

Kemphorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, and Mr. Frist.

AMENDMENTS SUBMITTED

THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

WELLSTONE AMENDMENT NO. 5

Mr. WELLSTONE proposed an amendment to the bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government; as follows:

At the appropriate place, insert the following:

SEC. ____ . PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

“(i)(1) A lobbyist, or a political committee controlled by a lobbyist, shall not make contributions to, or solicit contributions for or on behalf of—

“(A) any member of Congress with whom the lobbyist has, during the preceding 12 months, made a lobbying contact; or

“(B) any authorized committee of the President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

“(2) A lobbyist who, or a lobbyist whose political committee, has made any contribution to, or solicited contributions for or on behalf of, any member of Congress or candidate for Congress (or any authorized committee of the President) shall not, during the 12 months following such contribution or solicitation, make a lobbying contact with such member or candidate who becomes a member of Congress (or a covered executive branch official).

“(3) If a lobbyist advises or otherwise suggests to a client of the lobbyist (including a client that is the lobbyist's regular employer), or to a political committee that is funded or administered by such a client, that the client or political committee should make a contribution to or solicit a contribution for or on behalf of—

“(A) a member of Congress or candidate for Congress, the making or soliciting of such a contribution is prohibited if the lobbyist has made a lobbying contact with the member of Congress within the preceding 12 months; or

“(B) an authorized committee of the President, the making or soliciting of such a contribution shall be unlawful if the lobbyist has made a lobbying contact with a covered executive branch official within the preceding 12 months.

“(4) For purposes of this subsection—

“(A) the term ‘covered executive branch official’ means the President, Vice-President, any officer or employee of the executive office of the President other than a clerical or secretarial employee, any officer or employee serving in an Executive Level I, II, III, IV, or V position as designated in statute or Executive order, any officer or employee serving in a senior executive service position (as defined in section 3232(a)(2) of title 5, United States Code), any member of the uniformed services whose pay grade is at or in excess of 0-7 under section 201 of title 37, United States Code, and any officer or employee serving in a position of confidential or policy-determining character under schedule C of the excepted service pursuant to reg-

ulations implementing section 2103 of title 5, United States Code;

“(B) the term ‘lobbyist’ means a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.) or any successor Federal law requiring a person who is a lobbyist or foreign agent to register or a person to report its lobbying activities; and

“(C) the term ‘lobbying contact’—

“(i) means an oral or written communication with or appearance before a member of Congress or covered executive branch official made by a lobbyist representing an interest of another person with regard to—

“(I) the formulation, modification, or adoption of Federal legislation (including a legislative proposal);

“(II) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy or position of the United States Government; or

“(III) the administration or execution of a Federal program or policy (including the negotiation, award, or administration of a Federal contract, grant, loan, permit, or license); but

“(ii) does not include a communication that is—

“(I) made by a public official acting in an official capacity;

“(II) made by a representative of a media organization who is primarily engaged in gathering and disseminating news and information to the public;

“(III) made in a speech, article, publication, or other material that is widely distributed to the public or through the media;

“(IV) a request for an appointment, a request for the status of a Federal action, or another similar ministerial contact, if there is no attempt to influence a member of Congress or covered executive branch official at the time of the contact;

“(V) made in the course of participation in an advisory committee subject to the Federal Advisory Committee Act (5 U.S.C. App.);

“(VI) testimony given before a committee, subcommittee, or office of Congress a Federal agency, or submitted for inclusion in the public record of a hearing conducted by the committee, subcommittee, or office;

“(VII) information provided in writing in response to a specific written request from a member of Congress or covered executive branch official;

“(VIII) required by subpoena, civil investigative demand, or otherwise compelled by statute, regulation, or other action of Congress or a Federal agency;

“(IX) made to an agency official with regard to a judicial proceeding, criminal or civil law enforcement inquiry, investigation, or proceeding, or filing required by law;

“(X) made in compliance with written agency procedures regarding an adjudication conducted by the agency under section 554 of title 5, United States Code, or substantially similar provisions;

“(XI) a written comment filed in a public docket and other communication that is made on the record in a public proceeding;

“(XII) a formal petition for agency action, made in writing pursuant to established agency procedures; or

“(XIII) made on behalf of a person with regard to the person's benefits, employment, other personal matters involving only that person, or disclosures pursuant to a whistleblower statute.

“(5) For purposes of this subsection, a lobbyist shall be considered to make a lobbying contact or communication with a member of Congress if the lobbyist makes a lobbying contact or communication with—

“(i) the member of Congress;

“(ii) any person employed in the office of the member of Congress; or

“(iii) any person employed by a committee, joint committee, or leadership office who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, reports primarily to, represents, or acts as the agent of the member of Congress.”.

EXON (AND OTHERS) AMENDMENT NO. 6

Mr. EXON (for himself, Mr. BRYAN, Mr. HARKIN, Mr. DASCHLE, and Mr. KOHL) proposed an amendment to the bill S. 2, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. ____ . CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.

(a) PURPOSE.—The Congress declares it essential that the Congress—

(1) adopt in the first session of the 104th Congress a joint resolution proposing an amendment to the Constitution requiring a balanced Federal budget;

(2) set forth with specificity in the first session of the 104th Congress the policies that achieving such a balanced Federal budget would require; and

(3) enforce through the congressional budget process the requirement to achieve a balanced Federal budget.

(b) POINT OF ORDER AGAINST BUDGET RESOLUTIONS THAT FAIL TO SET FORTH A GLIDE PATH TO A BALANCED BUDGET.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

“(j) CONGRESSIONAL ENFORCEMENT OF A BALANCED BUDGET.—It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that—

“(A) fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002;

“(B) sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of revenues for that fiscal year; or

“(C) relies on the assumption of either—

“(i) reductions in direct spending, or

“(ii) increases in revenues, without including specific reconciliation instructions under section 310 to carry out those assumptions.”.

(c) REQUIREMENT FOR 60 VOTES TO WAIVE OR APPEAL IN THE SENATE.—Section 904 of the Congressional Budget Act of 1974 is amended by inserting “301(j),” after “301(i),” in both places that it appears.

(d) SUSPENSION IN THE EVENT OF WAR OR CONGRESSIONALLY DECLARED LOW GROWTH.—Section 258(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting “301(j),” after “sections”.

SIMON (AND OTHERS) AMENDMENT NO. 7

Mr. SIMON (for himself, Mr. HARKIN, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, Mr. KENNEDY, and Mr. GLENN) proposed an amendment to the bill S. 2, supra; as follows:

At the end of the bill, insert the following:

SEC. ____ . SENSE OF THE SENATE.

(a) FINDINGS.—The Congress finds that—

(1) Bridgestone/Firestone, a subsidiary of foreign owned Bridgestone Corp., has recently announced its decision to hire permanent replacement workers displacing more than 2,000 American workers;

(2) this action may result in the largest permanent displacement of workers in over a decade;

(3) the practice of hiring permanent replacement workers is devastating, not only to the replaced workers, but also to their families and communities;

(4) the position of management of foreign owned Bridgestone/Firestone appears to be that they cannot compete with their American owned competitor, Goodyear, if they provide wages, benefits, and conditions of employment benefits patterned after those provided by Goodyear;

(5) hiring permanent replacement workers is illegal under the laws of the parent company's own country; and

(6) most of the United States' major trading partners, including, Japan, Germany, France, and Canada recognize that using permanent replacements is bad business and bad public policy.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Bridgestone/Firestone should reconsider its decision to hire permanent replacement workers and return to the bargaining table and bargain in good faith with the United Rubberworkers of America, the representative of their employees; and

(2) the Clinton Administration, working through the appropriate diplomatic channels and using the appropriate trade negotiations, should impress upon the parent company's home government the concern of the United States over this matter and seek their assistance in getting Bridgestone/Firestone to reconsider their decision.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Friday, January 6, 1995, to conduct a hearing to examine issues involving municipal, corporate and individual investors in derivative products and the use of highly leveraged investment strategies.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee for authority to meet on Friday, January 6 for a markup on S. 1, unfunded mandates.

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

ADDITIONAL STATEMENTS

PROPERTY RIGHTS LITIGATION RELIEF ACT

• Mr. HATCH. Mr. President, on January 4, 1995, I introduced S. 135, the Property Rights Litigation Relief Act of 1995. Because of the great interest shown in the bill, I ask that it be printed in the RECORD at this point.

The bill follows:

S. 135

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 "Property Rights Litigation Relief Act of 1995".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the private ownership of property is essential to a free society and is an integral part of the American tradition of liberty and limited government;

(2) the framers of the United States Constitution, in order to protect private property and liberty, devised a framework of Government designed to diffuse power and limit Government;

(3) to further ensure the protection of private property, the fifth amendment to the United States Constitution was ratified to prevent the taking of private property by the Federal Government, except for public use and with just compensation;

(4) the purpose of the takings clause of the fifth amendment of the United States Constitution, as the Supreme Court stated in *Armstrong v. United States*, 364 U.S. 40, 49 (1960), is "to bar Government from forcing some people alone to bear public burdens, which in all fairness and justice, should be borne by the public as a whole";

(5) the Federal Government, in its haste to ameliorate public harms and environmental abuse, has singled out property holders to shoulder the cost that should be borne by the public, in violation of the just compensation requirement of the takings clause of the fifth amendment of the United States Constitution;

(6) there is a need to both restrain the Federal Government in its overzealous regulation of the private sector and to protect private property, which is a fundamental right of the American people;

(7) the incremental, fact-specific approach that courts now are required to employ in the absence of adequate statutory language to vindicate property rights under the fifth amendment of the United States Constitution has been ineffective and costly and there is a need for Congress to clarify the law and provide an effective remedy;

(8) certain provisions of sections 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act), that delineates the jurisdiction of courts hearing property rights claims, complicates the ability of a property owner to vindicate a property owner's right to just compensation for a governmental action that has caused a physical or regulatory taking;

(9) current law—

(A) forces a property owner to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims;

(B) is used to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims; and

(C) is used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should seek equitable relief in district court;

(10) property owners cannot fully vindicate property rights in one court;

(11) property owners should be able to fully recover for a taking of their private property in one court;

(12) certain provisions of section 1346 and 1402 and chapter 91 of title 28, United States Code (commonly known as the Tucker Act) should be amended, giving both the district courts of the United States and the Court of

Federal Claims jurisdiction to hear all claims relating to property rights; and

(13) section 1500 of title 28, United States Code, which denies the Court of Federal Claims jurisdiction to entertain a suit which is pending in another court and made by the same plaintiff, should be repealed.

SEC. 3. PURPOSE.

The purpose of this Act is to—

(1) encourage, support, and promote the private ownership of property by ensuring the constitutional and legal protection of private property by the United States Government;

(2) establish a clear, uniform, and efficient judicial process whereby aggrieved property owners can obtain vindication of property rights guaranteed by the fifth amendment to the United States Constitution and this Act;

(3) amend certain provisions of the Tucker Act, including the repeal of section 1500 of title 28, United States Code;

(4) rectify the constitutional imbalance between the Federal Government and the States; and

(5) require the Federal Government to compensate property owners for the deprivation of property rights that result from State agencies' enforcement of federally mandated programs.

SEC. 4. DEFINITIONS.

For purposes of this Act the term—

(1) "agency" means a department, agency, independent agency, or instrumentality of the United States, including any military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the United States Government;

(2) "agency action" means any action or decision taken by an agency that—

(A) takes a property right; or

(B) unreasonably impedes the use of property or the exercise of property interests or significantly interferes with investment-backed expectations;

(3) "just compensation"—

(A) means compensation equal to the full extent of a property owner's loss, including the fair market value of the private property taken and business losses arising from a taking, whether the taking is by physical occupation or through regulation, exaction, or other means; and

(B) shall include compounded interest calculated from the date of the taking until the date the United States tenders payment;

(4) "owner" means the owner or possessor of property or rights in property at the time the taking occurs, including when—

(A) the statute, regulation, rule, order, guideline, policy, or action is passed or promulgated; or

(B) the permit, license, authorization, or governmental permission is denied or suspended;

(5) "private property" or "property" means all property protected under the fifth amendment to the Constitution of the United States, any applicable Federal or State law, or this Act, and includes—

(A) real property, whether vested or unvested, including—

(i) estates in fee, life estates, estates for years, or otherwise;

(ii) inchoate interests in real property such as remainders and future interests;

(iii) personalty that is affixed to or appurtenant to real property;

(iv) easements;

(v) leaseholds;

(vi) recorded liens; and

(vii) contracts or other security interests in, or related to, real property;

(B) the right to use water or the right to receive water, including any recorded lines on such water right;