be unwise since it provides important benefits to the public. This bill would direct the Commission to reduce its employees by 15 percent over the next 2 fiscal years. The Commission is a relatively small agency with a relatively small budget—$19 million, much of it offset with the collection of fees and fines. Despite its small size, it still needs to be a part of the overall effort to reinvent and streamline Government. Simply abolishing the Commission so that an agency's skin can be hung on the wall is not a proper way to carry out the public's need to have a smaller government. Steps need to be taken, but they need to make good public policy sense.

The bill also directs the Federal Maritime Commission to devote a greater proportion of its resources to protecting U.S. shippers and carriers against restrictive and unfair practices of foreign governments and foreign-flag carriers. U.S. interests are under a constant barrage by foreign interests trying to hinder their ability to do business. The Commission has done a good job of policing these practices, but I believe that the waterfront of abuses is so vast that if more resources were directed to this area, further progress could be realized in leveling the trade playing field. The bill directs that the Commission submit a plan to Congress to reorient its resources in this regard within 90 days of enactment of this legislation.

This proposed bill is just that—a proposal. There are issues that are not addressed in this bill, that may well need to be addressed. There are issues even within the context of the specific proposals upon which the bill is silent or needs further thought and deliberation before a more refined position is developed. An example would be in the service contract area. Should the terms of service contracts continue to be made public? In my bill as drafted they would be, but this is not a closed issue in my mind. Similarly, is there a need for phase-in of changes to the Shipping Act? Also, I do not address tariff filing in the bill, so as drafted, the current system would continue. But again, I believe there may well be ways that the public can learn about what is happening in the marketplace without a government based tariff filing system. I am open on this issue and others. There may also be other ways to craft the legislative language to accomplish the purposes of this bill, and I am open to suggestions here as well.

I very much look forward to working with Transportation and Infrastructure Committee Chairman SHUSTER and Coast Guard and Maritime Transportation Subcommittee Chairman COBLE, ranking Democratic Members NORMAN Y. MINETA and JAMES A. TRAFICANT,

and other members of the committee to develop legislation on the Shipping Act and the Federal Maritime Commission.

TRIBUTE TO DON PIERSON

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. FROST. Mr. Speaker, I would like to take a moment to recognize Mr. Don Pierson, an outstanding individual whose bold approach towards life and its challenges epitomizes the values Texans hold dear.

Mr. Pierson was born on October 11, 1925, in Abilene, TX. Throughout his fascinating life, Mr. Pierson has pursued many careers and professional endeavors. For example, he has been a land developer, a local hotel owner, a car dealer, a pilot, a cable television pioneer, and a city mayor.

This list of successful ventures proves Mr. Pierson to be a man of initiative, resourcefulness, and ingenuity—a true Texan in every sense of the word. Texans respect the kind of vision and strong character that Mr. Pierson possessed and exhibited.

Mr. Pierson's numerous accomplishments speak to all of us. They remind us of the possibilities and opportunities which remain within our reach if we are willing to accept the corresponding risks and obstacles in order to pursue and attain them.

I am honored to have the opportunity to recognize this truly admirable individual.

BLACK HISTORY MONTH

HON. WILLIAM J. MARTINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. MARTINI. Mr. Speaker, as this year's Black History Month comes to a close, it is appropriate to remember its origins. The celebration dates back to 1926, when Dr. Carter G. Woodson set aside a period of time in February to celebrate the heritage and accomplishments of black Americans. It took 50 years, but in 1976, February was officially declared Black History Month.

In the last decade, black Americans have increasingly received recognition for their achievements. In 1983, Guion S. Bluford Jr. became the first black astronaut to travel into space. And just this month, Dr. Bernard A. Harris became the first black astronaut to walk in space. In literature, both Alice Walker and Toni Morrison received the Pulitzer prize in 1983 and 1988, respectively. Most notably, Army Gen. Colin Powell became the first black Chairman of the Joint Chiefs of Staff, and his heroic leadership and steadfast confidence during the Persian Gulf conflict not only won a war, but reassured a Nation.

When commenting on the present, let us not forget the black Americans of the past who helped set the stage for today's achievements. The theme of this year's Black History Month is "Reflections of 1895: Douglas, DuBois, Washington," in honor of the famous black Americans of the 19th century. Each championed the rights of African-Americans in the United States, although at times they disagreed on the means of achieving their common ultimate goal. Frederick Douglas, a freed slave, devoted his life to the cause of freedom and equality for all Americans. W.E.B. DuBois, who also gained freedom from slavery, is best known as one of the founders of the National Association for the Advancement of Colored People, and an outspoken advocate for education. Booker T. Washington, who took a different approach to education, nonetheless shared DuBois' desire for a more integrated and conciliatory society. Although these three great men differed on means, their goal was the same: justice and equality for all black Americans.

The accomplishments of black Americans are great indeed, and span every sector of society; we should not wait until February of each year to remember their many accomplishments. But in celebrating African-American accomplishments, it is imperative that we emphasize the word American as much as the word African. For just as surely as George Washington and Amelia Earhart are vital parts of every black American's heritage, so too are Dr. Martin Luther King, Jr. and Thurgood Marshall vital parts of our national heritage.

We should recognize great blacks, therefore, not because they are black, but because they are great individuals. If we are to move forward as the world's most diverse and successful multicultural Nation, we must stop defining each other by the color of our skin, and strive to judge one another by the content of our character.

ANGOLA NEEDS WORLD'S HELP

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. HASTINGS of Florida. Mr. Speaker, I read with great interest the following article on Angola. So that all of my colleagues will have the opportunity to see this important piece.. I would like to insert it into the CONGRESSIONAL RECORD.

[From the Christian Science Monitor, Jan. 25, 1995]

ANGOLA NEEDS THE WORLD'S HELP IN MAKING PEACE TRUIMPH

(By Jose Eduardo dos Santos)

It was with great satisfaction that I read the recent bipartisan congressional letter to President Clinton declaring that "the United States has a strong national interest in a stable peace agreement in Angola." I share the view in Congress that the Lusaka Accords are the "last, best hope for peace in Angola."

The letter accurately notes that the treaty also offers a promise of stability and prosperity in our region along with opportunities to expand U.S. exports to Angola.

I have called on all Angolans to make a pact in the defense of peace and absolute respect for national reconciliation so that we may reconstruct our war-ravaged country and vivify the soul of our people. It is a gigantic task, but I am confident we can show that we are equal to it, and are capable of making peace triumph.

PROXY BATTLES OF THE COLD WAR OVER

But we cannot achieve this difficult goal alone. Generations have been born and have grown up knowing nothing but conflict, first with colonial rulers and then among ourselves. If peace is to set down roots, it will need the nurturing of the international community, led by the U.S.

The cold-war superpowers who once used our differences in their proxy battles are now trying to forget their old differences. But they must not forget old obligations. We look to them now as partners. We were once a wealthy country and we can make ourselves one again—but not overnight, or alone.

Secretary General Boutros Boutros-Ghali has said, "It is imperative that immediate action now be taken to implement the comprehensive agreement signed in Lusaka." Mr. Clinton gave me his written assurance, "Once a peace agreement in reached, the United States government will be prepared to do all it can within the United Nations and bilaterally to ensure its successful implementation." Many of our friends, both old and new, implored us to take unpopular risks in the negotiations with the National Union for the Total Independence of Angola (UNITA). In response to their urgings, we went that extra mile. We have done that and now we turn to them to help us make that peace a success.

The Security Council's decision to deploy a contingent of about 500 cease-fire observers is welcome, but we need prompt dispatching of at least 7,000 peacekeepers to ensure that all provisions of the agreement are adhered to. The UN and the international community cannot skimp on this vital aspect of the peace process. We want our former enemies to know from these credible sources that we are sincere in word as well as deed, and I am sure they feel the same way. Peacekeepers will help instill confidence among past foes.

To repeat 1992's tragic mistake of trying to "make peace on the cheap" would doom our Nation and all of southern Africa to more war and bloodshed. The cost of providing peacekeepers and launching national reconciliation is only a fraction of the cost of making war and caring for the victims.

The national healing process must begin with caring for the hurt, the hungry, and the homeless. We urgently need portable hospital facilities that can rapidly be dispatched to the hard-hit areas like the devastated cities of Cuito, Huambo, Uige, and Melange.

THE NEED TO CLEAR MINES

The fighting is over, but we urgently need help to clear millions of antipersonnel mines strewn throughout our Nation, so that our farmers may till our fertile fields, our children may attend school and play safely outdoors, and all our citizens can travel in peace to and from their jobs and homes.

Before the war, we were known as a country with abundant mineral and agricultural resources. We were self-sufficient in most food stuffs. Our exports ranged from crude oil and uncut diamonds to coffee and tobacco textiles and shoes.

Now we must repair and rebuild as we heal our wounds and our wounded. We need technical assistance to rebuild our infrastructure, we need international peacekeepers to enforce our cease-fire, we need foreign investment to restore our industrial base, we need equipment and expertise to clear away the deadly debris of war. We also need loans and credits to stimulate our economy, as well as debt relief and restructuring.

SAVIMBI INVITED FOR TALKS

We have launched our democracy. Our elected National Assembly is at work and soon we will hold the final round of our presidential elections. Meanwhile, our former foes will be joining us in governing the nation by assuming positions of major responsibility. They will be Cabinet ministers, provincial governors, mayors, ambassadors and much more. The two former enemy armies will join together in a national defense force as most former combatants are demobilized.

I have invited UNITA leader Jonas Savimbi to meet with me at any time and any place in Angola so we may show our people we are fully engaged together in national reconciliation and reconstruction.

A new page is being turned in Angola's history. It presents new challenges for Angolan political leaders, government officials, and ordinary citizens as we try to reconstruct a third time from the rubble and ruins of the tragedy that devastated Angola. We call upon the United States and the international community to join us in our historic task of making peace work not just for ourselves but for a continent that is struggling hard to spread the blessings of peace and democracy to all its citizens.

MARTIN LUTHER KING, JR. MEMORIAL WITHIN THE DISTRICT OF COLUMBIA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mrs. MORELLA. Mr. Speaker, I rise today to reintroduce legislation to authorize the establishment of a memorial, on Federal land within the District of Columbia, to Martin Luther King, Jr.

Alpha Phi Alpha, which Dr. King joined in Boston on June 22, 1952, is one of the oldest African-American fraternities in the Nation. With more than 700 chapters in 42 States, its members include some of the most prominent leaders and distinguished officials within the United States. The fraternity wishes to honor Dr. King's remarkable role with a memorial in the Nation's Capitol. It is the fraternity's belief that a memorial will provide a tangible recognition that will assist in passing Dr. King's message from generation to generation. Alpha Phi Alpha will coordinate the design, construction, maintenance and funding of the monument. The bill provides that the monument be established entirely with private contributions and at no cost to the Federal Government. The Department of the Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, will select the site and approve the design.

I am very pleased to recognize Dr. Martin Luther King, Jr. as one of our Nation's greatest leaders in the ongoing struggle to achieve full equality for all of our citizens. In a very short lifespan of 39 years, this man created a moral, political and religious revolution that is indelible within the minds and hearts of Americans. As a man of peace, Dr. King recognized that along with freedom comes a strong measure of responsibility and accountability from all Americans. He showed us that civil rights is not just a struggle for the rights of black Americans, but a struggle to ensure the rights of all Americans. His gospel often proclaimed that injustice anywhere is a threat to justice everywhere.

Dr. King's mission is still unfinished. Racism and inequality, distrust and misunderstanding continue to divide us as a Nation. We must continue to challenge the American conscience and strive to create economic and civil equality for all of our citizens. For the future youth of our country, a memorial will provide a tangible reminder of our Nation's history and to our relentless struggle to eliminate injustice and prejudice.

Mr. Speaker, Dr. King dedicated his life to achieving economic and civil equality for all Americans, through nonviolent means. I believe that he made an indelible impression, of what one individual can do, on the minds and hearts of all Americans. I believe that a memorial would provide a tangible symbol to our Nation's youth of this country's commitment to economic, social, and legal justice. I therefore urge my colleagues to join me in this effort to ensure that the essential principles of justice and equality among our citizenry are never forgotten.

TRIBUTE TO SAN DIEGO POLICE OFFICER PATRICK R. MILLER

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. FILNER. Mr. Speaker, and colleagues, I rise today to pay tribute to a hero in my district who helps his community day after day, week after week, year after year. This hero is San Diego Police Officer Patrick R. Miller.

Officer Miller is a man who is fulfilling his life's dream. Since childhood, he desired to become a police officer—and that dream became reality 6 years ago after successfully being accepted and completing the police academy. Officer Miller furthered his career by graduating from the highly competitive Special Weapons and Tactics [SWAT] Academy last spring.

Officer Miller is praised by his fellow officers and community residents as a model police officer—one who treats people as human beings, while doing his job with precision and professionalism.

On the morning of February 2, 1995, Officer Miller was shot five times during a routine traffic stop. He was very seriously wounded. Fortunately, Officer Miller survived the incident and is recovering from his injuries.

Officer Miller has proven to be a respected and hard working police officer for the city of San Diego. I wish him a quick and complete recovery—and a speedy return to the duties he performs so well.

I salute Officer Patrick R. Miller for his hard work, dedication, and tenacity. He is an excellent example of the impact that one person can have on the community.

LEGISLATION TO PROVIDE MEDICARE COVERAGE FOR MULTIPLE SCLEROSIS TREATMENTS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. LAFALCE. Mr. Speaker, today I am reintroducing a bill which is truly vital to the hundreds of thousands of people in this country suffering from multiple sclerosis, a physically debilitating disease. The Multiple Sclerosis Home Treatment Act of 1995 would provide Medicare beneficiaries with reimbursement for the cost of beta-interferons, the most effective treatments for MS we have ever seen and the only type of MS treatment approved by the FDA.

Mr. Speaker, before I describe my bill I would like to tell you a little bit about multiple sclerosis and the difficult consequences of the disease for its victims and their families.

MULTIPLE SCLEROSIS: A SNAPSHOT

It has been estimated that today between 250,000 and 350,000 Americans have MS. The disease usually strikes at the prime of productive life—most people are diagnosed between age 20, and age 40. For reasons which are unknown as yet, women comprise an estimated 73 percent of the MS population.

Although the cause of the disease has yet to be specifically determined, we do know that in MS the central nervous system is attacked, resulting in inflammation and breakdown of the protective covering of the nerves in the brain and spinal cord, and the formation of scarring lesions in those areas.

The disease concurrently results in a multitude of debilitating symptoms such as fatigue, impaired vision, loss of muscle coordination, tremors, and bowel and bladder dysfunctions. MS is most often characterized by recurrent and progressively more acute attacks of these symptoms, called exacerbations, between periods of relative physical stability. Exacerbations can and often do result in hospitalization.

The long-term effects of MS vary. Some people experience more complete recovery between exacerbations—relapsing-remitting MS—while others experience significant physical deterioration—relapsing—or chronic-progressive MS.

Still, MS is a disease of physical debilitation. People with MS often experience a loss of ability to perform simple daily tasks. In many cases the physical consequences of MS force the individuals to quit their jobs and leave the work force, requiring them and their families to make tough financial choices while continuing to address health care needs. An estimated 27 percent of people with MS are bedridden at least 1 out of every 14 days.

BETASERON: A BREAKTHROUGH TREATMENT

Last year, the Food and Drug Administration approved a treatment, beta-interferon 1–b—trade name, Betaseron—for use in relapsing-remitting MS. The FDA approved Betaseron through their newly created fast-track approval process, demonstrating the agency's recognition of both the importance of a treatment for MS and the success of Betaseron.

Betaseron is a type of beta-interferon, a protein genetically engineered to resemble similar

proteins in humans. The most significant aspect of Betaseron for MS patients is that it reduces the formation of new lesions in the brain, an occurrence widely thought to be connected with the progression of the disease.

On a day-to-day basis the results of Betaseron treatments are also proving dramatic. For example, Mr. Kevin Cloy of Middleport, NY, is a constituent and friend of mine. Mr. Cloy is 32 years old, and was diagnosed with MS in 1990. He was forced to quit his job due to the disabling effects of MS. In December 1993, Mr. Cloy became one of the first people to receive Betaseron treatments.

The change in his physical condition has been remarkable. The frequency of his exacerbations has significantly decreased, and his physical condition has stabilized enough that he no longer feels the need to be wheelchair-bound. Although he still remains at home during the day, he can return to doing simple tasks like walking to the mailbox. He is hopeful that the Betaseron treatments will allow him to return to the work force someday soon.

NEED FOR MEDICARE COVERAGE

Unfortunately, because Betaseron is a high-technology, genetically engineered treatment, it is also prohibitively expensive. Betaseron is injected under the skin at home every other day, and the injections cost approximately $1,000 per month.

The expense of Betaseron is a grave problem for all people with MS, but especially for those like Kevin Cloy who are forced to leave the work force due to their MS-induced disability. Not only must they deal with the financial constraints of a lost income, but they also lose the coverage of any employer-provided health insurance as well. They generally become eligible for Medicare, but as we all know, Medicare does not cover prescription drugs and self-administrable treatments.

Mr. Cloy's situation again illustrates the problem. In March of last year, after Mr. Cloy left his job, he became eligible for Medicare and lost his private insurance coverage, thereby also losing coverage for prescription drugs.

When he became eligible to receive Betaseron treatments, he was therefore faced with a difficult choice—either expend all of his family's resources to pay for Betaseron, and eventually become destitute enough to be eligible for Medicaid—which does cover prescriptions—or go without Betaseron, a treatment which has changed his life.

Mr. Cloy has done everything feasible to avoid making that choice. He has drained his family's savings as much as possible in order to pay for Betaseron. Last spring, the residents of Middleport even organized a fundraiser for Kevin at a local restaurant. The fundraiser was successful, but the money raised only covers about 9-months worth of treatments.

Mr. Speaker, since the first introduction of my bill last year which would have provided Medicare coverage for Betaseron, I have heard from people across the Nation who have MS, from New York to California, from Arkansas to Illinois. Their stories have been chronicled in major newspapers like the Philadelphia Inquirer and the Orlando Sentinel. These people have experienced the very beneficial effects of Betaseron, and they are desperate for a solution to this problem of access.

NEW SCIENTIFIC DEVELOPMENTS

Last year, I introduced legislation to provide Medicare coverage for Betaseron, in order to help these people and their families. This year, I am expanding the bill to cover all beta-interferons, a consequence of recent exciting scientific developments.

Another constituent and friend, Dr. Lawrence Jacobs, who is an esteemed researcher at the Multiple Sclerosis Center at Millard Fillmore Hospital in Buffalo, recently announced with his partner, Dr. Salazar of the National Institutes of Health, the development of a new beta-interferon which is promising to be more effective than Betaseron. This new substance would be used as an alternative to Betaseron.

The new beta-interferon, which will soon be before the FDA for formal approval, has been affirmatively proven to reduce the progression of the disease. The new substance better mirrors natural substances produced in our bodies, and therefore also produces less side-effects for the patients. It is also being developed to be injected once a week, instead of every other day.

Mr. Speaker, the preventive health aspects of beta-interferons are obvious. We can stop or significantly reduce the progression of the disease. We can substantially reduce the number of attacks these people experience. Since as estimated 41 percent of hospitals stays of MS patients are covered by Medicare, we can also clearly reduce those costs to Medicare.

Moreover, we can reduce all of the other health care costs which are a consequence of a severe disability—physician visits, clinic visits, home health care, medical equipment, physical therapy—the list goes on and on. We may even be able to move many of these people back in to the work force, allowing them to leave Medicare altogether, a clear savings to taxpayers.

I believe that providing access to these beta-interferons is an excellent example of the successes of preventive health care. In slowing the progression of MS, and allowing these individuals to lead more productive lives, these treatments provide benefits which, in the long term, may far exceed the cost of the injections.

It is time we act to make these critical treatments available to all of those people with MS whose disabilities are so severe that they have lost their jobs and their private health insurance. I urge the Congress to adopt this important legislation.

RED INK GREATER THREAT THAN RED ARMY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, one of the gravest errors that the Republican majority is in the process of making is to increase military spending over what we have already voted while it proposes serious cuts in important domestic programs. And for those who do not share my sense that these programs should be preserved, the increase in defense spending can be seen as a threat to further deficit reduction, or even to tax reductions for those who prefer that course. In any case, spending money that we do not need on the military at a time when we are short of resources is an error. For this reason, I will from time to time be sharing with my colleagues knowledgeable commentary from national security experts who are pointing out that it is a grave error to increase military spending, and that in fact, given the collapse of the Soviet Union, the severe weaknesses of the Russian military, the untapped ability of our Western European and East Asian allies to do far more in the area of military spending, we in fact can afford to make further reductions in the military without in any way endangering national security or the well-being of the men and women who have so gallantly volunteered to defend us.

Recently, one of the most distinguished experts in the national security field, former Director of Central Intelligence William Colby, wrote an article in the Hill on February 22 pointing out how unwise it is to increase—and even maintain—the current level of military spending. Mr. Colby's tenure as Director of Central Intelligence began in the Nixon administration and extended into the administration of Gerald Ford, so he can hardly be dismissed as the voice of Democratic liberalism. His hard-headed, persuasive argument for military spending reductions is an important contribution to our budget debate and I ask that it be printed here.

WHICH IS GREATER SECURITY THREAT: RED ARMY OR RED INK?

(By William E. Colby)

The Cold War is over, but you wouldn't know it from America's defense budget or from Republican calls for more defense spending. The once fearsome Red Army no longer threatens Europe at the Fulda Gap in North Germany. Instead, it hardly is able to enter a medium sized Chechnya city against lightly-armed partisans, even with the advantage of air power and heavy artillery.

But the U.S. defense budget still siphons off some $250 billion from the national economy as political leaders talk about a balanced budget (but don't act to produce), promise middle income tax cuts instead of building savings, and vie to cut domestic and foreign programs. U.S. defense expenditures still amount of well over twice the $121 billion spent by the eight other nations that conveivably could pose a threat to U.S. national interests, and over three times what Russia spends on its reduced, rusting and hapless military.

One would think that an intelligence assessment of dangers for the U.S. in the years ahead, and a strategic review of how we should respond, would focus on some of the obvious threats looming ahead in the economic field, which has now replaced military competition as the main arena of conflict in the post-Cold War world.

The most obvious danger is the national debt and its servicing costs, which threaten the economy and will crush almost all discretionary spending unless economically depressing and politically unpalatable new taxes are imposed. Similarly, the inexorable march of the Cold-War-era baby boomers toward senior-citizen status clearly threatens the Social Security system and will mean a generational conflict with a younger generation saddled with the bills. The sloshing of

trillions of panicky dollars through global electronic markets, as just occurred with Mexico, is spreading to other emerging economies is today's real threat to the nation's economy—and security.

And it is not that the defense budget is beyond challenge, for need or for specifics. Former Secretary of Defense Les Aspin's "bottom up review" assumed two regional wars on the scale of the Gulf War, conducted simultaneously, without allies, with no build-up period and with rotation capability for a long engagement—an obvious gold-plated invitation to the "bottom" of the military to plan forces at about the current levels. A bit of top-down guidance might have insisted on a more realistic scenario.

The review did not question some of the sacred cows of current planning: another attack submarine (against which fleet?); a better attack fighter (when our present ones are the best in the world); the Cold War B-2 bomber when modernized B-52's were the main muscle used in the Persian Gulf; a surfeit of aircraft carriers to "show the flag" when Aegis cruisers demonstrated their capability to hit an office complex in Baghdad from the Red Sea and the Persian Gulf; continued land and sea-based nuclear missiles aimed at the open ocean in numbers far above the 100 or so that respected defense experts agree is sufficient for deterrence.

If to these are added 20 more B-2's designed to penetrate Soviet airspace after a nuclear exchange, six huge C-17 airlifters when C-5's can carry what needs to go by air and heavy tanks should go by sea or be prepositioned to be available in real quantity, and new Trident submarine-launched strategic missiles, one can see that the mindset of the planners is clearly to continue to prepare for and deter the now-outdated massive threat from the Soviet Union. At least 24 budget conscious Republican congressmen deeped sixed the SDI, recognizing that the more proximate threat of a nuclear weapon arriving in the U.S. would we in the hold of a nondescript freighter.

The real post-Cold War world calls for the deployment of new kinds of "secret weapons" such as the diplomatic efforts of former President Jimmy Carter, who has already averted violence in Haiti and North Korea and at least has tried in Bosnia. It calls for programs to reduce the population growth bomb which is already exploding in Asia and Africa. And it calls for carefully planned and conducted anti-terrorist operations with formerly hostile nations and services.

It also calls for more "competition" between the expenditures to fight a Cold War better and the need to keep our nation's economy strong and targeted on the real threats—and opportunities—of the future.

TRIBUTE TO THE HONORABLE DWIGHT EVANS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. FOGLIETTA. Mr. Speaker, on this last day of Black History Month, I wanted to congratulate the Honorable Dwight Evans for his great accomplishments as a public servant in the city of Philadelphia and in the State of Pennsylvania. Dwight Evans is making history every day for his constituents.

Dwight represents the 203d Legislative District in the Pennsylvania House of Representatives. Throughout his life, Dwight has contributed greatly to the city of Philadelphia. He has made these contributions in many different capacities, but has never failed to make significant improvements in his community.

Prior to his membership in the Pennsylvania State Legislature, Dwight was responsible for revitalizing the abandoned Ogontz Plaza in Philadelphia, turning it into an economically viable shopping district. He was also responsible for bringing a police ministation to the Ogontz Avenue area, making it a safer place for members of the community. We are working together to develop the Southeastern Pennsylvania Regional Employment and Training Center.

More, recently as the chairman of the House Appropriations Committee in Pennsylvania, Dwight has been able to provide day care services for children, adequate funding for youth programs, and the improvement of educational services to children.

In 1994, Dwight Evans ran as the first African-American candidate for the Governor of Pennsylvania. He surprised the pollsters and the experts, but not those of us who know him by coming in second. He was also endorsed by most of the major daily newspapers in the Commonwealth.

As we mark the end of Black History Month, I would like to recognize and congratulate Dwight Evans for his excellent accomplishments. It is important that we look back at history, but it is also important that we applaud the men and women who are making progress today and tomorrow.

H.R. 450

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mrs. COLLINS of Illinois. Mr. Speaker, last week we were given a real clear picture of what the new Republican majority that now controls the Congress really cares about.

During the consideration of H.R. 450, Members had two opportunities to vote on amendments that would have excluded from the moratorium regulations the Fish and Wildlife service needs to issue in order to establish hunting seasons for ducks and waterfowl.

I offered the first amendment which, in addition to the hunting season regulations, also exempted several other important matters, such as:

Rules the FEC has issued to prohibit personal use of campaign funds; rules to make it harder for aliens to stay in the United States on the basis of meritless petitions for political asylum; rules giving preference to the elderly in section 8 housing; rule pertaining to elimination of drug use in Federal housing; rules designating empowerment zones and enterprise communities; rules compensating Persian Gulf veterans with disabilities from undiagnosed illnesses; and rules for the development of a data base for child molesters, as required by the crime bill.

The Republican majority argued against amending their bill to make it clear that these important regulations could be excluded from the moratorium. They claimed there was nothing to worry about.

Yet, later in the day, they chose to support an amendment which only exempted the hunting season regulations, and none of the other regulations—not for veterans, not for the protection of children against child molesters, and not for the elderly.

I have nothing against duck hunting, but I think it is a sad day when this Congress cares more about guaranteeing there is a duck hunting season, than whether our children are safe, and the elderly and disabled veterans are properly cared for.

BLACK HISTORY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. HOYER. Mr. Speaker, for the last 14 years, I have been the proud sponsor of an Annual Congressional Black History Month Breakfast. Each year, it has been a privilege to hear the remarks of many distinguished guest speakers and this morning was no exception. The honored speaker for this year's breakfast was the Honorable Eric Holder, U.S. attorney for the District of Columbia. I found Mr. Holder's remarks insightful, thought provoking, and timely. Therefore, I am proud to submit his statement for the RECORD.

BLACK HISTORY SPEECH

(By Eric Holder)

In discussing black history we must always be cognizant of its continuing nature and we are obligated to assess where black America stands at the time of that discussion. Though I would like to talk today about the concept of, and importance of, black history I would also like to discuss the black present. The past and the present are inextricably bound and to understand either, one must comprehend both. History should be used as a tool in trying to understand a present that seems at times to be frightening and illogical. It is my belief that the seeds of our inner cities present distress are found in the manner in which this nation has dealt with its black population over the years. But we must also acknowledge that this same population has done much in recent years to contribute to its present negative condition. The study of black history is a means by which we can understand and plan for a better black future. To look forward one must also look back.

Let me start with the present. Black America today stands at a crossroads. A valiant past filled with courage and struggle is being replaced with a present replete with irresponsible behavior and an almost passive acceptance of negative actions in general and of violence in particular. Black Americans, like too many others in our society, have become all too willing to blame others for their situation. It is definitely true that government has not done all that it could, or should, have done in the recent past. But a study of black history indicates that we have frequently had to deal with governmental indifference or outright hostility. This did not stop our striving in the past, cannot be used an excuse in the present, and must not inhibit our growth as a people in the future. We black Americans must commit ourselves

to responsible behavior and do all that we can to retard the growth of the culture of violence that so grips many of our communities.

It is time for black America to come to grips with the crime and violence problem that destroys so many promising, young black lives. Put quite simply, it is time for black people to begin to identify with, and work with, the forces that are fighting to make our streets safe. The preoccupation with criminal defendants and the abject neglect of criminal victims is in some ways a moral indictment of our community. This concern was understandable in a past where people of color were systemically, routinely and legally denied the rights to which they were obviously entitled. But in a present where at least the legal impediments to equality have been largely erased, such concerns are largely misplaced. I am not naive, however. Black people must be ever vigilant to insure that all of our people, criminal defendants included, are always treated in the same constitutional manner as all other Americans. But for too long we have sought to excuse that which we know to be wrong and in the process have ignored the real pain suffered by members of our own community. The overwhelming majority of crime committed by black defendants is directed at other black people. Over 90% of the nation's black homicide victims, for example, were killed by other black people. This is truly a sad part of black history but is an aspect of our existence in this country that must be explored and honestly discussed if the next chapters in our story are to be filled with hope and progress.

We must also strive to curb other voluntary conduct that threatens the very existence of our people. The plagues of AIDS and unwed births that so affect the black community, for example, are the products of irresponsible sexual conduct. Because this conduct is voluntary it can, and should, be rather easily controlled. I understand that in things sexual and personal we must tread lightly but is it not painfully clear that by being just a little more responsible these problems could be cured? We must insure that we do all we can to reduce the rate of black unwed births in our nation that now stands at 67%—two out of every three black babies are born into this condition. In some parts of Washington that figure rises to over 80%—four out of every five babies. This plague tears at the fabric that has traditionally bound us together. It inhibits the development of the black community by stunting the growth of both the mother and the child itself. A recent study showed that women who became mothers when they were married, over 21 and high school graduates gave birth to children who lived in poverty about 10% of the time. By contrast, women who were under 21, high school dropouts and not married gave birth to children 79% of whom lived in poverty. There is little dispute that there is a direct line between poverty and the social problems that so bedevil us. As you can see, at least a part of the poverty problem is self inflicted and could be controlled by self restraint.

In the current discussion about unwed births, welfare reform and values we too frequently focus on women as if they created children without the assistance of men. We must never stigmatize the women in our community who valiantly struggle against great odds to raise good kids and we must always love all of our children whatever the marital status of their parents. But we must recognize that this is a problem. And we must acknowledge the irresponsibility of men in this situation. When I was a judge at the District of Columbia Superior Court it was striking to me to find that virtually every young man who came before me in a criminal case did not have a man who was meaningfully involved in his life. As the United States Attorney for this city I have been struck by the way in which children have responded to the men in our office, both black and white, in our outreach efforts. We have programs with elementary schools in the city and it is in some ways sad to see our youngsters, black youngsters, cling to the men in my office for the support and guidance they should be receiving from their fathers at home. In any discussion of our situation we must focus more on absentee fathers. We cannot hope to have our young boys grow up to be good men without role models to emulate. And the best role model is not an athlete, not an entertainer and not a United States Attorney. The best role model is a father at home who devotes himself to the child he has brought into the world. An army of these kind of fathers would probably do more to cure our social problems than all the government programs we might ever devise. We must somehow force the concept of family back into the consciousness of the men who are now too willing to create children but not willing to help raise them.

Moving from a partial examination of the black present to a look into the black past one finds that the history of black America and the history of this nation are inextricably tied to each other. It is for this reason that the study of black history is important to everyone-black or white. For example, the history of the United States in the nineteenth century revolves around a resolution of the question of how America was going to deal with its black inhabitants. The great debates of that era and the war that was ultimately fought are all centered around the issue of, initially, slavery and then the reconstruction of the vanquished region. A dominant domestic issue throughout the twentieth century has been, again, America's treatment of its black citizens. The civil rights movement of the 1950's and 1960's changed America in truly fundamental ways. Americans of all colors were forced to examine basic beliefs and long held views. Even so, most people, who are not conversant with history, still do not really comprehend the way in which that movement transformed America. In racial terms the country that existed before the civil rights struggle is almost unrecognizable to us today. Separate public facilities, separate entrances, poll taxes, legal discrimination, in essence an American apartheid, all were part of an America that the movement destroyed.

In addition, the other major social movements of the latter half of this century-feminism, the nation's treatment of other minority groups, even the anti-war effort are all tied in some way to the spirit that was set free by the civil rights movement. Those other movements may have occurred in the absence of the civil rights struggle but the fight for black equality came first and helped to shape the way in which other groups of people came to think of themselves and to raise their desire for equal treatment. Further, many of the tactics that were used by these other groups were developed in the civil rights movement.

And today the link between the black experience and this country is still evident. While the problems that presently afflict the black community may be more severe, they are an indication of where the rest of the nation may be if corrective measures are not quickly taken. For example, the rate of white unwed births has risen dramatically in recent years, continues to rise and now stands at almost 30%. The level of violence now found in once quiet suburbs is alarming and further demonstrates that our past, present and future are linked. It is not safe for this nation to assume that unaddressed social problems in the poorest parts of our country will not ultimately affect the larger society.

Black history is extremely important because it is American history. Given this, it is in some ways sad that there is a need for a black history month. Though we are all enlarged by our study and knowledge of the roles played by blacks in American history, and though there is a crying need for all of us to know and acknowledge the contributions of black America, a black history month is a testament to the problem that has afflicted blacks throughout our stay in this country. Black history is given a separate and clearly not equal treatment by our society in general and by our educational institutions in particular. [It is only given a month (the only month with 28 days!) of recognition.] As a former American history major I am struck by the fact that such a major part of our national story has been divorced from the whole. In law, culture, science, sports, industry and other fields, knowledge of the roles played by blacks is critical to an understanding of the American experiment. For too long we have been too willing to segregate the study of black history. There is clearly a need at present for a device that focuses the attention of the country on the study of the history of its black citizens. But we must endeavor to integrate black history into our culture and into our curriculums in ways in which it has never occurred before so that the study of black history, and a recognition of the contributions of black Americans, become commonplace. Until that time, Black History Month must remain an important, vital concept. But we have to recognize that until black history is included in the standard curriculum in our schools and becomes a regular part of all our lives, it will be viewed as a novelty, relatively unimportant and not as weighty as so called "real" American history.

I was invited to speak to you today because some consider me, the first black person to be named United States Attorney for the District of Columbia, a part of black history. We do a great disservice to the concept of black history recognition if we do not acknowledge that my appointment cannot be viewed in isolation. I stand on the shoulders of many other black Americans, all of whom should be widely known to all Americans: admittedly, the identities of some of these people, through the passage of time, have become lost to us—the men, and women, who labored long in fields, who were later legally and systemically discriminated against, who were lynched by the hundreds in this century and those others who have been too long denied the fruits of our great American culture. But the names of others of these people should strike a resonant chord in the historical ear of all in our nation: Frederick Douglas, W.E.B. DuBois, Walter White, Langston Hughes, Marcus Garvey, Martin Luther King, Malcolm X, Joe Louis, Jackie Robinson, Paul Robeson, Ralph Ellison, James Baldwin, Maya Angelou, Toni Morrison, Ralph Bunche, Rosa Parks, Marion Anderson, Emmit Till. These are just some of the people who should be generally recognized

and are just some of the people to whom all of us, black and white, owe such a debt of gratitude. It is on the broad shoulders that I stand as I hope that others will some day stand on my more narrow ones.

Black history is a subject worthy of study by all Americans. To truly comprehend this country you must have knowledge of its constituent parts. Black Americans have played a pivotal role in the development of this nation. Perhaps the greatest strength of the United States is the diversity of its people. But an unstudied or misunderstood diversity can become a divisive force. An appreciation of the unique black past, acquired through the study of black history, will help lead to understanding and compassion in the present, where it is so sorely needed, and to a future where all of our people are truly valued.

TRIBUTE TO LASHAUN QUARLES

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. QUINN. Mr. Speaker, I am very pleased and proud to rise today to salute LaShaun Quarles, an eighth grader who attends St. Aloysius School in Cheektowaga, NY.

LaShaun was chosen as the first place winner of a Black History Contest which I sponsored to help commemorate Black History Month. Students throughout the congressional district were encouraged to highlight some of the important contributions African-Americans have made to our Nation.

LaShaun chose Marcus Garvey as a figure whom she believes is vitally important to the history of the United States. A panel of judges found LaShaun's essay to be most inspirational and knowledgeable.

LaShaun's admiration for Marcus Garvey and appraisal of his principles is worthy of our attention. I commend her essay to you and ask that it be placed in the RECORD.

WHY MARCUS GARVEY IS IMPORTANT TO THE UNITED STATES

(By LaShaun Quarles, St. Aloysius, Grade 8)

Marcus Garvey was a man who founded a most significant movement in African American freedom. Garvey traveled around the world forming the Universal Negro Improvement Association (UNIA) and teaching African Americans that black is beautiful.

I found Garvey's principles to be interesting. I learned a great deal from them. One of Garvey's principles includes "never spend all of your earnings." It is very important to save a little of what you earn. I have observed a number of young African Americans spending a great deal of money on clothes, Nikes, etc. We need to begin to save a portion of our money towards our education and future. Reading about Garvey has encouraged me to save even more of my money.

Another one of Garvey's principles is to "have pride in your race." In a world where black is often hated, he taught us that black is beautiful. Not having pride in your race destroys our self-esteem and confidence. We as people must learn to love and appreciate ourselves and recognize the beauty of being African. Garvey was against skin bleaching and hair straighteners. He felt that God made us dark skin with coarser hair for a reason, and that we should keep ourselves looking natural. I realize that some young people within my community need to have more pride in their race and not be concerned about changing their physical appearance. If you choose to change something about yourself, it should be because you want to and not because you feel your friends will have more respect for you.

Good character is a good principle also. Back in the early 1900's when Caucasians met an African America, they would automatically think that the person was bad news, but if you have a good personality, it will usually come naturally for a person to like you. I realize that you should always take time to know a person before passing judgement. As I look within my community, I realize that some kids judge people based on how they look or how they are dressed. We will often find better friends if we look for a good character.

Another principle that Garvey talked about was "obey the rules of society." This is an important principle because so many people do not obey rules. Many young African Americans go to jail because they broke a law. We have rules in society for a reason, if there were no rules, there would be no order in society. We have rules in school, and they are there so that we may be more disciplined and prepared for life.

"Never stop learning" is another principle that Garvey stressed. I realize that it is necessary that I stay in school, if I am to reach my goal of becoming a lawyer. I hope that all young people continue their education. With education, kids most likely will not resort to selling or using drugs, because they would realize the negative consequence of their actions.

Reading about Marcus Garvey has encouraged me to continue to have high self-esteem and pride in my race, not so that I may hate other races, but respect them as human beings with feelings. Marcus Garvey was a courageous man, and he not only helped me to discover the principles that I will use to guide my own life, but it teaches me about my African American heritage and about America itself. I think it is very crucial for us to know the heroes of our history.

TRIBUTE OF CHIEF WILLIAM "BILL" BAKER

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. DIXON. Mr. Speaker, on Friday, March 10, 1995, family, friends, and colleagues of Chief of Detectives William "Bill" Baker will pay tribute to him at a retirement dinner in his honor at the Hotel Intercontinental in Los Angeles. This affair will follow—by 4 days—Bill's official retirement from the Los Angeles County Sheriff's Department where he has served with great distinction for nearly four decades. I am honored and pleased to have this opportunity to salute Bill and to share with my colleagues in the House of Representatives a brief retrospective of his outstanding career.

During his exemplary career in the Los Angeles County Sheriff's Department, Bill has held a variety of assignments, including commander of the court services division; technical services division; field operations region II; and the detective division. As a commander, he commanded field operations region II, and as a captain, he directed operations at the West Hollywood, Altadena, and Lennox Stations. Other assignments have included an investigative position in the narcotics bureau as well as patrol assignments at the Lennox and Firestone Stations. In addition, Chief Baker served as sheriff's department's civil service advocate.

Bill's advancement through the ranks is especially noteworthy. He joined the sheriff's department at a time when opportunities for minorities were—at best—scarce. But Bill was not your typical individual. He was eager to learn the ropes and possessed the commitment and tenacity to assume the important responsibilities that would eventually lead him to a stellar 36-year career with the sheriff's department.

Along the way, he earned a masters degree in public communications from Pepperdine University, and masters and bachelor of sciences degrees in criminal justice from the California State University, Los Angeles. In addition, he graduated from the prestigious Federal Bureau of Investigation's National Academy, located in Quantico, VA.

In recognition of his exemplary career in law enforcement, Chief Baker has received numerous awards and honors, including the Los Angeles County Valor Award, the Criminal Courts Bar Association, and the California city of Lawndale Distinguished Service Award.

Along with the myriad contributions he has made in law enforcement, Chief Baker has also devoted considerable time to several outside organizations. He has chaired and/or served on several boards, such as the Criminal Justice Committee of the National Conference of Christians and Jews; the Southern California Chapter of the National Organization of Black Law Enforcement Executives; and the United Way South Central Youth Violence Roundtable Committee. From 1980 to 1988, he was an associate professor of criminal justice at California State University at Los Angeles.

Mr. Speaker, I am proud to recognize and salute Chief William "Bill" Baker's superior career in law enforcement. He has established a legacy of excellence that the law enforcement community and all Angelenos can look to with great pride and admiration.

Please join me in wishing Bill best wishes for a long and healthy retirement, and in extending congratulations to him as he enters another chapter in his life—one that we trust will be filled with many hours listening to swinging and melodious jazz and making plenty of trips to the racquet ball courts. Join me also in acknowledging his lovely wife, Pearl, and their adult children, Arlyce and William.

SALUTE TO WHITESBORO AND GUNTER GIRLS BASKETBALL TEAMS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to two groups of outstanding young athletes in the Fourth District of

Texas—the high school girls basketball teams from Whitesboro and Gunter—who recently won their regional championships and will play in the State basketball tournament in Austin later this week. I would like to take this opportunity to congratulate these players on their outstanding achievement and to wish them well in the State competition.

The Whitesboro Lady Bearcats will represent their 3A region in the State tournament for the first time since 1953, and the Gunter Lady Tigers will play in the 2A State tournament for the first time in the school's history. The citizens of Whitesboro and Gunter are understandably proud of their outstanding teams, and I share their enthusiasm.

Reaching this level of competition requires much hard work and dedication on the part of all members of the teams. Basketball is both a physical and mental sport and also requires much team work. It helps build character, and these girls have demonstrated that they have the talent and character—and the heart—to succeed. They are winners on the playing court, and the skills that they have learned also will serve them well in life.

Mr. Speaker, it is a privilege to recognize the Whitesboro Lady Bearcats and Gunter Lady Tigers and to join their many fans in giving them our heart-felt best wishes as they represent their schools and communities in the Texas State tournament. I know that they are prepared to give their best efforts—for their schools and for themselves—as they play in this final round of competition. It would be an honor to have both the 3A and 2A girls basketball State champions from my district, but whatever the outcome, they are already winners.

TRIBUTE TO JOSEPH A. CAVANAUGH, FORT ORD PROJECT COORDINATOR

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. FARR. Mr. Speaker, I am delighted to honor Mr. Joseph A. Cavanaugh today, an outstanding public servant and citizen from Monterey, CA, on the occasion of his retirement as project coordinator for the Fort Ord Reuse Authority [FORA].

From his service in the Peace Corps, helping Tanzanians learn English and develop their communities, to his work as project coordinator for the Fort Ord Reuse Authority, Joe has helped people develop their communities and gain the skills they need to help themselves. His career in public service spans 30 years of work as a teacher, planner, researcher, and community organizer in California and throughout the United States.

In the community assistance arena, Joe has had a long and successful career. In 1964 he worked as a Peace Corps volunteer in east Africa where he helped local residents develop their community, including constructing a bridge and developing a local water system. He then went on to help plan and direct several Vista programs, on both a regional and national level.

Joe continued his work in community planning and development as community development director for the cities of Boulder, CO and Lawndale, CA. In my central coast California district, Joe served for 8 years as a community redevelopment and economic development coordinator for Monterey County. Most recently, Joe served as the executive staffmember of the Fort Ord Reuse Authority [FORA]. When the closure of Fort Ord was announced in 1991, the local community faced the loss of one of the largest employers in the region. Rather than simply accept this plight, however, the community organized itself to find uses for the closing base which would benefit everyone. With Joe's skillful leadership and direction, the Fort Ord Reuse Group, the predecessor to the newly created Fort Ord Reuse Authority, successfully worked with Monterey County and surrounding impacted communities to develop a reuse plan that has turned a potential catastrophe into an economic and educational center which serves as a national model for the reuse of closed military installations.

I commend Joe for his commitment to public service, and for helping thousands of people develop and strengthen themselves and their communities. I thank him for his contribution to the economic development in my district, which has ensured healthy, enriched local communities for years to come, and I call upon my colleagues in the House to salute Joe Cavanaugh with me on his outstanding career and for a job well done.

IN HONOR OF SAM LAMPARELLO, THE 1995 BAYONNE CHAPTER OF UNICO "MAN OF THE YEAR"

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 28, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Sam Lamparello, who is being honored as the 1995 Man Of The Year by the Bayonne chapter of Unico National. A dinner dance will be held in his honor on March 4, 1995.

Sam Lamparello is an Italian immigrant, who came to the United States with his parents when he was just 2 years old. He grew up in Bayonne and worked with his father in the family ice business. Upon graduation Sam Lamparello became an apprentice machinist with the American Radiator Co. He was later voted the president of local 447, United Electrical Radio and Machine Workers Union. However, during his second term as president he decided to pursue his life-long dream.

Sam Lamparello took all his life savings and founded the Beacon Oil Co. He struggled tremendously, working out of his mother's basement. In those first years he served as a driver, serviceman, salesman and installer. he was later joined by his brothers, and together they managed to turn Beacon Oil Co. into a successful business.

Sam Lamparello has always been eager to serve his community. He was a member of the Hudson County Gold Seal Fuel Dealers and then in 1953 he joined Kiwanis and UNICO. While a member of these organizations, Sam Lamparello organized and chaired many fundraising events. Sam Lamparello was also appointed to the Bayonne traffic committee and the Bayonne Red Cross board.

For his great dedication to the community, Sam Lamparello has been awarded many honors, including the National Conferences of Christian and Jews Brotherhood award [1966] and the Gold Seal Fuel 1969 Man of the Year award. in 1964, he was named Jerseyan of the Week by the Newark Star Ledger.

Despite everything he has accomplished, Sam Lamparello was determined to keep on helping those that were less fortunate than he. For 12 years he was a member of the United Fund of Bayonne and chairman of the 1968–69 fundraising drive. Sam Lamparello was a member of the board of directors at the YMCA, where he also served as president for 16 years. During his term in office, he had the largest fund drive ever and in the process helped more than 40,000 children.

Sam Lamparello is still an active member of UNICO, Kiwanis and the YMCA board of directors. He also serves on the First Savings Bank of New Jersey board of directors and the Bayonne Hospital board of directors.

Sam Lamparello is a wonderful man and a true humanitarian. I am honored and proud to have such a man of great stature and heart as one of my constituents. Again, I offer my congratulations to Sam Lamparello for being named Man of the Year and for offering his time and kindness to those in need.