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House of Representatives

The House met at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Your hand of mercy, O God, is strong enough to give us hope in the depths of our hearts; Your voice of comfort, O God, is sure enough to give us Your peace and assurance; Your mind, O God, is wise and perceptive and counsels us in the ways of life and Your mighty acts of compassion and grace, O God, give us confidence and promise in our daily lives. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

The VOLKMER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 61, answered ''present'' 1, not voting 28, as follows:

[Roll No. 158]

YEAS—344

Allard	Cooley	Goodlatte	Laughlin	Obey	Skelton
Andrews	Costello	Goodling	Lazio	Olver	Slaughter
Archer	Cox	Gordon	Leach	Orton	Smith (MI)
Armey	Cramer	Goss	Levin	Oxley	Smith (NJ)
Bachus	Crapo	Graham	Lewis (CA)	Packard	Smith (TX)
Baesler	Cremeans	Green	Lewis (KY)	Parker	Smith (WA)
Baker (LA)	Cubin	Greenwood	Lightfoot	Paxon	Solomon
Baldacci	Cunningham	Gunderson	Lincoln	Payne (VA)	Souder
Ballenger	Danner	Gutierrez	Linder	Peterson (FL)	Spence
Barcia	Davis	Gutknecht	Lipinski	Peterson (MN)	Spratt
Barr	Deal	Hall (OH)	LoBiondo	Petri	Stearns
Barrett (NE)	DeFazio	Hall (TX)	Lofgren	Porter	Stenholm
Bartlett	DeLay	Hamilton	Longley	Portman	Stokes
Barton	Dellums	Hancock	Lucas	Poshard	Studds
Bass	Diaz-Balart	Hansen	Luther	Pryce	Stump
Bateman	Dickey	Harman	Maloney	Quillen	Stupak
Beilenson	Dicks	Hastert	Manzullo	Quinn	Talent
Bentsen	Dingell	Hastings (WA)	Markey	Radanovich	Tanner
Bereuter	Dixon	Hayes	Martinez	Rahall	Tate
Berman	Doggett	Hayworth	Martini	Ramstad	Tauzin
Bevill	Dooley	Hefner	Mascara	Rangel	Taylor (NC)
Bilbray	Doolittle	Heineman	Matsui	Reed	Tejeda
Bilirakis	Dornan	Herger	McCarthy	Regula	Thomas
Bliley	Doyle	Hilleary	McCollum	Reynolds	Thornberry
Boehlert	Dreier	Hobson	McCrery	Rivers	Thornton
Bonilla	Duncan	Hoekstra	McDade	Roberts	Thurman
Bono	Dunn	Hoke	McDermott	Roemer	Tiahrt
Borski	Durbin	Holden	McHale	Rogers	Torkildsen
Boucher	Edwards	Horn	McHugh	Rohrabacher	Torres
Brewster	Ehrlich	Hostettler	McInnis	Ros-Lehtinen	Torricelli
Browder	Emerson	Houghton	McIntosh	Rose	Towns
Brown (FL)	Engel	Hoyer	McKeon	Roth	Traficant
Brown (OH)	English	Hunter	Meehan	Roukema	Upton
Brownback	Ensign	Hutchinson	Metcalf	Roybal-Allard	Vucanovich
Bryant (TN)	Eshoo	Hyde	Meyers	Royce	Waldholtz
Bryant (TX)	Everett	Inglis	Mica	Rush	Walker
Bunn	Ewing	Istook	Miller (CA)	Salmon	Walsh
Bunning	Farr	Jackson-Lee	Miller (FL)	Sanders	Wamp
Burr	Fawell	Johnson (CT)	Minge	Sanford	Ward
Burton	Fields (LA)	Johnson (SD)	Mink	Sawyer	Waters
Buyer	Fields (TX)	Johnson, E.B.	Moakley	Saxton	Watts (OK)
Callahan	Flake	Johnson, Sam	Molinari	Scarborough	Waxman
Calvert	Flanagan	Johnston	Mollohan	Schaefer	Weldon (FL)
Camp	Foley	Jones	Montgomery	Schiff	Weller
Canady	Forbes	Kaptur	Moorhead	Schumer	White
Cardin	Ford	Kasich	Moran	Scott	Whitfield
Castle	Fowler	Kelly	Myers	Sensenbrenner	Wicker
Chabot	Fox	Kennedy (MA)	Myrick	Serrano	Williams
Chambliss	Franks (CT)	Kennedy (RI)	Nadler	Shadegg	Wilson
Christensen	Franks (NJ)	Kennelly	Nethercutt	Shaw	Woolsey
Chrysler	Frelinghuysen	Kildee	Neumann	Shays	Wynn
Clayton	Frisa	Kim	Ney	Shuster	Young (FL)
Clement	Funderburk	King	Norwood	Sisisky	Zeliff
Clinger	Gallegly	Kingston	Nussle	Skeen	
Coble	Ganske	Kleczka			
Coburn	Gejdenson	Klink			
Collins (GA)	Gekas	Knollenberg			
Collins (IL)	Geren	Kolbe			
Combest	Gilchrest	LaHood			
Condit	Gillmor	Latham			
Conyers	Gilman	LaTourette			

NAYS—61

Ackerman	Clyburn	Filner
Barrett (WI)	Coleman	Foglietta
Becerra	Coyne	Frank (MA)
Bishop	Crane	Furse
Bonior	DeLauro	Gephardt
Brown (CA)	Deutsch	Gibbons
Chenoweth	Evans	Hastings (FL)
Clay	Fazio	Hefley

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Hilliard	Neal	Schroeder
Hinchey	Oberstar	Skaggs
Jacobs	Ortiz	Stark
Jefferson	Owens	Taylor (MS)
Kanjorski	Pallone	Vento
LaFalce	Pastor	Visclosky
Lantos	Payne (NJ)	Volkmer
Lewis (GA)	Pelosi	Watt (NC)
Lowey	Pickett	Wolf
Manton	Pombo	Wyden
McKinney	Pomeroy	Yates
Menendez	Richardson	
Mineta	Sabo	

ANSWERED ''PRESENT''—1

Stockman

NOT VOTING—28

Abercrombie	Gonzalez	Seastrand
Baker (CA)	Klug	Thompson
Blute	Largent	Tucker
Boehner	Livingston	Velazquez
Chapman	McNulty	Weldon (PA)
Collins (MI)	Meek	Wise
de la Garza	Mfume	Young (AK)
Ehlers	Morella	Zimmer
Fattah	Murtha	
Frost	Riggs	

☐ 1019

Mr. ALLARD, Mr. JOHNSON of South Dakota, and Ms. HARMAN changed their vote from ''nay'' to ''yea.''

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. EWING). Will the gentleman from Vermont [Mr. SANDERS] come forward and lead the House in the Pledge of Allegiance.

Mr. SANDERS 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.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 607

Mr. QUINN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 607.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 10 requests for 1-minutes per side. Further 1-minutes will take place after regular business today.

REPUBLICAN CONTRACT WITH AMERICA

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. 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.

THE SPEAKER'S COLLEGE CLASS, SUBSIDIZED BY AMERICAN TAXPAYERS, SAID TO BE EXTREMELY PARTISAN

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, just how nonpartisan is NEWT GINGRICH'S college class?

The Speaker claims it is nonpartisan. He sold it to the Ethics Committee as a nonpartisan class.

The sole reason that donors get tax exemptions is because it is supposedly nonpartisan.

Yet, in the past 2 days, we have received new evidence that this class was as partisan as partisan gets.

The dean of the college who once helped teach the class now says that political and academic resources were commingled.

A Ph.D. student who helped set up the class said on Sunday: ''the class was intended to be partisan and very political.''

Mr. Speaker, this class, which promotes an intensely partisan, political agenda of the Speaker, is being subsidized by the American taxpayers.

And its fund were commingled with the Speaker's own political action committee, GOPAC.

It is time for the Speaker to come clean with the American people.

It is time for him to release the list of past GOPAC donors.

And it is time that we appoint a professional, nonpartisan, outside counsel to investigate this whole mess.

PRESIDENT CLINTON USING SCARE TACTICS

(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, I do not think the President really understands what happened last November. I think he is trapped in a 1960's time warp. He seems hopelessly married to big-government ideas of the past, and he is using scare tactics to save big-government's agenda.

Yesterday Mr. Clinton was accusing Republicans of wanting to kill the school lunch program. This is absolutely not true. Mr. Clinton's problem is that he thinks he knows more about the needs of students than the 50 State Governors. He thinks that the bureaucrats here in Washington can do a better job of setting standards than the local school districts. I say to my colleagues, ''Let me tell you I trust Governor Bill Graves and the local school districts of Kansas a lot more than I do any Beltway bureaucracy.''

Mr. Speaker, if the President wants to continue to engage in this type of blatant political propaganda and demean his office in the process, he is free to do so.

Mr. VOLKMER. Mr. Speaker, Mr. Speaker——

Mr. TIAHRT. But while he is busy resurrecting the sixties, we will be working hard for the people by getting America ready for the next century.

Mr. VOLKMER. Mr. Speaker, I demand that the gentleman's words be taken down.

The SPEAKER pro tempore. The words will be taken down.

The Clerk will report the words.

☐ 1030

Mr. VOLKMER. Mr. Speaker, I withdraw my demand that the words be taken down.

The SPEAKER pro tempore (Mr. EWING). The gentleman from Missouri withdraws his demand that the words be taken down. The time of the gentleman from Kansas has expired.

THE TRUTH ABOUT SCHOOL LUNCHES

(Mr. LINDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LINDER. Mr. Speaker, it amazes me the length Democrats will go to try to save Federal bureaucrats their jobs. Yesterday, the Democrat leadership and President Clinton launched a mean-spirited attack on Republican attempts to provide school lunches through block grants. But once again, just like a broken record, they did not tell the whole story.

The Republican approach will actually increase spending for school lunches by decreasing administrative costs, which translates into cutting the Federal bureaucrats. But Democrats shy away from anything new because they just cannot seem to get over their love affair with a bigger bureaucracy and a failed welfare system. However, sinking to scaring needy children—

even this is a little low for the White House.

Mr. Speaker, it is time to get on with making the Federal Government smaller, less costly, and more efficient. That is what the people want, and it is what the Republican majority is all about.

REPLACE WELFARE WITH WORK

(Mr. FORD asked and was given permission to address the House for 1 minute.)

Mr. FORD. Mr. Speaker, today I rise in support of a strong work program to replace our welfare system in this Nation. What the American people will get with the Republican bill is the illusion of a work-based welfare system. This bill wishes for more work that the Republicans have submitted to the Committee on Ways and Means, but it does not require work. It offers weaker work requirements than current law.

Mr. Speaker, it is time for us to say to the American people we are going to replace welfare with work. This bill does nothing to hold States accountable for performance. As if by magic, expect more families on welfare to go to work. The work requirements in their welfare bill will not work and serve the welfare population of this Nation. If it does not happen, then what we do in the Republican bill is we punish the children of the welfare population.

This bill is mean-spirited and shortsighted, and it is just plain mean on children in this country, and we ask for an alternative package, and that package would respond to the human needs of the people.

REPUBLICAN BILL IS STRONG ON WORKFARE AND STATE RESPONSIBILITY

(Mr. COLLINS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Georgia. Mr. Speaker, you know, I rise very seldom this year to speak to the House for 1 minute or any time, but I hear comments about—like the former speaker had to say about the work program in the welfare reform bill the Republicans put out. It raises the hair on the back of my neck. You cannot get any stronger than telling people, and allowing States to even make it stronger, 2 years. Two years of welfare, then you go to work. You engage in some work program. And in 3 more years you are off.

How much stronger can you be? That is 100 percent. One hundred percent of those who are on welfare today in 5 years will be in a work program or they will be off of welfare. How much stronger can you get?

It is rhetoric coming from the minority side. That is all it is. They are trying to confuse the public. The Republicans have a strong welfare-work-State responsibility bill.

COMMENTS ON MEXICAN LOAN GUARANTEE

(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, Uncle Sam will not help Washington, DC, because of waste, fraud, and mismanagement. Let's see if I understand this: Down there in Mexico there is waste, fraud, mismanagement, corruption, larceny, kickbacks, bribes, and conspiracy. There is even an armed revolution to boot. But Uncle Sam can find $53 billion to bail out Mexico.

Tell me, Mr. Speaker, who is now formulating the policy for the United States of America? The Three Stooges, or what? Beam me up. When Uncle Sam can say ''Sorry, Charlie,'' to Orange County, CA; Washington, DC; Youngstown, OH; and New York but find $53 billion for Mexico, that says it all, Congress. Think about it.

SCHOOL LUNCH SCARE PROGRAMS

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, I watched with utter disbelief yesterday as not only the Democratic leadership, but the President of the United States, stood up and scared every single school-aged child in this land by telling them we are going to starve them to death.

Mr. Speaker, once again the Democrats have not told the whole truth. We are not cutting school lunches. We are cutting Federal bureaucrats. Under the Republican plan, spending for school lunches will increase 4 percent at least next year, and administrative overhead will decrease dramatically.

I know it is hard for the Democrats to shake the Big Government ideology they have called for for so long, but Republicans are charging ahead to make the Government smaller and less costly. While we are busy seeking bold new solutions, all the Democrats can do is carp about tired myths and defend the failed and bankrupt welfare state.

NEW WELFARE PROPOSALS LACKING IN FAMILY VALUES

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, we have heard a lot about family values lately, but what kind of family values are contained in the Contract With America, which proposes massive tax breaks for the wealthiest people in this country, billions of dollar increases on military spending, including the discredited Star Wars Program, and at the same time cutbacks on programs desperately needed by the weakest and most vulnerable people in our society?

I was especially outraged yesterday by a subcommittee's elimination of the LIHEAP Program, which provides low-income people, including many senior citizens, heating subsidies in the wintertime. In my State of Vermont, over 20,000 households, including many senior citizens, take advantage of that desperately needed program.

Tax breaks for the rich, increases in military spending, and cutbacks on heating programs for the elderly and the poor. What family values.

FEED THE KIDS, NOT THE BUREAUCRACY

(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, the Democrats' scare tactics never cease to amaze me. First they told the senior citizens if we pass the balanced budget amendment, you will never get another Social Security check. Next they went after the politicians. If the President has a line-item veto, you will never get a pork-barrel, I mean an economic development project, in your district again.

Now it is the school kids. If we consolidate 16 different food and nutrition programs, lay off hundreds of bureaucrats and make the system more efficient, kids will go hungry.

Mr. Speaker, I ask you, how hungry will these kids be when our country is broke? This debate is not about feeding the kids, but eliminating fat cat bureaucrats who have been picking the best helpings off children's plates for too long. Feed the kids, not the bureaucracy.

REMEMBER OLD-FASHIONED IDEAS

(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, some of my colleagues like to say we have a ''new Congress.'' They are right.

A new Congress that loves the photo ops of passing a so-called crime bill, but votes to take police officers off our streets. A new Congress that loves the headlines of talking about moving people from welfare to work, but scoffs at the idea of paying Americans a livable minimum wage.

Yes, we have a new Congress. But it has forgotten a lot of old-fashioned ideas. Like the idea of giving those in need a helping hand—instead of pointing the finger of blame. The idea that we should help our constituents take back their streets from criminals. The old ideal that perhaps we should give our kids a hot lunch in their schools.

And the idea that every American who works hard and sweats and toils every day deserves to be able to feed their family and own their home and send their kids to college.

I know that our new Congress does not care much about these old ideas. But I guess we Democrats are sort of old-fashioned, so we will keep right on fighting for them.

MORATORIUM ON ESA

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, I am pleased to join my colleague, Mr. CONDIT, in offering a bipartisan amendment that will extend the Regulatory Transition Act to cover listings and designations of critical habitat under the Endangered Species Act.

This amendment is necessary to protect the most endangered species of all, the American landowner. It is time that Congress gave hard-working, taxpaying American families the same rights as blind cave spiders, golden-cheeked warblers, and fairy shrimp.

Burdensome regulations imposed under the Endangered Species Act are reducing our landowners, farmers, and small business owners to a rare breed.

This year, Congress has the opportunity to amend the Endangered Species Act to balance the rights of landowners.

Until Congress reauthorizes the Endangered Species Act, we must put a stop to the out-of-control regulators and protect American property owners. Later today, we will offer a bipartisan amendment to extend the regulatory moratorium on Endangered Species Act listings and critical habitat designations. I urge my colleagues to support the bipartisan Condit amendment.

ONE LAW FOR EVERYONE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, in 50 days this Congress has passed only one bill that has been signed into law by the President. That measure quite rightfully demands that the Members of this Congress observe the same laws that apply to everyone else. The American people rightfully expect that Members will shoulder the same responsibilities as ordinary citizens and meet the same standards of behavior as ordinary citizens.

But what a difference a few weeks can make. I am deeply concerned to learn that a Member of this House who stands accused of serious ethical transgressions, indeed a cloud of alleged improprieties that threaten public confidence in this House, that Member has actually threatened to shield himself by introducing legislation to require his accuser to pay both his legal fees and the expenses of the Ethics Committee that is investigating him.

Mr. Speaker, does obtaining special legislation to immunize one's self sound like what an ordinary citizen does? No, it does not. But that is indeed what the Speaker of the House has threatened to do.

I suggest that not intimidation, but more speech is the way to deal with this problem.

□ 1045

IN SUPPORT OF THE REGULATORY TRANSITION ACT

(Mr. HOSTETTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Speaker, I rise in support of the Regulatory Transition Act.

Mr. Speaker, there is a frantic effort underway on the part of the administration to frighten the American public and this body about what those of us who would protect private property rights are trying to do. For years, Big Government has disseminated the message that the public needs of Washington, DC, to take care of it—that without Washington, DC, no one will look out for its health and well-being; that without Washington, DC, no one will protect its clean air and clean water; that without Washington, DC, no one will know what to do because only Washington, DC, knows what's good. Something may sound ridiculous but, as the message goes, it's coming from Washington, DC, so it must be a smart idea, because after all, doesn't Washington, DC, know best?

There was a different message sent in the last election. Washington, DC, doesn't know best. Regulation after regulation comes down the pike—micromanaging every facet of the daily lives of individuals and the daily operations of businesses. The people said, ''Enough.'' The administration responded by preparing some 4,300 new regulations to get through under the closing door.

If we are truly representing the American people, we must keep this from happening. The administration is trying to send a message that life as we know it will fall apart if these regulations don't get through. That is an unfortunate scare tactic. But let's show everybody concerned that the regulatory monster isn't vital to our existence, but it actually threatens our way of life as we know it. Let's cast a vote for smaller, smarter Government and defy those who are trying to scare the American public and this body into continuing with business as usual.

A COURSE IN ETHICS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, this is the people's House. This is what democracy is all about.

According to Timothy Mescon, dean of Kennesaw State College, political and academic resources were commingled in the preparation of the course he cotaught with Speaker GINGRICH. This led Dean Mescon to admit to the Los Angeles Times this week that ''In hindsight, we would never do this again. There's no question about that * * * I feel horrendous about this thing, and it's embarrassing.''

Lois Kubal, a graduate student involved in the design of Speaker GINGRICH. This led Dean Mescon to admit to the Los Angeles Times this week that ''In hindsight, we would never do this again. There's no question about that * * * I feel horrendous about this thing, and it's embarrassing.''

Lois Kubal, a graduate student involved in the design of Speaker GINGRICH's so-called course, says that ''the class at KSC was intended to be partisan and very political.''

Even more disturbing, course content was sold to corporate sponsors. According to a request for funding, potential donors were promised they could participate or work directly with the leadership of the project in the course development process in exchange for their $25,000 or $50,000 check. This is how the course is taught, the game is played, at Newt University.

Mr. Speaker, the charges keep piling up. We need an outside, independent, counsel to investigate the serious ethical charges hanging over the head of the Speaker of the House, and we need one now.

MORE ON THE REGULATORY TRANSITION ACT

(Mr. NEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEY. Mr. Speaker, I want to talk today about the Regulatory Transition Act. This is a critical act for us and it is only a starting point, because over the past years we might as well clear out the floor of this Congress and let unelected bureaucrats come sit, take our places. They have been running the Government, lock, stock, and barrel. They have made laws. And the United States EPA, Mr. Speaker, might as well have come into the Ohio Valley and Youngstown, OH and Cleveland, OH and taken the food off the tables of people. They have over extended their arm.

It is time to make normal, commonsense, rational ideas to protect people but not to have the mismatch that we have had that has strangled the ability of blue-collar working people to literally just survive in the Ohio Valley and industrial parts of the State of Ohio.

So we want to protect people, but we have now the opportunity to correct the faults that have occurred of an overstretched bureaucratic arm.

WELFARE REFORM

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, as we struggle to find a balance between human needs and the desire to address the abuses and ineffectiveness of the current welfare system, we must not forget the major beneficiaries of welfare—children.

Any plan that does not adequately address the needs of children is destined to raise the misery of childhood hunger, homelessness, and disease to a magnitude we have never before witnessed in this country.

In my home State of California, 69 percent of current AFDC recipients are children who depend on welfare as a safety net to survive.

Children throughout this country will be virtually abandoned under H.R. 4, the Republicans' welfare reform bill.

In the subcommittee, the Republican majority refused to assure child care for mothers who got to work, refused to assure the safety of children in foster care, and refused to preserve SSI benefits for certain medically disabled children. And they are even threatening child nutrition programs.

It is reprehensible to leave our children, our future work force, physically and intellectually weakened by denying them nutrition, shelter, and health care.

This will only negate our goal of building a more self-reliant America.

IN SUPPORT OF THE CONDIT AMENDMENT

(Mr. BONILLA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONILLA. Mr. Speaker, today we have an opportunity to better the lives of millions of Americans by passing the Condit amendment and putting a stop to the abuses of the Endangered Species Act. The Condit amendment should actually be called the Condit-Smith-Combest-Bonilla-Edwards amendment because it has been a good bipartisan effort to move this amendment forward once and for all putting a moratorium on the listing of endangered species in critical habitat in this country.

Too many times in this country we have seen development of constructions of hospitals stop because of the designation of a fly on the endangered species list. We have seen homes being torn down in some cases. You cannot even clear brush on your property anymore because the radical left wing environmentalists in this country think a rat might be living in your bushes and, therefore, do not give you an opportunity to do what you want on your property.

This is a vote for property rights, a vote for restoring some of the basic free enterprise values in this country that we hold dearly.

Vote for the Condit amendment today.

PFF/GOPAC

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, it appears that the web known as Newt Incorporated is beginning to unravel. A recent Los Angeles Times article details the intricate link between GOPAC, the Progress and Freedom Foundation and the Speaker's college course. While denying commingling all along, it appears that Newt Incorporated has been promoting a weird thirst for power at taxpayers expense. Meanwhile my friends wax indignant about illegitimacy, nutrition programs, and Big Bird.

It looks like the real welfare cheats might be some corporate sugar daddies. I have a rhyme:

Hickory Dickory Dak, it is time to investigate GOPAC. It is time for an outside counsel to clear all of the smoke arising from revelations about Newt Incorporated.

UNILATERAL ACTION BY THE PRESIDENT AGAIN

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the people of this country did not want us to spend billions of dollars and risk Americans lives going into Haiti. And the Congress knew that. We were not going to support it. Yet President Clinton unilaterally took action that put our troops at risk and sent our people in Haiti and spent billions of dollars in the process.

The people of this country did not want us to spend money bailing out Mexico. And yet President Clinton unilaterally is spending $53 billion of American taxpayers' money bailing out that country that is in an absolute mess.

And now yesterday unilaterally by executive order they are replacing strikers, a striker replacement bill is being passed by the executive branch without any act of Congress.

This is illegal, in many of our opinions. However, the President did it. Unilateral action again. Someone should tell this President this is a Republic and not a dictatorship.

PERMISSION FOR COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES TO SIT TODAY, THURSDAY, FEBRUARY 23, 1995, DURING THE 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unamimous consent that the following committee and its subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

The Committee on Economic and Educational Opportunities.

It is my understanding that the minority has been consulted and that there is no objection to this request.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Florida?

Mr. DOGGETT. Mr. Speaker, reserving the right to object, I have consulted with the ranking member of the committee, and we will not object to this request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

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, if the Personal Responsibility Act of 1995 passes, Federal nutrition programs for children and families will never be the same. School lunches and breakfasts will be slashed. Thousands of women, infants, and children will be removed from the WIC Program. National nutrition standards will be eliminated, and States will be able to transfer as much as 24 percent of nutrition funds for nonnutrition uses.

But, more is at stake. Retail food sales will decline, farm income will be reduced, and joblessness will soar. That is why, if I may borrow a quote, I will resist this change, ''with every fiber of my being.'' Many of the proponents of H.R. 4 want capital gains cuts. We want an increase in the minimum wage. They want block grants. We want healthy Americans. They want a full plate for the upper crust and crumbs for the rest of us. We want, and we will restore, Federal food assistance programs. It is irresponsible to do otherwise.

PROVIDING FOR CONSIDERATION OF H.R. 450, REGULATORY TRANSITION ACT OF 1995

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 93 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 93

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. 450) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, 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 one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform and Oversight. After general debate the bill shall be considered for amendment under the

five-minute rule for a period of not to exceed ten hours. 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 Government Reform and Oversight now printed in the bill. The committee amendment in the nature of a substitute 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. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from the Commonwealth of Massachusetts [Mr. MOAKLEY], pending which time I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, I am pleased that today we are here fulfilling yet another promise to the American people and doing it under a rule that allows for an open amendment process.

House Resolution 93 makes in order the committee substitute from the Committee on Government Reform and Oversight and provides for 1 hour of general debate followed by up to 10 hours of amendment under the 5-minute rule.

In the opening debate today, I would like to point out that last weekend, many sports fans witnessed a very serious threat to public health and safety. In fact, several people were injured and thousands were placed in grave danger. Yet the Federal Government did not take any action to prevent these injuries. Nor is it likely to do so in the future.

I refer, of course, to our former Presidents playing golf in public. Notwithstanding the germaneness of this, this story serves to illustrate an important point, that the Federal Government, despite the best efforts and intentions it may have, cannot provide protection for all Americans at all times. Yet it seems that we are coming closer and closer to issuing detailed regulations on every minute detail of our daily existence.

I ask my colleagues, how many times have constituents come to them and asked for help to head off, sort out, or otherwise mitigate needless harm that has come to them or absolute disaster to them perhaps caused by poorly thought-out Federal regulation. Individuals, small businesses, volunteer groups, local governments have all been victims, have all been harmed in some way by the unending flood of Federal rules and regulations made by people who apparently have not got enough to do.

As we begin to stem this tide, it is important to remember that H.R. 450 is not eliminating the rules made since November. Repeat. We are not eliminating the rules made since November. We are merely providing a much-needed timeout for perhaps up to a year to allow Congress the opportunity to responsibly consider serious regulatory reform. I think we all know we need it. There is even precedent for this type of action.

President Bush placed a moratorium on new regulation from January 1992 to January 1993. Of course, not all Federal regulations are burdensome or counterproductive. Arguments can certainly be made that public health and safety regulations should not be subject to this moratorium.

The Committee on Government Reform and Oversight has wisely provided for a general waiver process for imminent health and safety threats. I understand that some would like to see certain imminent threats given priority over other imminent threats. I do not agree with the wisdom of this kind of amendment.

I was pleased to hear the ranking member of the Committee on Government Reform and Oversight, the gentlewoman from Illinois, state at the Committee on Rules yesterday that she would seek to have members cluster these amendments offering exemptions of a similar nature in a similar package.

□ 1100

It sounds like a good idea. This does make sense, and it will help us avoid the tedious and perhaps unnecessary litany of amendments we saw during consideration of the unfunded mandates bill.

I hope that the overall time limit that we have placed on this rule is useful for the gentlewoman, in helping her to organize the efforts to consolidate these kinds of amendments.

Mr. Speaker, it all comes down to this. The American people have asked us repeatedly through individual pleas, and more dramatically in the November elections, to reform the Federal rule-making process. We are taking the first step here by placing the burden of proof on the regulatory agencies to prove that new regulations are necessary. This is a responsible change and a good beginning for the reform process.

Mr. Speaker, I expect today we might hear a word or two from the minority side about the question of the 10-hour time limit on this. It was discussed in the Committee on Rules, and it has been much discussed. We have done a lot of homework and review of the records on this matter.

We think this is a fair way to proceed and still allow the necessary debate time to come forward, but also to provide for the orderly management of all legislation in this House. Of course, we have a very heavy agenda of legislation to undertake.

I know that the minority sometimes feel that they would like to have endless debate, and some might call it dilatory tactics, and in fact, we have seen some of that. Our view is that we have given the minority more than ample blocks of time to manage as they will to bring forward with their membership those issues they think they would like to debate on the floor. We hope they are able to use that time wisely.

It does, I admit, put a management burden on the minority leadership to control what they are doing, and I believe that is a fair burden to place on the minority. It is certainly one we had placed on us when we were the minority.

Mr. Speaker, I would hope that we will see wise use of that time, and if we do see wise use of that time, I am entirely satisfied that the 10 hours that we have set aside under the open amendment process will be sufficient.

Mr. Speaker, I urge my colleagues to support both the rule and the bill, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am opposed to this rule. Although my Republican colleagues have been using the words ''fair'' and ''balanced'' a lot lately, I have really learned that by ''fair'' and ''balanced,'' by some of the glossaries on the other side, they really mean ''restrictive.''

In fact, Tuesday I put a chart into the CONGRESSIONAL RECORD that shows the record on restrictive floor procedures. We simply applied the Republican definitions to the Republican rules, and it looks like they have granted about 71 percent restrictive rules so far. Sometimes we may have an open debate, but the rule could be restricted.

Most of the rules that have come out have been under some kind of a time cap which automatically makes the rule anything but open. Today's rule has a 10-hour time cap.

My colleagues on the other side of the aisle argue that this is necessary to keep the flow of legislation moving through the House. Mr. Speaker, what a difference a year makes. Just listen to them last year.

The gentleman from California [Mr. DREIER] said ''The rule is essentially a closed rule because it limits amendments by limiting debate on all amendments.'' Mr. Speaker, this is one of the more egregious rules that have been reported out by the Committee on Rules.

The gentleman from New York [Mr. SOLOMON], my dear friend and chairman of the committee, said last year ''Let me say that I oppose this rule for a variety of reasons, not the least of which is the fact that it restricts the time for the amendment process.''

Mr. Speaker, I agree that it is very important to keep the process moving along, but Republicans have a very interesting kind of time caps. Republican time caps include time for votes in addition to time for amendments, and by my calculations, the last three 10-hour time caps have been actually 7-hour time caps, because the vote has been eating up about three of the 10 hours on each of these bills.

If we had any truth in advertising requirements around here, Mr. Speaker, we would have to call it 7 hours for amendments and 3 hours for a vote time cap. Even more telling is if we would take the number of anticipated amendments, divide them into the remaining hours, we would probably have 10 to 15 minutes to discuss each amendment. That is not what I thought our Republican colleagues had in mind last year when they talked about improving the deliberative process.

It is also interesting to see the pattern of rules that seems to be developing. Yesterday we had a wide open rule on the Paperwork Reduction Act. I want to thank the gentleman from New York [Mr. SOLOMON] and my Republican colleagues for giving me that wide open rule. That is an open rule. I thank them for it, but they cannot put this rule in the same context with that rule.

Mr. Speaker, when the bill is not controversial, we open it up all the way. The more controversial it becomes, the more we close it down, so I think, because this is more controversial than yesterday's bill, we do close it down. They knew that yesterday's bill was nonconfrontational, so they gave us a full, wide open rule.

I think if they keep using that kind of a model, by the time we get to welfare reform, we will be lucky to get an hour for amendments.

Mr. Speaker, it is time for the Committee on Rules to live up to its preelection rhetoric of granting open rules to bills in the contract, and by that, I mean open rules as the Republicans used to define them. This bill would be a good starting point.

I do not think anyone would argue that there are some serious problems in our regulatory process, but there are also a lot of regulations in the pipeline, Mr. Speaker, that will protect American families. They will be frozen out by this bill, because this bill will limit regulations that ensure American families that their food is safe, that their drinking water is clean, and their airplanes are up to snuff.

Mr. Speaker, this bill does not just hurt families, it hurts the business people who play by the rules. By making the moratorium retroactive to November 20, this bill punishes businesses that have worked to comply with regulations, and that is just not fair.

Mr. Speaker, this bill is too far-reaching to be slapped together this quickly and without opportunity for improvement. It needs to be amended, and 7 hours is just not enough time to do it.

MEMBERS SHUT OUT BY THE 10-HOUR TIME CAP, 104TH CONGRESS

Mr. Speaker, this is a list of Members who were not allowed to offer amendments to major legislation because the 10-hour time cap on amendments had expired. These amendments were also preprinted in the CONGRESSIONAL RECORD.

H.R. 728—Law Enforcement Block Grants: Mr. BEREUTER, Mr. KASICH, Ms. JACKSON-LEE, Mr. STUPAK, Mr. SERRANO, Mr. WATT, Ms. WATERS, Mr. WISE, Ms. FURSE, and Mr. FIELDS.

H.R. 7—National Security Revitalization Act: Ms. LOFGREN, Mr. BEREUTER, Mr. BONIOR, Mr. MEEHAN, Mr. SANDERS (2), Mr. SCHIFF, Ms. SCHROEDER, and Ms. WATERS.

AMOUNT OF TIME SPENT ON VOTING UNDER THE THREE RESTRICTIVE TIME CAP PROCEDURES IN THE 104TH CONGRESS

Bill No.	Bill title	Rollcalls	Time spent	Time on amends
H.R. 667	Violent Criminal Incarceration Act	8	2 hrs 40 min	7 hrs 20 min.
H.R. 728	Block grants	7	2 hrs 20 min	7 hrs 40 min.
H.R. 7	National security revitalization	11	3 hrs 40 min	6 hrs 20 min.

FLOOR PROCEDURE IN THE 104TH CONGRESS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendment in order
H.R. 1	Compliance	H. Res. 6	Closed	None
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None
H.R. 5	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; preprinting gets preference.	NA
H.J. Res. 2	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	NA
H.R. 2	Line Item Veto	H. Res. 55	Open; preprinting gets preference	NA
H.R. 665	Victim Restitution Act of 1995	H. Res. 61	Open; preprinting gets preference	NA
H.R. 666	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; preprinting gets preference	NA
H.R. 667	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. time cap on amendments	NA
H.R. 668	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; preprinting gets preference; contains self-executing provision	NA
H.R. 728	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. time cap on amendments; preprinting gets preference.	NA
H.R. 7	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. time cap on amendments; pre-printing gets preference.	NA
H.R. 729	Death Penalty/Habeas	NA	Restrictive; brought up under UC with a 6 hr. time cap on amendments.	NA
S. 2	Senate Compliance	NA	Closed; Put on suspension calendar over Democratic objection	None
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; contains self-executing provision.	ID
H.R. 830	The Paperwork Reduction Act	H. Res. 91	Open	NA
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	ID
H.R. 450	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. time cap on amendments; preprinting gets preference.	NA

Note: 77% restrictive; 23% open. These figures use Republican scoring methods from the 103d Congress. Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I urge my colleagues to oppose this restrictive rule, and I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I am privileged to yield 4 minutes to the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I have a prepared statement here in which I really wanted to talk about the bill that is going to come before us. When I came here 16 years ago, one of my main purposes was to shrink the size of this Federal Government, to reduce the power of the Federal Government, and return it back to the private sector and to local and State governments.

I really wanted to talk about that, but I was just so taken by my good friend, the former chairman of the Committee on Rules, who is now the ranking minority member of the Committee on Rules, when he referred to this rule as the most egregious. What a difference an election makes.

I am reading here from the activity report of the Committee on Rules, which the former chairman, the gentleman from Massachusetts [Mr. MOAKLEY], filed at the end of the 103d Congress. Let me just quote my good friend, the gentleman from Massachusetts.

He says:

An overall time cap allows the House to manage its time, to make more reliable its schedule, and to provide some certainty about when measures will be on and off the floor. The printing requirement does not afford the same time certainty, since there is no way to know in advance how many amendments will be submitted and printed, or how many printed amendments will actually be offered,

And he goes on and on and on. That was the gentleman from Massachusetts [Mr. MOAKLEY], the gentleman we just heard, who now refers to this rule as egregious.

Let me read from the statement of the now-former majority leader of the Democratic Party, who is now the minority leader of the Democratic Party, when he appeared before the gentleman from California [Mr. DREIER], myself, and others who served on the Speaker's joint committee to reform this Congress.

The gentleman from Missouri [Mr. GEPHARDT] said, ''I believe we should support the Rules Committee when it puts time constraints on bills, as this provides more certainly for scheduling legislation.'' He was very wise.

Mr. Speaker, let me now read from the minority whip, who used to be the majority whip. This is what he had to say when we took up the State and Local Government Interstate Waste Control Act.

The gentleman from Michigan [Mr. BONIOR] said, ''The rule limits to 4 hours on this very important bill, to 4 hours, the time for consideration of the bill for amendment under the 5-minute rule.''

This is what he said about the rule: ''This is a simple, open rule. I urge my colleagues to support it,'' and we did. We in the minority supported it, because it was an open rule with time constraints.

My good friend, the gentleman from Massachusetts [Mr. MOAKLEY], standing over there, said something when we debated the American Heritage Act, which would have usurped local authority in my district. I sort of resented that, but I went on to support the rule. However, my friend the gentleman from Massachusetts, said at that time, ''The rule provides that each section shall be considered as read. Only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill will be in order, and debate on consideration of this bill for amendment is limited to 3 hours. This is a good rule,'' said the gentleman from Massachusetts. ''I urge adoption of the rule.''

Mr. Speaker, we have an obligation to move legislation through this Congress and to be as open and fair as we can and maintain comity between the two sides. That is what we are trying to do.

That is why we have had such overwhelming Democrat support for all of these issues during this first 50 days, overwhelming Democrat support for our positions.

Mr. Speaker, I rise in strong support of yet another open rule from the Rules Committee.

I also rise today in strong support of regulatory relief for businesses around the country.

H.R. 450, the Regulatory Transition Act of 1995, will stop the regulators in this town cold. The bill deserves strong support, from both sides of the aisle.

A regulatory moratorium is clearly necessary to halt the big-government regulations spewing forth from the Clinton administration.

The rule before us is a modified open rule, providing for a 10-hour amendment process. The rule does not set forth which amendments can and cannot be offered, it simply says that Members who have amendments should get organized in advance. We have been fair, recognizing the public's desire that we move our contract rapidly to the floor.

Yesterday in the Rules Committee, my good friend Mr. MOAKLEY stated that a rule with a time cap was labeled a closed rule by Republicans when we were in the minority.

Many things have changed in the last few months, but our definitions for kinds of special rules have remained the same. For reference purposes, I would point Members to the charts we inserted in the RECORD during the last Congress comparing open vs. restrictive rules from the 95th to the 103d Congress.

The modified open rule before us today is appropriate for the fair and orderly consideration of the moratorium legislation.

Mr. Speaker, when House and Senate Republicans were preparing to take control of our respective Chambers in December, we wrote to President Clinton and asked that he impose a moratorium on regulations by Executive order.

Since the President spurned our offer, it is necessary to pass this legislation and take a much needed time-out from new regulations. During that time, the Republican majority will schedule a comprehensive bill to reform the Federal rulemaking process.

Commonsense reforms such as requiring a risk assessment and cost-benefit analysis for new regulations will be brought to the floor.

A thorough analysis of the costs resulting from the loss of property rights will not be left out of this discussion.

Mr. Speaker, like so many of the Contract With America items, this is a bipartisan bill.

Several Democrats voted to report the bill from the Government Reform and Oversight Committee, and other Democrats opposed the various exemption amendments offered in the committee markup.

Like all of the other contract for America items, I expect this legislation to attain substantial bipartisan support upon final passage. As was the case with the unfunded mandates bill, a bloc of liberal Democrats may choose to offer countless exemption amendments to H.R. 450, the cumulative effect of which will be to gut the bill if those amendments pass.

But those who seek to relieve the multitude of private businesses that are struggling with needless Government regulation will not be deterred.

To the small businessman attempting to stay afloat in a sea of regulation—help is on the way.

Mr. Speaker, I urge support for the rule and the bill.

OPEN VERSUS RESTRICTIVE RULES 95TH–104TH CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	104	31	30	73	70
104th (1995–96)	13	8	62	5	38

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: ''Rules Committee Calendars & Surveys of Activities,'' 95th–103d Cong.; ''Notices of Action Taken,'' Committee on Rules, 104th Cong., through Feb. 20, 1995.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176.. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of ''Fast Track''	NA	NA	A: Voice Vote. (June 22, 1993).
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993).
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defense authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93).
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993).
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993).
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993).
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994).
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994).
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994).
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994).
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A	A: Voice Vote (Oct. 5, 1994).
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A	F: 83–339 (Oct. 5, 1994).
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A	A: 384–28 (Oct. 6, 1994).
H. Res. 570, Oct. 5, 1994	MC	H. J. Res. 416: U.S. in Haiti	N/A	N/A	A: 241–182 (Oct. 6, 1994).
H. Res. 576, Oct. 6, 1994	C	H.R. 5231: Presidio Management	N/A	N/A	A: Voice Vote (Oct. 7, 1994).

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

A PROCESS PERSPECTIVE ON THE CONTRACT'S FIRST 50-DAYS, WEDNESDAY, FEBRUARY 22, 1995

Mr. Speaker, I think is is appropriate that we should be making day 50 of our 100-day Contract With America on the birthday of the Father of our Country, George Washington.

In his first inaugural address, Washington said that, ''The preservation of the sacred fire of liberty, and the destiny of the republican model of government are justly considered as deeply, perhaps as finally, staked on the experiment entrusted to the hands of the American people.''

Last November the American people said loud and clear that they wanted a change in their government, and entrusted control over their Congress to the Republican party. In the House the change was especially dramatic because Democrats had controlled the institution for the last 40 years running.

Public trust and confidence in Congress had fallen to all-time lows. Our job approval rating was somewhere around 18 to 20 percent. Every public opinion poll yielded the same results: by overwhelming majorities, the people thought we had lost touch with them and were no longer responsive to their views and needs.

The Republican Party offered a bold alternative to the longstanding orthodoxy of the ruling Democrats. We promised, in our Contract With America, less Federal Government, less spending, less taxes and a return of power, responsibility and decisionmaking to the people and the State and local governments closest to them.

In short, our contract recognized what George Washington articulated so well back in 1789, that the survival of our republican form

of government, this great experiment was dependent on returning it to the hands of the American people to which it had been originally entrusted.

And last November the American people spoke with one voice in saying they were ready and willing to take back their government and make it once again the servant of the people and not their master.

In his farwell address as President, in 1796, Washington said something else that bears noting in today's context, and that is that, and I quote, ''The basis of our political system is the right of the people to make and to alter their constitutions of government.''

And by that I think he meant not only the direct amendment of our Constitution, as important as that right is to the survival of our system of government, but also the composition, structure and processes of that government.

Not only did the American people make a major alteration in the composition of their government last November; they also committed to a new way of thinking about the size and role of government and how it operates.

And I am speaking here not just about the executive branch which tends to be the major focus of our attentions, but also the legislative branch.

Just as our Founders made the Congress the first branch of Government in the Constitution, House Republicans in our Contract With America, put the reform and renewal of the Congress first in our commitment to ''restore the bonds of trust between the people and their elected representatives.''

In that contract we promised, and I quote, ''to bring the House a new majority that will transform the way Congress works.* * * To restore accountability to Congress. To end its cycle of scandal and disgrace. To make us all proud again of the way free people govern themselves.''

To that end we promised that on opening day we would pass eight specific reforms ''aimed at restoring the faith and trust of the American people in their government.''

As you are aware, in the longest opening day of the Congress ever, lasting from noon on Wednesday, January 4 until 2:24 a.m. on Thursday, January 5, we kept that promise by thoroughly debating and voting on those 8 reforms and some 23 other changes to House rules. In addition, we passed the Congressional Accountability Act which applies the same workplace laws to the Congress as we impose on the private sector.

Among those opening day House reforms were provisions to cut committee staff by at least one-third; eliminate 3 committees and over 20 subcommittees; abolish proxy voting; open committee meeting and hearings to the public and media; place term limits on committee and subcommittee chairmen, and on the Speaker; require a three-fifths vote to increase income tax rates and prohibit retroactive income tax rate increases; require a comprehensive audit of House books; and require truth in budgeting.

I am proud that the Republican membership of this committee played a major role in helping to draft those House reforms last fall and in managing that package on the marathon opening day.

As you know, the Contract went on to promise in that in the first 100 days we would pass 10 major pieces of legislation. We will not go over all the same ground that our leadership did earlier today in reciting the progress made to date on our contract legislation. Instead, we want to make a few points about how the process has worked to date in the consideration of those contract bills.

Contrary to what you may have read in some newspapers, the contract did not promise that all contract bills would be considered under open rules. What the contract did say was that, and I quote, ''we shall bring to the House floor the following bills, each to be given full and open debate, each to be given a clear and fair vote.* * *''

However, the commitment was clearly there to fairness and openness in debt and voting. There were some serious observers of Congress who suggested that our opening day reforms were at odds with the commitment to passing all this major legislation in 100 days. One observer even recommended that we not make our open House reforms effective until after the 100 days had passed.

Our leadership and conference rejected such suggestions out of hand, knowing full well that things would be more difficult to pass the more open the process was, but that we would be considered hypocrites if we did not apply our own process reforms to our most important legislative measures.

I am proud to report that we have succeeded far beyond most observers' expectations in keeping the process open while still staying on schedule in passing our contract bills. And I am referring both to the committee process in reporting bills as well as to the House floor process in considering them.

I think it is important to note that the contract did not promise that we would pass each of our bills in the exact form as drafted in our contract. Our leadership rightfully recognized that an open process would mean changes in those bills both in committee and on the floor. That is how democracy should work.

Contrary to the baseless charge of some in the other party, we are not walking blindly in lock-step or like lemmings over a cliff in passing these bills without change. The strength of our system is in its deliberative nature and its effect in improving legislation at every stage of the process. That in turn helps to ensure bipartisan and public support for the final products.

Significant amendments have been successfully offered by Democrats and Republicans alike in committee and on the floor, and the bills have consequently gone on to be reported and passed with large, bipartisan majorities.

Our own Rules Committee, for instance, had original jurisdiction over both the unfunded mandate reform bill and the legislative line-item veto bill. We adopted, on a bipartisan basis procedural changes in those bills in committee, and further amended them on the floor, again with bipartisan support. The same was true in the Government Reform and Oversight Committee with which we shared jurisdiction over those bills.

That was true as well at the committee level in other committees reporting other contract bills, and in the further amendment of those bills on the House floor.

Of the first 13 special rules reported by the Rules Committee through the end of last week, 8 or 62 percent were completely open, 3 others were modified open, meaning in this case that they had time limits on the amendment process, and just 2 were modified closed.

Contrast that, if you will, with the first 13 special rules reported by the Democrats at the beginning of the last Congress. Only 3 or 23 percent were completely open, while the other 10 were either closed or modified closed.

In looking at the amendment process that has taken place so far this year under those first 13 special rules, we have found that a total of 148 amendments have been offered on the House floor, of which 74 were adopted. Of those 74 amendments adopted, 38 were offered by Democrats.

So, I think we can say that the process to date has been relatively open, fair, and bipartisan. And that in turn helps to account for the fact that not only were 9 of those 13 rules adopted by a voice vote, but most of the bills have also been passed by large, bipartisan majorities. We are demonstrating both a new openness and responsiveness to the will of the American people that cuts across party lines.

Let me simply conclude by saying that working under the time constraints of the 100-day contract has been exciting and exhilarating, but also difficult and challenging for our committees and House membership. We are obviously working long and hard hours. That in itself produces some tension and conflict in the process.

There have clearly been times when our process reforms have run up against the necessities of getting bills to the floor and getting them passed. There have been some legitimate complaints along the way. But there have also been a host of frivolous and hypocritical complaints from the minority, especially when you consider the restrictive and abusive procedures those same Democrats foisted on us when they were in the majority.

But, from this committee's perspective, if our open House reforms can work in this time-sensitive environment, as for the most part they have, then they will have passed their most difficult test.

The ultimate litmus test is in the quality, approval, and acceptance of the legislation we finally pass. The ultimate judges of that will be the American people. And the fact that our job approval rating by the people has more than doubled since last November, from 20 to 42 percent according to one recent poll, is the most telling tribute that we are not only doing the right thing, but doing it in the right way.

OPEN VERSUS RESTRICTIVE RULES, 104TH CONGRESS

H. Res. No. (date rept.)	Rule type	Bill No. and 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; H.J. Res. 1—Balanced Budget Amndt.	A: 255–172 (1/25/95).
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 Nat'l. Park & Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440—Land Conveyance, Butte County, Calif.	A. voice vote (2/1/95).

OPEN VERSUS RESTRICTIVE RULES, 104TH CONGRESS—Continued

H. Res. No. (date rept.)	Rule type	Bill No. and subject	Disposition of rule
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	A: xxx–xxx.

AMENDMENTS OFFERED TO BILLS IN HOUSE UNDER SPECIAL RULES, 104TH CONGRESS

Bill and subject	Rule and type	Amendments offered	Adopted	Rejected
H.R. 5—Unfunded Mandates	H. Res. 38—Open	53 (R:7;D:46)	17 (R:7;D:10)	36 (R:0;D:36).
H.R. Res. 1—Balanced Budget	H. Res. 44—Mod. Closed	6 (R:2;D:4)	2 (R:2;D:0)	4 (R:0;D:4).
H.R. 101—Land Transfer	H. Res. 51—Open	0	0	0.
H.R. 400—Land Exchange	H. Res. 52—Open	0	0	0.
H.R. 440—Land Conveyance	H. Res. 53—Open	0	0	0.
H.R. 2—Line Item Veto	H. Res. 55—Open	17 (R:3;D:14)	6 (R:2;D:4)	11 (R:1;D:10).
H.R. 665—Victim Restitution	H. Res. 60—Open	1 (R:0;D:1)	1 (R:0;D:1)	0.
H.R. 666—Exclusionary Rule	H. Res. 61—Open	6 (R:0;D:6)	5 (R:0;D:5)	1(R:0;D:1).
H.R. 667—Prisons	H. Res. 63—Mod. Open	23 (R:11;D:12)	14 (R:11;D:3)	9 (R:0;D:9).
H.R. 668—Alien Deportation	H. Res. 69—Open	5 (R:4;D:1)	5 (R:4;D:1)	0.
H.R. 728—Law Block Grants	H. Res. 79—Mod. Open	19 (R:7;D:12)	13 (R:6;D:7)	6 (R:1;D:5).
H.R. 7—National Security Act	H. Res. 83—Mod. Open	17 (R:5;D:12)	11 (R:4;D:7)	6 (R:1;D:5).
H.R. 831—Health Deduction	H. Res. 88—Mod. Closed	1 (R:0;D:1)	0	1 (R:0;D:1).
		148 (R:39;D:109)	74 (R:36;D:38)	74 (R:3;D:71)

Source: Congressional Record, Daily Digest.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. First of all, Mr. Speaker, I want to thank the gentleman for giving me the credit for saying, ''Mr. Speaker, this is one of the more egregious rules reported by the Committee on Rules.'' Actually, I was quoting the gentleman from California [Mr. DREIER]. Those were not my words.

Second, Mr. Speaker, my friend, the gentleman from New York, knows that, of course, I admit putting out closed rules, but I never put out a closed rule and said ''This is a wide open rule.'' I would just like some truth in explaining what kind of rule we are putting out.

We have all kinds of rules, but they cannot say that a rule that has restrictions by time, or on amendments, or caps on time, is an open rule.

The SPEAKER pro tempore. The time of the gentleman from New York [Mr. SOLOMON] has expired.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

We never promised to do open rules, Mr. Speaker. The gentleman did. The whole plan of the Republican Party was every day to get up and talk about the Committee on Rules and the restrictive rules. We never said ''This is an open rule'' when it was a closed rule.

They just went back as soon as they got elected and changed the dictionary. It says ''Open rules. Any rule that the Committee on Rules puts out under the gentleman from New York [Mr. SOLOMON] will be an open rule.'' I just want to be fair with the American people and tell them what kinds of rules we have.

I agree that they are going to need closed rules, that they are going to need modified open rules. I agree they may have to do certain things to get legislation through. But please do not bring every rule out here and say ''This is a wide open rule.''

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I hope the gentleman is going to do what we did when we were in the minority. We supported every single one of those open rules that had time constraints on them.

Let me read this briefly: The Employment Retirement Security Act passed on a voice vote, we supported it; the Black Lung Benefits Restoration Act, with time constraints, we supported it on a voice vote; the Presidio Management bill we supported on a voice vote; and the American Heritage, as I said before, we did.

Let me just say to my good friend, the gentleman from Massachusetts, because we need to get serious, there have been 178 amendments so far allowed during this first 13 bills. Seventy-eight of those amendments were Democrat amendments. Of those amendments that were adopted by this House, 74 in total, 38 were by Democrats, and we voted for them.

Mr. Speaker, that is about as open as we can get, and fair, and to keep this body moving.

☐ 1115

Mr. MOAKLEY. Mr. Speaker, reclaiming my time, I do not disagree with the gentleman from New York [Mr. SOLOMON]. There is only one disagreement. When we were passing out the same kind of rules you are passing out, we were gagging the American public. We were keeping Members of the House from expressing their will. ''That cruel Committee on Rules, another closed rule.'' If we put a period in it, it was a closed rule.

Mr. DREIER. Mr. Speaker, if the gentleman will yield, my friend offered one of my brilliant quotes. I would like to reciprocate by offering one of his brilliant quotes.

Mr. MOAKLEY. I want to say to the gentleman from California [Mr. DREIER], it was an outstanding quote.

Mr. DREIER. This is a quote from October 5, 1994, last fall, and this was during the debate on House Resolution 562, and you, Mr. Chairman, called it an open rule, only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill would be in order and debate on consideration of the bill for the amendment was limited to 3 hours.

Mr. Speaker, the gentleman from Massachusetts [Mr. MOAKLEY], the chairman at that time, referred to this as an open rule. I do not know if he said a wide open rule but it was called an open rule at that point. It seems to me that we have really got to underscore that under the leadership of the gentleman from New York [Mr. SOLOMON], the chairman, we have in fact created an opportunity for amendments to take place, and one of the distinguished Members on your side of the aisle said to me not too long ago, the average American out there believes very sincerely that we should within a 10-hour period be able to address a lot of these issues, and I am convinced that this is the responsible way to deal with it.

I think the gentleman from Florida [Mr. GOSS] has done a marvelous job of managing this, and I thank my friend for yielding.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking minority member of the Committee on Government Reform and Oversight.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in opposition to the rule for the consideration of H.R. 450, the regulatory moratorium bill.

I oppose this rule because it puts a time limit on the consideration of the bill. Based upon the use of this time limit device on other bills, it is very likely that important amendments will be kept out of the debate, because sufficient time to debate them will expire.

The use of a time limit on this bill is particularly inappropriate for the following three reasons:

First, H.R. 450 is not a part of the Contract With America. Arguments about the need to complete consideration of the contract in 100 days do not apply to this bill. In fact, consideration of this bill limits the amount of time for the consideration of other aspects of the contract, so rather than limiting debate time, the moratorium bill should be deferred until after the 100 days.

Second, both Chairman CLINGER and I requested a totally open rule. At our markup, a number of amendments were not offered, because the chairman gave his assurance at the markup that he would request an open rule, and that members would be protected. However, the Rules Committee has ignored the request of the chairman and myself, and now amendments will not be protected if time runs out.

Third, although this bill consists of just a few pages, its reach is infinitely broader. It places a retroactive moratorium on all regulations and regulatory activity and affects every agency of the country, and every law of the Nation. In the past several weeks I have learned about problems this bill could cause in a variety of agencies administering laws written in all of our House committees. This bill was considered in great haste, and we keep discovering new problems caused by its ambiguities. Limiting floor consideration will mean that these problems cannot be corrected and confusion will reign supreme.

During the consideration of the bill in the committee we received a wave of lobbying by tax lawyers, who felt that the bill would unnecessarily hinder their profession, because tax interpretations would be delayed. So the committee made an exemption for tax interpretations.

As we continued to examine the bill after the committee consideration, we kept learning about other problems created by the bill. There were HUD regulations to help the elderly get housing. There were disability benefits for veterans. There were duck hunting regulations. However, those who wanted to exempt these regulations did not have high powered tax lawyers to sponsor their cause. As a result, we will create havoc, if this bill passes.

Mr. Speaker, as I said this bill is not a part of any Contract With America. It was crafted after the election, and could best be called a Contract With Special Interests. The Republican leadership is trying to squeeze this bill into a schedule that is already far too rushed. They apparently hope that the sooner the bill is passed, the fewer flaws we will find.

None of us wants foolish government regulations. Similarly, none of us wants foolish legislation that is poorly crafted. This bill is far too broad, and its effects are far too unknown. I urge defeat of the rule.

Mr. GOSS. Mr. Speaker, I yield 2½ minutes to the distinguished gentlewoman from Ohio [Ms. PRYCE], who is a welcome addition to the Committee on Rules.

Ms. PRYCE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this open rule providing for consideration of H.R. 450.

As the gentleman from Florida [Mr. GOSS], my friend, described in his opening statement, this is a very fair rule. Whether you want to buy into the debate whether this is an open rule, a wide open rule, or a modified open rule, I think we are never going to decide on these semantics between the two sides of the aisle. So let us just call this a fair rule because this is what it is.

When the Committee on Rules met yesterday morning, there was some thoughtful discussion on the pros and cons of limiting this debate on the amendment process to 10 hours. Let me say that I understand and appreciate the concerns that were raised. But there is nothing wrong with trying to impose a better sense of organization and time management on the overall amendment process that we have here in the House of Representatives. Since few Republican amendments are expected, the 10-hour time limit affords the Democratic leadership an opportunity to prioritize their Members' amendments as much as possible and to utilize an en bloc format whenever it is practical. There is no excuse for time to run out if time is properly managed.

In the 8 days we spent debating unfunded mandates, it taught us that discussing duplicative and overlapping amendments is not the most productive use of this House's time.

In addition to supporting the rule, Mr. Speaker, I also support the underlying legislation. Too often the debate over economic growth focuses only on the size of the deficit or on taxes. Escalating regulatory costs are often left out of this discussion. But make no mistake about it, Mr. Speaker, excessive Federal regulations have a tremendous impact on economic growth and the heavy burden of increasing regulation is ever present in our society. Job loss, reduced competitiveness and the diminished productivity are the real costs associated with runaway Government regulations.

The mayor of my hometown, Columbus, OH, recently observed that unless Federal regulations are cut back and based on common sense and measured risk, the waste of billions of dollars of misguided, one-size-fits-all mandates from Washington will cause a public backlash against legitimate Federal regulation.

I wholeheartedly agree. I commend the gentleman from Pennsylvania [Mr. CLINGER], the distinguished chairman of the Committee on Government Reform and Oversight, in moving this bill forward, in keeping with our contract and its commitment to easing Federal regulatory burdens.

Mr. Speaker, I urge my colleagues to support this fair rule so that the House can move one step forward to substantive regulatory reform.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume to say that the gentlewoman just said that under the prescribed rules if the people use their time wisely that there is no reason everybody could not be heard. I would just like to bring to her attention on H.R. 728, the law enforcement block grants, that because the time ran out, that the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Ohio [Mr. KASICH], the gentlewoman from Texas [Ms. JACKSON-LEE], the gentleman from Michigan [Mr. STUPAK], the gentleman from New York [Mr. SERRANO], the gentleman from North Carolina [Mr. WATT], the gentlewoman from California [Ms. WATERS], the gentleman from West Virginia [Mr. WISE], the gentlewoman from Oregon [Ms. FURSE], and the gentleman from Louisiana [Mr. FIELDS] were shut out.

Mr. VOLKMER. Mr. Speaker, if the gentleman will yield, he can add my name to that, too. I had an amendment, too.

Mr. MOAKLEY. Mr. speaker, I yield 6 minutes to the gentleman from Missouri [Mr. VOLKMER], who also was shut out.

Mr. VOLKMER. Mr. Speaker, here we go again. This is another example of gagging Members of the House. There are 435 of us. There are only going to be a few of us permitted to offer amendments and speak on the bill of moratorium on regulations. That is not fair.

All we ask for, some of us, of this House, is not just comity but also fairness, and our ability to be able to express our ideas in this great body, this bastion of democracy. What this rule does is no different than many other rules we have seen come out of this Committee on Rules headed by the gentleman from New York that has restricted Members' ability to express their ideas on the floor of this House.

Mr. Speaker, for a long time, I always wondered about the other body and their deliberative process.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I will not yield at this time. If I have time left, I will yield. Yesterday and the day before, I asked many Members of your side to yield and they refused to yield.

Mr. SOLOMON. But I always yielded to the gentleman.

Mr. VOLKMER. I will yield when I finish my speaking if the gentleman will permit.

The other body many times takes the long deliberative process. I have always felt that they should have some kind of rules as to how that other body operates, the time they take with legislation. But the more I see of this House of Representatives under this majority, I say that maybe the Senate, or the other body, has a lot more going for them, because all they want to do here is cram it. You cannot express your idea. You got elected by your people back home, but try and get recognized on this floor for debate or to offer an amendment. You are not going to get to.

They say at the beginning, the gentleman from New York, I will mention his name again, the day after we were sworn in, back on a Thursday afternoon, in this same Chamber, me standing right here in the same place, that gentleman down in the well right there, and he had a chart, and he was talking about the process of a bill through the Congress and how he had to have time and he was going to give open rules.

We saw an open rule yesterday evening, Mr. Speaker, and it did not take 10 hours. Some bills will take 2 hours. Some bills may take 12 hours. I have been here and you have been here when you have seen legislation take all week, under Democrats. I have yet to see one of your bills take a week.

I have yet to see one of your bills take 3 days, except unfunded mandates, and that was restricted on a Monday evening to 10 minutes on each amendment. So very few bills have had a true open rule.

And what is this bill all about that we are going to take up under this rule? It is about some special interests.

If we ever needed something called lobbying reform, and I do not see that coming, lobbying reform, this bill and a few others we have been taking up, even the one we did last night had to be cleaned up in committee, there was a special provision in there specifically for West Publishing Company, stuck in, other Members were not supposed to catch it, it was supposed to sneak through, and I wonder what lobbyist paid off what staff member or what Member on the other side, on the majority side, in order to get that special little treatment in there in that bill.

What have we got in this bill? We have got things for other people. I know that Tyson's down in Arkansas is going to love this bill. They are going to love it, because it means that the regulations pertaining to what is fresh and frozen poultry going into California is going to have to be put in abeyance under this bill and they are going to continue to sell it into California. Tyson's is going to love this bill.

How many others are going to love this bill? I am sure there are a whole bunch of big corporations out there that just love this bill. It is made for big corporations, for big business. That is who this bill is made for.

Later on, we are going to have a tax bill that is made for the wealthy, just like this bill is made for the wealthy.

In the meantime, what are they saying? ''Well, we're going to cut such things as school lunches.'' One thing I wanted to point out to the Members of the majority, they keep talking about their great contract, I call it a Contract on America. I don't think it is one with America. It was rejected by the people of my district, I want you to know that.

□ 1130

It was a campaign issue in my district. My people rejected it and reject it today because they see what that contract is to their people, to rural America. It is a ruination of the economy and the people of rural America, of the poor people, and it gives to the rich.

It is nothing, that contract is nothing more than good old Robin Hood in reverse, take from the poor, give to the rich.

Mr. GOSS. Mr. Speaker, I am very delighted to yield 2½ minutes to the distinguished gentleman from greater downtown San Dimas, CA, the vice chairman of the Committee on Rules, Mr. DREIER.

Mr. DREIER. Mr. Speaker, I thank my friend from Sanibel for yielding me this time.

Mr. Speaker, I rise in support of this modified, open rule, and I do so to clarify exactly what it is that we are offering. It is a modified open rule. Not a wide open rule, not an open rule, a modified open rule. It is modified because we do have an outside time limit.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I am happy to yield to my friend from South Boston.

Mr. MOAKLEY. Mr. Speaker, I am glad that the gentleman from California has been listening to my remarks, that they have not been just floating out there. I agree this is a modified open rule.

Mr. DREIER. I will say to my friend in reclaiming my time, Mr. Speaker, I always listen to my friend and I look forward to having his vote in support of this modified open rule.

And I should say that as we look at this question we should recognize that truth in marketing or truth in advertising has been brought forward by the 104th Congress, but in the 103d Congress a rule that was put into place to deal with ERISA in 1993, which had a 4-hour time limit to deal with an issue as complex as ERISA, managed by my very good friend from California [Mr. BEILENSON], was described as an open rule and, in fact, when the rule came out it was labeled an open rule, not a modified open rule as we do on this side, it was labeled an open rule and it had constraints on it on an issue as complex as that.

So I would argue that we on our side are being very forthright. And I have to say in response to my friend from Hannibal who was speaking about this issue of having greater opportunities to debate under Democrat rules than they have under ours, it is absolutely preposterous to hear arguments like that.

Anyone who has observed this institution over the last 50 days has concluded, and I know my friend from California, [Mr. BEILENSON] has observed several times up in the Committee on Rules that we are trying to be more open, we are trying desperately to allow Members to have the opportunity to participate, and offer amendments. And we are doing it. We are doing it, based on the track record we have.

My friend, the gentleman from Missouri [Mr. VOLKMER], indicated that we debated measures for weeks under the Democrats. We spent 3 weeks on the unfunded mandates legislation. If anyone questions that, I recommend that they talk to Chairman CLINGER or Mrs. COLLINS. It was a long and drawn-out process but we have gone through that. So we are being more open. I think that the American people have understood that it is absolutely ludicrous to claim that by any stretch of the imagination we are being less open than has been the case in the past.

I strongly support this modified open rule and I hope my colleagues will join in supporting it.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York [Ms. SLAUGHTER], a former member of the Committee on Rules.

Ms. SLAUGHTER. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, this rule is another rush job, another example of our hit-and-run legislation that we have gotten too much of lately. The time limit in the rule continues a disturbing pattern we have seen that has been developing not only in rules on the floor but in the committees.

The process is too sloppy; it is fast and it is arbitrary, and we go through bills in a flash and hope that the Senate will be able to fix them.

I think this rule is further proof that the Contract With America is more concerned with flashy public relations than sound public policy.

A rushed process has left this bill with many flaws. And now we have a 10-hour time cap that makes it impossible to even talk about fixing its problems.

To add insult to injury, the rule counts the time that it takes to vote, again taking away time from this important bill which it is not too broad to say is a matter of life and death.

It is not as if the minority is acting irresponsibly. We have coordinated our efforts to limit the number of amendments in interest of efficiency. For example, I am offering a three-part amendment with three of my colleagues, and despite these combinations it is going to be impossible for us to address all of our concerns in the time available. And we have plenty of concerns.

In order to fix a few problematic regulations the bill shuts down the entire executive branch. In the process it delays or destroys many good regulations, and we are going to offer some amendments to try to affect some of the problems.

For example, my amendment would allow an improvement in the meat inspection system to go forward during the moratorium. I have rarely seen such poorly designed definitions in the bill, and even the bill's author cannot explain the exemption definitions clearly enough to determine which regulations are covered and which are not. The prospect of judicial review means a Federal judge could slice this fuzzy language apart, and every time the administration interprets a definition one way, a lawyer will drag the issue into court arguing for a different interpretation. There it will linger for months or years costing money, time and perhaps lives, even after the moratorium is ended.

Finally and most importantly, H.R. 450 threatens the health and well-being of every American. Every American is protected by regulations every day. We take it for granted, but these quiet rules ensure our health and safety.

We know, for example, that the Clean Water Act has made it possible for us throughout this country to have clean water in every part of the United States. The life-saving regulations with clean water, clean air, food inspection, nuclear plant safety, airline safety, all will be put on hold by this legislation.

Every day, from bad meat in the United States, 11 people die and 13,000 become sick because of the pathogens in the meat.

The scope of the problem demands action, not delay. We should not stop the proposed improvements dead in their tracks. Delay that is caused by the moratorium would sentence 3,421 more Americans to die needlessly.

Mr. Speaker, this rule continues our present practice of hit-and-run legislating. The new leadership cares more about sound bites than substance, and that is why I will vote against this rule and urge all of my colleagues to do the same.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, just briefly, we have been inserting the voting records on all of the rules from last year. The gentlewoman from New York [Ms. SLAUGHTER], from my State, was a member of our committee, and all of the speakers who have risen today in opposition to this rule, all voted down the line for every single one of the restrictive rules last year.

Let me say one more thing. You know we took time to ask the Democrat minority, to ask the conservative Democrats, to ask the Republicans how much time they needed. The conservative Democrats needed no time, they are satisfied with this bill; the Republicans needed no time for amendments on this bill. Therefore, there is a handful of liberals who have a few amendments they would like to offer and they want to take 4 days on this bill. There is adequate time in this rule already.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we are going to have to live with these laws for a very long time, as are all of the American people. Is it too much to ask that any duly elected representative from any of the 435 districts in this country be given, say, 5 minutes on the floor to express their concerns and enter into a colloquy to get questions answered regarding the intents of this legislation or offer an amendment? I do not think that is too much. You may say well, this is the law required by Speaker GINGRICH's contract, and it must prevail.

What will prevail here today is the law of unintended consequences. Is it the intention of the majority to allow the factory fleet, the trawlers out of Seattle, WA, to take all of the whiting off the Oregon coast and put local processors and small boats out of business? I do not believe the Republican majority wants to do that, but that is what this bill will do if we do not have a rule setting the allocations for that season, and this bill will prohibit that.

Is it the intention of the majority to overrule and suspend part of the crime bill that was just passed, part of the contract? What about compensation for crime victims? It cannot happen if we do not have an administrative rule, and what you are doing here today will prevent your part of the contract to give overdue compensation to crime victims, their just due.

□ 1140

Is it your intention? I do not believe so. If it is not your intention, then, to do these unintended consequences, you must give us more time to discuss this. You must give us more time to offer amendments for these things because I cannot say that the majority whip or others really intended to do these things. But that is what will happen if we pass this bill today as written in the contract. The law of unintended consequences will prevail and we will have to live with it for an awfully long time.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. EWING). The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, is it not, under the prevailing new rules of the House, forbidden to use telephone equipment, portable telephone equipment on the floor of the House?

The SPEAKER pro tempore. The gentleman is correct.

Mr. VOLKMER. Mr. Speaker, would the Chair please advise Members they are not to do so?

The SPEAKER pro tempore. The Member are so advised.

Mr. GOSS. Mr. Speaker, I am honored to yield 3 minutes to the distinguished gentleman from Texas [Mr. DELAY], the honorable whip of the majority party.

Mr. DELAY. I thank the gentleman for allowing me this time.

Mr. Speaker, I am just astonished at the rancor over this rule. Ten hours for a bill, 10 hours for a bill that we should not even have to be debating on this House floor. And of course the bill has been totally mischaracterized. But let me talk about this; I have a letter here that I will ask unanimous consent to put into the RECORD, to the President of the United States, dated December 12, December 12, signed by both the leadership of the majority in the House and in the Senate to the President of the United States asking him to put a moratorium on regulations under his direction, understood his control, under his guidelines, so that he can decide which regulations would have a moratorium or not.

And he refused. He refused. We asked him to do this so that when we brought up H.R. 9, the Regulatory Reform Act that calls for common sense and reasonableness in the promulgations of regulations and we worked through that bill and, hopefully, the President signs it, all these new regulations, all these new regulations would be under the new reform of regulations proposed in the Contract.

The President refused to do it. Instead the President, who wants the regulatory police to maintain their patrol of businesses and American families across this country, has chosen to totally mischaracterize and distort and mislead the American people about this moratorium bill.

The President, himself, said that the moratorium would cost lives and property. Well, obviously the President has never ever read the bill, and many of the Members that have already spoken have not read the bill. I have got the bill here for you to read.

But there are exceptions as it pertains to safety and health in the bill. All the President has to do is have one of his agency heads write him and say this will affect health and safety or the routine business, or this regulation will remove regulatory burden, and the President, himself, can exempt it.

In the bill we are giving, even though the President does not want it, we were giving the President the leadership he refuses to take on many issues in this regulatory moratorium, but yet he does not want to.

They throw up duck seasons and red tape. What they are talking being about is they do not want the bureaucrats to go through red tape. The proregulation party, the proregulation

party wants more regulations, they want to be able to put more regulations on the American people. They want to be able to drive up the cost of living to the American families by more regulations and silly regulations that we know are out there that we are trying to stop and bring some reasonableness to the regulations.

We all understand that there are necessary regulations to protect the safety of workers and the health of the country. But all I ask you to do is read the bill. We would not have to have this bill on the floor of the House if the President of the United States would show a little leadership.

(The text of the letter referred to is as follows:)

CONGRESS OF THE UNITED STATES,
Washington, DC, December 12, 1994.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, on November 8th, the American people sent a message to Washington. They voted for a smaller, less intrusive government. We urge you to respond to that message by issuing an Executive Order imposing a moratorium on all federal rulemaking. This moratorium should go into effect immediately and remain in effect for the first 100 days of the next Congress. During the moratorium, agencies should be directed to (1) identify both current and proposed regulations with costs to society that outweigh any expected benefits; (2) recommend actions to eliminate any unnecessary regulatory burden; (3) recommend actions to give state, local, or tribal governments more flexibility to meet federally-imposed responsibilities; and (4) make this information and the analysis supporting it available to Congress.

The moratorium we are proposing should not apply to all regulations. For example, the proposed moratorium should specifically exempt regulations that would relax a current regulatory burden. Previous moratoriums have exempted several types of regulations including those that (1) are subject to a statutory or judicial deadline; (2) respond to emergencies such as those that pose an imminent danger to human health or safety; or (3) are essential to the enforcement of criminal laws. It is our hope that you will review past exemption categories and use them to guide you in establishing similar standards for purposes of administering this moratorium.

Excessive regulation and red tape have imposed an enormous burden on our economy. Private estimates have projected the combined direct cost of compliance with all existing federal regulations to the private sector and to state and local governments at well over $500 billion per year. Your own National Performance Review observed that the compliance costs imposed by federal regulations on the private sector alone were ''at least $430 billion per year—9 percent of our gross domestic product.'' This hidden tax has pushed up prices for goods and services for American families, and limited the ability of small business men and women to create jobs. The Small Business Administration estimates that small businesses in this country spend at least a billion hours a year filling out government forms.

The annual Unified Agenda of Federal Regulations, released on November 10, 1994, indicates that the Administration completed 767 regulations during the past six months and is pursuing over 4,300 rulemakings during the next fiscal year. We believe this moratorium on new federal regulations would send a clear signal that, working together, we intend to ease the burden of federal overregulation on consumers and businesses that has slowed economic growth and stifled job creation.

Thank you for your consideration of this request. We look forward to working with you to ensure that regulatory policy works for the American people, not against them.

Respectfully,

BOB DOLE, TRENT LOTT, THAD COCHRAN, DON NICKLES, NEWT GINGRICH, DICK ARMEY, TOM DELAY, JOHN BOEHNER.

PARLIAMENTARY INQUIRIES

Mr. LAHOOD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. LAHOOD. Mr. Speaker, is it within the realm of the House rules for Members to smoke on the floor?

The SPEAKER pro tempore. That is prohibited.

Mr. LAHOOD. I wish the Chair would advise Members of that, please.

The SPEAKER pro tempore. The Members are so advised.

Mr. VOLKMER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. VOLKMER. Mr. Speaker, at the rear of the Chambers, behind the rail, is that included in the area in which Members can smoke?

The SPEAKER pro tempore. That has been ruled to be part of the floor.

Mr. VOLKMER. And Members are not to smoke in the back behind the rail?

The SPEAKER pro tempore. The gentleman is correct.

Mr. VOLKMER. I thank the Chair.

The SPEAKER pro tempore. Members are so advised.

Mr. GOSS. Mr. Speaker, I yield 1½ minutes at this time to the gentleman from Pennsylvania [Mr. FOX], a member of the Committee on Governmental Reform and Oversight.

Mr. FOX of Pennsylvania. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is a good and fair rule.

I believe that the prescription for economic recovery for this country is the three things we already passed: The balanced budget amendment; stopping unfunded mandates; eliminating pork by use of Presidential line item veto; and finally this very important legislation to stop the needless and costly Federal regulations which is affecting $500 billion annually as a cost to our businesses and therefore it cost jobs.

I think it is important to note this is sound public policy. And one regulatory horror story which I think the American people need to hear about involves a John McCurdy. Mr. McCurdy was the owner of a very small herring smokehouse where he had for many, many years produced more than 54 million filets in his business, without one case in that 20-year period of any food poisoning.

But then the Food and Drug Administration told him he had to acquire a $75,000 piece of equipment. Facing the hopeless choice between installing equipment he could not afford without fighting a legal battle with the FDA, Mr. McCurdy chose the only other alternative. He closed his business and laid off 22 employees.

Mr. Speaker, we need reasonable regulation, regulation that is pro-jobs, pro-employees, and pro-business, which, I submit, is pro-American.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the gentlewoman from Salt Lake City, UT, Mrs. ENID GREEN WALDHOLTZ, a very welcome addition to our Committee on Rules.

Mrs. WALDHOLTZ. Mr. Speaker, this rule is not a closed rule, by anyone's definition. This rule is a fair rule that allows us adequate time to consider this legislation and to deal with it responsibly.

Mr. Speaker, this is what we will be debating, 8½ pages of text in large type. It is important legislation, but it is not complex legislation. It does not void any regulation. In fact, as of November 20 of last year, it does provide us a means to go forward if there is any imminent threat to safety or health or for any other emergency. It also allows us to move forward with regulations necessary to enforce our criminal laws.

Mr. Speaker, 10 hours is more than adequate for us to have the philosophical discussion we must have as to whether this is good for the country, and it is adequate time in order for us to discuss any pertinent amendments to this legislation.

This is important legislation to relieve the burden on the people of our country, and it is a fair rule, and I urge my colleagues to support it.

Mr. GOSS. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Florida [Mr. MICA].

Mr. MICA. I thank the gentleman for yielding this time to me.

Mr. Speaker and my colleagues, the time is really at hand to begin the regulatory reform debate, and I cannot think of a fairer forum that has been provided than this rule.

Now we had the last 2 years to bring forward all kinds of proposals on regulatory reform, and the other side denied the opportunity for this debate. This is a fair rule, this is an open rule, and it is time that we brought before the American people the true facts about regulation, how regulation is tying up this country in knots, how regulation is ruining job opportunities in this country, how regulation is ruining our opportunity to compete in a world market.

□ 1150

This is a fair rule, it is an open rule, and I say to my colleagues, ''Don't be dissuaded by the administration, don't be dissuaded by the other side. This is the time and hour that the debate on regulatory reform has come, and the Nation will know the facts. This is

going to be an improvement for the country.''

Mr. Speaker, I support this rule. It is a good rule, and I ask my colleagues to vote for this rule.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the remaining time that I have on this side to the distinguished minority leader, the gentleman from Missouri [Mr. GEPHARDT].

(Mr. GEPHARDT asked and was given permission to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, Members of the House, I want to rise to comment on this rule. I do not support the rule and will vote against it, but I want to make my feelings, and I think the feelings of most of our Members on our side, clear.

I have been quoted—I am led to understand—about what I say about these rules and what my thoughts are, so I want to make it crystal clear.

We are again and again being met with rules that are not what I define as open rules with a free ability to have a lengthy debate about very important issues. Time and time again on the contract items we are being met with time-limited rules, open in the sense that any amendment can be brought up in that time, but time limited.

Now I understand why there is a feeling on the Republican side that there needs to be time limits, but frankly the reason we are in this bind is because the Republican side has decided that this contract has to be considered in 100 days. It is a self-imposed restriction. I say to my colleagues, ''You have the right to do it, and I accept that, but that doesn't mean that on our side we have to agree with the idea that there is a compulsion or an urgency about getting all this legislation considered in 100 days.''

It is self-imposed. There is no rationality for it. No one would be hurt if this took 125 days. The other body has yet to finish the second contract item and is likely to be the rest of the year doing the rest of the items. It would not hurt us to go 125 days.

But I say to my colleagues, ''I accept the idea that it is your House to run and you'll set the rules. I understand that. But don't ask me to accept the idea or agree with the idea that 10 hours is enough for this bill.''

On two other bills we had, the law enforcement bills, we had 8 or 10 Members from both sides of the aisle who did not get to bring up their amendment because the time ran out. So we are left, when my colleagues do these time limits with open rules, with the ranking member and the chairman becoming substitute rules committees in trying to work out unanimous consent requests to try to get a time limit on different amendments. Now maybe that is the best way to do it; I do not know. It might be better if we could come to the Committee on Rules, and have a discussion and try to time-limit amendments, or maybe even in some cases certain amendments, if we were able to do that. But whatever is done, please do not come to the floor and say that I have agreed to this type of a rule or the Democrats are pleased with this type of a rule.

Mr. Speaker, we are not. We would far prefer to have more time for such important legislation so that Members who have amendments on both sides of the aisle would be assured of the ability to come here and get at least 20 minutes or a half an hour to discuss their amendments. I do not think that is too much to ask. This is important legislation.

I disagree with the idea that this is all straightforward, cut and dried, everybody agrees. They do not. This is going to have far-reaching impacts, just as every other piece of legislation we have had up, so I urge the other side to let us have more time. Let us consider the idea that 100 days is not magic. The country will not fall apart if we do not get every one of these things considered in 100 days.

Let us take the time, both in committee and on the floor, to allow as full, and free, and open a debate of these very important issues and the amendments that people want to bring so that the American people get the best possible product they can get.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BEILENSON].

(Mr. BEILENSON asked and was given permission to revise and extend his remarks.)

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, we understand the desire of the majority to ensure that the bill made in order by this rule, the Regulatory Transition Act, is considered in a timely manner. However, the 10-hour limit on the amendment process contained in the rule is very troubling to many of us on this side.

Based on our recent experience with other bills which were considered under a 10-hour time limit on amendments, we can expect that the actual time spent debating amendments will be much less than 10 hours—somewhere between 6 and 6 hours. Since there are at least 15 amendments Members want to offer, the time limit virtually ensures that some of those amendments will be precluded—or, that the debate time on them will be so limited that it will be meaningless.

During the consideration of this rule in the Rules Committee yesterday, we offered an amendment to strike the 10-hour time limit on the amendment process, since it was our first preference not to have any time limit at all. That amendment was rejected on a straight party-line vote.

Then we offered an amendment to exclude the time spent on recorded votes from the 10-hour limit. That change would have meant that there would actually be 10 hours to debate amendments, rather than 6 or 7 or 8. That amendment was rejected on a straight party-line vote as well.

As I said, the majority's desire to have a time limit on the offering of amendments is understandable, but their insistence on including in that limit the time it takes to hold recorded votes is not. Our request to exclude time spent on recorded votes was a very reasonable one which should have been accepted. I would have provided more certainty about the number of amendments that could be offered, and it would have made the arduous process of paring down and prioritizing amendments—which Members on both sides of the aisle are affected by—significantly less difficult.

There is another reason we ought to be excluding time spent voting from the time limit on amendments: If voting time is included, sponsors of amendments are put in the uncomfortable position of having to choose between seeking a recorded vote and foregoing such a vote in order to increase the likelihood that other Members will get a chance to offer their amendments. It is simply not fair to put Members in that position.

Mr. Speaker, the moratorium on regulations that would be imposed by the Regulatory Transition Act is likely to have far-reaching consequences for the health, safety, and well-being of our citizens. We sought to have ample time to talk about those effects, and to debate modifications to the legislation which would decrease the likelihood that Americans will be harmed by this legislation.

Mr. Speaker, we should not be considering this bill under such a restrictive procedure. I urge Members to vote ''no'' on the rule.

Mr. GOSS. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, an awful lot has been said out here about who got what, and what is an open rule, and whether we have got the right approach to this.

I say to the distinguished minority leader, ''I went back and looked at the Joint Committee on the Organization of Congress, the 103d Congress back when he was in the responsibility of leadership for the majority, and looked at the testimony the distinguished gentleman made before the Joint Committee on Organization of Congress last January.''

Mr. Speaker, he said, and I quote, ''I believe we should support the Rules Committee when it puts time constraints on bills as this provides for more certainty for scheduling legislation.''

I think that that is a fairly clear statement, and I agree that the gentleman has made it very clear that we should not necessarily apply that to his support on this particular rule. But the fact of the matter is we have got a rule here that, when it is compared to the work of the Committee on Rules of the majority last year, and the 103d Congress is at least two and a half times more generous in terms of debate, the time constraints on debate, in legislation that I think most Members thought more pretentious than the debate on the legislation that is in front of us, which is after all a moratorium we are talking about while we get to the real question of real regulatory reform, and I would like to specifically suggest that the Employment Retirement Security Act of 1974, ERISA, it takes about 4 hours to explain what that is, let alone get into a debate on it, and yet we in the minority agreed

by voice vote to go along with what the Committee on Rules of the then majority asked us to do with that time constraint.

Then we had the State and local government Interstate Waste Control Act of 1994, again 4 hours, 40 percent of the time we are allowing for this moratorium resolution to deal with that that affects local governments and States, and it is a very serious issue. Again by voice vote we agreed to go along with that, and why did we do it? In the interests of the management of time. We accepted the responsibility on our side of the aisle, as the minority, to manage our time, to manage the debate, to make sure our speakers got covered what they wanted to get covered, to make sure that those amendments that were going to be brought in were brought in in an orderly way to make sure that dilatory tactics were not going to squeeze out people with higher priority, more worthwhile amendments. That is a responsibility the minority must accept.

Mr. Speaker, I believe any fair, reasonable, prudent observer would agree that 10 hours of open rule debate is plenty for this moratorium, and I believe, if we go back and read the testimony before the Committee on Rules that we had, Ms. COLLINS suggested that she would be able to cluster amendments into packages on the same subject so we could move rather quickly on this particular piece of legislation.

□ 1200

The suggestion was made that somehow this is a self-imposed thing we are doing to ourselves. I would have to disagree with that. It is true that we are trying to move a big agenda. But it is an agenda that has been through the fire of a national referendum back in November. Yes, I would agree the vote at the ballot box was not on the Contract With America exclusively, but surely it was a part of that process, because whether the Republicans made it a part of that process or not, it is clear that many of the Democrats tried to make it a part of that process, and apparently succeeded.

So I would say to try and characterize the Contract With America's agenda as a self-imposed one at this point on this body is stretching the definition of self-imposed somewhat.

I think when you go back and you take a look at what we are trying to do and the way we are managing our time on this side, with the history of the unfunded mandates that we have seen, that legislation I believe was carried over 3 weeks on 8 actual working days, was subject to all kinds of dilatory tactics, we have felt it appropriate from the management of the majority, and we have the management of all legislation to deal with here, we have done a responsible job.

I know we are never going to end the debate on what is an open rule because everybody will define it their way. But the people of this country have spoken that they like better the way we are running the rules of this House right now. We are seeing a rise in the approval rating. When I go home and talk to folks around my district and in other places, I find people say we are finding the debate on the floor a lot more lively, a lot more pertinent, a lot more germane. You are getting good issues out there. They are being voted up or down, but at least it is not a truly gagged issue. People are getting out there and being able to put their hardware out for all to see in this amendment process.

Now, I regret if the other side, if the minority, has been unable to figure out a way to manage what priority amendments they wanted to bring up in the magnificent amount of time that has been allotted, but I suspect that the minority will get good at that, as we got good at it when we were the minority. We had 40 years to practice, and I hope perhaps that in the next 40 years you will have enough practice to be able to do the same. I think that would be an appropriate comparison after 40 years to see how we did.

Mr. Speaker, I urge support of the rule, I urge support of the bill, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. EWING). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 175, not voting 7, as follows:

[Roll No. 159]

YEAS—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
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
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
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)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—175

Abercrombie
Ackerman
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
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
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar

Obey	Roybal-Allard	Torres
Olver	Rush	Towns
Ortiz	Sabo	Tucker
Orton	Sanders	Velazquez
Owens	Sawyer	Vento
Pallone	Schroeder	Visclosky
Pastor	Schumer	Volkmer
Payne (NJ)	Scott	Ward
Pelosi	Serrano	Waters
Peterson (FL)	Skaggs	Watt (NC)
Pomeroy	Slaughter	Waxman
Poshard	Spratt	Williams
Rangel	Stark	Wise
Reed	Stokes	Woolsey
Reynolds	Studds	Wyden
Richardson	Stupak	Wynn
Rivers	Tejeda	Yates
Roemer	Thompson	
Rose	Thornton	

NOT VOTING—7

Andrews	Gonzalez	Zimmer
Clayton	Meek	
Ehlers	Seastrand	

□ 1222

Ms. EDDIE BERNICE JOHNSON of Texas and Mr. KILDEE changed their vote from ''yea'' to ''nay.''

Messrs. STUMP, TALENT, and KINGSTON changed their vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMITTING THE USE OF THE ROTUNDA OF THE CAPITOL FOR A CEREMONY TO COMMEMORATE THE DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST.

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the concurrent resolution (H. Con. Res. 20) permitting the use of the rotunda of the Capitol for a ceremony to commemorate the Days of Remembrance of victims of the Holocaust, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from California?

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation of objection, I am pleased to yield to the the gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 20 was approved by the Committee on House Oversight in its regularly scheduled meeting on February 8, along with three technical amendments, which I will offer at the appropriate time.

This concurrent resolution authorizes the use of the rotunda on April 27 for the annual congressional ceremony honoring victims of the Holocaust during the weeklong Days of Remembrance. Use of the rotunda will be authorized on April 27 from 8 a.m. to 3 p.m.

I understand that the U.S. Holocaust Memorial Council is in the midst of preparing the program for the rotunda ceremony. Many of our House and Senate colleagues have participated in this ceremony, that can only be described as moving, since it began in 1979.

This year, I think, Mr. Speaker, the Days of Remembrance take on special meaning as we commemorate the 50th anniversary of the liberation of the Nazi death camps.

The amendments I have at the desk, which I will offer when the gentleman withdraws his reservation, were recommended by the Legislative Council, and are not substantive in nature.

Mr. HOYER. Further reserving the right to object, Mr. Speaker, I share the Chairman's view that this is a very appropriate resolution, and that the use of the rotunda has historically been set aside for occasions of high moment and importance, and clearly, there is no occasion more important for the international community and humanity than to remember the tragedy that occurred in the thirties and forties, the massive loss of life, and the reality and possibility of man's inhumanity to man.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California [Mr. THOMAS] for the purpose of offering his amendments.

Mr. THOMAS. I thank the gentleman for yielding. I will offer those amendments, Mr. Speaker, when the reservation is withdrawn.

However, I just want to say briefly that as we have noticed a number of celebrations surrounding World War II and the commemoration of particular battles, or the public attention focused on certain aspects of World War II, I can think of no more appropriate remembrance than the impact on the world of the exposure and awareness to the world, of these Nazi death camps.

Mr. YATES. Mr. Speaker, I want to thank the gentleman from California for bringing my bill to the floor for consideration by the House of Representatives. I am pleased that the Committee on House Oversight has acted in such a timely fashion.

The U.S. Holocaust Council is mandated by the statute which created it to observe days of remembrance for victims of the Holocaust. It is equally appropriate for the U.S. Congress to take such steps as are necessary to permit the ceremony marking or remembering those murdered in the Holocaust to take place in the Capitol of the United States where it has taken place for 12 years preceding this one.

This bill will allow the ceremony to occur once again in the rotunda of the Capitol, this year on April 27, 1995.

Mr. HOYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

There was no objection.

The clerk read the concurrent resolution, as follows:

H. CON. RES. 20

Whereas, pursuant to such Act, the United States Holocaust Memorial Council has designated April 23 through April 30, 1995, as ''Days of Remembrance of Victims of the Holocaust''; and

Whereas the United States Holocaust Memorial Council has recommended that a one-hour ceremony to be held at noon on April 27, 1995, consisting of speeches, readings, and musical presentations as part of the days of remembrance activities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the rotunda of the United States Capitol is hereby authorized to be used on April 27, 1995 from 8 o'clock ante meridian until 3 o'clock post meridian for a ceremony as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the conduct of the ceremony shall be carried out in accordance with such conditions as may be prescribed by the Architect of the Capitol.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Thomas: Strike out all after the resolving clause and insert: That the rotunda of the Capitol is authorized to be used from 8 o'clock ante meridian until 3 o'clock post meridian on April 27, 1995, for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust. Physical preparations for the ceremonies shall be carried out in accordance with such conditions as the Architect of the Capitol may prescribe.

Mr. THOMAS. (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute 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.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. THOMAS].

The amendment in the nature of the substitute was agreed to.

The SPEAKER pro tempore. The question is on the concurrent resolution; as amended.

The concurrent resolution, as amended, was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. THOMAS; Strike out the preamble.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from California [Mr. THOMAS].

The amendment to the preamble was agreed.

TITLE AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to that Title offered by Mr. THOMAS; Amend the title so as to read: ''Concurrent resolution permitting the use of the

rotunda of the Capitol for ceremonies as part of the commemoration of the days of remembrance of victims of the Holocaust.''.

The title amendment was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBERS TO THE JOINT COMMITTEE ON PRINTING AND THE JOINT COMMITTEE ON THE LIBRARY

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 86) electing members of the Joint Committee on Printing and the Joint Committee on the Library, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California.

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, I yield to the gentleman from California [Mr. THOMAS] for the purpose of explaining the resolution.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, House Resolution 86 provides for election of the following House Members to the Joint Committee on Printing under the rules: Mr. ROBERTS, Mr. NEY, Mr. HOYER, and Mr. JEFFERSON.

It also provides for election of the following Members to serve on the Joint Committee of the Library: Mr. ROBERTS, Mr. NEY, Mr. FAZIO, and Mr. PASTOR.

Mr. Speaker, as the chairman of the Committee on House Oversight, I serve on both joint committees, and as chairman of the Joint Committee on Printing.

I expect the Committee on House Oversight to hold hearings on ways to reform Government printing and to improve ways of dissemination of Government information, and to make up legislation shortly thereafter.

As a result, it is our hope that in the 104th Congress, these joint committees should become obsolete, and therefore, unnecessary.

Mr. HOYER. Mr. Speaker, I thank the gentleman from California, the chairman of the Committee on House Oversight, for his explanation of the resolution and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from California.

There was no objection.

The clerk read the resolution, as follows:

H. RES. 86

Resolved, That the following named Members be, and they are hereby, elected to the following joint committees of Congress, to serve with the chairman of the Committee on House Oversight:

JOINT COMMITTEE ON PRINTING: Mr. Roberts, Mr. Ney, Mr. Hoyer, and Mr. Jefferson.

JOINT COMMITTEE ON THE LIBRARY: Mr. Roberts, Mr. Ney, Mr. Fazio of California, and Mr. Pastor.

☐ 1230

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. COLLINS of Illinois. Mr. Speaker, during yesterday's rollcall votes 156 and 157 on H.R. 830, I was unavoidably detained. Had I been present, I would have voted ''aye.''

ORDER OF AMENDMENTS DURING CONSIDERATION OF H.R. 450, REGULATORY TRANSITION ACT OF 1995

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 450 in the Committee of the Whole, subject to the limit of 10 hours of consideration limit, that the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed: Mr. CONDIT or Mr. COMBEST No. 18, 40 minutes; Mr. KANJORSKI No. 21 and 22, 30 minutes; Ms. SLAUGHTER No. 28, 30 minutes; Mr. BURTON either No. 5 or 6, 20 minutes; Mr. SPRATT No. 30, 30 minutes; Mr. WAXMAN either No. 36 or 37, 30 minutes; Mrs. COLLINS of Illinois No. 7, 30 minutes; Ms. NORTON either No. 25 or 26, 20 minutes; Mr. TATE, 20 minutes; Mr. HAYES, 20 minutes.

Further, the following amendments and all amendments thereto be debatable for the time specified, equally divided and controlled by the proponent and a Member opposed, and that the Chairman of the Committee of the Whole be authorized to postpone requests for recorded votes on any of the following amendments until the conclusion of debate on all these amendments, and the Chair may reduce to a minimum of 5 minutes within which a recorded vote, if ordered, may be taken on these amendments following the first vote in the series: Mr. WISE No. 38, 30 minutes; Mr. GENE GREEN of Texas No. 20, 20 minutes; Mr. WAXMAN No. 35, 20 minutes; Mr. FATTAH either No. 3 or 4, 10 minutes; Mr. VOLKMER No. 34, 10 minutes.

Following disposition of these 14 amendments, further amendments would be in order, subject to the consideration limit of 10 hours.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 450.

☐ 1232

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 consideration of the bill (H.R. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 30 minutes, and the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee.

Mr. CLINGER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, today we will begin to set the stage for major and much needed regulatory reforms beginning with H.R. 450, the Regulatory Transition Act of 1995.

H.R. 450 provides a very necessary time out on the promulgation and implementation of regulations while Congress is in the process of deliberating long overdue regulatory reforms. During testimony provided at numerous hearings, both in our committee as well as other committees, we have heard endless tales of regulatory overkill. We are hearing the cries from small business owners that have shut down because they are overburdened by regulations—many of which are unnecessary or not cost-beneficial. We cannot afford as a society to continue along this path. According to the National Performance Review, the administration has conservatively estimated that Federal regulations cost the private sector alone at least $430 billion per year—which is about 9 percent of our gross national product.

Mr. Chairman, H.R. 450, introduced by Congressman TOM DELAY and Congressman DAVID MCINTOSH, provides for a regulatory moratorium to begin on November 20, 1994 and ending either on December 31, 1995 or when substantive regulatory reform—risk assessment and cost benefit analysis—is enacted, whichever is earlier. Although it is a broad moratorium on regulations, there are some very commonsense exclusions included in the legislation including exclusions for regulations to address imminent health or safety concerns or other emergencies, military or foreign affairs functions, internal revenue and financial issues, routine administrative functions, and also regulations that will streamline or reduce the regulatory burden. It is up to the head of the Office of Information and Regulatory Affairs or IRA at OMB to

certify that the regulation qualifies for an exclusion and publish a certification to that effect in the Federal Register.

Mr. Chairman, we are going to hear a lot of rhetoric today about how this bill will turn back the clock and undo Federal regulations which have been in place for 25 years. Or other tales of woe that this bill will not provide us with safe drinking water or allow us to have meat inspections. This is absolutely not the case, palpably untrue. This bill does not impact regulations issued before this temporary moratorium period. In addition, the health and safety exemption in the bill allows a great deal of flexibility and discretion to address these concerns. It will be up to those in the executive branch to make decisions as to what specific regulations will be exempt under this broad category.

This is a way flexible piece of legislation.

The legislation provides a number of benefits. First, it will give authorizing committees a chance to review regulations that are already in the pipeline and see whether they meet some of the criteria discussed here in Congress regarding cost-beneficial regulations. Second, it will also give some breathing space from the flood of regulations while Congress considers and passes major regulatory reforms.

Third, it will give the administration the opportunity to review their own administrative processes. I was pleased to see that the President the other day indicated that they were going to undertake a very massive review of existing regulation. I think that complements what we are trying to do here with a moratorium.

Mr. Chairman, I reserve the balance of my time.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I am reminded of something that I read as a child:

Double, double, toil and trouble;
Fire burn and caldron bubble.
Fillet of a fenny snake,
In the caldron boil and bake;
Eye of Newt and toe of frog,
Wool of bat and tongue of dog . . .

Mr. Chairman, like the witches' brew in Macbeth, the bill before us is a dangerous concoction that places the special interests of business ahead of the interest of the ordinary working family.

H.R. 450 is not part of the Contract With America, and I doubt there are few Americans who went to the polls and thought they were voting to weaken food inspection procedures or to put a halt to testing for clean water.

Regulatory moratoria are not new. Presidents Reagan and Bush each had a moratorium on regulations when they took office and President Clinton already has a regulatory review process in place.

The problem with this bill, however, is that it goes far beyond those moratoria. On the one side, it does not ensure that regulations necessary to protect the health and safety of the American people are allowed to proceed. On the other, its broad sweep will kill dozens of regulations that no one would want to kill, including those that help our businesses remain competitive.

In order to explain the nature of the debate that will follow, let me start by making one thing clear. We have all heard horror stories about regulations. Some are cited in the committee's report on the bill.

We agree that foolish regulations should be halted until they receive a proper review. There is not a single amendment that we on this side of the aisle plan to offer that would allow those regulations to go forward. In fact, we have just two kinds of amendments.

One group makes sure that commonsense rules that the vast majority of us on both sides of the aisle would agree should go forward, can go forward. The other group makes sure that the American people are not harmed as a result of the moratorium. Even a strong supporter of a moratorium should take a good look at these amendments, because they make sense.

Let me briefly discuss some of our amendments to explain why they are so important to transforming this broad, sweeping, ambiguous bill into a moratorium that makes more sense.

One of our first amendments will eliminate the retroactive aspect of the moratorium. To my colleagues who are normally concerned about retroactivity of legislation, and to those who have expressed a concern about passing laws that constitute a taking, you should be concerned about this bill's retroactive aspects. Businesses have made millions of dollars of investments based upon the rules they had in front of them. Changing the rules in midstream is totally unfair and unprofitable.

We also have an amendment to clean up the judicial review language, so that clever lawyers cannot tie up regulations in court, even if they are exempted under the bill. Another amendment will clarify the language in the bill that attempts to define what constitutes an ''imminent threat to health and safety'' in order to give the same protection to the American people that the bill gives to private property.

We also have several amendments to legislatively clarify that we do not want certain regulations to be covered by the moratorium. Some are just commonsense rules that carry out laws that enjoyed wide support, or revise procedures that we would agree are necessary. For example, we think Members do not want to block the Federal Elections Commission from enforcing its new regulations prohibiting the private use of campaign funds. Similarly, we do not want to block sensible rules to enforce our trade laws, such as sanctions on China for copyright infringement.

Other rules that we wish to protect are essential to the health and safety of the American people. One amendment, for example, would allow the Agriculture Department to continue its work on improving meat inspection to detect salmonella and E coli bacteria, which you may recall was responsible for the death of several children in the past 2 years. Another gives the Federal Aviation Authority clear authority to regulate aircraft safety.

Throughout our debate in committee, the sponsors of the bill would often reject our efforts to exempt particular regulations by citing some provision of the bill which might provide an exclusion. The committee report is filled with their opinions on how the exclusions should be interpreted.

I would hope that if the proponents of the bill honestly and completely believe that certain regulations are exempted, they would just accept the amendment so we could proceed. We are offering these amendments to ensure that the regulations will be legislatively exempted and to send a strong message to the Senate that we do not want them to pass a moratorium that fails to exempt these regulations. We do not want to enable some clever lawyer to tie these regulations up in court.

So please don't tell us that a certain regulation might be covered by an exemption. If you have no problem with the regulations in the amendment, just accept it, so that we can save everyone the time. We adopted an amendment in committee to exempt tax interpretations; we have done it for bank regulations. We ought to do the same with rules protecting the American people.

In closing, let me note that at our markup, the room was filled with high priced lobbyists all watching to ensure their special interests were taken care of. Today there is a larger audience of people watching. They are the ones we are privileged to serve. Let us not forsake our responsibility to them—the American people—during this debate. Our mission here is to represent them, to ensure that they enjoy good health, breathe clean air, drink germ free water, and work in a safe place in pursuit of their happiness.

☐ 1240

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Alaska [Mr. YOUNG] for the purposes of engaging in a colloquy.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman for yielding me this time for this colloquy.

Mr. Chairman, I appreciate the fact that the Committee Chairman has been willing to work with me to clarify the intent of House Resolution 450.

While this legislation does place a moratorium on regulations issued after

November 20, 1994, isn't it true that the bill also contains a provision exempting regulations dealing with routine administrative actions?

Mr. CLINGER. Mr. Chairman, if the gentleman will yield, the gentleman from Alaska is correct. In fact, section 6 stipulates that there is an exclusion for routine administrative functions of an agency.

Mr. YOUNG of Alaska. Furthermore, is it correct that you have clarified in your committee report that the bill does not apply to the expansion, contraction, or limitation of authority to harvest Federal fishery resources recommended by our Regional Fishery Management Councils or the Atlantic States Marine Fisheries Commission?

Mr. CLINGER. The gentleman is correct, and we were pleased to incorporate his suggested language within our committee report.

Mr. YOUNG of Alaska. Finally, Mr. Chairman, is it not true that H.R. 450 does not cover normal, annual, and routine housekeeping regulations like those establishing the opening and closing of various fisheries?

Mr. CLINGER. The gentleman from Alaska is once again correct and I compliment him for his leadership in clarifying this important matter.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the chairman for this colloquy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], chairman of the subcommittee and coauthor of this important piece of legislation.

Mr. MCINTOSH. Mr. Chairman, this bill would say let us take a time-out on Federal regulations. Let us say to the American people we are going to change the way we do business here in Washington, no more day after day, more and more regulations. We are going to stop and redo the way the regulatory system works, so that we do not have burdensome regulations that cost us jobs, cost consumers more every time they go to the grocery store and ultimately put America at a competitive disadvantage.

The burdens of Federal regulations are enormous. One estimate is that they cost us $600 billion each year. That is the equivalent of $6,000 for every household in America. That is why I refer to regulations as a hidden tax on the middle class. This moratorium will say enough is enough, we are going to put a stop to this daily entourage of new regulations.

The cost of regulations to workers was documented in our subcommittee. Several small business men came in and talked about how they were no longer able to increase their work force, some of them indicated that they had to let workers go because of the cost of Federal regulations. One indicated he had increased investments over a series of years only to have the regulations changed, and that suddenly he had to face the choice of closing down his small business and letting tens of workers leave, or reinvest all of his life savings once again.

A good friend of my mine, Gary Bartlett from Muncie, IN, came up to me and said, you know, I can compete in the world market. I have a small business that I started in my garage. We now make auto parts and sell to Europeans and Japanese auto companies, but my biggest enemy is Uncle Sam and all of the needless and unnecessary red tape and regulations that I have to go through day in and day out.

If we look at the consumer, we have to spend 10 percent of our grocery bill; that means if you go to the grocery store and buy 50 dollars' worth of groceries, $5 of that goes to pay for Federal regulations. We need to stop that hidden tax on the consumer.

One of the regulations that will be stopped in our moratorium is a regulation that would force consumers in the New England States to spend $600 to $1,500 more every time they buy a new car. This regulation is unnecessary. There are ways we can receive the same benefits to the environment without asking the American people to pay $600 to $1,500 more every time they buy a new car.

This hidden tax on the middle class has got to be cut back. We tried to work hard with the administration to identify regulations to cut, to have a bill that would work with them to move forward so we could signal to the American people we have put an end to the entourage of regulations, but no, this administration wants to side with the Federal bureaucrats and continue to issue Federal regulations.

I urge a ''yes'' vote on this bill.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota [Mr. PETERSON], ranking member of the Subcommittee on Economic Growth, Natural Resources and Regulatory Affairs.

Mr. PETERSON of Minnesota. Mr. Chairman, last year, the Federal Government issued over 64,000 pages of regulations in the Federal Register compared to 44,000 pages 10 years ago. Estimates are that our Government employs nearly 130,000 bureaucrats to write, interpret, and enforce those regulations. The bureaucrats responsible for issuing regulations to solve our Nation's problems, have sometimes become the problems themselves. The American public is fed up with silly rules and regulations that cost us time and money and don't accomplish anything. Something needs to be done to change the process.

When I first read H.R. 450 my reaction was that this bill was unworkable and frankly unnecessary. But the more I read and heard about the bill and the regulatory process, the more convinced I am that H.R. 450 is a good idea.

I speak today, Mr. Chairman, for a number of Democrats that support this bill. Do we think that everything in it is perfect? No. If we had dictatorial power we would do things differently, but basically it is workable. And I commend the chairman, the ranking member of the subcommittee, and the minority and all of the staff for working with us on this bill.

One of my main concerns about the original bill was the retroactive provisions. That was until I obtained a copy of the 615 regulations issued between November 9 and December 31 of last year and read them. The more I read, the more I believed that this bill was necessary. If every Member of Congress were required to read every Federal regulation, I am convinced that all of you would have a different view of the Federal regulatory process. The longer I worked on this bill, the more convinced I was that a wholesale attitude change was necessary in the regulatory process. I became convinced that what was needed was a 2 by 4 between the eyes of the Federal regulatory bureaucracy. H.R. 450 is just that, a 2 by 4 which serves as a wake up call, putting the bureaucracy on notice that business as usual is over.

This bill was crafted taking into account the failures of the Bush-imposed moratorium. It is meant to be wide in scope and to avoid narrow exclusions. H.R. 450 exempts routine regulations, it exempts regulations which reduce or streamline the regulatory process, it gives the administration the full authority to exempt regulations that are a threat to health and human safety, and is limited to those regulations that need to be looked at and reassessed. H.R. 450 places a temporary hold on regulations until common sense risk assessment and cost-benefit analysis is passed and signed into law. Furthermore, H.R. 450 gives the committees of jurisdiction time to look at regulations and lets them ask the question: Do these regulations really make sense?

The bottom line is that business as usual will be over with the passage of H.R. 450. It is a message that needs to be sent to the bureaucracy. The American people want a change in our inflexible and over-burdensome regulatory rulemaking process. I'm tired of going home and hearing yet another regulatory horror story. For example, Moorhead, MN, in my district, is being forced to pay $10 million to change their municipal water system when the engineering experts and health officials admit it is a waste of money. The regulations mandating this are not sensible, but typical of well-meaning but over-intrusive Federal bureaucrats.

I want to thank committee chairman CLINGER and subcommittee chairman MCINTOSH for their hard work and willingness to make this a bipartisan effort. While this bill is not perfect, it is workable and serves as a wake up call to the bureaucracy telling them things have changed. This bill puts us on course for a regulatory change in attitude which involves risk assessment and cost-benefit analysis, and hopefully keeps the Federal Government out of the people's lives except when it is absolutely necessary.

□ 1250

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the majority whip, the gentleman from Texas [Mr. DELAY], another coauthor of this very important piece of legislation.

Mr. DELAY. I thank the chairman of the committee for yielding this time to me.

Mr. Chairman, I have been waiting for today for 16 years. Ever since I opened up my small business and started to have to deal with bureaucrats constantly knocking at my door and piling on the paperwork, I have wanted to do something about the problem of Federal overregulation. With H.R. 450, the Regulatory Transition Act of 1995, we begin the process of reforming the regulatory system.

Regulations are out of control, and are only going more so under this administration. Measured by the number of pages in the Federal Register, in which all new regulations are published, each of Mr. Clinton's 2 years in office have seen the most regulatory activity since President Carter's last. The number of ''actual pages'', not counting corrections and blank pages in 1994, was 64,914 pages, the third highest total of all time, and an increase from 1993's count of 61,166 actual pages. Despite rhetoric to the contrary, regulatory activity under the Clinton administration is increasing, not decreasing.

In fact, the average American had to work full time until July 10 last year to pay the costs associated with government taxation, mandates, and regulations. This means that 52 cents of every dollar earned went to the government directly or indirectly.

On November 8, 1994, the American people sent a message to Washington. They voted for a smaller, less intrusive government. An important step toward reaching this goal is curtailing these excesses of Federal regulation and red tape that are now estimated to cost the economy over $500 billion annually.

Although regulations are often well-intended, in their implementation too many are oppressive, unreasonable, and irrational. For example:

An environmental engineer was criminally convicted of contaminating wetlands for moving two truckloads of dirt.

Another man faced a grand jury because he stabbed a protected falcon with a pitchfork as it killed a chicken in his front yard.

Mr. Chairman, one company paid $600,000 for failing to fill out a Federal form even though it had complied with an identical State law.

A drycleaner was fined for not posting a piece of paper listing the number of employee injuries in the last 12 months, when in fact there were no injuries during that time.

What do you think are the effects of such regulations? Besides the fact that Americans tend to lose respect for their Government, there is also the issue of cost. Regulatory costs that are imposed on businesses—both big and small—have to be paid, but you can be sure they are not paid by the business. Instead, these costs are passed directly on to the consumer, increasing the prices for the goods and services they buy and lowering our standard of living. Every American needs to realize that excessive regulation affects their family and their personal lives directly.

The last thing the Government should be doing is making it harder for Americans to pursue their dreams of entrepreneurship. Rather, we should be facilitating it, so that Americans can provide for their families free of regulatory roadblocks, which will result in a continued high standard of living for the whole country.

H.R. 450 is such a facilitator. This bill establishes the moratorium on Federal regulations President Clinton refused to order himself last December. It gives Congress—Republicans and Democrats alike—some breathing room to pursue the process reforms that are embodied in the Contract With America, such as cost-benefit analysis and risk assessment. Those reforms will then apply to those regulations that were suspended during the moratorium period, so that no new regulations since the election will have been promulgated without having gone through the tests of sound science and proper cost and risk analysis.

Make no mistake. A Federal regulation is a law that can affect life, liberty, and property of Americans. Fairness, justice, and equity must be reflected in the laws of the land, including Federal regulations.

The 104th Congress should undertake a thorough review of Federal regulations, starting with the way they are made and enforced, and make such adjustments to the statutes of this land as are necessary to reflect the mandate of the American people. No such thorough review has been possible for some 40 years. It is a daunting but welcome task. It cannot be achieved overnight, nor even in the first 100 days of this Congress, but we can make a start. That start will be impeded if legions of new regulations go into effect before even the initial consideration for regulatory reform and relief can be given.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 5 minutes to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

(Mr. SPRATT asked and was given permission to revise and extend his remarks.)

Mr. SPRATT. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, I rise in opposition to H.R. 450, the Regulatory Transition Act of 1995, as it is now written.

I share the concerns of this bill about the burdens of regulation. I believe the regulatory maze needs to be cleared out. But this bill is not the way to go. This is the all-time case of throwing out the baby with the bathwater.

H.R. 450 freezes action on almost all Federal regulations issued between November 20, 1994, and December 31, 1995. Its reach is so broad that even its sponsors can't tell us exactly what it embraces. For one thing, they did not try to inventory all the regulations issued or about to be issued before they filed this bill; and they cannot foresee all of the regs that may be needed over the next 10 months.

This bill reaches from health and safety rules to trade rules to rules for auctioning the radio frequencies. It includes rules I would gladly vote to suspend and rules I have worked to see implemented. It makes no distinction between regs we need and those we don't, and that's the problem with it. By reaching so far, it runs the risk of creating as much confusion as it seeks to prevent.

Let me give you just a sample of the regulations this bill may block:

On February 3, the USDA issued a rule to reduce illnesses caused by contaminated meat and poultry, due to E coli and salmonella. Now, you may think this rule falls under the exception in the bill for emergency regulations that deal with imminent threats to health. After all, the Centers for Disease Control estimates that 9,000 people a year die from food-borne diseases. But we debated that question in committee and came to no clear conclusion, because no one can say definitively whether the USDA rule deals with an imminent threat to health. The sponsors of the bill refused to delete the word imminent, and wouldn't accept an amendment that would settle the issue by specifying that the USDA reg is excluded, so the bill comes to the floor with a fundamental issue like this unsettled.

On December 21, HUD issued rules to prevent alcoholics and drug addicts from being admitted to HUD-assisted elderly housing. That's something most of us would support. Current regulations have been construed by the courts to treat disabled persons, as elderly, and the disabled include alcohol and drug addicts. Some may think that this rule falls under the exclusion for routine administrative functions, but that too is far from clear; and so unless we make this exclusion clear, the elderly may just have to wait to get the addicts out of their housing projects.

On December 2, 1994, Customs issued a rule to stiffen the penalties against illegal textile and apparel imports. Next month, Customs will issue draft rules of origin for textile and apparel imports. These rules of trade will stop Hong Kong from shipping to us under their quota goods that are actually made in China. Why suspend regs that stop fraudulent trade?

On January 4, 1995, an INS rule on asylum reform became final. This rule would defer the granting of employment for persons seeking asylum. Under the prior rule, asylum seekers were granted employment authorization simply upon filing for asylum. Everyone knows that asylum processing needs reform; why pass a bill that will stop it?

On January 24, 1995, the FAA issued airworthiness directives aimed at potential safety problems in aircraft. These are real safety concerns, but they may not fall within the emergency exclusion a an imminent threat,

and also may not fall under the exception for routine administrative functions.

This is merely a sample. There are at least a hundred regulations of some significance that have been issued that I could cite; and these are the regulations already issued. What health or safety rules will be issued or needed over the next 10 months that we can't foresee now? Often during markup, when we raised a question about prospective regulations, the sponsors assured us that they probably fell under one of the exceptions of the bill. But they could not be sure, so the issue is left hanging on words like imminent and routine, which will be litigated at length over the next year if this bill is ever enacted.

In committee, we did carve out a few explicit exemptions for tax and banking regulations. But why have specific exemptions only for banking and income taxes?

During consideration of the bill, amendments will be offered that exclude certain regs in clusters, under a particular heading. Our object in offering these amendments is to clear up a path through the enormous gray zone created because the boundaries of this bill are so ambiguous. For example, there will be amendments that make it clear that this bill does not block the Customs Modernization Act from being implemented, that make it clear that this bill does not stop sanctions against China or against other countries that engage in certain kinds of fraudulent trade, that settle any question about food safety regulation, that deal with airline safety, mine safety, that make it clear that this bill will not stop long-awaited rules for transuranic nuclear waste disposal, so that the Waste Isolation Pilot Project can go forward, that upgrade with mammography quality standards, that deal with personal use of campaign funds, that broaden veterans benefits for Persian Gulf syndrome, and that even deal with hunting season for ducks and waterfowl.

There will also be amendments that make the bill prospective only and remove one of its most problematical features—judicial review. This bill is not without merit. But it needs a lot of work before it deserves to be passed, or else we will create far more confusion than we prevent by passing it.

□ 1300

In committee we did carve out a few explicit exceptions for tax and banking regulations. But why have specific exemptions that clarify the bill just for taxes and just for bikers? During consideration of this bill amendments will be offered that include certain regs and clusters under a particular heading. Our object in offering these amendments was a clear path through this fuzzy gray zone that is created by this bill because of boundaries of it are so ambiguous. I urge every Member to carefully consider and to vote for these clarifying amendments that will create sensible exceptions and exclusions to this piece of legislation.

Mr. CLINGER. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, we are literally drowning in regulations. Let me say to my colleagues that something is dramatically wrong when the tooth fairy can be charged with mishandling biohazardous waste. Tens of thousands of pages of regulations have been passed, millions and millions of complex rules for average Americans to deal with. I guarantee the average American cannot get up in the morning and live 1 day without violating one of these rules. We have tied up business, we have tied up industry, we have tied up local government. This is what the November 8 election was all about. The other side just does not get it.

This bill does not stop regulations. This only says, ''Stop, look and listen.'' This bill does not affect public health, safety, and welfare where there is an emergency.

I say to my colleagues, ''If all else fails, read the bill.''

President Reagan's measure in 1981 did some good; I am sorry, his executive order only stopped some of the onslaught. If we do not have the leadership from this administration to do the same thing, this Congress will impose this moratorium, and this is not a permanent moratorium.

If all else fails, read the bill. It is only temporary. It is only this year.

I submit that we have to stop killing jobs, we have to stop killing productivity, and we have got to allow this country to compete in the international arena. If we pass this measure, we can begin to do just that.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. CONDIT].

(Mr. CONDIT asked and was given permission to revise and extend his remarks.)

Mr. CONDIT. Mr. Chairman, I rise in support of H.R. 450, and I would like to associate myself with the remarks of the gentleman from Minnesota [Mr. PETERSON] who I think has done an outstanding job on this. I want to commend him for that.

Mr. Chairman, I thank the gentlewoman for allowing me this time to speak on this important issue.

Speaking with people back home, time and time again, the problem of unnecessary and overly burdensome regulations is brought to my attention. So I am pleased that this House is now considering H.R. 450, the Regulatory Transition Act of 1995.

Mr. Chairman, just so there is no misunderstanding, many existing Government regulations are necessary, and provide significant benefits to our country. My concern is that in recent years, at a time when the number of regulations are increasing, we are failing to ensure that these regulations address real risks at a cost that is comparable to the benefits provided. As you may know, improving the Federal Government's ability to conduct risk assessment and cost-benefit analysis has been an interest of mine and I look forward to continuing these efforts.

I must agree that a moratorium on regulations is a controversial first step. But it is one that I support because we must begin now, if we are to reform the flawed processes which have resulted in so many regulations and simply do not work in the real world. I am pleased that the Congress will soon be considering important changes in our rulemaking process, such as requiring risk assessments on all major regulations. However, these changes will take time. That is why I believe that a moratorium on new regulations is a necessary first step toward reforming the regulatory process.

No one can anticipate the future, and I believe that it is important that H.R. 450 grants the President broad authority to grant exemptions from the moratorium for emergencies. I am also pleased that the bill excludes regulations that repeal or streamline current regulatory burdens.

Regulatory reform should be a priority for the 104th Congress, and I am encouraged that we are now moving forward with H.R. 450 to begin the effort on regulatory reform. I urge Members to support this legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Chairman, the Republican Party would like to have the American public believe that all government regulation is evil and burdensome. The proposal before us today will stop all government regulations issued since November 20, 1994. I believe this is another master gimmick being promoted by the headline hungry Republican Party that is willing to pursue destructive policy in order to gain favor with a disenchanted public. This is one more initiative by the Republican Party to close debate and rule by decree. This proposal paralyzes Government in order to fix it. This is not the way to do things around here. We do not need to hurt our fellow American citizens in order to help them.

Let me give my colleagues two examples in agriculture alone. The first relates to the fresh cut flower and fresh cut greens promotion information program which was implemented when the rule passed in December 1994. If House Report 450 is passed today, the program cannot be implemented and will result in widespread losses to producers and to shippers. We are talking here about jobs.

A second example is rules establishing comprehensive regulations governing the introduction of nonindigenous organisms that may be plant pests. It is estimated that harmful introductions have cost the American taxpayer $97 billion. We need these regulations to protect the American public.

Mr. Chairman, my own district, where we have a base closure example, we required local hiring preferences. Those regulations were put into law just recently, the Federal Register, so that one could hire local businesses affected most by the base closure. Those base closures would be thrown out.

Lastly, let me just read a part of the bill here that says the enactment of new law or laws require that the Federal rule-making process include cost-benefit analysis. I say to my colleagues, ''You cannot, you cannot, do cost-benefit analysis. You can't do it for military music, the salute to the flag or to the kinds of provisions that are included in this bill.''

I urge a rejection of House Report 450.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. BASS], another new member of the committee.

(Mr. BASS asked and was given permission to revise and extend his remarks.)

Mr. BASS. Mr. Chairman, I rise in support of House Resolution 450.

Sixty-five thousand pages—actually 64,914 pages—in 1994 alone. Who reads all these pages? Who is affected by all these pages? Who is writing all this staff? The answer is there are a lot of people writing a lot of regulations. Nobody has the opportunity really to understand what is going on. We need a rest.

Mr. Chairman, that is what House Resolution 450 does. It gives us a rest for a little while. We have got to get on the stick here and reduce the size and influence of the Federal Government.

Who is going to be affected by all these regulations and the moratorium that we will have over the next year? My colleagues, it will be families, small business people, people who are affected day in and day out by these regulations.

I do not know what all these people are going to do who write all these regulations. They will probably be listening to classical music for the rest of the year, but it is time we pass this bill, House Resolution 450.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. BAESLER].

Mr. BAESLER. Mr. Chairman, I would like to associate myself with the remarks of Mr. PETERSON. I support this bill very strongly because I think it will go a long way in preventing some irreparable damage to major industries in Kentucky, namely tobacco and the soft drink industry, and I fully support it, and I vigorously resist many of the amendments that will try to undo what this bill tries to do.

Mr. CLINGER. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas [Mr. ROBERTS], the chairman of the still powerful Committee on Agriculture.

(Mr. ROBERTS asked and was given permission to revise and extend his remarks.)

Mr. ROBERTS. Mr. Chairman, first I want to thank the gentleman from Pennsylvania [Mr. CLINGER] and the subcommittee chairman, the gentleman from Indiana [Mr. MCINTOSH], for their work to make sure that this legislation will not in any way impede the routine regulatory decisions and actions vital to commerce in a very workmanlike fashion, which my colleagues have done. They have addressed the concerns of the Committee on Agriculture; I appreciate that; with report language that clearly states this legislation is not intended to apply to the marketing orders and our ability to distribute the vital commodities that we have to do.

This legislation is good for agriculture, it is good for rural and small town America, and it is long overdue.

Now some of my colleagues across the aisle, I understand their concern, but they have expressed very reasonable concerns about the law of unintended effects, that this moratorium will endanger essential regulations. That is not the case. This bill exempts routine administrative action and most of the warnings that have been raised by the majority.

Now I realize virtually every Federal agency is under marching orders by this administration to warn of impending doom and that the regulatory sky will fall. That is not going to happen now. I am also sure that agency lawyers can interpret legislation to provoke all sorts of legal problems, if they so choose.

□ 1310

That does not have to be that way. We should not have a problem.

The other side of the story in reality is that regulatory overkill pouring out of this town has endangered the economic well-being and the essential services of virtually every community, every county, every State, every business up and down Main Street; every hospital, every school, everybody in America. The total cost, $600 billion nationwide, and it is breaking the back of our local government.

What is at stake is the very confidence of the people of the United States and their faith in our Government. We are regulating our citizens out of business with a shotgun, You-are-guilty-until-proven-innocent approach. The gentleman from South Carolina [Mr. SPRATT] said we should not throw the baby out with the bath water. Right now the bath water would not meet the clean water standards, the soap would not be labeled right, the tub would be judged unsafe, and parents could not bathe the baby without proper instruction, certification and schooling. It is time for moratorium.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

(Mr. RICHARDSON asked and was given permission to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, I oppose this legislation, but let me say at the same time I have great respect for my friend, the gentleman from Pennsylvania [Mr. CLINGER], who is producing rapidly a lot of legislation.

I do think that we have to be careful. When we look at what moratoriums mean, basically any moratorium in my judgment is not good. It is basically creating temporary bottleneck and gridlock. This is something that the other side has abhorred for years. But when you have a moratorium, it means nothing can happen. You delay a decision.

So what we are doing is creating regulations, in my judgment, that do not create jobs. What we are doing is preventing regulations that create jobs, that protect children, that keep planes and trains from crashing, and keep hunters from hunting. That is in essence what we are doing. What we are doing is basically trying to use Band-Aids after open heart surgery.

The administration has worked hard and with success to streamline agency rule making. Let that continue. The Congress can use its oversight authority to curb overzealous agency action. The Vice President has taken the lead in this direction, not just with reforming government, by cutting Federal workers, over 280,000, to finance the crime bill, and there are task forces in every single department of government designed to curb regulation. This is ongoing. Why do we have to interfere with this process?

This moratorium is so strict that agency employees would be prohibited from almost doing anything by risk assessment. In other words, a paralysis would virtually take place. Any agency decision to exclude a rule except for emergencies could be challenged in court, tying things up further and keeping lawyers further employed.

The committee made sure that exclusions exist for tax and banking regulations, but they would not add exclusions for meat and poultry inspection, safe drinking water regulations, mine safety regulations, programs that help the working class. Assurances that exclusions protect health and safety regulations are not worth anything. They are going to be tied up in court with lawsuits. We are employing a lot of lawyers with this legislation.

The committee language makes it easier to exclude regulations on the basis of damage to property, rather than damage to individuals and human beings. So what we have is piecemeal legislation, a piecemeal amendment process, exempting certain statutes and programs from the moratorium. It is more evidence of the fact that this is a bad idea. How do we pick and choose in a day what should be exempt and what should not be exempt?

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 1 minute to the gentleman from Texas [Mr. COMBEST], the chairman of the Permanent Select Committee on Intelligence.

Mr. COMBEST. Mr. Chairman, this bill goes right at the heart of what the frustration in this country is, and I would challenge Members of this Congress to walk down the streets of your community, stop anyone, and ask them what their concerns are, and I bet you more than not you will hear that the

concerns are over-government regulations. For 10 years that is what I have heard in my district. It is ironic that people in the district look at the concerns and then recognize the fact that this administration is trying to govern by regulation.

Most people in my district do not understand that regulation that seems to be so stupid can many times be put into law. What we are doing by this act, Mr. Chairman, is we are going to put the stupid test to regulations. If it is stupid, it is not going to become one.

There is nothing that is creating more of a problem economically to the American people than over-government regulation. The average American family today is expending $6,000 a year to comply with Federal Government regulation. That is $6,000 they ought to be able to keep in their pocket.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Chairman, whether the regulation is smart or stupid will make no difference under this legislation before us today because this legislation will stop all regulations, without giving consideration to whether it is very much needed by the middle class in this country.

People look to regulations to protect them from harm. Whether it is environmental threats or safety concerns, regulations are in place to be there to protect people. This legislation would put a moratorium on all those regulations.

The big winner will be the corporate special interests that will be relieved from the obligation to live up to standards that protect the public. The big loser will be the middle class, the people who are hard working and expect that someone is going to pay attention to them. And the people they are looking to are those of us in this Hall today.

The tobacco industry illustrates to me a good example of how H.R. 450 would work. There is probably no more protected special interest in America than the tobacco industry, yet the tobacco industry would probably be the Nation's biggest winner under H.R. 450.

The Food and Drug Administration is in the process of conducting an investigation as to whether the tobacco industry acted improperly in adding or manipulating the nicotine in cigarettes to keep people addicted, and particularly marketing it to kids. So FDA is trying to decide do they have jurisdiction over this matter. This moratorium legislation would keep FDA from even doing its investigation, let alone promulgating any regulations.

OSHA is looking at protecting people in the workplace from secondhand smoke. It is a serious environmental threat. It is a class A carcinogen. It can cause a nonsmoker who is forced to breathe in that smoke to get lung disease and heart problems. All of these concerns we think about when we associate cigarette smoking and the smoker, yet OSHA would be stopped from their investigation on this very issue because the scope of this proposal is so broad that they could not even get further comment on a proposal to deal with protecting people in the workplace.

This is not what the American public wants, regulatory relief that allows the tobacco industry to continue to promote and sell cigarettes to our children.

There are other examples of how this bill will hurt the middle class. It will delay efforts to improve the safety of meat, poultry, and seafood. It would remove dangerous chemicals from drinking water under a proposal, and those proposals would be stopped. There is a proposal to establish standards for mammography, and those standards would be stopped. Protect children from iron poisoning and reduce toxic emissions from incinerators, these are regulations that are about to be proposed, and they would be stopped by this moratorium.

I think it is a part of what is clearly not just in and of itself a transition to another bill, it is part of a salvo on attacking all of our Nation's regulatory safety net.

Other provisions we are going to get up before this Congress next week which are part of this so-called Contract with America would be even more extreme, because they would create a regulatory maze that would prevent the agencies from protecting our health and safety. They in fact would roll back 25 years of environmental progress.

There are good regulations, there are bad regulations. Let us figure out how to make regulations smart and effective, not simply to take all regulations and stop them from going into effect, either through a moratorium, which is part of what this legislation would do, or the regulatory, so-called, reform bill that we will get next week, which will cripple government from doing anything to protect people. The people we are trying to deal with are the middle class.

□ 1320

Mr. CLINGER. Mr. Chairman, may I inquire as to how much time is remaining on both sides?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] has 14 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 5 minutes remaining.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield 1 minute the gentleman from Minnesota [Mr. GUTKNECHT], another new and very valued member of our committee.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for yielding time to me.

(Mr. GUTKNECHT asked and was given permission to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Chairman, I do not know how many times we have watched NCAA basketball games or other basketball games on TV. We will see, when one team has a run and they have scored about 11 points in a row and the other team seems to be against the ropes. And we will hear the announcer oftentimes say, it is time to get a TO. They better take a TO. And we all know what that means. Let us take a time out.

Let us, if one is the coach or if one is a supporter of that team, they know what that means. The other team has a run going. You are against the ropes and you need some time to just think about it, to regroup, to go back to the huddle and see of you cannot restructure this thing.

I think what small business and even some big businesses around the country are saying, please, let us at least have a TO. Let us take time out so that we have time to recapture our thoughts and perhaps see if there is not some sensible way to deal with this.

What American business is not saying is, we want no regulations from the Federal Government. I think what they are saying is, we want reasonable regulations. That is what this is about. This is a time out.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. FATTAH].

Mr. FATTAH. Mr. Chairman, I thank the ranking member, the gentlewoman from Illinois [Mrs. COLLINS], for yielding time to me.

(Mr. FATTAH asked and was given permission to revise and extend his remarks.)

Mr. FATTAH. Mr. Chairman, during the course of our deliberations on this bill, I am going to offer an amendment that would exempt from this moratorium the proposed regulations of the Federal Trade Commission to prevent telemarketing fraud. The Telemarketing Consumer Fraud and Abuse Prevention Act of 1994 was a law that was passed in the last session. That law had broad bipartisan support in the last Congress. It passed in the House by a vote of 411 to 3. It passed the Senate by a voice vote.

Numerous congressional hearings over a 7-year period have shown that telemarketing fraud was costing Americans about $40 billion a year and that the elderly and small businesses are the principal victims. The hearings also showed that new legal tools were needed to stop this rip-off. The law directs the FTC to issue its final regulations by August 16, 1995, and then the law, in a novel approach, authorizes State attorneys general as well as the FTC to enforce these Federal regulations.

H.R. 450 would bring to a halt this bipartisan effort to stop telemarketing fraud. H.R. 450 prohibits the FTC from issuing a final rule by the statutory deadline of August 16, and it even prohibits the FTC from going ahead with

analyzing public comments and holding a public hearing on the proposed rule.

Sections 6(3)(A) of H.R. 450 makes it clear that the moratorium applies both to the issuing of a rule and to any other action taken in the course of the process of rulemaking. This amendment should be supported hopefully by both sides of the aisle.

Mr. Chairman, the last Congress spoke clearly and decisively on telemarketing fraud. There is no reason for us to put that work on hold.

I urge support for this amendment, when it comes up in the debate.

Mr. CLINGER. Mr. Chairman, may I ask who is entitled to close debate?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] is entitled to close debate.

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

I want to point out a couple of things that have been discussed during the debate this afternoon. The gentleman from California indicated that this bill was going to roll back 25 years of health and environmental legislation. And that would be true if in fact we were going to reach back and deal with the regulations that have been put on the books in those 25 years, but that clearly is not the case.

This bill is only prospective, that is prospective from the point of November 20 until the end of the year. It is also temporary. We are not saying that this moratorium is going to go on forever. In fact, it has a final date of December 31 of this year. And could be much earlier than that if, in fact, regulatory reform legislation which we will be considering next week does pass.

So this is not a long-term and it is also, Mr. Chairman, not an unprecedented step. During the administration of President Bush, there was an executively imposed moratorium on regulations which went on for over a year, I believe. And in that case, there were no deleterious effects, no horrible rending of the social network or the social safety network, no destruction of the environment as a result of that moratorium. This is merely an opportunity, a temporary opportunity to try to say, let us put a hold on these things until we really get a sense of how we are going about imposing regulations. And clearly, I think even on both sides of the aisle, it would be admitted that we have gone overboard, that we have a sort of a sausage machine that just grinds out regulations without any thought given to what the ultimate impact may be, what the cost may be to the people that we are impacting. So, yes, there are indeed many regulations that are vitally important to the health and safety. We think that those types of regulations are clearly covered and exempted under the exemptions that we provide for imminent threats to the health and safety of individuals.

We do not think that this is a draconian device. It is merely a device that gives us a chance to review where we stand.

I would just point out, Mr. Chairman, that the legislation does indeed have a tremendous amount of support from hundreds, hundreds of national organizations inside and outside the beltway, including the American Farm Bureau Federation, the gentleman, chairman of the Committee of Agriculture, spoke earlier about the support of the farm community and the fact that their concerns, while having milk marketing orders and others, would not be affected. I think the American Farm Bureau Federation would not be endorsing this bill if there was a real threat to agriculture. The National Federation of Independent Business, the National Electrical Contractors, National Grocers Association, the U.S. Chamber of Commerce and the list goes on and on and on. So, Mr. Chairman, there is a tremendous amount of support for this bill outside this chamber, but also there is tremendous support right here in this chamber, for the legislation has about 150 cosponsors. In fact, it passed out of my committee, the Committee on Government Reform and Oversight, with a bipartisan vote of 28 to 13.

I just wanted to try and put this thing in context, that we are really dealing here with a rather modest proposal to give both ourselves and the administration, when I point out there is a companion, I view the effort by the President when he said he is directing every department-level, cabinet-level office as well as every agency to review the regulations which they have, to take a hard look at them and to come back with recommendations for those that could be eliminated. We hope that they will do that. But that is a companion piece to what we are dealing with. What we are dealing with is primarily new regulations, new burdens that are going to be imposed, not those that are already in existence. We applaud the President's efforts to look at existing regulation and perhaps eliminate those.

I think this would be a cooperative effort, not an adversarial effort, because we are both trying to do the same thing, which is deal with this regulatory overkill we have in this country.

Mr. Chairman, I reserve the balance of my time.

Mrs. COLLINS of Illinois. Mr. Chairman, will the Chair tell Members how much time remains on both sides?

The CHAIRMAN. The gentlewoman from Illinois, [Mrs. COLLINS] has 2½ minutes remaining, and the gentleman from Pennsylvania [Mr. CLINGER] has 8 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT], a new and valued Member.

Mr. TIAHRT. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 450.

The distinguished majority leader, who is an economist, has called government interference in our businesses and in our lives ''the invisible foot'' of big government. And he is right. That foot is on the throat of people who create jobs.

Almost every day my office receives calls from small businessowners in Kansas who are caught between running their business and fighting with needless government regulations.

One man in Wichita who runs a roofing business called my office because the government wants him to secure his roofing ladders with ropes. But the ropes create a safety hazard to the workers, who get their feet tangled in the ropes. This is clearly counterproductive.

Let me quote from a letter recently received:

> As a small businessman I can tell you firsthand that I am drowning in a sea of regulation from Washington.

When we enact mindless regulation without understanding its costs we are playing a deadly game of Russian roulette with American jobs. When the gun goes off small businesses shut their doors, and ordinary working people lose their jobs. It's not smart, and it's not right.

For these reasons I urge H.R. 450's passage.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas [Mr. BONILLA].

Mr. BONILLA. Mr. Chairman, I rise in strong support today of H.R. 450. The greatest burden that free enterprise and entrepreneurs and those who wish to pursue the American dream have today, the greatest problem they have is the regulatory burden they face every time they walk out the door, trying to create more jobs, trying to be more productive in this country.

Yesterday we were visiting with one of the representatives from the administration, and it was pointed out to us that there has been a problem in recent years with job growth and job creation, and I pointed out to them that one of the greatest reasons, perhaps the greatest reason, that there has not been as much job growth in this country in recent years is because the entrepreneurs, the small businesses, those who believe in free enterprise have to operate with handcuffs every day because the regulatory burden is so great.

Mr. Chairman, I am delighted that this effort we are undertaking today is a bipartisan effort. There is strong support on both sides of the aisle. I am excited because small business people in America can once again look to Congress and understand that they will have a friend and an ally in Congress as they get up to work every morning, oftentimes 7 days a week, to create jobs and be more productive in America.

Later on today, Mr. Chairman, we will also offer an amendment that will address private property rights. Regulatory burdens that have been imposed on people who own homes, small businesses, farms, and ranches across America mean people no longer have

an opportunity to do what they want on their own property.

Regulations have also been a tremendous burden on them, and I am delighted that this amendment that we will be offering later on, which we will elaborate on, is a tremendous bipartisan effort, as well, that we are excited about presenting today.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it has been mentioned that there has been bipartisan agreement in committee with this legislation. I just want to point out that there has also been bipartisan opposition to this bill in committee.

Let me say, too, Mr. Chairman, that I think that the Washington Post today really tells the story on this particular legislation. It has a story on the Federal page entitled ''Ambiguity Rules the Day.'' That in fact is what it does. This says ''The Republicans' rulemaking moratorium aims to relieve Americans of burdensome Federal regulations, but the bill that comes to the House for debate today could create just as much confusion as it seeks to prevent.'' It goes on to say that ''* * * the moratorium * * *, the first of the measures to come to the House, may gain its notoriety not from what it seeks to stop but its ambiguity. The bill will allow thousands of exemptions and create enormous gray areas likely to confound both rule-making and their congressional opponents.'' Further it says ''Beyond specific categories, however, the bill becomes fuzzy enough to provoke immediate chaos.''

There is no way I could say it any better than that, Mr. Chairman. What happens here is that we have this bill, which was very hastily crafted. I would want to say, it was not very artfully crafted. As I understand it, it is supposed to be a bridge between this bill and some others that have to do with risk assessments and cost analyses and things of that nature. It is a bill that does not do what it purports to do. It is very, very hazy, it is very, very fuzzy. It is the kind of legislation that I do not think has been very well-written. I think its purpose may have been laudatory, but its effect is not that.

For that reason, Mr. Chairman, I would certainly urge all of my colleagues to vote against this bill when it comes up for debate. The one thing we tried to do is to offer amendments that make good common sense.

I would certainly hope that my colleagues would vote for the amendments that we have offered, because I just do not believe that my colleagues on the other side of the aisle intended for there to be chaos, intended for there to be fuzzy rulings and ambiguity about the kinds of things that this bill is supposed to do when it comes down to the operation of the Federal Government.

For that reason, Mr. Chairman, I would say to them, pay close attention to the amendments that we have offered. They are very seriously given, they are very carefully thought out, they are very carefully drawn, and it seems to me that they are something we ought to do.

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

Mr. CLINGER. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, I would like to enter into a dialog with the gentleman from Pennsylvania.

Mr. Chairman, as the gentleman knows, in the last couple of years we have instituted some of the largest trade agreements that mankind has ever accomplished. Of course, in anything as complicated as that, it does take regulations to carry them out.

We hope that the gentleman's language will give the administering agencies as broad a latitude as possible to carry out these agreements. We do not want to be in a position of not having passed these agreements, and having promised the world we will do some things, and then turn around and welsh on our own agreements.

I have sent the gentleman some correspondence on this. I hope to receive the gentleman's assurance that he feels that it is important in carrying out these agreements that the administrators have pretty broad latitude in issuing their regulations.

Mr. CLINGER. Mr. Chairman, let me assure the gentleman that we are very sensitive and very aware of the concern of the gentleman and others on the Committee on Ways and Means that were so vitally involved in negotiating these agreements. We think that the language would clearly allow this.

Mr. GIBBONS. Mr. Chairman, if the gentleman will continue to yield, I include for the RECORD a copy of my letter.

The letter referred to is as follows:

COMMITTEE ON WAYS AND MEANS,
Washington, DC, February 22, 1995.

Hon. WILLIAM F. CLINGER, Jr.,
Chairman, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing in regard to the exception to the moratorium on Federal regulatory rulemaking actions in H.R. 450, the Regulatory Transition Act of 1995, for ''statutes implementing international trade agreements''. While we believe this exception is essential if H.R. 450 is enacted into law, we are deeply concerned about the narrow interpretation of this language set forth on page 22 of the Committee report which authorizes the Administration to conduct rulemaking actions during the moratorium period only with respect to provisions in such statutes which are ''specifically required'' to implement U.S. obligations under international trade agreements.

Such a narrow interpretation is contrary to the statutory basis on which implementing legislation for international trade agreements has been developed and passed by Congress and would potentially undermine the effectiveness of that legislation. The special ''fast track'' procedures set forth in the Trade Act of 1974, and reauthorized by subsequent Congresses for consideration of trade agreement implementing legislation, specifically states that such procedures apply to legislation which contains provisions which are ''necessary or appropriate'' to implement such agreements. Those procedures also require the Congress to approve an accompanying statement of administrative action which sets forth procedures and interpretations which are subsequently reflected in agency regulations.

Within that framework and on a bipartisan basis, committees of jurisdiction have developed, together with the Executive branch, and Congress has passed legislation since 1974 encompassing statutory changes and authority to issue regulations necessary or appropriate to implement U.S. trade agreement obligations. For example, legislation passed by the 103d Congress on a bipartisan basis to implement and North American Free Trade Agreement and the Uruguay Round multilateral agreements represented a careful balance of divergent commercial and political interests on a range of issues. An interpretation of the exception to the moratorium which limits rulemaking authority to only those provisions that are specifically required to implement trade agreement obligations is contrary to the intent of Congress in passing this legislation and will preclude agencies from issuing regulations to administer those provisions which are appropriate to achieve effective or intended administration of the statutes or agreements involved. Such an interpretation also runs the risk of upsetting the careful balance of interests reflected in the statute and unnecessarily reopening the debate on controversial issues.

In sum, we believe the statutory language contained in H.R. 450 should stand on its own. We further believe for the reasons stated above that the interpretation given to this language in your Committee report is totally inappropriate. Any changes in previously enacted trade agreement implementing legislation should be debated by committees of jurisdiction through the normal legislative process, and not be achieved through a regulatory vehicle such as H.R. 450.

We appreciate your cooperation on this matter.

Sincerely,

SAM M. GIBBONS,
Ranking Democratic Member.

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

Mr. Chairman, just to respond to the gentleman from Florida, it is clearly our intent not to interfere with the carrying out of negotiated treaties, particularly referring to GATT and NAFTA.

Mr. Chairman, I yield the balance of our time to the gentleman from Indiana [Mr. MCINTOSH], the author of the bill.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 3 minutes and 15 seconds.

Mr. MCINTOSH. Mr. Chairman, first let me commend you. It is an honor for me to be able to speak today on this bill that I helped author, and have a fellow colleague in the freshman class chairing the Committee of the Whole. You are doing a wonderful job, and I appreciate that.

I want to thank also my Democratic colleagues who have supported us in this, particularly the gentleman from Minnesota [Mr. PETERSON], the ranking member on our subcommittee. His contributions to this bill have helped craft it into a very strong piece of legislation.

Mr. Chairman, let me say, I do think the choice is clear today before this body, whether we are going to continue business as usual, to continue to have 4,300 new regulations coming out of this administration, to continue to be on the side of the 130,000 Federal bureaucrats who spend their time writing and enforcing regulations, or whether we are going to be on the side of the American people and say enough is enough. It is time we take a time out on Federal regulations. It is time that we have a moratorium, so we can go through and start getting rid of the unnecessary and ridiculous and burdensome regulations.

I wanted to share with the body some of the examples that have come to my attention, both as chairman of the subcommittee, and as working with former Vice President Quayle, as his staff director of the Council on Competitiveness.

One of those regulations was a rule that apparently would bar the tooth fairy in the United States. It was a requirement that every dentist not give back baby teeth to their parents. When we inquired, ''Why on Earth would you need to have that type of regulation,'' the agency said ''We are worried that those baby teeth might be hazardous waste material.''

Mr. Chairman, that, of course, is one of the most ridiculous assumptions we could possibly make. We asked ''Could you think about that a little longer?'' And they eventually said, ''Yes, the dentist can give back baby teeth.'' The tooth fairy can visit the American home.

Another issue that has come to my attention was the Consumer Product Safety Commission guideline that recommended that on the worksite every bucket with 5 gallons or more that could contain water have a hole in the bottom of it.

We asked ourselves, why on Earth would you want a bucket with a hole in the bottom of it?

□ 1340

Someone decided that it might contain water and that could become a hazard if someone slipped and fell and landed facedown in the bucket. Their response: Put a hole in the bottom of the bucket so that it leaks water and can no longer contain what it is meant to.

Another example from my district was Mr. Floyd, who is a farmer in Muncie, IN. He has had his farm in his family for over 50 years now. One day one of the neighboring businesses accidentally broke the drainage tile that allowed his property to be drained and farmed, creating a big mud hole. Soon after that, he was visited by Government regulators who told him, ''You can no longer farm your farm. We've decided that this mud hole is a wetland and needs to be protected.''

There you have Mr. Floyd, an 80-year-old farmer from Muncie, IN, going up against the Federal Government who says you can no longer use your farm because someone accidentally destroyed the drainage tiles and you now have a mud hole that we, the Federal Government, want to protect as a wetland.

Those types of regulations are ridiculous and they need to come to an end. This moratorium will put a stop to that needless regulation.

Mrs. COLLINS of Illinois. Mr. Chairman, over the course of our consideration of H.R. 450, a number of individuals and groups have expressed concerns over the impact that H.R. 450 would have on various important regulations. I have obtained copies of correspondence that these groups have sent to me and other Members. I would ask that these letters be inserted into the RECORD, for the benefit of my colleagues.

NEXTEL,
Washington, DC, February 13, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSWOMAN COLLINS: I am writing to you on an urgent matter concerning the application of H.R. 450, the ''Regulatory Transition Act of 1995'', to an ongoing Federal Communications Commission (''Commission'') rulemaking which would enhance competition in the mobile telecommunications industry. As currently drafted, the ''regulatory moratorium'' legislation could indefinitely postpone Commission adoption of proposed rule changes which will result in the introduction of new mobile services, enhanced competition in the mobile marketplace, reduced administrative burdens on the Commission, and greater radio spectrum auction fees to the U.S. Treasury. While clearly this it not what the authors of H.R. 450 intended, we believe that is what the effect of this legislation will be, unless modified as suggested below.

Nextel Communications, Inc. (''Nextel''), is today the leading operator of traditional analog Specialized Mobile Radio (''SMR'') systems. Upon closing of certain pending transactions, Nextel will provide fleet dispatch communications to approximately 750,000 customers throughout the United States, Nextel has already invested nearly half a billion dollars to develop, construct and operate a nationwide digital wide-area SMR system which is fifteen percent more efficient than existing analog technology. This unique service offers mobile workforce customers a combination of private network dispatch, mobile telephone, paging, text messaging, mobile data (including portable computer and portable fax support) and enhanced services such as voice mail and call forwarding, all on a single handset. Nextel is currently operating its new digital system throughout most of California and is introducing this service in the greater New York and Chicago areas this quarter. In California alone, Nextel has created over 500 new jobs.

The Commission last year initiated a rulemaking procedure concerning wide-area block licensing for radio spectrum currently allocated for SMR services. The Commission's rulemaking is required by the Omnibus Budget Reconciliation Act of 1993 (''OBRA 93'') which established a new common carrier category of mobile communications providers—''Commercial Mobile Radio Service'' or ''CMRS''. In creating this new category of service, Congress mandated that the Commission eliminate regulatory disparities among different types of mobile service providers offering competing services. The ''regulatory parity'' provisions were designed by the Congress to promote fair competition among providers of commercial mobile services, regardless of their current regulatory status, and are an essential part of the spectrum auction provisions contained in OBRA 93.

The regulatory parity provisions in OBRA 93 require that SMR services reclassified as CMRS be subject to technical requirements comparable to those that today apply to substantially similar common carrier services, such as cellular telephone and Personal Communication Services (''PCS''). The reclassified SMRs have until August 10, 1996 to make whatever changes are necessary to come into compliance with the new regulations. Delay in adopting regulatory parity rules will harm reclassified SMRs who do not yet know what regulations they will be required to comply with only 18 months from now. Such delay will prolong the existing competitive disadvantage of these carriers vis-a-vis cellular and PCS services, contrary to the express intent of OBRA 93. The mobile communications consumer will be the ultimate loser.

Delay in finalizing the Commission's regulations will also harm the government. The Commission is now burdened with nearly 40,000 backlogged, private radio service applications, many of them for SMRs. It is proposing the elimination of some of its current licensing requirements and substituting others which will greatly simplify the licensing process and allow the Commission to eliminate much of its current processing burden. The creation of a contiguous spectrum block wide-area SMR license in the pending rulemaking will permit the further introduction of spectrum efficient technologies. In addition, as part of the pending rulemaking, the Commission is proposing to auction wide-area SMR licenses on a Major Trading Area basis to operate on four blocks of contiguous spectrum. A wide-area, contiguous channel block license would promote regulatory parity and enhanced competition while bringing the U.S. Treasury much needed revenues.

While the regulatory parity provisions of OBRA 93 are clearly intended to enhance fair competition by equalizing regulatory obligations, in reality a new regulatory scheme would be substituted for the existing one. Thus, it is not entirely clear that the exclusion which exists under H.R. 450 for rulemakings which the Head of the Agency and the Administrator of OIRA certifies is limited to ''repealing, narrowing, or streamlining a rule, regulation, or administrative process'' would be applicable to the Commission's regulatory or parity rulemaking. Nor is it clear that the exclusion applicable to an ''action relieving a restriction or taking any action necessary to permit new or improved applications of technology'' could be used to exempt the Commission's rulemaking from the moratorium—although this is the clear intent of the Commission's proposal.

Nextel firmly believes that any further delay in the Commission's rulemaking would play into the hands of those entrenched market participants who fear increased competition. Delay will deny consumers the benefits of increased competition. Delay will also reduce revenues to the Treasury and perpetuate an impossible Commission administrative burden. H.R. 450 should be amended to exclude from the moratorium rulemakings which are designed to enhance competition.

Sincerely,

ROBERT S. FOOSANER,
Senior Vice President, Government Affairs.

NATIONAL EDUCATION ASSOCIATION,
Washington, DC, February 9, 1995.

DEAR GOVERNMENT REFORM AND OVERSIGHT COMMITTEE MEMBER: On behalf of the 2.2 million members of the National Education Association, I urge you to vote against HR 450, the Regulatory Transition Act of 1995, during Committee markup.

HR 450 would freeze and delay implementation of a broad range of important federal regulations until an unspecified future date and would retroactively apply to many regulations already in effect. If enacted, HR 450 will undermine and negate many important safeguards and protections for Americans, and lead to confusion and uncertainty among state and local governments and employers attempting to understand their responsibilities for complying with federal laws.

Among the hundreds of regulatory actions that could be negated by this bill are:

Department of Labor final regulations to implement the Family and Medical Leave Act, scheduled to take effect on April 6;

Department of Education guidance to states and school districts on how to implement the new Gun-Free Schools Act;

Regulations currently being developed by the Education Department that are necessary to implement the new provisions of the recently enacted Elementary and Secondary Education Act;

Education Department regulations and guidance on the new college student Direct Loan program, which will save the federal government billions of dollars;

Proposed OSHA standards to protect workers from harmful indoor air pollutants; and

Expected FCC regulations to implement the Children's Television Act.

By imposing an across-the-board freeze on all federal regulations, the Congress would prevent the federal government from carrying out its responsibilities and leave many Americans without the benefit of important guidance and protections. NEA urges you to vote against this ill-conceived plan for reducing the scope of safeguards Americans expect from the federal government.

Sincerely,

MICHAEL D. EDWARDS,
Interim Director.

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, February 22, 1995.

Hon. JOHN M. SPRATT, Jr.,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SPRATT: This responds to your letter seeking the views of the Department of Justice on the judicial review provision contained in H.R. 450, the Regulatory Transition Act of 1995. Specifically, you ask whether section 7 of the bill authorizes a remedy of judicial review for an individual seeking to delay or stop a regulation.

Section 7 states that, ''No private right of action may be brought against any Federal agency for violation of this Act.'' However, its next sentence contravenes this apparent bar to a private right of action by providing. ''This prohibition shall not affect any private right of action or remedy otherwise available under any other law.'' In effect, standard Administrative Procedure Act review would still be available to challenge an agency's determination that a rule fit within an exemption and was legal under the Act. This is recognized by the House Government Reform & Oversight Committee report which states,

This section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

As you know, the Administration strongly opposes H.R. 450. Its judicial review provision is but one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language and think the bill should include an express bar to judicial review.

We appreciate the opportunity to express our views on this important issue. The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

SHEILA F. ANTHONY,
Assistant Attorney General.

ALUMINUM COMPANY OF AMERICA,
Washington, DC, January 30, 1995.

Hon. DAVID M. MCINTOSH,
Chairman, National Economic Growth, Natural Resources and Regulatory Affairs Subcommittee, Government Reform and Oversight Committee, U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN MCINTOSH: I am writing to express the concerns of Aluminum Company of America (Alcoa) about the potential effect of your proposed moratorium on federal rulemaking activities on the promulgation of EPA's rule to implement the Acid Rain Opt-In Program for Combustion Sources. The proposed rule was published in the Federal Register on Friday, September 24, 1993; it has just cleared OMB, and is in the final clearance process at EPA.

Alcoa has strong concerns about the timing of this rule, which, as you can see, already has been delayed several years. Under the requirements of Title IV of the 1990 Clean Air Act Amendments, the program should have been established in May 1992. A public hearing and comment period followed the proposal of the rule; 43 comments were filed and while some addressed how certain parts of the program should be implemented, none suggested the program should not exist. Significant positive benefits of the program could be lost, if the rule is not promulgated soon.

As the attached paper entitled AGC Opt-In Concerns describes, Alcoa's subsidiary, Alcoa Generating Corporation (AGC), owns three generating units at the Warrick Power Plant in Warrick County, Indiana, which supply electricity only to our aluminum plant and are, therefore, classified as industrial boilers. The opt-in program presents an opportunity for AGC to lower the cost of making aluminum by lowering the net cost of the electrical energy supplied to the smelting process. Reducing the sulfur dioxide emissions through fuel switching and other control means and selling the resultant excess allowances to others would provide a cost improvement that would allow the Warrick smelter to be more competitive and would help protect the jobs of more than 900 Indiana employees.

Phase I of the Acid rain Program began on January 1, 1995. AGC had hoped to opt in to the program before that time so that we could take advantage of the utility markets' need for allowances. Use of allowances would enable utilities to meet the requirements of the Clean Air Act at a lower cost to them and their consumers. Any further delay in the issuance of the regulations jeopardizes our ability to negotiate necessary contracts and participate in the program at all.

The delay in this rule also threatens our ability to become a host site for a full scale test of a process selected under the DOE Clean Coal III technology program. As a host site for the NOXSO scrubbing process at one of our units, we might assure continued use of our current Indiana coal source at that unit, but also have the opportunity be part of the development of a technology to protect other high sulfur coal sources. Without opt-in, our participation in this project will not be feasible.

The opt in program seems to be an excellent way for our country to continue to make environmental progress while respecting considerations of cost-effectiveness and helping our industries to remain competitive. Delays in its initiation will threaten those benefits. I urge you to consider our concerns and assure that your greatly appreciated efforts to improve our regulatory environment do not mistakenly prevent the implementation of a rule that will benefit all stakeholders.

Thank you for your consideration. I would welcome the opportunity to discuss this matter or answer any questions you may have about our interest and shall contact your staff to see about arranging a meeting.

Sincerely,

MARCIA B. DALRYMPLE,
Manager, Government Affairs.

READ THE FINE PRINT

(By Thomas O. McGarity)

AUSTIN, TEX.—After the elections, the Republicans asked President Clinton for an outright ban on new Federal regulations. The White House said no—that it would generate needless litigation and red tape. Then the new House majority whip, Tom DeLay of Texas, introduced a bill to impose a retroactive moratorium on rulemaking.

Representative DeLay's ''Regulatory Transition Act of 1995'' would bar executive and independent agencies from issuing proposed or final rules, policy statements, inquiries and possibly guidance manuals until the end of June. It would also stay any actions the agencies have taken since the election. Hearings on the bill have been held in the House, and it is expected to move through both houses with little serious debate.

The purpose of the moratorium is to stop agencies from issuing new regulations while the Republicans enact the regulatory reforms promised in their Contract With America. But the fine print in the bill shows that the moratorium would not apply across the board to all regulations.

The act exempts actions that would repeal, narrow or streamline rules or regulatory processes or ''otherwise reduce regulatory burdens.'' In short, the moratorium is a sieve that would screen out rules that protect the environment, consumers, workers and victims of discrimination while allowing changes that cut the costs of complying with regulations.

The bill exempts action necessary to deal with ''an imminent threat to health or safety.'' This is meant to be a very narrow exception, and a DeLay staff member told the media that it would not apply to pending Occupational Safety and Health Administration rules to protect workers from death and injury. The aide said it would not apply to the proposed OSHA ergonomics standard, which would protect assembly line workers from repetitive motion injuries.

The bill had been in the hopper just a few days when special interest groups that helped finance last year's campaign became troubled. The Independent Bankers Association of America and the American Bankers Association realized that the moratorium would prevent the Federal Deposit Insurance Corporation from carrying out a planned reduction in the premiums banks pay to rebuild reserves drained by bank failures that stemmed from deregulation in the 1980's.

Faced with the prospect of paying millions of dollars in premiums they had not counted

on, the bankers pressed Mr. DeLay's office for an amendment to address their special situation and were assured that he would be happy to oblige.

Thus, the frazzled workers on the poultry assembly line who must slice seven birds a minute get no relief. The workers' boss's banker does.

The new majority claims that a new age has arrived on Capitol Hill, but to those outside the Beltway it sure looks like politics as usual.

THE SECRETARY OF TRANSPORTATION,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
Ranking Member, Committee on Government Reform and Oversight, House of Representatives, Washington, DC.

DEAR MS. COLLINS: As the House of Representatives takes up H.R. 450, the Regulatory Transition Act of 1995, I would like to state the Department of Transportation's strong opposition to enactment of the bill. If H.R. 450 were presented to the President, I would recommend that he veto the bill because of its interference with important transportation safety regulations.

The President has made elimination of unreasonable and burdensome regulations a priority and has directed a detailed review of all the Department's regulations. This preserves each agency's ability to carry out its statutory mandate in the public interest. In contrast, H.R. 450 is designed to interrupt the regulatory process while consideration is given to permanent revisions. This approach would gravely impair the Department's ability to carry out its most important responsibilities. It would also create tremendous confusion with respect to rules that have gone into effect or have deadlines during the moratorium period, especially those that the bill would cover retroactively.

H.R. 450 would halt important transportation safety initiatives, such as rules to make commuter airlines meet the safety requirements of larger carriers, highly cost-beneficial rules to reduce deaths and injuries from head impacts in car crashes, and action to prevent natural gas pipeline explosions and hazardous material releases. The moratorium indiscriminately affects all Federal rulemaking activity, regardless of its merit or benefits. Retroactively taking regulations out of effect, after industries have invested time, money, and effort in compliance, imposes needless costs and disruption on regulated parties.

The narrow exceptions built into the proposed bill do not surmount these objections. The cumbersome approval procedure proposed for ''emergency'' safety rules would unacceptably slow action to respond to genuine emergencies immediately (e.g., FAA directives addressing equipment on an aircraft that needs to be modified to prevent crashes). Further, many important safety rules may not address ''imminent'' hazards. Many routine agency actions, often issued by DOT field offices (e.g., Coast Guard adjustments of opening times for drawbridges), appear not to fall within the bill's exceptions. Although some of our rulemaking may qualify for exclusion, the availability of judicial review could indefinitely hold up action in these areas as well.

I want to work with Congress to improve further the way that this agency and others carry out their statutory responsibilities, but this legislation will interrupt and delay our common goal.

The Office of Management and Budget advises that there is no objection to transmittal of this letter, and that enactment of H.R. 450 would not be in accord with the program of the President.

Sincerely,

FEDERICO PEÑA.

DEPARTMENT OF AGRICULTURE,
Washington, DC, February 22, 1995.

Hon. CARDISS COLLINS,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN COLLINS: Thank you for your work on behalf of food safety issues.

On February 3, 1995, the Food Safety and Inspection Service (FSIS) published the Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems proposed rule. Sanitation requirements, microbial testing, and process control systems for all meat and poultry plants as proposed in the rule are designed to close an existing gap in the current inspection system that does not focus directly and scientifically enough on preventing contamination of raw meat and poultry products with microbial pathogens. The magnitude of the problem underscores the importance of uninterrupted efforts to eliminate pathogens such as E. coli O157:H7, Salmonella, and Listeria monocytogenes in the food supply. Nearly 5 million cases of foodborne illness and 4,000 deaths may be associated annually with meat and poultry products contaminated by microbial pathogens according to the Centers for Disease Control and Prevention.

A regulatory moratorium, which applies to the Pathogen Reduction/HACCP proposed rule, would deny the United States Department of Agriculture's ability to meet the public's valid expectations concerning the safety of the food supply. All work on the FSIS Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking process and answer technical questions would need to be canceled.

The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450. We appreciate your efforts and the efforts of your fellow Members of Congress to protect the public's health and welfare.

Sincerely,

MICHAEL R. TAYLOR,
Under Secretary Food Safety.

U.S. SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, February 15, 1995.

Hon. JOHN D. DINGELL,
Ranking Member, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVE DINGELL: Thank you for your letter of February 6, 1995, inquiring about the potential effect of the regulatory moratorium of H.R. 450 on the Securities and Exchange Commission and securities markets. I am writing to respond on behalf of the Commission.

It is difficult to identify which Commission rules would be affected by this moratorium. In part, the difficulty is due to the uncertain duration of the moratorium. In the most recent version we have of the bill, a copy of which is attached, the moratorium period would end either with passage of regulatory reform legislation or on December 31, 1995. It is head to predict, in February, what rules may be necessary because of changes in the securities markets before December.

It is also difficult to identify which rules would be affected because of uncertainties in the legislative language. The ''regulatory rulemaking actions'' that may not be taken during the moratorium period are defined to include not only the issuance of rules and proposed rules, but also ''any other action taken in the course of the process of rulemaking,'' other than cost-benefit analysis or risk assessment. ''Rulemaking'' is defined as ''agency process for formulating, amending or repealing a rule.'' These definitions could be read to reach not only the issuance of rules and proposals by agencies, but any work by agency staff on rules or potential rules. If this reading is correct, a moratorium could seriously impede the Commission's ability to formulate and adjust its rules to the changing realities of the securities markets.

We have thus not attempted a comprehensive catalog of the Commission rules and rulemakings that are or could be affected by H.R. 450. There are, however, several important rules that we believe would probably be affected by the moratorium:

Unlisted Trading Privileges. As you know, Congress last year passed the Unlisted Trading Privileges Act (''UTP Act'') to simplify the process of obtaining UTP for a security listed on another exchange. The purposes of the Act including reducing regulatory burdens and opening up competition among the exchanges. The Act required that the Commission issue rules within 180 days, i.e., by April 21, 1995. The Commission presently expects to issue final rules shortly before that date.

Although H.R. 450 has an exception for rules that the head of an agency and head of the Office of Information and Regulatory Affairs both certify are ''limited to * * * reducing regulatory burdens,'' it is not clear that the UTP rules would come within this exception. If not, and if H.R. 450 passes before the Commission adopts final UTP rules, the Commission would not be able to issue these rules until the moratorium ends. If the moratorium legislation passes after the Commission adopts rules, the rules would not take effect until the end of the moratorium period. In either case, the ironic effect of H.R. 450 will be to delay adoption and implementation of rules generally designed to reduce regulatory burdens and to make competition among securities markets more fair. Delay will also injure investors, who are the ultimate beneficiaries of intermarket competition.

Risk Disclosure. The Commission is considering issuing a rule of interpretation to improve disclosure by corporate issuers regarding certain financial instruments, including derivatives. Similarly, the Commission is exploring methods to improve disclosure of the risks in mutual fund portfolios, including the risks created by derivative investments. Depending upon the timing and scope of the moratorium, work on both of these projects could be suspended.

Municipal Disclosure. The Orange County bankruptcy has again shown how important disclosure is to the individual investors who now hold over $500 billion worth of municipal securities. On November 10, 1994, the SEC revised the rules that apply to brokers and dealers of municipal securities to encourage more complete, more timely disclosure by municipal issuers. These rules are now set to take effect on July 3, 1995. If H.R. 450 passes after July 3, 1995, the retroactive provision of Section 3 would delay the effective date of these rules until the end of the moratorium period.

Three-Day Settlement. The delay between a securities trade and settlement creates risk not only for the parties to the trade but also for the entire securities settlement system. In October 1993, the SEC adopted a rule to shorten the settlement cycle for corporate securities from five to three business days. This rule is now set to take effect on June 7, 1995. If H.R. 450 passes after June 7, 1995, the retroactive provision of Section 3 would

delay the effective date of this change until the end of the moratorium period. The result would probably be substantial costs for the securities industry and customers in changing the settlement period from five to three business days on June 7, then back to five business days under H.R. 450, and then back to three business days under the rule.

Electronic filing. The SEC's electronic filing system, known as EDGAR, makes documents filed with the SEC available more rapidly and electronically. In December 1994, the SEC adopted a schedule for the continuing transition to electronic filing, which provided that companies not yet filing electronically would begin on various dates starting in January 1995 and ending in May 1996. H.R. 450 would extend, until the end of the moratorium period, the deadline for the companies required under this schedule to start filing electronically prior to passage of H.R. 450.

These are but a few examples of how H.R. 450 would affect securities markets and investors. If you or your staff have any questions about these issues, please do not hesitate to contact us.

Sincerely yours,

ARTHUR LEVITT,
Chairman.

Mr. GEJDENSON. Mr. Chairman, I rise in strong opposition to H.R. 450. I'll be the first to admit that certain Federal regulations make little sense and should be repealed. Moreover, we need to more carefully evaluate the effects of regulations and work with the regulated community to ensure that we accomplish our goals in the most efficient and sensible manner. This bill does not achieve these goals. In fact, it employs a meat cleaver when a scalpel is more appropriate.

This legislation is another example of bad public policy that has been hastily put together in order to meet an arbitrary deadline set by the Republicans in their Contract With America. It is becoming painfully obvious to me that ''the Contract says we are going to do this'' is becoming the refrain around here regardless of the implications of these ill-conceived proposals which I believe were thrown together to because they sound good on the surface. I do not believe the American people think that just because the contract says something will be done that it should be when it becomes clear that it is bad policy.

This bill isn't the Regulatory Transition Act, it's the Regulatory Demolition Act. It suspends all regulations issued between November 20, 1994, and December 31, 1995. Originally the bill only covered a 6-month period but it has been increased to more than a year. Oh, I know the bill says until December 31 or when other regulatory reform measures are enacted, whichever comes first. I think most of my colleagues agree that the other body is far less enamored with these proposals than Republicans in the House so it is safe to assume that December 31 is the more likely deadline. The language in this bill will result in the suspension of just about every regulation issued during this period. The definition of emergency is so narrow that few regulations will qualify and onerous certification requirements just compound this problem. I am also very concerned that while the bill includes endangerment of private property in its definition of imminent threat to health or safety, it does not include general threats to public health, safety and well-being. If not implementing a regulation might adversely affect a developer then we'll allow it, but a regulation addressing a human health issue can only go into effect if it will prevent death or serious injury rather than safe guard general welfare.

Mr. Chairman, I believe this bill will actually undermine efforts to improve the regulatory process. It defines regulatory action banned by the bill very broadly, including notice of inquiry, advanced notice of proposed rulemaking and notice of proposed rulemaking. For those familiar with the process of developing regulations, these are information gathering measures which open the process to all interested parties and afford them the opportunity of to raise important issues and point out possible pitfalls. These devices allow agencies to say here is what we are thinking about doing, what is your reaction and how can we do things better. I wish my Republican colleagues would explain to me how the process can be improved if agencies are barred from soliciting input from entities which might be covered by a regulation. This definition is totally counterproductive and again demonstrates that the proponents of this bill have not fully thought out its effects.

I am very concerned about the implications of this bill on the interests of the residents of my State. For example, important regulations issued by the National Marine Fisheries Service in December 1994 and January 1995 designed to protect certain New England fishstocks will be repealed. These regulations will help to stem the dramatic decline of haddock, cod, and flounder and rebuild these important species. Without these measures, it is very likely that these species will become extinct thereby driving fishermen in communities like Stonington, CT, out of business. As the bill is written, these regulations, which respond to an emergency, do not qualify as such. Furthermore, regulations issued by the Environmental Protection Agency last month to improve air quality in the Northeast will be declared void. These regulations were requested by nine States in the region and are among the most flexible I've ever seen. This bill casts aside the will of nine States and abrogates regulations which are a model of flexibility. Once again, this bill throws the baby out with the bath water purely and simply.

Mr. Chairman, this is an ill-conceived measure which will jeopardize the health, safety, and well-being of every American. It does not facilitate a transition as the title suggests. Instead, it creates a massive chasm which its proponents virtually guarantee can not be bridged. It does not seek a separate out those measures which have widespread public support or address many important issues which might not cause immediate death. This bill is bad public policy and should be defeated.

Mr. CLAY. Mr. Chairman, I rise in opposition to H.R. 450. This is absurd legislation intended to prevent the President from exercising his constitutional responsibility to enforce the laws of the United States. It is an ill-conceived bill that creates tremendous confusion as to what kinds of regulations are subject to the moratorium and what kind are not. In effect, the new majority wants to make the President a powerless executive. If they succeed, the public will suffer.

The impact of this legislation on regulations intended to protect the health and safety of American workers clearly illustrates the extent of the confusion that enactment of this legislation would cause. The bill specifically provides that the Office of Management and Budget's Administrator of the Office of Information and Regulatory Affairs may issue a waiver for any regulation that is certified as necessary because of an imminent threat to health or safety. The term ''imminent threat to health or safety'' is further defined to mean ''the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans * * *.''

The Supreme Court has interpreted the Occupational Safety and Health Act to require a finding that a hazard poses a significant risk to workers before the Occupational Safety and Health Administration [OSHA] may regulate it. Therefore, based upon the text of the bill, it would appear that regulations issued by the Occupational Safety and Health Administration are potentially exempt under the imminent threat to health or safety exemption.

However, the committee report accompanying this legislation, Report No. 104–39 part I, goes on to state:

The inclusion of the word ''imminent'' is not intended to pose an insurmountable obstacle to the certification of health or safety regulations. Rather it is intended to guard against the undisciplined use of this exception as a means to evade Congress' intent. For example, this committee does not intend this exception to include OSHA's regulations prescribing ergonomic protection standards which require employers to build new work environments to prevent disorders associated with repetitive motions. Such regulations would not be excepted from the moratorium under section 5(a) because they do not address a threat that is imminent.

The imposition of a test of imminence of injury is absurd. Apparently, while the Republicans continue to adhere to the view that employers should not kill employees immediately, it is perfectly alright for employers to kill them slowly.

OSHA has prepared a protective rule to safeguard workers from exposure to methylene chloride, a carcinogenic solvent used to strip furniture and for other purposes. Methylene chloride is a carcinogenic. It does not kill instantly. It nevertheless produces death. By OSHA's estimate, a 1-year delay results in an estimated 21 deaths and 32,000 illnesses that otherwise would have been prevented. In my view, the methylene chloride rule clearly falls within the purview of the imminent threat to health and safety exception. Nevertheless, the committee report creates confusion and invites litigation over this issue.

The Republican indifference to the health and safety of working Americans becomes explicit with regard to the ergonomic regulations that the committee specifically intends to be subject to the moratorium. It is estimated that a 1-year delay of the ergonomic regulations will result in serious musculoskeletal or cumulative trauma disorders to 300,000 additional workers. Liberty Mutual estimates that the average musculoskeletal disorder costs $8,000 in workers' compensation claims, including wage replacements and medical benefits. The 300,000 additional ergonomic injuries, therefore, pose a potential cost of $2.4 billion. Many of these injuries would be prevented by the timely issuance of a protective standard requiring employers to develop ergonomics programs for at-risk jobs. Apparently, the Republicans prefer to allow workers to continue to be injured.

Mr. Chairman, based upon what has been put forward to explain this bill, it is impossible

to tell what kind of regulations are subject to the moratorium. What does it mean to streamline a regulation? What kind of matters relate to foreign affairs functions? What is a routine administrative function? More seriously, what is an imminent threat to health or safety?

The confusion engendered by this legislation is impractical, counter-productive, and unnecessary. It is also dangerous. I, therefore, urge the defeat of H.R. 450.

Mr. KIM. Mr. Chairman, I rise in support of this Regulatory Transition Act—it represents another commonsense reform in the Republican Contract With America.

The Federal bureaucracy is out of control issuing regulation after regulation. Many of these are unnecessary and have become great burdens on American businesses. Many of these regulations are contradictory and—in some cases—jeopardize the economic prosperity and personal safety of the public.

For example, in my own district I witnessed the struggle between the Federal Aviation Administration and the Fish and Wildlife Service over whose regulations were more important at Ontario Airport. The FAA's regulations require the destruction of vegetation around the airport. This is needed to keep birds away from being sucked into the engines of the jets flying people in and out of the airport. This is clearly a safety issue—one bird strike can crash an airliner.

But, because there was an endangered species—an endangered insect—a fly—near by, Fish and Wildlife regulations prohibited the destruction of the vegetation near the runway.

For 8 months everything was stalled and the risk of bird strikes increased. The bureaucrats were so academic and dedicated to their own particular regulations, they became illogical. An insect became more important than the life and death of people.

It's time to say, ''stop!'' to this nonesense.

It's time to re-evaluate and reform the way new regulations are issued. This bill will make sure that any new regulations are:

First, necessary;

Scond, logical—that means they make practical sense;

Third, cost-effective; and

Fourth, do not contradict other laws and regulations already in effect.

Mr. DOOLITTLE. Mr. Chairman, I rise today in strong support of H.R. 450, the Regulatory Transition Act. This legislation prohibits Federal agencies from promulgating new rules and regulations until December 31, 1995. In addition, the bill suspends any Federal rules issued since November 20 of last year.

Mr. Chairman, this legislation provides a needed time out from the onslaught of Federal regulations. Currently over 110 executive branch agencies issue regulations, including approximately 22 independent regulatory boards and commissions. Thomas Hopkins of the Rochester Institute of Technology places the total cost of complying with Federal regulations at $600 billion in 1994. Other estimates find the annual cost of these regulations to be closer to $1 trillion annually.

The worst aspect of excessive Federal regulation is its impact on job creation. According to the Heritage Foundation, regulation destroys jobs in several ways:

First, reductions in efficiency, productivity, investment, and economic growth due to regulation translate into fewer jobs. Second, regulations may raise the general costs of a particular business, leaving it unable or unwilling to hire as many workers as before. Third, regulations may raise the cost of employment by imposing specific costs tied to each new employees hired.

In order to provide flexibility, the bill includes commonsense exceptions for the enforcement of criminal laws, military and foreign affairs, reduction of preexisting regulatory burdens, continuation of agencies' routine administrative functions, or because of an imminent threat to health or safety.

Mr. Chairman, the people from my district and my State want to see their families unburdened from the heavy regulation that destroys real economic opportunity. A year off from costly Federal regulations will help advance this objective.

I urge my colleagues to support H.R. 450.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute now printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 450

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 ''Regulatory Transition Act of 1995''.

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term ''deadline'' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term ''Federal agency'' means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term ''moratorium period'' means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term ''regulatory rulemaking action'' means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretative rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term ''regulatory rulemaking action'' does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term ''rule'' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include the granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term ''rulemaking'' means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term ''license'' means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term ''imminent threat to health or safety'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

Pursuant to the order of the house of today, the following amendments and all amendments thereto will be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment:

Amendment 18, by the gentleman from California [Mr. CONDIT] or the gentleman from Texas [Mr. COMBEST] for 40 minutes;

Amendments 21 and 22 by the gentleman from Pennsylvania [Mr. KANJORSKI] for 30 minutes;

Amendment 28 by the Gentlewoman from New York [Ms. SLAUGHTER] for 30 minutes;

Amendment 5 or 6, by the gentleman from Indiana [Mr. BURTON] for 20 minutes;

Amendment 30, by the gentleman from South Carolina [Mr. SPRATT] for 30 minutes;

Amendment 36 or 37, by the gentleman from California [Mr. WAXMAN] for 30 minutes;

Amendment 7, by the gentlewoman from Illinois [Mrs. COLLINS] for 30 minutes;

Amendment 25 or 26, by the gentlewoman from the District of Columbia [Ms. NORTON] for 20 minutes;

An amendment by the gentleman from Washington [Mr. TATE] for 20 minutes;

An amendment by the gentleman from Louisiana [Mr. HAYES] for 20 minutes.

Amendment 38 by the gentleman from West Virginia [Mr. WISE] for 30 minutes;

Amendment 20 by the gentleman from Texas [Mr. GENE GREEN] for 20 minutes;

Amendment 35 by the gentleman from California [Mr. WAXMAN] for 20 minutes;

Amendment 3 or 4 by the gentleman from Pennsylvania [Mr. FATTAH] for 10 minutes, and amendment 34 by the gentleman from Missouri [Mr. VOLKMER] for 10 minutes.

Further, the Chairman of the Committee of the Whole May postpone a request for a recorded vote on any of the 11th through 15th amendments until the conclusion of debate on those amendments, and may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in this series of questions shall not be less than 15 minutes.

Further amendments will be in order following disposition of the aforementioned amendments, subject to the limit of 10 hours pursuant to House Resolution 93.

AMENDMENT OFFERED BY MR. CONDIT

Mr. CONDIT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CONDIT: In the proposed section 6(2)(B), strike the period at the end and insert a semicolon, and after and immediately below clause (ii) insert the following: ''except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)3)), the term means the period beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.''

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. CONDIT] and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from California [Mr. CONDIT].

PARLIAMENTARY INQUIRY

Mr. CONDIT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CONDIT. Did the Chair state that I am in control of 20 minutes?

The CHAIRMAN. The gentleman is correct. The gentleman is in control of 20 minutes.

Mr. CONDIT. Mr. Chairman, I ask unanimous consent to give 10 minutes to my colleague, the gentleman from Texas [Mr. COMBEST], the cosponsor of the amendment, for his use, and retain 10 minutes for my use.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

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

Mr. Chairman, I rise today to offer a bipartisan amendment to H.R. 450 that would extend the regulatory moratorium for new listing of endangered species or designation of critical habitat under the Endangered Species Act. These moratoria would continue until the law is reauthorized on December 31, 1996.

Under the current law, numerous species have been listed without adequate scientific proof of the need of their protection. This has resulted in severe regulatory action which would limit the use of natural resources and private

property while creating significant economic hardships on communities throughout this country.

For example, species listing a critical habitat designation has caused land values to plummet which has caused serious tax revenue shortfalls in many local communities across the United States. In this regard, the endangered species stands as a prime example of an unfunded Federal mandate.

We understand and we appreciate the value of protecting species that are truly in danger of becoming extinct. However, this decision needs to be based on sound scientific data with consideration to the economic impact that it would cause local communities throughout this country.

This is not what is happening under current law. Until the Endangered Species Act is reauthorized and these issues are considered, a moratorium should be placed on additional endangered species designation.

Several bills in Congress have been introduced with bipartisan support that would attempt to do what we are trying to do today, Mr. Chairman. That is, limiting new listing of endangered species or threatened species as well as limiting designated critical habitat. The Endangered Species Act does not consider an impact on human population, and I believe that this extended moratorium would provide leverage, and we need some leverage, necessary to ensure that the Endangered Species Act would be reauthorized in this Congress.

Today that is why I stand to urge the adoption of this amendment. It would give us the opportunity to spend some time to force Congress to consider reauthorization of the Endangered Species Act. It would also give breathing room for communities across the country, local governments, private property owners, so that they could catch up with the list of endangered species that have been passed up to this point.

Mr. Chairman, I would ask that Members support this amendment.

Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, I am pleased to stand with Mr. CONDIT in offering this amendment today. Our amendment will extend the regulatory moratorium in the case of new listings of endangered species or designations of critical habitat until the Endangered Species Act [ESA] is reauthorized or the end of 1996. The ESA expired in 1992 and until the act is reauthorized the bureaucracy should be shut down.

Under current law several species have been listed without adequate scientific proof of the need for their protection. This has resulted in severe regulatory actions which limit the use of natural resources and private property. These regulations have no real benefit to species protection. Over the last few years we have seen more and more cases of lives of law-abiding citizens being affected by ESA actions. These regulatory actions have resulted from a poorly written law.

Do I have interests that concern me parochially? Yes, I do. I am concerned about the possible listing of a 2-inch minnow. This could lead to unneeded regulation of drinking water for 11 cities in Texas and pumping of water by farmers for irrigation. Excess pumpage of ground water could result in fines of up to $100,000 for individuals and $200,000 for corporations per incident, plus 1 year of jail time. Our people and our economy depends on the use of these resources for their survival. Yet they could be subject to these enormous fines for normal water usage. Even though the Federal Fish and Wildlife Service says the minnow is endangered the Texas Parks and Wildlife Department concludes that the Arkansas River Shiner is neither threatened nor endangered.

When the act is reauthorized it should be rewritten to bring more legitimate science into the process and include strong provisions to protect property rights. Until that is accomplished the bureaucracy should not be allowed to continue wasting Federal resources. Citizens Against Government Waste says our amendment ''addresses one of the many examples of waste and mismanagement of taxpayer dollars.''

There is no need to protect species which are not endangered while restricting the use of precious natural resources and private property.

Support the bipartisan amendment to bring rational science back into the endangered species process.

□ 1350

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CLINGER. Mr. Chairman, in the event that the time is opposition is not claimed, may I as the chairman of the committee claim that time?

The CHAIRMAN. In the absence of a true opponent the gentleman, as chairman of the committee, may claim the time with unanimous consent.

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that the time in opposition might be claimed by myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mrs. COLLINS of Illinois. Mr. Chairman, reserving the right to object, it is my understanding someone may be coming in opposition to the amendment, so I would ask that the gentleman not do that at this time.

Mr. CLINGER. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. CONDIT. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO], one of the supporters of the amendment.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the Condit amendment to House Resolution 450, the Regulatory Transition Act of 1995.

It is important that we know what this amendment does and does not do.

It does not gut the Endangered Species Act. The ESA and its substantive provisions are left intact, untouched by the amendment.

The amendment does put the brakes on what is clearly a runaway train. Simply put, the Department of Interior is overwhelmed by the sheer number of listing decisions it faces.

There is plenty of blame to be shared for the current predicament we find ourselves in as we struggle with reforming the ESA.

A recent Wall Street Journal article reports that a last-minute consent decree signed by Bush administration officials on their way out the door left over 400 species petitions waiting at the Department of the Interior before the current administration was even sworn in.

To be specific on December 15, 1992, the Bush administration signed a settlement agreement stating that the U.S. Fish and Wildlife Service would act on 382 species petitions by September 30, 1996.

That settlement agreement is a legally binding requirement for the Service to act on nearly 400 species listing petitions in less than 4 years. And the agreement does not prevent new petitions from being added to that list of nearly 400.

Be that as it may, there is clearly a crisis in the implementation of the ESA.

The Condit amendment calls for a much needed time out in the species wars—a battle that threatens to divide people of goodwill on all sides.

The moratorium is temporary; it gives Congress the ability to control its own destiny.

This moratorium goes away so long as this Congress deals with reauthorization of the Endangered Species Act.

Otherwise, the moratorium expires naturally on December 31, 1996, after the adjournment of the 104th Congress.

Mr. Speaker, the Endangered Species Act is broken. But it needs to be fixed, not gutted.

This amendment will give us time to carefully consider how to fix the act. It also puts more pressure on both the legislative and executive branches to fix the act.

I have my own ideas about how we can fix the ESA. Basically, I believe we need to open up the act to allow for more public review and input.

We need comprehensive, multi-species habitat plans that take into consideration the human impacts of listings.

And we need a clear statement of the economic impacts of a listing decision. I am not advocating that ESA decisions be driven solely by the impacts on the treasury, but I am saying that

we need to know the exact burdens associated with the benefits we seek.

The ESA as written now is like a black box. A petition is dropped into the box and a listing comes out of the side. Unfortunately, the process that takes us from that petition to the listing is either unknown or incomprehensible to the average American citizen.

We need to open the act to the sunshine—to the light of public review.

We also need to restore the people's faith in the accuracy and quality of the science used in listing decisions.

I have a six-point plan for reauthorization of the ESA. These concepts in my plan have received favorable review by a wide range of interests, including local farm bureaus, the Governor of California, and others interested in reforming rather than gutting the ESA.

Mr. Speaker, I submit my proposal for reauthorization of the ESA and the Wall Street Journal article I cited earlier to be included in the RECORD.

In closing, I reiterate my support for this commonsense approach to call a time out to let the agencies charged with implementing the ESA to catch their breath.

We have to make some tough choices. We can no longer treat these species questions as if we have an unlimited pot of money for ESA purposes. The ongoing, hostile budget debate highlights the fact that we have limited resources in every aspect. We have to live within our means.

I support the Condit amendment as the first logical step toward a commonsense reauthorization of the Endangered Species Act.

FINDING A BALANCE FOR CALIFORNIA: REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

(By Congressman Vic Fazio)

The stakes for California in the reauthorization of the Endangered Species Act could not be higher. California has more listed species and candidate species than any other state. Each country has at least one species listed.

Reasonable implementation of the Endangered Species Act (ESA) calls for balancing of environmental quality with the economic livelihood and cultural identity of many California communities. Over the last few years, I have spoken repeatedly about the need for significant improvements in the ESA. As Congress prepares to debate the reauthorization, I have suggested six specific changes to the Act that I believe are vital to California's interests.

First, the implementation of the Act must provide an opportunity for greater public input. Currently, the public has no role in the petition process to list a candidate species endangered until after the agency has decided to list a candidate species as threatened or endangered.

Second, we need to speed up the process of developing and implementing species recovery plans. Right now, recovery plans have been prepared for barely forty percent of all listed domestic species. I believe the preferred time for the development of recovery plans should be in no less than one year after the listing occurs. Delays only serve to disrupt local economies and put the listed species in continued, and sometimes increased, jeopardy.

Third, the Act should include a thorough peer review of the data and analysis considered in decisions to list. Currently, the Act requires agencies to use ''the best scientific and commercial data available'' in making listing decisions. Unfortunately, ''the best scientific and commercial data available'' is not defined in the Act or the accompanying regulations. Unbiased peer review is the best way to ensure that the information used will support a listing decision without any subjective interpretation and ensure that it is both clear and convincing.

Fourth, Section 10 of the Act should be expanded to encourage the development of habitat conservation plans which address more than one listed or candidate species. The Act currently does not permit the development of habitat conservation plans for candidate species nor does the Act clearly encourage multiple species plans. Careful habitat planning can prevent the need to list a candidate species and speed the recovery of species already listed.

Fifth, the Act should be amended to provide equal access to the courts for those who challenge the listing of a species. Currently, the Act provides for judicial review for only those individuals or parties that oppose an agency's decision denying a petition to list a species. No similar access to the courts is provided to those who challenge the listing.

Sixth, and finally, the Act should be amended to require the development of an economic impact report concurrently with the listing of a species. The public has a right to know the best estimate of the total cost of implementing the Act for a given species. The report should detail the various direct and indirect economic factors that will be implicated by a listing and provide a reasonable estimate of the larger economic picture in light of the listing.

Balance is the key to reauthorizing the Endangered Species Act. The stakes in California are high, but we can protect our environment without destroying our economic prosperity by providing for greater public input into the decisions that affect us all.

[From the Wall Street Journal, February 17, 1995]

CAUGHT IN A TRAP—DEMOCRATS GET SNARED BY GOP PACT ON LIST OF ENDANGERED SPECIES—A BUSH-ERA 'CRITTER QUOTA' BOOSTS ANIMAL PROTECTION—AND ANTIREGULATORY IRE—MOSQUITOES VERSUS A RARE FROG

(By Timothy Noah)

TIBURON, CA.—It is Charlie Dill's job to kill disease-bearing mosquitoes, but he has had another pest on his mind lately: the Interior Department's Fish and Wildlife Service.

Mr. Dill, manager of the Marin-Sonoma Mosquito Abatement District, a local-government agency, keeps mosquito populations in check by dropping small fish that love to eat the insects into ponds and streams. Trouble is, some researchers say these ravenous mosquito fish also love to eat the eggs of California red-legged frogs, which, though rare, can be found in the San Francisco Bay area. And the service has proposed placing the frog on the endangered-species list.

Though people like Mr. Dill worry that this may make mosquito hunting more difficult, Interior Department officials say they had little choice. They cite a little-known legal settlement that President Bush's Interior Department and environmental groups reached after the 1992 election. The agreement committed the Clinton administration to propose listing nearly 400 endangered species over four years—in effect imposing a critter quota.

'A WINK AND A NOD'

Thanks to the quota, the number of plants and animals annually added to the list of endangered species, which averaged 50 a year during the Reagan and Bush administrations, now averages nearly 100 a year. This heightened regulatory activity, in turn, has added to a political backlash against environmental rules in general and the Endangered Species Act in particular.

''What our predecessors did was fight the lawsuit and then after the election was over, with a wink and a nod, say to the plaintiffs, 'We'll agree to whatever those numbers are,'" complains Interior Secretary Bruce Babbitt. ''It puts us in a reactive mode, always working from a very tight corner that we've been painted into.''

Former Bush administration officials deny that there was any deliberate effort to make life miserable for their Democratic successors. But ''a lot of stuff got flushed through'' between Election Day and Inauguration Day, concedes former Interior Department Solicitor Tom Sansonetti.

SNAIL'S PACE

The rising tide of antiregulatory sentiment in the new Republican-controlled Congress is viewed as a rebellion against the liberal policies of a Democratic administration. And, it is true, Democrats generally do tend to view government regulation more favorably than their Republican adversaries. But since the wheels of government don't turn quickly, some of the rules most abhorrent to conservatives—or the circumstances that created them—are the product not of two years of Democratic-run regulatory agencies but of the previous 12 years of Republican rule. The critter quota is one such example.

During the Reagan administration, a conservationist in Boulder, Colo., Jasper Carlton, grew frustrated with the Fish and Wildlife Service's seeming reluctance to add animals and plants to the federal endangered list. Mr. Carlton was uniquely well-equipped to notice this because he was among the most active endangered-species litigants in the U.S.; to date, he has been a plaintiff in 90 cases involving endangered species. In Mr. Carlton's words, he was ''getting fed up with the fact that it was so hard to get a listing of any species.''

BOTTLENECK IN WEST

Endangered-species listings, which had numbered 57 in fiscal 1980, the last full year Democrat Jimmy Carter was president, dropped to five in fiscal 1981. By the mid-1980s, annual listings had crept back up to around 50, but data collected by Mr. Carlton suggested that even this pace wasn't keeping up with extinctions that the Fish and Wildlife Service's own officials saw looming. The backlog was particularly hefty in the West, home of the California red-legged frog. (The West leads the nation in threatened extinctions because of its diverse topography and because of the relative newness of its commercial and residential development.)

Mr. Carlton figured that the backlog violated the fairly exacting requirements of the 1973 Endangered Species Act, which stipulates that if scientific evidence shows a species is endangered, it must be placed on the endangered list, regardless of political or economic consequences. So he joined the Fund for Animals and several other environmental groups in suing the Interior Department to compel the listings.

The department wasn't confident it could defeat the environmental groups in court. And after President Bush lost the 1992 election, recalls Eric Glitzenstein, an attorney for the Fund for Animals, ''a lot of potential objections'' to settling ''were cleared away. . . . Maybe the Republican administration

thought, 'Hey, let's see how the Democrats do with all these listings.' ''

''I'm sure there were forces in the department . . . who were very cognizant of the fact that the Bush administration was no longer going to have to deal with that,'' says Steven Goldstein, who at the time served as spokesman for Interior Secretary Manuel Lujan.

CHOOSING TO SETTLE

The government lawyers chose to settle. In an agreement dated Dec. 15, 1992, the Bush administration pledged that the Fish and Wildllife Service would, by Sept. 30, 1996, propose listing all species ''for which substantial information exists to warrant listing them as either endangered or threatened.'' The service had a list of these species—382 to be exact. Substitutions could be made, with proper reasoning, and certain species could be dropped from the backlog list, but only with voluminous scientific justification that in most cases would be hard to come by. (The settlement addresses only ''proposed'' endangered-species listings, but since more than 0% of all such proposals become, after a period of public comment, legally enforceable ''final'' listings, that distinction is largely moot.)

Today, at least one Bush administration official contends that signing the agreement was a mistake because it compelled the Interior Department to make too many listings. ''They wouldn't have signed if I had anything to do with it,'' says Cy Jameson, former director of the Bureau of Land Management.

Other former Bush officials disagree. John Turner, former director of the Fish and Wildlife Service, maintains the agreement had ''little impact'' because he was already accelerating the agency's actions on endangered species. He says it is ''absolutely not'' true that the November election goosed the decision to settle; the mandate to list about 100 species a year ''fit within the targets that we'd outlined for ourselves.''

On this last point, the numbers bear Mr. Turner out, In 1991, Fish and Wildlife listed 54 endangered species; in 1982, it listed 93, Virtually all of the 1982 listings were proposed before the Fund for Animals filed its lawsuit and became final before the settlement was struck in December 1992. The listings increased, Mr. Turner says because ''I just believed strongly in protecting diverse life forms.''

FRENZY OF ACTIVITY

Nevertheless, the net result of the critter quota has been that the Clinton administration is compelled to maintain a frenzy of species listing. By legal fiat, listings have maintained a brisk pace (95 in 1988), 103 in 1994), and will continue to do so through the 1996 election year. There currently are 919 plants and animals on the list.

Today, Mr. Babbitt says ''I would not have signed'' the settlement, though he adds that, given the listings bottleneck in the 1980s, the quota was probably inevitable. ''When administrative agencies fail to do their job,'' he says, ''they are inviting this kind of judicial takeover.''

Which brings matters back to item No. 135 on the court-ordered list of 382 species: the California red-legged frog.

Naturalists are puzzling over the causes for a declining frog population world-wide, but in the case of the California red-legged frog the answer is pretty straightforward. The long-legged amphibian was plundered by grenouille hunters for French restaurants that sprang up in San Francisco in the wake of the California Gold Rush, then fell victim to competition with the heartier bullfrog, introduced by settlers from the East in the 1890s. After widespread agricultural and urban development in the 20th century, the red-legged frog's range shrank to a few coastal areas, which are believed to represent only about a quarter of its former habitat.

By 1992, Mark Jennings, a zoologist affiliated with the California Academy of Sciences, was petitioning Fish and Wildlife to declare the California red-legged frog endangered. The department proposed listing the frog in February 1994—and promptly set off a squall among California's mosquito hunters.

The trouble began with the circulation of a study written by Randy Schmieder, a recent graduate of the University of California at Santa Cruz. As an undergraduate, Mr. Schmieder had compiled evidence suggesting that the non-native mosquito fish used by public-health officials to gobble up mosquito larvae were also gobbling up the eggs of red-legged frogs.

Mr. Schmieder's findings, and the fact that he then lacked a graduate degree, have made him the subject of criticism among mosquito-fish partisans. But in its proposed listing, the Fish and Wildlife Service noted Mr. Schmieder's findings, and the agency says it may have to limit use of mosquito fish to protect the frogs. (Mr. Babbitt says the California red-legged frog is ''a case that cries out for more biology and careful research.'')

RISK OF DISEASE

Mr. Dill says any restrictions on use of mosquito fish is cause for concern. California officials have been using the South American fish to control mosquito populations since a malaria epidemic during the 1920s. In 1993, the last year for which data are available, Mr. Dill's small Petahamn-based agency put 1,200 fish in 222 different water sources: ponds, streams, bird feeders, artificial lagoons and wherever else mosquitoes are liable to swarm.

Without proper mosquito control, says Mr. Dill, Californians risk contracting a variety of diseases, such as encephalitis, which had been detected in the animal population as recently as 1993. Should use of the mosquito fish be restricted in the future, he adds, he wouldn't stop killing mosquitoes. Rather, ''there would be a direct increase in the amount of chemicals we use'' to control mosquito infestation. The chemicals Mr. Dill refers to are ''biological'' pesticides, generally viewed as less harmful than their synthetic counterparts. But they are more harmful than mosquito fish, Mr. Dill says—and more expensive, too.

''If only they would take their time,'' Mr. Dill says of the Fish and Wildlife Service's final declaration that the red-legged frog is endangered, which is expected soon. ''We need the freedom to put the fish wherever we think it would do us some good.''

DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, DC, February 15, 1995.

SUMMARY OF ENDANGERED SPECIES ACT PETITION ACTIONS

The data below reflect findings on listing petitions received by the Fish and Wildlife Service in 1990, 1991, 1992, 1993, and 1994. The data pertain only to petitions to list taxa and do not include petitions to delist, reclassify, revise critical habitat, list humans, etc. More than half of the petitions were rejected either at the 90-day or 12-month stage. Section A is taken from petitions received during 1990 through 1993 (4 years) because only a few petitions received in 1994 have had 12-month findings come due.

A. 12-Month Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Not Warranted—26 native species (no foreign species).

Warranted/Warranted but Precluded—42 native + 53 foreign birds = 95.

12-Month findings overdue—23 native species (no foreign species).

90-Day Findings on Species Petitioned for Listing in 1990, 1991, 1992 & 1993:

Substantial—89 native species + 53 foreign birds = 142.

Not Substantial—115 native species (no foreign species).

90–day findings overdue—2 native species (no foreign species).

Subset of petitions to list native species during this period:

206—native species petitioned for listing.

115—turned down at 90 days.

91—remaining.

26—turned down at 12 months.

42—warranted/warranted but precluded.

23—findings overdue.

0—(68 percent turned down).

B. Petitions Received in 1994:

26 native species.

8 foreign species (7 butterflies, koala).

34 species.

As of 2/15/95:

90–day finding substantial—8 native + 8 foreign.

90–day finding not substantial—0.

12–month finding not warranted—1 (lynx).

12–month finding warranted/warranted but precluded—0.

PARLIAMENTARY INQUIRIES

Mr. COMBEST. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, if no one is here to claim the time of the opposition, is it proper under the House to ask for disposition of that time at this time, so that all of the time by proponents is not used up prior to someone claiming the time?

The CHAIRMAN. The Chair would inquire if any Member in the Chamber rises in opposition to this amendment?

Mrs. COLLINS of Illinois. Mr. Chairman, I will have a parliamentary inquiry after the Chair has answered the gentleman's parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, the Chair has not answered the gentleman's question yet.

The CHAIRMAN. The Chair was attempting to determine if there was any Member in the Chamber seeking recognition in opposition.

Mrs. COLLINS of Illinois. That was not his question, Mr. Chairman.

The CHAIRMAN. The time can be disposed of by unanimous consent.

Mrs. COLLINS of Illinois. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, can the time be retained so that a Member who is probably on the way can have the opportunity to speak in opposition to the amendment?

The CHAIRMAN. If a Member were to object, the time could only be claimed by a Member in opposition.

Mrs. COLLINS of Illinois. I thank the Chair.

Mr. COMBEST. A further parliamentary inquiry, Mr. Chairman: In order to be able to have equal debate on the

issue, could the gentleman from California [Mr. CONDIT] and the gentleman from Texas [Mr. COMBEST] both reserve their time, and let us wait until someone appears or a decision is made about the remaining 20 minutes?

The CHAIRMAN. The Chair would ask if any Member in the Chamber is opposed to the amendment and wishes to be recognized?

Mrs. COLLINS of Illinois. The Chair has not answered the question, Mr. Chairman.

The CHAIRMAN. The Chair is exercising his prerogative to determine if there is opposition.

Mrs. COLLINS of Illinois. Mr. Chairman, I am exercising mine as a Member of this body to have an answer so I can know how I want to approach this issue.

The CHAIRMAN. The gentlewoman will suspend. Does a Member in the Chamber rise to claim time in opposition?

If there is no Member in the Chamber to claim the time in opposition to the amendment, does any Member object to the chairman of the committee claiming the time?

Mrs. COLLINS of Illinois. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. CLINGER. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

Mr. CLINGER. Mr. Chairman, in the event no one is in the Chamber to claim time in opposition to the amendment and this is the appropriate time to make that claim, does the time lapse?

The CHAIRMAN. The time does not lapse until the Chair puts the question on the amendment.

Mr. CLINGER. In other words, the Chair is telling me, Mr. Chairman, if someone comes at the end of this debate when all of the proponents of the amendment have completed their time, and somebody in opposition appears and spends 20 minutes attacking the amendment, the proponents would not have an opportunity to answer those points?

The CHAIRMAN. That is the order of the House.

Mr. CLINGER. I thank the Chair.

Mrs. COLLINS of Illinois. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewomen will please state her parliamentary inquiry.

Mrs. COLLINS of Illinois. Mr. Chairman, it is my understanding that the majority always has or the offerer of the amendment always has the opportunity to close. If in fact, as I understand, the gentleman from Texas [Mr. COMBEST] is coauthor of that amendment, in that case would he not have the opportunity to close?

The CHAIRMAN. If the Member claiming time in opposition were representing the committee position, then that Member would be entitled to close.

Mrs. COLLINS of Illinois. Mr. Chairman, I said, if the one who is the author, the offerer as a coauthor of the amendment would have the time to close if in fact he were a Member of the majority who has offered the amendment.

The CHAIRMAN. The answer to the gentlewoman's question is ''no.''

Mrs. COLLINS of Illinois. It is?

The CHAIRMAN. It would depend on who controls the time in opposition.

Mrs. COLLINS of Illinois. The gentleman from Texas [Mr. COMBEST] certainly controls that amount of time. If he has that amount of time I am sure a gentleman on this side of the aisle would yield him that time to close if he so chose or even if he asked.

Mr. CONDIT. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from California will state his parliamentary inquiry.

Mr. CONDIT. What happens if the gentleman from Texas [Mr. COMBEST] and myself finish our time?

The CHAIRMAN. Then the Chair would put the question on the amendment.

Mr. CONDIT. What if I yield back the balance of our time at this moment?

The CHAIRMAN. The gentleman may do that.

Mr. CONDIT. And we would call for a vote.

The CHAIRMAN. Do the gentlemen yield back their time?

The gentleman from California is recognized.

(Mr. CONDIT asked and was given permission to revise and extend his remarks.)

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

Mr. COMBEST. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. COMBEST. Mr. Chairman, is it my understanding if the gentleman from California and gentleman from Texas yield back their time, the question would be put?

The CHAIRMAN. The gentleman is correct.

Mr. COMBEST. Under the parliamentary inquiry, Mr. Chairman, if I could I want to be certain there is not a misunderstanding that we are trying to close this out. I was wishing, if some Member were here to enter into debate, that we might be able to do that.

Mrs. COLLINS of Illinois. If the gentleman will yield, the Member we thought was on the way over here apparently has not come over here and, therefore, I would suggest that he might not be on his way any longer. He had plenty of time to get here by now.

Mr. COMBEST. Mr. Chairman, I appreciate the gentlewoman's comments and realize she may be in a somewhat peculiar situation and I want to make sure there is not a misunderstanding that we are trying to close out debate here.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. POMBO].

(Mr. POMBO asked and was given permission to revise and extend his remarks.)

Mr. POMBO. Mr. Chairman, I rise in support of this particular amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. SMITH].

(Mr. SMITH of Texas asked and was given permission to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of the Condit amendment.

Mr. Chairman, I am pleased to join my colleague, Mr. CONDIT, in offering a bipartisan amendment to extend the Regulatory Transition Act to cover new regulations under the Endangered Species Act.

The Endangered Species Act has destroyed the rights of hardworking, tax-paying American families for the sake of blind cave spiders, fairy shrimp, and golden-cheeked warblers. The following horror stories are not exceptions; they are the rule:

Landowners in 33 Texas counties are endangered because their land may be designated as ''critical habitat'' for the golden-cheeked warbler. This designation could render vast amounts of property useless and valueless.

In Montana, a rancher was fined $3,000 for violating the Endangered Species Act. His crime? He shot and killed a grizzly bear that charged him on his own property.

In Round Rock, TX, a school might not be expanded because Federal agents discovered a blind cave spider nearby. Government officials forced this delay after the school district had spent almost $100,000 of taxpayer money on environmental studies.

Just imagine if the Endangered Species Act had been around throughout history. In the Bible, Noah could have been condemned as an animal-hater, fined, and kept from launching his arc. American history could have been changed forever: George Washington could have been imprisoned for cutting down the cherry tree. Lewis and Clark could have been fined for trampling native grasses.

Until Congress reauthorizes the Endangered Species Act to balance common sense with environmental concerns, we must protect American landowners by putting regulators on a leash. This amendment would extend the regulatory moratorium on listing of endangered or threatened species or designation of critical habitat until Congress reauthorizes the Endangered Species Act.

Join this bipartisan coalition and support the Condit amendment.

☐ 1400

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BONILLA].

(Mr. BONILLA asked and was given permission to revise and extend his remarks.)

Mr. BONILLA. Mr. Chairman, I strongly support this amendment.

Mr. Chairman, today, I join a bipartisan group including Messrs. CONDIT, COMBEST, SMITH, EDWARDS, and HAYES, in offering an amendment which will help put a stop to the

current abuses of the Endangered Species Act [ESA]. I am very proud to be a part of this effort.

In its current form the Endangered Species Act—though well intentioned—works contrary to, and often against, one particular species—the human being.

Many hard-working ranchers, farmers, and homeowners in Texas have a greater fear of the golden cheeked warbler than they do of Federal tax hikes and tornadoes. In my own hometown of San Antonio, TX, the entire source of water has been held hostage by Federal agencies and courts over a small fish called the fountain darter. This amendment is an important first step to allay some of those fears and bring common sense to the ESA process. We in Congress must act and insure that human beings no longer play second fiddle to spiders and snakes.

Specifically, this amendment will suspend the further listing of endangered or threatened species and the designation of new critical habitat until the Endangered Species Act is reauthorized by Congress. The ESA's authorization expired in 1992. This measure is a realistic vehicle toward reforming the ESA. Passage will compel Congress to consider human factors and bring balance to the ESA when it considers the reauthorization. ESA must be reconstructed with amendments which not only protect the environment, but respect property rights.

Protecting property rights does not mean that threatened species cannot be protected. It simply means that human costs should be considered when the ESA is imposed. It also means that Government agencies, such as the Fish and Wildlife Service, should be creative in finding ways to balance these goals, rather than slamming the heavy fist of the Federal bureaucracy down on landowners. The Federal Government should work in concert with the true stewards of the land, instead of threatening them with fines without warning.

Please join us in this important bipartisan effort. It is long since past time that we bring sanity and common sense to the ESA process. This will stop current abuses and make possible real reform of the ESA.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. LUCAS].

(Mr. LUCAS asked and was given permission to revise and extend his remarks.)

Mr. LUCAS. I also strongly support the bill.

Mr. Chairman, I rise in strong support of the amendment coauthored by my good friends, Mr. CONDIT and Mr. COMBEST. I believe that of all the amendments offered to improve this legislation this is one of the most important.

The 104th Congress must put a moratorium on any future endangered species listings until the Endangered Species Act is reauthorized. As currently written, the Endangered Species Act should be considered a pariah in society and be cast out with many other over-zealous big-government institutions that plague individual freedom, industry and potential economic development. It is fundamentally flawed and must be redrafted.

Last month, I came to the floor and spoke in morning hour about a little bait fish lurking in the Arkansas River Basin that might have the power to stop those in the agriculture industry from irrigating their land, or protecting their crops. I wondered if the little bait fish might inhibit rural towns from utilizing their primary water sources or impact a major metropolitan area's $250 million downtown restoration project which is crucial to its economic future. I spoke of my dissatisfaction with the Fish and Wildlife Service who failed to respond to my queries on the proposed listing of the Arkansas River Shiner in a timely fashion. And I called on my colleagues to cosponsor legislation putting a moratorium on any new listings until the ESA is reauthorized.

This bipartisan amendment offered by Mr. CONDIT and Mr. COMBEST will buy the American people time and protection from the ever growing ESA web that is sweeping our country. I am confident this Congress will shortly take up this task. I look forward to infusing a little common sense into the act. Private property rights, economic impact, cost-benefit analysis, and human compassion must be an integral part of a new Endangered Species Act.

In addition to the sponsors of the amendment, I would like to laud Mr. SMITH, Mr. BONILLA, and Mr. POMBO for their efforts on the issue. I urge my colleagues to support this important addition to this legislation.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. HOSTETTLER].

(Mr. HOSTETTLER asked and was given permission to revise and extend his remarks.)

Mr. HOSTETTLER. Mr. Chairman, I rise in favor of the Condit bipartisan amendment to H.R. 450. As a cosponsor of H.R. 490, the bill introduced by my colleague, Mr. SMITH, the gentleman from Texas. I am quite aware of the hardships that have been caused by sending the original Endangered Species Act into regulatory overdrive. In my district, there have been coal operations endangered because of the potential listing of a water snake that happens to abide in mines. There have been farmers with easements placed on their farms to preserve potentially critical habitat for bats. The horror stories elsewhere about ranchers being fined for protecting their sheep from bears and farmers jailed for killing rats are numerous.

But beyond the horror stories, there is a fundamental issue at stake. The rights of American citizens to own and enjoy their property. No one is advocating the wanton extermination of legitimate species here. But it's time that we make a decision about what takes a higher priority—the property rights of taxpaying American citizens or the comfort of creeping things and the special interests that represent them. Mr. Speaker, I urge passage of the Condit-bipartisan amendment and final passage of H.R. 450.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona, [Mr. HAYWORTH].

(Mr. HAYWORTH asked and was given permission to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Chairman, I stand in strong support of this amendment.

This amendment provides Americans temporary relief from the onerous and intrusive provisions of the Endangered Species Act [ESA].

When residents of Greenlee County, AZ attempted to repair a dirt road after flooding wiped it out last November, heavy handed bureaucrats from the U.S. Fish and Wildlife Service threatened a daily fine of $20,000 if the work wasn't halted.

The dirt road in question is near the Blue River designated as habitat for the loach minnow which the Fish and Wildlife Service has listed as threatened under the Endangered Species Act.

Elsewhere on the Blue River, in Pinal County, AZ, the county is seeking to replace a bridge which washed out during a flood in 1993. The county has two alternatives: Spend $4 million to replace the washed out bridge in the same high risk location, or build a bridge upstream out of harms way for half the cost.

Common sense would dictate building the cheaper, safer bridge. Unfortunately, Mr. Chairman, I've learned that nothing makes sense about the ESA and the only thing common is for the Fish and Wildlife Service to trample on the rights of people.

The ESA has allowed bureaucrats to make decisions having serious negative economic consequences throughout regions of the United States. These decisions are made without benefit of comprehensive economic analysis or without public accountability.

Let me mention an example of just one area of the ESA in desperate need of reform. The Fish and Wildlife Service views State borders as a division of species habitat. For example, if you have a population of birds that crosses a State border, it could be considered as two different species. One could be listed, while a plentiful amount lived on the other side of the stateline. Again, common sense is lacking from the process.

Of the 853 species placed on the endangered or threatened lists in the law's 22 year history, only 24 have come off. Of this 24, over half should not have been listed in the first place. In some cases the courts have forced the Fish and Wildlife Service to remove species from the list. With regards to recovery programs it is estimated that each species cost an average of $3 million to recover. I should also note, Mr. Chairman, that another 3,600 are being considered for listing. Unless we reform the ESA, beginning with this temporary moratorium, expect to see the problems faced by those in Greenlee and Pinal County coming soon to a city, county, or backyard near you.

As a member of the Endangered Species Task Force, I believe that we must address these concerns immediately. In the interim, however, the Condit amendment halts further listings until Congress can properly reauthorize the ESA.

I urge my colleagues to support this important amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. HERGER].

(Mr. HERGER asked and was given permission to revise and extend his remarks.)

Mr. HERGER. I thank the gentleman, and I stand in strong support of this amendment.

Mr. COMBEST. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STOCKMAN].

(Mr. STOCKMAN asked and was given permission to revise and extend his remarks.)

Mr. STOCKMAN. Mr. Chairman, I want to stand in support of this bill and this amendment.

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

Mr. EDWARDS. Mr. Chairman, I rise today in support of the Condit-bipartisan amendment to H.R. 450 and in doing so recognize the importance of reforming the Endangered Species Act. This amendment is virtually the same as a bill introduced last year by Congressman HENRY BONILLA and me. The act, expiring in 1992, should have been reauthorized by Congress more than 2 years ago. Since that time, endangered and threatened species continue to be listed and critical habitats continue to be designated—without the act being reviewed by Congress.

This amendment is simple. It would suspend the authority of the Secretary of the Interior to designate funds for the further listing of any endangered or threatened species or for the designation of critical habitat until the Endangered Species Act is reauthorized.

If we do not adopt the Condit-bipartisan amendment, the Endangered Species Act could continue in full force without congressional review.

Presently, 775 animals, plants, and insects are listed as endangered or threatened under the Endangered Species Act—almost a 400-percent increase from the original endangered species list. Another 3,900 species are candidates for listing.

I see the result of this in my own backyard where the U.S. Fish and Wildlife Department proposed to designate portions of 33 counties for the protection of the golden-cheeked warbler. This proposal would have encompassed some 20 million acres.

The current enforcement of the Endangered Species Act is a direct attack on private property rights. It seems that there are more protections for bugs and birds than for people and their constitutional private property rights.

We cannot continue an act that is not working. Help stop Endangered Species Act abuse; return common sense to environmental law. Vote yes on the Condit-bipartisan amendment to H.R. 450.

Mr. STENHOLM. Mr. Chairman, I rise in strong support of the Condit-bipartisan amendment to H.R. 450, the Regulatory Transition Act.

The Condit-bipartisan amendment would extend the regulatory moratorium for new listings of endangered species or designation of critical habitat under the Endangered Species Act [ESA]. Therefore, there could not be any new listings until Congress reauthorizes the ESA or until December 31, 1996.

The lack of common sense exercised under the ESA in designating critical habitat was clearly illustrated in the State of Texas last year when the U.S. Fish and Wildlife Service designated 33 counties in Texas as critical habitat for the golden cheeked warbler.

The Fish and Wildlife Service regulations in designating this critical habitat fly in the face of common sense. Property owners in the habitat area have been prohibited from making even the most limited alterations on their land, such as building fences or trimming hedgerows.

The critical habitat designation is intended to prevent activities that harass the warblers. However, the activities that are considered harassment include ''chasing away a warbler that took up residence on the front porch of a farmhouse,'' according to a Fish and Wildlife official interviewed in the Wall Street Journal. This same official considered the Agency's enforcement of its policies ''reasonable and prudent.''

Reasonable and prudent enforcement of the warbler's critical habitat should not mean that private property owners are stripped of their rights to manage their own holdings. Reasonable and prudent enforcement should mean that concern for the environment and endangered species is tempered with common sense to protect the rights of landowners.

The only reasonable and prudent course is for Congress to unite to see that common sense drives changes in the current regulations. We can do that today by supporting the Condit-bipartisan amendment to H.R. 450.

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today to speak in favor of the Condit amendment to H.R. 450—the Regulatory Transition Act.

Let me tell you a little story about an animal called the copper-belly water snake.

It's a nonpoisonous snake that ranges from Michigan to Kentucky—mostly in the wetlands.

Now by all accounts it's a very nice snake. And those of us from farm States know that snakes provide a useful service removing rodents and other nuisances.

But if the copper-belly water snake is added to the threatened species list, thousands of farmers throughout Kentucky could be out of work.

We've heard too many such stories:

The farmer who accidentally ran over an endangered mouse.

Or the man who killed a rat in his basement, only to find out that it was a protected species.

What sort of fine might a Kentucky farmer be forced to pay if he accidentally ran over a copper-belly water snake?

Would the regulatory forces that serve as judge, jury, and executioner impound his tractor?

Our farmers are generally the best stewards of our land. They have to be—their crops depend on fertile soil and clean air and water.

The men and women who literally make their living off the land are already suffering due to overzealous regulators.

The coal industry could also be affected by the copper-belly water snake.

Nearly 500 people in the western Kentucky county of Daviess still depend on coal-mining to put bread on the table.

Are we to shut down the few remaining mines if a copper-belly water snake decides to go undergound?

Let me again say, Mr. Chairman, that I have no quarrel with the copper-belly water snake.

I've certainly never been bitten by one.

But I urge my colleagues to support the amendment to H.R. 450—so that our farmers, miners, and indeed all of us aren't bitten by the latest version of the snail darter or spotted owl.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CONDIT].

The amendment was agreed to.

AMENDMENTS OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I have amendments at the desk that were proposed by Mr. KANJORSKI, who is on his way to the Chamber, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will designate the amendments.

The text of the amendments, Nos. 21 and 22, is as follows:

Amendments offered by Mrs. COLLINS of Illinois: Amend section 6(2)(A) (page , line) to read as follows:

(A) beginning on the date of the enactment of this Act, and Amend section 7 (page , beginning at line) to read as follows:

SEC. 7. JUDICIAL REVIEW.

This Act shall not be considered to authorize or require any action that is subject to judicial review.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. Under the order of the House of today, the proponent and an opponent will each control 15 minutes.

Does the gentleman from Pennsylvania [Mr. CLINGER] rise in opposition?

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendments.

The CHAIRMAN. The gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and the gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as I said, the gentleman from Pennsylvania [Mr. KANJORSKI] is on his way to the Chamber.

Mr. Chairman, I support the gentleman's amendments.

As far as I am concerned, the two worst things about this bill are that it is retroactive and that it does not prohibit judicial review. The gentleman's amendment solves both problems.

Under the bill, many regulations that have already been issued would be suspended, even though business and others, in good faith, may have made major investments in order to comply.

In addition, proponents of this bill overlook the fact that Federal regulations often create markets and opportunities for business. H.R. 450, with its retroactive starting time for the moratorium, would require agencies to take away opportunities that business has already received.

For example, the FCC took action recently to allocate for sale of the private sector 50 megahertz of spectrum

that has been controlled by the Federal Government.

Why would we want to stop this rulemaking which will create new opportunities for U.S. telecommunications firms, and at the same time cut back the Federal Government's role in telecommunications?

Mr. Chairman, we ought not to be changing the rules once the game has already started, and that is what this bill does.

Mr. Chairman, H.R. 450 also fails to prevent a court challenge of an agency decision to exclude a rule from the moratorium.

Although the bill does not specifically authorize judicial review of agency decisions, neither does it preclude judicial review under the authority of other laws.

The committee report states, and I quote:

The section makes it clear that the Act does not grant any new private right of action. However, this section does not affect any private right of action (for a violation of this Act or any other law) if that right of action is otherwise available under any other law (such as the Administrative Procedure Act provisions of title 5, United States Code).

With the courts looking over their shoulders, clever lawyers can tie up regulations in litigation for months, even if they fall under one of the bill's exclusions.

Judicial review, therefore, effectively guts the authority in the bill to exempt a rule or regulation from the moratorium.

Unless excluded, important health and safety rules, rules pertaining to foreign affairs or military functions, rules relating to the provision of benefits, as well as rules affecting financial institutions could be suspended by the courts—even if an agency head believed these rules fell within the statute's exemption provisions.

The authors of this bill recognize that it is a difficult decision to decide that a rule is necessary to avoid an imminent threat to health and safety, so the committee report provides guidance. However, it is almost a certainty that if an agency exempts a regulation under that standard, business will be in court to challenge that decision. Is that what we want?

The gentleman's amendment is a major improvement over the language of the bill, because it eliminates judicial review and retroactivity. I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I yield myself 3 minutes.

I do so to rise in opposition to the gentleman from Pennsylvania, Mr. KANJORSKI'S amendments en bloc.

Let me point out that in terms of trying to do this in a cooperative effort, we did request of the administration to have them declare a moratorium on all regulation activity for the first 100 days of this Congress so that we would have an opportunity to do that. That was not an unprecedented action. In fact, moratoria have been declared by both Presidents Reagan and Bush heretofore.

This basically would move the date only prospectively, but it would not pick up a vast horde of regulations, frankly, that really, I think, need to be looked at before they are passed on to the American people, about 600 during the time of this amendment.

So, moving this to a prospective date I think would undercut a real purpose that we are trying to accomplish here.

The other element that I think needs to be dealt with is the amendment to eliminate all judicial review, which is included in the gentleman's amendment, is unnecessary. This amendment is really redundant because section 7 of H.R. 450 already contains a limitation on judicial review. It provides simply that no private right of action may be brought against any Federal agency for violation of this act. This makes it clear that the act does not grant any new private right of action enforceable in the courts.

It is clear because this moratorium was limited in nature. The longest it can go is to December 31 of this year. And then it could be terminated much before that if in fact we pass regulatory reform under H.R. 9, that the time period that would be involved would be so short you would not really be able to conduct an effective judicial review.

On the other hand, we did not want to take away from people the rights that they presently have under existing law, primarily under the Administrative Procedure Act.

So I would submit this amendment is really unnecessary because there is no extended or no expanded right of judicial review in the bill. For that reason, I would oppose the amendment

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 13 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI] and I ask unanimous consent that he be allowed to further yield time.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

The CHAIRMAN. The gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 13 minutes.

Mr. KANJORSKI. I thank the chairman.

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

Mr. Chairman, I want to thank the ranking member of the committee, the gentlewoman from Illinois [Mrs. COLLINS], and I rise in support of the amendment, obviously, because what we have here in the text of this legislation is that when you join it with what would be allowed under the APA rule is that every rule promulgated by every agency of the U.S. Government will be subject to court review and court action.

What we are structuring here is an absolute freeze on the actions of government for the next period of time, however that may eventually last, that the moratorium is in place.

If that is not bad enough, what we are allowing here by virtue of allowing judicial review under the APA regulations is that in the future any contested promulgated rule or regulation frozen in place in this time can be attacked by virtue of the right of review under judicial review. So that 4 years down the road, if something is felt to not comport with the act itself in the moratorium, you will be able to have an attack and a request for judicial review to go over that and have that rule or regulation set aside or the effectiveness set aside.

A simple example would be a rule or regulation by the wildlife area in Interior. If there were a question raised on the licensing or area qualifications for duck hunting—duck hunting—which nobody in this Chamber would oppose, activists rights organizations could attack the promulgated rules and regulations allowing that duck hunting to occur however and for whatever purpose the rule is promulgated. It would end up in the court and the decision under the judicial review would take such a period of time that whatever the purpose and finality of that ruling would be, would be inconsequential because of the passage of time.

□ 1410

What we have created here in essence, when we look at the total bill itself and the judicial review that is allowed under existing law by implication of this entire statute, is we have allowed an opportunity for those people who fundamentally and philosophically do not believe that government should work in any respect. They will have accomplished their end.

This is not just a moratorium. This is not just a surgical procedure to rule out of order improper or zealous rule makers or improper application of rules. This is a process and procedure that by not being surgical in our strike will allow those people with the worst intentions to prevail and to have consequences that we cannot even determine now, during the moratorium period, or for years thereafter, and the one thing we are certain of is that by use of allowing judicial review of this act we are going to allow the freezing of the remaining 2 years of the Clinton administration.

Now, if that is the intention of the makers of this statute, and if the intention of the makers of this statute is not providing for no judicial review during the moratorium period or thereafter, they will accomplish their end.

So I would recommend that everybody from the minority or the majority that desires to close government down in all respects of what we do, they should definitely vote against this amendment, but if they are sensitive to the fact that what we are doing is causing a wealth of litigation to occur by anyone and for any purposes, then we should seriously review what we are doing today.

We have, on February 22, received a communication from the U.S. Department of Justice, Office of Legislative Affairs and under the signature of the Assistant Attorney General of the United States that lays out the Justice Department's position on this amendment, and not reading the entire letter other than the fact that they support the amendment in its entirety, if I can quote a portion of this?

It says, ''As you know, the administration strongly opposes H.R. 450. Its judicial review provision is one of the bases for this opposition. We believe section 7 will result in litigation each time a new rule is promulgated during the moratorium. We strongly oppose this language, and we think the bill should include an express bar to judicial review,'' and this amendment provides that ''express bar'' to judicial review.

I cannot urge my colleagues more firmly, and this is not a partisan issue. This is a Government issue. This is a question of whether or not we believe this Government should function and whether or not we are not capable as a Congress of finding another way to correct overzealousness in rulemaking or improper applications of rules. The fact is there are tens of thousands of rules promulgated every year. The overwhelming majority are necessary and do not cause problems or conflict with the people, but in fact enable us to carry on government. In order for us to solve the problem of perhaps 1 or 2 percent where there is some disagreement we are throwing out literally the baby with the bath water, and I think the admonishment of the U.S. Department of Justice should be taken seriously and those people that are interested in Government functioning should understand that they have made a thorough review of this act, and particularly section 7, and on the basis of that I would recommend all my colleagues to act in a bipartisan way to see certain that we do not freeze the activities of Government.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Arizona [Mr. SHADEGG], a very valued and contributing member of the committee.

Mr. SHADEGG. Mr. Chairman, let me focus the debate on this issue.

Quite frankly what we have here is a proposal to subsume the entire moratorium in one rule. The language which appears in the existing bill is carefully crafted to preserve the rights which presently exist. That language appearing in section 7 says no private right of action may be brought against any Federal agency for a violation of this act. What that means plainly and simply is: By the passage of this measure we are not creating a new and separate right of action. However, there is a second sentence also intended to preserve that balance, and that is: This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

Mr. Chairman, those combined two sentences are designed to preserve the status quo, and what that means is that anyone who is in a rulemaking proceeding and who has a right to bring an action under the Administrative Procedures Act is authorized to bring that act under this section. No new action is created, but no existing action is taken away.

What the Kanjorski amendment does when it proposes to change the language of section 7 is to literally take away the entire meaning of the moratorium. What it would do in effect is to say that any regulatory agency which chose to ignore willy-nilly the moratorium itself and to proceed with a regulatory action, no matter what the basis for that was, could not be challenged in court for doing so. The plain and simple effect of that is to mean that no regulatory action would be stopped. We would have passed a moratorium which would say that for this period there were to be no ongoing rulemaking regulatory actions, and yet there would be absolutely no penalty whatsoever for a Federal regulatory agency that just simply chose to ignore that language altogether.

I suggest to my colleagues that when they understand that language of the Kanjorski amendment and when they understand that effect, it is not surprising that the administration supports that amendment and opposes the current language in the bill, and it is not surprising that what they will have done is rendered this entire act meaningless. This Congress is not about passing a moratorium which will have no effect whatsoever, a moratorium which will say the U.S. Congress wants to suspend all rulemaking actions and all regulatory actions except those for which there are enumerated exceptions, but nonetheless imposes no penalty whatsoever for doing so.

Mr. Chairman, I cannot more strongly than that urge the rejection of that amendment on the ground that it would render the entire moratorium and the very important purpose the moratorium will serve nugatory and accomplish nothing.

Mr. KANJORSKI. Mr. Chairman, I yield myself such time as I may consume to respond to and perhaps engage with the gentleman.

I think the gentleman is suggesting that rulemaking authority, as passed in statute by this body, has no way of a check and balance operating, and I suggest that most authorizing legislation authorizes a Cabinet-officer-level individual. The secretary shall have the authority to promulgate rules and regulations so that any agency that would come under the umbrella, and most of them do, of a Cabinet officer would subject that Cabinet officer to impeachment from office if he violated the clear intent of Congress as expressed by this legislation.

We are not crippling this legislation. What we are basically doing is taking out the second sentence of section 7 because that is the devil in the details. The gentleman said that the purpose of section 7, and he read it, that no right of action may be brought against any Federal agency for violation of this act.

□ 1420

That is a great sentence, and if that were the only sentence, I would have no problem with that. But the next sentence says ''This prohibition shall not affect any right of action or remedy otherwise available under any other law,'' which is the Administrative Procedures Act of the United States. So individuals do have actions and rights of actions under the Administrative Procedures Act, so therefore the second sentence really vitiates the expressed intent in the first sentence, and using the description of legislative language, the second sentence becomes controlling of the first sentence.

So very clearly we can have actions that exist under the Administrative Procedures Act, will exist in this act and be able to be used to attack all future rules and regulations.

Let me tell you how serious it is. The seriousness is in rulemaking as it is described. We are just thinking we are attacking things already out there. This legislation defines rulemaking. The term ''rulemaking'' means any agency process for formulating, amending, or repealing a rule. It means that if your constituent or mine who finds a commentary period and expresses their feelings on a rule or regulation and sends that in, if the agency opens that commentary, they have violated the rulemaking procedure of this House, and it could not only cause them difficulty under this act, it could vitiate that rule and the subsequent value or efficacy of that rule in the future.

We are really muzzling, gagging, the American people, interested people in legislation, Members of Congress. If I send a letter to an agency about the fact that I do not think the rule or regulation should be effective the way it is, and that agency opens my letter, under this basis that is formulating, amending, or repealing and taking an agency process to do that, and they are in violation of the statute. And under the APA section under judicial review, that process could be knocked out, the rule itself could be knocked out in the moratorium period of time, and thereafter if the moratorium leaves a ''no other actions taken of that process'' during the moratorium period of that time.

Mr. SHADEGG. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman, with the understanding that we will trade time back in the future.

Mr. SHADEGG. Mr. Chairman, I simply want to make a couple of points. First, by acknowledging that what you think should happen here is that we

should go to the Under Secretaries or the Secretaries who have the authority to promulgate your rules, you are acknowledging that the Kanjorski amendment would leave no judicial remedy for an Agency which chose to ignore the moratorium. You are at least agreeing that is your proposal.

Mr. KANJORSKI. There is no process to ignore it? No. You can just tell the Secretary.

Mr. SHADEGG. Absolutely. So everyone affected by a rulemaking proceeding would be left at the mercy of calling the Secretary of that particular regulatory Agency and asking him to stop. He could not go to court and pursue the current legal rights he would have but for the language. That is, you are taking away a right he would have under the APA to go to court and challenge a rulemaking proceeding by the Kanjorski amendment.

Mr. KANJORSKI. Reclaiming my time, I am taking away the advantage that wealthy individuals and corporations in this society would have to stop the progress and protection of our people, whereas average Americans could never assume their rights under the APA.

I think it goes to the essence of what this act is all about, and maybe it extends beyond this act and goes to what we are here for this first 100 days, it is all about. It is a tremendous shift of power, to give the wealthiest elements and corporations of our society a special seat in government, a special opportunity in litigation, to frustrate the protections and the needs of average Americans. You bet your life I think that is the problem.

Mr. SHADEGG. What we are talking about really is the fact that average Americans take advantage of the APA on a regular basis, and that you are taking advantage of this moratorium to take away their right to go to court and challenge the regulatory agencies that are currently regulating and taking away their rights. The purpose of the moratorium is to preserve the status quo for the time period. The language of section 7 does that precisely by saying we are creating no new right of action, but we are preserving the existing rights of action.

Mr. KANJORSKI. No, you are going beyond that, so that I may answer you. You are reserving a right of action that is based on this statute, if the APA rules are the vehicle to bring that action. So you are accomplishing nothing by the first sentence, it does not even matter being there, because the second sentence becomes controlling, and everybody who could attack this and would be denied that right under the first sentence of the act, has the right under the second sentence if they proceed under Administrative Procedures Act.

Mr. SHADEGG. The first sentence of the amendment simply says that this legislation does not in and of itself create a new right of action. That is because it was not the goal of those who are proponents to create a new right of action or to increase any amount of litigation. That is what the sentence says.

Mr. KANJORSKI. What it says in simple language, maybe I cannot read it right, this prohibition shall not affect any private right of action or remedy otherwise available under any other law. The Administrative Procedures Act allowed people to go for judicial review to attack every other law and every law, and this is every law, and therefore they come in and have the same rights that they have.

Mr. SHADEGG. Therefore the moratorium as written preserves their current legal rights and your amendment would take away those rights.

Mr. KANJORSKI. I am going to the essence of what the moratorium is all about. Are we attempting to have a moratorium and freeze until you have an opportunity to examine what may be misused and abused, or are you using the moratorium to freeze Government and deny average people the rights of judicial review, but allow large corporate entities to spend the money and to take the actions to frustrate this Government, and not only frustrate this Government, but to frustrate the rights of average American people who cannot afford the legal price to pay to go to litigation.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. KANJORSKI] has expired. The gentleman from Pennsylvania [Mr. CLINGER] has 9 minutes remaining.

Mr. CLINGER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. MCINTOSH] for purposes of engaging in a colloquy with the gentleman from Nebraska [Mr. BEREUTER].

Mr. MCINTOSH. Mr. Chairman, I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Chairman, on February 15, 1995, HUD issued regulations to revise and clarify the final rule on escrow accounting procedures under the Real Estate Settlement Procedures Act. The final rule was published on October 26, 1994 and established accounting rules and methodologies for computing escrow accounts on federally related loans. The amendments to those regulations, which were published last week make a number of changes which were sought and are supported by the mortgage industry. I would like to clarify that it is just these type of regulations that would fall within the exclusion of Section 6(3)(B)(i).

Mr. MCINTOSH. Yes, the gentleman is exactly right. The recently published amendments to the final rule on escrow accounting procedures are an example of the type of regulation intended to be covered by that exclusion. The February 15 regulations reduce regulatory burden by streamlining the notice required to be sent to borrowers by lenders when itemizing their escrow account. That regulation amending the final rule also streamlines the administrative process for implementing this major new requirement that is being imposed on mortgage servicers, by providing an additional month to allow the industry to gear up to comply with the final rule.

It is exactly the type of rule that we would allow to go forward because it limits the burden and reduces the regulatory impact.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes for the purpose of engaging in a colloquy with the gentleman from California, [Mr. RADANOVICH].

Mr. RADANOVICH. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. RADANOVICH. Mr. Chairman, the moratorium on Federal regulations does not apply to the California Bay-Delta agreement of December 15, 1994, and the actions necessary to implement that agreement.

The December 15 agreement is an accord between the Federal agencies of the Department of the Interior, Commerce, and EPA and the State of California. It is not a Federal regulatory action.

The agreement calls for the withdrawal of the EPA final rules for water quality standards in the delta, once the California Water Resources Control Board adopts its own final rules under State law. This is expected to happen in March 1995. Thus, there is no impediment to the implementation to the bay-delta agreement as a result of the EPA regulations becoming subject to the moratorium.

The agreement also calls for the 1995 Biological Opinions on winter run salmon and Delta smelt to be consistent with the bay-delta agreement. This means that the existing 1994 biological opinions must be revised to conform to the bay-delta agreement. It should be clear that the revision on these biological opinions is not a regulatory action subject to the moratorium. If, for some reason, the 1994 biological opinions could not be revised to conform to the bay-delta agreement, there could be a significant water cost to Federal and State contractors south of the delta. This would be a significant obstacle to the continued implementation of the bay-delta agreement.

We know that the gentleman from Pennsylvania is aware of the environmental problems in California in the San Francisco Bay and the Sacramento-San Joaquin River Delta. We know that you are also aware of the recent historic agreement between the State of California and a number of Federal agencies that has temporarily resolved many of the environmental problems in the delta.

Mr. CLINGER. The gentleman is correct. I am aware of the agreement.

PARLIAMENTARY INQUIRY

Mr. KANJORSKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] yield to the gentleman from Pennsylvania

[Mr. KANJORSKI] for the purpose of raising a parliamentary inquiry?

Mr. CLINGER. I yield to the gentleman from Pennsylvania.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. KANJORSKI. Mr. Chairman, is the discussion on the floor germane to the amendment or not germane to the amendment, and should it not be included in some other aspect of the transaction occurring today? I was kind enough on my side to yield to the other side to have a discussion. I thought the remainder of the time of my friend, the gentleman from Pennsylvania [Mr. CLINGER], would be either used on my amendment, or the gentleman would afford me the opportunity to discuss some of the pertinent facts relevant to my amendment. But now I see nongermane material is being discussed here.

The CHAIRMAN. The debate must relate to the amendment when that question is raised.

Mr. RADANOVICH. It does, as it clarifies the amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] may proceed.

Mr. DOOLEY. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. DOOLEY. Mr. Chairman, while we considered offering an amendment, we do not, at this time, believe that the bay-delta agreement is jeopardized by H.R. 450. We are, however, seeking your assurance that should questions arise during continued debate on this legislation, you will work with us to make sure that the agreement—which is so important to the agricultural, urban, and environmental interests of California—is protected from the requirements of H.R. 450.

Mr. CLINGER. My colleagues have my assurance that I will work with them on this issue.

□ 1430

Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. DAVIS], a member of the committee.

Mr. DAVIS. Mr. Chairman, I thank the gentleman for yielding time to me.

I am always puzzled when I hear remarks about only wealthy individuals and big corporations would be able to sue under this act. I have perused the language of the act and find no such language that excludes small businesses, individuals, or anyone else who feels aggrieved by a large Federal bureaucracy from suing.

Perhaps the gentleman from Pennsylvania can show me the language he is referring to.

Mr. KANJORSKI. Mr. Chairman, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Chairman, what I am showing the gentleman is partiality and reasonableness.

Does he know of any of his constituents on an average basis that can afford legal counsel of $50,000 to $100,000 to attack the efficacy of a rule?

Mr. DAVIS. Mr. Chairman, reclaiming my time, let me tell the gentleman what we found in Fairfax County, when we held hearings on this at the Fairfax Government Center.

First of all, to go back to the issue of retroactivity that the gentleman talked about, we have over 50 billion dollars' worth of costs, if all of these regulations were to be promulgated, that would go down, many of these on small businesses and individuals across this country. We heard the testimony of Mr. Bill McGillicuddy, a small businessman with AutoCare, Inc., talking about some pending rules and regulations before the EPA under the Clean Air Act and how this, Mr. Ron Harrel, a Mobil Oil dealer in Fairfax, Dennis Dwyer of Potomac Mills Exxon in Virginia. These individuals would be put out of business, if certain regulations now pending before EPA were put into compliance.

Their option here is to come as a group and sue. They may not have the money individually, but a group of service station operators together could get together. These are not wealthy individuals. They are not big corporations. But they need this remedy of judicial review to be able to correct what I consider to be some very, very gross overreaching by the Federal bureaucracy. That is really the issue in this case.

And to make this a class-warfare issue, that this applies only to wealthy individuals and corporations is, I think, misleading and really gets us off the point.

Mr. KANJORSKI. Mr. Chairman, if the gentleman will continue to yield, I hope I do not leave the impression of a class-warfare issue, because I could go to the other side. I would predict under the present act, if it goes into effect as it does now, you will see billions of dollars of construction activity come to a grinding halt until the people that are making that investment are certain as to what the status of the law, the rule or regulation will be.

Mr. DAVIS. Reclaiming my time, I yield to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Would the gentleman consider the fact that there are billions of dollars in activity that do not happen to date because banks cannot lend money, not knowing the regulatory impact of properties that are held as collateral for loans to do commercial activity? And would the gentleman answer the question, the gentleman from Virginia, how many people does he represent that have $250,000 to go into Federal court to have to assert a constitutional takings under the fifth amendment since there is no low-cost administrative procedure to undermine them from the burdens that they now face under regulations of disclaimer?

Mr. DAVIS. I would just note once again, it is the National Federation of Independent Businesses, the small businesses that are endorsing this legislation and moving forward. And I understand the gentleman's concern. I will oppose the amendment.

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

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 155, noes 271, not voting 8, as follows:

[Roll No 160]

AYES—155

Abercrombie	Gordon	Obey
Ackerman	Green	Olver
Baldacci	Gutierrez	Owens
Barcia	Hall (OH)	Pallone
Barrett (WI)	Harman	Pastor
Becerra	Hastings (FL)	Payne (NJ)
Beilenson	Hefner	Pelosi
Bentsen	Hinchey	Pomeroy
Berman	Holden	Rahall
Bevill	Hoyer	Rangel
Bishop	Jackson-Lee	Reed
Boehlert	Jefferson	Reynolds
Bonior	Johnson, E. B.	Richardson
Borski	Johnston	Rivers
Boucher	Kanjorski	Rose
Brown (CA)	Kaptur	Roukema
Brown (FL)	Kennedy (MA)	Roybal-Allard
Brown (OH)	Kennedy (RI)	Rush
Bryant (TX)	Kennelly	Sabo
Clay	Kildee	Sanders
Clayton	Kleczka	Sawyer
Clyburn	Klink	Schroeder
Coleman	LaFalce	Schumer
Collins (IL)	Lantos	Scott
Collins (MI)	Levin	Serrano
Conyers	Lewis (GA)	Skaggs
Coyne	Lofgren	Slaughter
DeLauro	Lowey	Spratt
Dellums	Luther	Stark
Deutsch	Maloney	Stokes
Dicks	Manton	Studds
Dingell	Markey	Stupak
Dixon	Martinez	Taylor (MS)
Doggett	Mascara	Thompson
Doyle	Matsui	Thurman
Durbin	McDermott	Torres
Engel	McKinney	Torricelli
Eshoo	Meehan	Towns
Evans	Menendez	Traficant
Farr	Mfume	Tucker
Fattah	Miller (CA)	Velazquez
Fields (LA)	Mineta	Vento
Filner	Minge	Volkmer
Flake	Mink	Ward
Foglietta	Moakley	Waters
Ford	Mollohan	Watt (NC)
Frank (MA)	Moran	Waxman
Franks (NJ)	Morella	Wise
Furse	Murtha	Woolsey
Gejdenson	Nadler	Wynn
Gephardt	Neal	Yates
Gibbons	Oberstar	

NOES—271

Allard	Bateman	Bunn
Archer	Bereuter	Bunning
Armey	Bilbray	Burr
Bachus	Bilirakis	Burton
Baesler	Bliley	Buyer
Baker (CA)	Blute	Callahan
Baker (LA)	Boehner	Calvert
Ballenger	Bonilla	Camp
Barr	Bono	Canady
Barrett (NE)	Brewster	Cardin
Bartlett	Browder	Castle
Barton	Brownback	Chabot
Bass	Bryant (TN)	Chambliss

Chapman	Hilleary	Pombo
Chenoweth	Hobson	Porter
Christensen	Hoekstra	Portman
Chrysler	Hoke	Poshard
Clement	Horn	Pryce
Clinger	Hostettler	Quillen
Coble	Houghton	Quinn
Coburn	Hunter	Radanovich
Collins (GA)	Hutchinson	Ramstad
Combest	Hyde	Regula
Condit	Inglis	Riggs
Cooley	Istook	Roberts
Costello	Jacobs	Roemer
Cox	Johnson (CT)	Rogers
Cramer	Johnson (SD)	Rohrabacher
Crane	Johnson, Sam	Ros-Lehtinen
Crapo	Jones	Roth
Cremeans	Kasich	Royce
Cubin	Kelly	Salmon
Cunningham	Kim	Sanford
Danner	King	Saxton
Davis	Kingston	Scarborough
de la Garza	Klug	Schaefer
Deal	Knollenberg	Schiff
DeFazio	Kolbe	Seastrand
DeLay	LaHood	Sensenbrenner
Diaz-Balart	Largent	Shadegg
Dickey	Latham	Shaw
Dooley	LaTourette	Shays
Doolittle	Laughlin	Shuster
Dornan	Lazio	Sisisky
Dreier	Leach	Skeen
Duncan	Lewis (CA)	Skelton
Dunn	Lewis (KY)	Smith (MI)
Edwards	Lightfoot	Smith (NJ)
Ehrlich	Lincoln	Smith (TX)
Emerson	Linder	Smith (WA)
English	Lipinski	Solomon
Ensign	Livingston	Souder
Everett	LoBiondo	Spence
Ewing	Longley	Stearns
Fawell	Lucas	Stenholm
Fazio	Manzullo	Stockman
Fields (TX)	Martini	Stump
Flanagan	McCollum	Talent
Foley	McCrery	Tanner
Forbes	McDade	Tate
Fowler	McHale	Tauzin
Fox	McHugh	Taylor (NC)
Franks (CT)	McInnis	Tejeda
Frelinghuysen	McIntosh	Thomas
Frisa	McKeon	Thornberry
Funderburk	McNulty	Thornton
Gallegly	Metcalf	Tiahrt
Ganske	Meyers	Torkildsen
Gekas	Mica	Upton
Geren	Miller (FL)	Visclosky
Gilchrest	Molinari	Vucanovich
Gillmor	Montgomery	Waldholtz
Gilman	Moorhead	Walker
Goodlatte	Myers	Walsh
Goodling	Myrick	Wamp
Goss	Nethercutt	Watts (OK)
Graham	Neumann	Weldon (FL)
Greenwood	Ney	Weldon (PA)
Gunderson	Norwood	Weller
Gutknecht	Nussle	White
Hall (TX)	Ortiz	Whitfield
Hamilton	Orton	Wicker
Hancock	Oxley	Williams
Hansen	Packard	Wilson
Hastert	Parker	Wolf
Hastings (WA)	Paxon	Wyden
Hayes	Payne (VA)	Young (AK)
Hayworth	Peterson (FL)	Young (FL)
Hefley	Peterson (MN)	Zeliff
Heineman	Petri	
Herger	Pickett	

NOT VOTING—8

Andrews	Gonzalez	Meek
Ehlers	Hilliard	Zimmer
Frost	McCarthy	

□ 1452

Mr. JOHNSON of South Dakota changed his vote from ''aye'' to ''no.''

Mr. TAYLOR of Mississippi and Mr. SERRANO changed their vote from ''no'' to ''aye.''

So the amendments were rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MS. SLAUGHTER

Ms. SLAUGHTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. SLAUGHTER: At the end of section 5 (page , after line), add the following new subsection:

(c) FOOD AND WATER SAFETY REGULATIONS.—Section 3(a) or (4)(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) MEAT AND POULTRY INSPECTION.—Any regulatory rulemaking action to reduce pathogens in meat and poultry, taken by the Food Safety and Inspection Service of the United States Department of Agriculture and with respect to which a proposed rule was published on February 3, 1995 (60 Fed. Reg. 6774).

(2) DRINKING WATER SAFETY.—Any regulatory rulemaking action begun by the Administrator of the Environmental Protection Agency before the date of the enactment of this Act that relates to control of microbial and disinfection by-product risks in drinking water supplies.

(3) IMPORTATION OF FOOD IN LEAD CANS.—Any regulatory rulemaking action by the Food and Drug Administration to require that canned food imported into the United States comply with standards applicable to domestic manufacturers that prohibit the use of lead solder in cans containing food, taken under sections 201, 402, 409, and 701 of the Federal Food, Drug, and Cosmetic Act and with respect to which a proposed rule was published at 58 Federal Register 33860.

The CHAIRMAN. Under the previous order of the House of today, the gentlewoman from New York [Ms. SLAUGHTER] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the gentlewoman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER], the chairman of the committee, will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from New York [Ms. SLAUGHTER].

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

Mr. Chairman, anyone who dismisses the problem of micro-organisms in our food has not been reading the newspapers. But few realize just how widespread these quiet killers are.

According to the Centers for Disease Control and Prevention, bacteria in meat and poultry products cause nearly 4,000 deaths and 5 million illnesses each year. Last year's outbreak of E. coli at fast food restaurants on the West Coast is just one example of such a tragedy. In fact, there were confirmed outbreaks of E. coli in dozens of States over the past 2 years, and other pathogens such as salmonella are even more widespread.

For a person infected by a food-borne pathogen, there is usually no treatment or cure. These diseases are particularly dangerous for children and the elderly, whose immune systems are weaker. For them, the sickness often follows a painful course ending in death.

Beyond the enormous human suffering caused by food poisoning in meat products, the economic cost is gigantic. Estimates vary, but the price tag in medical care and lost wages is over $4.5 billion annually.

For this reason, I have written a simple, carefully drafted amendment. It would clearly exempt three particular regulations crucial to providing safe food and water.

One has to do with the importation of food in lead cans which we do not allow American manufacturers to do, and the other is the cryptosporidium that is being found in America's drinking water.

We will hear more about these issues from other speakers. As a former bacteriologist with a master's in public health, I would like to concentrate on the third regulation, which would finally modernize our outmoded meat inspection system.

Just this month, the Department of Agriculture started the process of developing new pathogen standards. The proposed rule began a 120-day comment period—double the standard length. The Department also plans an aggressive outreach campaign to hear the views of every concerned party. In fact, the administration has followed a model of responsible regulation, carefully listening to every viewpoint before reaching any decision.

Unfortunately, not exempting food safety would stop that process right in its tracks. In a letter to me yesterday, the Undersecretary for Food Safety told me what would happen under a moratorium. He wrote—and I quote:

> All work on the . . . proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country . . . would have to be cancelled.

That is not reform, Mr. Chairman. It is vandalism. This process would benefit everyone, even those who want to change the proposal. It is supported by industry and consumer groups, and suspending it serves no purpose. While we saw the development of new pathogen standards, more Americans will be poisoned by their dinner at home or what they eat in restaurants or what they eat at school.

Mr. Chairman, these are invisible killers. We are going to hear that this will be taken care of in the imminent threat to health and safety. Unfortunately, the kinds of pathogens that we are talking about do not give an advanced notice that they are going to happen. We will not know that there is a threat to health and safety until after it has occurred.

□ 1500

What we are trying to do with the new regulation, Mr. Chairman, is to prevent it from happening in the first place.

The tragedy is that in the United States when food inspection started in

1906 or 1907, based on a public outcry from a book by Upton Sinclair, we have maintained that same method of operating and checking on meat and poultry, with very little update. What we were doing now was for the first time to recognize the role of pathogens in meat inspection and what happens.

But every day that we delay this moratorium that would cause this delay, 11 Americans will lose their lives and every day over 13,000 will be ill. The delay caused by the moratorium will sentence 3,420 more people to die needlessly in the United States.

It does not matter what Members think of the details of the Agriculture Department proposal, or it does not matter what they think of the regulatory process overall. It does not matter what their district is or what political party they belong to. A vote for this amendment is a vote for your constituents, it is to ensure that food and water are safe.

I am not willing to sacrifice my constituents' lives, health, and wealth on the altar of regulatory reform, and I ask all of my colleagues not to sacrifice theirs. Please support the Slaughter amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I come from Milwaukee, WI, and Milwaukee, WI, unfortunately made national headlines in 1992 because of a severe outbreak of illness resulting from the parasite, cryptosporidium.

This amendment also would permit the research and the regulations that are being done at the Federal level by the EPA on the outbreak, and provide help to other communities who suffer this same tragedy in their own communities.

Since this tragedy has already hit my community the easiest thing in the world for me to do is say we have already taken care of the problem in Milwaukee. I do not care what happens anywhere else in the country; if they have another outbreak in another community, that is their problem. But I do not think that is what the American people want. I do not think the American people want the Federal Government, when it has the opportunity and the resources and the requirement, to come in and try to help people save lives.

In committee and on the floor today I am going to guess that we are not going to hear anything about the merits of this regulation. No one will talk about why we should stop the work on cryptosporidium. What we are going to hear is that it is not part of the program or somehow we are going to slow down this bill and/or we are going to try to gut this bill because of this amendment.

But this is a good amendment. The Federal Government by its nature does not only do bad things. I know it comes as a surprise to some Members of this body, but the Federal Government actually does some good things, and preserving safe drinking water in our country is one of them, preserving safe food in our country is another.

I am all for getting rid of unnecessary regulations, but let us do it when we find a regulation that does not work. But when we have a regulation that works, let us work it, let us have it help save lives. And this is what this amendment does.

So I would ask the Members of this body to please vote their conscience and do the right thing. A regulation that works should move forward.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. MALONEY].

Mrs. MALONEY. Mr. Chairman, this is an extreme bill; while calling for a moratorium on new Federal regulations may sound good, it will have unintended consequences that will put millions of Americans at risk.

Our amendment is simple and straightforward: It will allow the Federal Government to continue its efforts to ensure the safety of our Nation's food and water.

For example, this amendment will allow the Federal Government to continue its efforts to protect our citizens from the threats posed by cryptosporidium in our water and E. coli bacteria in our meat.

In my district, in my home of New York City, people are very worried over recent discoveries of the cryptosporidium parasite in our water supply.

They have good reason to be worried: Recent outbreaks in Milwaukee of the disease caused by this parasite, cost over 100 people their lives and made hundreds of thousands sick.

The medical evidence clearly demonstrates that for our most vulnerable populations this illness can be fatal.

Only in 1994, was the EPA able to issue rules about collecting data on the dangers posed by this disease.

And now the experts at EPA tell us that this bill will halt testing for this deadly parasite.

We cannot allow that to happen.

Mr. Chairman, the safety of our drinking water is precisely the type of problem that the Federal Government is best equipped to combat because it affects the residents of all 50 States.

Water does not respect State boundaries; neither do parasites or bacteria.

As currently drafted, this bill could present a threat to every American who eats or drinks.

Our amendment would simply remove any ambiguity about the continuing ability of the American Government to combat these deadly threats.

Parasites don't take a moratorium; microbes don't take a moratorium, and safeguards shouldn't take a moratorium.

Please support this amendment.

Mr. CLINGER. Mr. Chairman, I yield myself 2 minutes. I do so to oppose the gentlewoman's amendment. I know of her expertise in this area as a microbiologist and her great concern for the implications of this measure, but I would submit that the amendment is really unnecessary because the bill does provide a very, very broad exception for health and safety. In fact, if Members read the Washington Post, it would suggest it would exempt everything out of that. I do not think we go that far, but I think it does provide the kind of assurance to the gentlewoman that that kind of thing would not be held up.

The legislation reads, imminent health and safety means the existence of any conditions, circumstance, or practice reasonably expected to cause death serious illness or severe injury to humans.

And the legislation is very flexible, Mr. Chairman. It is structured so that the head of the OIRA regulatory administration will make the determination as to what qualifies as imminent health and safety, and the head of OIRA determines it meets the criteria, and I think the sorts of things the gentlewoman from New York is mentioning would probably meet that criteria that the regulations could and should be promulgated and implemented.

I suggest it is not just end result that is going to be affected by this, because the opponents say that humans need to die or get violently ill prior to meeting a test for imminent health or safety. This is just not the case. The regulations can be promulgated prospectively if it is perceived that without doing so there would be harm done, and I think the case that the gentlewoman talks about would not be precluded from proceeding with the testing for that purpose.

So I would submit that the gentlewoman's amendment is not necessary and would be covered by the existing exemptions in the bill.

Mr. Chairman, I yield 4 minutes to the author of the measure, the gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Chairman, I think it is very important as we discuss this legislation that we be aware of the important changes that were made in committee on the bill dealing with health and safety. I think Members will hear a lot of claims by the administration and others that this legislation would undo 20 years of regulation, that this legislation could lead to the loss of life and other claims which are clearly preposterous and intended to scare the American people.

For that reason, Mr. Chairman, I want to read the provision of this bill that deals with health and safety. Any regulation that is needed to protect against an imminent threat to health and safety is exempt from the moratorium and can go forward. The definition of imminent threat to health and safety means ''any regulation that is

needed to prevent the condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans or substantial endangerment to private property during the moratorium.''

What this exception says very clearly is that the regulatory bodies can protect against death, they can protect against threats of severe injury, and they can protect against threats of substantial endangerment to private property. All they need to do is go to the President's staff at OMB and say we need an exemption. The President can issue that immediately, and the agency can go forward.

□ 1510

Now, perhaps some of these agencies are not competent enough to deal with these threats, and they may try to hide behind the moratorium and not issue the regulation. But let it be very clear today, looking at this language in the bill, any serious threat to human health or safety can and will be dealt with pursuant to this moratorium.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Missouri.

Mr. VOLKMER. The gentleman just said, I think, you added some words in there as you talked, the term ''imminent threat to health or safety''; then you said, ''means a proposed rule that deals with the existence''; I do not see that ''means a proposed rule'' in there at all.

Mr. MCINTOSH. The language of the bill says that any regulatory action needed to address an imminent threat to health or safety can go forward, and what this language does is tells us what regulations are dealing with an imminent threat to health or safety.

Mr. VOLKMER. Right. The existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness; now, what if you are just trying to improve on a process of inspection so that you have less likelihood of causing disease? That is not an imminent threat, I would say.

Mr. MCINTOSH. Let me say I think that is an important question. I think the test the agency would need to meet in those regulations is: Are they calculated to prevent death, serious injury, or substantial loss to property? A lot of times an agency will say, ''We are protecting health and safety,'' but when you actually read the regulation, none of the provisions end up meeting that criteria. In those cases, they could not go forward.

But if they want to improve an inspection process and can show that they will prevent a death or severe injury, then they would be exempt.

Mr. VOLKMER. What if they cannot positively, but based on the best scientific evidence that it is an improvement over an inspection process that is currently being used, but you cannot show that if you do not do it there are going to be deaths, you cannot show that serious illness is going to occur?

Mr. MCINTOSH. The burden on the agency is to show their regulations would be helpful.

Ms. SLAUGHTER. Mr. Chairman, if I could just make a comment to the gentleman from Indiana [Mr. MCINTOSH], I know previously you worked for Vice President Quayle. I think it is probable we have an obligation to point out you misspelled existence.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. TORRICELLI], who has done a good deal of work on this issue.

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

The Members of the majority may not think that this will impede regulations for food safety.

But one would think the U.S. Department of Agriculture would be somewhat controlling. In a letter to the gentlewoman from New York [Ms. SLAUGHTER], they have written that the current program will be suspended. There will not be a need for public comment. They will not proceed with the February 3 regulations, because while the threat to human safety is real, it is not imminent. It is substantial, but it may not be immediate. And years of work, years of work to try to protect the American people are going to be lost.

My colleagues, 2 years ago a young woman in my district named Katie O'Connell walked into a fast-food restaurant in New Jersey, and 48 hours later she was dead. That case has been repeated 4,000 times a year, year in and year out across this country.

We have an epidemic of food safety, because we have not improved the methods of inspecting food for 75 years in this country. The average American food inspector has less than a half a second to use his eyes and his nose in the age of the computer and electronic sensor to determine whether or not food is safe for your table, and they are missing thousands of times determining contaminated food.

The cost of the February 3 regulations on the industry will be two-tenths of 1 cent per pound. Too much of a cost to bear for American industry to save thousands of lives.

I know the majority wants to vote with their leadership. I know they want to lessen the burden. But the costs for your constituents are too great.

My colleagues, support the amendment. It is simply the right and decent thing to do.

Mr. CLINGER. Mr. Chairman, I might point out to the gentlewoman from New York that that misspelling was deliberate. We wanted to just see if everybody was paying attention, and we are delighted that you were.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], the majority whip.

Mr. DELAY. Mr. Chairman, I appreciate the chairman yielding to me.

Mr. Chairman, I am just flabbergasted by this debate on this amendment. I just ask the Members to read the bill.

Nothing in this amendment nor much of what has been said in support of this amendment has anything to do with the bill. The bill is very specific in giving exemptions to these regulations that affect safety and health and food inspections and many other of the issues.

It is obvious to me, Mr. Chairman, that this amendment is the first step down the slippery road to status quo.

What is underlying the statements by the President and proponents of this amendment is that they believe in regulations. They believe in the regulatory police. They believe in what has been going on in the last 40 years as it pertains to regulation. They believe in being able to find that man that got fined for moving two truckloads of dirt, or they believe in the regulations that classify children's teeth as hazardous waste and take on the tooth fairy herself.

What we are trying to do and what the American people are trying to ask us to do is give us a break from these outrageous regulations that have been placed upon us.

What the proponents of this amendment want to do is gut the moratorium bill and stop the regulatory reform effort. Over and over again we keep hearing about what horrible things we are going to inflict on the American people through this moratorium. We have heard it from the White House, from a number of the executive agencies, and from certain Members.

Clearly the other side has run out of ammunition against this bill and has resorted to the lowest of politics in trying to scare the American people beyond what is even contemplated by the moratorium.

The bill cannot be written more clearly. The moratorium exempts regulations that are needed to protect against imminent threat to health and safety.

Their examples of such regulations could include food regulations on E. coli bacteria, medical testing regulations for cancer. The President, in the bill, the President decides when written by the head of the agency whether that particular regulation ought to be exempted.

Remember, it is up to the Federal agency to identify which regulations should be exempt from the moratorium.

And I finish with this, if the President of the United States had shown any leadership on regulations, we would not even be discussing this bill at all.

Ms. SLAUGHTER. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, no one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the U.S. new meat inspection rule, can tell whether the meat we feed our children might actually kill them.

At our committee's markup of this bill, we had a young woman who appeared who lives every day with the tragedy that can come from bacterial contamination of meat.

Mrs. Nancy Donely from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993 after he ate E. coli contaminated hamburger meat. She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli. She is a very strong advocate for the USDA's new meat inspection regulations.

Mrs. Donely has said Alex's last words to her were, and I quote, ''Mommie, don't worry.''

For us not to worry that we have failed to protect little children like Alex from illness and death caused by bacteria-contaminated meat, we have to vote to exempt the meat inspection regulations from the moratorium in this legislation. It just seems to me that there is a commonsense way to go about any kind of bill that would put a moratorium on something that is so important as the food we eat, as the water we drink, as the air we breathe, as benefits we give to all American people, that we simply cannot fail to pass this amendment offered by the gentlewoman from New York.

□ 1520

It just makes good sense in order to do so. Nobody wants to be accused of not protecting our children. We hold our children to be the most precious possessions, and in order for you to continue to protect their health, we certainly have to vote for this amendment.

Mr. Chairman, I rise in support of the gentlewoman's amendment.

All Members should support this amendment. Unless we explicitly exclude the new meat and poultry inspection rule from the moratorium, the Department of Agriculture has told me that they do not believe the rule would qualify for an exception under the bill's exception for rules that are needed to deal with imminent threats to health or safety.

You will likely hear the proponents of the bill claim that they have taken care of this problem in the committee report, and there is no need to worry. Be on notice, however, that in order to exempt the new meat and poultry inspection rule from the moratorium, the Department of Agriculture would have to determine that failure to issue the rule would pose an imminent threat to the public health or safety.

Now, I want to make sure each Member of this House understands completely that the Department of Agriculture does not believe it could make the determination necessary to exclude this regulation.

Let me read from a letter I received from Michael R. Taylor, Under Secretary of Agriculture for Food Safety, that is dated February 22, 1995. It says in part that:

All work on the FSIS [Food Safety and Inspection Service] Pathogen Reduction/HACCP proposal would have to be suspended throughout the moratorium period. The public comment period would need to be put on hold. Public information briefings throughout the country to encourage public participation in the rulemaking processs and answer technical questions would need to be canceled. The adverse impact on food safety is an important reason why the Administration opposes the passage of H.R. 450.

So, should we care that the moratorium would block implementation of the new meat and poultry inspection rules?

I firmly believe we should. Meat and poultry sold to the American consumer are currently being inspected under procedures that were implemented in 1907. These 82-year-old procedures simply call for visual inspection of animal carcasses.

The meat inspection rule that the Department of Agriculture published recently in the Federal Register represents a drastic improvement over this outdated, outmodied system. This regulation would, for the first time, simply require that processors test meat and poultry regularly for bacteria. This regulation is also the Agriculture Department's long-awaited response to the massive food borne illness outbreak that spread across the west coast 2 years ago.

No one can see E. coli, salmonella, or any other bacteria on meat. Visual inspection is inadequate. Only microbial testing, as could be required under the USDA new meat inspection rule, can tell whether the meat we feed our children might kill them.

At our committee's markup of this bill, we had a young woman appear who lives each day with the tragedy which can come from bacteria contamination in meat. Mrs. Nancy Donley, from Chicago, IL, lost her 6-year-old son, Alex, in July of 1993, after he ate E. coli contaminated hamburger meat.

She has made the safe food campaign her passion. She led opposition to the meat industry's efforts recently to dispense with sampling hamburger for E. coli, and she is a strong advocate for the USDA's new meat inspection regulation.

Mrs. Donley has said that Alex's last words to her were, ''Mommy, don't worry.''

For us ''not to worry'' that we have failed to protect children like Alex from illness and death caused by bacteria contaminated meat, we must vote to exempt the meat inspection regulation from the moratorium in this legislation.

I completely disagree with the proponents of this bill that we should delay for 1 minute, much less 6 months, the implementation of regulations that can require the testing needed to detect bacteria on meat. Only such testing will reduce the number of deaths and illnesses from food poisoning.

Mr. Chairman, the gentlewoman's amendment would exempt from the moratorium rules that provide important protections for the public health. If the proponents of the bill feel so strongly that their bill exempts these matters, then we need to make that point explicit and clear in the bill itself.

When concerns were raised in the committee about the moratorium's possible application to bank and tax regulations, these matters were excluded from the bill. We should do the same thing for the important food and water safety regulations addressed by the gentlewoman's amendment.

I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the chairman of the Subcommittee on Civil Service, the gentleman from Florida [Mr. MICA].

(Mr. MICA asked and was given permission to revise and extend his remarks.)

Mr. MICA. I thank the gentleman for yielding this time to me.

Mr. Chairman, ladies and gentleman of the House, I cannot believe what the other side of the aisle is saying. Let us really get the facts straight here.

They are accusing us of delaying. They are accusing us of endangering health and welfare.

Well, let me say this: I served on the subcommittee that oversaw this matter, so I know in depth what tool place. The problem with E. coli bacteria is not anything new. The report goes back to May 21, 1993. The question about risk-based inspections and the need for monitoring meat and poultry are here in these reports that span the length and breadth of this administration.

Come on, let us get the facts straight here. What is going on?

Mike Espy said at a press conference, May 1993, he said, ''The regs are on the way. I have directed FSIS officials to publish in 90 days.''

Do not give me that.

Let us see what the New York Times said about delays in this process. This is an article in the New York Times, June 9, 1994.

The decision by the Agriculture Department in 1993 which spared Tyson and other poultry producers from rigorous inspections brought a chorus of complaints from the meat packers and consumer groups about enforcement of an industry with longstanding ties to the President.

Come on, let us not scare the people of this country. We also know that we heard in those hearings on E. coli bacteria, people were told to cook their meat.

The point brought up about Milwaukee, here is another example: There are 53 water contaminants mandated by this Congress in regulations to study and the Milwaukee contaminant was not one of them. The blame is here. We are not delaying anything.

You saw the chairman of this subcommittee stand up and give an explanation of the exemptions for public health, safety, and welfare.

I tell you, ladies and gentlemen, this is not going to do anything to endanger any child or any individual. It is not going to endanger the health, safety, and welfare of one American.

What we are doing is we are saying we are overegulating. We are saying—why not concentrate on real problems.

We are passing regulation after regulation that does not make any sense. We are tying up industry, business, and local government, and the people of this country are rebelling against that regulation. That was the message on November 8, and that is the message today.

If we want to look at delay, if we want to look at reasons for endangering the health and welfare and safety of people, look at what this administration has done, look at the delays that have been caused here. The date of this rule is February 4, 1995. That is when it came out. Those are the facts.

Ms. SLAUGHTER. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT], a member of the committee.

Mr. SPRATT. I thank the gentlewoman for yielding this time to me.

Mr. Chairman, the problem we had in committee with this is the language of the bill itself. The imminent threat to health or safety exclusion falls under section 5, which is emergency exceptions. So the context of this is there must be an emergency and there must be an imminent threat.

We tried to rewrite this language so it would clearly apply to cases of food health and safety, to no avail.

So I ask the other side, and yield the time necessary to get an answer: Is the bill, is the regulation which deals with E-coli, with salmonella and other food pathogens, is that sort of regulation sufficient to come under this exclusion? Will they state for the record whether or not this sort of regulation would be excluded under this language, since they seem to imply that it already is? Is that what they are saying, that the regulation is already excluded? Or are they saying this kind of regulation dealing with food-borne pathogens, E-coli, salmonella, are they saying it is so excluded that it is unnecessary to have this amendment?

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I do not know how many of you have read this rule. This is the rule that is being talked about. I think everybody should take a copy of it and read it; that is, the proposed rule.

You know, we need to get back to what the situation is. First of all, if the department knows how to reduce the threat to health and safety, they have the power to do that without having to go through rulemaking already.

Second of all, there is nothing in the proposed rule that is going to guarantee that we are going to have—we are not sure. Some people think what is in here is going to reduce the risk, and some people are not so sure it is not going to cause more problems. So there is a difference of opinion on the issue.

There are different aspects in this regulation. Some of this regulation does not go into effect for 4 or 5 years. So it is way beyond the moratorium. There are some specific issues that may do some good: The antimicrobial rinsing provisions that are in this bill where they are going to ask the companies to have that as standard operating procedure. Some folks argue that, by putting the Federal regulation in place, we are actually going to get in the way of industry.

So I do not think that you can argue that holding up parts of this bill, this rule, if they are held up, which I do not think they will be, is going to make any difference. They were 3 years getting out in the first place.

Lastly, we had this discussion about cryptosporidium in the committee. You know, this is a problem, and we got all the groups together, the water organizations, to discuss how to deal with this, and they all agreed what they should do. I do not believe we need a Federal rule or regulation to accomplish this. The testimony was that they all agree what needs to be done, they can go out and do it. Why do we have this mentality in this country that unless the Federal Government mandates that you regulate or that you do a rule, that it cannot be done? Clearly, this case is being taken care of with the local communities working together. We do not need a rule in that area.

So this is covered in the exception, and I oppose the amendment.

Ms. SLAUGHTER. Mr. Chairman, I yield the remaining 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the committee.

Mr. MORAN. I thank the gentlewoman, my friend from New York [Ms. SLAUGHTER] for yielding to me.

This amendment would do 3 things: It would enable us to regulate pathogens in meat and poultry, deadly microbes in drinking water and lead in canned food. Those are the 3 specific regulatory areas we are trying to insure will continue.

You heard from Mr. BARRETT, who represents Wisconsin, where thousands of people in Milwaukee got sick because of cryptosporidium in the water supply. The Environmental Protection Agency was able to take that experience, and when they found cryptosporidium in the Washington area water supply, they were able to stop it. As a result, we did not have thousands of people getting sick in the Washington area.

What they now need to do is to determine what the appropriate tolerable level of cryptosporidium is. They need to conduct the experiment. This would prevent them from being able to do that.

You know, I cannot imagine why we would want to prevent these kinds of what are really both common sense and terribly important regulations.

On the one hand you say we ought to leave it up to the administration to exercise judgment, and the rest of the time they spend criticizing the administration for exercising poor judgment. Let us get the law protecting the America.

Mr. CLINGER. Mr. Chairman, I am pleased to yield the balance of time to the gentleman from Wisconsin [Mr. GUNDERSON], who is a member of the committee and who is also an expert in this area.

(Mr. GUNDERSON asked and was given permission to revise and extend his remarks.)

□ 1530

Mr. GUNDERSON. Mr. Chairman and Members, I rise in opposition to this amendment, and I do so because this amendment frankly is exactly why we need regulatory reform. The fact is that what this amendment is trying to do is to preserve a rule making regulatory process of the Department of Agriculture that does not repeal the existing regulations. It just overlaps a whole bunch of new regulations on top of existing regulations at a cost of $750 million for implementation, $250 million annually, and then on top of that they are doing this without any kind of comprehensive meat inspection reform. Comprehensive meat inspection reform means you change the law and you change the regulations. You got to do both. They are trying to pick one thing up in isolation and say they have got to do that. As has been articulated earlier here, my colleagues, they do not need this exemption to deal with critical food safety issues. They did not propose this regulation until 20 months after the E. coli outbreak occurred, and so this is all face-saving propaganda that has nothing to do with comprehensive meat inspection reform. The subcommittee will take that issue up, and we will bring it to this Congress.

Ms. SLAUGHTER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN].

(Mr. BROWN of California asked and was given permission to revise and extend his remarks.)

Mr. BROWN of California. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER]

Mr. Chairman, I rise in support of the amendment to H.R. 450 the Regulatory Transition Act offered by my colleague from New York, Ms. SLAUGHTER. This amendment is the least that should be done to minimize the damage to public health that will result if this ill-conceived piece of legislation is enacted.

I note that we once again have a narrow time-limit to debate and amend a hastily-crafted bill here on the floor. I would have to agree with the majority that we may as well not use more than 10 hours on H.R. 450. All the time in the world would not be enough to improve this bill, and it would take us many days to enumerate all the regulations that protect human health and safety, ensure workers a

safe workplace, protect our food supply, maintain and improve our environment, create jobs, and save taxpayer and consumer dollars.

I will offer one such example of a set of regulations that would be stiffled by the enactment of this bill: the regulations to improve our meat and poultry inspection system. The Food Safety and Inspection Service recently issued a proposed rule to modernize our meat and poultry inspection program. This rule has been in development for quite some time. The need for improvements to our inspection system were brought to national attention through the tragic deaths of a number of children 2 years ago when they became the victims of an outbreak of a food-borne illness. Ten years ago, the National Academy of Sciences recommended that FSIS develop a program that would control contamination from pathogenic microorganisms. A GAO study completed in May of last year recommended that FSIS develop a mandatory hazard analysis and critical control point system. USDA has now followed this wise advise. Why should this regulatory action be postponed? Do we need a few more outbreaks of food-borne illness or a few more deaths to qualify this rule for an exemption from this moratorium?

The FSIS estimates that compliance with this rule will cost industry $2 billion over a 20-year time period. However, it is estimated to save 3 to 12 times that amount in public health costs, not to mention that it will save lives. How much does it cost the restaurant industry and the meat and poultry industry if an outbreak of a devastating disease results in public perception that their products are unsafe? Too much.

The assumption that underlies this legislation is that all Federal regulations are unjustified. This is ridiculous. Some of our children grow up to be criminals. Should we put a moratorium on the birth of any additional children until we find a solution to that problem? Let us not throw out the baby with the bathwater. This bill proceeds from an incorrect assumption and then broadly applies a one-size-fits-none solution to regulatory problems associated with some specific statutes.

There are statutes that we have enacted that have not enabled Federal agencies to pursue the most cost-effective regulatory pathways. They should be improved. Instead of jeapordizing public health and safety through passage of one-size-fits-all legislation, let us do regulatory reform as it should be done. We need to use a common sense, responsible, statute-by-statute approach to achieve the sensible, cost-effective regulatory policy that industry and the public deserve.

The CHAIRMAN. All time on the gentlewoman's amendment has expired.

The question is on the amendment offered by the gentlewoman from New York [Ms. SLAUGHTER].

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

RECORED VOTE

Ms. SLAUGHTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 177, noes 249, not voting 8, as follows:

[Roll No. 161]

AYES—177

Abercrombie	Gutierrez	Owens
Ackerman	Hall (OH)	Pallone
Baesler	Hamilton	Pastor
Baldacci	Harman	Payne (NJ)
Barcia	Hastings (FL)	Pelosi
Barrett (WI)	Hefner	Pomeroy
Becerra	Hilliard	Poshard
Beilenson	Hinchey	Rahall
Bentsen	Hoyer	Rangel
Berman	Jackson-Lee	Reed
Bishop	Jacobs	Reynolds
Boehlert	Jefferson	Richardson
Bonior	Johnson (SD)	Rivers
Borski	Johnson, E. B.	Rose
Boucher	Johnston	Roukema
Brown (CA)	Kanjorski	Roybal-Allard
Brown (FL)	Kaptur	Rush
Brown (OH)	Kennedy (MA)	Sabo
Bryant (TX)	Kennedy (RI)	Sanders
Cardin	Kennelly	Sawyer
Clay	Kildee	Schroeder
Clayton	Kleczka	Schumer
Clement	Klink	Scott
Clyburn	LaFalce	Serrano
Coleman	Lantos	Skaggs
Collins (IL)	Levin	Skelton
Collins (MI)	Lewis (GA)	Slaughter
Conyers	Lipinski	Spratt
Costello	Lofgren	Stark
Coyne	Lowey	Stenholm
Danner	Luther	Stokes
de la Garza	Maloney	Studds
DeFazio	Manton	Stupak
DeLauro	Markey	Tanner
Dellums	Martinez	Tauzin
Deutsch	Mascara	Taylor (MS)
Dicks	Matsui	Tejeda
Dingell	McDermott	Thompson
Dixon	McHale	Thornton
Doggett	McKinney	Thurman
Doyle	McNulty	Torres
Durbin	Meehan	Torricelli
Engel	Menendez	Towns
Eshoo	Mfume	Traficant
Evans	Miller (CA)	Tucker
Farr	Mineta	Velazquez
Fattah	Mink	Vento
Fazio	Moakley	Visclosky
Fields (LA)	Mollohan	Volkmer
Filner	Moran	Ward
Foglietta	Morella	Waters
Ford	Murtha	Watt (NC)
Frank (MA)	Nadler	Waxman
Furse	Neal	Wilson
Gejdenson	Oberstar	Wise
Gephardt	Obey	Woolsey
Gibbons	Olver	Wyden
Gordon	Ortiz	Wynn
Green	Orton	Yates

NOES—249

Allard	Castle	Emerson
Archer	Chabot	English
Armey	Chambliss	Ensign
Bachus	Chapman	Everett
Baker (CA)	Chenoweth	Ewing
Baker (LA)	Christensen	Fawell
Ballenger	Chrysler	Fields (TX)
Barr	Clinger	Flake
Barrett (NE)	Coble	Flanagan
Bartlett	Coburn	Foley
Bass	Collins (GA)	Forbes
Bateman	Combest	Fowler
Bereuter	Condit	Fox
Bevill	Cooley	Franks (CT)
Bilbray	Cox	Franks (NJ)
Bilirakis	Cramer	Frelinghuysen
Bliley	Crane	Frisa
Blute	Crapo	Funderburk
Boehner	Cremeans	Gallegly
Bonilla	Cubin	Ganske
Bono	Cunningham	Gekas
Brewster	Davis	Geren
Browder	Deal	Gilchrest
Brownback	DeLay	Gillmor
Bryant (TN)	Diaz-Balart	Gilman
Bunn	Dickey	Goodlatte
Bunning	Dooley	Goodling
Burr	Doolittle	Goss
Burton	Dornan	Graham
Buyer	Dreier	Greenwood
Callahan	Duncan	Gunderson
Calvert	Dunn	Gutknecht
Camp	Edwards	Hall (TX)
Canady	Ehrlich	Hancock
Hansen	Martini	Salmon
Hastert	McCollum	Sanford
Hastings (WA)	McCrery	Saxton
Hayes	McDade	Scarborough
Hayworth	McHugh	Schaefer
Hefley	McInnis	Schiff
Heineman	McIntosh	Seastrand
Herger	McKeon	Sensenbrenner
Hilleary	Metcalf	Shadegg
Hobson	Meyers	Shaw
Hoekstra	Mica	Shays
Hoke	Miller (FL)	Shuster
Holden	Minge	Sisisky
Horn	Molinari	Skeen
Hostettler	Montgomery	Smith (MI)
Houghton	Moorhead	Smith (NJ)
Hunter	Myers	Smith (TX)
Hutchinson	Myrick	Smith (WA)
Hyde	Nethercutt	Solomon
Inglis	Neumann	Souder
Istook	Ney	Spence
Johnson (CT)	Norwood	Stearns
Johnson, Sam	Nussle	Stockman
Jones	Oxley	Stump
Kasich	Packard	Talent
Kelly	Parker	Tate
Kim	Paxon	Taylor (NC)
King	Payne (VA)	Thomas
Kingston	Peterson (FL)	Thornberry
Klug	Peterson (MN)	Tiahrt
Knollenberg	Petri	Torkildsen
Kolbe	Pickett	Upton
LaHood	Pombo	Vucanovich
Largent	Porter	Waldholtz
Latham	Portman	Walker
LaTourette	Pryce	Walsh
Laughlin	Quillen	Wamp
Lazio	Quinn	Watts (OK)
Leach	Radanovich	Weldon (FL)
Lewis (CA)	Ramstad	Weldon (PA)
Lewis (KY)	Regula	Weller
Lightfoot	Riggs	White
Lincoln	Roberts	Whitfield
Linder	Roemer	Wicker
Livingston	Rogers	Williams
LoBiondo	Rohrabacher	Wolf
Longley	Ros-Lehtinen	Young (AK)
Lucas	Roth	Young (FL)
Manzullo	Royce	Zeliff

NOT VOTING—8

Andrews	Frost	Meek
Barton	Gonzalez	Zimmer
Ehlers	McCarthy	

□ 1550

The Clerk announced the following pair:

On this vote:

Mrs. Meek for, with Mr. Barton against.

Messrs. LIVINGSTON, BROWDER, CRAMER, and BROWNBACK, Mrs. LINCOLN, and Mr. WILLIAMS changed their vote from ''aye'' to ''no.''

Mr. POMEROY changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Burton of Indiana: In Section 6(3)(B)(ii), after the comma following ''agreements'' insert the following: ''including all agency actions required by the Uruguay Round Agreements Act,''

The CHAIRMAN. Pursuant to the order of the House, the gentleman from Indiana, [Mr. BURTON], and a member opposed will each control 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the statement I am about to make, while it applies to the textile industry, other parts of the GATT agreement that apply to steel, auto parts and possibly other industries would also be positively impacted by this amendment.

Mr. Chairman, I offer this amendment to the Regulatory Freeze Bill, H.R. 450, to prevent this legislation from inadvertently thwarting an action specifically mandated by Congress on an important matter pertaining to Customs Service rules of origin.

Congress was very clear on what it wanted Customs to do last year when it approved the Uruguay Round Agreements Act, because that legislation spelled out in precise detail how the U.S. Customs Service would be required to promulgate this rule of origin for textiles and apparel. There is no leeway for the bureaucracy to make any interpretation because Congress told them what to do. The regulation was actually spelled out for Customs when Congress approved these principles as part of the Uruguay Round implementing legislation.

For years the United States Customs Service has used a cutting rule of origin which permits country-of-origin status to be determined by where a garment is cut, not where it is actually made. This has enabled China to ship billions of dollars worth of goods through third countries in circumvention of the quotas they have agreed to.

No other major country has used such a liberal rule of origin requirement which permits quota evasion. And in the Uruguay Round agreement itself, the signatory nations agreed to work to standardize the rules of origin for textile production and products.

Accordingly, the U.S. Customs Service recommended and this Congress agreed, as part of the Uruguay Round implementing bill, to bring our Customs rules in line with the rest of the world.

What I am offering today is an amendment to clarify that these regulations, which were considered and duly voted on by the Congress and which by law must be issued shortly, will be exempted from the regulatory freeze. There simply is no need to freeze actions which have been directed by the Congress.

And I would like to once again state, Mr. Chairman, that the amendment is drawn in such a way as to positively impact on other industries such as the steel industry and auto parts industry.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does the gentlewoman from Illinois [Mrs. COLLINS] seek recognition in opposition to the amendment?

Mr. CLINGER. Mr. Chairman, I ask unanimous consent that if no Member is prepared to seek to control the time in opposition to the amendment, that the time might be given to the gentlewoman from Illinois [Mrs. COLLINS].

Mr. VOLKMER. Mr. Chairman, is the gentleman's request that the time in opposition be given either to the gentlewoman from Illinois [Mrs. COLLINS] or to the gentleman from South Carolina?

Mr. CLINGER. Mr. Chairman, that is my request.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I reserve the balance of my time.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume, and I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I would just say that this is an outstanding amendment. I think it is supported by all Members on this side that I know of. It is much needed to this bill.

It is interesting to me, though, that an amendment like this that is providing an exception, like the one before, there will be others after it, is going to now be accepted by the majority. I agree with that, but I do not understand the philosophy of the majority. Perhaps the chairman can elaborate on that, why they can accept certain ones as exceptions and not others. Can the gentleman from Indiana tell me why?

Mr. BURTON of Indiana. Mr. Chairman, reclaiming my time, I yield to the gentleman from Pennsylvania, [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, in response to the gentleman from Missouri, my position is, I do not really think the amendment is necessary, because I think that it is covered under the existing exceptions that are provided for foreign affairs and because there is a trade exception under the bill. But I do not think that, in other words, I think it may be covered but to ensure that, we would certainly accept this amendment.

□ 1600

Mr. VOLKMER. Mr. Speaker, the gentleman did not say that on the last amendment.

Mr. BURTON of Indiana. It may be an interpretation of what is really insurance as far as these industries are concerned.

Mrs. COLLINS of Illinois. Mr. Chairman, will be gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I would like to pose a question.

The gentleman's amendment refers to rules, ''as required by section 334 of the Uruguay Round Act.''

Under the bill, there is an exclusion in section 6(3)(B)(ii) for rules relating to ''statutes implementing trade agreements.''

Why, therefore, I would ask the gentleman, does he believe his amendment is necessary?

Mr. BURTON of Indiana. Mr. Chairman, I would say to the gentlewoman, I think I agree with what the chairman said, that it probably is not absolutely necessary. However, there are a number of industries in this country that feel like there needs to be some insurance that there is no misinterpretation. That is why we have offered the amendment, to make sure they feel comfortable with this piece of legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I agree with the gentleman's concern. As a matter of fact, I have a couple of concerns myself.

One, of course, has to do with the textile and apparel workers. I have a lot of those in the city of Chicago, and I know this moratorium bill would have made it more difficult for customs to stock illegal textile imports, so I am going to support the gentleman's agreement.

I am also concerned that H.R. 450 could stop our Government from imposing sanctions against China for pirating copyrighted United States products, like compact disks and videocassettes. I would also like to think that that would also clarify that those sanctions would not be permitted, as well.

Mr. BURTON of Indiana. Mr. Chairman, I think it could be interpreted to be broad in that regard, too.

I would just reclaim my time and thank the gentlewoman for her comments. I think this amendment speaks for itself, and I would rather not get into a lengthy discussion on China and other things of that type. However, I do think this amendment is broad enough that it probably covers a lot of those concerns.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

(Mr. GILMAN asked and was given permission to revise and extend his remarks.)

Mr. GILMAN. Mr. Chairman, I am pleased to rise in strong support of the amendment offered by the gentleman from Indiana [Mr. BURTON]. This amendment would ensure there would be no interruption in the rulemaking authority for the Rules of Origin provision contained in the Uruguay Round Agreements Act. It is of great importance to the textile and the apparel trade during the current 10-year phase out period for all import quotas on these products.

The rules of origin provision has the full support of the U.S. textile and apparel unions and trade associations representing some 2 million American workers.

Adoption of this amendment is also essential to help to deter fraud and abuse of the Rules of Origin by several leading exporting countries.

Under the new rules, the country of origin is where the garment is assembled or where the fabric is woven.

The illegal transshipment of apparel products has in the past been a key irritant in our bilateral relationship with China. I ask my colleagues for their support for this provision, which will prevent any future efforts by China to export garments into this country illegally under the quota of its neighbors, including Hong Kong and countries in Asia and Latin America.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, as I said earlier, I am very concerned about the fact that there should be some kind of sanctions imposed against China for pirating patented and copyrighted United States products, such as compact discs and videocassettes, and the Trade Representative has recently announced those sanctions.

They would be implemented pursuant to a rule printed in the February 7, 1995, Federal Register. Few challenge our findings that China has violated the intellectual property rights of American companies. We know of at least 29 factories in southern China which produce 75 million compact discs a year, of which 70 million are exported.

These pirated copies are competing directly with U.S. exports, and cost the copyright industries of the United States almost $1 billion in lost exports each year. For the past 20 months we have been negotiating with China in an effort to get them to agree to stop these pirating activities. Those efforts have failed.

In documents provided to the committee by the Office of Management and Budget, H.R. 450's impact on the China sanctions is described in this way: ''The moratorium would hold up the trade sanctions and subject them to challenge, affecting the administration's ability to set trade policies to protect U.S. firms and consumers.''

Therefore, I am very happy about the gentleman's amendment. The reality is that the sanctions the administration has said it would impose on China are the only leverage we have to encourage the Chinese to stop pirating United States copyrighted products.

Why would we ever want to make it more difficult for the administration to get the Chinese to stop violating United States intellectual property rights? Similarly, a proposed rule published in December by the Customs Service would establish a 180-day conditional release period for imported textiles and textile products, during which it can be determined whether a product is entitled to entry into the U.S. market.

It is well-known that many foreign countries successfully avoid U.S. textile quotas by shipping their products through a third country. The conditional release period provided for in the new rule would have given Customs the time it needs to verify country of origin and to stop illegal shipments from entering our country.

In documents provided by OMB, the impact of H.R. 450 on the rule is described in the following way: ''Textiles will continue to enter the United States illegally due to lack of a provisional approval period, unfairly competing with products from domestic textile producers.''

Therefore, it just makes all kinds of sense to have the gentleman's amendment. Mr. Chairman, it is just about time for us to look very carefully at the kinds of rulemaking that would be stopped if H.R. 50 were not amended by some real sensible amendments, so I thank the gentleman for offering this, because it certainly does a great deal to help those people in my district who are textile workers, and those in my district who are very concerned about the fact that there is so much copyrighting of videocassettes and compact discs.

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

Mr. BURTON of Indiana. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I think this is a fine amendment. It was an oversight that it was not included in the original bill. Mr. Chairman, I urge our Members to vote for it. It corrects a situation for the textile and apparel industries that badly needs to be realized and corrected.

I commend the gentleman from Indiana [Mr. BURTON] for sponsoring this amendment, and I join hands with him to get it passed.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from California [Mr. RADANOVICH].

(Mr. RADANOVICH asked and was given permission to revise and extend his remarks.)

Mr. RADANOVICH. Mr. Chairman, I am told that I may inform my colleagues in this House that I have an amendment to offer, but in the interest of ensuring the speedy passage of H.R. 450, I will not offer the amendment, but instead start a dialogue concerning an issue which must be dealt with in the near term. That issue is the regulation concerning ''fresh'' and ''frozen'' chickens. My points are these:

Why cannot this wait until the moratorium is over?

Shoppers across the country are paying anywhere from 40 cents to 1 dollar more per pound for chicken they think is fresh, when it isn't. This means that American homes are being defrauded of millions of dollars each year and to wait means we are sitting back and knowingly allowing this fraud to continue for an entire year.

In California in particular, it would mean another year in which out-of-state processors can intentionally undersell regional producers by misrepresenting their product. The industry has 25,000 employees and has steadily lost market share to frozen chicken sold as fresh.

How long has this fight been going on?

USDA has been trying to change this rule since 1988. The Food Safety and Inspection Service changed it's policy to stop the use of the term ''fresh'' on frozen chicken, but powerful national poultry producers intervened and stopped the new policy from going into effect.

The California legislature tried to act on its own to prohibit mislabeling in September, 1993. When they were stopped from doing so by a Federal court, they started working to persuade USDA to adopt a better standard for the whole country.

□ 1610

Mr. Chairman, based on these concerns, I urge the Committee on Agriculture to consider in some appropriate context the passage of a special allowance for this regulation. I find it difficult being a small businessman with this kind of concern, and I support fully H.R. 450, but I wish that in this particular area, a consideration would be given.

Mr. Chairman, I submit for the RECORD a short fax sheet explaining the history of this problem, as follows:

THE FRESH CHICKEN CONTROVERSY

Historically, national poultry producers have been putting fresh labels on frozen chicken. They freeze their chicken rock solid, label it fresh, truck it across the U.S., thaw it out locally and sell it to consumers as if it had never been frozen. These producers know that consumers will pay a premium for fresh food, but consumers don't know they're being duped.

On July 11, 1988, after months of scientific analysis, the Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) issued Policy Memo 022B, raising the fresh poultry labeling standard from 0 to 26 degrees Fahrenheit. This meant that national producers could no longer put fresh labels on chicken chilled below 26 degrees—the actual freezing point for poultry. National producers were not happy with this policy change.

On January 11, 1989, despite FSIS's scientific conclusions six-months earlier, USDA abruptly rescinded Policy Memo 022C and restored the old standard allowing producers to once again freeze chicken as low as 1 degree Fahrenheit and still label it as fresh.

In 1993, the California legislature unanimously passed a law mirroring the short-lived Federal standard of 26 degrees. The National Broiler Council and the Arkansas Poultry Federation sued, arguing that a

state cannot pass a more stringent labeling rule than the U.S. government. USDA filed a brief in the lawsuit supporting the poultry industry position. A Federal court blocked enforcement of California's law on jurisdictional grounds on April 8, 1994. The issue was appealed.

Many other states, including New York, Arizona, Oregon, Maine, Alaska, Illinois, Washington and Puerto Rico, have passed poultry labeling laws regarding the definition of ''fresh'', as well as organic and kosher production and processing.

On February 10, 1994, USDA Secretary Mike Espy issued a press release, pledging that USDA would direct the Food Safety and Inspection Service (FSIS) to reexamine whether current policy on fresh labeling is reasonable.

On June 16, 1994, the Government Operations Subcommittees on Human Resources and Intergovernmental Relations and Information, Justice, Transportation and Agriculture conducted a joint hearing on USDA rules concerning ''fresh'' labels on poultry products. Richard Rominger, USDA Deputy Secretary, testified that FSIS staff would review current policy on two tracks: evaluate scientific literature concerning temperature effects on poultry, and, conduct regional hearings to assess consumer expectations. These results would form the basis of any policy revision regarding labeling of ''fresh'' poultry.

Support for a new rule continued to grow. Well-known and respected consumer groups urged Secretary Espy to act, including Consumers Union, Consumer Federation of America, National Consumers League and Public Voice for Food & Health Policy.

On July 27, ''The Truth in Poultry Labeling Act of 1994'' was introduced by Senators Boxer and Feinstein and Representative Condit in the 103rd Congress. The Senate approved Senator Boxer's Amendment to S. 2095 expressing the sense of the Senate that delays in proposing a new rule must be ended and a decision must be made ''as expeditiously as possible.''

FSIS Administrator Michael R. Taylor promised Senator Barbara Boxer and Representative Condit that truth-in-labeling would be addressed on a ''fast track''.

On August 26, 1994, USDA Food Safety and Inspection Service announced public hearings on the use of the term ''fresh'' on the labeling of raw poultry products to be held on: September 12, 1994 in Modesto, California; September 16, 1994 in Atlanta, Georgia; and September 20, 1994 in Washington, D.C., to assist FSIS in developing a new policy.

Consumer advocates, chefs, consumers and home economists came forward and testified at these public hearings across the country that it was time for USDA to listen to consumers and end mislabeling of poultry.

In a letter to Senator Boxer and Congressman Condit. USDA promised a rule before Thanksgiving.

On December 14, 1994, a victory was won by California consumers when the Ninth Circuit Court of Appeals reinstated the provision making it illegal for poultry frozen below 26 degrees Fahrenheit to be advertised or sold as fresh.

Consumer advocates Public Voice for Food and Health Policy and the National Consumers League implored USDA to change federal labeling laws so that all Americans are afforded the same protection against the misrepresentation of frozen chicken being sold as fresh.

On December 21, 1994, Senator Boxer again urged USDA Deputy Secretary Rominger to expedite rule-making, particularly in light of the recent California Court decision. Deputy Secretary Rominger again assured her that a proposed rule would be announced within four weeks. Consumers, chefs, consumer advocates, home economists and members of Congress continue to anxiously await USDA's resolution of this priority issue.

While USDA drags its feet, Congressman Condit introduces H.R. 203, ''The Truth in Poultry Labeling Act'' in the 104th Congress.

On January 17, 1995, FSIS finally acts and releases a proposed regulation on labeling ''fresh'' poultry prohibiting the use of the term ''fresh'' being used on raw poultry products whose internal temperature has gone below 26 degrees and requiring thawed products which have gone below 26 degrees to be labeled ''previously frozen.''

Truth-in-advertising and honest labeling have not yet been achieved. Consumers, consumer advocates, poultry producers, and other supporters who believe in honest labeling can tell USDA to not bow to the pressure of those producers interested in continuing to mislead the public. FSIS must be vigilant in preserving the rights of consumers. Comments to the Federal Register will be accepted until March 20, 1995.

A federal rule on poultry freshness will not stop national producers from selling chickens nationwide, nor will it stop them from selling at lower prices than in-state growers; it will simply enable consumers who wish to pay a premium for freshly killed poultry to make an informed selection.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Missouri.

Mr. VOLKMER. I had an amendment to do the very same thing. I still plan to offer it, if time allows, because I have been in contact with USDA and the general counsel over there, and they advise me that these regulations will not be able to go forward if this bill passes and becomes law as it is presently written. What it will mean is that the matter now being proposed at USDA to correct the problem that the gentleman has in California will not be done.

So I think that the gentleman surely would join with me in that amendment if we get an opportunity to do it.

Mr. RADANOVICH. I wish to raise the issue, but I have no intention of stopping the speedy passage of H.R. 450.

Mr. VOLKMER. What do you mean? You had rather not take care of the problem?

Mr. RADANOVICH. I had rather it be taken care of in the Committee on Agriculture.

Mr. VOLKMER. Committee on Agriculture. How are we going to do it in the Committee on Agriculture? I am a member of the Committee on Agriculture.

Mr. RADANOVICH. I am not interested in slowing the passage of H.R. 450, sir.

Mr. VOLKMER. Yippee.

AMENDMENT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

AMENDMENT OFFERED BY MR. SPRATT

At the end of the bill (page , after line), add the following new section:

SEC. . REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, Interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103–465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator or the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administrater laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce Intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate, taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7320).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1983 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licensee utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased

competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking ws published on February 9, 1995 (60 Fed. Reg. 7118).

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from South Carolina [Mr. SPRATT] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from South Carolina [Mr. SPRATT].

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

Mr. Chairman, I rise to support the Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment to H.R. 450.

Basically, Mr. Chairman, this amendment carves out several selected exceptions to this regulatory freeze to allow for rules that American businesses have actually sought and supported. Our amendment would mean the moratorium would not apply to five subject areas:

No. 1. Trade sanctions against China. Mr. Chairman, if this bill passes, the administration may, I cannot say this with any certainty, but it may be barred or at least impeded from imposing sanctions against China for pirating our patents and copyrights. Section 6 of the bill does exclude from the freeze ''statutes implementing international trade agreements.'' But the sanctions we would impose upon China do not implement any international trade agreements, they are sanctions imposed under our own trade laws. So they may not be precluded as a rule-making action as this bill is written now.

Our amendment would make certain simply that we can sanction China for pirating our patents and copyrights, and I do not see how anybody can oppose that.

No. 2. Implementation of the so-called Customs Modernization Act. American exporters and importers alike support the Customs Modernization Act because it cuts costs and cuts delays as well. The Customs Service supports it because the Modernization Act saves millions of dollars and allows Customs to streamline its operations and get rid of obsolete requirements. H.R. 450 will potentially stop Customs from implementing by regulation all parts of the Modernization Act. Surely there is no reason for us to do that. The Spratt-Payne-Coble-Ballenger-Hefner-Rose amendment would ensure that this bill does not inadvertently get in the way of Customs modernization. There is nothing wrong with that.

No. 3. Wider access to telecommunications, the so-called auction of the spectrum. H.R. 450 will potentially suspend rules that govern the auction of the spectrum that have been issued recently and it could require the FCC to shut down its auction for as much as the next 10 months. Since December, these FCC auctions have raised $6.1 billion. Do we want to have H.R. 450 stop the Government from collecting revenues of this magnitude for the rest of the year? Do we want to prevent the FCC from making available additional spectrum to police and public safety officials under new and revised regulations? Our amendment would make certain that we do not do that.

No. 4. Improved opportunities for regional stock exchanges. The SEC issued rules this month to allow for increased competition among regional stock exchanges. H.R. 450 would freeze these rules with all others. Our amendment would simply ensure that they go forward.

Finally, Mr. Chairman, Customs is about to issue textile rules of origin which we just talked about that will authorize our Government to stop exporting countries like Hong Kong from shipping to us goods under their quota which are actually made in China. This is a form of fraud. Surely we do not want to block rules that crack down on fraudulent trade. That is why we just accepted the Burton amendment, but mine goes further and deals with other textile and apparel import rules and regulations that deal with fraud, evasion and circumvention.

For example, Customs has recently issued another rule that stiffens the penalties against textile transshipments which are a form of fraud and quota evasion. This amendment would simply allow that these regulations against trade fraud and evasion take effect. That should not be objectionable to anybody, particularly since the Burton amendment was just accepted without objection without any more than a voice vote.

I say to my colleagues, regardless of how you want to vote on H.R. 450, you ought to vote for this amendment. If you want to have our Government have the power to impose trade sanctions upon China, you should vote for this amendment. If you want to see the auction of the spectrum and the billions of dollars it is generating in revenues for the Treasury go forward under new clarified rules of procedure, then you should vote for this amendment. If you want to crack down on fraud and evasion by countries that ship billions of dollars into our markets but flout our rules of trade, then you should vote for this amendment.

These are regulations, as I said at the outset, that American businesses have sought and supported, many of us in this House have sought and supported them, and we gain nothing and we lose a lot by freezing actions on them for 13 solid months.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I rise in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. CLINGER] will be recognized for 15 minutes.

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

Mr. Chairman, basically I think the same argument would apply to this as would apply to some of the others that have been suggested, and, that is, whether this would accomplish what the gentleman really seeks to accomplish. It seems to me that we have provided an exemption here that would deal with the issue that the gentleman raises. I gather there are two issues raised in this amendment. The one on the textile element was not covered by the last amendment, may I ask the gentleman?

Mr. SPRATT. If the gentleman will yield, it was only partially covered by the last amendment, because the last amendment went to the rules of origin which are a legally dictated rule that was imposed upon the Treasury Department by the GATT-implementing legislation when it was passed. This deals with a wider spectrum of rules and regulations that apply to fraud, evasion, circumvention, textile trade fraud, more than just the rules of origin problem.

Mr. CLINGER. Specifically what do you provide with regard to the FCC?

Mr. SPRATT. There are rules now pending which have been issued by the FCC that will deal with additional auctions of the spectrum in a certain megahertz range. We will have members of the Committee on Commerce come here shortly and speak to that. But basically if those rules do not go forward, then the auction itself could be impeded and billions of dollars could be in jeopardy.

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, it is my understanding that much of the provisions that are being discussed in this amendment actually can go forward under the exceptions that we currently have in the bill. Specifically those dealing with the FCC licensing provisions, we have an exemption for licenses that would allow the FCC to go ahead and issue all of those licenses. It is my understanding that it is their practice to implement their policies on a license-by-license basis, be able to go forward, both with the auction and the other licenses that they would seek to offer.

In terms of the regulations regarding trade in the textile area, to the extent those are related to an international trade agreement, the exception there would apply. Those that are related to fraud in a criminal sense would be able to go forward under the exception allowed for regulations necessary to enforce criminal statutes.

For those reasons, I think the real gravamen of this amendment is taken care of already in the bill and we do not need to have special exceptions in this case.

□ 1620

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the ranking member of our committee, the gentlewoman from Illinois, [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the amendment offered by the gentleman from South Carolina.

Business loves to complain about burdensome Federal regulation, but the fact of the matter is that business also benefits from Federal regulation. The regulations included in the gentleman's amendment make this point very clear.

The regulations issued by the Federal Communications Commission which are contained in the Spratt amendment are good examples of Federal regulations that benefit business. The FCC has a rulemaking under way pertaining to mobile wireless radio services, such as wireless fleet dispatch communications.

There is a company in Chicago, NEXTEL, which is eager to compete in providing this service, and they need this rule issued to be able to compete effectively.

Why would we want this moratorium to apply to rules like this? Are we against regulations that will produce revenues for the Federal Treasury and increase competition?

NEXTEL does not believe the exclusions in the bill protect them, and they have said so in a letter to me. They would not be eligible for the exclusion for new technologies. Their technology is already being offered in Los Angeles, and as of last month in Chicago as well. But, to compete with other telecommunications firms, NEXTEL needs the common carrier status which this rule would grant it.

Furthermore, NEXTEL is by no means the only beneficiary of this rule. Until this new rule goes forward, more than 800 companies similar to NEXTEL all over the country, will be stopped from competing to provide wireless mobile radio services.

Finally, regulations will soon be issued by the Securities and Exchange Commission which will promote the competitiveness of regional stock exchanges in Chicago, Boston, Philadelphia, Cincinnati, Los Angeles and San Francisco.

These regulations would eliminate the time regional stock exchanges must wait before they can trade in new stocks listed on the principal exchanges.

I was a cosponsor of the Unlisted Trading Privileges Act under which these regulations are being issued. This legislation had strong bi-partisan support and passed the House three times before it was included in last year's budget reconciliation bill.

Why would we want to block implementation of regulations that will promote competitiveness of the regional stock exchanges?

Unless we are willing to surrender to foreign unfair trade practices and do not care about creating a competitive, state-of-the-art telecommunications industry, we should exempt these regulations from the moratorium.

I urge my colleagues to support the gentleman's amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentleman from Pennsylvania for yielding me this time.

I will simply say, Mr. Chairman, that I was in favor of the Burton amendment, a good sound amendment, but I believe the Spratt-Coble-Ballenger-Payne amendment extends the propriety thereof and I think it extends it in areas that are needed.

Sanctions against transshipments and other forms of quota violations, in my opinion, Mr. Chairman, are epidemic and I think we need this additional amendment to address that.

Textile and apparel workers, my mom used to be one, worked at a hosiery mill, was a machine operator. I represent thousands of employees who earn their living to this day in textile miles, a very significant cog in the American wheel of industry.

I think this is an amendment that is needed. I think it will address areas that in my opinion the Burton amendment does not address, and furthermore, I think will do harm to no one.

I think it will enhance America's role, in fact, not just in the textile and apparel area but otherwise. I urge support of the amendment and I thank the gentleman for having yielded time to me.

Mr. SPRATT. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PAYNE].

Mr. PAYNE of Virginia. Mr. Chairman, I rise in strong support of the Spratt, Payne, Coble, Ballenger, Hefner, Burr, Rose, Funderburk amendment to H.R. 450. While I am pleased that the gentleman from Indiana's amendment was accepted and I think it was a very important amendment. It does not address several other issues that are critical to American industry, particularly the American textile industry, while I am pleased our amendment on the other hand, does in fact speak to the needs of our industry.

Our amendment is a good government amendment. It protects American businesses and workers from unintended consequences of the regulatory moratorium. It allows several specific exemptions to the moratorium that American businesses want and need.

Our amendment will allow the Customs Service to continue its fight against illegal transshipments. These illegal shipments or textile and apparel goods represent up to $4 billion in lost sales every year to the American textile and apparel industry.

Last year, as part of the GATT implementing bill, the Congress directed the Customs Service to take additional measures to fight this serious transshipments problem. Unfortunately, the language of H.R. 450 would prevent the Customs Service from issuing regulations to implement what Congress specifically requested.

The Customs Modernization Act is also addressed. Importers and exporters alike have complained for years that Customs procedures and structures are badly in need of reform. In response to those concerns, Congress passed the Customs Modernization Act as part of the NAFTA implementing bill in 1993.

Since then, Customs has been proceeding in a very deliberate manner to reform itself in a way that will be more responsive to the businesses who depend on importing and exporting to survive.

However, this comprehensive, bipartisan, and widely supported effort will not go forward without the exemption that this amendment would grant.

Mr. Chairman, our amendment is aimed at just one thing: Preserving American jobs by preserving the competitiveness of American businesses.

I urge my colleagues to support this amendment.

Mr. CLINGER. Mr. Chairman, I continue to reserve the balance of my time.

Mr. SPRATT. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I rise in support of the Spratt-Payne amendment. It is a necessary and important piece of amendatory legislation.

This bill is going to have some surprising effects, many harmful, and many which will surprise those who support it.

I refer specifically to the situation with regard to FCC regulations which govern the behavior of the entirety of the telecommunications industry.

I would point out to my colleagues that the amendment would prevent the suspension of a series of important regulations relating to the issuance of new licenses for operations of portions of the radio spectrum to assist the growth of our telecommunications industry.

I would tell my colleagues if these regulations are suspended, serious consequences occur. First of all, American industry is delayed in getting into the new telecommunications services. American business and consumers are hurt by that action.

Revenues are lost both to providers of service and to users of telecommunication services.

Beyond that, it will preclude the taxpayers from benefiting from the competitive bidding procedures established by the Congress in the 1993 reconciliation bill.

The Spratt-Payne amendment ameliorates to a large degree these deficiencies. It exempts from the sweeping scope of this legislation 3 important FCC regulations that create business opportunities and that protect the public interest.

It exempts those which protect the public safety and bring important revenue into the Federal Treasury.

The amendment also provides an exception for regulations issued last November that created the Personal Communications Services, the PCS's.

□ 1630

These regulations establish geographic areas that would be covered by PCS licenses. They establish the bandwidth and other circumstances associated with the behavior of licensees.

The regulations establish the basis for companies to bid for licenses at auction. In December, on the 5th day, the FCC commenced to auction the PCS licenses. This auction is still going on today. As of the close of business last night, bids totaling $6.3 billion had been logged into the FCC computers. When the three pioneer preference licenses are factored in, the total amount in FCC computers is $6.9 billion that would come to the taxpayers if the FCC is not precluded from including those revenues in those regulations because of the enactment of this, quite frankly, silly piece of legislation.

What will happen to these bids if the regulations that govern the licenses are suspended? Will the bidders such as AT&T or Pacific Telesis or any other bidders keep bidding? Will they continue to make payments to the Treasury hoping that the regulations will ultimately be permitted to take place?

Another regulation that the Spratt-Payne amendment would exempt from the allocation or, rather, from the provisions of this legislation, are allocations of 50 megahertz of radio spectrum the Federal Government has transferred to the FCC for new uses, something that the American manufacturing and telecommunications industry desperately needs. Potential users of these frequencies are police, fire, public safety users of the spectrum in our largest cities. There is a critical shortage of this spectrum.

I urge my colleagues to reject the language of the bill and to adopt the Spratt-Payne amendment.

Mr. SPRATT. Mr. Chairman, I yield such time as she may consume to the gentlewoman from North Carolina [Mrs. CLAYTON].

(Mrs. CLAYTON asked and was given permission to revise and extend her remarks.)

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Spratt-Payne-Coble-Ballenger amendment. It is important to textile workers and industry in North Carolina.

Mr. SPRATT. Mr. Chairman, I yield the balance of my time to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding me this time. I thank him and the gentleman from Virginia for making this amendment.

To follow on what the gentleman from Michigan was just referring to, we have two very important issues that would, in fact, be affected if we did not pass the amendment before us right now. No. 1, out of the Commerce Committee last year we passed legislation on something called unlisted trading privileges.

Now, it all sounds very technical, but the net result of it is that it allows the Philadelphia Stock Exchange, the Boston Stock Exchange, the Chicago Stock Exchange, Pacific Stock Exchange, Cincinnati Stock Exchange to get into all new activities in a much more telescoped timeframe than they have ever been allowed to engage in trading before. It is a real spur to competition out in the marketplace. It is something ultimately we were able to pass on a unanimous basis.

But if the amendment does not pass, it will be impossible for the Securities and Exchange Commission to be able to get this regulation in place and to give benefits to the Chicago and Philadelphia and Pacific, other regional, stock exchanges in their competition with New York and the American Stock Exchange.

Second, we have a tremendous revolution taking place in this country that involves cellular phones, faxes, and wireless technologies of all kinds. Last year we passed laws out of the Commerce Committee so that the Federal Communications Commission would transfer 50 megahertz of spectrum for use in this area.

By the way, when you think about 50 megahertz, you have an idea just what that is, that is all of the spectrum now being used for cellular phones, all of them. We are talking about moving over the spectrum so we can have this revolution so the Dick Tracy two-way wrist radio is something that is in the stores within 2 or 3 years.

If this amendment does not pass, it is going to stall, delay, and make almost impossible our ability as a Nation to get our product out onto the international market first so that we are most competitive, so the jobs are here in the United States.

Those are two examples. We could go on, but I think that just so you have a sense of the range of concerns of industries as diverse as the Pacific Stock Exchange and every cellular and fax and wireless company in the United States. Let us hope this amendment passes.

Anyone who is listening, American competitiveness very much depends upon the Spratt-Payne amendment passing this House this afternoon.

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

Mr. Chairman, I think we feel that the items that the gentleman is attempting to deal with in this amendment would be eligible to go forward under exemptions which are provided in the bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, let me say that the points that my colleague, the gentleman from Massachusetts [Mr. MARKEY], has raised are some very important changes in the regulatory system, and he and his staff are to be commended for having worked on those, in particular reducing the burdens on some of the exchanges outside of New York so that they can offer those additional services.

It is the opinion of the authors of this bill and my committee, subcommittee, and the gentleman from Pennsylvania [Mr. CLINGER], the full committee, those types of regulations are exempt from the moratorium precisely because they do reduce the current regulatory burden on the private sector, and that the SEC could go forward with those regulations. The FCC can go forward with its licenses and allow the private sector, through an auction process, to expand the cellular phone markets and other services that they seek to provide for.

So I think the problem is addressed in the moratorium legislation. There is not a need for an explicit amendment.

One of the things that we have very carefully guarded against is starting a long list of particular regulations that would be exempt because of the problem of statutory construction. If you have a very general provision that says we are going to protect health and safety, we are going to allow regulations that reduce burdens on the economy, but then you start a list of particular amendments or particular regulations, there might be something that is not on the list, and our concern was those items not on the list that protect health and safety or reduce a burden could be held up because they were not listed.

We tried to keep it a very general provision allowing the particular regulations that the gentleman from Massachusetts [Mr. MARKEY] mentioned to go forward.

For that reason, I would urge that the body today vote against that amendment.

Mr. MARKEY. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

There is an exemption in your legislation for licensing. What we have to distinguish though is the difference between licensing and the FCC promulgating rules and regulations with regard to bandwidth, with regard for geographic distancing, with regard to who is eligible. Right now, based upon the regulations that are out there, $6½ billion—billion dollars—has been bid by companies for this spectrum.

If we change that today, all of that money is just going to be taken back off the table by all of these companies because of the uncertainty which is going to be established. So it has a big

impact on our deficit-reduction objectives as well, because these companies are bidding based upon the FCC's ability to lay out not just the licensing but the eligibility, bandwidth, geographic spacing of all of these technologies as well.

So I appreciate what you are trying to do in licensing. It just does not quite reach the problem, and it will affect all of the cellular phone competition out there in the market.

Mr. MCINTOSH. If I could respond to that, because I want to make it clear to the FCC, in our opinion they can continue to grant those licenses. It is my understanding they can, on a case-by-case basis, apply all of those criteria as they issue the particular license. I want them to be sure and go ahead and issue those licenses.

Mr. MARKEY. If the gentleman will yield further, they can issue the licenses under the exemption. What they cannot do is establish the regulations for the conditions dealing with the issuance of the license, and that is not in fact exempted in your language; they will be handcuffed in terms of the ability to take the next step, and as a result, all the bidders will pull the $6 billion worth of bids for this spectrum off the table.

You have an error here in terms of the overall operation of how the FCC actually promulgates regulations, and it has an impact on a bipartisan piece of legislation that passed which will generate $6 to $10 billion if the FCC is allowed to proceed as they have.

Mr. MCINTOSH. Mr. Chairman, let me just conclude by saying I think that the provisions in the bill right now would let them specify those general policies and continue on with their licensing program. But I appreciate my colleagues' bringing this to our attention.

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

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from South Carolina [Mr. SPRATT].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 235, noes 189, not voting 10, as follows:

[Roll No. 162]

AYES—235

Abercrombie	Bereuter	Brown (FL)
Ackerman	Berman	Brown (OH)
Bachus	Bevill	Bryant (TX)
Baesler	Bishop	Bunn
Baldacci	Blute	Burr
Ballenger	Boehlert	Cardin
Barcia	Bonior	Chambliss
Barr	Borski	Chapman
Barrett (WI)	Boucher	Clay
Becerra	Brewster	Clayton
Beilenson	Browder	Clement
Bentsen	Brown (CA)	Clyburn
Coble	Johnson (SD)	Pickett
Coleman	Johnson, E. B.	Pomeroy
Collins (IL)	Johnston	Poshard
Collins (MI)	Jones	Quillen
Condit	Kanjorski	Rahall
Conyers	Kaptur	Rangel
Costello	Kennedy (MA)	Reed
Coyne	Kennedy (RI)	Regula
Cramer	Kennelly	Reynolds
Danner	Kildee	Richardson
de la Garza	Kleczka	Rivers
Deal	Klink	Roemer
DeFazio	LaFalce	Rose
DeLauro	LaHood	Roybal-Allard
Dellums	Lantos	Rush
Deutsch	Laughlin	Sabo
Dicks	Leach	Sanders
Dingell	Levin	Sawyer
Dixon	Lewis (CA)	Schroeder
Doggett	Lewis (GA)	Scott
Dooley	Lincoln	Serrano
Doyle	Lipinski	Sisisky
Duncan	Lofgren	Skaggs
Durbin	Longley	Skelton
Edwards	Lowey	Slaughter
Engel	Luther	Solomon
Eshoo	Maloney	Spence
Evans	Manton	Spratt
Everett	Markey	Stark
Farr	Martinez	Stenholm
Fazio	Mascara	Stockman
Fields (LA)	Matsui	Stokes
Filner	McDermott	Studds
Flake	McHale	Stupak
Foglietta	McInnis	Tanner
Ford	McKinney	Tauzin
Fowler	McNulty	Taylor (MS)
Frank (MA)	Meehan	Taylor (NC)
Frost	Menendez	Tejeda
Funderburk	Mfume	Thompson
Furse	Miller (CA)	Thornton
Gejdenson	Mineta	Thurman
Gephardt	Minge	Torres
Geren	Mink	Torricelli
Gibbons	Moakley	Towns
Gilman	Mollohan	Traficant
Gordon	Montgomery	Tucker
Green	Moran	Velazquez
Gutierrez	Morella	Vento
Hall (OH)	Murtha	Visclosky
Hall (TX)	Myrick	Volkmer
Harman	Nadler	Wamp
Hastings (FL)	Neal	Ward
Hayes	Norwood	Waters
Hefner	Oberstar	Watt (NC)
Heineman	Obey	Waxman
Hilliard	Olver	Whitfield
Hinchey	Orton	Williams
Hoke	Owens	Wilson
Holden	Pallone	Wise
Houghton	Parker	Wolf
Hoyer	Pastor	Woolsey
Hunter	Payne (NJ)	Wyden
Inglis	Payne (VA)	Wynn
Jackson-Lee	Pelosi	Yates
Jacobs	Peterson (FL)	
Jefferson	Peterson (MN)	

NOES—189

Allard	Coburn	Franks (NJ)
Archer	Collins (GA)	Frelinghuysen
Armey	Combest	Frisa
Baker (CA)	Cooley	Gallegly
Baker (LA)	Cox	Ganske
Barrett (NE)	Crane	Gilchrest
Bartlett	Crapo	Gillmor
Bass	Cremeans	Goodlatte
Bateman	Cubin	Goodling
Bilbray	Cunningham	Goss
Bilirakis	Davis	Graham
Bliley	DeLay	Greenwood
Boehner	Diaz-Balart	Gunderson
Bonilla	Dickey	Gutknecht
Bono	Doolittle	Hamilton
Brownback	Dornan	Hancock
Bryant (TN)	Dreier	Hansen
Bunning	Dunn	Hastert
Burton	Ehrlich	Hastings (WA)
Buyer	Emerson	Hayworth
Callahan	English	Hefley
Calvert	Ensign	Herger
Camp	Ewing	Hilleary
Canady	Fawell	Hobson
Castle	Fields (TX)	Hoekstra
Chabot	Flanagan	Horn
Chenoweth	Foley	Hostettler
Christensen	Forbes	Hutchinson
Chrysler	Fox	Hyde
Clinger	Franks (CT)	Istook
Johnson (CT)	Moorhead	Shadegg
Johnson, Sam	Myers	Shaw
Kasich	Nethercutt	Shays
Kelly	Neumann	Shuster
Kim	Ney	Skeen
King	Nussle	Smith (MI)
Kingston	Oxley	Smith (NJ)
Klug	Packard	Smith (TX)
Knollenberg	Paxon	Smith (WA)
Kolbe	Petri	Souder
Largent	Pombo	Stearns
Latham	Portman	Stump
LaTourette	Pryce	Talent
Lazio	Quinn	Tate
Lewis (KY)	Radanovich	Thomas
Lightfoot	Ramstad	Thornberry
Linder	Riggs	Tiahrt
Livingston	Roberts	Torkildsen
LoBiondo	Rogers	Upton
Lucas	Rohrabacher	Vucanovich
Manzullo	Ros-Lehtinen	Waldholtz
Martini	Roth	Walker
McCollum	Roukema	Walsh
McCrery	Royce	Watts (OK)
McDade	Salmon	Weldon (FL)
McHugh	Sanford	Weldon (PA)
McIntosh	Saxton	Weller
McKeon	Scarborough	White
Metcalf	Schaefer	Wicker
Meyers	Schiff	Young (AK)
Mica	Schumer	Young (FL)
Miller (FL)	Seastrand	Zeliff
Molinari	Sensenbrenner	Zimmer

NOT VOTING—10

Andrews	Gekas	Ortiz
Barton	Gonzalez	Porter
Ehlers	McCarthy	
Fattah	Meek	

☐ 1658

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton against.

Mr. NEY, Mr. CRAPO, Mrs. CHENOWETH, Mr. DOOLITTLE, Mrs. CUBIN, Mr. METCALF, and Mr. SCHUMER changed their vote from ''aye'' to ''no.''

Mr. CHAMBLISS and Mr. STOCKMAN changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1700

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment, amendment No. 36.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WAXMAN: In section 5(a)(2) (page , line), strike ''imminent threat'' and insert ''substantial endangerment''.

In section 6(7) (page , beginning at line)—

(1) strike ''death, serious illness, or severe injury'' and insert ''substantial endangerment'';

(2) in the heading strike ''IMMINENT THREAT'' and insert ''SUBSTANTIAL ENDANGERMENT'', and in the text strike ''imminent threat'' and insert ''substantial endangerment''; and

(3) strike ''during the moratorium period''.

The CHAIRMAN. Pursuant to the order of the House of today, the gentleman from California [Mr. WAXMAN] and a Member opposed, will each control 15 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

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

Mr. Chairman, I offer this amendment on behalf of the gentleman from Wisconsin [Mr. BARRETT], the gentleman from Vermont [Mr. SANDERS], and myself. The purpose of this amendment is to apply the same protection to human health that H.R. 450 would provide to private property. This bill provides an exemption from the moratorium for imminent threats to health or safety. In section 6(7) this is defined to be a reasonable expectation of death, serious illness or severe injury to humans, or substantial endangerment to private property.

This definition in H.R. 450 provides significantly more protection to private property than to health. My amendment would equalize the level of protection. It would apply the substantial endangerment test to both private property and human health. It is inconceivable to me that this body would want to go on record as providing more protection to private property than to human health. It is inconceivable that we want to set up a different standard for the protections of private property than for human health, which is exactly what this bill would do, and it does not make sense. Let me explain why H.R. 450 provides more protection to private property than human health.

This bill in the case of private property requires a reasonable expectation of an endangerment, and that would be sufficient to exempt a regulation from the moratorium. There is no requirement to show that there is a reasonable expectation of actual injury. All you have to show is that private property is placed in jeopardy.

In the case of human health or safety, the standard of a reasonable expectation of an endangerment is not enough to exempt the regulation. It is not enough to show that people will be put in a dangerous situation. Instead, you must show it is likely that there will be actual death, actual illness, or injury.

This test is much more difficult to meet than private property tests. It is much easier to show that there is a reasonable expectation that some property may be endangered but not actually injured, which is the private property test, than to show that there is a reasonable expectation that some person will be actually injured, which is the health test.

Private property gets more protection than health for a second reason, also. A regulation to protect private property can be exempted from the moratorium so long as the endangerment is just substantial. When it comes to human health, however, the agency must show that the injury is either severe or serious. Obviously, the threshold of showing that an injury to health or people is serious or severe is higher than the threshold of showing that an injury to property is merely substantial.

So this amendment would delete the requirement that the injury occur during the moratorium period. It would equalize the standard. This is essential to ensure that agencies can act to prevent serious health impacts that should occur, especially outside the moratorium period.

Mr. Chairman, let me describe this issue of the moratorium period. The Food and Drug Administration is in the process of examining whether there ought to be any regulations with respect to the tobacco industry, but under the language of this bill, they only look for a threat to severe injury during the moratorium period.

Well, there is no more important health and safety regulation being considered than the one that deals with FDA, where they are concerned about tobacco companies targeting children. But work on this regulation would be halted under H.R. 450 because FDA could now show that the injury to children would occur during that moratorium period.

Three thousand kids start smoking everyday. Hundreds of these kids will eventually die from smoking. Under H.R. 450 this is not considered an imminent threat because they are not going to die for 20 to 30 years.

So we would do two things in this amendment: One, establish the same standard whether it is public health or danger to property; and not restrict the legislation to threats only within the moratorium period.

Mr. Chairman, I would urge support for this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN. The gentleman from Pennsylvania will be recognized for 15 minutes.

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute, merely to point out to the gentleman in the report where we make it very clear that it is certainly not the intent to raise concerns or interest in property to a higher level than that which we provide for human health. We define ''imminent threat to health or safety'' to mean the existence of a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property, during the moratorium period. In setting forward this definition, the Committee has not elevated protections of private property above human health or safety, or even attempted to equate endangerment to private property with death, illness or injury to humans. Rather, it seeks to protect both human health and safety and private property according to appropriately separate and distinct standards. It is the Committee's understanding that the moratorium should not prevent the promulgation of rules and regulations that are necessary to make food safe from E. coli bacteria, or others discussed in regard to the slaughter amendment.

Mr. Chairman, we reject the notion this is somehow raising this concern to a higher degree.

Mr. Chairman, I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Chairman, I rise in strong support of this amendment.

I am very concerned about how H.R. 450 would impede the Department of Energy's ability to write needed safety regulations for the clean-up of the Hanford nuclear weapons complex.

The Hanford complex has 1500 sites contaminated by radioactive and hazardous waste. Some of this radioactive waste has begun to leak into the Columbia River and contaminate its water and fish. DOE needs the ability to act quickly to promulgate regulations to protect the safety of workers at the Hanford site and to protect the public from the hazardous waste stored there.

You say that H.R. 450 contains an exemption for regulations to address ''imminent threats to health and safety.'' What I want to know is how long will it take the DOE to get an exemption under this law? It is my understanding that DOE would have to submit a written request to OMB and to the appropriate congressional committees in the House and Senate. Then OMB would have to find in writing that this waiver was indeed necessary. And finally the DOE Secretary would have to publish the findings and waiver in the Federal Register. How long will this process take?

Mr. Chairman, the threats to public safety from the Hanford complex are real and can impact citizens throughout the entire Northwest. If there is any doubt that the Department of Energy will be impeded in protecting American citizens from Hanford's radioactive hazards, then I say that risk is too great.

I urge my colleagues to vote for the Waxman amendment.

☐ 1710

Mr. CLINGER. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland [Mr. EHRLICH].

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. EHRLICH].

The CHAIRMAN. The gentleman from Maryland [Mr. EHRLICH] is recognized for 4 minutes.

(Mr. ERHLICH asked and was given permission to revise and extend his remarks.)

Mr. EHRLICH. Mr. Chairman, with all due apologies to my subcommittee chair and to the gentlewoman on the other side, we have, in fact, corrected the misspelling, a demonstrative piece of evidence we have here. The gentleman from California will recall our debate in subcommittee and in committee and, in fact, on the floor of the

House. As the chairman quite rightfully said, this bill does not provide a priority to property and the committee report, in fact, specifies that property is not elevated above health and safety. But because the gentleman made such an eloquent point in committee, I have gone through the legal research to the code.

As the chart here states, the term ''imminent threat to safety or health'' means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness or severe injury to humans or substantial endangerment.

The issue the gentleman raised in committee was, what about the relative thresholds here. Do we have a lower threshold with respect to property as opposed to health and safety? That is the point I researched. I would like to tell the gentleman that in the code, the term ''serious illness'' is actually defined. And the definition of serious illness is an imminent hazard. It is subsumed within the definition of imminent hazard. That definition applies to death, serious illness and severe personal injury, and that applies to human beings.

Under the other part of the definition of imminent hazard, we see the provisions that apply to property. Substantial endangerment to health, property or the environment. So that it is quite clear under the code, under the way the actual terms are defined under the code, we have not created separate thresholds with respect to human health and safety on the one hand and property on the other.

In fact, what we have done is create the same threshold with respect to the central issue here, although we have used different language with respect to health on the one hand, property on the other.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. EHRLICH. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, if the gentleman claims that they are both treated the same, why not use the same language? Why have any doubt? The clear wording of that section is to say that there is a substantial endangerment for property but reasonably expected to cause death or injury when it comes to people. Why not a substantial endangerment to people or a substantial endangerment to property?

It just seems to me that the gentleman's logic is incorrect, as is the spelling at least of one of the words on that chart. If we are going to achieve the same result, both property and humans, then let us use the same standards.

Mr. EHRLICH. Mr. Chairman, in fact, I understood the gentleman's point, but the fact is, the language, the verbiage used in the code uses different language dependent upon whether we are talking about humans on the one hand, property on the other. And that was the point I made earlier.

Mr. WAXMAN. Mr. Chairman, if the gentleman will continue to yield, the only point I would say is that we are writing the law here. Let us write the law so that the standard is the same and we will not have what I believe in clear words that give a higher threshold before we will protect human beings than before we step in to protect property while this moratorium is in effect.

Mr. WAXMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. SANDERS], a cosponsor of this amendment.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding time to me.

I am proud to be a cosponsor of this amendment that saves human lives and I strongly urge its adoption.

In its current form, the moratorium does not apply to regulations that protect against imminent threats of serious illness, severe injury, or death or substantial endangerment to private property. As Mr. WAXMAN described, this is an absurd provision that gives greater protection to private property than to human life. I think this is a absurd set of priorities that needs to be changed.

Furthermore, the bill is misleading because it does not allow regulations that protect public health and safety. In fact, it threatens regulations implemented last year that:

Promote safer meat, poultry, and seafood;

Establish standards for water quality;

Set standards for disposal of nuclear and other hazardous waste;

Set motor vehicle safety standards for brake systems;

Amend performance standards for children's life jackets;

Set safety standards for baby walkers and children's toys; and

Standardize aviation rules.

Under the current definition of ''imminent threat of human health and safety,'' regulations that protect against activities that cause cancer, AIDS, or any other illness that has a latency period cannot be implemented. Today 1 in 3 of us will get cancer, and tragically 1 in 4 will die of it. Over 60 different occupations are at a documented risk of cancer, including farmers, petrochemical workers, asbestos workers, plastics manufacturers, and radiations workers. If this amendment is not adopted, the administration will not be able to respond to this expensive and debilitating health care crisis by implementing regulations that prevent cancer.

For instance, regulations that provide certification standards for mammography that are required by law will not be implemented unless this amendment is adopted. Regulations that prevent breast cancer and save lives should be implemented.

Indoor air regulations that protect against toxic exposures that ultimately cause asbestosis, lung cancer, or other serious respiratory illnesses, will also be prohibited if this amendment is not adopted. OSHA has been considering a rule banning smoking in workplaces nationwide, the FDA is considering to regulate cigarettes as a drug, and the Department of Health and Human Services is working on regulations that limit smoking in schools and other places where children congregate. All of these plans will be put on hold unless this amendment is adopted. Lung cancer is the No. 1 cancer killer. The immediate implementation of regulations like these could save many lives.

Also, nuclear safety standards for waste disposal, like the regulation allowing nuclear wastes to be transferred from sites in Idaho, Colorado and other States to a WIPP facility in New Mexico, will be retroactively canceled. Thus, more Americans could potentially be exposed to toxic substances that cause serious illness and death.

I simply do not see the sense in the current language which allows regulations that protect against deaths in 1995, yet prohibits regulations that protect against deaths in other years. If the drafters of this bill intended to protect against cancer and AIDs, then this intention should be made clear in the plain meaning of the definition of ''imminent threat to human health or safety.''

I strongly urge you to support this amendment which clearly states that we care enough about human lives to permit regulations that prevent serious illnesses, severe injuries, and death in any year and gives human lives as much protection as the bill gives to private property.

☐ 1720

Mr. BARRETT of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Minnesota.

Mr. BARRETT of Wisconsin. Mr. Chairman, I want to thank and compliment the gentleman from Vermont, and I have to admit I am befuddled by the fierce opposition to this amendment. It seems like common sense to me.

The gentleman from Maryland [Mr. EHRLICH], I think gave an eloquent explanation as to why we have in the exact same paragraph two different standards, one for property, one for human life, but we are going to use different language to meet the exact same standard.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Indiana [Mr. MCINTOSH], the author of the legislation.

Mr. MCINTOSH. Mr. Chairman, I think it is incumbent as we start thinking about changes in this finely crafted exemption for health and safety that we address some of the particular problems that have come to our attention in drafting this moratorium.

For example, there is the guideline from the Consumer Product Safety

Commission which would require that all buckets have a hole in the bottom of them, so that they can allow water to go through and avoid the danger of somebody falling face down into the bucket and drowning; the leaky bucket regulation.

There is also the regulation that allows FDA officials to break into a doctor's office in Kent, WA, and hold at gunpoint the doctors and the nurses there to force them to answer a series of questions, because they use injectible vitamin B and other products. Would those regulations be exempt under this new standard?

There is also a regulation that the Occupational Safety and Health Administration, OSHA, promulgated which would require that all baby teeth be disposed of as hazardous waste material, rather than be given back to the parents, to allow the tooth fairy to come back and do that. How would the amendment apply to those regulations?

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I am happy to yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman, is reiterating the point I was making. Yes, there are regulations which are silly; yes; there are regulations which are useless and should be gotten rid of, but the scope of what the gentleman is talking about is not amusing.

Yes, holes in buckets is very funny, gets good laughs, I agree with the gentleman. But cancer and breast cancer, particularly, are very serious problems in America. AIDS is very serious. It is not a laughing matter.

What the gentleman's legislation does is it may deal with the holes in the buckets, fine, but is also preventing the Government from taking measures that will save people from getting cancer. That is not so funny.

Mr. MCINTOSH. Reclaiming my time, Mr. Chairman let me make it very clear that this moratorium does not do that. There is the language which the gentleman from Maryland [Mr. ERLICH] pointed out, and I pointed it out earlier, and I thank the gentlewoman from New York, [Ms. SLAUGHTER] for pointing out the spelling error, which seriously says regulatory agencies must deal with health and safety threats that pose an imminent danger to human health and safety. That exception would allow regulations that prevent loss of life to go forward.

What we need to do, Mr. Chairman, is to protect the American people from the silly, stupid, needless regulations that not only are humorous, they are very serious in their consequences of costing jobs when companies move overseas or go out of business. They are very serious when consumers have to spend $6,000 a year more to comply with those regulations. I urge a ''no'' vote on this amendment.

Mr. WAXMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.).

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the Waxman amendment.

Mr. Chairman, the definition of imminent threat to health or safety that is now in the bill H.R. 450., is inadequate. It is an unusually high standard for demonstrating personal injury; it would require that death, serious illness, or severe injury occur during the moratorium period.

It would also permit substantial endangerment to private property to be a basis for finding imminent threat to health or safety. Not only is it unusual to have harm to property as a basis of a health or safety standard, but it would also arguably be easier to exempt a rule on the basis of endangerment to private property than it would be to exempt a rule on the basis of a threat to human health.

The Waxman amendment, therefore, does one important thing; it equalizes the standard for injury to persons and injury to property. Under the amendment, a regulation could qualify for the imminent threat to health or safety exemption, if it could be expected that substantial endangerment to humans or private property would occur.

Why is it so important to have a reasonable standard? The answer is because no one, including the authors of this bill, can say with any certainty whether a particular regulation would be excluded from the moratorium. A perfect example of this is the meat inspection rule.

At the end of our committee's debate on the amendment to exempt the meat inspection rule, the chairman of the subcommittee spoke with Mrs. Nancy Donley, whose 6-year-old son died from eating E Coli contaminated hamburger. He told Mrs. Donley that he would put language into the committee report, making it clear that the Agriculture Department could go forward with the meat inspection rule.

I think the addition of this language in the report could be helpful, but it provides no assurance that the meat inspection rule can go forward. The bill does not prohibit anyone from challenging in court an Agriculture Department decision to exempt the meat inspection rule from the moratorium. Furthermore, what about all the other perhaps equally significant health or safety rules that are not mentioned in the committee report. A standard is needed that could be used to exempt these rules as well.

We, therefore, need a clear and simple standard under which we could exempt a matter on grounds of threat to health or safety. The Waxman amendment gives us such a standard, and I urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Florida, [Mr. MICA], a member of the committee.

Mr. MICA. Mr. Chairman, I speak in opposition to the Waxman amendment. I would like to make several points.

First of all, the new language that is being proposed here, I really do not believe that it does that much to protect public health, safety, and welfare. I know the gentleman is well-intended, I know our independent colleague is well-intended, that they are indeed concerned about public health, safety, welfare.

However, I think that we have provided in this moratorium some very specific language that in fact will do the job. In fact, we are not ending regulation as we know it. This is not an end to regulation. This is, again, as I said earlier on the floor, this is a stop and let us look at what we are doing with these regulations. Let us make some sense.

We have a mechanism in the bill and I believe we have a precedent for the language that we have put in this bill, to really accomplish what they would like and really, in a more effective fashion. That is why we have to defeat the Waxman amendment.

Again, Mr. Chairman, we are all concerned here. We are all human beings. I am a parent. I have children. I am concerned about the air they breathe, the water they drink. I am concerned about our environment.

However, we have to start taking all this regulation in perspective. This is not an indefinite moratorium. Even the moratoriums of the Reagan administration were more long-term than this. In fact, this even says if we take time and read it, that when we have some provisions in place to look at the cost and the benefit and risk, that we can go forward.

We have in here protections that reasonable people, working together, can use to go forward, and we can enact necessary restrictions and needed regulations.

No, in fact, this is not an end to regulation as we know it. This bill is concerned about people; that we have limited resources; that this country and its taxpayers want the very best regulation as far as protection of the health and public welfare and safety of our children. So yes, we on this side of the aisle, are concerned.

We want to work with the gentleman, and we want to pass something reasonable. We think our language is better. I urge my colleagues to come down here and to sort through all of the smoke and mirrors, to defeat this amendment, to pass a well-crafted, a well-defined piece of legislation that will put a stop sign, that will put a yield sign, and that will also put a go sign and a green light where we must protect public health, safety, and welfare.

With those comments, I do appreciate the gentleman's position, and speak against his amendment.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Minnesota [Mr. GUTKNECHT] a member of the committee.

Mr. GUTKNECHT. Mr. Chairman, I rise in opposition to the Waxman amendment. I do so for a couple of reasons.

First of all, Mr. Chairman, we are convinced on this side that the amendment is not needed. We know the gentleman from California [Mr. WAXMAN] is sincere in his concern about human health. I also want to make the point, I think to a certain degree, however, we labor under an illusion, and part of the background for this amendment is that somehow government regulation can create a risk-proof society, and that somehow, with more government regulation, we can completely prevent people from getting cancer, from people getting sick, from people not having a certain risk as it relates to their health.

The truth of the matter is, Mr. Chairman, and I used this example in committee, and I would share it with the body now, last year I was invited to the Governor's mansion of the State of Minnesota.

I was 1 of 17 Members who ate pineapple. As a result, I got sick. In fact, we never really did determine what the bacteria was, but I would share with the Members that that pineapple had been inspected by the USDA, it had been processed all the way under USDA regulations.

I guess what I said then and I would say now is that I got sick under government regulations, and I got well, despite government regulations. The truth of the matter is we cannot create a completely risk-proof society.

□ 1730

We see over there about 64,000 pages of government regulations. Bad things still happen. There is no amount of government control or regulations that is going to completely stop that.

I really do not believe that this amendment is needed. I rise in opposition to it. I would encourage a ''no'' vote.

Mr. CLINGER. I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, to close debate on my amendment, I yield the balance of my time to the gentleman from Wisconsin [Mr. BARRETT].

The CHAIRMAN. The gentleman from Wisconsin [Mr. BARRETT] is recognized for 2 minutes.

Mr. BARRETT of Wisconsin. Mr. Chairman, I remain perplexed. We hear the gentleman from Maryland and the gentleman from Minnesota talk about how they do not like bureaucrats. ''We don't like bureaucratic language. We don't like unnecessary or silly regulations.'' Yet before us we have a paragraph where you have two standards: One standard for property, a different standard for human life.

The gentleman from California [Mr. WAXMAN] has eloquently explained why it does not make sense to have those two standards and argues that the standard for property is higher than the standard for human life. The gentleman from Maryland argues that is not the case, that even though they are different phrases, they have the same identical meaning. That is not only a lawyer's dream, it is a law review editor's dream to have within the same paragraph two different definitions and have someone argue that they are the same language, that they have the same meaning.

Somehow I fail to see what is going on here other than to say if you are arguing that we want to have the same standard, why create bureaucratic language to give two different meanings to two different phrases? If you mean that they have the same standard, let us give them the same standard. There is no other explanation and no other clear-cut way to do it than to say let us not create more litigation, let us not create a dream for lawyers, let us say what we mean. If we mean it is the same standard, let us say so.

What we are doing here, you are opening yourself up for attack by setting a lower standard for human life than for private property. That is not what we want to do. We do not want to create more regulation, we do not want to create more litigation, and this amendment goes to that goal.

If you want more regulations, if you want more litigation, then defeat the Waxman amendment, because he is trying to streamline the process and have clear, simple language. For those reasons, I think it makes sense.

Again, I am completely befuddled as to why we want to have a paragraph with two different definitions that the majority argues have the same meaning.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. WAXMAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 259, not voting 8, as follows:

[Roll No. 163]

AYES—167

Abercrombie	de la Garza	Gibbons
Ackerman	Deal	Green
Baldacci	DeFazio	Gutierrez
Barcia	DeLauro	Hall (OH)
Barrett (WI)	Dellums	Harman
Becerra	Deutsch	Hastings (FL)
Beilenson	Dicks	Hefner
Berman	Dingell	Hilliard
Bishop	Dixon	Hinchey
Boehlert	Doggett	Holden
Bonior	Doyle	Hoyer
Borski	Durbin	Jackson-Lee
Boucher	Engel	Jacobs
Brown (CA)	Eshoo	Jefferson
Brown (FL)	Evans	Johnson (SD)
Brown (OH)	Farr	Johnson, E. B.
Bryant (TX)	Fazio	Johnston
Cardin	Fields (LA)	Kanjorski
Clay	Filner	Kaptur
Clayton	Flake	Kennedy (MA)
Clement	Foglietta	Kennedy (RI)
Clyburn	Ford	Kennelly
Coleman	Fox	Kildee
Collins (IL)	Frank (MA)	Kleczka
Collins (MI)	Frost	Klink
Conyers	Furse	LaFalce
Costello	Gejdenson	Lantos
Coyne	Gephardt	Levin
Lewis (GA)	Obey	Stark
Lincoln	Olver	Stokes
Lofgren	Owens	Studds
Lowey	Pallone	Stupak
Luther	Pastor	Tejeda
Maloney	Payne (NJ)	Thompson
Manton	Pelosi	Thornton
Markey	Peterson (FL)	Thurman
Martinez	Poshard	Torres
Mascara	Rahall	Torricelli
Matsui	Rangel	Towns
McDermott	Reed	Traficant
McHale	Reynolds	Tucker
McKinney	Richardson	Velazquez
McNulty	Rivers	Vento
Meehan	Rose	Visclosky
Mfume	Roybal-Allard	Volkmer
Miller (CA)	Rush	Ward
Mineta	Sabo	Waters
Mink	Sanders	Watt (NC)
Moakley	Sawyer	Waxman
Mollohan	Schroeder	Williams
Moran	Schumer	Wise
Morella	Scott	Woolsey
Murtha	Serrano	Wyden
Nadler	Skaggs	Wynn
Neal	Slaughter	Yates
Oberstar	Spratt	

NOES—259

Allard	Ehrlich	LaTourette
Archer	Emerson	Laughlin
Armey	English	Lazio
Bachus	Ensign	Leach
Baesler	Everett	Lewis (CA)
Baker (CA)	Ewing	Lewis (KY)
Baker (LA)	Fawell	Lightfoot
Ballenger	Fields (TX)	Linder
Barr	Flanagan	Lipinski
Barrett (NE)	Foley	Livingston
Bartlett	Forbes	LoBiondo
Bass	Fowler	Longley
Bateman	Franks (CT)	Lucas
Bentsen	Franks (NJ)	Manzullo
Bereuter	Frelinghuysen	Martini
Bevill	Frisa	McCollum
Bilbray	Funderburk	McCrery
Bilirakis	Gallegly	McDade
Bliley	Ganske	McHugh
Blute	Gekas	McInnis
Boehner	Geren	McIntosh
Bonilla	Gilchrest	McKeon
Bono	Gillmor	Menendez
Brewster	Gilman	Metcalf
Browder	Goodlatte	Meyers
Brownback	Goodling	Mica
Bryant (TN)	Gordon	Miller (FL)
Bunn	Goss	Minge
Bunning	Graham	Molinari
Burr	Greenwood	Montgomery
Burton	Gunderson	Moorhead
Buyer	Gutknecht	Myers
Callahan	Hall (TX)	Myrick
Calvert	Hamilton	Nethercutt
Camp	Hancock	Neumann
Canady	Hansen	Ney
Castle	Hastert	Norwood
Chabot	Hastings (WA)	Nussle
Chambliss	Hayes	Orton
Chapman	Hayworth	Oxley
Chenoweth	Hefley	Packard
Christensen	Heineman	Parker
Chrysler	Herger	Paxon
Clinger	Hilleary	Payne (VA)
Coble	Hobson	Peterson (MN)
Coburn	Hoekstra	Petri
Collins (GA)	Hoke	Pickett
Combest	Horn	Pombo
Condit	Hostettler	Pomeroy
Cooley	Houghton	Porter
Cox	Hunter	Portman
Cramer	Hutchinson	Pryce
Crane	Hyde	Quillen
Crapo	Inglis	Quinn
Cremeans	Istook	Radanovich
Cubin	Johnson (CT)	Ramstad
Cunningham	Johnson, Sam	Regula
Danner	Jones	Riggs
Davis	Kasich	Roberts
DeLay	Kelly	Roemer
Diaz-Balart	Kim	Rogers
Dickey	King	Rohrabacher
Dooley	Kingston	Ros-Lehtinen
Doolittle	Klug	Roth
Dornan	Knollenberg	Roukema
Dreier	Kolbe	Royce
Duncan	LaHood	Salmon
Dunn	Largent	Sanford
Edwards	Latham	Saxton

Scarborough	Spence	Walker
Schaefer	Stearns	Walsh
Schiff	Stenholm	Wamp
Seastrand	Stockman	Watts (OK)
Sensenbrenner	Stump	Weldon (FL)
Shadegg	Talent	Weldon (PA)
Shaw	Tanner	Weller
Shays	Tate	White
Shuster	Tauzin	Whitfield
Sisisky	Taylor (MS)	Wicker
Skeen	Taylor (NC)	Wilson
Skelton	Thomas	Wolf
Smith (MI)	Thornberry	Young (AK)
Smith (NJ)	Tiahrt	Young (FL)
Smith (TX)	Torkildsen	Zeliff
Smith (WA)	Upton	Zimmer
Solomon	Vucanovich	
Souder	Waldholtz	

NOT VOTING—8

Andrews	Fattah	Meek
Barton	Gonzalez	Ortiz
Ehlers	McCarthy	

□ 1750

Messrs. STEARNS, SHADEGG, and GORDON changed their vote from ''aye'' to ''no.''

Mr. STUPAK changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, and my colleagues, I rise in order that if the distinguished chairman would engage in a colloquy with me about definitions and applications of this legislation.

Mr. Chairman, I have an amendment that I was going to offer to exempt regulations of the Department of Agriculture for the moratorium. Although I support a moratorium on regulations, I have discussed the specific provisions of this bill with the Department and have concerns that the exceptions contains in the bill are too narrow to prevent disruptions of USDA programs and operations that benefit consumers, farmers, ranchers, agribusiness, and our Nation as a whole.

As you know, during the 103d Congress, the Committee on Agriculture led the way in reforming the bureaucracy by reorganizing the Department of Agriculture. The reorganization of the Department included the establishment of an Office of Risk Assessment and Cost-Benefit Analysis to review all major regulations of the Department affecting human health, human safety, or the environment.

This is the first such established in any major department of the Federal Government.

I look forward to seeing the regulations promulgated by all Federal agencies made subject to risk-assessment and cost-benefit analysis.

I would like to ask the distinguished gentleman if I am correct in stating that the regulatory moratorium contained in this bill is not intended to affect regulations implementing the provisions establishing the Office of Risk Assessment and the regulations undergoing such risk assessment and cost-benefit analysis.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. Mr. Chairman, I assure the gentleman that is absolutely correct.

Mr. DE LA GARZA. I thank the gentleman. I also thank the gentleman for the clarification and would like to include in the RECORD an analysis prepared by the Department of Agriculture listing the regulations that may be affected by the moratorium, and I will ask for such permission in the House.

I want to be sure that the Department will be able to continue to help farmers, ranchers, exporters, and the food service industry to supply agricultural products for our Nation's consumers and consumers around the world. I also want to be sure that the agency charged with implementing and enforcing animal and plant quarantine laws is able to carry out its charge to protect against long-term hazards associated with animal and plant diseases.

Finally, I want to be sure the Forest Service is able to manage our National Forest System lands for the benefit of recreational users, timber industry, ranchers, and the wildlife in our forests and rangelands.

I would also like to ask the gentleman if I am correct in stating the bill before us is not intended to affect regulations making routine adjustments to USDA activities or programs including the following: establishing industry self-help and promotion programs for port, beef, milk, fruit, vegetables, and specialty crops, commodity grading programs, animal-plant health programs, adjustments in agriculture under article 28 associated with GATT, timber-sale contracting, animal damage control programs, labeling of meat and poultry products, and internal USDA regulatory streamlining and reform.

I yield to the gentleman from Pennsylvania.

Mr. CLINGER. The gentleman is correct.

Mr. DE LA GARZA. I thank the gentleman for those clarifications.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I thank the distinguished gentleman from Texas for yielding, in that we have both worked on the gentleman's statement, and we have mutual concern and interest in making sure this bill in no way impedes the regular, normal business procedures and, yes, also regulations simply within the Department of Agriculture.

I think the colloquy is extremely important. I associate myself with the gentleman's remarks, and I think this should take care of many concerns that both of us share.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding.

As I have discussed earlier with the chairman, I am sure he knows my feelings that this colloquy really, in my opinion, does not solve the basic problem as to whether the law actually does these things or does not do it, and I know the intentions of the gentleman, and that is the word that is used, it is not intended to do these things. It was never stated in his colloquy it would not do these things. That gives me great concern.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(At the request of Mr. VOLKMER and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I have an amendment that I have printed in the RECORD and hope to offer at a later time, maybe tomorrow, that would exempt the wool and mohair promotion program.

□ 1800

That was a program that we enacted last year, as the chairman will remember, in response to the fact that we had done away, this House had done away with the wool and mohair program. This is one that does not cost the taxpayers money, it is just like the other programs that he has enumerated before, pork and beef and milk. This is one that is financed by the producers themselves. The regulations are now in process. If we do not exempt them, that means they are not going to have anything at the end of this year when the present program expires.

As a result, will the gentleman agree with me that the wool and mohair self-promotion program which we passed last year is not exempt from this bill?

Mr. DE LA GARZA. I yield to the distinguished chairman of the Committee on Agriculture.

Mr. ROBERTS. I thank the gentleman for yielding. I ask the gentleman from Missouri to repeat his question.

Mr. VOLKMER. The present law that we passed last year for the wool and mohair promotion program, which is patterned after the dairy program, the beef, pork, and all the rest, is going through the regulatory process right now for the first time. This colloquy does not cover that? I have talked this over with my ranking member, and he agrees with me.

I just want to know if the gentleman from Kansas also agrees that it is not covered and that if we are going to exempt it, we would have to do so specifically.

Mr. ROBERTS. Mr. Chairman, normally I would be more than happy to agree with the gentleman from Missouri. But the key word is ''routine.'' The question is whether the Department of Agriculture counsel feels that

the regulations that are now being promulgated apply.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(On request of Mr. ROBERTS and by unanimous consent, Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. DE LA GARZA. I continue to yield to the chairman of the committee.

Mr. ROBERTS. I thank the gentleman for yielding further.

Mr. Chairman, I think this whole thing depends on whether the lawyer down at the Department of Agriculture believes that the regulations that are now being promulgated in regards to the wool and mohair program fall in the classification of routine. You can talk to John Golden down there; he is the attorney. He expressed some concerns not only in this regard but the whole laundry list of things that was listed here. In talking to Secretary Rominger last night, I know what the situation is here. We have many agencies under marching orders from the administration who express concern about this. We share that concern. I think it does fall under the category of routine.

We have made our best effort in this colloquy to make it very clear to the Department that it is routine and that this bill will not interfere with any regulations in regard to the self-help and promotion program for the hard-pressed wool grower.

So my answer to the gentleman from Missouri [Mr. VOLKMER] is, with all due respect, I think it is exempted. He has a different view. I think we can make sure. We have oversight responsibility to take care of it.

The information referred to follows:

FOREST SERVICE SUMMARY

[Cummulative List of Agency Rules and Policies for OMB Review, revised January 25, 1995. Those intended for publication between July 18, 1995 and June 15, 1995]

List	Title of regulation or policy; publication date	Reg action	FS recommendation	OMB recommendation	Staff
1	Rangeland Management, Livestock Use and Grazing Fees; April 28, 1994	Proposed Rule	Sig	Sig	RGE
1	Hells Canyon NRA—Private Lands; December 14, 1993	Proposed Rule	N-Sig	N-Sig	RHWR
1	Hells Canyon NRA—Public Lands; January 19, 1994	Proposed Rule	N-Sig	N-Sig	RHWR
1	National Forest Prohibitions; Law Enforcement Activities; February 16, 1994	Proposed Rule	N-Sig	Sig	LEI
1	Land Exchanges; March 8, 1994	Final Rule	N-Sig	N-Sig	L
1	Federal Cave Resources Protection; June 17, 1994	Final Rule	N-Sig	N-Sig	RHWR
*1	Land and Resource Management Planning—in clearance now	Proposed Rule	N-Sig	Sig	RN
*1	Group Uses of NFS Lands—in clearance now	Final Rule	N-Sig	Sig	RHWR
*1	Log Export & Substitution	Final Rule	N-Sig	Sig	TM
**1	Timber Sale Contracting: Cancellation of Timber Sale Contracts	Proposed Rule	N-Sig	Sig	TM
*1	Indian Allotments	Final Rule	N-Sig	N-Sig	L
1	Timber Sale Contracting: Financial Security of NF Timber Sale Contracts; February 2, 1994	Final Policy	N-Sig	N-Sig	TM
1	Timber Sale Contracting: Downpayment, Transfer or Retention; Speculative Bidding Criteria; Reduction of Performance Bond; February 2, 1994	Proposed Policy	N-Sig	N-Sig	TM
2	Small Tracts Act Revision	Proposed Rule	N-Sig	N-Sig	L
*2	Hydropower Applications	Proposed Policy	N-Sig	N-Sig	L
2	Recreation Residence Authorization Policy; June 2, 1994	Final Policy	N-Sig	N-Sig	RHWR
2	Use of Fixed Anchors for Rock Climbing in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
2	Revise Land Status Regulations (technical amendment); January 20, 1994	Final Rule	N-Sig	N-Sig	L
2	Prohibition on Mechanical Transport and Other Activities in Wilderness	Proposed Rule	N-Sig	N-Sig	RHWR
*2	Mining Operations in the Smith River National Recreation Area Litigation: FS failure to adopt rules	Proposed Rule	N-Sig	N-Sig	M&GM
2	Use of Bait in Bear Hunting; March 14, 1994	Proposed Policy	N-Sig	N-Sig	WL&F
*2	Special-Use Applications and Administration of Special-Use Authorizations	Final Rule	N-Sig	N-Sig	RHWR
2	Species Surplus to Domestic Manufacturing Needs	Proposed Rule	N-Sig	N-Sig	TM
3	Below-Cost Timber Sale Program Policy and Guidelines	Final Rule	N-Sig	N-Sig	TM
**3	Timber Sale Contracting: Timber Sale Performance and Payment Bond Form Revision	Final Policy	N-Sig	Sig	TM
3	National Forest System Land and Resource Management Planning Manual (FSM 1920)	Proposed Policy	N-Sig	N-Sig	LMP
*3	State and Private Forestry Assistance Stewardship Incentive Program	Final Rule	N-Sig	Sig	S&PF
3	Locatable Minerals	Proposed Rule	N-Sig	N-Sig	M&GM
3	Change to Transaction Evidence Appraisal as Prime Method of Appraising FNS Timber	Proposed Rule	N-Sig	N-Sig	TM
3	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	Proposed Rule	N-Sig	N-Sig	RHWR
3	Timber Sale Contracting: Indices To Determine Market Related Term Additions	Proposed Policy	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Market Related Term Additions	Proposed Rule	N-Sig	N-Sig	TM
3	Timber Sale Contracting: Pre-Award Information Requirements	Proposed Rule	N-Sig	N-Sig	TM
3	Solid Waste Disposal Policy	Proposed Policy	N-Sig	N-Sig	L
3	Hells Canyon NRA—Private Lands; June 13, 1994	Final Rule	N-Sig	N-Sig	RHWR
3	Hells Canyon NRA—Public Lands; July 19, 1994	Final Rule	N-Sig	N-Sig	RHWR
4	Private Sale of Golden Eagle Passports	Proposed Rule	N-Sig	N-Sig	RHWR
*4	Occupancy and Use of Developed Sites & Areas of Concentrated Public Use	Final Rule (no prior proposed rule) (considered minor but OMB says Sig.).	N-Sig	Sig	RHWR
4	Animal Damage Management; June 13, 1994	Proposed Policy	N-Sig	Sig	WL&F
5	Ski Area Fees	Proposed Policy	N-Sig	Sig	RHWR
**5	Timber Sale Contracting: Extension of Certain TS Contracts To Permit Urgent Removal of Timber From Other Lands (FSM proposed policy as appendix)	Proposed Rule and Proposed Policy ..	N-Sig	N-Sig	TM
*5	Special Uses Management—Outfitting and Guiding	Final Policy	N-Sig	N-Sig	RHWR
5	Appeal of Land Use Decisions Related to Small Business Program	Proposed Rule	N-Sig	N-Sig	L
6	National Forest Prohibitions; Law Enforcement Activities	Second Proposed Rule	Sig	Sig	LEI
6	Range Management. Grazing in the West; Qualification Criteria for Fee Discounts	Proposed Rule (action suspended Dec. 1994).	Sig	Sig	RGE
*6	Fee Schedules for Communications Uses on NFS Lands	Final Policy	N-Sig	Sig	RHWR
**7	Timber Sale Contract Revision	Proposed Policy	Sig		TM
8	Timber Sale Contracting: Elimination of Stumpage Rate Adjustment Procedure Contracts	Proposed Policy	N-Sig		TM
8	Rangeland Management. Grazing Fees	Final Rule (action suspended Dec. 1994).	Sig		RGE
*9	Use of Bait in Hunting	Final Policy	N-Sig		WL&F
*10	Animal Damage Management	Final Policy	N-Sig		WL&F
7	Grazing Administration (permit issuance, applications etc.)	Final Rule		Sig	RGE

Dates Lists of Significant Regulatory Actions submitted to OBPA: List 1, November 5, 1993; List 2, December 22, 1993; List 3, February 2, 1994; List 4, May 5, 1994; List 5, June 16, 1994; List 6, July 29, 1994; List 7, September 9, 1994; List 8, October 20, 1994; List 9, December 2, 1994; and List 10, January 13, 1995.

ISSUE: ENVIRONMENT

States affected: All.

Rule: Doc. No. 93–165–3, National Environmental Policy Act Implementing Procedures. Sets forth procedures APHIS will follow to comply with NEPA.

Beneficiaries: Consumers; environmental groups.

Impact: Many environmental groups have been lobbying APHIS for years to redesign and publish these procedures. They will see their withdrawal as backing away from commitment to environmental quality.

Date: Final rule published 2/1/95; effective 3/3/95.

States affected: All.

Rule: Doc. No. 93–026–2, Introduction of Nonindigenous Organisms That May Be Plant Pests. Would establish comprehensive regulations governing the introduction (importation, interstate movement, and release into the environment) of certain nonindigenous organisms that may be plant pests. Responds to an Office of Technology Assessment report stating that harmful introductions cost an estimated $97 billion between 1906 and 1991, and that controls are urgently needed. The rule would clarify the current ''permit'' process, which can take a long time and which importers do not like.

Beneficiaries: American public; university and corporate researchers.

Impact: Failure to proceed would endanger agricultural production and the environment, alarm environmental groups, and frustrate researchers seeking permits under the outmoded current system.

Date: Proposal published 1/26/95.

ISSUE: INTERNATIONAL TRADE

States affected: All.

Rule: There are several important regulations pending. Some of these regulations directly affect our implementation of GATT. These regulations relate to requests from foreign countries or importers to remove or ease restrictions on importations of various commodities. One such regulation under development (Doc. No. 94–106–1) would revise

our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas. Another regulation that has generated considerable interest concerns the importation of logs, lumber and other unmanufactured wood (Doc. No. 91–074–1). Other examples include importation of animals and germ plasma from countries where scrapie exists (Doc. No. 94–085–1), importation of additional species of embryos from countries where foot-and-mouth disease exists (Doc. No. 94–006–1), removal of a staining requirement for imported seed (95–004–1), and a number of regulations allowing the importation of additional types of fruits and vegetables from various countries, including Mexico, Korea, and Chile. In addition, we routinely publish regulations to change the disease status of a country or area, based on changes in those conditions. Pending regulations include ones to declare Spain free of African horse sickness and swine vesicular disease, and to declare Switzerland free of foot-and-mouth disease and viscerotropic velogenic Newcastle disease. These changes would relieve certain restrictions on imports from those countries. Conversely, we sometimes need to publish a regulation to restrict imports when there is an outbreak of a pest or disease in a country or area.

Beneficiaries: The ability to improve the variety and supply of animals, plants, and their products benefits producers, importers, brokers, food distributors and processors, and consumers. Northwest lumber mills would benefit from the rule concerning wood imports.

Impact: When the scientific/biological data provides no indication of substantial pest or disease risk from the importation, failure to revise our regulations puts us in violation of GATT. There is considerable pressure on the United States to implement these many of the regulations listed above in response to GATT. Failure to finalize Doc. No. 94–106–1 could result in other countries putting additional restrictions on U.S. exports. While there is often opposition to regulations of this type, there is always some interest, usually for the purpose of improving bloodlines or stock, or establishing a supply to meet a new or growing market. Northwest lumber mills are eager for wood rule because they believe it will give them additional logs to cut, and some environmentalists prefer using imported to domestic logs. A number of mills have stated they will go out of business without a reliable source of imported logs.

SPECIFIC RULES WITH INTERNATIONAL TRADE IMPACTS

States affected: Cattle and swine producing States.

Rule: Doc. No. 94–106–1, Regionalization for Animal Imports. Would revise our animal import regulations to allow for importations from regions, rather than countries only, and to recognize levels of risk, rather than just diseased/disease-free areas.

Beneficiaries: Producers, importers, brokers, food distributors and processors, and consumers benefit from the ability to improve the variety and supply of animals, plants, and their products.

Impact: Failure to proceed would produce opposition from animal breeding industries and GATT partners.

Date: Proposal under development.

States affected: New Hampshire, New England States.

Rule: Doc. No. 94–080–2, Specifically Approved States Authorized to Receive Mares and Stallions Imported From CEM-Affected Countries. Allows horses imported from countries where contagious equine metritis exists to be treated and quarantined in NH.

States affected: NH and other New England States.

Beneficiaries: Horse industry in NH and elsewhere in New England. This rule gives New Hampshire an economic advantage for valuable import.

Impact: Withdrawal would cause objection from beneficiaries.

Date: Direct final rule effective 12/16/94.

States affected: All.

Rule: Doc. No. 93–096–3, Horses From Mexico; Quarantine Requirements. Removes restrictions that are no longer necessary on the importation of horses from Mexico. Restrictions were to prevent the introduction into the U.S. of Venezuelan equine enteritidis, which is no longer present in Mexico.

Beneficiaries: Importers of horses from Mexico.

Impact: Would negatively affect relations with Mexico and could cause repercussions in other animal or plant health areas if Mexico retaliates. Would be contrary to NAFTA and GATT.

Date: Final rule published 1/26/95; effective 2/16/95.

States affected: California.

Rule: Doc. No. 93–157–3, Mexican Fruit Fly Regulations; Removal of Regulated Area. Removes restrictions on movement of citrus and other regulated articles.

Beneficiaries: Growers, wholesalers, exporters.

Impact: California production would be negatively impacted by the failure to lift the quarantine. Fruit and vegetable producers and associations would be likely to complain about this action.

Date: Published 1/26/95; effective 2/27/95.

States affected: California.

Rule: Doc. No. 94–117–1, Oriental Fruit Fly; Quarantine Part of LA County, CA. Quarantines an area to prevent OFF spread and protect export markets.

Beneficiaries: Growers, wholesalers, exporters.

Impact: Withdrawal would allow OFF spread. If spread occurs, it would likely lead Japan and U.S. citrus States to reject CA citrus.

Date: Published 11/14/95; effective 11/7/95.

States Affected: Primarily CA, FL, and HI.

Rule: Doc. No. 93–147–2, Imported Palms. Allows certain palms to be imported from New Zealand and Australia. Beneficiaries: Supported by comercial ornamental plant growers. Hawaiian Representatives Patsy Mink and Neil Abercrombie supported this rule.

Impact: Withdrawing this rule would reduce the number of sources for Howea palms to one. Opposition from nurserymen in CA, FL, and HI.

Date: Final rule published and effective 1/24/95.

States affected: All.

Rule: Doc. No. 93–031–2, Inspection of Animals Exported to Canada and Mexico. Requires a final inspection before export of livestock, including horses, shipped by air to Canada or Mexico.

Beneficiaries: The American Horse Council supports this rule.

Impact: Failure to take this action could result in sick animals being exported to Canada and Mexico, and having to be returned to the U.S.

Date: Final rule published 1/24/95; effective 2/23/95.

States affected: CA, FL, all.

Rule: Doc. No. 89–154–2, Importation of Plants Established in Growing Media. Allows additional genera of plants in growing media (potted plants) to be imported into the United States.

Beneficiaries: Importers and brokers of imported products.

Impact: From the standpoint of GATT, there is no sound biological reason to continue to prohibit these imports, which would be the effect of a moratorium. California and Florida representatives are most likely to hear from their constituents, although other areas may be affected as well.

Date: Final rule published 1/13/95; effective 2/13/95.

States affected: All (GATT/NAFTA issue).

Rule: Doc. No. 89–117–4, Honeybees and Honeybee Semen From New Zealand. Allows imports.

Beneficiaries: Apiary industries.

Impact: If we withdraw the rule, we may be challenged under GATT conflict resolution procedures.

Date: Final rule published 2/1/95, effective 3/3/95.

States affected: California.

Rule: Doc. No. 94–042–2, True Potato Seed From Chile. Allows imports.

Beneficiaries: Plant breeders, potato producers.

Impact: California Department of Food and Agriculture supports this, and several California companies (especially Esca Genetics/TPS Products) have invested heavily in expectation of it. CA Rep. Anna G. Eshoo wrote in support of it.

Date: Final published 2/16/95, effective 3/20/95.

States affected: All.

Rule: Doc. No. 94–069–1, Tangerines From Cheju Island (Korea). Would allow imports.

Beneficiaries: Consumers; exporters seeking reciprocal arrangements.

Impact: GATT issue, we could be challenged if we withdraw it.

Date: Under development.

States affected: All.

Rule: Doc. No. 94–114–1, Imported Fruits & Vegetables; 6th Periodic Amendment. We do this kind of rule regularly to allow newly-requested frutis and vegetables to be imported.

Beneficiaries: Importers, wholesalers, consumers.

Impact: Delaying this rule would affect importers and distributors in most States, and reduce the variety of produce available to consumers.

Date: Proposal nearly ready to publish.

States affected: All.

Rule: Doc. No. 94–116–3, Fresh Hass Avocados From Mexico. Would allow imports of Hass avocados.

Beneficiaries: Importers, consumers.

Impact: Mexico has been seeking this change for years and will accuse the U.S. of violating NAFTA if we do not pursue the proposal. Domestic avocado producers would support the delay in this proposal.

Date: Under development.

ISSUE: ANIMAL AND PLANT HEALTH

States affected: All.

Rule: There are several important regulations pending. Some of these are necessary to prevent the spread of pests and diseases within the United States. These include additions to lists of noxious weeds (Doc. Nos. 93–126–3 and 94–050–1). Others are needed to protect U.S. livestock and poultry from additional sources of disease and to further the eradication of bovine tuberculosis. Examples include payment of indemnity for cervids destroyed because of tuberculosis (Doc. No. 94–133–1), payment of indemnity for cattle and bison destroyed following exposure to tuberculous cervids (Doc. No. 93–125–1), discontinuance of the in-bond program for cattle from Mexico (Doc. No. 94–-87–1), and a revision of domestic regulations pertaining to viscerotropic velogenic Newcastle disease (VVND) in birds and poultry (Doc. No. 87–090–2). In addition, APHIS routinely publishes rules related to changes in the disease or pest conditions in a State or area. When an

outbreak occurs, the Agency must move quickly to contain the outbreak, and keep the pest or disease from spreading. Examples include regulations quarantining areas because of fruit flies, pink bollworm, and pine shoot beetle, and regulations that change the disease status of a State or area because of new outbreaks of brucellosis or tuberculosis.

Beneficiaries: U.S. livestock and poultry producers, as well as fruit, vegetable, and grain producers, exporters, food distributors and processors, and consumers.

Impact: The spread of noxious weeds would result in a reduction in usable agricultural acreage, harming the cattle industry and other agricultural entities. Failure to finalize the tuberculosis regulations would impede efforts to eradicate the disease in the U.S., hurting the livestock industry and creating human health concerns. The revisions to the VVND regulations would, among other things, reduce the number of birds that would have to be destroyed if there is an outbreak of that disease in U.S. poultry flocks. Failure to take emergency actions could cause severe economic losses to U.S. agriculture.

SPECIFIC RULES WITH ANIMAL OR PLANT HEALTH IMPACTS

States affected: All.

Rule: Doc. No. 92–098–3, Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling. Prohibits certain repackaging of, and removal of labels on, veterinary biological products.

Beneficiaries: Consumers (primarily animal hobbyists and breeders).

Impact: Consumers (primarily animal hobbyists and breeders), will continue to suffer from the lack of dose instructions available to them when they purchase single doses of vaccines, etc. This has resulted in illness and death among animals. Failure to implement the regulations will allow this situation to continue. Biologics manufacturers will be happy because they do not want to comply with labeling requirements.

Date: Published 1/12/95; effective 8/19/95.

States affected: Illinois, Indiana, Michigan, Minnesota, Ohio, and Pennsylvania.

Rule: Doc. No. 92–139–8, Pine Shoot Beetle Quarantine Areas. Quarantines areas in States because of the pine shoot beetle.

Beneficiaries: The Christmas tree industry is most directly affected by the failure to quarantine to prevent the spread of the pest. This industry exists in Indiana and surrounding States.

Impact: States with PSB that lack a Federal quarantine will likely have to comply with commerce restrictions imposed by surrounding States. This is a routine action that could apply to other States as well in the next 6 months.

Date: Interim rule published 1/9/95; effective 12/29/94; more rules pending.

ISSUE: ANIMAL WELFARE

States affected: All.

Rule: Several are pending, including one concerning ''Swim With The Dolphins'' programs (Doc. No. 93–076–3), one that would remove a requirement for hot-iron face-branding of certain cattle (Doc. No. 95–006–2), and one that would allow certain diseased horses to be moved to slaughter without being permanently marked with a hot iron, chemical, or freeze brand or lip tatoo (Doc. No. 94–061–2).

Beneficiaries: Animal welfare issues have generated intense and widespread interest among animal rights organizations and the American public in general. The ''Swim With The Dolphins'' regulation is supported by the Humane Society of the United States, the Animal Welfare Institute, the American Zoo and Aquarium Assn., and the Alliance of Marine Mammal Parks and Aquariums. Animal Rights International and People for the Ethical Treatment of Animals have been lobbying hard for changes to our face-branding requirements.

Impact: The ''Swim With The Dolphins'' regulation is necessary to ensure facilities with these programs adhere to certain standards for care of the dolphins. Animal welfare activists, especially in Florida, would weigh in heavily if we do not take this action. An earlier (1994) rulemaking that removed face-branding requirements for certain imported cattle generated tremendous interest and support, including full-page ads in the Washington newspapers and New York Times.

SPECIFIC RULES WITH ANIMAL WELFARE IMPACTS

States affected: All.

Rule: Doc. No. 93–006–3, Identification of Certain Cattle Imported From Mexico. Allows cattle from Mexico to be permanently identified with a mark located high on the hip rather than be face-branded with a hot iron.

Beneficiaries: Generated tremendous interest and support, including full page ads placed in Washington newspapers and New York Times by Animal Rights International. PETA and other animal welfare groups also lobbied hard for this change.

Impact: Serious opposition from animal rights organizations. After many years and considerable effort, the United States is nearing eradication of tuberculosis. While we are moving to eradicate the last areas of infection in the United States, we must improve our level of protection against new introductions of the disease, which not only affects cattle, but can be transmitted to humans. In addition to being an animal health issue, this became an animal welfare issue. This issue was so important to the animal welfare community that it generated thousands of letters and resulted in full-page advertisements in national newspapers.

Date: Final rule published 12/22/94; effective 1/23/95.

ISSUE: DOMESTIC TRADE

States affected: All.

Rule: Several are pending, including one that would give accredited veterinarians additional time between inspection of animals and the issuance of a certificate for their movement (Doc. No. 94–027–1) and one that would provide an additional official test for pseudorabies in swine (Doc. No. 94–064–2). In addition, APHIS routinely publishes rules related to changes in improvements in disease or pest conditions in a State or area. When a pest or disease is eradicated, the Agency should relieve unnecessary restrictions on producers and others as rapidly as is practical. An example of this would be removing an area from quarantine for Mediterranean fruit fly, or raising the brucellosis status of a State to Class Free. These actions relieve restrictions on interstate movements and improve the marketability of previously restricted articles.

Beneficiaries: The rule concerning accredited veterinarians would primarily affect large swine producers in Iowa, Illinois, North Carolina, Nebraska, Minnesota, Indiana, Georgia, Kansas, Pennsylvania, Michigan, and South Dakota. The swine industry, especially in Illinois and Iowa, is very interested in the pseudorabies test docket because making the test available would allow thousands of herd owners to qualify their animals for interstate movement to new markets. Supporters of the pseudorabies test include vaccine producers Kline Beecham and IDEXX, State animal health officials, the American Association of Veterinary Laboratory Diagnosticians (AAVLD), and the United States Animal Health Association (USAHA). Other types of domestic trade actions pending would benefit the U.S. livestock in general, as well as fruit and vegetable producers, exporters, food distributors and processors, and consumers.

Impact: A moratorium would keep unnecessary restrictions on producers and others. Lack of the pseudorabies test rule, in addition to keeping many markets closed to many swine producers, would hinder Federal and State efforts to eradicate pseudorabies because swine producers are reluctant to vaccinate their animals if their markets for those swine would be restricted.

SPECIFIC RULES WITH DOMESTIC TRADE IMPACTS

States affected: Colorado.

Rule: Doc. No. 94–134–1, Brucellosis; CO From Class A to Class Free. This interim rule raised the brucellosis status of Colorado.

Beneficiaries: Livestock producers in CO.

Impact: Invalidating would place unnecessary restrictions on livestock moving from the State, and would hurt their marketability. This is a routine action that could apply to other States as well over the next 6 months.

Date: Published and effective 1/23/95.

States affected: all cattle producing States.

Rule: Doc. No. 94–093–2, Brucellosis in Cattle and Bison; Payment of Indemnity. Authorizes payment of indemnity for additional cases.

Beneficiaries: Herd owners affected by brucellosis.

Impact: Failure to finalize would hinder brucellosis eradication efforts. Members likely to hear from NCA, USAHA and other farm groups.

Date: Proposal published 1/31/95.

States affected: Hawaii primarily; also Alaska.

Rule: Doc. No. 93–088–2, Avocados From Hawaii. Allows avocados to move from Hawaii into Alaska without treatment.

Beneficiaries: Hawaiian avocado growers and related industries; consumers in Alaska.

Impact: HI has a strong interest in this rule. Hawaiian avocado growers would be negatively affected.

Date: Final rule published and effective 12/28/94.

States affected: All—national issue. Northeast, CA heavily affected.

Rule: Doc. No. 92–151–3, National Poultry Improvement Plan and Auxiliary Provisions. Revises Plan standards.

Beneficiaries: poultry producers, food safety interests.

Impact: This rule will implement recommendations made by industry groups; failure to finalize will negatively affect efforts to control disease and improve the health of poultry flocks.

Date: Final rule published and effective 11/18/94.

ORGANIZATIONS AND ASSOCIATIONS THAT ROUTINELY EXPRESS INTEREST IN ACCOMPLISHING APHIS RULES

American Association of Nurserymen, Animal Rights International/Coalition for Non-Violent Food, Humane Society of the U.S., American Veterinary Medical Association, National Cattlemens Association, U.S. Animal Health Association, California Department of Food and Agriculture, FDACS, PETA, American Horse Council, National Pork Producers, Doris Day Animal League, Animal Legal Defense Fund, Society for Animal Protective Legislation, Fund for Animals, National Milk Producers Federation, Texas & Southwestern Cattle Raiser's Assoc., State Agriculture Departments, State Cattle Feeder Associations, American

Farm Bureau Federation, Eastern Milk Producers, State Cattlemens Assocs, and State Animal Health Commissions.

ISSUE: NUTRITION LABELING OF MEAT AND POULTRY (USDA)

States affected: All

Rule: This rule amends current regulations to provide condified language for provisions that previously cross-referenced RDA regulations, make corrections to existing regulations, and minor technical changes. This rule streamlines and makes consistent an existing regulation.

Beneficiary of the Rule: Industry, consumers, health professionals, nutrition interests, laboratories, libraries—anyone who uses the Code of Federal Regulations.

Impact of H.R. 450: Would leave existing, more cumbersome regulation in force.

Date: Published January 3, 1995.

ISSUE: NUTRITION LABELING OF GROUND BEEF AND HAMBURGER (USDA)

States affected: All

Rule: This rule would permit the nutrition labeling of ground beef and hamburger to include ''___% lean'' ''___% fat.''

Beneficiary of the Rule: Consumers; truth-in-labeling issue, dieticians, nutritionists, industry; marketing advantage.

Impact of H.R. 450: Suspension of the rule will deny consumers information to help them make healthy dietary choices.

Date: Expected to publish in second quarter of FY 1995.

ISSUE: POULTRY PRODUCTS PRODUCED BY MECHANICAL SEPARATION AND PRODUCTS IN WHICH SUCH POULTRY PRODUCTS ARE USED (USDA)

States affected: All, primarily poultry producing states

Rule: Rule would require that mechanically separated poultry be identified in ingredients statements of hot dogs, bologna and other processed products as ''mechanically separated chicken or turkey'' instead of simply ''chicken'' or ''turkey.'' Because bones and carcass parts are ground and crushed to extract adhering meat fragments, mechanically separated product has a physical form and texture that differ from ordinary chicken or turkey meat.

Beneficiary of the Rule: Consumers; truth-in-labeling. The meat industry, whose mechanically separated and deboned products do not differ in texture from ordinary meat products, supports this rule because it would make a labeling distinction between the content of mechanically separated poultry and meat products.

Impact of H.R. 450: The suspension of this rule would leave current regulations in force, which allow mechanically separated poultry to be labeled ''chicken'' or ''turkey,'' but require mechanically separated or deboned meat to be labeled as such.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

ISSUE: OPPORTUNITY TO PROMOTE AND STRATEGICALLY MARKET SHEEP PRODUCTS THROUGH PRODUCER SELF-HELP (USDA)

States affected: California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming.

Rule: USDA must publish rules to implement the newly enacted Sheep Research and Promotion Act passed by Congress. U.S. sheep producers have collectively voted to assess themselves and importers, to use the funds collected to conduct research and promotion activities to strategically market sheep and products.

Beneficiaries: U.S. sheep producers, and consumers of lamb and wool products.

Impact of H.R. 450: The Nation's sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products if H.R. 450 is implemented. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

ISSUE: COTTON CLASSING FEES (USDA)

States affected: California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri

Rule: Annual determination of fees to be charged cotton producers who voluntarily request and obtain grading services to determine the quality of their cotton.

Beneficiaries: U.S. cotton producers, and wholesale and retail buyers of cotton and products made from cotton.

Impact of H.R. 450: USDA can reduce the fees charged to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide. Any opportunities to keep costs low, while maintaining the availability of quality assurance, would be lost if H.R. 450 is enacted.

ISSUE: PATHOGEN REDUCTION IN MEAT AND POULTRY PRODUCTS; HAZARD ANALYSIS AND CRITICAL CONTROL POINT (HACCP) SYSTEMS (USDA)

States affected: All

Rule: The proposed rule is designed to eliminate a critical gap in the meat and poultry inspection program and reduce the incidence of foodborne illness caused by pathogenically contaminated meat and poultry products. Through mandatory HACCP, we will (1) target pathogens that cause foodborne illness; (2) strengthen industry responsibility to produce safe food; and (3) focus inspection and plant activities on prevention objectives.

Beneficiary of the Rule: Consumer interests, persons at greatest risk for foodborne illness: elderly, children, persons with compromised immune systems.

Impact of H.R. 450: According to the Centers for Disease Control, foodborne illness from all food sources range from 6.5 million to 81 million cases each year, and up to 9,000 deaths. Suspension of this rule would forego yearly public health benefits ranging from $990 million to $3.7 billion. These estimates include the cost of medical care and lost work time.

Date: Published February 3, 1995. Comment period ends June 5, 1995. USDA's goal is to publish a final rule by the end of the year.

ISSUE: USE OF TERM ''FRESH'' ON THE LABELING OF RAW POULTRY PRODUCTS (USDA)

States affected: Poultry producing states, particularly California, Arkansas, Georgia, and Minnesota

Rule: The proposed rule would amend the Poultry Products Inspection Act (PPIA) to prohibit the use of the term ''fresh'' on the labeling of raw poultry products whose internal temperature has ever been below 26°F. Raw poultry product whose internal temperature has ever been below 26°F, but above 0°F, may not be labeled as ''fresh'' and must be labeled as ''previously frozen.'' Raw poultry product whose internal temperature has ever been at or below O°F may not be labeled as ''fresh'' and must be labeled as ''frozen'' or ''previously frozen.''

Beneficiary of the Rule: Truth-in-labeling issue benefiting consumers, as well as regional poultry producers whose products compete in local markets with nationally distributed, previously frozen birds that can be thawed and labeled ''fresh'' under current regulations.

Impact of H.R. 450: Existing regulations allowing previously frozen poultry to be labeled as ''fresh'' would remain in force, causing continued confusion in the marketplace.

Date: Published January 17, 1995. Comment period closes March 20, 1995.

ISSUE: MEAT PRODUCED BY ADVANCED MEAT/BONE SEPARATION MACHINERY AND MEAT RECOVERY SYSTEMS (USDA)

States affected: All, primarily states with large meat processing industries

Rule: Rule amends the federal regulations to allow meat produced by advanced meat and bone separation machinery to be labeled as ''beef'' or ''pork'' instead of ''mechanically separated beef or pork.'' This action was taken to update the definition of ''meat'' to acknowledge advances in meat separating technology that enable meat to be separated from the bones of livestock without grinding, crushing, or pulverizing bones to remove adhering skeletal tissue.

Beneficiary of the Rule: Truth-in-labeling issue that benefits consumers. Also, the meat industry benefits from a redefinition of meat that includes mechanically separated product.

Impact of H.R. 450: Suspending this regulation would meet with opposition from the meat industry which, for years, has claimed that poultry producers have a market advantage in that product they produce using mechanical separation can be labeled simply as ''chicken'' or ''turkey,'' while beef or pork produced through mechanical separation must be labeled as ''mechanically separated.'' The meat industry could be expected to point to this as another illustration of how unequal meat and poultry regulations result in preferential treatment of the poultry industry.

Date: Published December 6, 1994. Comment period closes March 6, 1995.

IMPACT OF A REGULATORY MORATORIUM ON INDUSTRIES SERVED BY THE AGRICULTURAL MARKETING SERVICE (AMS)

Marketing Orders and Agreements: Under a moratorium, these self-help programs will be useless as a viable tool for producers to use to help strategically market perishable commodities.

Regulations Affected by a Moratorium: Operating rules for marketing strategies, committee budgets and expenses, and industry assessments. For producers in 38 fruit and vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

There are approximately 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk and dairy products, that benefit from these self-help programs.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting

quality, wholesome U.S. products. A moratorium will effectively render these programs useless as a viable marketing tool by producers.

DAIRY MILK MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Approximately 92,000 dairy farmers (about three-quarters of all dairy farmers) participate in 38 federal milk marketing orders. Their average herd size is 75 cows, and before expenses, dairymen average less than $150,000 in annual sales.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. In other words, milk marketing orders, and the rules under which they operate, are truly in the hands of the producers, not a federal agency.

Since November 1994, revisions in 11 milk marketing orders have been initiated; these 11 orders represent over 34,500 milk producers. These actions are not regulatory burdens imposed on industry. Rather, the actions taken or proposed to be taken, by industry, help to keep marketing orders dynamic, so they reflect current market conditions facing dairy producers, with respect to adequate supplies of milk needed in a market, milk prices received by producers, and recordkeeping or other ''housekeeping'' or administrative procedures. Actions taken since November include the following:

Central Arizona Milk Order (135 producers covered)—Action to correct marketing inequities within the order. Rescinding the action means recalculating dairy farmers' milk checks, and some producers might have to refund income they have already received and used to cover expenses.

Central Arizona Milk Order—Action taken to propose, beginning March 1, 1995 and extending indefinitely, suspension of certain pooling provisions applied to producers' milk. Inability to suspend the pooling requirements could result in an imbalance of supplies to meet demand in fluid, soft, and hard products markets, with adverse consequences for producer prices and incomes.

Carolina and Tennessee Valley Orders (covering 3,100 producers)—Action to provide notice of a hearing, whose purpose is to correct pricing problems that exist in the orders. Failure to hold the hearing and correct the pricing problems will lead to imbalances in milk supplies relative to local demand, with negative consequences for incomes of some producers in the order areas.

Carolina Milk Order (1,550 producers covered in the Carolina Order alone)—action initiated to propose relaxing certain order provisions for the period January-February 1995, to correct pricing problems. Rescinding the action would result in loss of money for some handlers.

Georgia, et al. (covering 1,355 producers)—Initiation of a formal rulemaking process to consider proposals to merge a number of marketing areas in the Southeast under one order. Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Additional actions have been taken to accommodate the industry by providing time extensions to file exceptions to proposed amendments.

Chicago Milk Order (covering approximately 18,000 producers)—Action taken to accommodate all interests in the order, by providing an extension of time for filing exceptions on proposed amendments to rule.

Southern Illinois-E. Missouri Milk (covers over 2,250 producers)—Action to relax certain provisions of the order, to enable better balancing of supplies. Without the action, excessive milk would be shipped for fluid use, unnecessarily depressing prices and resulting in inefficient allocations of supplies to meet local demand.

Southern Illinois Milk Order—Action to relax pooling regulation for producer milk that is supplied by 2,257 producers. Cooperatives will lose money without the suspension, because members' milk will be ineligible for pooling.

Central Illinois Milk Order—Action proposed to relax pooling requirements. Rescinding this action means that dairy farmers covered under this order would not be able to have their milk priced and pooled, and would lose income.

Southern Michigan Milk Order—Action taken at the request of the industry, to update the method of paying the 3,600 dairy farmers covered under this order for their milk.

Iowa Milk Order—Action taken to withdraw an earlier proceeding initiated to increase the pool supply of milk; supplies now appear to be adequate for meeting local needs. Over 3,400 producers are covered by this order.

Tennessee Valley Milk Order—Action taken to prevent the uneconomical shipment of milk and ensure that milk produced under the order during the fall will continue to be pooled.

Texas Milk Marketing Area—Action proposed to suspend certain provisions of the order from March 1, 1995 through July 31, 1995. Requested by a cooperative association representing a substantial number of the 2,400 producers covered by the order. Failure to suspend the provisions could result in uneconomical and inefficient movements of milk.

Other actions that would affect all dairy milk marketing orders, and must be approved by a majority of the affected producers:

Class II Milk Pricing: This decision changes the Class II pricing formula for soft dairy products (yogurt, cottage cheese, etc.) under Federal orders, and will mean more income for dairy farmers.

M–W Price Series: Decision to replace current outdated pricing series, will improve the accuracy of milk payments to dairy farmers in reflecting actual market conditions.

FRUITS AND VEGETABLES—MARKETING ORDERS—ACTIONS SINCE NOVEMBER 1994

Over 75,000 fruit and vegetable producers, farming an average of 54 acres, participate in 38 federal marketing orders that generate an average of $70,000 in gross sales to producers. Marketing orders are self-help programs that enable producers to develop marketing strategies to compete in a market where buyers have a much greater natural market advantage. Buyers tend to have a greater market advantage not just because there are fewer buyers than sellers, but because the products are highly perishable—producers have limited ability to use time to their advantage and hold commodities off the market until more favorable terms appear.

Federal marketing orders are initiated by producers; if a majority believes that the order no longer serves their interests, they are free to terminate the program. Moreover, in the case of any changes that would be considered substantive, the affected producers must vote to approve those changes. Fruit and vegetable marketing orders are truly in the hands of the producers, not a federal agency.

Actions initiated by industry, since November 1994, cover more than 63,000 fruit and vegetable producers operating under some 22 marketing orders. Actions since November include announcements of seasonal marketing strategies to improve or maintain returns, in the face of unexpected large crops, or measurable changes in crop quality, announcements of budgets, expenses, and assessments, for committees to administer the marketing orders locally.

Domestic Peanuts (covering 25,000 growers, with average sales of $36,000 per grower)—Actions taken to update marketing agreement provisions for the recent marketing season, and to assess non-signatory peanut handlers, which is mandated by law.

Far West Spearmint Oil (256 producers, with average annual sales of $100,000)—Action to announce salable quantities and allotment shares for ''Class 1'' and ''Class 3'' spearmint oil, to avoid extreme fluctuations in supplies and prices and thus help maintain stability in the Far West spearmint oil market.

Far West Spearmint Oil—Action to announce salable quantities and allotment shares for the 1995–96 marketing season. This rule needs to be effective during the June 1, 1995–May 31, 1996 marketing year. Without it, handlers will be unable to purchase or handle spearmint oil from the marketing order area, resulting in immediate farmer income loss.

Cranberries (1,046 growers in 10 states)—Action to impose financial responsibility on handlers by setting late payment charges. Late payments of assessments hinder the ability of the committee to carry out its financial obligations responsibility, such as prompt payment for services, salaries, and other current expenses.

California Almonds (7,000 producers, with average annual sales of $130,000)—Action to establish marketing strategy for the 1994/95 crop season, by announcing salable, reserve, and export market share recommendations for handler compliance. Inability to pursue the marketing strategy will lead to fluctuations in supplies in various markets and attendant price variability.

Kiwifruit (600 producers, with average annual sales of $27,000)—Action to change district boundaries, to accurately reflect distribution of growers in membership on administrative committee.

California Olives (covering 1,200 producers, with an average of $47,000 in sales per producer)—Action to establish and announce a marketing strategy for olive growers for the 1994–95 season.

California Olives—Action to announce expenses for administrative committee to run marketing order locally.

California Peaches and Nectarines (1,800 producers, with average annual sales of $57,000)—Producers voted in a referendum to terminate this order. This action would carry out that termination request by industry.

California Raisins (4,500 producers, with average annual sales of $80,000)—Action to announce expenses for administrative committee to run marketing order locally.

California Table Grapes—Action to pursue marketing strategy, by relaxing minimum quality requirements currently in effect for table grapes grown in southeastern California, and imported table grapes, to increase the marketing of grapes that would not otherwise meet the grade requirement. This action conforms to industry practice of allowing the marketing of good quality, but smaller bunches, of grapes. Rescinding or preventing the action would result in loss of income to some producers and handlers for these smaller size grapes.

California Walnuts (5,000 producers, with average annual sales of $73,000)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish potatoes (390 producers)—Action to announce expenses for administrative committee to run marketing order locally.

Colorado Irish Potatoes—Action to realign the representation of the administrative committee to more accurately represent the distribution of growers in the industry.

Florida Avocados (200 producers, with average annual sales of $18,000)—Action to increase expenses to provide funding for a research project to improve marketability of Florida avocados; without funding, the research project will be terminated.

Florida Celery—Action to notify the industry that the marketing order will be suspended after 60 days notification to Congress. The industry wants the order suspended at this time. Nullification of the Final Rule would delay suspension.

Florida Citrus (11,965 growers, with average sales of $22,546 each)—Marketing strategy based on a larger citrus crop, to raise minimum quality grade characteristics, to improve consumer appeal and keep producer returns from declining with excess supplies.

Florida Citrus—Action by the Florida citrus industry requesting that quality standards for grapefruit, oranges, tangelos, and tangerines be revised to more clearly reflect current cultural and marketing practices.

Florida and Imported Citrus—Action to relax the minimum size requirement for red seedless grapefruit, to expand the length of marketing season for Florida handlers and importers of red seedless grapefruit to permit them to continue to ship for the entire 1994–95 season.

Florida Limes (150 producers, with average sales of $39,000) and Avocados—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes (250 producers)—Action to clarify ambiguities in certain rules and regulations of the marketing order, to improve compliance.

Florida Tomatoes—Action to announce expenses for administrative committee to run marketing order locally.

Florida Tomatoes—Action to assure that producer representation on the committee more closely reflects the distribution of growers in the industry.

Idaho Potatoes (1,846 producers, with average annual sales of $119,000)—This action is the second of a four-step formal rulemaking process to amend existing marketing order provisions to more appropriately reflect marketing conditions and strategies needed for Idaho potato growers.

Oregon and Washington filberts and hazelnuts (851 producers, with average annual sales of $28,000)—Action to establish a marketing strategy for the 1994–95 season, by setting recommended shares for domestic, export and other outlets. The percentages stabilize the supply of domestic inshell filberts/hazelnuts in order to meet the limited domestic demand and provide a reasonable return to producers.

Texas Grapefruit (1,000 producers, with average annual sales of $15,607)—Marketing strategy to raise quality and relax size requirements for the 1994–95 marketing season.

Texas Citrus—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

Texas Citrus—Action to revise container and container pack requirements, to facilitate marketing and business operations.

Texas Melons—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue.

South Texas Melons—Action to increase expenses for the Administrative Committee to fund an additional research project. Without these funds, the research project would have to be terminated.

Texas Onions—Action to announce expenses for administrative committee to run marketing order locally; otherwise, marketing order cannot continue, and the committee will be unable to implement needed compliance activities and a planned market development program.

Walla Walla (Washington) Sweet Onions—Action is the second of a four-step formal rulemaking process to establish a new marketing order for Walla Walla onions in Washington, as requested by growers.

Research and Promotion Programs—Under a moratorium, sheep producers will not be able to implement the promotion program authorized by Congress to help promote sheep, wool, and lamb products.

An important upcoming issue is the opportunity for the Nation's sheep ranchers to promote and strategically market sheep products through this self-help mechanism. Producers in California, Colorado, Idaho, Indiana, Minnesota, Montana, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, and Wyoming recently received authorizing legislation to initiate this program through self-assessments. USDA must publish rules in order to implement the program. Producers collectively will vote on whether to assess themselves and importers, to use the funds collected to conduct research and promotion activities.

With a moratorium, sheep and wool producers will be unable to collectively come together, across a dozen states, to develop marketing strategies to expand markets for their products. In the meanwhile, foreign producers will be strategically targeting U.S. consumers as a growing niche market, and promoting their foreign-origin lamb at the expense of domestic producers.

Other R&P issues expected to surface in coming months include:

Soybeans—The Department is required to conduct a producer poll in a timely manner to determine if a refund referendum should be held. That poll is tentatively set for early summer, and procedures for its conduct must be finalized so that producers can receive adequate notice.

Watermelons—The industry will be unable to revise its program, for which it has already received authority to eliminate refunds and revise assessments.

INDUSTRY-FINANCED RESEARCH AND PROMOTION PROGRAMS

Various industry groups have petitioned for and received authorization to collectively assess themselves and use the funds to conduct research and fund promotional activities for their commodities. All of the 16 active R&P programs are totally self-supported. No taxpayer dollars are used. The cost of the Washington staff is reimbursed by the industries. As with other self-help marketing order and agreement programs, R&Ps are initiated by producers, and can be terminated by producers when the programs are no longer considered to be effective. The following actions have been initiated by industries since November:

Egg Research and Promotion Act—Producer Vote to Increase the Assessment Rate: The American Egg Board (AEB) would be unable to collect the 10 cents per 30-dozen case assessment beginning February 1, 1995, and the assessment would revert to 5 cents. AEB would have to develop a new budget and submit it to the Department for approval. Projects as outlined in AEB's 1995 budget are already in progress and would have to be scrapped. The 10 cent assessment was approved by the producers in a referendum held September-October 1994, and the increase was heavily publicized.

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order: This rule implemented the program. Termination of the program would result in a substantial widespread revenue loss to producers and shippers.

Honey Research, Promotion, and Consumer Information Order: Interim Final Rule was published May 2, 1994. This action clarifies and corrects the Order and rules and regulations which were amended in August 1991.

Lime Research, Promotion, and Consumer Information Order: This Final Rule implemented the changes to the Order which reflect amendments made by Congress in December 1993 to the authorizing legislation. Before the 1993 amendments the program was inactive. A moratorium would nullify this industry program.

Pork Research and Promotion; Increase in Assessment Rate: The increase in the overall assessment rate is needed to provide additional funding to enable the pork industry to better assist the movement of record supplies of pork to consumers at improved producer price levels. A portion of all funds collected are redistributed to states to facilitate state promotional activities for pork.

Potato Research and Promotion—Change in Size of Administrative Committee: This Final Rule adopts without change an Interim Final Rule published September 26, 1994. Not implementing this rule would prevent the committee from selecting members on a representative basis. The Final Rule does not change the Interim Final Rule which would remain the active regulation.

INDUSTRY FINANCED GRADING PROGRAMS

Under a moratorium, cotton growers will pay $3–4 million in higher grading fees that are not necessary, if USDA is prevented from reducing the fees through the regulatory process.

USDA can reduce the fees charges to the Nation's cotton producers, saving them millions of dollars. Each year, based on expected crop size, USDA determines by formula the fee needed to cover cotton quality grading services (classing). The past season's cotton crop was record large, and since fees are partly determined by expected volumes, the large crop generated more revenue than needed. This year, USDA can reduce the fee charged to producers, and save U.S. cotton growers $3–4 million. In turn, such savings reduce costs to growers, which are passed on to consumers, both domestic and foreign. U.S. cotton exports are a fast-growing market, and U.S. cotton has become one of the most competitive fibers worldwide.

Any opportunities to keep costs low, while maintaining the availability of quality assurance for growers that is recognized as the universal standard of quality, would be lost with a moratorium. Cotton producers in California, Texas, Mississippi, Arkansas, Louisiana, Arizona, Tennessee, Georgia, Alabama, and Missouri would pay more than needed for a service they value.

INDUSTRY-FINANCED QUALITY GRADING AND GRADE STANDARDS PROGRAMS

Quality grade standards, and the grading services provided by AMS, are wholly voluntary programs, financed through fees paid by industry for services on demand. These customers are the ''cash and carry'' customers who must be satisfied with AMS service, and believe in the value of the grading service, because they are under no obligation whatsoever to use the grading service. The application of grade standards facilitates trade, and the use of contracts in trade, over long distances where commodities cannot be inspected visually. Grading also increases buyer confidence, by providing up front assurances about the quality of the product before purchase. All of the actions below are

examples of actions initiated by industry, and AMS makes sure that there is industry consensus before the action becomes final:

Beef Grades: Proposal would revise the beef grade standards to assure that older cattle are not included in the U.S. Choice and U.S. Select grades, thereby improving the overall quality of beef in these grades. The action will improve both the consistency of and consumer satisfaction with beef grades.

Dairy Grading Standards: Changes in Anhydrous Milkfat and Butteroil Requirements: Changes were made in the USDA grade standards for anhydrous milkfat and butteroil, that more closely aligned U.S. requirements with international standards. Without the changes, domestic manufacturers of anhydrous milk and butteroil would not be able to compete on equal terms in international markets. As a result, Dairy Export Incentive Program contracts could not be filled, and the dairy industry could lose $1.3 million in annual sales.

Frozen Bean Standards: Proposal would revise quality standards for grades of frozen green and frozen wax beans. The proposed action will improve trade contracts between processors and buyers and improve the marketing of frozen green beans.

Onion Standards: A broad spectrum of growers and shippers of onions requested that the U.S. grade standards be revised to provide clear, objective interpretation and to bring the standards into conformity with current harvesting, handling and marketing practices.

Poulty Grade Standards: These changes update the voluntary poultry grade standards in response to advancement within the poultry industry and changes in consumer preferences.

Tobacco Standards: Action requested by the industry to improve the integrity of American burley tobacco. Industry has been trying for 2 years to get rule in place and it would have strong reaction to any more delay.

AGRICULTURAL MARKETING SERVICE

Implications for AMS Programs Should a Regulatory Moratorium Be Imposed

User fees

The Agricultural Marketing Service administers 50 laws which translates into an equal number of programs for the marketing sector of Agriculture. AMS is unique in that 76% of funding required to provide its services to the agriculture community is paid by numerous players throughout the agricultural marketing chain. Should a regulatory moratorium be imposed, AMS would be unable to promulgate adjustments of annual fees for the numerous inspection and grading activities offered by AMS as well as numerous self-help programs initiated by the various industries. For example:

Cotton classing

In the area of cotton, AMS classes 98% of the cotton crop. Annual fees, which are based on the size of the crop, are announced via Federal Register publication in early spring in order for AMS to assess a uniform fee to the industry when the classing season starts up on June 1. Given the size of the crop this year, AMS will actually be able to consider adjusting the annual fee downward. Without the ability to announce a fee that is in compliance with the formula prescribed in Sec. 3A of the Cotton Statistics and Estimates Act, the Department could actually be in a situation of charging a fee higher than is needed to provide the service to the industry. Although such savings may be a few cents per bale, that savings translates into the big dollar savings for America's producers when they are looking at a record crop which needs classing.

Marketing orders

Federal marketing orders for milk, fruits, vegetables and specialty crops are unique programs that are recommended by industry and approved by the Secretary. Unlike most regulations, these are requested by the industries that are being regulated. Growers and producers voluntarily initiate all marketing orders. A formal rulemaking process, including a hearing on grower/producer approval by a two-thirds or larger majority in referendum, is required before any program may be implemented.

Once operational, industry committees recommend changes in regulations that will assist the industry in addressing unique marketing challenges. The perishability of most of the commodities regulated under these programs makes rapid responses to changes in crop and market conditions essential. Under a regulatory moratorium, timely responses to changes in crop and market conditions will not be possible. Such delays are not only disconcerting to the industries, but result in loss of revenue without the necessary objectives being met.

Under the Federal Milk Order Program, it should be noted that regulatory actions sometimes occur during the course of the year that will in fact suspend certain provisions of that particular federal milk marketing order. For example, regulations are often utilized to suspend the requirements to pool plant qualification of a milk manufacturing plant operated by a cooperative. Milk orders utilize the opportunity to suspend regulations to avoid unnecessary milk movements. A regulatory moratorium would preclude suspending such requirements, thereby requiring unnecessary and uneconomic shipment of milk.

Organic standards

The Department received authority in the 1990 Farm Bill to establish an organic standards program. Over the period of the past five years, the Department has worked closely with the National Organic Standards Board and all segments of the organic community in developing standards by which the organic community can market its products in the mainstream of American Agriculture. The Department is proceeding to publish rulemaking that will provide the necessary standards for implementation of this program. A regulatory moratorium would further delay this effort to the disadvantage of organic producers.

Sheep Research and Promotion Program

The Department expects to promulgate regulations and implement this new program this year. The Department would be unable to implement this Act this year in event of the moratorium.

Watermelon Research and Promotion Program

The watermelon industry under a moratorium would be unable to revise its program for which it has already received statutory authority to eliminate refunds and revise its assessments. The industry is asking for a promulgation of a final rule by March 1 of this year.

Soybean Research and Promotion Program

The soybean legislation approved by Congress in the 1990 Farm Bill requires the Department to conduct a producer poll in a timely manner to determine if a refund referendum should be held. The poll is tentatively set for early summer. Procedures for its conduct must be finalized in time to adequately inform producers. A regulatory moratorium would obviate the Department's ability to meet the statutory requirement.

Pork Research and Promotion Program

The pork industry wishes to increase the rate of assessment from .35% to .45% of the market value of porcine animals. The overall assessment increase is needed by the pork industry to better assist their program efforts for the marketing of record supplies of pork to consumers at improved price levels. A regulatory moratorium would preclude this rulemaking from taking place.

ISSUE: STRATEGIC MARKETING OF FRUITS, VEGETABLES, AND DAIRY PRODUCTS THROUGH PRODUCER SELF-HELP PROGRAMS (USDA)

States Affected: For fruit/veg—mainly Southern and Western States; for dairy—nearly every State.

Rules: Self-Help Marketing Programs—Operating Rules for Marketing Strategies, Committee Budgets and Expenses, and Industry Assessments. For producers in 38 fruit/vegetable self-help programs, annual rules are needed to determine seasonal marketing strategies, set budgets and assessments, and notify industry members. For dairy producers in 37 milk order regions, periodic rules are used to invoke, suspend, or amend marketing order provisions to keep orders current with market conditions, and enable dairy producers to strategically market milk and dairy products.

Beneficiary: 75,000 small fruit and vegetable producers, and 92,000 small dairy producers, as well as U.S. consumers of higher quality, stable supplies of fruits, vegetables, milk, and dairy products.

Impact of H.R. 450: The average fruit and vegetable producer who participates in a self-help marketing order farms just 54 acres, and earns about $70,000 in annual sales, before expenses. The average dairy producer who participates in a marketing order has just 75 cows, with a total value of milk sales before operating expenses, of less than $150,000.

These small businesses have few opportunities to come together to collectively solve their marketing problems, earn fair and stable returns for their products, and compete in a tough global marketplace by promoting quality, wholesome U.S. products. H.R. 450 will effectively render these programs useless as a marketing tool.

H.R. 450 would also prevent the initiation of new self-help programs that have recently been enacted by Congress, to help producers promote horticultural products, sheep, wool, and lamb.

Mr. TAYLOR of Mississippi. Mr. Chairman, I move to strike the requisite number of words.

I would like to enter into a similar colloquy with the chairman of the committee, the gentleman from Pennsylvania [Mr. CLINGER].

Mr. Chairman, a recent tragedy in the Midwest, involving a regional airline brought to the public's attention that 2 different sets of safety standards exist for the airlines, one for the major airlines and one for the regional airlines.

It is my understanding Secretary Peña is looking into that and is expected in a short period of time to be releasing a new set of regulations bringing the regionals up to a par with the major airlines. That is something that is long overdue, since more and more cities are being served by regional airlines and fewer and fewer cities are having full jet service.

I hope it is the intention of the Chair to allow, within the discretion that he has for technical adjustments, when this bill is put into its final stage would somehow include some language so that it is very clear that when these

regulations come down, they will not be subject to the terms of this bill.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Pennsylvania.

Mr. CLINGER. I thank the gentleman for yielding.

Mr. Chairman, I would be happy to engage in colloquy with the chairman, and the answer is it is pretty clear to me that the circumstances we are talking about here, which is obviously the safety involved in regional aircraft, is a very, very critical one and one that clearly relates to safety of individuals and constituents a threat.

We have seen too many accidents, too many deaths resulting from this.

So that I think it is clearly exempt under the exemption we provided for imminent threat to health and safety. The language specifically says that substantial endangerment to private property during the period of the moratorium. So under either of those criteria, it would be covered.

I think we should also try to clarify that.

Mr. TAYLOR of Mississippi. Mr. Chairman, while we have the interested parties here, could I address the ranking minority member and ask if she would be in agreement to allow during the technical revisions at the end of the bill to allow the chairman, if need be, to include that language? It is a lot quicker than offering an amendment. Again, we all know regulations are coming that would otherwise be necessary. I would hate to see anyone hurt because this Congress failed to do its job.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentlewoman.

Mrs. COLLINS of Illinois. Mr. Chairman, I say to the gentleman, ''With all certainty.''

Mr. TAYLOR of Mississippi. I thank the gentlewoman.

Mr. MCINTOSH. Mr. Chairman, I move to strike the requisite number of words in order to enter into a colloquy with the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, will the gentleman yield?

Mr. MCINTOSH. I yield to the gentleman from California.

Mr. HORN. I thank the gentleman for yielding.

Mr. Chairman, my question is this: Section 5 of the Regulatory Transition Act of 1995 provides for certain exceptions to the regulatory moratorium in the case of regulations which are necessary because of an imminent threat to health or safety. While I applaud this section, I am concerned that it might be construed to apply to regulations proposed under the National Flood Insurance Program.

I have been trying to work with the Federal Emergency Management Agency as that agency prepares to issue a final rule implementing amendments to the national flood insurance program. This amendment—which was passed as part of the 1992 housing reauthorization—addressed areas which once had adequate flood protection, but which had experienced a decertification of their flood control system. Importantly, these amendments only apply to areas which are in the process of recertifying a flood control project. Thus, these communities have the distinction of having once prepared for a flood and of having to do so once again. Certainly, this is not an instance of trying to get out of dealing with a flood threat.

Unfortunately, FEMA has not considered the legislative history of this issue, and is preparing to issue a final rule that will impose a requirement for local homeowners to buy flood insurance and for certain construction projects to be modified to reflect a possible flood.

This rule will cost homeowners several hundred million dollars per year, and even more in lost economic opportunity, as builders delay construction projects to avoid having to elevate structures that will only be at risk for a short period of time, until the flood control project is recertified. In sum, we are facing a multibillion dollar cost from this rule, while the cost to recertify the flood control project is only $300 million. Meanwhile, the risk of a flood is less than 1 percent in any given year.

In my mind, that small risk does not constitute an imminent threat to health and safety, as defined under this bill in section 5. Would you agree with this characterization?

Mr. MCINTOSH. Mr. Chairman, yes, I concur. Rulemaking by the Federal Emergency Management Agency which imposes flood insurance on a community cannot be construed as an imminent threat to health and safety, and thus would not be eligible for consideration under section 5 of the bill.

Mr. HORN. Mr. Chairman, I thank the author of the legislation, who knows it better than anyone.

Mr. MCINTOSH. I thank the gentleman.

AMENDMENT OFFERED BY MRS. COLLINS OF ILLINOIS

Mrs. COLLINS of Illinois. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. COLLINS of Illinois:

At the end of section 5 (pages , after line), add the following new subsection:

(c) COMMON SENSE REGULATORY IMPROVEMENTS.—Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) PERSONAL USE OF CAMPAIGN FUNDS.—A regulatory rulemaking action by the Federal Election Commission governing personal use of campaign funds, taken under the Federal Election Campaign Act of 1971 and with respect to which final rules were published on February 9, 1995 (60 Fed. Reg. 7862).

(2) IMMIGRANT ASYLUM REQUESTS.—A regulatory rulemaking action to improve procedures for disposing of requests for asylum under immigration laws, taken by the immigration and Naturalization Service and with respect to which final rules were published on December 5, 1994 (59 Fed. Reg. 62284).

(3) HUD REGULATORY IMPROVEMENTS.—A regulatory rulemaking action by the Department of Housing and Urban Development—

(A) to establish a preference for the elderly in the provision of section 8 housing assistance, taken under subtitle D of title VI of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on December 21, 1994 (59 Fed. Reg. 65842);

(B) to eliminate drugs from federally assisted housing, as authorized by section 581 of the National Affordable Housing Act and section 161 of the Housing and Community Development Act of 1992 and with respect to which a final rule was published on January 26, 1995 (60 Fed. Reg. 5280); or

(C) to designate urban empowerment zones or enterprise communities, taken under subchapter C of part I of title XIII of the Omnibus Budget Reconciliation Act of 1993 and with respect to which a final rule was published on January 12, 1995 (60 Fed. Reg. 3034).

(4) COMPENSATION TO PERSIAN GULF WAR VETERANS.—A regulatory rulemaking action to provide compensation to Persian Gulf War veterans for disability from undiagnosed illnesses, taken under the Persian Gulf War Veterans' Benefits Act and with respect to which a final rule was published on February 3, 1995, (60 Fed. Reg. 6660).

(5) CHILD MOLESTER DATABASE.—A regulatory rulemaking action by the Department of Justice to require persons criminally convicted of a sexually violent offense against a minor to register with State law enforcement agencies so that such agencies can develop a database of the identities and residences of those offenders, taken under title XVII of the Violent Crime Control and Law Enforcement Act of 1994.

(6) MIGRATORY BIRD HUNTING.—A regulatory rulemaking action by the Department of the Interior that establishes the hunting season, hunting hours, hunting areas, and possession limits for migratory birds, and with respect to which final rules were published on November 21, 1995 (59 Fed. Reg. 59967 and 59 Fed. Reg. 60060).

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from Illinois [Mrs. COLLINS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentlewoman from Illinois [Mrs. COLLINS].

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard a lot during this debate about regulations that do not pass the commonsense test. A proposal considered by Federal agencies to require the manufacture of buckets that leak has often been cited as an example of what is wrong with Federal regulation.

What the proponents of this bill do not like to admit, however, is that some regulations actually do pass the commonsense test. It is important to

remember, therefore, that H.R. 450 does not just stop bad regulations—it stops virtually all regulations.

There is no exemption in this legislation for regulations that simply make good sense. As a result, the amendment I am offering would exempt several regulations that I believe most Members will agree make sense, and should not be subject to a moratorium.

Regulations that would be exempt from the moratorium under my amendment include: rules prohibiting the personal use of campaign funds; improved procedures to dispose of meritless petitions for asylum under immigration laws; rules to give preference to the elderly in public housing, to exclude drug addicts from public housing and to designate empowerment zones and enterprise communities; rules authorizing payment of benefits to Persian Gulf veterans; rules providing for the development of a data base for child molesters; and rules necessary to establish the hunting season for ducks and other waterfowl.

□ 1810

Let me speak first on the duck hunting issue.

My amendment would exempt from the moratorium the Interior Department's regulations establishing the hunting season, hunting hours, hunting areas, and bag limits for migratory birds. Without this exclusion, this year's hunting season for ducks and other waterfowl could be canceled, according to the Fish and Wildlife Service.

I am sure the bill's proponents did not have the Nation's hunters in their sights when they took aim at Federal regulation. However, without the exclusion contained in my amendment there will not only be disappointed hunters this hunting season, but there will also be reduced Federal and State revenues from the sale of licenses and duck stamps.

Why would we want the moratorium to stop the hunting season?

I would also caution my colleagues against relying on assurances from the bill's proponents that there is no need to worry, because this or that regulation can be excluded under the term of the bill.

There are no automatic exclusions under this bill. Furthermore, since the bill allows the courts to review an agency decision to exclude a matter, the agencies will be very reluctant to grant exclusions.

Let me give my colleagues a little background on some other rules, and I think it will be very clear why they should be excluded from the moratorium:

The Federal Elections Commission has recently completed a rulemaking clarifying its prohibition against the personal use of campaign funds.

The new FEC rule defines personal use to include expenses such as club memberships, clothing, tuition payments, and mortgage and rent payments on a candidate's personal residence. If the FEC's rule is not allowed to go into effect, there will be no definition of personal use, and the opportunity for intentional, or inadvertent violation of the law will increase.

It is my belief that the American people will hold each of us no less accountable than Members of past Congresses for excesses and abuses of our office.

Why then should we want H.R. 450 to stop the FEC from aggressively enforcing its ban on the personal use of campaign funds?

Similarly, the Department of Justice issued a final rule on December 5, 1994, which will make it easier to deport immigrant aliens who file meritless cases for asylum.

Under this rule, persons who are seeking asylum would not immediately become eligible to receive employment authorizations. Under the previous rule, asylum seekers were granted employment authorizations immediately upon filing for asylum. As a result, many fraudulent asylum petitions were filed in order to obtain much sought after employment authorizations.

We have had many examples of abuses of our asylum laws in recent years.

The Moslem religious leader who is accused of masterminding the bombings of the World Trade Center in New York City has remained in the United States, after filing a request for asylum. The sniper attack last year outside the Central Intelligence Agency was also perpetrated by an asylum applicant.

In both these cases, the individuals involved were able to extend their stay by filing appeals and exhausting their administrative remedies under the asylum regulations now in effect. Such tactics have meant that it now takes the Immigration and Naturalization Service [INS] up to 2 years to process an asylum application.

If we do not exempt this rule from the moratorium, we will be protecting those who do not have a legitimate claim for asylum in our country. According to the administration, and I quote,

> The effect of H.R. 450 would be an institutionalization of the prior, unworkable and inefficient asylum system.

I do not believe that is in the interest of the American people.

Neither do I believe it to be in the public interest to repeal HUD's designation of more than 100 empowerment zones and enterprise communities throughout the United States. I am happy to say that Chicago was designated one of the empowerment zones.

Under this program, cities would be given tax incentives, flexible block grants, waivers, and flexibility with existing Federal resources and priority consideration for discretionary Federal programs. In short, cities would get the kind of cooperation and flexibility from the Federal Government that they have been seeking for a long time.

Why would we want the moratorium to stop this regulation? Members of the majority have been advocating this approach for years.

I would remind the bill's proponents that when a question was raised about whether the moratorium would apply to bank and tax regulation, the response was to clearly exempt these matters in the provisions of the bill itself. I would ask for the same treatment for the rules contained in the amendment I am offering.

Let me conclude that my statement is a commonsense fix on this bill, yet if this amendment is defeated, I would be willing to grant that we are going to end up passing this in the new Corrections Day that the Speaker has promised us.

I believe the regulations my amendment would exempt do make good sense, and I would urge my colleagues to support the amendment.

Mr. CLINGER. Mr. Chairman, I claim the time in opposition to the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS], and I yield myself such time as I may consume.

Mr. Chairman, I do this reluctantly because I know that the minority has attempted to marshal the amendments into en bloc amendments. Unfortunately this amendment really is too en bloc. We have too many disparate elements included in this amendment, some of which may be meritorious, but others which I think are redundant or unnecessary. So, because it has a whole potpourri of various considerations, various exemptions included in this, I think it goes beyond, and it really would have the effect of gutting the intent of the bill, which we are trying to resist as many exemptions as possible here because we feel that the exemption provisions in the bill itself are very broad. They would allow amendments to go forward clearly for a variety of reasons, whether for to protect the health and safety, whether it is streamlining or removing regulations, reducing the regulatory burden on people and for normal, routine operations.

There are a number of exemptions in here, and to start down the slippery slope of identifying specific programs I think would be a mistake, and I would also submit, Mr. Chairman, a number of the provisions in the gentlewoman's amendment I think would be clearly covered by some of those exemptions that are applied in the bill. For example, the immigrant asylum provision would really be covered, I believe, under the streamlining exemption. It says that one is actually removing regulations that are imposed in this area, and it is making the system easier. So I think they would not be affected by or they would be exempt under this amendment. The child molester data base would be covered clearly, I think, under the criminal enforcement exemption. Again that is already in the bill, and to specifically list child molesting

might preclude the consideration of other vitally needed criminal regulations that should go forward.

So, there are a number of other items, as I have indicated, like the migratory bird hunting amendment. I would tell the membership we are going to deal where there is an amendment that will be forthcoming that I think addresses the migratory bird hunting problem with greater finesse. This would provide us an exemption, spell out an exemption, for migratory bird hunting. The amendment that will be considered in due course defines what the existing exemption would include within the existing exemption and make it clear that this was a sort of thing that we intended to be included within the existing exemption.

So, for those reasons I must oppose the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

Mr. Chairman, I reserve the balance of my time.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to modify or amend the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS] by taking the language that applies in the amendment that is in the amendment lines 2, 3, and 4, beginning with the word ''section'' and insert ''it also,'' and on page 3 between lines 14 and 15.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri.

□ 1820

Mr. CLINGER. Mr. Chairman, reserving the right to object, I would have the gentleman repeat his request.

Mr. VOLKMER. If you take the language in the front of the amendment, line 2, section 6, et cetera down to ''thereto,'' take the same language and put it over on page 3, between lines 14 and 15; that is all it does.

Mr. CLINGER. Further reserving the right to object, what is the purpose of this amendment?

Mr. VOLKMER. It does not change the substance of the amendment at all.

Mr. CLINGER. Why are we moving it, if it does not change the substance? What is the effect of the change?

Mr. VOLKMER. The effect is the change will permit me to ask for a division or separate vote on that last part, on the migratory bird hunting.

Mr. CLINGER. Mr. Chairman, as I indicated earlier, we are going to deal with that matter in a subsequent amendment, and we feel that the amendment that will be offered later is a more artfully drafted amendment. So I would not want to muddy the water here, and I must maintain my objection.

The CHAIRMAN. Objection is heard.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentlewoman from Illinois for yielding, and also thank her for her leadership and allowing me to have input and assistance on this amendment.

In their haste to expedite the process, my colleagues on the other side of the aisle seem to have forgotten there are some helpful regulations needed by hunters, veterans, seniors, crime fighters, and even Members of Congress. The Collins-Stupak amendment would make some important needed corrections in this legislation.

H.R. 450, the regulatory moratorium, is for the birds, but, more specifically, it is for ducks, geese, doves, woodcocks, and pigeons. In fact, it really should be renamed the Migratory Bird Safe Passage Act of 1995, because one of the consequences of the legislation is that the U.S. Fish and Wildlife's Federal regulations would not be able to set up this year's migratory bird hunting season and bag limits. Under the provisions of the migratory bird treaty, the U.S. Fish and Wildlife allows waterfowl hunting between September 1 and March 9. Because of the moratorium that we have here today, the U.S. Fish and Wildlife would be hard-pressed to set the hunting season before September 1, 1995. Without this amendment, 3 million duck hunters can hang up their shotguns, States will forego $1 million in license revenue, and rural communities such as northern Michigan which depend on the hunting season will lose an aggregate total economic benefit of $3.6 billion. In Michigan's upper peninsula alone, over 5,000 duck hunters bring nearly $1 million to our economy.

Further, this amendment reminds us that we should reflect on our goal for veterans. Many of the young veterans from the gulf war are suffering from a mysterious delibitating disease. The Secretary of Veterans Affairs recently authorized benefits for soldiers and their families to help them cope with the gulf war syndrome. The authorization, aimed at providing relief, would be considered under this legislation a burdensome regulation. I find it unconscionable that now we put forth a moratorium and turn our back on our suffering veterans.

What about our seniors? HUD regulations, which will help keep drug and alcohol abusers out of senior housing complexes are now under assault. Every senior should be afforded the opportunity to live in comfort and safety in their home. The moratorium would halt this rule making process and would continue to put our Nation's seniors at risk.

The Collins-Stupak amendment would allow duck hunters to hunt this year by exempting them from the rulemaking action of the Fish and Wildlife Service with regard to the migratory bird treaty. It provides for our veterans and it protects our seniors. I ask that my colleagues support this amendment.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. STUMP], the chairman of the Committee on Veterans' Affairs.

Mr. STUMP. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as chairman of the Committee on Veterans' Affairs, I can fully appreciate the intent of the gentlewoman's amendment to H.R. 450 regarding VA compensation. However, I believe the amendment is unnecessary because under section 6, veterans' benefits would be already exempt.

If you would allow me to paraphrase, I will read you under the definition of section 6 exclusions: The term ''regulatory rule making action'' does not include any action relating to statutes implementing benefits.

Our committee has asked the VA their opinion about this. They have no concern about this, since this clearly exempts them and they have no problem with it. So I urge my colleagues not to be concerned about the Persian Gulf compensation regulations. It would not affect them.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. STUMP. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman thinks it is clear, others do not. So if you support my amendment, then it would be clear and there would be no confusion about the issue.

Mr. STUMP. Mr. Chairman, reclaiming my time, I guess my objection to it would be that this may be used to enhance the passage of this amendment, and I object to the amendment for other purposes, too. I want to make it perfectly clear it does not affect compensation for Persian Gulf war veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will yield further, it is the agency that has to make the determination. That is why I would like to have it in this bill, so the agency would be clear of the congressional intent.

Mr. STUMP. Mr. Chairman, reclaiming my time, I would repeat under the rule, exclusion section 6, it is not necessary and does not affect veterans.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentlewoman from New York [Ms. SLAUGHTER], a coauthor of the amendment.

Ms. SLAUGHTER. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, national statistics indicate that rapists are ten times more likely to repeat their crimes than other types of criminals. The American people are right to be outraged by the sensational cases where such sexual predators were released into our communities, and often neither the police nor the community knew they were there.

Polly Klaas in California and Megan Kanka in New Jersey are two recent examples of young children allegedly

abused and murdered by released sex offenders. In my home town of Rochester, NY, Arthur Shawcross went on a rampage of serial rape and murder while he was on parole for abusing and murdering two young children.

Communities across the Nation have similar horror stories to tell. And we here in Washington heard those stories, and vowed to take action. Last year, I introduced legislation expanding our national crime database to cover all sexual predators. A sexual predator database was included in last year's comprehensive crime legislation, with strong support from Republicans and Democrats alike.

By collecting this information nationally, and making it available by computer to every police department in the country, we can help prevent new tragedies from occurring.

Let me close with an example of a recent case in which the predators database could have made all the difference. Two years ago, Virginia authorities were puzzled by the crimes of the notorious ''maintenance man rapist,'' who attacked as many as 18 women by posing as a repairman to gain access to their homes and then brutally raping them.

Tragically, Eugene Dozier had already been convicted for a string of rapes in New York in which he used exactly the same predatory tactics. He was released from prison in New York and moved down the coast to northern Virginia. Information from a nationwide database would have led Virginia police right to his door. Instead, 18 women were needlessly brutalized before the maintenance man rapist was brought to justice.

I urge my colleagues to support the Collins amendment.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 3 minutes to the distinguished majority whip, the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in opposition to the Collins amendment.

Mr. Chairman, to paraphrase Abraham Lincoln, an amendment divided against itself cannot stand. And the Collins amendment has so many different divisions, it cannot stand the scrutiny of reason.

Look at what we have here. We have a giveaway to the FEC, a special break for HUD, a little something for the veterans, and how about something for duck hunters? We are going to have a duck hunting amendment that follows later on tonight. Taken alone, each one of these special exemptions may sound good. Taken together, this amendment quickly escapes reason.

Mr. Chairman, let us not lose sight of the real issue here. What we are trying to do is end the regulatory burden on our small businesses and the American family. What the opponents are trying to do is to keep these job-killing regulations flowing and going. Mr. Chairman, I urge my colleagues to vote against this amendment and support the underlying bill.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Illinois.

□ 1830

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding to me.

The reason why I had to fashion my amendment in the way I did is because we had time limitations, and I wanted to make sure that these four particular parts of the amendment were being covered somehow. So all we could do is cluster the amendment, and that is why my amendment has four different categories in it.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand the ranking Member's problem and appreciate the problem, but the point still is the same. This is an amendment that is trying to undercut the bill and the intent of the bill.

The bill takes care of the problems, as we have said all day long, of many of the Members that want certain regulations to continue, safety and health, routine licensing, regulations that lift burdens on other regulations. The bill takes care of most of this.

I understand that the gentlewoman supports and that side of the aisle supports regulation, but what we are trying to do here is to put King's X on regulations until we are able to implement our regulatory reform package and, hopefully, see that the President signs them.

We could all play political games, some for political cover, but the real intent of these amendments is to destroy the underlying intent of the legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, if the gentleman will continue to yield, let me say to the gentleman that it is not the intention to do any kind of political amendments. What it is the intention to do is to let American people know what is in this bill and what is not in this bill.

Mr. DELAY. Reclaiming my time, Mr. Chairman, I understand, we all understand what is going on here. Those that want to protect the regulations want to do as much as they can.

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

I think that the only point I would like to stress again, I know that there are many in this Chamber, many in their offices who are concerned about an issue that has become very, very prominent in this debate. That is whether or not we would have a duck hunting season in this country this year. I want to assure those that might be inclined to vote for this amendment because of that concern that there will be a subsequent amendment that will deal, I think, more artfully with that problem and will make it very clear that the exemption that exists in the bill is meant to cover the very concern that people have had about having a duck hunting season.

I think it is better than the proposal in the gentlewoman's amendment, which would carve out a totally separate exemption and, therefore, I think open the door to massive other numbers of exemptions which we are trying to resist.

So I would encourage those who might be inclined to vote for this amendment because of the migratory bird provision not to do so. They will have that opportunity when the amendment, the next amendment, one of the amendments will be considered later.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the gentleman for clarifying that fact, because I understand there is no higher priority in this body than to make sure that we do have duck hunting season. We will take care of that.

But there are other amendments within this package of common sense amendments that we really need to take care of.

It is probably so that there are Members on this side of the aisle, the Democratic side, who really believe that whatever regulation the Federal Government issues, it is needed. It is important and they would not question it. There are obviously Members on the Republican side who seem to feel that any Federal regulation is wrong and should not have been issued.

I suspect, and I would suggest to the Members of this body, that the truth probably lies somewhere in between, that there are regulations that are just plain nutty and we have had those shared with us today and will tomorrow as well.

There are regulations that in their implementation they are excessive. They are implemented in a cookie cutter approach, when the intent is good but the result is not what this legislative body intended. Then there are other regulations that are absolutely essential and necessary, and we would really not object to those, if we had an opportunity to fully consider them.

That is, it is those regulations that we are considering in this amendment. This amendment was put together under the guise of common sense.

When we talk about the asylum issue, for example, OMB has told us that under H.R. 450, they would not be able to issue those INS regulations.

Now, we have been working with INS for years. It does not make sense to have 450,000 political asylum cases in limbo, waiting to be processed. It increases by 100,000 a year. There is nothing to do with the political situation in other countries. It is because people have figured out how to use this loophole.

You have got people in other countries that consider themselves immigration consultants, and they tell people that ''you get on the plane, you

flush your papers down the toilet en route. You get over there and you say you are claiming political asylum. It will take 2 years before they process and by then they will never find you.'' That is what happened with Mir Amal Kansi who killed two people outside the CIA. He was on political asylum. The people that bombed the World Trade Center, political asylum. We have got thousands of people that have no business being in this United States.

So we finally got a regulation that the INS issued that will make sure that they all get processed in 6 months instead of 2 years.

That is a regulation that OMB tells us they will not be able to implement this year if H.R. 450 passes as is.

It needs to be changed. Other amendments that have been included in this package need to be changed. I would hope that we would do so.

Mr. Chairman, this amendment gets to the heart of the problem with the Regulatory Moratorium Act.

This legislation assumes that all regulations are bad and that Government only works to impose new and unnecessary burdens on businesses and citizens. By arbitrarily reaching back to November 1994, this legislation attempts to impugn the motives of any regulation not implemented with the advise and consent of the new Republican revolutionaries. This is fine as political rhetoric, but it is shortsighted and destructive as public policy.

My concerns focus on an individual case in point. On December 5, 1994, regulations were published in the Federal Register that provide desperately needed reforms of our political asylum process. This reform is important because the number of political asylum cases has exploded. In 1983, there were fewer than 5,000. This grew to 56,000 in 1991 and more than 150,000 last year. The backlog of unprocessed asylum cases has grown to more than 425,000 cases by the end of last year and is rising at the rate of 100,000 each year.

This increase in political asylum cases is not driven by a rise in legitimate refugees seeking protection from the United States, but rather by an increased awareness of the loophole overseas. What is happening is that aliens and immigrants are coming to this country, flushing their papers down the toilet on their flight over and claiming political asylum once they land at JFK or Dulles International Airport. They are learning how to do this through conmen and immigration consultants overseas.

The reason aliens are claiming political asylum, in such large numbers, is that they know they can use the process to get into the United States with little or no problem or governmental control. INS officials cannot summarily dismiss these complaints and send the aliens back home. Instead the aliens are given work permits and temporary visas while the INS reviews their claim. With a backlog of 425,000 claims, this initial review can be up to 24 months away. Even after the INS reviews the claim and rejects it, the alien simply appeals the decision and continues to live and work in the United States. More often than not we are finding that aliens are using this delay to simply disappear into the vast underground of immigrants in New York, Los Angeles, or even Arlington, VA.

This system is being seriously abused. Sheik Omar Abdel Rahman and his gang, who tried to blow up the World Trade Center, had political asylum cases pending. Mir Amal Kansi, the Pakistani who 2 years ago murdered two people outside the CIA headquarters building in northern Virginia, came to the United States on a visa and then applied for asylum.

Last year, the Clinton administration and the INS began the process of reforming our asylum laws and closing this loophole. The December 5 regulations will help the INS fully process applications within 180 days. The INS will focus on the new asylum claims and prevent aliens from melting into our society. In addition, asylum applicants will not be given work permits until after 180 days. The regulations will significantly improve our asylum process.

But now, we are willing to throw out those regulations simply because they were implemented after the November elections. We are reopening a huge loophole in our immigration policies and telling potential immigrants to come on in.

This is simply inexcusable. We must not overturn legitimate and necessary government policies simply to score political gains.

The Collins-Moran amendment corrects this flaw by excluding the INS regulations from the scope of the legislation.

I urge all of my colleagues to vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois [Mrs. COLLINS].

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

RECORDED VOTE

Mrs. COLLINS of Illinois. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 242, not voting 11, as follows:

[Roll No. 164]

AYES—181

Abercrombie	DeFazio	Hinchey
Ackerman	DeLauro	Holden
Baldacci	Dellums	Hoyer
Barcia	Deutsch	Jackson-Lee
Barrett (WI)	Dicks	Jacobs
Becerra	Dingell	Jefferson
Beilenson	Dixon	Johnson (SD)
Bentsen	Doggett	Johnson, E. B.
Berman	Dooley	Johnston
Bevill	Doyle	Kanjorski
Bishop	Durbin	Kaptur
Bonior	Edwards	Kennedy (MA)
Borski	Engel	Kennedy (RI)
Boucher	Eshoo	Kennelly
Brewster	Evans	Kildee
Browder	Farr	Kleczka
Brown (CA)	Fazio	Klink
Brown (FL)	Fields (LA)	LaFalce
Brown (OH)	Filner	Lantos
Bryant (TX)	Flake	Levin
Cardin	Foglietta	Lewis (GA)
Chapman	Ford	Lincoln
Clay	Frank (MA)	Lipinski
Clayton	Frost	Lofgren
Clement	Furse	Lowey
Clyburn	Gejdenson	Luther
Coleman	Gephardt	Maloney
Collins (IL)	Gordon	Manton
Collins (MI)	Green	Markey
Conyers	Gutierrez	Martinez
Costello	Hall (OH)	Mascara
Coyne	Hamilton	Matsui
Cramer	Hastings (FL)	McDermott
Danner	Hefner	McHale
de la Garza	Hilliard	McKinney
McNulty	Poshard	Taylor (MS)
Meehan	Rahall	Tejeda
Menendez	Rangel	Thompson
Mfume	Reed	Thornton
Miller (CA)	Reynolds	Thurman
Mineta	Richardson	Torricelli
Minge	Rivers	Towns
Mink	Roemer	Traficant
Moakley	Rose	Tucker
Mollohan	Roybal-Allard	Velazquez
Montgomery	Rush	Vento
Moran	Sabo	Visclosky
Murtha	Sanders	Volkmer
Nadler	Sawyer	Ward
Neal	Schroeder	Waters
Oberstar	Schumer	Watt (NC)
Obey	Scott	Waxman
Olver	Serrano	Williams
Orton	Skaggs	Wilson
Owens	Skelton	Wise
Pallone	Slaughter	Woolsey
Pastor	Spratt	Wyden
Payne (NJ)	Stark	Wynn
Pelosi	Stokes	Yates
Peterson (FL)	Studds	
Pomeroy	Stupak	

NOES—242

Allard	Forbes	Manzullo
Archer	Fowler	Martini
Armey	Fox	McCollum
Bachus	Franks (CT)	McCrery
Baesler	Franks (NJ)	McDade
Baker (CA)	Frelinghuysen	McHugh
Baker (LA)	Frisa	McInnis
Ballenger	Funderburk	McIntosh
Barr	Gallegly	McKeon
Barrett (NE)	Ganske	Metcalf
Bass	Gekas	Meyers
Bateman	Geren	Mica
Bereuter	Gilchrest	Miller (FL)
Bilbray	Gillmor	Molinari
Bilirakis	Gilman	Moorhead
Bliley	Goodlatte	Morella
Blute	Goodling	Myers
Boehlert	Goss	Myrick
Boehner	Graham	Nethercutt
Bonilla	Greenwood	Neumann
Bono	Gunderson	Ney
Brownback	Gutknecht	Norwood
Bryant (TN)	Hall (TX)	Nussle
Bunn	Hancock	Oxley
Bunning	Hansen	Packard
Burr	Harman	Parker
Burton	Hastert	Paxon
Buyer	Hastings (WA)	Payne (VA)
Callahan	Hayes	Peterson (MN)
Calvert	Hayworth	Petri
Camp	Hefley	Pickett
Canady	Heineman	Pombo
Castle	Herger	Porter
Chabot	Hilleary	Portman
Chambliss	Hobson	Pryce
Chenoweth	Hoekstra	Quillen
Christensen	Hoke	Quinn
Chrysler	Horn	Radanovich
Clinger	Hostettler	Ramstad
Coble	Houghton	Regula
Coburn	Hunter	Riggs
Collins (GA)	Hutchinson	Roberts
Combest	Hyde	Rogers
Condit	Inglis	Rohrabacher
Cooley	Istook	Ros-Lehtinen
Cox	Johnson (CT)	Roth
Crane	Johnson, Sam	Roukema
Crapo	Jones	Royce
Cremeans	Kasich	Salmon
Cubin	Kelly	Sanford
Cunningham	Kim	Saxton
Davis	King	Scarborough
Deal	Kingston	Schaefer
DeLay	Klug	Schiff
Diaz-Balart	Knollenberg	Seastrand
Dickey	Kolbe	Sensenbrenner
Doolittle	LaHood	Shadegg
Dornan	Largent	Shaw
Dreier	Latham	Shays
Duncan	LaTourette	Shuster
Dunn	Laughlin	Sisisky
Ehrlich	Lazio	Skeen
Emerson	Leach	Smith (MI)
English	Lewis (CA)	Smith (NJ)
Ensign	Lewis (KY)	Smith (TX)
Everett	Lightfoot	Smith (WA)
Ewing	Linder	Solomon
Fawell	Livingston	Souder
Fields (TX)	LoBiondo	Spence
Flanagan	Longley	Stearns
Foley	Lucas	Stenholm

Stockman	Torkildsen	Weller
Stump	Upton	White
Talent	Vucanovich	Whitfield
Tanner	Waldholtz	Wicker
Tate	Walker	Wolf
Tauzin	Walsh	Young (AK)
Taylor (NC)	Wamp	Young (FL)
Thomas	Watts (OK)	Zeliff
Thornberry	Weldon (FL)	Zimmer
Tiahrt	Weldon (PA)	

NOT VOTING—11

Andrews	Fattah	Meek
Bartlett	Gibbons	Ortiz
Barton	Gonzalez	Torres
Ehlers	McCarthy	

□ 1853

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. Barton of Texas against.

Ms. JACKSON-LEE and Mr. DOOLEY 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 MS. NORTON

Ms. NORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Ms. NORTON: At the end of section 5 (page , after line); add the following new subsection:

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.

The CHAIRMAN. Pursuant to the order of the House of today, the gentlewoman from the District of Columbia [Ms. NORTON] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I yield myself such time as I say consume.

Mr. Chairman, the only difficulty this amendment presents for me, and I believe for most of the Members, is that it is not already in the bill. Had I not had a conflict that prevented me from being at the committee for part of the time, I have every reason to believe that the bill would have come to the floor with this amendment in it.

The proof is that the language I now propose has already been adopted by this House in the unfunded mandate bill. I would simply exempt, to use the language of that bill, ''regulatory rulemaking action to establish or enforce any statutory rights that prohibit discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status.''

If this language was appropriate for the Unfunded Mandate Reform Act of 1995, it is more so for the Regulatory Transition Act now before us. Unfunded mandates seldom sound in equal rights terms. Regulations do far more often.

For example, as we speak, administrative action is under way to conform the time limits for filing civil actions under the Age Discrimination Act to those of the Civil Rights Act we passed in 1991. This is an action of particular importance. Several years ago, hundreds of middle-aged and elderly workers lost their rights under the age discrimination statute because of differences in time limits for filing. This body had to pass a special bill to reinstate those actions. Now administrative action is pending that would safeguard these rights and promote efficiency by eliminating inconsistencies in time limits allowed for people to go to court. There should not be one time limit for filing based on gender or race, for example, and another time limit for those who claim discrimination because of age.

Another pending example would conform the Rehabilitation Act to the Americans With Disabilities Act. The Rehabilitation Act is the Disabilities Act as applied to Federal employees.

The regulatory moratorium bill was not drawn with regulatory actions of this kind in mind, Mr. Chairman. This body's action that exempted civil rights matters from similar and prior legislation this very month shows a bipartisan intent to leave matters of equality untouched by legislation designed to attack other problems.

The last thing the country needs is a notion that the House regards the right to be free of discrimination not as a right at all, but as an unfunded mandate or a paperwork problem.

□ 1900

In fact, that is not the view of this body, to its credit. We have said so once and we should say so now.

These have not been the best of times for equal rights. There is polarization where there should be reconciliation. We need a more problem-solving, sober leadership on equal rights on this delicate yet volatile issue than it sometimes attracts.

My aim is designed to bring us together where we ought to be on equal rights. We will not be able to be there all of the time. It should not be difficult to be together on this amendment at this time.

I ask for and urge Members' support.

Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. MC INTOSH TO THE AMENDMENT OFFERED BY MS. NORTON

Mr. MCINTOSH. Mr. Chairman, I rise in technical opposition to the amendment and I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH to the amendment offered by Ms. NORTON: Before the period at the end of the amendment insert '', except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status''.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 10 minutes.

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

Mr. Chairman, the purpose of my amendment is to clarify that any regulation that would go forward to protect civil rights would not create a quota or a preference. We have seen time and time again instances where people implementing the Civil Rights Act were overzealous in the application of the civil rights laws, which has led to the unintended or perhaps intended consequence that regulations have created a preference where individuals would be hired, fired, otherwise subject to employment decisions that were in fact based on suspect criteria, such as race, gender or national origin.

Our goal here is to make it very clear that those regulations could not go forward during the moratorium period, and I think it will send a strong message to the country that we want to have racial equality and do so in a way that is truly without regard to race, gender, national origin, handicap, or disability status.

I urge a yes vote on the amendment, and then would be delighted to support the amendment of the gentlewoman from the District of Columbia [Ms. NORTON].

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

Mr. Chairman, I appreciate the gentleman's amendment and the work he has put into it. I certainly do not mean to create the impression that anything in my amendment does anything but conform to existing law. So I take the use of the words ''quota'' and ''preference'' to be interchangeable because otherwise the one word is so wide open and does not have a fixed meaning in law, and on that basis I would accept the gentleman's secondary amendment.

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

Mr. Chairman, the reason for the choice of the word ''preference'' was that some people attempted to create quotas and call them preferences, so I am delighted the gentlewoman is accepting the amendment.

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

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

Again, Mr. Chairman, let me just indicate that the Civil Rights Act most recently passed by this body in 1991 bars quotas, and I certainly mean to conform to that act, and I believe the gentleman is entirely in good faith in his use of the language to conform to that act, and certainly I do not mean any quotas, and the use of preference in this context interchangeable with quotas is satisfactory to me.

Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], the ranking member of the full committee.

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I rise in support of the gentlewoman's amendment that would exclude civil rights regulations from the moratorium.

Mr. Chairman, I express my support for the Norton amendment that would exclude civil rights regulations from the moratorium.

The enactment of the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Americans With Disabilities Act, and the Age Discrimination in Employment Act represent significant triumphs in an ongoing struggle to ensure that all Americans are treated fairly. These laws, among many other civil rights protections, ensure equality of opportunity, and equality of access for all.

Although this bill does not purport to impact these laws, its practical effect is to seriously undermine their potency. For example, agencies would be prevented from promulgating regulations to ensure safety for the handicapped or disabled, and to ensure that these individuals have the same physical access to facilities as the rest of the population. In addition, agencies would be prohibited from undertaking investigations pursuant to allegations of discrimination.

I truly wish that many of these regulations were not necessary to protect the rights of our citizens. However, all we need to do is take a page from the history books to illustrate the unfortunate disregard that we have shown for our fellow citizens' rights in the past.

I believe that if we do not exclude these regulations, then we seriously compromise one of the most fundamental premises of our democracy * * * the equality of all citizens.

I also believe that we would be sending the wrong signal to the American people, that the protection of their civil rights is not important. I do not believe that this is the signal that any of us would want to send. I would therefore ask my colleagues to support this amendment.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. CLINGER] seek time?

Mr. CLINGER. Mr. Chairman, yes, I do.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. CLINGER] reclaims the time of the gentleman from Indiana [Mr. MCINTOSH].

There was no objection.

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

Mr. Chairman, I just want to say I am delighted that the gentlewoman from the District of Columbia and the gentleman from Indiana have been able to come together in a cooperative fashion to come up with an amendment which I think accomplishes what he wants to accomplish. As the gentlewoman from the District of Columbia said, this was language that was included in the unfunded mandates provision. It makes it very clear that these were to be not on the table in terms this kind of thing.

So I think it is an important addition to the bill and I am happy to support her amendment as amended by the gentleman from Indiana.

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

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

Mr. Chairman, I thank the gentleman for his support. The fact is that the word quotas has become quite a dirty word in the language and I did not want to add any dirty words to this bill, and I think what we do by adopting this amendment is to take that word off the table, to indicate that we certainly do not mean quotas, and thereby make this bill that every Member can support.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. MCINTOSH] to the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON], as amended.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 405, noes 0, answered ''present'' 14, not voting 15, as follows:

[Roll No. 165]

AYES—405

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller

White	Wise	Yates
Whitfield	Wolf	Young (AK)
Wicker	Woolsey	Young (FL)
Williams	Wyden	Zeliff
Wilson	Wynn	Zimmer

ANSWERED ''PRESENT''—14

Becerra	Hilliard	Payne (NJ)
Brown (FL)	Johnson, E. B.	Rangel
Collins (IL)	Lofgren	Souder
Dellums	McKinney	Waters
Hastings (FL)	Owens	

NOT VOTING—15

Andrews	Furse	Kaptur
Barton	Gibbons	McCarthy
Boehlert	Gonzalez	Meek
Ehlers	Hoke	Ortiz
Fattah	Johnson (SD)	Torres

□ 1927

Messrs. DELLUMS, RANGEL, PAYNE of New Jersey, and HILLIARD, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MCKINNEY changed their vote from ''aye'' to ''present.''

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. CLINGER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do so to announce that in a moment I will move that the Committee do rise for the purpose of a unanimous-consent request, which would provide for the House to sit tomorrow morning starting at 9 o'clock.

Thereafter, I would advise the membership we would go back into the Committee, we will dispose of one additional amendment this evening, and there will be one additional vote anticipated, but we should be completed with all business in Committee by 8 clock.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. GUNDERSON) having assumed the chair, Mr. LAHOOD, 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. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, had come to no resolution thereon.

HOUR OF MEETING ON TOMORROW

Mr. CLINGER. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WISE. Mr. Speaker, reserving the right to object, this has been cleared by the leadership on the Democratic side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1930

REGULATORY TRANSITION ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 93 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. 450.

□ 1930

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. 450), to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentlewoman from the District of Columbia [Ms. NORTON] as amended had been disposed of.

For what purpose does the gentleman from Indiana [Mr. MCINTOSH] rise?

Mr. MCINTOSH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH] for yielding to me for the purpose of a colloquy, and I would like to ask the chairman of the subcommittee three questions, if I could. The first question is this: In December 1994, the INS promulgated comprehensive regulations to streamline the asylum process and prevent abuse of the asylum system. Is it your understanding that these regulations would be excluded under section 6(3)(B)(i) as being ''limited to streamlining a rule, regulation, or administrative process?''

Mr. MCINTOSH. Yes, that is my understanding of the effect of section 6(3)(B)(i) with respect to streamlining INS regulations of this type.

Mr. SMITH of Texas. In 1994, the Violent Crime Control and Law Enforcement Act and the Immigration and Nationality Technical Corrections Act established a process to expeditiously remove from the United States criminal aliens. Is it your understanding that these regulations will be excluded from the moratorium because they fit within the streamlining exception under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. And last, I appreciate the gentleman's patience, the third question is: It is my understanding the INS also plans to issue regulations to streamline the rules and procedures for certain types of nonimmigrant visas, in part to prevent the abuse of such visas. Is it your understanding such reforms to the visa process fall under the streamlining exclusion under section 6(3)(B)(i)?

Mr. MCINTOSH. Yes, that is my understanding.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Indiana [Mr. MCINTOSH].

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

AMENDMENT OFFERED BY MR. HAYES

Mr. HAYES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYES: In section 6(4), in the last sentence, after ''restriction'' insert the following new clarifying clause: ''(including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action)''.

Mr. HAYES (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 Louisiana?

There was no objection.

The CHAIRMAN. Pursuant to the order of the House of today the gentleman from Louisiana [Mr. HAYES] and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES. Mr. Chairman, I rise in support of an amendment that while styled as such because of the procedural rules of the House is actually a clarification language of section 64.

As background it should be noted that the reason that we are here this evening is because we have had so many regulatory actions, they have trampled on so many individuals' rights, and we have had so many instances in which we were unable to redress the complaints made by those whom we represent that it boiled over to the point where finally there is a regulatory reaction. I say to my colleagues, incredibly enough the kinds of things that were happening to folks at home that led to this sort of concern are the kinds of things they complain to and to you about when you return there. They walk up and they say, ''Look, my son is owning a piece of property that has some water on it. There's no means by which I can tell what it is, and unless I apply for a permit to do something, the Corps of Engineers won't tell me what it is, but the minute I decide to put some kind of crawfish pond there I find out the entire Federal bureaucracy not only wants to tell me what it is, but what to do with it.''

Mr. Chairman, we have regulatory overreach that has caused us in representing those half million-plus people who call us Congressmen to come here this evening.

I say to my colleagues, incredibly enough, with the efforts that deserve

applause from Mr. MCINTOSH, Mr. PETERSON, Mr. CONDIT, when those efforts are made, the same agencies do exactly the same thing, only they don't highlight what it is they did to trample rights. They turn around and say, ''We will construe this to mean we're going to do more things to you. We're going to construe your action to mean we're not going to have a duck season. We're going to construe your action to mean we're not protecting health.'' They're in the habit of taking the act, taking the regs, and doing harm to individuals, and they just can't break that habit.

For that reason we are often clarifying language, Mr. Chairman.

I do not believe that either the intent, nor actually the text of this bill, requires that this be done, but I do believe that sending a strong message to those who believe regulations equates arrogance, to those who believe regulation means power, to those who believe regulation means enforcement without any glimpse of humanity; that is why the clarifying language is offered.

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Louisiana for his comments.

Mr. BAKER of Louisiana. Mr. Chairman, I compliment the gentleman on his fine statement and agree with this state of frustration about our growing regulatory process.

In working with the gentleman on this amendment, Mr. Chairman, I think it should be made clear that the action we are about to take is in relation to the Migratory Bird Act. For those who are not familiar with it, having been passed in 1918, it sets a framework in place which prohibits the taking of birds or migratory fowl that are protected by Federal law, and each year the Department of the Interior issues a waiver allowing all States to promulgate their own rules and regulations for the taking of migratory fowl.

Stated in another way, Mr. Chairman, duck or geese hunting.

It is now apparent that unless some action is taken by legislative remedy that this year's season for many avid hunters may be placed in jeopardy. In fact, we received a communication from the Secretary of the Interior indicating that they would be unable to promulgate timely, necessary rules to allow the season to go forward as is customary. For those reasons the gentleman's amendment, as I understand it, allows a provision which says, if the agency does not take action that hunting and fishing seasons would, and their conduct would, not be impaired by the failure of the agency to act timely.

This is an appropriate response and one which the gentleman correctly describes as definitional, only it is not clearly the intention of the authors of the legislation to create this difficulty, and perhaps it does not. But due to the confusion from the secretary's letter which was created we have now consulted with Ducks Unlimited, a number of other organizations who have great interest in this matter, and they have all indicated their strong support for this amendment.

Mr. Chairman, I am happy to rise in support of the gentleman's amendment and commend him for his leadership in this matter.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. HAYES. I yield to the gentleman from Missouri.

Mr. VOLKMER. As I understand it, the gentleman's amendment does not specifically exempt the provisions for water fowl or migratory bird hunting season, but merely puts a provision in it to waive; is that correct, the requirement?

Mr. HAYES. Mr. Chairman, what it does is it takes the definitional section of the word ''rule'' which is in section 64 of the act, and the language which is included says that the agency action which establishes, modifies or conducts a regulatory program for recreational or subsistence activity, including, but not limited to, hunting, fishing and camping. I believe that it would indeed cover those activities to such an extent that it would not be justified for a Federal agency to say that with the passage of this act they are not empowered to go forward with their regulatory duty in establishing those seasons.

Mr. VOLKMER. In other words, Mr. Chairman, the gentleman is saying that now under this act with his amendment they will be able to provide the proper regulations for those activities?

Mr. HAYES. Yes, sir, with one minor exception. The gentleman from Louisiana [Mr. BAKER] and I decided that the majority leader, the gentleman from Texas [Mr. ARMEY], should not be allowed to fish in Louisiana, so with that one exception it will allow everyone else in America to go forward.

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Mr. VOLKMER. Mr. Chairman, I just want to say one other thing: I beg to differ just a wee bit with the gentleman from Louisiana as far as the intent and the purpose of the legislation that is now before us, the act itself. I am sorry, but I personally would have to agree with the Secretary as to the effect of that legislation without the amendment. I am sorry to differ. I do not think it is just for that purpose.

Mr. HAYES. Reclaiming my time, I would simply make this observation as a Democrat who has been here for 8 years. The first chair of the committee that has allowed me to offer an amendment to change language has been this Republican chair, and if I am going to base it upon his actions, then I must interpret his actions in so doing as a good faith effort to accommodate this concern, which would lead me to believe that the language could not have been intentionally crafted, or else he would have refused to do this.

I know that language is quite often a problem, especially when we have elephants and donkeys. We allow language sometimes to take precedence over substance. In this instance, I can only say that the working relationship has not only been fair, but cordial. Like anything, it may be tedious and it may not be easy, but it certainly has been productive, because I think this amendment is about to pass, to the benefit of people across the country.

Mr. VOLKMER. Mr. Chairman, if the gentleman will yield further, I support the amendment.

Mr. Chairman, Louisiana is known as the Sportsman's Paradise. Recreational activities on our bayous, marshes, rivers, and the Gulf of Mexico and in our vast wilderness and wildlife refuge areas are a part of our very way of life. There are over 66,000 duck hunters and over 500 hunting camps for which the annual multiplier effect on Louisiana's economy is $57 million annually. Hunting in general provides over $630 million annually to our State. These figures, Mr. Chairman, are conservative.

The amendment that we are offering today is a bipartisan proposal, which is intended to address potential unintended consequences of H.R. 450 that would result in the cancellation or delay of the upcoming duck season and other important hunting and fishing opportunities. As you may know, under the provisions of the Migratory Bird Treaty Act, unless as permitted by a regulatory action of the Department of Interior, it is unlawful to pursue, hunt, take, capture, kill, et cetera, migratory birds. These prohibitions are included as part of treaties between the United States and Great Britain, the United States and Mexico, and the United States and Japan, all of which are for the protection of migratory birds. Section 704 of Title 16 U.S.C. Annotated then summarizes the regulatory process that the Department of Interior must follow to enable migratory bird seasons to go forward.

Our amendment would refine section 6 of the bill to exclude from the definition of regulatory rule making—therefore, from coverage under the moratorium—agency actions in the management of regulatory programs for recreational or subsistence activities including but not limited to hunting, fishing, and camping, if the applicable statute prohibits such activities in the absence of this agency action.

Our amendment would also answer the concerns of my friend from Alaska, Mr. YOUNG, with respect to the prohibitions of subsistence hunting and fishing, which are critical to survival of many of his constituents. Finally, the Department of Interior would also be able to move ahead with plans to open wildlife refuges in Louisiana and California to hunting and fishing.

The Baker-Hayes-Young amendment is consistent with the intent of H.R. 450 to allow agencies to promulgate nonburdensome, common sense directives like the regulatory framework that the Department of Interior, through the U.S. Fish and Wildlife Service, has set up for duck season since the 1950's. The onerous rules that H.R. 450 was proposed to stop are rules which impose needless or wasteful costs on the American economy, whereas, if we fail to clarify this language, recreational endeavors that in fact enhance our economy will be curtailed. We cannot let this happen.

Ducks Unlimited, which represents close to 20,000 conservationists in Louisiana and 550,000 nationwide, in Canada, and Mexico, has indicated to me that our amendment will fix this problem. The DU mission statement to ''fulfill the life cycle needs of North American waterfowl'' suggests why we must not stand by and presume that the duck season will go ahead without this clarifying amendment. These regulations are crucial to gather the scientific data necessary to ensure the responsible conservation of waterfowl.

Therefore, I urge you to vote for the Baker-Hayes-Young amendment.

Mr. Chairman, is there time for an opponent to the amendment under the provision?

The CHAIRMAN. There is 10 minutes on each side. The gentleman from Louisiana [Mr. HAYES] the proponent, has 10 minutes. There is also 10 minutes for an opponent.

Mr. VOLKMER. Mr. Chairman, I would ask that that 10 minutes be allocated to the gentlewoman from Illinois [Mrs. COLLINS], not that she is opposed to the amendment, because I know she supports it, but just in fairness to give her an opportunity to speak.

The CHAIRMAN. Does the gentlewoman from Illinois seek time in opposition?

Mrs. COLLINS of Illinois. I do, Mr. Chairman.

Mr. HAYES. Mr. Chairman, how much time is remaining for me?

The CHAIRMAN. The gentleman from Louisiana [Mr. HAYES] has 3 minutes remaining, and the gentlewoman from Illinois [Mrs. COLLINS] has 10 minutes remaining.

Mr. HAYES. Mr. Chairman, I yield 30 seconds to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am one of those that happens to think we do not need this amendment. I think that duck hunting was exempt under what we put together in the committee. But I think that this amendment will reassure any of those that are concerned, and I support the amendment.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Chairman, I rise tonight to just seek some clarification. I listened to the author try to explain it, but it was not really clear to me. I have here a Republican handout from one of the previous amendments, and in part it says let us not exempt this bill to death, and as I understand the amendment, what we are doing is being very specific that there is an exemption as it relates to the hunting season for ducks. I think that is pretty important stuff, but I do not know if we should exempt the bill to death.

I recall a previous amendment dealing with a very serious water problem in the Milwaukee area in the State of Wisconsin, and that was the cryptosporidium problem. We tried to exempt the clean water regulations in this bill and we were turned down in large part by the Republicans, but now we can exempt the bill to death by providing an exemption for ducks.

The problem I have with that is I think clean water and cryptosporidium problems are more important than the duck season. I think it is a sad day in the House of Representatives when we put ducks above water safety in this country, clean water regulations. But so be it, that is the new regime we are working under.

I want to respond to the author of the amendment. I do object to one of the statements made when he indicates that if this was last year the Democrats would not let him offer this amendment, now he has free rein to offer it. My Lord, I would be shocked if we let him offer such nonsense to this bill, especially when we turn down water safety, meeting specs, things of that nature, which on a priority scale, my friends, I would think is a smidgen higher than the all important duck season in this country.

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

Mr. Chairman, I would like to respond to that in the words of Sixty Rayburn, the legendary legislator from the State of Louisiana. Sixty once looked at a Federal legislator and said, ''Son, I can explain it to you, but I can't understand it for you.''

What I would say to the gentleman is that my observation was that I have been afforded an opportunity to offer an amendment. That amendment is relevant, it is pertinent, and it covers far more items than simply a migratory waterfowl season.

But I would also say that in parishes, counties I represent, 30 percent of Vermilion Parish, 35 percent of Cameron Parish is on tourism-related to hunting. So for a party that cares about the heart and soul of people, one out of three ought to be enough to care about that live in a parish to do something for them. And I would say that this kind of attitude is why I stay in the Democratic Party, waiting for some more Democrats to get there and join me.

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

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I say to my friend, the gentleman from Louisiana [Mr. HAYES], I understand how seriously he feels about this issue. I respect him for bringing it to the floor. But I think a fair point has been made. As he cares passionately about the rights of his constituents to hunt, the economic interests of his State, some of us have felt passionately after years of work about the ability to protect children from the problem of E. coli bacteria, with 4,000 deaths a year; with the problem that our water supplies are being contaminated by bacteria.

The gentleman deserves to have his amendment voted upon. Indeed, he may deserve to have it passed. But a fair point has been made. It cannot escape the attention of the American people that the interests of children, the interests of our citizens and the safety of their homes and restaurants came to this floor. After years of fighting to get Federal regulations to protect them, those regulations are in jeopardy. The comparison was a fair one. I thank the gentleman for raising it.

Mrs. COLLINS of Illinois. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Chairman, I understand my colleague's interest in his district and ducks. Now my question is, if the duck lands on water in Wisconsin that is contaminated with cryptosporidium, does the extension of the exception to the duck allow a procedure to protect other ducks from this infection?

Mr. BAKER of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I yield to the gentleman from Louisiana.

Mr. BAKER of Louisiana. Mr. Chairman, I think the whole point of this amendment has been missed. If ducks were present tonight, they would not be for this amendment. This allows a hunting season.

Mr. KANJORSKI. Mr. Chairman, the gentleman's point is well taken. What happens if the hunter is successful and he ingests the duck and he suffers from cryptosporidium? Has it become more important that we protect the ducks and offer the protection to the ducks, or does it become more important to protect people.

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Mrs. COLLINS of Illinois. Mr. Chairman, it is very interesting, it seems that this body is about to vote for this duck hunting amendment. And as has been said before, there have been other amendments which I think were just really great amendments. They dealt with the American people.

This body has voted against allowing the FEC rules on personal use of campaign funds to proceed. They have voted against allowing expedited consideration of meritless asylum requests. They have voted against rules and regulations that would allow new HUD rules giving preference to elderly in section 8 housing, rules pertaining to elimination of drug use in Federal housing, designations of empowerment zones that allows datebase for child molesters. They have voted against, if Members will, child molesters, children, by saying we cannot have any datebase for child molesters as required in last year's crime bill. And yet they are willing to vote for duck hunting.

Mr. Chairman, this amendment is not the most wonderful amendment I have ever seen in my life. Somebody said, if it looks like a duck, sounds like a duck, quacks like a duck, it is a duck.

Mr. SCHUMER. Mr. Chairman, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I would just say on an amendment like this, with the National Rifle Association and CHARLES SCHUMER in agreement, how can we turn it down?

Mrs. LINCOLN. Mr. Chairman, it appears that duck hunting season has gotten caught in the crossfire as Republicans continue to move at a breakneck speed to pass the Contract With America.

Hunting is one of the simple pleasures for many of us in Arkansas. But continued Federal attempts to dicker with hunting regulations have turned hunting into a complex legal battle.

The U.S. Fish and wildlife Service has said that today's proposal to place a retroactive moratorium on Federal regulations would cancel next year's waterfowl season

Each year Fish and Wildlife must issue regulations setting the hunting season and bag limits for migratory waterfowl including ducks, geese, and doves. Their decision is based on a long and complex process of public hearings and meetings, which end shortly before hunting season opens October 1.

As this bill is written, those meetings could not take place because Fish and Wildlife has interpreted hunting season meetings to be outside the realm of routine administrative regulations.

In defense of hunting season, I sent a letter last week to Mr. CLINGER, chairman of the Government Reform and Oversight Committee, asking that waterfowl hunting season regulations be exempt from this bill.

Therefore, I am extremely pleased to see this amendment offered and urge my colleagues to support its passage.

Let me assure the American people that I wholeheartedly support efforts to free them from burdensome and unnecessary Federal regulations. But I fear the unintended consequences of Republicans' efforts to push reforms so quickly.

As a hunter myself and representing approximately 60,000 Arkansas migratory bird hunters, I must be emphatic that canceling the 1995–96 waterfowl season would not be acceptable.

Migratory bird hunters spend $3.6 billion annually nationwide. In Arkansas, migratory bird hunting brings $1.5 million to the State and $31 million in retail sales.

This revenue, in addition to the family traditions that have been built around hunting season, should not be denied by Congress.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the Hayes amendment and in support of H.R. 450.

There has been a lot of talk about which regulations will and will not be affected by the moratorium. Frankly, I have had enough. It's no secret, the administration has identified, in an effort to kill the bill, a select few routine regulations which they say will not continue if this bill is signed into law. Two of those examples are the migratory bird hunting regulations and subsistence hunting regulations in Alaska.

Frankly, I am of the opinion that these activities are permitted—they are routine administrative functions.

However, this amendment is intended to clarify for the Department of the Interior, who apparently cannot read the law, so they can issue regulations for recreational or subsistence hunting, fishing, and camping for the 1995–96 seasons.

I urge my colleagues' support of this amendment which is offered for the benefit of Alaska Natives and the sports men and women of America.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana [Mr. HAYES].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 383, noes 34, answered ''present'' 4, not voting 13, as follows:

[Roll No 166]

AYES—383

Abercrombie	Coleman	Furse
Ackerman	Collins (GA)	Gallegly
Allard	Combest	Ganske
Archer	Condit	Gejdenson
Armey	Cooley	Gekas
Bachus	Costello	Gephardt
Baesler	Cox	Geren
Baker (CA)	Coyne	Gilchrest
Baker (LA)	Cramer	Gillmor
Baldacci	Crane	Gilman
Ballenger	Crapo	Goodlatte
Barcia	Cremeans	Goodling
Barr	Cubin	Gordon
Barrett (NE)	Cunningham	Goss
Barrett (WI)	Danner	Graham
Bartlett	Davis	Green
Bass	de la Garza	Greenwood
Bateman	Deal	Gunderson
Bentsen	DeFazio	Gutknecht
Bereuter	DeLauro	Hall (OH)
Berman	DeLay	Hall (TX)
Bevill	Deutsch	Hamilton
Bilbray	Diaz-Balart	Hancock
Bilirakis	Dickey	Hansen
Bishop	Dicks	Harman
Bliley	Dingell	Hastert
Blute	Dixon	Hastings (WA)
Boehlert	Doggett	Hayes
Boehner	Dooley	Hayworth
Bonilla	Doolittle	Hefley
Bonior	Dornan	Hefner
Bono	Dreier	Heineman
Borski	Duncan	Herger
Boucher	Dunn	Hilleary
Brewster	Durbin	Hilliard
Browder	Edwards	Hinchey
Brown (CA)	Ehrlich	Hobson
Brown (OH)	Emerson	Hoekstra
Brownback	Engel	Hoke
Bryant (TN)	English	Holden
Bryant (TX)	Ensign	Horn
Bunn	Eshoo	Hostettler
Bunning	Evans	Houghton
Burr	Everett	Hoyer
Burton	Ewing	Hunter
Buyer	Farr	Hutchinson
Callahan	Fawell	Hyde
Calvert	Fazio	Inglis
Camp	Fields (LA)	Istook
Canady	Fields (TX)	Jackson-Lee
Cardin	Filner	Jefferson
Castle	Flanagan	Johnson (CT)
Chabot	Foley	Johnson (SD)
Chambliss	Forbes	Johnson, E. B.
Chapman	Ford	Johnson, Sam
Chenoweth	Fowler	Jones
Christensen	Fox	Kaptur
Chrysler	Frank (MA)	Kasich
Clay	Franks (CT)	Kelly
Clement	Franks (NJ)	Kennedy (MA)
Clinger	Frelinghuysen	Kennedy (RI)
Clyburn	Frisa	Kennelly
Coble	Frost	Kildee
Coburn	Funderburk	Kim
King	Neal	Shays
Kingston	Nethercutt	Shuster
Klink	Neumann	Sisisky
Klug	Ney	Skaggs
Knollenberg	Norwood	Skeen
Kolbe	Nussle	Skelton
LaFalce	Oberstar	Smith (MI)
LaHood	Obey	Smith (NJ)
Lantos	Olver	Smith (TX)
Largent	Orton	Smith (WA)
Latham	Oxley	Solomon
LaTourette	Packard	Spence
Laughlin	Pallone	Spratt
Lazio	Parker	Stearns
Leach	Pastor	Stenholm
Levin	Paxon	Stockman
Lewis (CA)	Payne (VA)	Stokes
Lewis (KY)	Pelosi	Studds
Lightfoot	Peterson (FL)	Stump
Lincoln	Peterson (MN)	Stupak
Lipinski	Petri	Talent
Livingston	Pickett	Tanner
LoBiondo	Pombo	Tate
Lofgren	Pomeroy	Tauzin
Longley	Porter	Taylor (MS)
Lucas	Portman	Taylor (NC)
Luther	Poshard	Tejeda
Maloney	Pryce	Thomas
Manton	Quillen	Thornberry
Manzullo	Quinn	Thornton
Markey	Radanovich	Thurman
Martinez	Rahall	Tiahrt
Martini	Ramstad	Torkildsen
Mascara	Reed	Torricelli
Matsui	Regula	Traficant
McCollum	Reynolds	Upton
McCrery	Richardson	Vento
McDade	Riggs	Visclosky
McDermott	Rivers	Volkmer
McHugh	Roberts	Vucanovich
McInnis	Roemer	Waldholtz
McIntosh	Rogers	Walker
McKeon	Rohrabacher	Walsh
McNulty	Ros-Lehtinen	Wamp
Meehan	Rose	Ward
Menendez	Roth	Watts (OK)
Metcalf	Roukema	Waxman
Meyers	Royce	Weldon (FL)
Mfume	Sabo	Weldon (PA)
Mica	Salmon	Weller
Miller (CA)	Sanders	White
Miller (FL)	Sanford	Whitfield
Mineta	Sawyer	Wicker
Minge	Saxton	Williams
Mink	Scarborough	Wilson
Moakley	Schaefer	Wise
Molinari	Schiff	Wolf
Mollohan	Schroeder	Wyden
Montgomery	Schumer	Wynn
Moorhead	Scott	Young (AK)
Morella	Seastrand	Young (FL)
Murtha	Sensenbrenner	Zeliff
Myers	Shadegg	Zimmer
Myrick	Shaw	

NOES—34

Beilenson	Johnston	Rush
Clayton	Kanjorski	Serrano
Collins (IL)	Kleczka	Thompson
Collins (MI)	Lewis (GA)	Torres
Conyers	Lowey	Towns
Dellums	McHale	Tucker
Doyle	McKinney	Velazquez
Flake	Moran	Waters
Foglietta	Nadler	Watt (NC)
Gutierrez	Owens	Woolsey
Hastings (FL)	Payne (NJ)	
Jacobs	Roybal-Allard	

ANSWERED ''PRESENT''—4

Brown (FL)	Slaughter
Rangel	Souder

NOT VOTING—13

Andrews	Gibbons	Ortiz
Barton	Gonzalez	Stark
Becerra	Linder	Yates
Ehlers	McCarthy	
Fattah	Meek	

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Mr. RUSH changed his vote from ''aye'' to ''no.''

Messrs. CASTLE, CHRISTENSEN, WHITE, and DAVIS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

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

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LARGENT) having assumed the chair, Mr. LAHOOD, 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. 450) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes, had come to no resolution thereon.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, FRIDAY, FEBRUARY 24, 1995, DURING 5-MINUTE RULE

Mr. HORN. 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 Commerce; the Committee on International Relations; the Committee on the Judiciary; the Committee on Transportation and Infrastructure; and the Committee on Veterans' Affairs.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WISE. Mr. Speaker, reserving the right to object, the Democratic minority has been consulted, and has no objection to that request. The agreement is made though, with the understanding that it has also been agreed that there would be 10 one-minute speeches per side when the House convenes in the morning. Is that the gentleman's understanding?

Mr. HORN. Mr. Speaker, if the gentleman will yield, that is our understanding.

Mr. WISE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

NOTICE OF HEARING ON CAPITAL BUDGETING ON THURSDAY, MARCH 2, 1995

Mr. HORN. Mr. Speaker, I rise to announce that the Subcommittee on Government Management, Information and Technology will be holding a hearing on capital budgeting on Thursday, March 2, 1995, in room 2154 Rayburn House Office Building at 2 p.m. The purpose of this hearing will be to examine the policy aspects of a capital budget.

PERMISSION TO INSERT PROGRAM AND REMARKS OF MEMBERS REPRESENTING THE HOUSE AT GEORGE WASHINGTON'S BIRTHDAY CEREMONIES

Mr. HORN. Mr. Speaker, I ask unanimous consent that the program and the remarks of the gentleman from California [Mr. HORN] and the gentleman from New Mexico [Mr. RICHARDSON], the two Members representing the House of Representatives at the wreath-laying ceremony at the Washington Monument for the observance of George Washington's birthday on Wednesday, February 22, 1995, be inserted in today's CONGRESSIONAL RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMARKS OF THE HONORABLE STEPHEN HORN

GEORGE WASHINGTON: A WISE LEADER FOR AN EMERGING NATION

I congratulate the members of the National Park Service, not only on what you have done to preserve history in the nation's capital, but what you have done throughout the nation to give our fellow citizens, young and old, and visitors to our shores a view of the past and to convey the ideals of this nation which has given hope to those less fortunate. You do a great job, and all Americans appreciate it.

When we think of George Washington we think of a person of great character and presence. He was also a good listener, but when he spoke, other people immediately stopped to listen to what he had to say. He was a person of common sense. He was a wise leader.

He also had a sense of humor. Today in the United States Senate, Senator Craig Thomas of Wyoming will read the Farewell Address of President Washington. That tradition of the Senate reminds me that when Thomas Jefferson, who was not at the Constitutional Convention, came back from France, he visited his fellow Virginian and friend, George Washington, at Mount Vernon. He said, ''George, you were President of the Constitutional Convention, why did you ever create the Senate of the United States?'' Washington looked at Jefferson and said ''Tom, why are you pouring your tea into a saucer?'' Jefferson answered, ''To cool it.'' ''Thus so,'' smiled Washington, ''that is why we created the Senate.''

Washington was an outstanding executive, both military and civilian. He set the precedents for the office of the Presidency. When you think of his cabinet, you see four men of great talent: Thomas Jefferson, Secretary of State; Alexander Hamilton, Secretary of the Treasury; General Henry Knox, Secretary of War; and Edmund Randolph, Attorney General. Few cabinets have had such overall distinction. Some might equal it, but it would take ten or twelve people to equal those four.

In his wise and visionary Farewell Address to the nation, which I mentioned earlier, Washington influenced the policy of political parties in this country for over 150 years, when he cautioned against permanent entangling alliances with foreign nations.

It was Washington's wisdom, his thoughtfulness, his presence and character that set the foundation for a nation that would expand from 13 small colonies, newly states, westward across a continent. He had vision, and the characteristics of great leaders. We honor him, with good reason, on this day.

REMARKS OF THE HONORABLE BILL RICHARDSON

I am honored to join my colleague, the Honorable Stephen Horn, Councilman Jack Evans, the Park Service and other distinguished guests as we gather at the foot of this imposing monument to honor our nation's first President.

While local residents may grow accustomed to this huge monument, those of us who come here from a far are awestruck by it. We are taken back by its size and shape, its power and the unbelievable view or vision it offers for those who travel to its top. In fact, its size, its power and its vision are very much like the man it recognizes and the man we are honoring today.

George Washington was so admired and revered that no man challenged him for the office of the Presidency—Washington is the only person to seek the office without opposition. His two terms were a great success. He governed with dignity as well as restraint. He provided stability and authority which our young nation so sorely needed. He understood the need to compromise and reach agreement with men of opposing views.

One could easily argue that George Washington understood the Presidency because as Chairman of the Constitutional Convention he helped design our democracy. But, planning for a democracy and instituting a democracy were two very different tasks. Thankfully, George Washington was heroic at both missions.

In fact, George Washington was exceptional at many endeavors. Long before his rise to military leader of the War for Independence, he was a farm boy who had to grow up fast after his father died when he was just 11 years old. He taught himself surveying. Upon the death of his half-brother, he became a land owner of Mount Vernon at age 20. He was an active member of his community and his church. The rest, as they say, is history.

When compared to George Washington's 263rd birthday, we in New Mexico are quite young. Our state is only celebrating our 83rd birthday this year. Even though we may be a bit younger than our nation's founding father, we join our fellow states and countrymen with great enthusiasm and praise in honoring President Washington on this anniversary of his birth.

PRESIDENT GEORGE WASHINGTON, 263D BIRTHDAY OBSERVANCE, FEBRUARY 22, 1995, WASHINGTON MONUMENT, WASHINGTON, DC

PROGRAM

Opening: Arnold Goldstein, Superintendent, National Capital Parks-Central, National Park Service.

Presentation of the Colors: Joint Armed Services Color Guard.

To the Colors: Old Guard Fife and Drum Corps; Drum Major Anthony Hoxworth.

Welcome: Superintendent Goldstein.

Musical Selection: Old Guard Fife and Drum Corps.

Remarks: Russell Train, First Vice President, Washington National Monument Society; John Reynolds, Deputy Director, National Park Service; The Honorable Jack Evans, Councilmember Ward 2, Council of the District of Columbia; The Honorable Stephen Horn, U.S. House of Representatives, 38th District, California; and The Honorable Bill Richardson, U.S. House of Representatives, 3rd District, New Mexico.

The Wreath of the House of Representatives: Honorable Bill Richardson and Honorable Stephen Horn.

The Wreath of the Washington National Monument Society: Russell Train and Councilmember Jack Evans.

The Wreath of the National Park Service: John Reynolds and Terry Carlstrom.

The Wreath of the Naval Lodge No. 4, Masons of the District of Columbia: John Davis, Worshipful Master.

Taps and Retiring of the Colors: Old Guard Fife and Drum Corps and Joint Armed Services Color Guard.

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DOWNSIZING GOVERNMENT

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the Committee on Appropriations has completed nine of the ten subcommittee mark ups for our fiscal year 1995 supplemental appropriations and downsizing rescissions bills. Only the Legislative Branch Subcommittee remains to be marked up tomorrow. The results so far are that the various subcommittees have recommended more than $17 billion in rescissions of previously appropriated funding. If you add to this the $3.2 billion of rescissions included in the defense supplemental that the House passed on Wednesday, the Committee on Appropriations is developing bills that include over $20 billion in rescissions.

That is why tonight I take this opportunity to thank my subcommittee chairmen and the members of the Committee on Appropriations, both Republican and Democrat, and all our staff for their serious and fruitful efforts. Through hard work we are making big change, and most importantly, keeping promises to the American people.

ORDER OF BUSINESS

Mr. TORKILDSEN. Mr. Speaker, I ask unanimous consent that the special order requested by the gentleman from New York [Mr. SOLOMON] immediately follow the special order requested by the gentleman from Mississippi [Mr. MONTGOMERY], and that the special order requested by the gentleman from Arizona [Mr. STUMP] immediately follow the special order requested by the gentleman from Pennsylvania [Mr. MURTHA].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REFORM WELFARE, BUT NOT AT THE EXPENSE OF CHILDREN

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GENE GREEN of Texas. Mr. Speaker, Members, in response to the last 1 minute, let me talk about what the school lunch and breakfast program really does. We heard, and we are in markup in the Committee on Education and Economic Opportunity, we heard there are not cuts. Let me tell you what I have from the State of Texas Department of Education agency, but also from Houston Independent School District. That shows that the Republican majority is cutting the school lunch and breakfast program.

The President is right and we need to be honest with the American people. We need to reform welfare, but we do not need to take it out of the mouths of the children and their breakfast or lunch program.

The Republican majority here in the House and the talking heads I see on TV say they are actually providing more funds. But in the State of Texas we would see a 4-percent cut in the school lunch and breakfast program, and that is one we grow every year. So we are cutting 4 percent right now.

Again, we should reform welfare, but not out of the mouths of our children and not out of America's future.

TEXAS EDUCATION AGENCY

Proposed impact of school-based nutrition block grant amendment on Texas' Child Nutrition Program Fiscal Year 1996

Projected by 1996 national funding for school-based child Nutrition Programs (per USDA)	$6,897,000,000
Proposed funding under block grant amendment	$6,626,000,000
Difference*	$271,000,000
Percent decreases	<3.9%>
Impact on Texas	
Projected FY 1996 school-based child nutrition funding	$561,000,000
Percent decrease (3.9%)	<21,879,000>
Balance available	$539,121,000

''The difference may be attributable to the inclusion of other programs (Child and Adult Care Food Program and the Summer Food Services Programs) in the determination of the funding levels. Information on these programs may be obtained from the Texas Department of Human Services.

Note: The balance available for FY 1996 is approximately equal to the amount we estimate to disburse in FY 1995. The result, in effect, is to allow for no growth from FY 1995 to FY 1996. In Texas the reimbursement for these programs have increased approximately 8 percent per year for the past five years. The proposed increases in the amendment of approximately 4.6 percent per year would not allow for the current level of growth in these programs.

Proposed impact of school-based nutrition block grant amendment on Houston ISD (HISD) Child Nutrition Program Fiscal Year 1996

Impact on Houston ISD:	
Projected fiscal year 1996 School-based child nutrition funding	$43,000,000
Proposed decrease (3.9%)	<1,677,000>
Balanced available	$41,323,000

Note: The balance available for FY 1996 is approximately equal to the amount estimated for FY 1995. The result, in effect is to allow for no growth in FY 1996. In the Houston ISD reimbursements for these programs have increased approximately 3 percent per year over the past five years. The proposed increases in the amendment are approximately 4.6 percent per year and would allow for the current level of growth in these programs.

Impact of the proposed school-based nutrition block grant amendment on Houston ISD (HISD) 1995–96 school year

Child nutrition funding:	*Millions*
Current Projected funding (using 3% growth)	4.27
Funding based on proposal (1.7% assuming an equal distribution of the states reduction in growth)	42.2
Projected loss in Child Nutrition funding	.5
State foundation program funding:	
Current Projected funding	215.9
Funding based on proposal	214.0
Projected loss in Foundation Program funding	1.9
Total projected loss for 1995–96	2.4

Note: Assuming the state's required increase is 8% (based on the past 5 year history), an amendment to allow only 4.6% would require a 47% reduction in the projected growth to all state programs including the Houston Independent School District (HISD). The projected increase in students qualifying for free and reduced priced meals of 6,528 would have to be limited to 3,721 students. Limiting the number of qualifying students effects the allocation for the Child Nutrition program as well as the State Foundation Program funding for HISD shown above.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

REMEMBERING IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 5 minutes.

Mr. BONIOR. Mr. Speaker, I'm here today to talk about a simple tribute paid by an ordinary man to one of the greatest battles and some of the greatest heroes in American history.

Mr. Speaker, today this Chamber is mostly silent, and our attention is focused on the issues of the day.

But 50 years ago this week, the eyes of this House—and indeed all of America—were focused on a small, sulfuric island in the South Pacific, and a group of brave young men who helped save the world.

For 4 years, World War II had raged.

Europe lay in ruins, millions had perished in the death camps, and much of the world was pitched in darkness.

In the South Pacific, most of Japan was out of the reach of United States planes.

But Franklin Roosevelt believed that if United States troops could gain a foothold in the South Pacific, and if our planes had a place nearby to land, then the enemy might soon be vanquished and the war might soon be over.

Fifty years ago this week, that task fell to a group of young marines, in a mission called ''Operation Detachment,'' at a place called Iwo Jima.

The battle was expected to take 14 days. It took 36.

The enemy was so dug in that they were nearly invisible.

Fighting was so fierce that one marine remarked that ''you could've held up a cigarette and lit it'' with all the fire flying by.

But with a strength of spirit forged in the hometown churches, and neighborhood ballfields, and the schoolrooms of America, these young men who had been eating Coney dogs, dancing to Glenn Miller, and rooting for Joe Dimaggio just a short time before helped turn back one of the greatest evils this world has ever known.

There were 81 Congressional Medals of Honor awarded in all of World War II.

Twenty-seven were awarded for Iwo Jima alone.

But it was on the 5th day of fighting—50 years ago today—that Iwo Jima was burned into our memory.

Because on that day a young combat photographer named Joe Rosenthall took one of the most inspiring photographs in the history of America.

I'm talking, of course, about this famous photo of five marines and one Navy corpsman raising a triumphant American flag on Mount Suribachi above the sands of Iwo Jima.

For 50 years, this photo and the great bronze memorial made in its image have served as a lasting tribute to the courage and bravery of young Americans who served this country well, and who triumphed under conditions most of us could hardly imagine.

But of all the great tributes paid to the men of Iwo Jima the past week none is more inspiring—and I believe none speaks more to the heart of what it means to be an American—than the simple tribute paid by a sheet metal mechanic from Connecticut earlier today.

There, in the small town of Danielson, CT—population 16,000—Rick Orzulak finally lived out a tribute that was 3 years in the making.

Three years ago, Mr. Orzulak—who is a former marine himself—decided to pay a special tribute to the soldiers who fought at Iwo Jima.

He decided that with the help of the members of the local Paul C. Houghton detachment of the Marine Corps League—of which he is a member—they would recreate the flag raising in the small town of Danielson.

In order to do so, he decided, each person needed to be dressed exactly like the soldiers in the photograph—in uniforms and gear actually issued during World War II.

So, 3 years ago, with the help of his wife Beverly, Mr. Orzulak started making phone calls.

Using his own money, he tracked down frogskin pattern helmet covers from California and Montana.

He found herringbone trousers in Virginia and Mississippi.

He found K-bar knives in Massachusetts.

And crossflap canteen covers in Texas.

Until finally, one by one, each uniform was complete.

He even tracked down a U.S. flag with 48 stars.

And finally, in Danielson this morning, as the Star Spangled Banner and then the Marine Corps hymn played, five former marines and one former Navy corpsman—Mr. Orzulak, Arthur Blackmore, Dennis O'Connell, Richard Bugan, Louis Verrette, and Francis Stevens—raised the flag in tribute to the men of Iwo Jima.

If you ask them why they did it, they'll say ''we did it for one simple reason:''

To say ''thank you'' to the men who fought at Iwo Jima.

And ''Semper Fi'' to the heroes who never came home.

Mr. Speaker, today as we join Richard Orzulak and Americans everywhere in remembering the sacrifices made at Iwo Jima, let us be strengthened by their courage, heartened by their valor, and let us continue to stand up for the ideals for which they lived and died.

Let us resolve that the men who served our country will never be forgotten.

Because in the end, that's the highest tribute we can pay.

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The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

[Mr. SCARBOROUGH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMEMORATING THE 50TH ANNIVERSARY OF THE MARINE LANDING ON IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, there are a number of Members gathered on the floor tonight to speak of an important event which took place 50 years ago. The United States was at war with Japan, and the main target in February 1945 of our forces was Iwo Jima.

This past Sunday, Mr. Speaker, we commemorated the 50th anniversary of the Marine landing on Iwo Jima at the Marine Corps War Memorial across the Potomac. I had the privilege of being there at this ceremony, and it was very well done, and the Commandant of the Marine Corps, General Mundy, told us 50 years ago at that date, at 9 o'clock in the morning, the 3d Marine Division went ashore at Iwo Jima.

While the battle was still raging, Admiral Nimitz saluted the warriors with words that are now carved at the statue base, and it says this: ''Uncommon valor was a common virtue.'' He said this without knowing that 27 of those who served on Iwo Jima would later be awarded the Medal of Honor. As mentioned here tonight, over half of the 27 had been killed on the island, and their families received and accepted the Medal of Honor.

One of the most remarkable things about the battle is how well both sides were prepared. The island was part of Japan's inner vital defense zone. Its commander was a general, and he had been on the island for many months, and he had designed textbook defensive positions. His men were disciplined, and resigned to the fact that they were unlikely to leave the island alive.

In the end, 90 percent of the Japanese defenders perished, but they exacted a high toll of American lives as well.

The Japanese knew exactly on the island where the Marines were coming in to land, and they had trained their big guns on that position. The American invasion force was battle-tested. Mr. Speaker, it was a good force, and had the largest number of Marines ever engaged in a single action.

The 4th Marine Division had conducted successful amphibious operations in the Marshall and Marianas Islands. The 3d Marine Division fought in the Solomons and on Guam.

Among the invaders were two marines who had been awarded the Congressional Medal of Honor who participated on that day. In addition to a veteran landing force, the Marines had strong support from our American battleships, and the big guns were firing on the island as well as the Marine, Navy, and Army Air Force planes.

The initial bombardment knocked out many of the Japanese shore defenses, but well-protected Japanese guns, as I understand it, on the northern part of the island fired killing salvos on the marines gathered on the beachhead. One marine said and described Japanese shelling as one of the worst bloodlettings of the war. They rolled their artillery barrages up and down the beach, he said. ''I really don't see how anybody could live through the heavy fire barrages.'' Many of the Japanese fortifications were not affected by American artillery or by our air bombardment, so that the only way to advance had to be a frontal attack that the American Marines made.

I can think of very few occasions since the American Revolution where American forces were required to attack such heavily fortified positions. In this single action, we took more casualties than in any other battle that our country has ever fought another enemy. Only one other battle in the history of the world has had more casualties than we took at Iwo Jima. That was where the British lost 60,000 soldiers in a frontal trench attack in World War I.

Mount Suribachi fell on this day that we are celebrating 50 years ago, Mr. Speaker, and all the American forces who saw the now immortal flag-raising cheered this tactical victory. Unfortunately, the main battle was still ahead, and it took the Marines over a month to overcome the well-entrenched Japanese in the 4 miles of terrain north of Suribachi.

Three of the six who raised the flag were killed several days later.

Every marine knows the translation of the Marine Corps motto ''Always Faithful.'' Roughly one out of every three marines who landed at Iwo Jima was a casualty, either killed or wounded. Twenty thousand Japanese were killed, and over 6,000 American personnel lost their lives in the face of some of the fiercest defenses ever encountered by an attacking force.

The marines were faithful to their fellow marines, to their commanding officers, and to the American ideals which are symbolized so well by the image of the flag raising over Suribachi.

The flag symbolizes the idea of democracy and freedom, and we still enjoy that democracy and freedom. Freedom from oppression, freedom to choose, and freedom to speak your beliefs. But the price of those freedoms has always been dear. Three of the men pictured in the famous photograph and in the bronze statue by Felix de Weldon died on Iwo Jima. The uncommon valor which was so common on the beaches and rocks of Iwo Jima must always be remembered.

In closing, I want to express my appreciation for the work of the Marine Corps Historical Center here in Washington, Dan Crawford, a historian at the Center, has been very helpful in getting us the facts about this important battle. In addition, this pamphlet written by Col. Joseph Alexander, USMC (Ret.) entitled ''Closing In: Marines in the Seizure of Iwo Jima,'' was the source of much of the information which we used tonight. It is available from the Marine Corps Historical foundation in Quantico, VA. The toll-free telephone number is 1–800–336–0291, Extension 60.

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IN HONOR OF THOSE SERVICEMEN WHO FOUGHT AND WON THE BATTLE OF IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I certainly thank the Speaker, and I thank the former speaker in the well, the gentleman from Mississippi [SONNY MONTGOMERY]. He is certainly one of the strongest supporters of our veterans in this Nation, and I take my hat off to him.

Mr. Speaker, having had the privilege of serving in the U.S. Marine Corps, I'm especially pleased to participate in this special order tonight to honor those courageous servicemen who fought and won the epic battle of Iwo Jima during World War Two. The men faced death against great odds and many, in fact, lost their lives on this island halfway around the world. The significance of their efforts is timeless and worthy of continued attention. In fact, if not for the efforts of these selfless patriots, we almost certainly would not be the leader of the free world, a position we have retained ever since their victory. In that respect, Mr. Speaker, each and every citizen in this country, of all ages, owe an extreme debt of gratitude to these defenders of freedom.

Mr. Speaker, words cannot possibly do justice to the horrific events and extraordinary feats of valor that comprised this bloodiest of battles in Marine Corps history. However, in an attempt to demonstrate the burdens under which these brave soldiers performed, it is necessary to review what was at stake as they approached the beaches of Iwo Jima that February morning in 1945. When we begin to acknowledge the extent of their sacrifice, it will become clear that this battle was not only momentous and a turning point then, but has implications even today.

Strategically, this 8-square mile hunk of rock (known as the island of Iwo Jima) was as crucial to ending the war with Japan as attacks on their mainland. The reason being, even our superior B–29 bombers couldn't effectively raid the Japanese mainland, because accompanying fighter planes couldn't make the long trip from United States bases on the Mariana Islands to the mainland. Without these fighter escorts, the bombers were subject to Japanese attacks, because radar gave the Japanese 2-hour advance notice of the bombers' arrival. As a result, Mr. Speaker, Iwo Jima, which lay exactly between the Mariana Islands and Japan, became a necessity, if we were to break the Japanese will and end the war.

The troops going in that day clearly understood the significance, as it was the largest Marine force ever deployed for one mission, and these patriotic souls were prepared to sacrifice their lives to attain this island. It was a battle of will on will, Mr. Speaker, a strict frontal assault on a position defended to the maximum extent, yet they refused to yield.

In the end, one third of all marines killed in World War Two died on this uninhabited Pacific island. However, they died of single task and single mind, seizing this island in the spirit of democracy and liberty over imperialism and oppression. I'd like to share a quote of Maj. Gen. Graves B. Erskine, who commanded the 3d Marine Division in this battle. It sums up the commitment of these men to overcoming such unparalleled burdens.

> Victory was never in doubt. Its cost was. What was in doubt (in all our minds) was whether there would be any of us left . . . at the end, or whether the last Marine would die knocking out the last Japanese gun and gunner.

It's hard to imagine the adversity each and every man storming this island was faced with. However, Mr. Speaker, this battle not only represented the costliest in terms of casualties that the Marine Corps ever experienced in its almost 200-year history but it also produced the most Congressional Medals of Honor in the war. Confronting death against great odds, these men responded above and beyond the call of duty. Pitting their will against that of the Japanese, Mr. Speaker, made it no contest in the eyes of these honorable Americans. After all, they had the will of free people throughout the world on their side.

To that end, Mr. Speaker, I'd like to share with you the extraordinary feats of one such Congressional Medal of Honor winner from my home State of New York, Pfc. Douglas Thomas Jacobson of Rochester, NY. As a member of the 4th Marine Division on February 26, 1945, Jacobson waged a battle to penetrate the Japanese cross-island defense. Private Jacobson, just 19 years of age, singlehandedly destroyed 16 enemy positions allowing his unit to gain the strong ground and breach the defense of the enemy. Mr. Speaker, the spirit and valor of this man went undaunted in the face of an established and fortified enemy. All of us could only hope we could respond as selflessly and honorably as Douglas Jacobson. Appropriately, he was honored again this past week at the 50th anniversary of the onset of the battle by President Clinton.

The actions of people like Pfc. Douglas Jacobson was of immediate significance. Seizing the island of Iwo Jima allowed fighters to escort the bombers on their missions over Japan, but of equal importance, it provided a secure airfield for emergency landings when returning from these air raids. According to the Navy Office of Information, by wars end, 2,400 bombers with 27,000 crewmen made emergency landings on Iwo Jima airfields.

However, Mr. Speaker, the significance goes beyond even that, if you can imagine. This was a fight that took place half way around the world yet reeked of American spirit and democratic consequences. It marked the beginning of our realization that this Nation must carry the torch for freedom against imperialist domination and tyranny. Mr. Speaker, this victory and the victory in World War Two geared us for our fight against Communist oppression which made its face known shortly thereafter. Now, communism has been dealt a major blow yet it lingers on in places like Cuba and China where people are subject to repugnant human rights violations and denial of basic dignity. Even more nations are ruled by harsh dictators without respect for individual freedoms, and who are content to jeopardize the very existence of their people in order to sustain their elitist inner circle.

The lessons of Iwo Jima and events in World War Two, prove that we need to maintain preparedness in order to overcome such imperialism. Furthermore, it is an insult to freedom fighters such as those who lost their lives in Iwo Jima when we constantly yield privileges such as equal trade status to empires like China, an empire that

speaks of taking over the independent province of Taiwan and continues to enslave the people of Tibet. Mr. Speaker, it remains imperative that we maintain our military presence and preparedness to instill confidence in our many democratic allies, while providing a beacon for those who suffer under the oppression occurring everyday. We simply cannot ignore these threats from the outside world. Mr. Speaker, I quote then Vice-President Richard Nixon upon the dedication of the Iwo Jima memorial in 1954:

> This statue symbolizes the hopes and dreams of America and the real purposes of our foreign policy. We realize that to retain freedom for ourselves, we must be concerned when people in other parts of the world may lose theirs.

Mr. Speaker, this rings true today as it did then. May we never forget the sacrifices of these men on behalf of this maxim. Indeed, there is no greater representation, here or in the world, of the advance of democracy over imperialism, than the statue in Arlington Cemetery which depicts victorious ambassadors of freedom raising the American flag over this outpost of imperialism. Mr. Speaker, may we continue to learn from their sacrifice and contain those bent on denying freedom and destroying democracy.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania, [Mr. MURTHA] is recognized for 5 minutes.

[Mr. MURTHA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

NEVER FORGET THE SACRIFICES OF THE MEN WHO FOUGHT ON IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. STUMP] is recognized for 5 minutes.

Mr. STUMP. Mr. Speaker, I first would like to pay honor to the gentleman, my colleague, SONNY MONTGOMERY. Probably no one in recent history has done more for the veterans of this country than SONNY and I want to commend him for bringing about this special order tonight.

Mr. Speaker, 50 years ago I had the honor of being a young sailor and participating in the battle of Iwo Jima. Our role was from a small escort air carrier delivering napalm bombs and rockets to the island and supporting our troops. Fifty years ago today plus four was the day we raised the flag on Mount Suribachi. One of the men that participated in that was an Indian from my state of Arizona by the name of Ira Hayes, a Marine.

Mr. Speaker, I think that too often we take these things too lightly, and I just hope that we do not forget this. May we never forget the sacrifices of all those people that participated, that paid with their lives. May that flag always wave over this country. Mr. Speaker, we pray this will never happen again.

I would like top read a quote by a captain, a Marine, on the island at that time, to his parents. He said, ''Only those who fought on Iwo will ever know how tremendous a job was done. It is now sacred ground to us because certainly many of us came so close to eternity that we will never be worldly again.'' Capt. William Ryan wrote this to his parents in March 1945 from Iwo Jima.

Mr. Speaker, at this time I would be happy to yield to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I rise to associate myself with the remarks of my colleagues and fellow Marines as we celebrate the 50th anniversary of Iwo Jima. I want to associate myself with the remarks of the gentleman from Arizona and give special thanks to Gen. SONNY MONTGOMERY. A finer friend of the military and our veterans our Nation has never seen.

My father, Wes Roberts, who was a Marine Corps major, who lied about his age at 42 to join the Corps and at age 43 was on Iwo Jima, took part in the 36-day assault on this very key island. Fifteen years later, Lieutenant PAT ROBERTS, yours truly, went back to Iwo Jima with Lieutenant General Worsham and a contingent of survivors and veterans, and we toured the island. We not only toured Mount Suribachi and the caves and the end of the island, but also the Japanese cemetery to pay homage to those brave veterans as well.

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And we were standing on top of Mount Suribachi. I will never forget this. All of the veterans of the people who were there at that particular time during the assault looked down at where we had cliffs and then Mount Suribachi and then knee-deep ashes on the beach. And the gentleman turned to me, tears streaming down his face and he said, it is a wonder that anybody ever really made it. It is a wonder anybody was really alive.

We toured the island, and we toured those caves where still the dead Japanese are there. And it was an amazing feat in terms of a military victory. Somehow, by persevering, somehow, by uncommon valor and at great cost both to Americans and Japanese, we saved lives and the end result by bringing this war to its proper conclusion.

I would like to say, as a former Marine, Semper fi, Dad. Semper fi, Marine Corps. Semper fi, America. God bless the United States Marine Corps.

Mr. STUMP. Mr. Speaker, I yield to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Speaker, I thank the gentleman for yielding to me.

There is an old saying, abandon all hope, ye who enter here. And Bill Mauldin, in World War II, had a cartoon where one GI said to the other, in combat, I feel like a fugitive from the law of averages. And such an attitude is necessary when you face enemy fire. You must forget about the good life. You must forget about everything. You must consider yourself already dead.

The philosopher tells us, civilization progresses because young men die for their country and old men plant trees under which they will never sit. And Henry V, he exhorts his troops at St. Crispin's battle, in peace nothing so becomes a man as stillness and humility. But in war, imitate the action of a tiger. Stiffen the sinews, summon up the blood, exchange for fair nature hard-favored rage.

To die for one's country is love than which there can be no greater.

Mr. Speaker, on February 16, 1945, the Americans initiated a pre-invasion naval bombardment lasting three days. Task Force 58, the most powerful carrier force ever assembled, struck the Japanese mainland to prevent enemy support. The Iwo Jima operation, codenamed Detachment, included 1,800 carrier-based and 7th Air Force planes; a quarter-million seamen on nearly 800 ships; and 75,000 GI's of the ''V Amphibious Corps.'' The main assault units included the 3rd, 4th and 5th Marine Divisions, and various other forces of army and navy construction battalions.

On Monday, February 19, 1945 at 9:00 a.m., the 4th and 5th Marine Divisions landed on the southeastern shore of Iwo Jima. Within 20 minutes, the marines were 250 yards inland. At that point, the Japanese opened up with all they had.

Three days later, on February 23, (50 years ago today) a 40 man patrol of the 5th Division's 2nd battalion, 28 Marines, cleared the 550 foot summit, of Mt. Suribachi. That morning, photographer Joe Rosenthal took the famous photograph of the raising of the American Flag overlooking the island. Secretary of the Navy, James V. Forrestal, a witness to the flag raising, commented that: ''the raising of that flag means a Marine Corps for another 500 years.''

By the time it was over in mid-summer, 22 Marines and five Navy men earned the Congressional Medal of Honor. This was the greatest number of Medal of Honor recipients for any single engagement of World War II. Half of the awards issued were posthumous, and Iwo Jima represented more than one-fourth of all Medals of Honor awarded Marines during the entire war.

Total American casualties were 28,686. The Japanese sacrificed 23,300 lives and 1,083 of them ultimately surrendered.

By the end of the war, 2,251 B–29's landed at Iwo Jima. Of that number, more than 800 made emergency landings. Without Iwo Jima, many of the 9,000 American crew men would most likely have been lost.

ON THE 50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Illinois [Mr. EVANS] is recognized for 5 minutes.

Mr. EVANS. Mr. Speaker, I take great pride in joining my fellow colleagues and Marines in honoring the

sacrifices of those who fought and served 50 years ago at Iowa Jima.

The battle for Iowa Jima holds a special place in the history of the Marine Corps. In many ways, it established the Corps firmly in the American consciousness. The picture of six Marines raising the American flag on Mount Suribachi is perhaps the most memorable image from World War II to most Americans. Yet, it is only a symbol of the immense sacrifice it took to wrest the island from Japanese control.

Iwo Jima was one of the bloodiest battles of the entire war. Some 6,800 American men died in the struggle for the Island, another 18,000 wounded. Roughly one out of every three marines who landed on the island became a casualty.

I think the engraved words on the face of the Iowa Jima monument tell the story of the battle best, quoting Admiral Nimitz when he said: ''Among the Americans who served on Iwo Jima, uncommon valor was a common virtue.''

It is a testament to that valor that more Marines were awarded the Congressional Medal of Honor at Iowa Jima than in any other single battle in the history of the Corps. One of the 22 recipients, Captain Robert Dunlap, is a constituent. He was born in the town of Abingdon and now resides in Monmouth, Illinois.

Let me quote to you from the citation given to Captain Dunlap when he was awarded our Nation's highest military honor.

Defying uninterrupted blasts of Japanese artillery, mortar, rifle and machine gun fire, Capt. Dunlap led his troops in a determined advance from low ground uphill toward the steep cliffs from which the enemy poured a devastating rain of shrapnel and bullets, steadily inching forward until the tremendous volume of enemy fire from the caves located high to his front temporarily halted his progress. Determined not to yield, he crawled alone approximately 200 yards forward of his front lines, took observation at the base of the cliff 50 yards from Japanese lines, located the enemy positions and returned to his own lines where he relayed the vital information to supporting artillery and naval gunfire units.

Persistently disregarding his own personal safety, he then placed himself in an exposed vantage point to direct more accurately the supporting fire working without respite for 2 days and 2 nights under constant enemy fire, skillfully directed a smashing bombardment against the almost impregnable Japanese positions despite numerous obstacles and heavy Marine casualties. A brilliant leader, Capt. Dunlap inspired his men to heroic efforts during this critical phase of the battle and by his decision, indomitable fighting spirit and daring tactics in the face of fanatic opposition, greatly accelerated the final decisive defeat of Japanese countermeasures in his sector and materially furthered continued advance of his company. His great personal valor and gallant spirit of self sacrifice throughout the bitter hostilities reflect highest credit upon Capt. Dunlap and the U.S. Naval Service.

Mr. Speaker, the heroism of Captain Dunlap and the rest of the veterans of that conflict helped bring the end of the war closer. The capture of the island brought our strategic bombers within effective range of the Japanese mainland. It also saved lives. Over 2,000 B–29's used Iwo Jima as an emergency landing strip after the invasion.

As a former marine, I salute Capt. Dunlap and all of the other veterans of the battle whose selfless service and sacrifice secured our freedoms, including my own cousin Jack * * * born in Rock Island, IL, and now living in Davenport Iowa, who served valiantly with the other marines in that conflict.

I am so pleased and honored to have had this opportunity to join my fellow Veterans' Committee colleagues and former marines in this special order.

Semper Fi to each and every one of you.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

[Mr. MICA addressed the House. His remarks will appear hereinafter in the Extensions of Remarks.]

ON IWO JIMA

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Texas [Mr. TEJEDA] is recognized for 5 minutes.

Mr. TEJEDA. Mr. Speaker, first let me say that I am honored to speak in this special order tonight and I thank Congressman MONTGOMERY for organizing the special order. During the past several days, this Congress and this Nation have paused to reflect on the Battle for Iwo Jima, which was engaged 50 years ago this past Sunday. I read with interest the dialogue which took place in the other body last Wednesday, and I hope my colleagues will take the time to read the CONGRESSIONAL RECORD account of that discussion in addition to this special order.

Last Friday at Fort Sam Houston in San Antonio Marines past and present and other veterans gathered at a luncheon honoring this Iwo Jima campaign and those who fought there. Preparing for this speech gave me an opportunity to reflect on the significance of this historic battle: Both to the Marines of 1945 and to the Marines of today and tomorrow. Since my colleagues have already discussed the battle itself, I will try to focus on the present and the future.

As this Nation honors those who served 50 years ago, we cannot escape the fact that their numbers are decreasing. Their dedication, bravery, and devotion to fellow man and country and Corps are left for future generations to honor.

I wore the Marine Corps uniform for a different generation, a different war. Yet I cannot and will not forgo the obligation, the responsibility, of honoring the legacy of those who served before me. Set the example.

We honor them in many ways: By awarding medals, building monuments, lending their names to streets, schools, and bases just to name a few. But those of us who serve in Congress have an extra responsibility to these men. We must ensure that the blood, sweat, and tears which they shed in wartime will not be forgotten during this or any other prolonged period of peace.

Gen. Holland Smith said that the battle of Iwo Jima would assure the internal existence of the Marine Corps. This may be true, but in what form? The debate still rages in the halls of Congress.

Today's Marine Corps is in a precarious position. Nobody will dare question the quality of the men and women currently serving in uniform. The problem is: Do we have enough of them in uniform to meet our national security needs and are we able to take care of them adequately?

General Mundy, during his testimony in support of the FY 96 budget request, stated that the proposed force level of 174,000 active and 42,000 selected marine reservists is, the absolute minimum force level to enable the corps to meet today's requirements.

In addition to the budget debate in Congress, there is a roles and missions debate ongoing in the Pentagon. The recommendations from an independent panel will be released shortly. In this context, I offer a small comparison between the battle for Iwo Jima and the Persian Gulf war.

I recall nearly 5 years ago that many people called for a comprehensive, sustained air campaign against Iraq's forces in hopes that ground troops would not be needed. Many feared that the price of military victory in human lives would be too high.

After 38 days of aerial bombardment, which President Bush called, ''* * * the most effective, yet humane, in the history of warfare,'' ground forces were ordered into Kuwait to achieve the military objective.

Looking back at Iwo Jima, we must not forget that the island and its defenders were subjected to 6 months of constant aerial bombardment before the marines landed. In the past 50 years of technological advances, it is still the grunts on the ground who will be called upon in the future to fight and win our Nation's battles.

Even during my service, Mr. Speaker, every Quonset hut, every barracks that you went into, you would see a motto, a quote there that said, ''The more we sweat in peacetime, the less we bleed in war.'' Today's Marines are ready and prepared.

Mr. Speaker, the survivors of Iwo Jima do not seek any personal glory. They served because their Nation called. It is only fitting for my generation and those after me to recognize, honor, and commemorate these valiant Marines.

However, I believe the most appropriate tribute we can pay is to forever uphold the values which they exhibited

as Marines. Although words alone cannot describe the totality of their experience at Iwo Jima, Adm. Chester Nimitz came closest: ''Uncommon valor was a common virtue.''

There are two ways to pay this ultimate tribute. The first is to educate our colleagues, since more and more enter this body without any military service, our children, and all future generations so that the battle for Iwo Jima and the valor and discipline of Marines is always remembered.

The second is to ensure that the Marines of today and tomorrow will have the arms, equipment and materiel to live up to the high standards set by those who served on Iwo Jima.

The Marines of Iwo Jima have left their legacy. Let us work to make this legacy an enduring one.

GEORGE PEABODY—AMERICA'S FIRST PHILANTHROPIST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. TORKILDSEN] is recognized for 5 minutes.

Mr. TORKILDSEN. Mr. Speaker, I too join with my colleagues in paying tribute to the courage and the valor of the Marines at Iwo Jima and every soldier and sailor who fought in that battle and especially those who made the supreme sacrifice. Tonight I would like to speak about another great American.

Mr. Speaker, February 18, 1995, marked the 200th anniversary of the birth of George Peabody—the famous American merchant, financier, and America's first philanthropist.

George Peabody represents the classic example of what we would now call the American Dream. He was born to a family of modest means in the southern part of Danvers, MA. That portion of Danvers has since been renamed Peabody in his honor. At the age of 11 he began working as a grocer's apprentice in Danvers. Even though George Peabody had no further formal education after this point in his life, he went on to open a wholesale goods company here in Washington, DC.

In 1812, this establishment expanded to open branches in Baltimore, New York, Philadelphia, and London—where George Peabody went in 1827 in search of merchandise to sell.

While in London, Peabody eventually became very active in securities trade and international banking which made him—in many ways—a de facto ambassador to England for America and American business.

But George Peabody was much more than just a list of successful business deals, contracts, and agreements.

Throughout his life, George Peabody remembered from whence he came, and helped those who had helped him achieve financial success beyond the wildest definition of financial success.

In 1835, Peabody negotiated an $8,000,000 loan to the State of MD, which was on the brink of bankruptcy. While he would have been entitled to a $60,000 commission, Peabody refused any and all payment. This would be just the first of many great acts he would perform on behalf of the public.

The list of those he helped is impressive and the extent to which he helped would be extraordinary even by today's standards.

George Peabody donated the funds to create or greatly assist the following institutions and universities:

The Peabody Institute of Johns Hopkins University in Baltimore, MD; the Peabody Institute Libraries of Danvers, Peabody, Newburyport, and Georgetown MA, Thetford, VT, and Georgetown in the District of Columbia; the Peabody Museum at Harvard University; the Peabody Museum of Natural History at Yale University; the Peabody Essex Museum of Salem, MA; the Peabody Trust of London, England, which created low income housing for the poor of London; Washington and Lee University; Kenyon College in Ohio; and the Peabody Education Fund distributed substantial contributions to the following colleges and universities, to help them educate their citizens after the Civil War, including the Peabody Teachers College at Vanderbilt University and many universities throughout the South.

Peabody's commitment to education is apparent. The Peabody Education Fund, the first of its kind in the country, was created with $2 million in 1867, and distributed $6 million until its assets were donated to southern universities in 1914. Peabody referred to education as ''a debt from present to future generations.''

Mr. Speaker, George Peabody's legacy of generosity and compassion is one which should serve as an example to all Americans. What makes America a great nation does originate here in Washington. Government simply does not have all the answers. Much of what makes our country a great country happens in our communities, our civic organizations, our places of worship, and always by our people.

Solutions often come in the form of selfless acts by dedicated individuals like Mr. George Peabody.

In the city of Peabody, the town of Danvers, and other communities throughout the Nation and throughout the world, there will be celebrations of the life and generosity of George Peabody. By celebrating the greatness of one man, we are celebrating the power of an individual to make the world a better place. This George Peabody did, and for this, we say thank you.

COMMEMORATING 50TH ANNIVERSARY OF THE BATTLE FOR IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. MCHALE] is recognized for 5 minutes.

Mr. MCHALE. The Medal of Honor.

Joseph Jeremiah McCarthy. Captain, United States Marine Corps Reserve, Second Battalion, 24th Marines, 4th Marine Division. Iwo Jima. 21 February 1945.

Citation.

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as commanding officer of a rifle company attached to the 2d Battalion, 24th Marines, 4th Marine Division, in action against enemy Japanese forces during the seizure of Iwo Jima, Volcano Islands, on 21 February 1945. Determined to break through the enemy's cross-island defenses, Capt. McCarthy acted on his own initiative when his company advance was held up by uninterrupted Japanese rifle, machinegun, and high-velocity 47-mm. fire during the approach to Motoyama Airfield No. 2. Quickly organizing a demolitions and flamethrower team to accompany his picked rifle squad, he fearlessly led the way across 75 yards of fire-swept ground, charged a heavily fortified pillbox on the ridge of the front and, personally hurling handgrenades into the emplacement as he directed the combined operations of his small assault group, completely destroyed the hostile installation. Spotting 2 Japanese soldiers attempting an escape from the shattered pillbox, he boldly stood upright in full view of the enemy and dispatched both troops before advancing to a second emplacement under greatly intensified fire and then blasted the strong fortifications with a well-planned demolitions attack. Subsequently entering the ruins, he found a Japanese taking aim at 1 of our men and, with alert presence of mind, jumped the enemy, disarmed and shot him with his own weapon. Then, intent on smashing through the narrow breach, he rallied the remainder of his company and pressed a full attack with furious aggressiveness until he had neutralized all resistance and captured the ridge. An inspiring leader and indomitable fighter, Capt. McCarthy consistently disregarded all personal danger during the fierce conflict and, by his brilliant professional skill, daring tactics, and tenacious perseverance in the face of overwhelming odds, contributed materially to the success of his division's operations against this savagely defended outpost of the Japanese Empire. His cool decision and outstanding valor reflect the highest credit upon Capt. McCarthy and enhance the finest traditions of the U.S. Naval Service.

Mr. Speaker, in a different circumstance, the then-Commandant of the Marine Corps said, ''Oh, Lord, where do we find men such as these?'' Since November 10, 1775, we have found them in the U.S. Marine Corps.

Mr. Speaker, the finest book that I have ever read on the battle for Iwo Jima I am now holding in my hand. The title of the book is ''Iwo Jima: Legacy of Valor,'' and the author was Bill D. Ross, a combat correspondent who landed with the Marines on that fateful island.

What I would like to do, Mr. Speaker, is read one passage from this superb book in tribute to those Marines and in tribute to Mr. Ross himself who recently died, capturing the sacrifice and the courage of those very brave men.

D plus 23, March 14, 1945.

This, too, was the day the cemeteries were dedicated.

Marines had been coming down from the high ground in the north since early morning, not because of the flag-raising ceremonies but to seek out graves of fallen comrades. The burial grounds by now had the appearance of hallowed dignity, and what was spoken at the ceremonies added to the aura.

''No words of mine can properly express the homage due these heroes,'' General Cates said of the Fourth Division dead, ''but I can assure them and their loved ones that we will carry their banner forward. They truly died that we might live, and we will not forget. May their souls rest in peace.''

Navy Lieutenant Roland B. Gittelsohn, a Jewish chaplain, delivered the eulogy for the Fifth Division in words that I think were prophetic: Here lie officers and men, Negroes and whites, rich men and poor—together. ''Here are Protestants, Catholics, and Jews—together. Here no man prefers another because of his faith or despises him because of his color. Here there are no quotas of how many from each group are admitted or allowed. Among these men there is no discrimination. No prejudices. No hatred. Theirs is the highest and purest democracy.''

Virginia General Erskine commanding general, was visibly moved, his frame ramrod straight as his tearful gaze swept the rows of markers in the Third Division resting place. ''There is nothing I can say which is wholly adequate to this occasion,'' he began. ''Only the accumulated praise of time will pay proper tribute to our valiant dead. Long after those who lament their immediate loss are themselves dead, these men will be mourned by the nation. For they are the nation's loss.''

''Let the world count our crosses. Let them count them over and over. Let us do away with names, with ranks and rates and unit designations, here. Do away with the terms—regular, reserve.''

The general paused. ''Here lie only,'' another pause, ''only Marines.''

□ 2100

In closing, Mr. Speaker, and very briefly, let me assure the American people and affirm for my fellow Marines the spirit of these Iwo Jima veterans is burned deep in the soul of every Marine serving today. Semper fidelis to Corp and to country, semper fidelis.

NEUTRAL COST RECOVERY

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, I entered earlier today into the extension of remarks a tribute to one of Michigan's heroes in Iwo Jima.

I rise on this 5-minute special order to remind my colleagues of the economic danger that faces our country if we do not take some action to encourage capital investment in America.

Expensing and neutral cost recovery is the only proposal in the Contract With America that specifically encourages businesses to purchase machinery and equipment and facilities. The problem that was brought to my attention today is an article in the National Review dated February 20. I hope my colleagues will take time to read the article entitled: Missing the Point. In summation, I read from the article. It says: ''Living standards of American workers rise or fall with the amount of capital their employers are able to invest in them.'' In 1990, the average American manufacturing worker was supported by $98,598 worth of machinery, structures and other capital, according to the Department of Commerce.

Service industries invested just $21,495 per worker. Recent research traces the stagnation in real wages to slower growth in capital investment per worker, and the danger of what is happening in this country is that the rest of the world is acting very aggressively to do everything they can to attract our capital investment. They are changing their tax laws, they are taxing their businesses less.

Over the long haul, worker productivity, GDP per worker, is vital because it determines growth in the wages and living standards. Let me give a little historical outlook on this. From 1950 to the early 1970's average annual productivity growth of 2.3 percent per year helped America advance and raised our standard of living above everybody else in the world, but since 1975 we have slowed to a crawl, 0.8 percent per annum, while worker productivity in Europe and Japan has expanded more than twice the rate of what we have expanded in the United States. If we compare the United States with the rest of the world, we save less of our take-home dollar, we invest less per worker in machinery and equipment and, not surprisingly, our increase in productivity is also at the bottom of the list of the industrialized world.

Neutral cost recovery, indexes depreciation schedules for inflation. Under our tax code businesses have to wait 5, 10, 15, 20 years before they are allowed to deduct from their income those investments in machinery and equipment. We make them depreciate it over that period of time while inflation eats up the value of that depreciation.

I sponsored the neutral cost recovery bill last year with 90 bipartisan cosponsors. This year I reintroduced the bill, H.R. 199, and this proposal has been endorsed by leading business organizations, the U.S. Chamber of Commerce, the National Federation of Independent Businesses, National Business Owners Association, and others because they appreciate the fact that capital formation is the key to economic success and maintaining and improving our standard of living in this country.

Under this neutral cost recovery bill, businesses would be allowed to expense or deduct in the first year of purchase, $25,000. Neutral cost recovery or indexing the outyear depreciation for inflation in the time value of money would be applied to those outyears in the depreciation schedule.

I conclude, Mr. Speaker, by suggesting that we need not put our businesses at an economic disadvantage with the rest of the world. We need to change our tax laws, we need to encourage capital formation and the investment in machinery and equipment that increase the efficiency, and ultimately the productivity, and finally the competitive position of this country.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

RESOLUTION PROVIDING INFORMATION ON MEXICAN LOAN GUARANTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I am pleased to announce to my colleagues today that the House Committee on Banking and Financial Services, under the able leadership of our Chairman, JIM LEACH of Iowa, today passed House Resolution 80. This was originally filed by the gentlewoman from Ohio [Ms. KAPTUR] with substitute language of the gentleman from New York [Mr. KING]. This will give Congress the ability to have the background information on the $20 billion Mexican loan bailout or guarantee as it may be called. The bill specifically asks the President for any documents that relate to the condition of the Mexican economy; any consultations between the Government of Mexico and the Secretary of the Treasury; a description of the activities of the central bank of Mexico; information regarding the implementation and extent of wage, price and credit controls in the Mexican economy; a complete documentation of Mexican tax policy; a description of all financial transactions both inside and outside of Mexico directly involving funds disbursed from the exchange stabilization fund; any documents concerning any legal analysis with regard to the authority of the President or the Secretary of Treasury to use that stabilization fund; and any documents concerning the value of any of the oil, the proceeds from the sale of which are pledged to the repayments of any financial assistance provided by the United States to Mexico.

I bring this to the attention of my colleagues, Mr. Speaker, because Congress and the American people are rightfully concerned whether the President has exceeded his powers in effectuating the $20 billion loan guarantees. Congress is also concerned about illegal drug trafficking and what Mexico is doing about it, and also illegal immigration and what Mexico is doing about it, and further if the collateral pledged by Mexico is sufficient to protect the interests of the United States.

I will work with my colleagues for final passage of this legislation so we can get the answers from the White

House and the President in order to help protect the interests of the American people in my district and all 435 districts to make sure we protect the people in this House.

□ 2110

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

[Mr. BRYANT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BECERRA] is recognized for 5 minutes.

[Mr. BECERRA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THANK YOU TO THOSE WHO SACRIFICED 50 YEARS AGO AT IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under a previous order of the House, the gentleman from Georgia [Mr. BARR] is recognized for 5 minutes.

Mr. BARR. Mr. Speaker, when I entered these hallways just a short time ago to deliver a speech on something that I thought was mighty important and, indeed, it is, I sat here for a few moments and listened to the words of my colleagues on both sides of the aisle harken me and those of us here and those of us in the listening audience back 50 years, and suddenly the matter of loans and loan guarantees to Mexico, as important as they are, and suddenly, as important as the work that I had the honor of performing today in the Committee on the Judiciary on tort reform, as important as that work is, suddenly paled in comparison when I listened to the words of the brave men here this evening talk about what happened on a sandy, salty, bloody beach 50 years ago.

And as I sat here in this great Chamber, I could almost smell the diesel fuel from the landing craft, smell the salty air, feel the crunch of the sand under my feet and hear the cries of the brave men who landed on Iwo Jima that day and who fought inch by inch, foot by foot, yard by yard up through to Mount Suribachi.

And I think, Mr. Speaker, how important it really is that we not forget those lessons, that we not forget those accounts, that we not forget the great history of the U.S. Marine Corps and what those men fought for, and I think, Mr. Speaker, that it is extremely important that through their words such as those we heard here this evening, through their eloquence such as we heard here this evening, through their loyalty, we must be ever mindful of the real purposes that we serve here, and that is to protect freedom in all its forms for all Americans, because if we do not and if we lose sight of that great ideal, then they will, indeed, have died in vain, they will, indeed, have suffered in vain, and if we do that, if we fail to remember that legacy, those values, those ideals, that when I travel back to my home State of Georgia and I see such tremendous patriots as Gen. Raymond Davis, a Marine, ever and always a Marine, who won the U.S. Medal of Honor, when I see good friends of mine back in Georgia like Clark Steel, a Marine, always a Marine, and when I sit here right now and I look in the eyes of ROBERT DORNAN, such a tremendous patriot and fighter for this country, I could not continue to do that if I were not reminded and if I did not continue, as I do now, to feel in my heart and my mind the tremendous admiration for those men, those Marines, those Americans who fought on those bloody beaches and those rocky slopes 50 years ago.

To them I say, ''Thank you, thank you, and we will carry on in these halls so that we never have to go through what you went through for us 50 years ago.''

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PETE GEREN] is recognized for 5 minutes.

[Mr. PETE GEREN of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes.

[Mr. LIVINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO THE CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION BASKETBALL TOURNAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. SCOTT] is recognized for 5 minutes.

Mr. SCOTT. Mr. Speaker, I rise today to call the attention of the House to this year's Central Intercollegiate Athletic Association [CIAA] basketball tournament. As we commemorate Black History Month, it is fitting to recognize and to celebrate this exciting event. We are all familiar with the Negro Baseball league and basketball greats such as Wilt chamberlain and Michael Jordan. However, when we talk about athletics and history, we cannot forget the CIAA.

This year the CIAA, its players, its coaches, its supporters, and fans are celebrating its 50th anniversary. Beginning in 1946 with 16 teams, the CIAA has become one of the Nation's largest and most celebrated collegiate athletic conferences.

In 1946 the CIAA tournament kicked off long traditions of both rivalry and sportsmanship. It was that year that Virginia Union and North Carolina Central University, then known as North Carolina College, came head to head in the tournament's championship game. It was that tournament and that championship game that started a legacy of comradery and competition that live on among players and fans today.

But, Mr. Speaker, recognizing the CIAA tournament is not merely recognizing athletics, it is recognizing the importance of education. The CIAA represents a commitment to providing resources and education to athletes and other students.

It is important for us to salute the 14 participating institutions, including the five from Virginia: Hampton University, Virginia State University, Norfolk State University, Virginia Union University, and St. Paul's College. These institutions, like many other historically black colleges and universities, not only offer athletics but most importantly, they provide top-notch, world-class educations.

With that in mind, I salute the coaches, past and present, who have developed high-caliber players and students. Coaches like Talmadge ''Marse'' Hill of Morgan State, Harry R. ''Big Jeff'' Jefferson of Virginia State, and Chet Smith of St. Paul's College who worked together to bring us the first CIAA and the 50 exciting years of play-by-play action that has followed.

We also cannot forget Clarence ''Bighouse'' Gaines, an assistant coach at the 1946 conference, who has gone down in history as the head coach of Winston-Salem State University and as the coach with the most wins in the CIAA.

It goes without saying that the student athletes are what make the CIAA so great. Bob Dandridge and Earl Monroe were outstanding CIAA players before they joined the ranks of the NBA. In 1946, players like Rubert ''Rupe'' Johnson, Howard Bessett, Elmer ''Big Daddy Mac'' McDougal, Robert ''Skull'' Hering, Thornton Williams, and Jim Dilworth, who was named the 1946 MVP, ignited the heart stopping, hoop-to-hoop action that lives on today.

If you have ever had the pleasure of attending a CIAA tournament, you know that the fans, friends, and supporters of the tournament and the league are dedicated and committed to CIAA basketball. These are the kinds of fans who not only cheer on players and students; they bring an arena alive.

While a tournament is not complete without its cheerleading and entertaining antics, CIAA supporters and fans have helped expand the CIAA from its meager $500 starting budget to a tournament that today generates approximately $7.5 million for the host city's economy. They, along with the coaches and players, make the CIAA the hottest—sold out—ticket in town.

Mr. Speaker, I, along with the many alumni, fans, and supporters, look forward to this year's 50th anniversary CIAA tournament in Winston-Salem, NC, taking place this week and to many successful years to come.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

[Mr. MILLER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

FEDERAL FOOD ASSISTANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I just wanted to join my colleague, the gentleman from Virginia [Mr. SCOTT], in recognizing the CIAA tournament. We both will be in attendance, and we both have schools in that that will be participating and, indeed, it is commendable that he has brought to the attention of the Nation that this tournament has been in operation for 50 years.

Mr. Speaker, H.R. 4, the Personal Responsibility Act of 1995 is irresponsible. Federal nutrition programs for children and families will not be the same if this bill passes. School lunches and breakfasts will be slashed. Thousands of women, infants, and children will be removed from the WIC Program. National nutrition standards will be eliminated. And States will be able to transfer as much as 24 percent of nutrition funds for nonnutrition uses.

But, the impact of this proposed change goes even deeper. Retail food sales will decline by ten billion dollars, farm income will be reduced by as much as $4 billion and unemployment will increase by as many as 138,000. The security of America's economy is at stake. From the grocery stores, large and small, to the farmer and food service worker—everyone will suffer. Most States will lose money. That is why, if I may borrow a quote, I will resist the change, ''with every fiber of my being.'' Some want capital gains cuts. Some of us want an increase in the minimum wage. Others want block grants. We want healthy Americans.

Some want a full plate for the upper crust and crumbs for the rest of us. We want, and we will restore Federal food assistance programs. It is irresponsible to do otherwise. Nutrition of our citizens should not be left to chance. We have a choice. During the second half of the 100-day push under the Contract With America, we will vote on the Personal Responsibility Act of 1995. Title 5 of that act proposes to consolidate all Federal food assistance programs and convert them into a block grant program.

I intend to offer an amendment in the Agriculture Committee and on the House floor should my effort in committee prove unsuccessful. My amendment would restore these vital nutrition programs. Most are working and working well. If the block grant program is passed, children and seniors will face immediate, unnecessary nutrition and health risks. There will be instantaneous cuts in Federal food assistance programs. National nutrition standards will be eliminated. And, money designated for nutrition programs will be transferred to nonnutrition programs, thus further reducing available resources.

It is also important to note that there is no real accountability in the block grant proposal, there is no contingency plan in the event of economic downturns and, the proposal does not streamline or eliminate bureaucracy as promised. School-based nutrition programs, such as school lunches and breakfasts, have been particularly successful. Even the proponents of H.R. 4, I believe, will concede this point. According to the U.S. Department of Agriculture, if the block grant program is put in place, in fiscal year 1996, funding for school-based programs would be $309 million less than the current policy.

And, such funding would be over $2 billion less over the 5-year period between 1996 and 2000. In fiscal year 1996, as much as $1.3 billion could be transferred for nonfood programs. Such a transfer would mean as much as 24 percent less than the fiscal year 1996 level. Additionally, for more than 50 years, America has maintained a set of national standards that have guided school-based nutrition programs. All school meals must meet certain minimum vitamin, mineral and calorie contents. Those national standards are regularly updated, based upon the latest research and scientific information.

Those national standards would give way to State by State standards—standards which could be as many and varied as there are States. Those varied standards run a greater risk of being compromised by tight budgets and different perspectives. Family nutrition programs face a similar fate if they are converted into a block grant program. Spending for these programs would be $943 million less in fiscal year 1996, and $5.3 billion less over the 5-year period from 1996 to the year 2000, under the block grant program. Incredibly, up to $900 million could be transferred by the States under the block grant program.

Mr. Speaker, change for the sake of improvement is good. Change for the sake of change is not. Something different does not necessarily create something better. The nutrition programs do not need the kind of sweeping change as proposed by the proponents of H.R. 4.

□ 2120

TRIBUTE TO THOSE WHO FOUGHT THE BATTLE OF IWO JIMA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine [Mr. LONGLEY] is recognized for 5 minutes.

Mr. LONGLEY. Mr. Speaker, I understand that my colleague, Mr. DORNAN, from California, is going to be addressing the House a little bit later this evening on the subject of Iwo Jima. In advance of his presentation, I want to take a few minutes to address the House to talk about what a great day this is.

Fifty years ago today, the flag was raised proudly atop Mount Suribachi during the Battle of Iwo Jima. It is a great day for World War II veterans. it is now 50 years ago that we were winding down World War II. This was one of the last major battles that was fought. But it was also a great day for Marine veterans and those Marines, sailors, who were involved in that battle.

But there is one aspect of the flag raising that I would like to call some attention to. Specifically, we are all familiar with the famous photograph that was taken by Joe Rosenthal of the Associated Press and what a great landmark photograph that that was, probably one of the most famous combat photographs ever taken, certainly in world history one of the most familiar ever taken.

But that was the second photograph of a flag raising. I want to devote a minute to talk about the photographer of the first flag raising on Mount Suribachi, a Marine Corps staff sergeant by the name of Lou Lowery.

Lou was a Marine Corps combat correspondent. Many who maybe have not had experience in the military might not understand the important role that combat correspondents, both photographers and journalists, play. Literally in every action in which American servicemen and women are involved, combat photographers and journalists follow.

Lou Lowery, as a staff sergeant, was with the first patrol that raised the first flag. The photograph that was taken wasn't as dramatic as the one that was taken by Mr. Rosenthal, but yet it was just as significant, because it symbolized the triumph over extreme odds of a determined group of Marines and sailors who were determined to fight and achieve victory for this great country.

But it was also an important photograph in the sense that Lou may not have ever received the credit that Mr. Rosenthal did. But in many ways his photograph and his memory is as fitting a tribute to World War II veterans

as Mr. Rosethal's. Because there were millions of men and women, not just in World War II, but in every action we have been engaged in, who, without a whole lot of credit, did their duty, performed their service, achieved great victories for this country against all odds, but yet never quite received the credit that others might have received.

So on this great day, the 50th anniversary of the flag raising on Iwo Jima, I certainly am proud to stand here, not only as a reserve lieutenant colonel in the Marine Corps Reserve, but also as an American, to salute those men and women who have served in our Armed Services, who were involved in World War II, and the veterans of that great conflict, and in particular the veterans of Iwo Jima, one of the bloodiest battles in American history, and certainly a battle that is well worth our remembering on this important day.

AFFIRMATIVE ACTION IN AMERICA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from South Carolina [Mr. CLYBURN] is recognized for 60 minutes as the designee of the minority leader.

Mr. CLYBURN. Mr. Speaker, let me begin by paying homage and respect to those who give their lives and sacrifice also at Iwo Jima 50 years ago. We all owe them a great deal of debt and gratitude. Of course, as I think about all of the sacrifices that were made at Iwo Jima, I think that this was four years before the Executive Order, 5 years before the Executive Order by President Truman that made it possible for many of the men who made sacrifices at Iwo Jima to get some semblance of the recognition that they were due.

□ 2130

Because it was by Executive order of President Harry Truman that the Armed Forces were integrated and that men of color were then able to take their rightful places in the overall defense of our Nation. And we have come a long way from that, all the way up to having recently celebrated a person of color to hold the highest military office in our land. And we all join tonight with those who have gone before us this evening to celebrate those sacrifices.

Of course, that brings me to the issue that we are here to discuss tonight, an issue that we are hearing a lot about today, the issue of affirmative action. I am pleased to be joined tonight for this special order by my good friend, the Representative from Mississippi, Mr. THOMPSON, BENNIE THOMPSON, and my good friend, the gentleman from Alabama, who is Representative EARL HILLIARD.

The three of us tonight are going to spend just a little time, hopefully trying to shed some light on a subject that has been the object of a lot of heat in the last few days.

Let me begin by stating what I think is the obvious for all of the people of goodwill in our great Nation. And that is the goal that we all strive for, and that is a goal of a color-blind society. That is what our goal is. I would suspect that that is the goal of most honest, right-thinking, reasonable people in America.

The question becomes, how do we get there? I do not believe that anybody would read the recent census figures that arrived in my office today over exactly where all of the segments of our society stand; that is, where they stand as relates to equality of pay, the relative pay of one group as opposed to the other. We all understand that that is something that needs to be addressed.

One of our Supreme Court justices said a few years ago that in order to get beyond color in our society, we must first take color into account.

Let me share, Mr. Speaker, with the listeners tonight something that I think makes that point very, very vividly. I hold in my hand an article from a newspaper in my State, published on February 6. It is interesting. This article says that of the 119 occupied seats on boards and commissions in a particular county, 77 percent are filled by men and 95 percent are filled by whites.

Now, the interesting thing about this is that the gentleman in charge of all of this had this to say, and I quote: ''I do not think anybody has ever really paid any attention to it. Women can do the job as well as men. But I don't know if we have ever taken a look at it. Maybe we should.''

Then one of the elected officials from that same county had this to say about this: ''The racial and gender makeup of commissions is something I had really not thought about. Maybe we should commission a study of the issue.''

Now, Mr. Speaker, what we want to talk about here tonight is exactly this. This is something that people just do not seem to think about, because it is taken for granted. For some reason people just feel that things, we have been doing it this way, so there is nothing wrong with continuing to do it that way. But the fact of the matter is, for us to reach a color-blind society, we must first take color into account. And so tonight I am pleased to be joined first by my friend, the gentleman from Alabama, Mr. HILLIARD, who I am going to refer to at this time, for him to sort of set the stage for us as we try to discuss this issue to the point that maybe we can get some good, high-level intelligent discussion of this rather than all the heat that we have had in the last days.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. HILLIARD].

Mr. HILLIARD. Mr. Speaker, I thank the gentleman for yielding to me. I would like to say, first of all, that I think perhaps we may want to give some type of quick historical analysis of why affirmative action, because that is the subject we want to talk about tonight.

Soon after the Civil War, we had a period in our history that we called Reconstruction. And during that period, there were those who wanted to make sure that former slaves could participate in the political process in every respect and participate fully as Americans in our society.

So we had a great deal of bureaus that were established to do just that. They had certain objectives. And, of course, you know that was about very close to 150 years ago. And during that time, the Reconstruction period, the State of Alabama was represented by three different congresspersons who were all black Republicans and they were, so to speak, my predecessors.

After reconstruction, it took about 117 years before Alabama, once again, had an African-American to represent the State of Alabama in Congress.

Well, it is interesting to note that during the period of Reconstruction, there were a large number of affirmative action policies and, in fact, affirmative action laws. And those laws were passed by various State legislatures and by the U.S. Congress itself.

But by 1895, and very close to 1900, none of those laws existed, because of all types of problems that occurred from the majority to deny participation fully in the American society. Blacks did not and were not able to participate in the laws, lawmaking bodies of the State of Alabama or any of the former Southern States. And they were not allowed to hold Government jobs. They were not allowed to do other things that the average citizens took for granted, the average white citizen.

Of course, this went on until about 1954 or earlier, maybe a few years earlier in some of the States. But between the period of 1865 and 1954, about an entire century, there were those that rode the curve, so to speak.

□ 2140

There were periods of times in several States where blacks were able to perform according to their capacity, their ability. They received certain preferences, and this was for only a short period of time during Reconstruction. Then the curve dropped back to where it was before the Civil War. All of the programs that had been put in place to protect them, to make sure that they were able to participate in the American Government society, were terminated.

During this void from Reconstruction up until 1954, some States realized that African-Americans should be able to participate in the electoral process, should be able to participate in certain governmental activities, so there were a few laws made that were not affirmative in nature, but they did state affirmatively that segregation or discrimination would not exist in certain areas of our society, or in certain industries, or with certain Government

jobs. Of course, the real breakthrough was with Harry Truman, when he gave that Executive order that in essence was to begin what we know as affirmative action, when he gave that directive of the Armed Forces to start making changes.

Many of those soldiers had participated in World War II. They later participated in the Korean Conflict, and in other conflicts since that time. When they came back after fighting for freedom for other countries and for this country, many of those soldiers realized that they were not yet free, that they still were denied opportunities. So they went to the streets. As a result of their activities, Congress decided to make changes. Instead of saying that segregation and discrimination were wrong, they decided to state in affirmative terms certain things that would take place and that would make a difference. They stated it not in the negative sense but in the affirmative sense. So affirmative action really became a concept, or a tool, that could be used to sort of integrate African-Americans into the political process or into the work force. It was made to, I would say, level the playing field, because there had been a series of laws, we called them down South Jim Crow laws, that had been put in place that tilted the playing field in our American society in favor of white males. They were the privileged class. Everything possible, every opportunity, every rule and every regulation was made to give them an opportunity to maintain their privileged status from 1872, after the period of Reconstruction, up until that directive that President Truman gave.

Affirmative action is a concept or a tool that would not tilt the field in terms of giving preferences to African-Americans but would give preferences only for the purposes of making that playing field level.

I submit that although some of those laws have been on the books for perhaps as long as 40 years, the playing field is still not level.

Mr. CLYBURN. I thank the gentleman very much. Let me say before I go to our friend the gentleman from Mississippi [Mr. THOMPSON], I am glad you pointed out the affirmative nature of the Executive order of President Truman as it relates to the Armed Forces. It may be good for people to know that in 1961, I think March of that year, President Kennedy issued an Executive Order No. 10–924. In that Executive order he said something very interesting, that it is the plain and positive obligation of the U.S. Government to promote and ensure equal opportunity for all qualified persons.

The question, the two operative words there are to promote and to ensure. It did not say to make a statement, but to actively promote, to actively go about doing something; and to ensure the equal opportunity.

I want to point that out, because the Executive order that a lot of us talk about that came along later under President Johnson who reissued this Executive order but also issued in addition to it 11–246, and that is when we first heard the terms being used affirmative action, because that Executive order called upon the Government to take affirmative steps to ensure, not just to say we will not discriminate, that is a passive thing, but to be active and say we are going to go out and we are going to recruit where we did not recruit before.

I remember when I was a student at South Carolina State University, I graduated from there back in 1962, when minority people went out recruiting people to work in the various industries around the State of South Carolina, nobody ever came to South Carolina State University. I do not know if they came to Tougaloo. But nobody ever came to South Carolina State. I never knew where the jobs were. Nobody in my class knew where the jobs were. Nobody ever said that this place is open for you and you should feel free to come and apply for one of the jobs here that you are qualified for. So like everybody else, we felt obliged to go and teach school, or some of my friends later on went to law school. But I went out and I taught school until such time as things opened up and I could go and apply for one of those jobs.

I am going to yield now to our good friend the gentleman from Mississippi [Mr. THOMPSON]. Maybe he can shed some additional light on this subject.

Mr. THOMPSON. I thank the gentleman from South Carolina [Mr. CLYBURN], and I applaud him for reserving this time to talk about what probably will be the most explosive issue debated during the 104th Congress.

What I would like to do is, believe it or not, to quote a Republican on the affirmative action issue before I start. Last Sunday in a ''Meet the Press'' program, Jack Kemp said that affirmative action is a dagger pointed straight at the heart of America.

Basically what he is saying is, if this country plays the race card, in effect, we are going to split this country right down the middle.

I submit that we can do better. This is the greatest country in the world. We have risen to the occasion in times of adversity in the past, and I think before we succumb to what is called the angry white male syndrome, we need to take a deep breath and look.

While we will do that, Mr. Speaker, let me just say that sometimes, being from the State of Mississippi, I am convinced that many of the affirmative action and civil rights laws that we have on the books came because my State did not treat African-Americans properly. Our history is a history that is laden with bodies, it is laden with blood, it is laden with a lot of things we are embarrassed about.

Just to give a few indications, my State is one of a few that is yet to adopt equal opportunity in employment and other things as a law of the land. You, yourself, directed for a number of years the South Carolina Human Affairs Commission. We tried unsuccessfully for about 10 years to get our State to adopt it. The only recourse we had was to go to the Federal laws through EEOC and others to get employers and other people to do the right thing.

Clearly there is a need for affirmative action. But taking it along with what the gentleman from Alabama [Mr. HILLIARD] said earlier, the history of it from the standpoint on education and any other prerequisite you can look at, all of us went to school systems that operated under the dual system, supposedly separate and equal, but, as we know, they were separate and unequal. Much of the education and experience we received was inadequate. Nonetheless, some of us survived. But the point to be made is that if we had not had affirmative action, many of the schools that are now integrated would not be there.

□ 2100

For myself, I wanted to be a lawyer. Unlike Mr. HILLIARD and most of the other Members here, law school was not an option for me in my State, but nonetheless some other people went. My State went so far as to say we will send you to any school out of State you want to go to as long as you do not want to go to a white school. That was unfortunate. They paid 3 times the money to send me out of State to school than to let me go to a school in that State.

So there are a number of things that we have to understand. But I think we cannot let this color-blind notion fool us. If we think America is a color-blind society, we are fooling ourselves. It is a good code word but it does not work. It does not work simply because all of the Presidents since that initial Executive Order that you referred to earlier, every President since Kennedy has renewed that Executive Order.

So, up until now we are operating under executive orders that talk about affirmative action being the law of the land. As we go into this discussion we will quote some statistics to the people listening to show that even with the laws on the books we still have a long way to go.

So what I would like to do is reserve the balance of the time for the colloquy that we will enter into to just discuss the whole notion of affirmative action and make sure there is some understanding.

But the last point is, without moving it too far, you really have to have been a victim of what we are talking about to really understand it. For most of us who are over 45, we never had new textbooks in our community, we never had the opportunity to play in a public playground or swim in a public swimming pool, and so some of us take very

seriously the notion of affirmative action because this was the only opportunity that many of us ever received. Many of our relatives left our communities because they had no opportunity, they had to go north, they had to go west, so affirmative action programs allowed me to stay in Mississippi and pursue a career and ultimately end up in Congress. But had we not had those programs that allowed that opportunity to exist, many of those individuals who are here today would not be here because there was no cover or no support for that effort.

So I look forward to the debate and the discussion on this, and there are some very startling statistics from the employment standpoint and other things that will highlight what we are talking about.

Mr. CLYBURN. I thank the gentleman very much.

Let me see if I may set the stage here a little bit. When we talk about affirmative action it is kind of interesting we hear so many people discussing it who seem not to really know what it means.

As a concept, affirmative action is just a program or policy that is in place in order to remove the current and lingering effects of past discrimination. That is all it is.

There are many ways to do that. We look at it in various fields. We just had a discussion earlier this week over what we need to do to affirmatively make programs possible for people of color, minorities, if you please, in this instance blacks and Hispanics, to own radio stations. Here we are at the time the policy which we just voted to eliminate was put in place, one-half of one percent of all of the radio stations in this country were licensed to minorities. Now that is blacks who, according to the census I just received, constitute about 13 percent of our population, Hispanics somewhere around 9 percent, 10 percent, or 11 percent, depending upon how you categorize it, but fully 25 percent of our citizens owning one-half of one percent of the radio stations. So how do you do about rectifying that?

We put in place a rule, not a law but a rule, FCC rule, and what we said in that rule was that anybody who would agree, nobody is going to make you do it, but if you say you will sell your cable or whatever your media may be, radio station, to a minority you get a tax credit for doing it. And so here we are putting the program in place, a program which quadrupled, better than quadrupled that. Today that number went to 3 percent.

So we know that it worked, and so here we are going backwards on that, and then the question then becomes why is it that we do not keep the program in place to see can we get in the next few years to 10, or 12 percent or something approximating these people's presence in our population.

Mr. HILLIARD. Mr. Speaker, will the gentleman yield? It is interesting that the gentleman stated that no one made anyone do anything. It was not a mandate, it was not a preference. The only thing it was was an incentive.

Mr. CLYBURN. Absolutely.

Mr. HILLIARD. That is one thing about most of the affirmative action programs and policies. The language is used to ensure that there is no such thing as a mandate or as a preference. Most of the time those programs or the language that is used talks of goals, talks of incentives, and most of the time the words that are used are words that we hear every day, words that today encourage, words that say to the extent practicable. It does not say absolutely, it does not say it has to be, it does not mandate and it does not grant. It only gives in many instances just incentives.

Mr. CLYBURN. Absolutely.

Mr. THOMPSON. If the gentleman will yield on that point, I served on the board of supervisors in the largest county in the State of Mississippi, and one of the notions we looked at was inclusion. When we looked at employment, when we looked at contracts, when we looked at the whole county government, we saw a void of minorities, both women and people of color. We devised a minority preference program, we created an affirmative action program for employment, and I am happy to report that over a period of 6 years to 7 years we increased our contracting from less than 1 percent with minorities to over 25 percent. We had very little opposition to it.

We presented this as the right thing to do, that you cannot expect people who are taxpayers, who make up a significant portion of a community, to just be totally ignored. To ignore it would be in effect illegal in my estimation, especially when you know it is wrong, and you have to plan the corrective action. We did it, it worked, and I am happy to report, as I said to the gentleman, that our county now leads the State in contracting as well as employment.

So, it works if you are committed to it. But if you are not committed to making it work, it will not work.

Mr. HILLIARD. the gentleman is absolutely correct, and there has to be a commitment, and in many instances that commitment must be stated in terms of some positive manner in which the commitment could be carried out, such as a particular program in order to achieve a desired objective.

□ 2200

You know, I recall a program that was set out, one they said was an affirmative action program, and it would benefit minorities, benefit blacks, and, in fact, it benefits more whites than blacks, and I speak particularly about a program that was designed so that the first person in a family can go to college if no one else in his family has ever attended college or ever graduated from college, and that sounded like a very good concept. It is a beautiful objective for this country. We want to make sure that everyone receives as much education as possible in this country, and we want to encourage families to educate members of their families.

And in situations where you have a family where no one has ever been to college, you want to give some type of encouragement or you want to create some type of positive effort so that those persons will want to go out, so they set up what is called the TRIO program.

The TRIO program was going to be for those persons who in their family no one had ever attended college, and it was set up, and most of the poor people who participate in TRIO programs across America happen to be white, and it is still a good program, but this is an affirmative program. It is set up to achieve a desired result, and we should continue to promote programs like that, because it helped diversify America. It helped educate America, and it helped open America up to everyone so that they could participate.

Let me say the reason why I pointed this out is because today Speaker GINGRICH stated that he would be in favor of an affirmative action policy that promoted people based upon their status or whether they are poor, whether they are in poverty, and so forth, and he wanted to erase certain categories like gender and race and other things.

Well, all well and good. I think that perhaps that would be a good category. I do not have any problems with it. I think we want to get people out of poverty.

So I suggest that, and I submit that, if he proposed a bill that would promote people out of poverty, that would give poor people an opportunity to participate fully in American society, I would cosponsor that bill with him.

Mr. CLYBURN. Let us yield just a moment, if we might; we have been joined by the gentleman from Louisiana [Mr. FIELDS], and I want to go to him in just a minute, because you just talked about the TRIO program.

It was my great honor 2 weeks ago to meet with all of the southeastern participants of TRIO, that is, Outward Bound and Talent Search. It was my great honor to direct the Talent Search program some 25 years ago.

Of course, I know that the gentleman from Louisiana [Mr. FIELDS] was one of those TRIO students, and is a great success story as to how that all works.

I was looking up some statistics trying to figure out, not an affirmative action program, but it was put in place for the express purpose of doing affirmative things: 42 percent of all the students in the TRIO program are white students, 42 percent. Thirty-four percent are black, and the rest are basically Hispanic.

So my point is you can in fact devise a program that will reach out.

Mr. HILLIARD. Yes, an affirmative action program.

Mr. CLYBURN. Affirmative action program, yes, and will use race as just one indicator, because now we must remember that no one was denied access to public accommodations on the basis of their status economically. You were denied access to public accommodations based upon color. There was not a water fountain that says ''For lower-income'' and ''Upper income.'' It says ''For white'' and ''Colored.''

So let us not lose sight on that.

With that, let me yield to our good friend, the gentleman from Louisiana [Mr. FIELDS].

Mr. FIELDS of Louisiana. I thank the gentleman from South Carolina for yielding.

Let me also thank the gentlemen for carrying on this conversation tonight. I was sitting in my office, and I saw the gentlemen on the floor and decided to come over to just speak to one or two subjects.

First of all, let me speak to the subject of the TRIO program. The gentleman from Alabama stated the need for the TRIO program.

I stand, Mr. Speaker, tonight as a product of the TRIO program, and but for the TRIO program, I probably would not be standing here as a Member of this institution, and to have programs such as the TRIO program under attack today certainly is not only unacceptable but is unconscionable and certainly does not warrant merit to have those kinds of programs under attack.

I thank the gentlemen for talking about the TRIO programs, because there are thousands of young people all across the country who need a program like this TRIO program. They are not black students, they are not white students, they are not Democratic students, they are not Republican students, they are just students who need help and students who need assistance. They are students who come from single-parent households like I was. I was a student who came from a single-parent household. I was a student who came from a family of 10. I was a student, and the reason why my family was a single-parent household was simply because my father died when I was 4 years old, and a program like the TRIO program basically just took me in and took other students like me all across Louisiana and all across this Nation and gave us hope and told us just because we came up by way of the rough side of the mountain did not mean we could not reach the top and told us just because we started the race late did not mean we could not finish our course, because the race was not always won by the swift, but sometimes by he who could endure the longest.

It was the TRIO program, Mr. Speaker, when classes and teachers and institutions all across Louisiana called students like me disadvantaged and at risk and underprivileged, it was the TRIO program that said when they call you disadvantaged and at risk, underprivileged, they are talking about your income. You cannot let your income determine your outcome, because your mind is not disadvantaged. Your mind is not at risk. Your mind is not underprivileged.

I challenge my colleagues today to keep programs like the TRIO program.

Lastly, the gentleman from South Carolina, when I was watching him in my office he was talking about the issue of affirmative action and the gentleman from Mississippi stated that the issue of affirmative action is going to be a very heated debate this session of Congress.

Let me, with the remaining seconds that I have, talk a little bit about affirmative action and put it in its proper context, because I get sick and tired of people talking about affirmative action and making people who benefit from any affirmative action or any set-aside program in America feel illegitimate for some reason or another. As long as people look at affirmative action as two parallel lines, then you are not really looking at affirmative action in the truest sense, because affirmative action is not two parallel lines where you take one person who is less qualified than the other and take the person who is less qualified and bring him to the status of a person who is more qualified simply because of the law called affirmative action.

The better way to state affirmative action, Mr. Speaker, is a big circle where everybody in the circle are qualified, equally qualified, as a matter of fact, but the problem is many people do not get a chance to participate and be a part of that circle. The only way many people in this country get a chance to be a part of that circle and get included inside of that circle is through the actions of affirmative action.

No person should even have a thought tonight that affirmative action takes people who are less qualified and elevates them to the status of people who are more qualified.

The last point I want to make on the issue of affirmative action, even those who talk about affirmative action today, many of them would think the 1965 Voting Rights Act is an affirmative action bill, and the Voting Rights Act was an act that when there were people in this country who worked hard every day, who believed in this country, who went to war and fought for this country, but did not have the right to vote; in many States in this country, they gave them the right to vote, but they had all kinds of impediments so they would not be able to vote.

I recall my own State of Louisiana when a professor who graduated, who got a Ph.D. Degree, who wanted to pass the literacy test in Louisiana, he could state the Preamble to the Constitution, he knew all the facets of the inclusions and the exclusions of the due process clause and the 14th amendment of the Constitution, but a registrar of voters still had the audacity, tenacity, and gall to ask him how many bubbles are in a bar of soap. That was an exam that he could not pass.

I guess many people today even think that that civil rights legislation was affirmative action, just to give a person the right to vote is affirmative action.

And I submit to you today, Mr. Speaker, that that is not affirmative action, and if it is, there is nothing wrong with it. There is nothing wrong with giving people the opportunity to register to vote and participate in democracy, and I say to my colleagues from South Carolina and Mississippi and Alabama, this is going to be a very, very heated session, because the last thing I want to do as a person who believes in fairness, a person who believes in equality, the last thing I would want to do is to disadvantage any individual in this country to the advantage of another individual in this country.

☐ 2210

Mr. HILLIARD. Mr. Speaker, I just want to interject something for a minute, and it is a quote that appeared today in the Washington Post. It was a quote by Speaker GINGRICH. His answer was no to a question that was asked, and the question that was asked was does he believe that affirmative action programs discriminate against white males. And he said no.

So there is no need for any of us to have any problems with affirmative action programs, because everyone realizes and recognizes the fact that these programs are formative in nature. They are not exclusive. They do not exclude anyone, but they just promote and encourage.

Mr. FIELDS of Louisiana. Let me say there is not a person in America who received a job because of affirmative action. People in America receive jobs because they are qualified. There is not a person in this Congress who is in this Congress because of some affirmative action program. You are in Congress because people went to the polls and voted for you. There is not a person in this country who benefited from any affirmative action program simply because they were less qualified. They were as qualified as anybody else.

Let me say this. I wish we would get to the day in this country when we need not have affirmative action. I wish one day I could stand up in this hall, I wish I could stand up at this very microphone, and say there is absolutely, positively no need for any law that even resembles affirmative action.

But until we get to the day of fairness, where people are treated because of their content, and not because of their color, and not because of the accent of their language, then we are not at that point that we ought not have programs that simply give people an opportunity not because they are less qualified, but give them the opportunity because they may be Hispanic,

or they may be black, or they may be a woman, and that is what this program that we call affirmative action is all about. Not to give a person a job because they are less qualified; just give them an opportunity to compete.

I want to commend the gentleman from each State for talking about the need to have programs of fairness, and one day we can all walk into this Chamber and say there is no need any longer for any affirmative action program because the CEO's in America, they are going to treat people fair, they are going to hire women, they are going to hire Hispanics, they are going to hire blacks. There is a need for affirmative action in the area of voting, because people are going to treat people fair. Anyone who wants to register to vote can in fact register to vote. There is no need for affirmative action in the area of scholarship, because presidents of institutions across America are going to grant scholarships to students who deserve them, irregardless of their color.

Mr. CLYBURN. I thank the gentleman for his remarks. Before I go to my good friend Mr. THOMPSON from Mississippi, I want to say I notice that Mr. HILLARD brought up the Washington Post of today. There is another very interesting article in today's Washington Post on the subject of affirmative action. You may recall one of the leading contenders for the Presidential nomination from the other party requested some information from the Congressional Research Department on the question of affirmative action. He has received that. I am pleased to have a copy of that.

The Washington Post did an article today on that, and it is kind of interesting. The subheading indicated that affirmative action as practiced by our Government does not mean quotas.

But that is not the first study to do that. I remember, I think his name was Dr. Leonard, I can't remember his first name at the moment, did a study for President Ronald Reagan, a learned professor from California

Mr. HILLIARD. The ultra conservative Dr. Leonard.

Mr. CLYBURN. Absolutely, His conclusion, affirmative action works. It does not mean quotas. It works. He went on to say something else, it works for nonblack people as well. And there was even a second study done under the Reagan administration by OFCCP, I don't recall the man's name now that did the study, but Ellen Schlam was the director of OFCCP at the time. The study was done at her direction. That study concluded that affirmative action worked and it did not work to the disadvantage of white males.

So what has happened here is that there has been a concerted effort on the part of those people in our society who would like to see equality of opportunity denied to people who have sort of conjured up all kinds of fears, and they have appealed to the worst in many of our citizens, and they have turned people against certain segments of our society on this question. But every time it is studied, as was recently done and published today in the Washington Post, they find out that it does not mean what people say it means.

Now let me, before going to Mr. THOMPSON, say this: It is kind of interesting. You know, if we had a container here with a cross-bones on the bottle, nobody would want to touch it because they would say there is poison in there. Well, the fact of the matter is, no matter what is on the label, we have to examine the contents to know what is there.

So the point is there are a lot of programs that have had the affirmative action label put on them which were in fact not affirmative action, and the courts have made that very clear to us.

I yield to my good friend from Mississippi.

Mr. THOMPSON. I am glad you made that point, Mr. CLYBURN. I think the point we have tried to make so far is that affirmative action recognizes that this country in its history has not been fair to everybody. And what we have done by those various laws is to enact opportunities for the affected class so that they can in effect compete. But if you look at the statistics, as you talked about the studies, we see that of all the physicians in this country, only 2 percent are minority. Of all the engineers in this country, only 3 percent are minorities. But as you move forward and look into the professional schools, if you look at the law schools in terms of the ABA-sanctioned law schools and approved, the majority of them have only one African-American faculty member, and a substantial number have zero.

So what we have to do in this country is encourage diversity, we have to encourage inclusion. But for the most part we still have a long way to go. And in this entire discussion of affirmative action, nobody has talked about a remedy to replace it. They are just saying that in effect we have to do away with it.

I submit to you that if we do away with it, and again another quote that came up over the weekend says that as we move toward a color-blind society, which we do not have, the shock therapy of eliminating all preference will defy and destroy our society.

It is wrong. Another Republican made that statement.

They recognize that this is political dynamite that you are playing with, because all the people that most of us know feel very dear about that. You know it is being debated in California. Some of us are prepared from a remedy standpoint to encourage our friends and associates to look at doing like we did in the State of Arizona. Perhaps if they had gone so far as to deny minorities opportunities or to take affirmative action laws off the books, then we should perhaps look toward going elsewhere and spending our dollars. And that is one of the responses to this madness over affirmative action that I think you will see more of.

But clearly we cannot allow in the freest country in the world people to start moving backward, taking freedoms and opportunities away from many of the people who built this country by the sweat of their brow, for slave wages, even though most of us were slaves at the time. And we cannot continue to let this go.

So I submit to you the statistics bear out that there is still a need for affirmative action. The statistics bear out the fact that even though there are a lot of laws and orders on the book, that we still need to work at it. And now is not the time to take those laws off the book. Because indeed if we do, we would in fact inflict such a wound on this country that I am not sure that it would ever heal.

☐ 2220

Mr. CLYBURN. Thank you very much, Mr. THOMPSON. I do not know how many minutes we have left, but let me go to Mr. HILLIARD for his closing remarks and hopefully he will save a couple of minutes for me to close.

Mr. HILLIARD. Mr. Speaker, let me again thank the gentleman from South Carolina [Mr. CLYBURN] for putting this program together. I wanted to say that Monday night I understand that we will have an opportunity to talk to the American people about affirmative action as a policy, as a national policy, and we want to talk about the objectives that we hope to achieve. Because we want people to understand and to realize that we desire, like everyone else in America, to have a color-blind society. And hopefully we will be able to reach that status sometime in the 21st century. But as it is now, we do not live in a color-blind society. And for us to ignore it or to not believe it means that we wish to remain blind to racial problems in our society and that we wish to accept things as they are instead of making positive or making affirmative changes.

I am glad that the Speaker recognized and said to the American public that affirmative action does not discriminate against white males. In fact, it does not discriminate against anyone. There is no discrimination with affirmative action programs, no quotas, no mandates, no preferences. The only thing we have are goals and incentives, opportunities. All of this is just set up as an attempt to make the playing field level.

It is still tilted because of centuries and decades of laws that mandated discrimination in this country. And it is going to take us some time to get away from that.

I want to help America move away from that, but I know that you cannot have a situation, a fair situation, with the field tilted away from the players unless it is tilted in a direction where all the players are. But if the field is

tilted and some of the players are on one side of the field and some of the players are on the other side of the field, then the field is not level, the game would not be fair. I do not see any reason why we should continue to let Americans say and think that the field is level when, in fact, it actually is not.

Finally, let me say that I wish and I want America to understand that whereas we have been talking about affirmative actions giving incentives and opportunities for us and for other African-Americans, the fact is that most of the people who have profited from affirmative action programs have been white females as well as children, the handicapped, Indians, Hispanics, Asian-Americans, and other minorities in this country. So when you hear affirmative action, you think of something in terms of an objective to be achieved that is set up in a program that would benefit the least of those in our society.

I guess the best ways of closing is for me to say that last night I spoke about a man by the name of Booker T. Washington. I talked about his goals and what he wanted to do in terms of education for America and how he achieved that by establishing Tuskegee University. But I ended with a quote that he made. I wish to make that quote now, because it really fits this conversation.

He stated, ''There are two ways of asserting one's strength. One is pushing down and the other is pulling up.''

I just wish to say that affirmative action is just pulling up, pulling up everyone.

Mr. Speaker, I thank the gentleman from South Carolina [Mr. CLYBURN]. And I thank the gentleman from Mississippi [Mr. THOMPSON] for his participation.

Mr. CLYBURN. Mr. Speaker, let me just close this special order tonight by thanking the two of you for participating and to say that affirmative action is, in fact, an experiment. We are experimenting with ways to try to level the playing field, ways to try and bring people into the mainstream of our society. But America is an experiment. We are experimenting with something we call democracy. There is no religion that can be called American. There is no culture that can be called American. America is just a place where many cultures, many religions are all here trying to work together, trying to find common ground and in all of that, hopefully, doing so while recognizing and respecting the diversity that exists in all of us.

On March 17, when I get up in the morning, I am going to put on something green, a tie or jacket or something, because I want to join with my Irish American friends in celebrating St. Patrick's Day. It does not take anything away from me to do that. In fact, I feel bigger and better when I do that. And I would hope that the day will soon come when all others can join me in celebrating those things about my culture that I hold near and dear.

When we can do that, I believe we will have reached that goal that all of us would like to have achieved, that is, a color-blind society.

TORT REFORM

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from Ohio [Mr. HOKE] is recognized for 60 minutes as the designee of the majority leader.

Mr. HOKE. Mr. Speaker, tonight, along with the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Omaha, NE [Mr. CHRISTENSEN], we are going to engage in a special order that is going to focus primarily on tort reform and what the need is for that reform, what the Republican conference is going to do about that, how that fits into the Contract With America, and what the American public can expect to see on the floor of Congress in the next 2 to 6 weeks with respect to that.

But before we start talking about tort reform and the need for it, I want to just take a couple of minutes to review what we have done here in the first 50 days, because we are really at the halfway point. I think it is not improper or incorrect to take some time, take a deep breath. We could call this half time. Normally at half time what we get to do is we get to go into the other room and pop open a beer or a soda and take a little time. Because we are on such a fast track here, we really do not have much time.

Mr. Speaker, I yield to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. I am not sure what kind of sports you have played where at half time you pop a can of beer open, but——

Mr. HOKE. This would be the sport of couch potato watching football.

Normally you get a little breather. Well, we are not going to get much of a breather here, but we would like to take just a moment to celebrate what has been absolutely the most productive 50 days in the entire history of the U.S. Congress.

☐ 2230

What have we done exactly? First of all, America faces a brighter future today than it did 50 days ago. Because we took an important step forward, toward ending the immoral practice of piling up debt for future generations by doing two things.

First of all, we passed the balanced budget amendment and we passed the line-item veto. Right now it is up to the Senate, where I understand we have got two more that are going to be on our team, and we are within one vote, maybe we are at that vote even now as we speak, to pass the balanced budget amendment there.

Once again, we are earning America's trust. We have more than doubled the approval rating of the Congress. We are no longer down in the dumps with lawyers. I happen to be a lawyer, along with my two colleagues tonight. We are no longer rated below used car salesmen. Actually we have crossed the 50 percent threshold if you can imagine that in terms of an approval rating overall.

Before we can go forward with the reforms that we want to change in America, we have to reform the way this place works, change Congress itself, and that is exactly what we did on our opening day with the opening day reforms. We cut committees, we cut committee staffs by one-third, and we actually cut two standing committees in this House. It had not been done since World War II. In addition, we cut about 20-plus standing subcommittees. Most importantly, Congress is now required to live under the same civil rights and employee protection laws as everyone else is.

We have made Washington a more accountable place than it was 50 days ago. The Federal Government can no longer pass legislation, however worthy it might be, that sticks States and communities with the tab. We have restricted the Federal Government's ability to do that. That is the unfunded mandates reform. We are listening a lot more today than we were 50 days ago.

What we are doing in the way of personal security is that we have said we do not know best in terms of crime control. We believe that the local communities do. We have made a block grant approach to this in the Committee on the Judiciary that has been passed on the floor where we are saying that one-size-fits-all government is not the way to go. We want to give our local communities, the police chiefs, the mayors, and citizens boards the opportunity to make their own decisions about how best to combat crime.

The Federal Government had failed to make families safe and more secure, and these new crime measures are fixing that by giving communities the tools that they need.

Finally, we are restoring common sense to Washington with respect to a more rational national security strategy, making it harder for the President to send U.S. troops off on U.N. missions, and we have created a commission to ensure that America's most important national security resources, the men and women in uniform, are going to be able to do the jobs that we ask of them.

There is a lot more work to be done, welfare reform, regulatory and legal reform, Congress' first-ever vote on term limits, something that I strongly support, family tax relief, economic growth tax measures and the spending restraints that are required to pay for all of this.

While the agenda is very daunting, American families have placed a tremendous amount of trust in the 104th Congress. We met the challenge of the

first 50 days, and we are going to meet the challenge of the second 50 days as well.

One of the areas in which we need to meet that challenge is clearly in the area of becoming more accountable and bringing some common sense and sanity to our legal system.

I wonder if I might ask the gentleman from Nebraska [Mr. CHRISTENSEN] to talk about where we are in terms of the legal system today and what we need to do, what kind of a challenge we face in reforming that.

Mr. CHRISTENSEN. Mr. Speaker, I believe that the debate we will soon have over our legal system is among the most important national discussions we can have. Our laws, after all, are what define us as a society. When there is something awry with our legal system, then we should view it as a threat to our Nation.

I am proud of my colleagues for helping to make legal reform one of the priorities in the Contract With America. As we all know, the impact of frivolous lawsuits is felt far beyond the courtrooms and the law offices. Over the last 25 years or so, we have developed a system in which any American who has been wronged, no matter who he or she is, no matter how much he or she earns, can seek justice in an impartial court. That is a tremendous achievement, rare in the annals of human history. There are other western countries that even today do not have legal systems as open and as accessible as ours. Yet during the same past 25 years, our legal system has gone astray.

The bill in the Contract With America is called the Common Sense Legal Reform Act, because most Americans believe our legal system defies common sense, and they are right. The system is an affront to common sense. Only the organized trial lawyers and their lobbyists do not recognize it.

What has happened to bring us to this condition? Our legal system, once the envy of the world, is now the object of parody on late-night television.

Mr. HOKE. Would the gentleman yield for a comment?

Mr. CHRISTENSEN. Yes.

Mr. HOKE. As I understand it, you are an attorney.

Mr. CHRISTENSEN. Yes, I am.

Mr. HOKE. And you practiced law in Nebraska?

Mr. CHRISTENSEN. I have never practiced, but I am licensed to. I have been in the business world.

Mr. HOKE. Ah. And my colleague from Tennessee is also an attorney?

Mr. BRYANT of Tennessee. That is right.

Mr. HOKE. Do you say that with pride, because it sounds like there is an awful lot of criticism of the legal system going on here.

Mr. BRYANT of Tennessee. I do. I think it is time some people do stand up for the legal profession, as I tried to do on the campaign trail. There are an awful lot of good lawyers out there. Like again in any job or profession, there are a few that I think stretch the system somewhat and maybe cause us all to have a bad reputation. I have practiced a number of years both as a Federal prosecutor but more often as a defense attorney in civil litigation, and this subject of a reasonable, commonsense tort reform is something that is very near and dear to me.

Mr. HOKE. I think just in the interest of full disclosure, the Speaker probably would be interested in knowing that I am both a businessperson as well as having practiced law for the better part of a decade. The gentleman from Nebraska [Mr. CHRISTENSEN] has a law degree but did not practice, and was in the private sector, and the gentleman from Tennessee [Mr. BRYANT] has the greatest problem on this because he apparently has done only law both as a U.S. attorney in a distinguished capacity and also in the private sector. We are clearly all three lawyers but we see real problems with the legal system.

Mr. CHRISTENSEN. If the gentleman would yield back, please, the real problem with this system, I believe, lies with fault. I think that we have got a system to where everyone thinks it is someone's fault and they ought to have a right to sue. Fault once used to be the bedrock of our legal system. The tort system was designed to find who was at fault and who was wronged. The tort system helped define responsibility and make the proper redress to the injured party.

Today, however, fault rarely enters into the equation. If an individual acts carelessly, he can still use the tort system to get compensation. If an individual intentionally breaks a contract, he can still seek payment through the tort system, and if an individual behaves foolishly, he can still blame others for his injuries and get a handsome reward through the courts.

Tort law was once about right and wrong, blame and responsibility. But today trial lawyers have twisted that original meaning and turned tort law into some form of social insurance. That is where the Contract With America comes into play.

What we are talking about is restoring some common sense back to our legal system. If something goes wrong in today's society regardless of who is at fault, they hire a lawyer. Their message is always the same. You can be compensated.

I have seen so many TV commercials and we have all seen the advertisements.

''If you've got a phone, you've got a lawyer.''

''Have you been injured in an accident lately? Call me, because we're on your side.''

The trial lawyers make out very well in this no-fault system. They always collect their fee, but the rest of the American people are paying for it. We are paying for it in our cities because, little to the public's knowledge, there have been times where little league has had to be canceled because of the high insurance cost. We are paying for it when law-abiding companies have to pay tens of thousands of dollars simply to dismiss a nuisance lawsuit. We are paying for it in medical devices which are kept off the market and innocent lives are lost. We are paying for it when legitimate grievances cannot be resolved because our courts are clogged with million-dollar suits, where the defendants have only a distant and indirect relationship to the injury that occurred.

Restoring a sense of fault to the entire system is the only way we can restore the sense of right and wrong. That is exactly what our Contract With America, the Common Sense Legal Reform Act, does. It restores some balance to the system.

For 14 years, they have had it their way. For 14 years, we have been trying to address this issue. Now finally we have started the process forward.

☐ 2240

You know, if we can continue to process and continue to expand this tort reform not just to include product liability but all civil tort reform, we will have made a good first step.

I yield.

Mr. BRYANT of Tennessee. The gentleman from Ohio and myself both have the extremely high privilege and honor to serve on the House Committee on the Judiciary, the committee that has been primarily responsible for the taking of testimony and conducting the hearings, marking up the bill and reporting it out to the floor, which we anticipate it will arrive in the House within the next few days for full consideration. Over that period of time, we heard testimony from a number of witnesses and conducted hearings that I understand have been built in the past on past hearings. And I think we have a very good bill. I always am a proponent of balance. I talked so much about this when we talked about the crime bill and how I felt on the crime side the pendulum had swung too far in favor of the criminal, and now I think we see it coming back more into proper balance with society and victims. I think the same can be said about the civil side, the Tort Liability Act we are talking about now, and I think it is important we bring that back into a more common sense environment. I think the bills we will be reporting out to the floor bring that, particularly in the area of product liability and punitive damages. Certainly a former businessman, and the gentleman from Nebraska has alluded already how in many cases the fear of lawsuits and large lawsuits hamper, stifle growth, development of products. We have talked about not-for-profit organizations like Little League Baseball, churches, anytime you have an activity where somebody could possibly be injured and sometimes they are put on by not-for-profit organizations that have to go out and take insurance for fear of somebody

getting hurt and large lawsuits being filed and punitive damages being awarded, and something is out of kilter there.

I am all for, as I think we all are keeping the courthouse doors open for those good lawsuits, those fair lawsuits, the ones where people are indeed injured and deserve a hearing and a consideration for consultation.

Mr. HOKE. Would you yield for a thought? I do not think anybody, I do not hear anybody talking about trying to in any way foreclose a person's right to access to the court, to justice in America. But there is an overwhelming sense, there is a very strong sense, a visceral sense that we have gone too far in a way that does not protect individuals, in a way that they are getting redress for grievances for real damages, but in fact people who are not at fault are being victimized themselves by a legal system run amok. And I have to tell the gentleman I was astounded when the executive director of the Girl Scouts of America for Washington, DC, who was participating in a meeting about a week and one-half ago I was at, and I believe the gentleman was there also, 87,000 boxes of cookies is the answer, 87,000 boxes of Girl Scout cookies is the answer. The question is how many Girl Scout cookies do the girls in the Washington, DC area of the Girl Scouts of America have to sell just to pay their annual liability insurance premium: 87,000 boxes. That is stunning. And she went on to say that they do not allow the Scouts to ride horses anymore, they will not allow the girls to ride in cars that have been rented. They have changed the way that they do business as a result of this liability problem.

So tell me what are we going to do? What is the direction here we are going in to try to get a handle on that?

Mr. BRYANT of Tennessee. I think we started out with the idea of bringing forth a good, fair product liability act, one that would apply across the country. You know so many of our products, probably all of the products travel interstate. Rarely would you find something that stays within one State, and I think we all see a Federal involvement, a need for a Federal role in regulating product liability to that extent, and what we have come forth with is a bill that does set some clear standards for products in terms of what you can do. It limits liability to sellers who often times are brought in along with the manufacturers of the products just because they are in the chain.

Mr. HOKE. What is the distinction there?

Mr. BRYANT of Tennessee. Of course people that have been in small business know that when you go into the stores most of the time you do not buy your product directly from the manufacturer, you go through a retailer. When there is an allegation that a product is defective and a lawsuit filed, it is not uncommon that what I call the shotgun approach is taken and everybody out there that possibly could be sued is brought into the lawsuit, and that normally not only involves the manufacturer of the alleged defective product but the people in the chain that bring it to the store even. And what we do is we now require there actually be some actual negligence on the part of the seller before they can remain in a lawsuit.

Mr. HOKE. You mean you could buy perhaps a lantern at a hardware store, a lantern that has been manufactured in a defective way, but say that the manufacturer is in another State or hard to find or something like that?

Mr. CHRISTENSEN. Would the gentleman yield? Here is a perfect example I ran into earlier today, and we all heard about McDonalds because of the patron who ordered the cup of coffee and she spilled it, and it caused injury to her and she sued. But there is another McDonalds story that I think people that are watching tonight should be aware of and it is very interesting because it causes very much a concern with where we are headed with this litigious society. There was an individual who pulled up to a McDonalds drive-thru outlet and ordered some chocolate shakes and some fries. He put the chocolate shake between his legs, drove off, reached over to grab something on the other side of his car. The chocolate shake spilled over his legs and caused him to hit the car in front of him. But what did the plaintiff's lawyers do when they got ahold of this little case? Not only did they sue the car in front of him, but they sued McDonalds because they said the McDonalds restaurant should have had a sign that said, ''Do not eat and drive.''

Now, fortunately for McDonalds, they won this case. But the example here is that they had to pick up the fees for defending themselves from a frivolous lawsuit, and there are a lot of examples out there like this that we all know about that we are trying to get corrected through this common sense legal reform act.

Mr. HOKE. I thank the gentleman.

Mr. BRYANT of Tennessee. That is a great example and of course there are many more. But again we are talking about trying to bring some common sense to this ground. We set forth a reasonable standard also in terms of the length of time that a product manufacturer can be sued, what is called a statute of repose for 15 years. We set out a distinction for removal of what is called joint and several liability.

Mr. HOKE. Maybe we can talk about what that statute of repose means because the first time I heard that I had no idea what it meant.

Mr. BRYANT of Tennessee. In most lawsuits already there is separate from that a statute of limitation in which a person has some years from when they are injured in which to file a lawsuit, but particularly in the area of product liability, since machinery and products have a lifetime of X number of years or whatever, it has generally grown over the years in a lot of the States that already have these laws this statute of repose, which simply means that at some point in time, and in this case 15 years, I think it is 18 years in the General Aviation Act, that a product manufacturer cannot be sued after that period of time, after 15 years, now this product bill for 18 years, just as a matter of public policy and so forth.

Mr. HOKE. In other words, if something is wrong with this piece of equipment that was manufactured 15 years ago, we would have found out about it in that period of time? It would have become obvious.

Mr. BRYANT of Tennessee. Right, the defect would have become obvious.

Mr. HOKE. The defect would have become obvious and either there would have been a lawsuit over it or corrections made to it, but after a 15-year period, absent an updating or change or some sort of a design change in it, there will not be any lawsuits allowed alleging a defect in the manufacturing of that product; is that correct?

Mr. BRYANT of Tennessee. That is the gist of it. And I think, too, probably the biggest thing we bring in through this commonsense bill is the limitation, so-called cap on punitive damages.

☐ 2250

And that is probably the most, I guess, controversial aspect of this. I know we have got an outpouring of information from both sides, I guess, or all sides on whether they are for or against this cap.

In essence, what that simply does is in the area of punitive damages, and we talked about this the other night, and I do not intend to go into great detail, but there are generally two types of damages that are available to an injured plaintiff. One is compensatory damages where they are simply paid, fairly compensated, for their injuries, loss of wages, future earning capacity, medical bills, funeral bills if they are killed, pain and suffering, those types of things. Those are compensatory damages, and what, again in a real injury case, someone is fairly entitled to receive.

The other angle to damages, the second part of it, punitive damages, that is simply the way that society has created to send a message to potential defendants, whether they are product manufacturers or individuals like you or I; we can also be sued for punitive damages if our conduct reaches a certain level of misbehavior, and that message is if you do this, you could get stuck with punitive damages. We are going to punish you. We are going to try to deter you. But there is no limit in the law on these.

It is like committing a crime almost, but not having any limit on what you can be sentenced to.

Mr. CHRISTENSEN. In the past what you are saying is you could have had a judgment against someone, say, for

$100,000, but then they could get slapped with a $5 million punitive fine, and one of the things that the jury will always be hearing from the lawyer is, ''We are trying to send a message. We are trying to send a message that this will not happen again.'' But that message has gotten very, very clouded, because that $5 million, and I am not sure that they could not have received a message for say $500,000, and that is what this commonsense reform is going to do is going to reform that area.

Mr. BRYANT of Tennessee. That is exactly right. It is a situation where society is trying to tell somebody and deter by this potential for a judgment. What we have done, perhaps the purest view of this would be to take this type of punitive damage and not give it to the plaintiff, the victim, because again they have already been fairly compensated, but, rather, take this money and, you know, we have talked about some things in our Judiciary Committee about sending it to the Federal Government to reduce the national debt or to a third party not-for-profit corporation. Little League, Girl Scouts or something to help them out, a city, or a county, or whatever, society, if you will. But we have taken a more of a middle ground at this point and just simply put a cap on it, set out the maximum punishment, if you will, and in essence what that is is three times the compensatory damages or $250,000, which ever figure is greater so that money under our bill still goes to the injured plaintiff, but it does begin to set some reasonable limits on that so that you can forecast and make some reasonable valuation.

When I was a trial attorney, we used to get into these kinds of cases. I could usually evaluate, which helps us and helps the judicial system, because we can evaluate the case early. We can make somewhat overtures and perhaps avoid a trial. I could always do that on compensatory damages, because I could look at the amount of money they lost from work, the type of injuries they had, the type of permanent disability and give a reasonable ballpark figure on what I thought the case was worth.

But where I had no clue as to how to evaluate a case was this issue of punitive damages, because that is again there is no measure, there is no standard out there, a lot of times there is no rationality between compensatory damages and the punitive damages. It is an emotional issue. That particular day the jury gets fired up by some good lawyering and gives a huge verdict, a pie in the sky is what I call it, and there is no way I can evaluate that which actually deterred me from settling some cases that probably could have been settled had it not been for that.

Mr. HOKE. Is not this whole notion of the doctrine of punitive damages a relatively modern doctrine, a relatively new doctrine in our legal history, and does not that probably just on its own cry out for at least relooking at its until we get it right? I would, as you know, because we have worked very late last night and then we came back early this morning to finish marking this bill up in the Judiciary Committee, and there will be a bill or an amendment that I am pretty confident is going to pass that will in fact award 75 percent of the punitive damage award to the State in which the case was heard and 25 percent of it to the plaintiff, but we have to remember that the idea of this is to punish the wrongdoing of a tort feasor, of a defendant, who is then going to be himself or herself or itself deterred in the future.

But more importantly, it sets an example for society, and the one part of this that I get confused about, and I would particularly like the insight of a U.S. attorney who has prosecuted criminal cases. I know you did not do a lot of criminal work, but who has done criminal cases, you know, normally we think of punishment as being within the realm, within the purview of the criminal code, not the civil code, and yet we have gone, with respect to punitive damages, to a system where we are supplanting and substituting punitive damages for criminal prosecution. And I would be very interested in knowing your insights on this, because it seems to me that you have probably given a lot of thought to that.

Mr. BRYANT of Tennessee. Well, of course, the concept of punitive damages, I am not sure of the historical background on that.

But I think it has become even more important, as I am sure the gentleman can attest to, over the last years because the judgments have, I think, been so numerous and in large amounts.

I say this as a general rule, whenever you are reading your morning newspaper and you see this article about this case over in some other State that has given this huge verdict, multimillion-dollar verdict, you can just about guarantee that most of that is composed of punitive damages. I think the McDonald's coffee case was one. I do not know the exact figures. Another problem there is you get up to that level, I think in the McDonald's case, for example, it was over a $3 million verdict, even when the judge revisits that and reduces that award, and a judge can come in behind a jury verdict and say that is just outrageous, they still do not reduce it down to a level perhaps it ought to be. I think perhaps in that case it ended up still being in excess of a million dollars for spilled coffee.

Perhaps we overstate the McDonald's case. There are many, many other illustrative cases out there, but I certainly think it is, and I know our committee thought it was. I know a number of people who testified in our hearings thought it was time to come back and look at this issue of punitive damages and bring some, as the gentleman says, some common sense to this.

Again, we are not eliminating punitive damages. We are not encouraging misconduct by individuals or companies. We are simply trying to bring some reasonableness to this system of justice which we think has gotten out of hand.

Mr. CHRISTENSEN. There are States that are already way ahead of us on this issue. I have to brag on Nebraska for a second, because Nebraska does not have punitive damages. It is a very friendly environment to do business in.

We also capped medical malpractice at $1,250,000, so when we are looking at what we are doing at the Federal level, it is just a start. I mean, there are already a lot of States out there that are way ahead of us in reform and are a friendly environment for those pro groups, those businesses that want to buy a product.

Mr. HOKE. Could I ask you a question? What is the unemployment rate in Nebraska?

Mr. CHRISTENSEN. Two percent; 2 percent.

Mr. HOKE. What is the bottom line? Who is most served by all of this?

Mr. CHRISTENSEN. It is the taxpayer, the Nebraska taxpayer. We have a great environment, a great quality of life, less than 2 percent unemployment. People are coming to town. We are extracting businesses. It is definitely a very vibrant economy.

Mr. HOKE. It means there are jobs there for people who want to work, and it means that everyone, everyone in the entire society has a shot, has the opportunity to do what we all want to do, which is have a decent job.

Mr. CHRISTENSEN. One of the largest chip makers in the country, Micron Industries, is right now seriously looking at Omaha, NE, because of the things that we offer, quality of life, the threat to the business as far as protection from liability, punitive damages. There are so many things that we have, but we are just starting as a Federal Government to get to where Nebraska is. So it is exciting to see us moving in that direction.

And we have had a lot of grassroots support. There are a lot of people out there that are behind us. The American people want commonsense legal reform.

☐ 2300

The want to end the frivolous lawsuits. We need the help of the American people. We need the help of that business owner out there that needs to let his Congressperson know how he feels about reform, to let us know about certain cases that have affected the people personally. Because this is a team atmosphere, just like here tonight. We need to have the American people enjoined in this fight, because it is a fight that the American people can and will win.

Mr. HOKE. You are absolutely right. We do need a team approach, and we

need people to let the folks here in the Congress know what they want. And we need working men and women to phone in and let their Congressperson know that it means their job, that that is what we are talking about, and that we have got to have a reform, so that one of the things that is going to happen is everybody, when we finally get this done and get it right with respect to tort liability reform, common sense legal reform, we are going to find a dramatic reduction in, for example, automobile insurance. We are going to find a dramatic reduction in health insurance. We are going to find that these costs that are so significantly borne right now by working men and women are going to go down, and to everyone's benefit.

I have to say there is one group that might not benefit by this kind of reform, and since we are all members of that profession, I think it is fair to say that this is probably not great for some aspects of the legal profession. But, you know, at the same time we have created a system where we have got more lawyers per capita than any other developed nation on Earth.

I think of the numbers with respect to Japan, and I will probably get this wrong, but I think we have got something like 100 times the number of lawyers per capita here in the United States than in Japan.

Mr. CHRISTENSEN. Here in Washington, DC, I believe there are over 30,000 lawyers, just here in Washington, DC. Over 30,000 lawyers. Goodness knows why we have all the problems in Congress. Sixty percent of the elected Members are lawyers. Finally there has been a reform group that has come, that even though some of us have law degrees, we have not allowed that to be a stumbling block.

Mr. BRYANT of Tennessee. I have to step in here before JON defeats us all here. I was joking, I think I said this last time I was up here, about during the course of the campaign people always wanted to know what you did for a living. I always mumbled that I was a lawyer, but I was looking forward to doing something better and going into politics.

Let me say this much: As good as this tort reform legislation is, it is not the silver bullet by itself. It is a very important piece of a puzzle I think that fits in in solving America's woes, America's problems, as is this Contract with America.

I think if we get this common sense tort reform-legal reform done, combine that with real serious tax reform, capital gains tax cuts that we talk about in our Contract with America, stir up the economy, get more money into the system creating more private sector jobs, and then concurrent with all this, again as part of our Contract with America, reform our welfare system and quit paying people more not to work than we pay them to work, that we create these jobs out there, that the people on welfare can move into and begin to get that type of self-esteem and the type of lifestyle that they deserve, like everyone else, and they can meet the American dream, and not have a career of drawing welfare.

That is what we are shooting for, and that is why I am so pleased to be able to come in here and talk about how we are performing, how we are honoring our promises, our commitments we made during the campaign. We are fulfilling the Contract With America. Martin, as you said earlier, we are halfway through this. And we have made tremendous progress. We have almost gotten lost, some of our accomplishments have been lost in this shuffle.

The balanced budget amendment, that is incredible in and of itself. But again, unfunded mandates taken away from the counties and cities and states, a line item veto, effective crime legislation. You know, I campaigned on limiting death row inmate appeals. We have done that. I campaigned on modifying the exclusionary rule. We have done that. I campaigned that the real bad guys, the violent criminals, ought to be locked up in jail for at least 85 percent of their sentence. We have done all we can to encourage the states to do that.

They are getting lost. And not that we are up here begging for proper credit. I think the proof will be in the pudding over the next few years as to what we have done. But we have accomplished a lot. We have got a lot of work to do. We have got the tough bills to go, term limits, welfare reform, tax reform, this bill on tort reform. But I am just excited to be up here and share being a part of Congress with folks like you who are just as committed.

Mr. CHRISTENSEN. I was wondering if you would take a moment today, since you came out of the Judiciary, and the last amendment that came through, and explain to everybody that the joint and several liability aspect of H.R. 956.

Mr. BRYANT of Tennessee. That is an aspect of the law that I have always thought was unfair. I know in Tennessee we recently had a change a couple of years ago that was not by the legislature, but rather by the courts. In essence, what this joint and several liability means is that again using the shotgun approach, which is often used in these kinds of cases, you have a number of defendants out there. And over the course of a trial, the jury eventually reaches a verdict that some of these folks are maybe liable more than other folks. Usually there is one defendant that is most liable and others that are less liable. Under the concept of joint and several liability, regardless of the percentage of the liability, regardless of whether it is small or large, if you have the deep pockets, and usually some of these defendants are people that don't have deep pockets, the one that has the deep pockets has to pay the whole judgment. They have a right to go back and collect against the codefendants, but in reality there is nothing there.

Mr. CHRISTENSEN. What you are saying is someone is 1 percent, 2 percent, 5 percent at fault, he could get stuck or she could get stuck—

Mr. BRYANT of Tennessee. With 100 percent of the judgment. Their only relief is to go back against folks that don't have any money to begin with.

What this does is simply bring back common sense, what the average personal might think about, why not just pay in proportion to what you are liable for. That is what we tried to do here. I think we have done an effective job in that.

Mr. HOKE. You know, I love the Florida case against Disney World, I think you heard it in the committee the other day. This is a great case. The plaintiff is with her husband on dodgin' cars, and something happens and she is injured. She is found by the trier of fact, that means the court, I know you guys know that, but she is found by the trier of fact to be 85 percent responsible for the injuries she received as a result of this dodgin' car accident. Her husband is found to be 14 percent liable, or responsible, and Disney World is found to be 1 percent responsible. She cannot collect from her husband because he is her husband. Under Florida law, she obviously doesn't collect from herself, because she is the injured party, and Disney World, with 1 percent of the liability, was given 100 percent of the damages.

Now, that just flies in the face of anybody's sense of what is fair. And what happens in these cases is them that has got the deep pockets ends up paying the piper many, many times more than what would pass a fairness test.

Mr. CHRISTENSEN. Also, a good example of the frivolousness of lawsuits is all the lawsuits that come right out of our prisons. I mean, you might have had some experience with this in Tennessee, where there are prisoners that have the opportunity to file endless lawsuits and endless appeals and the processes have just become rampant. I had a staff member out of my staff today tell me that he represented a convicted felon because he was asked by the court to represent this convicted felon who is serving time in the Nebraska State Prison. The man sued the State of Nebraska, demanding that the State pay him to have a plastic surgery, to have plastic surgery on his nose. He claimed it was cruel and unusual punishment for him to have to go through life with less than a perfect nose.

Eventually the court dismissed this case, but not until after thousands of dollars in legal fees had been expended, tax dollars, our money going out the window for frivolous lawsuits, and there are thousands of them all across the country through the prison system.

Mr. HOKE. Well, Jon, I want to thank you for bringing us together this evening. Ed, I want to thank you for

participating and look forward to working a lot more with you on the Committee on the Judiciary.

I know we have not used all our time, but I see our good friend from California with a lot of great props. Bob, those are wonderful props, and we are looking forward to seeing them. I know there is not a lot of time left this evening, so I want to give you your opportunity.

Anything else that anybody wants to add?

Mr. CHRISTENSEN. I appreciate the time that the gentleman from Ohio has given us tonight, and look forward to working with you on this legal reform and bringing common sense to the civil justice system.

Mr. HOKE. I yield the balance of the time.

□ 2310

MORE ON IWO JIMA

The SPEAKER pro tempore (Mr. LARGENT). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. DORNAN] is recognized for 50 minutes.

Mr. DORNAN. Mr. Speaker, it is awfully difficult to capture in a few minutes the essence of the history of the United States through its United States Marine Corps on such a day as this 23d of February 1995. I consider this day a second birthday for me.

Before my colleagues leave the floor, I will show them why.

I will address it directly to you, Mr. Speaker, because I believe you are a role model for young people around this country as are the four gentlemen that spoke a little while ago, African Americans, all proud citizens, South Carolina, Mississippi, Louisiana and Alabama, discussing things from their hearts as they see it. And my second term colleague, the gentleman from Ohio [Mr. HOKE] and the two other freshman Members, the gentleman from Tennessee [Mr. BRYANT] and the gentleman from Nebraska [Mr. CHRISTENSEN], who spoke, also role models.

But the reason today is special for me and why I began on the 15th anniversary of Iwo Jima to begin to research it is on February 23, 1960, I was ferrying, as a National Guard pilot, my 6 years of active duty were behind me, an Air Force F–86 Sabrejet to be retired to the boneyard in Davis-Mothon in Arizona. So I had no water survival equipment. The plane flamed out over the San Fernando Valley. I took it out over the water to try and air-start, got it started and it flamed out again. And then I wanted to punch off these long-range refueling tanks that were to get me to Arizona.

When I punched them off, only one came off so I had a 200-gallon tank at 6½ pounds each gallon. That was a 1300-pound anvil under one wing. I tried to get in Point Magu. And in those days, you were supposed to punch off your canopy. Now you keep it on for a helicopter to foam you in case of fire. I punched off the canopy. I had not flown in 73 days. The plane had not flown in 5 months. It was the hangar queen, last one off the field.

I was available, because I was what was called a ''Guard bum'' going from job to job, dreaming about going to Congress, dreaming about doing lots of things in life and doing lots of different jobs with 4 kids and hopefully more to come.

And I saw that field. And as the dirt and dust came up off the floor of the aircraft when the canopy went off and a pop stickle went flying by. Both my eyes were closed from grit. I got one open and I could see the headline: ''Pilot on Last Flight Dies with Last Jet out of San Francisco-Van Nuys.'' So I turned out toward the water. I was going to punch out along the beach. I decided the plane would jerk from the ejection and of course go inland and hit an orphanage and kill children and nuns. So I turned it out to sea. I intended still to come down in the surf, and I landed 6 miles out in the ocean. No Mae West, no raft, no survival equipment, and began to instantly drown.

I did not get this helmet off. I had scratches on my face trying to unsnap a simple snap that comes off that easily tonight. But I could not get the helmet off. Got my gloves, jacket off. That was it. Could not get my boots off and began to roll under the water every time I tried to get my knotted laces off. And I had called on Guard emergency channel communication with no Navy or Air Force at Oxnard Air Force Base. And the helicopter was scrambled that had been assigned to duty that very morning for the first time in history, 1 hour before my ejection. It is still there today, 35 years later on the 23rd of February. And the helicopter came out, coldest day of the year, wind, high waves, whitecaps everywhere. And he saw this 2-inch white stripe on this red helmet, a whitecap that would not go away. And he told the one enlisted man in the back, keep your eye on it. Circling down, this little 2-man helicopter, and this ensign saw the whitecap disappear. That was me drowning.

I slipped below the water. And all of my colleagues here tonight are Christian gentleman and they will understand that I am not being corny. This is true.

I said goodbye to my wife and four kids. I prepared to meet God. I was so nervous and embarrassed that I was flippant, because I literally said in my mind, Jesus, here I come, ready or not, and slipped beneath the water. I remembered a story I had read on drowning on someone that had been plunked out of the bottom of a pool. I said, the water is warmer than I am. I am taking in gulps. It is painless, and I thought about my wife hanging up the laundry. Again, corny but true, that is just what she was doing because that is what she did that time in the morning in the backyard. I pictured her being alone with four kids, and I said, I cannot give up. I have to try one more time.

It seemed hopeless, but I kicked to the surface and I came up. Here was this Navy helicopter, and he dropped a harness.

I was begging the guy, yelling, I could taste blood from scratching my throat to jump in. I put my arm in the harness, and he jerked me about 10 feet up in the air, and I fell back under the water down, 5, 6, 8 feet. I figured I was gone again.

I came up and I said, well, this is ridiculous. I grabbed the harness, pushed it away from me and told him to level off, waited a few moments. And then I put my two arms into it and he, never having rescued anybody, immediately took off for the base and went up to 1,500 feet, traffic pattern altitude. Of course, that is the World Trade Tower, the Empire State Building is only 1250. And I cannot even feel my muscles. I am in early hyperthermia holding it just against me like this.

I did not want to go under the water and come up and hang on the harness.

Slowly he brings me up inside. And when this enlisted man grabbed my arm, I begged him not to touch me until he closed this little trap door in the belly of the helicopter. When we got back to the base, he said, corny but true, that I was being circled by two or three huge sharks. They had lost four men to sharks in a Navy boat the week before.

That is one of the reasons they put the helicopter on rescue duty. ''I didn't think we would beat the sharks to you.''

February 23 became my birthday. It was the 15th anniversary of Iwo Jima, and I went to the history book to see what happened on that day. It is interesting how God lets history be attracted to some days.

And this is the day the siege began at the Alamo. I like that. It was the day that Zachary Taylor, to be President someday, although very briefly, died in office at the beginning of his second year, defeated General Santa Ana at the battle of Buena Vista in Mexico. That was 11 years after Santa Ana had tortured and killed every survivor at the Alamo, including men who served in this Chamber like Davy Crockett.

And then I saw that it was the day that President-elect Lincoln snuck into town because he had secretly avoided an assassination plot that had been foiled in Baltimore by Pinkerton Guards. He was getting ready to be sworn in. It was March 5 in those days, right up till Roosevelt's third term.

Then I saw that it was the date that the Japanese shelled the oil refineries in Santa Barbara, 1942, three years before Iwo Jima. And how my mother had panicked in Manhattan and called her sister and my uncle, the Tinman on the Wizard of Oz, because all L.A. was

under a big alert from the Japanese attacking us. How things changed in two years.

And then I saw Iwo Jima. And it jumped at me, and I began to research this battle and the death toll for the United States Marine Corps, their worst battle ever.

The Marine Corps had a little reception down in the bottom of the Rayburn Building. They give us these little cups. It will be in my Bronco for a long time with that ''Semper Fi'' staring at me.

The Marine Corps is one of our beloved, the smallest of our services, but a beloved service because they have had some of our toughest conflicts.

What is not known is that next month in Okinawa, where more Marines died but basically in an Army battle, we lost more men than we lost in Iwo Jima.

Mr. Speaker, I yield to the gentleman from St. Louis, MO [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the gentleman.

I have always been fascinated by the story, and really, the hair on the back of my neck went up when you told that story. I am certainly very glad, and I think the country has been very well-served, that a sovereign who has always guided this Nation's fortunes chose to pull you out of that water at that point.

The gentleman said something. I have been listening to the whole story. I just had to ask the gentleman, did you say that your uncle was the Tinman on the Wizard of Oz?

Mr. DORNAN. Born and bred in Roxsbury, Massachusetts, Boston Democrat, who in the 1940's, with George Murphy and Ronald Reagan, changed his loyalty to the Republican Party and died in 1979 in St. John's Hospital, same floor as John Wayne, who died 4 days later. They were good Republicans, you bet.

□ 2320

Mr. TALENT. I thank the gentleman, for that is one of my favorite movies from certainly my favorite year of motion pictures.

Mr. DORNAN. It was the best year.

Mr. TALENT. It really was. I do not mean to interrupt the gentleman's story, but I really had to ask. I thank the gentleman for yielding.

Mr. DORNAN. He told me a story about how the Japanese this night 53 years ago shelled those oil refineries in Santa Barbara, how they hid under the dining room table in their house on Roxbury Drive in Beverly Hills and how it really was a massive alert and a lot of people were hurt, I think a couple killed, by falling anti-aircraft fire because there were no Japanese planes over Los Angeles.

Mr. TALENT. I was not aware that the Japanese had ever shelled the mainland.

Mr. DORNAN. They had. They had struck our mainland on this very day 53 years ago. And Jack Haley like his friend Fred Allen who I used to call ''Uncle'' until I found out later there was no blood, but all of that show business community then all started to go overseas. My uncle went to Italy and North Africa. Bob Hope, Bing Crosby, I grew up with their children. They served in their 30's and 40's. After all, Ronald Reagan was 31 years of age with two children and very bad eyesight, he turned 31 a month after Pearl Harbor. Well, February 6, two months.

We still hear him attacked, and I remember Clinton in speaking to the American Legion said that Ronald Reagan spent more time making ''Hellcats of the Navy'' than he had served in the military. No, he wore the uniform before the war for two years as a cavalry officer in the California Guard, transferred to the Army Air Corps, then the Army Air Force, and served throughout the war in his mid 30's as did John Wayne making either training films or motivational films like in Wayne's case, the ''Sands of Iwo Jima,'' as Sergeant Striker. That is probably his best known role.

Yes, it is fun to have an uncle who has become a legend.

Mr. TALENT. I thank the gentleman for yielding.

Mr. DORNAN. The Marine Corps picture at Iwo Jima has also become a legend. It is an icon for the Corps.

I am going to see in just a few brief short minutes for those people, Mr. Speaker, who are channel surfing tonight, sometimes we say 1,300,000 watching, but after an excellent discussion on tort reform and it was fascinating, but you have to pay attention, because we are changing history here these first 50 some days of 100, and before that, a discussion that had its points on affirmative action and level playing field, but good men of conscience and women of different conscience coming to different solutions.

This is something that I do because President Reagan ordered me to do it, personally, on several occasions, once when I was in a room with him, alone with Nancy and Ronald Reagan when he was declared the winner in the New Hampshire primary. I was the only one there with the Reagans. I thought, what a moment of history, flashing, I think it was ABC, Ronald Reagan the winner. He had beaten a terrific World War II hero, boby mangled 50 years ago on April 14 of this year, Bob Dole, and it was in that race he had beaten, really George Bush was the finalist going into New Hampshire, he had beaten Ronald Reagan big time in Ohio with the help of a state coordinator friend of mine Floyd Brown.

I looked at President Reagan, he said, I can't believe this, it's like a dream, that I'm going to maybe go on to win and be part of American history. In Reagan's good-bye speech on January 11, and I meant to have that here and put it in the RECORD, his verbatim words, he said words to the effect in his good-bye 9 days before George Bush was inaugurated, our 40th President said, in sort of putting down his text, although it was the way he was using the teleprompters, he said, I want to talk to the children of America. I want you to study the history of this country. And he mentioned D-Day. I believe, I am not sure, he mentioned Iwo Jima. He mentioned a World War I battle. He mentioned battles in our revolutionary period.

I just visited Lexington Green on the 19th of this month, a few days ago, a stirring place. I was shocked to see that an African-American, Crispus Attucks, who died on Lexington Green, the 9th, killed in action, this man is not on the memorial with the other great names, John Brown and Robert Monroe. I remember Reagan saying in his good-buy speech, ''Young people, if your parents at the kitchen table don't teach you about those who have gone before you and gave their blood to build this great country of ours, I give you permission to get angry at your parents.'' And by extension I am sure he meant the teachers. We are not teaching the history of this Nation.

And how many college campuses today? This is a school day, spring semester. How many high school campuses in America? How many grade schools? This happened when I was in the seventh grade, and we were hungry to get the news reports to learn about young men just a few years older then us dying, and not just men. At this reception tonight where I got this cup and this beautiful calendar, two-sided poster, Paul McHale, a Desert Storm marine veteran, one of our colleagues, had brought in the best film, black and white and color I had ever seen, on Iwo Jima, and here were nurses on the bloody beaches, Yellow Beach, Red Beach, Green Beach, on the beaches holding these dying men in their arms. They had been flown in from Guam on C–47 ''Cooney Birds'' and were flying these terribly wounded men on a long plane flight back to Guam for hours. Many of the men died on planes or died in the hospitals in Guam, and here is this nurse on film saying that she never felt an affection for these young men, like they were her children, or young brothers, until she had children of her own. I found out tonight we lost 93 doctors. Doctors. That is how many doctors. Imagine how many we must have had mixed among the men to have 23 killed. We lost over 100, I think 127 paramedics. I did not learn that until this evening, at this Marine reception in the Rayburn Building. In every category, the death toll was tremendous. It said that most of the people died a violent death.

I asked my West Pointer, Bill Fallon, who is my legislative assistant for defense affairs, I said, Bill, for obvious reasons, get me someone from Arkansas who won the Medal of Honor on that sulfuric, death-smelling, cordite-smelling hell on earth, and he picks one out from Arkansas, representative of all the other 27, 14 of the 27 Medal of Honor winners died. One of them was

sitting up in that gallery who was only 17 years and 6 days when he threw himself on a grenade and pulled another one under him on February 20, day 2. The flag went on up day 5 of a 36-day battle and all the records that I am reading say they expected it to be a cakewalk and over in 4 days. But not General ''Howlin'' Smith. He said this is going to be the worst battle in Marine Corps history, and he was right. ''Howlin'' Smith.

Here is Wilson D. Watson, Wilson Douglas Watson. Private. Just a private. But 24 years old. And these men looked like they were 30 at 24, in every theater of the world, because they were men in those days at 18 and 19.

Here I recall Clinton on Ted Koppel on Lincoln's birthday 1992 telling Koppel, I was only a boy of 23 when I was in London trying to avoid serving. A boy at 23? How come Lucas up there was a man 6 days past his 17th birthday?

But here is what Wilson Watson did. Joined in Arkansas, born 18 February 1921. Actually he was born, I see here, in Tuscumbia, Alabama. For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as an automatic rifleman, serving with the Second Battalion, 9th Marines, and this stunned me when I read this sitting here because I went out in the field for 3 days with the Marine Corps in Vietnam, May 20 through 23, 1966, with the Second Battalion of the 9th Marines, Echo Company, I recall.

It does not say his company here. And the young commander that allowed me to go in on a Sparrow Hawk designed by a colleague of ours who I served with here for 8 years. He is watching. I called him in Virginia and told him to watch, Ben Blaz, one of the most distinguished people I have ever served with in this Chamber. Brigadier General Benjamin Blaz was the commander of the 9th Marines and we did not discover that until we were sitting back here about 3 rows talking one day and I told him about my days of combat with the Marines as a volunteer reporter from a small Santa Monica newspaper, and he said, Bob, in that distinguished way of his, I was the commander of the 9th Marines. This young Medal of Honor winner was with the 9th Marines in a different time.

By the way, Mr. Speaker, sometimes the reach of this House is amazing. The young captain who took me out with his unit and let me on that H–34 Sparrow Hawk helicopter to go into a village that was surrounded, designed, I repeat, by Ben Blaz, his name was something like Jerry Horrick, Horricks, he lost his legs. Two months later, by chance, I saw it in the Saturday Evening Post, and I asked him, because I saw his wings, or we got to talking about his flying, what was an F–8 Crusader pilot doing as a ground Marine company commander?

And he said, ''I want to be Commandant someday and I want to go all the way in my career.'' He said, ''Flying is important, giving air cover to these kids is important, but I figured if you're going to make it to the top, you better be a ground Marine and see what the gunfire's like at the grass level.''

□ 2330

There he was, and 2 months later he lost his legs. I believe he was from Glendale. If anybody, Mr. Speaker, knows Jerry Horrick, something like that, please write me. I would love to see how he is doing.

Anyway, young Wilson Watson, second battalion 9th Marines, 3d Marine Division, the same division in Vietnam, during action against the enemy forces on Iwo Jima. By the way, all of those islands are volcanic islands. For action over 2 days, the 26th and 27th of February 1945.

With his squad abruptly halted by intense fire from enemy fortifications in the high rocky ridges and crags commanding the line of advance, Pvt. Watson boldly rushed 1 pillbox and fired into the embrasure with his weapon, keeping the enemy pinned down singlehandedly until he was in a position to hurl in a grenade, and then running to the rear of the emplacement to destroy the retreating Japanese and enable his platoon to take its objective. Again pinned down at the foot of a small hill, he dauntlessly scaled the jagged incline under fierce mortar and machinegun barrages and, with his assistant BAR man, charged the crest of the hill, firing from his hip.

This is where John Wayne learned his style.

Fighting ferociously against Japanese troops attacking with grenades and knee mortars from the reverse slope, he stood fearlessly erect in his exposed position to cover the hostile entrenchments and held the hill under savage fire for 15 minutes, killing 60 Japanese before his ammunition was exhausted and his platoon was able to join him. His courageous initiative and valiant fighting spirit against devastating odds were directly responsible for the continued advance of his platoon, and his inspiring leadership throughout this bitterly fought action reflects the highest credit upon Pvt. Watson and the U.S. Naval Service.

I do not know who wrote this, Mr. Speaker, but I believe it should say the U.S. Navy and the U.S. Marine Corps. Naval services does not sound impactful enough at the end.

Wilson Watson lived. I do not know if he is still alive 50 years later. Someone will probably write and tell me.

This seems so far way, 50 years, and yet it is not, Mr. Speaker. Last year I met Joe Rosenthal, the only survivor of the scene that day who took that picture. He was in the Rayburn Building in room 2117, the anteroom of the Armed Services room, and I called the photographer over and any Member lucky enough to be passing through the anteroom at that moment got a picture with Joe Rosenthal against a big, beautiful oil painting that is the prominent feature, along with the capstand taken up from the harbor of Havana that literally came off of the U.S.S. *Maine* that was sunk in that harbor in 1898, those are the two main objects of yes, military art, and posed with Joe. He is healthy, and all of the other six men at that second flag-raising, because there was a smaller flag raised first. What a touch in history to hold Joe's hand in front of that magnificent picture. As some of my colleagues on the other side of the aisle when SONNY MONTGOMERY began a series of very touching 5-minute speeches pointed out, if you want to go to your library, this book, ''Iwo Jima: Legacy of Valor,'' by Bill Ross, who I learned tonight passed on, which was published in 1983, and this is a dog-eared copy from one of our majors in the liaison office. This book I hope he will let me use when I fly to Iwo Jima at the end of next month for the commemorative of this 6-day battle. I flew around this island in an old seaplane flying to Vietnam, I have looked at it from the air at high altitude, and I do not believe we should have ever given it back to the Japanese. It is not used for anything now. It is 8-1/2 square miles of junk real estate is the way one hero described it.

I would like to read, Mr. Speaker, a letter written by a veteran just a few years ago in 1987 sitting on top of the edge of Mount Suribachi, writing it to a friend. And it is Col. John W. Ripley, one of the young officers in that horrendous battle, and he made his way back, his solo pilgrimage to this bloody site of so much American heroism, and he writes to his friend, Ross McKenzie, I repeat, from the top of Mount Suribachi, 556-foot mountain, the only high ground really on this volcanic rock. This is an actual extinct volcano, and all of the lava from centuries of erupting that poured in a northwesterly direction giving it a big pork chop shape, and as I said, 8½ miles.

Colonel Ripley says:

Dear Ross, From this most unlikely spot I am inspired to write you for reasons I can't fully explain. Certainly you have received no other letters from here I would wager, and you may find this interesting. It's the middle of the night—cold, windy, uncomfortable & profoundly moving.

He is writing by flashlight. ''I'm looking down on a tiny island 3 miles wide and 5 miles long. Down there, and here where I'm writing by flashlight,'' a lot of these figures are a little off, so I corrected them, and I hope he does not mind if he is listening, where 5,951 marines died. There were another 870-some Navy men, Air Force men, air crews, 220-some men died on the U.S.S. *Bismark Sea* which was sunk by a Japanese kamikaze, Coast Guard men bringing the landing craft in earlier, Navy men of all types. Six thousand eight hundred twenty-one is the precise figure of everyone.

The mountain is Suribachi, the island, Iwo Jima. Of the hundreds of thousands of words written about this place, nothing comes close to describing its starkness, its inestimable cost and now, sadly, the poverty of its abandonment.

The entire island is a shrine, mostly Japanese, but a few American—only a few. Americans don't seem to care about such things when, as is the case here, it's inconvenient.

And yet this island, its name and most especially this very spot where I sit—where the flag was raised—is immortalized in our national consciousness for as long as there is an America.

''The debris and detritus of war remain even after nearly 43 years. Rusty vehicle hulks, wrecked boats, sunken ships, canteens, mess kits, thousands of rounds of corroded ammunition, blockhouses, pillboxes, trenches, abandoned airfields, large naval shore guns, artillery, etc. And beneath my feet remains of—'' he says 22. It is actually 19,000 dead Japanese. We did take 1,083 POW's out of a garrison of over 20. He says, ''We hated them then. There is more respect now, defenders, brave men who die at their post.

''Rupert Brooke,'' an English poet, ''said it perfectly; ''Here, in some small corner of a forgotten field, will be forever England.'' And this brutally stinking sulfuric rock depressing to see, demoralizing as it has lost its once vital importance and our nation's once great concern, will be forever America. It will be forever in the memory of those 75,000 Marines who fought here.''

I learned yesterday from Commandant Mundy, addressing at the beginning of the year, as is the tradition in the Armed Services Committee where he said that of the 27 Marine battalion commanders, and we only have 24 now, Mr. Speaker, 24 in the whole Marine Corps battalions, 27 fought in combat there, and 18 of those battalion commanders fell. Some of them did survive, but were taken off the island badly wounded, and more than a third died.

He said:

Of the 75,000 Marines who fought here suffered wounds here and the 5800 who gave their blood and lives to its black soil. Again Rupert Brooke. ''In that rich earth, a richer dust concealed. Their hopes, their happiness, their dreams ended here. And if we fail to honor them in our memory and our prayers, we should be damned to hell for such failure.''

□ 2340

'''I brought a small team here, Ross, to survey the island for future exercise use. The Japanese would prefer that we did not exercise here, but that will be over my dead body.'' I do not know, Mr. Speaker, who won this debate 7 years ago.

I find it hard to believe and impossible to accept that our Government gave this island back to the Japanese. It is as if we gave them Gettysburg or Arlington National Cemetery. Americans died here in such numbers that in 9½ months the toll here would have equaled, if it had lasted 9½ months, would have equaled the entire 10–11 years of the Vietnam struggle. The Marine Corps should never lose its right to exercise here, and I am proud of having something to do with assuring that it will be so. Yours, I, John, John Ripley, Colonel, U.S. Marine Corps, Retired.

Mr. Speaker, it is amazing how we will pass people on the street and not know what they have done for their country, just a senior gentleman or lady walking by, we say hello or nod. We do not know that they laid their life on the altar of liberty, of freedom, sometimes in foreign countries far away, and went on with their lives with the memories of all the friends of their youth who did not make it.

Gene Rider in Navy Times wrote a column a few days ago, well, actually it is dated a few days from now, February 27, so it is the current Navy Times, and I think it sums it up better than anything I have read. I would like to read a few paragraphs from it, Mr. Speaker. This is Gene Ryder. I hope he is listening.

He is a CBS Radio correspondent who lives in San Diego, and if he has a friend listening, call Gene to hear his words going out to Guam where our day begins, Alaska, and the Virgin Islands and all 50 States, thanks to the wonder of C–SPAN.

He writes:

Iwo Jima, valor, death, and a raised flag. The high command expected Iwo Jima to be a 4-day piece of cake for the 42,000 Marines of the 4th and 5th Divisions. But Lieutenant General Howland M. ''Howling Mad'' Smith warned it would be the most grueling battle in the Corps' history. He was the senior Marine officer in the entire Pacific, but he was outranked. In the first 18 hours alone, 2,312 men had fallen.

That is double D-Day, Mr. Speaker. ''The 3d Division, brought along as a floating reserve,'' that is our division that fought for a decade in Vietnam in the I Corps around Da Nang, ''wasn't expected to be needed. It was committed February 20, day 2,'' and the first unit landed on day 3, the 21st. ''As planned, 30,000 men landed on day 1. Most massed on the beachhead area.'' I do look forward to walking these beaches next month, Mr. Speaker.

''Defense perimeters had not been fully formed, because the tanks lost traction in the volcanic ash. Heavy artillery landing was delayed by heavy surf.'' I witnessed that surf in these films this evening, Mr. Speaker, waves coming over giant Amtraks and landing vehicles, and they completely disappeared under as heavy a surf as I have ever seen along the California coast.

He said, ''The congestion on the beach had grown into a monumental snarl of damaged tanks, landing crafts, smashed equipment. The Japanese are holding their fire. They had their fields of fire perfectly worked out.'' One of our Marine colonels told me tonight they had drilled holes in the volcanic rock where they inserted mortar tubes so you could come along and drop a tube, and it was perfectly positioned to pick out certain people on the beach. You could move on after you dropped the mortar shell into its barrel.

He said;

Things started to improve on the beach, false feeling of security. The heavy artillery landed. Twenty-five miles offshore, 60 Japanese kamikaze planes in several waves swooped in to hit the smaller escort carriers. Detected early on, many were shot down. Two slammed into one of our big supercarriers, the *Saratoga* that had been battling since 1942 all across the Pacific, killing 128 on the *Saratoga,* wounding another almost 200. Another kamikaze crashed midship on the *Bismarck Sea*. Bombs went off, and engulfed in great flames, the carrier sank quickly, 812 sailors into the icy water, 218 dying.

Iwo Jima, ''Sulfur Island,'' gateway to Japan, populated by 21,000 subterranean troops, and I saw an eyewitness soldier tonight who said they were not on the island, they were in the island.

There were caves all the way through and tunnels. ''The almost invisible smog of smoky drizzle that smelled of cordite and death and sulfur; the Japanese commander, Lt. Tadamichi Kuribayashi, he knew he could not win, but he and his troops were dedicated to death.''

Mr. Speaker, think, as I read these words, of this inane, stupid argument of how we were going to present the B-29 fuselage of the *Enola Gay* that dropped the first atom bomb on August 6 at though we were in some kind of racist crusade against the Japanese islands. This battle, and the battle 50 years ago next month in Okinawa, just give a tiny feeling of the major death toll that we would have suffered.

I learned last week that we are awarding Purple Hearts today in Somalia, Grenada, Panama, Purple Hearts have gone to several men putting their lives on the line in Haiti to restore order to the pathetic little island, and these Purple Hearts were struck in 1945, this year 50 years ago, and we are still drawing from that supply, because these were from a lot ordered in thousands that we thought we would be giving out in the invasion of Japan and the major islands, and the death toll and wounding toll that we would take there. It is one of the amazing pieces of small information about current Purple Hearts and how many are still stored away.

General Kuribayashi, graduated from their military college, their West Point, in 1914, and he knew that his victory would be in showing Marines what lay in store for them when they invaded Japan and in denying them the emergency airfield they needed for crippled B–29 bombers at the halfway point of the Guam-Saipan to Tokyo air express.

At this point, let me add something, Mr. Speaker. There should have been somebody here tonight whose life was saved by these sacrifices, a chairman, a brand-new chairman, after being here over 22 years, BEN GILMAN of New York, who was a B–29 crewman, told me that his life was saved after Japanese fighters shot up his B–29 over the mainland of Honshu Island. He could not make it back to his base further south, Saipan, Tinian, or Guam. He recovered on Iwo Jima. He would have gone in the water like so many crewmen from his bomb wing there that died at sea, shark attacks, some of the worst shark-infested waters in the world.

Witness what happened to the crew of the *Indianapolis* that delivered the first

atom bomb to Tinian. They sunk. They were not accounted for for 3 days, a terrible military ''Snafu'', and 500 of the 800 or 900 that died in the water were torn apart by sharks.

BEN GILMAN told me he owes his life to taking Iwo Jima, which makes a good point. Did we have to take Iwo Jima? Would the Japanese or Germans, if their roles had been reversed, have taken Iwo Jima? They might not have. They would have told their pilots, ''Press on. If you do not make it, that is OK, we have got teenagers to take your place.''

These thousands, these 6,821 marines and sailors and Army Air force men, Coast Guardsmen who died, they gave their lives in a direct trade at about four or five to one for the 27,000 men in the air crews and fighters and mostly B–29's that made it back to Iwo Jima, coming back shot up from all of those raids in March and April and May and June and July and through August 15, 1945 when the cessation of shooting came about looking forward to the treaty of surrender on the deck of the *Missouri* on September 2.

So BEN GILMAN is a living testament of somebody who would not be in this House if it had not been for this sacrifice and the atom bombs would not have brought an end to this horrible death toll on both sides. A million Japanese survived the war to have children and grandchildren that are alive in a dynamic nation and its economy today because we dropped those two bombs.

I am happy to say, under the lead of JOE MCDADE from Pennsylvania here, and my hero in this House, our Gary Cooper, SAM JOHNSON of Texas, who I watched take on the head of the Smithsonian Air and Space Museum and say, ''Would you have dropped the bomb, Doctor?'' And he says, ''I would have obeyed orders.'' He said, ''No; would you have dropped the bomb if you were Harry Truman?'' ''No; I would not.'' SAM held up that hand that has seen so much torture in Vietnam, he holds up the hand and looks at him and says, ''That is the difference between you and me. I would have dropped the bomb.''

□ 1150

That is our Texan, SAM JOHNSON of Dallas. We won that battle. I continue reading from Gene Rider's Navy Times story.

Big guns silent, tanks mired in mud, no spotting airplanes on day four, but it seemed eerily quiet. Perfect day for infantry. Leaning into near gale force gusts and driving sheets of rain, Marines begin probing the steep bouldered slopes of Suribachi, flame throwers, demolition charges, grenades, and men winning the Medal of Honor, destroyed pill boxes and bunkers as our patrols drove upward. There were sporadic nasty skirmishes and casualties. By nightfall it was apparent that only a few of the 2,000 Japanese packed into the caves on that mountain on the southwest corner of the island in all those labyrinths at several levels, they remained alive in there.

The weather on day 5, different. Greatly improved. Lt. Colonel Chandler Johnson, I don't know if he is still alive, commander of the Second Battalion, 28th Regiment, had seen the totals through day three. 4,574 of his men killed or wounded. In the 5th Division, 2,057 men killed or wounded. A great many were from his own battalion. He decided they needed a topping out party, a flag on top of Suribachi. He called together Lt. Harold Schrier, a route to follow up the steep slopes he said. Take this folded flag, a smaller one, and put this on top of the hill.

See how men will die for a flag? And we debated all night a few years ago in this well, DUNCAN HUNTER led the debate, all night long to pass a simple law that you cannot burn Old Glory in front of veterans like these, some of them in wheelchairs. And we lost that debate. When we are through with our 100 days, maybe, just maybe, we will revisit whether or not you have a right to burn a flag in front of courageous men and those Army nurses and Marine nurses and Navy nurses, excuse me, that went in to help the Marine Corps.

So he says put this flag, his simple order, put this on top of the hill. Preceded by a patrol that met no opposition, E Platoon, 40 men plus litter bearers, notice everywhere they went, they have litter bearers or doctors with them. I repeat, 820-some paramedics died with all the Marines fighting. How many times must the word ''medic'' have pierced the din of artillery and machine gun and flame thrower fire there.

He said with their litter bearers they go up. Slowly they make it up single file the steep slope to the crest. Rifles and grenades ready. Some of the men scour the crater's debris, and there is a huge crater there. They found a pipe. They lashed the colors to it, and at 10:31 a.m. the Stars and Stripes went up and whipped in the blustery wind.

Sergeant Lou Lowery took pictures for ''Leatherneck,'' a great magazine 50 years later. And a Japanese suddenly leapt up from a cave, fired, and just barely missed Low Lowery. A Marine gunned him down.

Marines handily won a skirmish that developed using rifles and grenades. It wasn't planned. James Forrestal, the Secretary of the Navy, and what a handsome guy, he turned out to be 2 years later our first Secretary of Defense. I thought looking at the film today, they had pictures of him on the deck of the command ship, the El Dorado, but he was actually on the beach already, on Green Beach, and he is standing beside Gen. Howling Smith, where 23 Marines were killed right in that area within that very hour, and they watched that flag unfurl. It was a very emotional moment. Our Marines that were in our liaison department particularly asked me to point out what James V. Forrestal said. He set that handsome square jaw of his and he said ''General Howling,'' pointing up to the flag on Suribachi, the earlier smaller flag, ''this means a Marine Corps for 500 years.'' Howling Mad then choked up.

They soon returned to the El Dorado command ship two miles offshore. CBS asked for recorded interviews. And General Smith ordered Sgt. Ernest Thomas, one of the flag raisers, to come on board for the interview. He was the very senior sergeant. Afterwards Thomas had one of the thrills of his life. A hot bath, his first in days, and a hot meal, and he couldn't wait yet to get back to his outfit.

A few days later he died on Iwo Jima. He gave up his life. That was his last hot shower, his last hot meal. The banner atop Suribachi was a lift for the Marines in the foxholes down in all the lower part of the island. The sailors on the beach and on the ships, they saw it.

This is captured on film, I just saw it a few hours ago, Mr. Speaker, exuberant yells, ships blasting whistles, ships' bells ringing, horns rang out. Lt. Col. Chandler Johnson was jubilant. He had to have that flag as a souvenir for his battalion which had paid such a price for its role in taking the mountain. He sent a runner to scrounge up another flag.

The officer on one of the landing ship tanks at the beach broke out the ship's ceremonial flag. It was twice as large and delivered to the summit about an hour later. About then, a five foot five bespectacled 33-year-old civilian in Marine dungarees reached the top with a pack full of photographic gear.

He was joined by two Marine combat photographers. They were feeling put out by having missed the flag raising. Of course, that five foot five, 33-year-old, now 83, was none other than Joe Rosenthal, San Francisco Associated Press.

He saw the just delivered 4 by 8, a pretty big flag, that is the size I think I will replace my 5 by 7 with in front of my house here in Virginia, and that is what I will use in my house in Garden Grove. I am going to like that size the rest of my life, 4 by 8. He saw them tying the banner's lanyards around a long pipe about to be positioned for hoisting.

Joe told me he had his back turned at this moment. He and sergeant Bill Genaust scurried 25 feet up. He is just loading, and just then six Marines struggled the unwieldy pipe upward, with that big flag starting to whip out in the stiff breeze. Joe told me he whipped around. Gene Rider has it here that he clicked his speedgraphic loaded with black and white film at the midpoint just at the right millisecond for this incredible, now an icon, historic photograph.

Then Bob Campbell, another Marine photographer, shooting from a different angle, and in these wonderful commemorative books that the Marine Corps published, you see Bob Campbell's picture capturing the original

smaller flag being brought down by Marines, still ducking from sniper fire, and the big one going up. What an incredible moment that symbolizes to all the soldiers, sailors, Marines and airmen fighting all around the world. What a tribute to our beautiful Old Glory.

The Marines stood under the flag, looked across Iwo Jima, the view from 556 feet was much different from that scene from the foxholes and the caves and the Marines below. Keep in mind, there is 31 days of hellish fighting to continue. Five days of carnage and they owned a third of this 8½ square miles of junk.

Rosenthal came down slowly from the top, made the rounds of the command posts and aid stations, and caught a ride on a press boat back out to the El Dorado. He wrote captions for his day's pictures and made sure they were in the press pouch for the courier seaplane, probably a Catalina, back to Guam. There they would be developed, checked by censors, radioed stateside by CINCPAC's high powered transmitters. He wasn't sure of what he made up there at the top, he didn't even get to see his work, and a day or so later the Associated Press radioed congratulations. And that turned out to be the defining event of his life.

Casualties mounted as the carnage erupted into a new fury, and as the 4th division on the eastern front, 3d division in the center and 5th division on the west hammered ahead with tanks, flame throwers, mortars, rockets, each day was heartbreak and it went on for 31 more days.

I ask permission to put the rest of this in the RECORD and close with this in the final minute or so, Mr. Speaker.

This battle is not over, keeping our country strong. And here is another article after Gene Rider's in the same Navy Times, if it had to be done all over again, how future Marines would take Iwo Jima in another way. They project their thinking, Chris Lawson, the Times staff writer, to 2010, and the star of this event is none other than the V–22 ''Osprey.'' On the ground it is the advanced armored amphibious vehicle, AAAU. These two systems are in doubt whether or not we are going to fully develop them for our great Corps. And it shows how this 36-day battle would have been shortened by vertical envelopment and putting our troops behind all of the Japanese forces and how much loss of life could have been prevented in this terrible conflict.

□ 0000

I would like to submit this for the RECORD and close again with those words that have been said 10 times at least tonight, that uncommon valor was a common virtue that day, 27 Medals of Honor and the debt that Americans born ever since, were too young to serve, will never, ever be able to repay except by studying this history and passing it onto the young men and women of our country, as Ronald Reagan requested.

[From the Navy Times, February 27, 1995]

IWO JIMA: VALOR, DEATH AND A RAISED FLAG

(By Gene Rider)

The high command expected Iwo Jima to be a four-day piece of cake for the 42,000 Marines of the 4th and 5th divisions. But Lt. Gen. Holland M. ''Howling Mad'' Smith warned it would be the most grueling battle in the Corps' history. He was the senior Marine officer in the Pacific, but was outranked.

In the first 18 hours, 2,312 men had fallen. The 3rd division, brought along as floating reserve, wasn't expected to be needed. It was committed on Feb. 20 and first unit landed on Day Three, Feb. 21.

As planned, 30,000 men landed on Day One, most massed in the beachhead area. Defense perimeters had not been fully formed because tanks lost traction in volcanic ash. The heavy artillery landing was delayed by a high surf and beach congestion, which had grown into a monumental snarl, of damaged tanks, landing craft and smashed equipment.

Much of the enemy's firepower came from caves and labyrinths of Mount Suribachi, the 556-foot-high dead volcano overlooking our beachhead at the island's southern tip. Much of our bombardment and air strikes were concentrated on Suribachi and by Day Three it had been jolted to its core.

Things were improving on the beach. Heavy artillery landed. But 25 miles offshore, 60 planes in several waves of a kamikaze mission swooped in to attack our escort carriers. Detected early on, many were shot down. Two slammed into the carrier Saratoga, killing 128 and wounding 192. Another crashed amidship on the Bismarck Sea. Engulfed by great flames, the carrier sank quickly and 812 sailors took to the icy waters, 218 dying.

Iwo Jima—Sulphur Island—gateway to Japan, populated by 21,000 subterranean troops, was almost invisible in a smog of smoky drizzle that smelled of death, sulphur and cordite. The Japanese commander, Lt. Gen. Tadamichi Kuribayashi, knew he couldn't win. But he and his troops were dedicated to death. Their victory would be in showing Marines what lay in store when they invaded Japan and in denying them the emergency airfield they needed for crippled B–29 bombers at the halfway point of the Guam-Saipan-to-Tokyo air expressway.

Big guns silent, tanks mired in mud, no spotting planes, dawn on Day Four seemed eerily quiet. It was a perfect day for infantry. Leaning into near-gale-force gusts that drove sheets of rain, Marines began probing the steep, bouldered slopes of Suribachi. Flame throwers, demolition charges and grenades destroyed pill boxes and bunkers as our patrols drove upward. There were sporadic nasty skirmishes and casualties. By nightfall, it was apparent that only a few of the 2,000 Japanese packed into caves and labyrinths at several levels remained.

The weather on Day Five was greatly improved. Lt. Col. Chandler Johnson, commander of the 2d Battalion, 28th Regiment, had seen the totals through Day Three—4,574 men killed or wounded. Of the 2,057 5th Division men killed or wounded, a great many were from his battalion.

A 'TOPPING-OUT' PARTY

Johnson thought it was time for a ''topping-out'' party. After giving Lt. Harold Schrier a route to follow up the steep slopes, he handed him a folded flag and said: ''Put this on the top of the hill.''

Preceded by a patrol that met no opposition, E platoon—40 men plus litter bearers—slowly made its way in single file up the steep slopes to the crest. Rifles and grenades ready, some of the men scouted the crater's debris and found a pipe, lashed the colors to it and at 10:31 a.m. the Stars and Stripes whipped in the blustery wind.

Sgt. Lou Lowrey took pictures for *Leatherneck* magazine until a Japanese leaped up from a cave, fired and missed Lowery. A Marine gunned down the Japanese. Marines handily won a skirmish with rifles and grenades.

It wasn't planned. James Forrestal, the secretary of the Navy, who had boarded the command ship Eldorado at Guam with Gen. Smith beside him, stood on Green Beach, where 23 Marines had been killed within the hour, and watched the flag unfurled.

It was an emotional moment. Forrestal said, ''Holland, this means a Marine Corps for 500 years.'' ''Howling Mad'' choked up. They soon returned to the Eldorado two miles offshore, where SBC recorded interviews for later broadcast. Smith ordered Sgt. Ernest Thomas, one of the flag raisers, to come for an interview. Afterward, Thomas had a bath and a hot meal and couldn't wait to get back to his outfit. He gave his life a few days later.

The banner atop Suribachi was a lift for Marines in foxholes, and sailors on the beach and on ships. Exuberant yells, whistles, ships' bells and horns rang out.

Lt. Col. Johnson was jubilant. He had to have that flag as a souvenir for his battalion, which had paid such a price for its role in taking Suribachi. He sent a runner to scrounge for another flag. An officer on the tank landing ship at the beach broke out the ship's ceremonial flag. It was twice as large and was delivered to the summit about an hour later.

About then, a 5-foot-5 bespectacled 33-year-old civilian in Marine dungarees reached the top with a full pack of photo gear. He was joined by two Marine combat photographers. They were feeling put out by having missed the flag raising. Joe Rosenthal, Associated Press out of San Francisco, saw the just-delivered 4x8 banner's lanyards being put around a long pipe about to be positioned for hoisting.

He and Sgt. Bill Genault scurried out 25 feet just as six Marines struggled the unwieldy pipe upward with the big flag whipping in the stiff breeze. Joe clicked his Speed Graphic loaded with black and white film at just the right millisecond for an historic picture. Genault shot the same scene in color movies until his film ran out. Pvt. Bob Campbell, the other Marine photographer, was shooting from another location and got a shot of the small flag being lowered with the new flag going up.

Marines stood under the flag and looked across Iwo Jima. The view from 556 feet was much different from that seen from foxholes, caves and ravines below. After five days of carnage, they owned one-third of this 8½ square miles of junk real estate and had yet to reach Day One's objective.

Rosenthal came down slowly from the top, made the rounds of command posts and aid stations and caught a ride on a press boat to the Eldorado. He wrote captions for his day's pictures and made sure they were in the press pouch for the courier seaplane to Guam, where they'd be developed, checked by censors and radioed stateside by CincPac's high-power transmitters. He wasn't sure of what he'd made at the top. A day or so later the Association Press radioed congratulations.

THE ADVANCE

Casualties mounted as the carnage erupted into new fury as the 4th Division on the eastern front, 3rd Division in the center and 5th Division on the west hammered ahead with

tanks, flame throwers, heavy artillery and offshore mortar and rocket boats. Each yard was heartbreak.

By Day 14, the battle line was at Day Two's objective.

That day, crippled over Tokyo, the B–29 Dinah Might, was the first Superfort bomber to land on Iwo Jima while trying to return to Guam. With the short, shell-shocked runway under sporadic fire, the 65-ton bomber flopped down for a wild but safe landing.

A Doberman pinscher war dog led his handler's patrol to a huge cave on the eastern coast where scores of Japanese had lain dead for days in an overpowering stench. Seven Japanese came out of a catacomb and surrendered.

Day 24, March 14 at 9:30 a.m., as CincPac ordered, there was a short ceremony near the base of Suribachi. Gen. Smith's personnel officer, Col. David Stafford, read a proclamation issued by Adm. Chester Nimitz from headquarters on Guam that officially claimed victory and proclaimed Iwo Jima a U.S. territory. A bugler sounded colors, our flag was hoisted, and a color guard, Adm. Richmond K. Turner and Gen. Smith joined each division commander—Maj. Gens. Graves B. Erskine, Clifton B. Cates and Keller E. Rockey of the 3rd, 4th and 5th divisions, respectively—in salutes.

Dedications of three separate cemeteries followed. Bill Ross, Marine correspondent wrote that as Rockey spoke at the 5th's cemetery, a bulldozer dug more burial trenches for poncho-shrouded Marines laid out in long lines awaiting burial and that a jeep drove up with several more bodies.

Gen. Erskine spoke at the 3rd's cemetery. ''Victory was never in doubt. Its cost was. What was in doubt was whether there would be any of us left to dedicate our cemetery . . . let the world count our crosses, over and over . . . let us do away with ranks and ratings and designations . . . old timers . . . replacements—here lie only Marines.''

(In the mid-1950s the bodies of all Marines buried on Iwo Jima were exhumed and returned to American soil.)

Day 35, March 25, remnants of regiments 26, 27 and 28 wearily and warily slogged into Bloody Gorge on the northwest tip of Iwo Jima. There was no resistance: There were no more Japanese.

Official figures are testimony to the valor of Americans who served in the Iwo Jima battle. Total casualties 28,686. Of the 6,821 dead or missing, 5,931 were Marines, 195 were Navy corpsmen attached to Marine units. Of the 27 Medals of Honor awarded to Marines and corpsmen for valor at Iwo, more than half were awarded posthumously.

An estimate of Japanese killed: 20,000. Just 1,083 were taken prisoner—many from the Korean labor battalion.

On March 14, Adm. Nimitz issued a press release that ended with ''Among the Americans who served at Iwo Jima, uncommon valor was a common virtue.''

The same day, Gen. Cates, dedicating his 4th Division's cemetery, said, ''No words of mine can express the homage due these fallen heroes. But I can assure you, and also their loved ones, that we will carry their banner forward.''

[From the Navy Times, February 27, 1995]

IF IT HAD TO BE DONE ALL OVER AGAIN—FUTURE MARINES WOULD TAKE IWO IN ANOTHER WAY

(By Chris Lawson)

WASHINGTON.—If the Marines were tasked with taking Iwo Jima island tomorrow, chances are the assault would look pretty much the same as 50 years ago. It would be a massive amphibious landing.

But in 2010, if all goes as planned, the Corps will have the tools in hand to tackle the mission in an entirely new way. From the V–22 Osprey troop carrier to the high-speed advanced amphibious assault vehicle the Corps will be generations ahead of the technology available both in 1945 and today. Indeed, its arsenal might even include robot-controlled vehicles.

While today's Marines are highly skilled at fighting in the desert and other open terrain with fast-moving tanks and light armored vehicles—as well as fixed- and rotary-wing aircraft not available in 1945—experts say modern Marines would face many of the same difficulties the 75,000 others did when they came ashore Feb. 19, 1945, and faced down a well-dug-in enemy force of 20,000 Japanese defenders.

TOUGH ROW TO HOE

Some examples:

The current amphibious tractor travels only 5 mph, a mere 2 mph advantage over World War II models.

Helicopters would be rendered ineffective because nearly every square inch of the small island would be covered with defensive fire.

Troop mobility would not be significantly improved, since most of today's radios and other equipment are the same size and weight as they were in Vietnam.

Fancy technology, like global positioning systems, would not have much value on an island with a total area of just eight square miles.

But today's Marines would have one distinct advantage. They would likely fight at night. ''We could fight in the dark pretty well, but to take a place like Iwo, we'd do it pretty much the same way,'' said Col. Gary Anderson, the director of the Corps' Experimental Unit, a futuristic warfighting think tank at Quantico, Va.

''It would probably still take individual Marines to root the enemy out. I don't think that today we have got the capability to force them up out of their [fighting] holes.''

A DIFFERENT FUTURE

But in 2010, if the Marines get the weapons platforms they're currently vying for and take advantage of burgeoning commercial technologies, bloody Iwo might not be so bloody.

The best part: America might not even have to take such an island—just simply go around it.

But if they did need to seize Iwo, future Marines would have several distinct advantages.

For starters, the attack could come from over-the-horizon at breakneck speeds and top maneuverability. The V–22 Osprey people mover could help ferry Marines inland to high ground and Iwo airstrips, instead of simply dropping them at the soggy, ash-sand beaches and forcing Marines to slog their way ashore.

The AAAV could maneuver around any mines in the off-shore waters, and roar from ship to shore at speeds of more than 30 mph, thereby reducing their vulnerability to enemy fire.

Thank again to the legs and speed of the V–22, the logistics trains would likely be based at sea—not on the beach, where in World War II it fell victim to a continuous bombardment by enemy forces.

The Marines would also have the capability to land infestation teams on the critical high ground and take that advantage away from the enemy. Marines would likely land atop Mount Suribachi and fight their way down to the bottom, instead of working their way up under deadly attack.

ROBOTS TOO

Anderson said robotic technology could have a dramatic effect as well, and possible save the lives of thousands of Marines. Remote-controlled AAAVs, for example, could roar ashore and act as a magnet for enemy fire. Sophisticated sensing systems could then acquire the targets.

''You shoot at us, you die,'' Anderson said. ''Every time they fire, they would become a target.''

The best part: advanced Marine weaponry will likely allow shooters to engage their targets from the line of sight.

''If you can get eyes on target, you can kill them,'' Anderson said. ''You wouldn't do away totally with rifle-to-rifle and hand-to-hand combat, but you'd cut it way down. In 1945, 85 percent of the fighting was done that way. We think we could get that down to 20 percent.''

SOFTENING THE TARGET

The Marines, Navy and Air Force would also pound the daylights out of the islands with bomb after sophisticated bomb in an effort to prep the battlefield for maximum effectiveness.

Here again, robots could play a vital role. But just how vital will be determined as much by culture as technology.

''Would you see a robot platoon raise the flag on Mount Suribachi? I don't think so,'' Anderson said with a laugh. ''But one of the raisers might be a robot.''

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ORTIZ (at the request of Mr. GEPHARDT) for after 4:30 p.m. on Thursday and the balance of the week, on account of official business.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT) for after 1 p.m. on Thursday and the balance of the week, on account of official business.

Mr. EHLERS (at the request of Mr. ARMEY), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCHALE) to revise and extend their remarks and include extraneous material:)

Mr. BONIOR, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. MURTHA, for 5 minutes, today.

Mr. EVANS, for 5 minutes, today.

Mr. TEJEDA, for 5 minutes, today.

Mr. MCHALE, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. BECERRA, for 5 minutes, today.

Mr. PETE GEREN of Texas, for 5 minutes, today.

Mr. SCOTT, for 5 minutes, today.

Mr. MILLER of California, for 5 minutes, today.

(The following Members (at the request of Mr. TORKILDSEN) to revise and extend their remarks and include extraneous material:)

Mr. BRYANT of Tennessee, for 5 minutes, today.

Mr. GOSS, for 5 minutes, on February 24.

Mr. BARR, for 5 minutes, today.
Mr. STUMP, for 5 minutes, today.
Mr. SOLOMON, for 5 minutes, today.
Mr. LIVINGSTON, for 5 minutes, today.
(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)
Mr. LONGLEY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mrs. COLLINS of Illinois, and to include extraneous material, during debate on H.R. 450 in the Committee of the Whole today.)

(The following Members (at the request of Mr. MCHALE) and to include extraneous matter:)
Mr. SCHUMER.
Ms. LOFGREN.
Mr. VISCLOSKY.
Mr. DELLUMS.
Mr. HILLIARD.
Ms. MCCARTHY.
Mr. FRANK of Massachusetts.
Mr. OBEY.
Mr. NEAL of Massachusetts.
Mr. DIXON.
Ms. ESHOO.
Mr. MENENDEZ in two instances.
Mr. BERMAN.
Mr. MARKEY.
Mr. PAYNE of New Jersey.
Mr. SERRANO.
Mrs. COLLINS of Illinois in two instances.

(The following Members (at the request of Mr. TORKILDSEN) and to include extraneous matter:)
Mr. SKEEN.
Mr. BEREUTER.
Mr. BURTON of Indiana.
Mr. SPENCE.
Mr. WALKER.
Mrs. ROUKEMA.
Mr. NEY.
Mr. SMITH of Michigan.
Mr. LINDER.
Mr. PACKARD.
Mr. BAKER of California.
Mr. SOLOMON.
Mr. HOSTETTLER.
Mr. YOUNG of Florida.
Mr. RADANOVICH.

(The following Members (at the request of Mr. DORNAN) and to include extraneous matter:)
Mr. ENGEL.
Mr. PASTOR.
Mr. ROEMER.
Mrs. KENNELLY.
Ms. EDDIE BERNICE JOHNSON of Texas.
Mr. DORNAN.

ADJOURNMENT

Mr. DORNAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), under its previous order, the House adjourned until Friday, February 24, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

388. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting notification that the Department's Defense Manpower Requirements Report for fiscal year 1996, will be delayed, pursuant to 10 U.S.C. 115(b)(3)(A); to the Committee on National Security.

389. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 314 of the National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

390. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the termination of the designation as a danger pay location for all areas in Peru, pursuant to 5 U.S.C. 5928; to the Committee on International Relations.

391. A letter from the Chairman, International Trade Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

392. A letter from the Administrator, Small Business Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

393. A letter from the Clerk, U.S. House of Representatives, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period October 1, 1994, through December 30, 1994, pursuant to 2 U.S.C. 104a (H. Doc. No. 104–41); to the Committee on House Oversight and ordered to be printed.

394. A letter from the Marshal of the Court, Supreme Court of the United States, transmitting the annual report on administrative costs of protecting Supreme Court officials, pursuant to 40 U.S.C. 13n(c); to the Committee on the Judiciary.

395. A letter from the Chairman, Administrative Conference of the United States, transmitting the report on agency activity under the Equal Access to Justice Act for the period October 1, 1992, through September 30, 1993, pursuant to 5 U.S.C. 504(e); to the Committee on the Judiciary.

396. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting their fifth annual report; jointly, to the Committees on National Security and Commerce.

397. A letter from the Secretary of Energy, transmitting notification that DOE would need an additional 45 days to respond to the Defense Nuclear Facilities Safety Board Recommendation 94–2; jointly, to the Committees on National Security and Commerce.

398. A letter from the Chairman, The Board of Governors of the Federal Reserve System, transmitting its Monetary Policy Report for 1995, pursuant to 12 U.S.C. 225a; jointly, to the Committee on Banking and Financial Services and Economic and Educational Opportunities.

399. A letter from the Secretary of Defense, transmitting the first fiscal year 1995 DOD report on proposed obligations for facilitating weapons destruction and nonproliferation in the former Soviet Union, pursuant to 22 U.S.C. 5955; jointly, to the Committee on National Security, International Relations, and Appropriations.

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. CANADY: Committee on the Judiciary, H.R. 925. A bill to compensate owners of private property for the effect of certain regulatory restrictions; with an amendment (Rept. 104–46). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 716. A bill to amend the Fishermen's Protective Act (Rept. 104–47). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. H.R. 926. A bill to promote regulatory flexibility and enhance public participation in Federal agency rulemaking and for other purposes; with an amendment (Rept. 104–48). Referred to the Committee of the Whole House on the State of the Union.

Mrs. MEYERS: Committee on Small Business. H.R. 937. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; with amendments (Rept. 104–49 Pt. 1). Ordered to be printed.

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. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. COLLINS of Georgia, Mr. CANADY, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, Mr. SHAW, Mr. SAM JOHNSON, Mr. SAXTON, Mr. HOLDEN, Mr. DOOLITTLE, Mr. PACKARD, Mr. DREIER, Mr. RIGGS, Mr. HERGER, Mr. BAKER of California, Mr. POMBO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. LEWIS of California, Mr. BONO, Mr. DORNAN, Mrs. MEYERS of Kansas, Mr. BEREUTER, Mr. COX, Mr. HORN, Mr. ROYCE, and Mr. THOMAS):

H.R. 1018. A bill to amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document used by aliens, asylum, terrorist aliens, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Banking and Financial Services, Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. COLLINS of Illinois:

H.R. 1019. A bill to assist in the development of microenterprises and microenterprise lending; to the Committee on Ways and Means, and in addition to the Committee on Banking and Financial Services, 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. UPTON (for himself, Mr. TOWNS, Mr. BILIRAKIS, Mr. MANTON,

Mr. STEARNS, Mr. HALL of Texas, Mr. NORWOOD, Mr. GORDON, Mr. BURR, Mrs. THURMAN, Mr. HASTERT, Mr. GILLMOR, Mr. MOORHEAD, Mr. GRAHAM, and Mr. FRANKS of Connecticut):

H.R. 1020. A bill to amend the Nuclear Waste Policy Act of 1982; to the Committee on Commerce, and in addition to the Committees on Resources, Transportation and Infrastructure, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as full within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. QUILLEN, Mr. ENGEL, Mrs. MEEK of Florida, Mr. STEARNS, Mr. HILLIARD, Mr. ENGLISH of Pennsylvania, Mr. GEJDENSON, Mr. CALVERT, Mr. MARKEY, Ms. FURSE, Mr. BARTLETT of Maryland, Mrs. FOWLER, and Mr. NADLER):

H.R. 1021. A bill to require the Secretary of Health and Human Services to increase the voting consumer representation of the Blood Products Advisory Committee of the Food and Drug Administration, and for other purposes; to the Committee on Commerce.

By Mr. WALKER (for himself and Mr. BLILEY):

H.R. 1022. A bill 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; to the Committee on Science, and in addition to the Committees on Commerce, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GOSS (for himself, Mr. QUILLEN, Mr. ENGEL, Mr. MILLER of Florida, Mrs. MEEK of Florida, Mr. TRAFICANT, Mr. STEARNS, Mr. ENGLISH of Pennsylvania, Mr. DEUTSCH, Mr. GEJDENSON, Mr. CALVERT, Ms. FURSE, Mr. BARTLETT of Maryland, Mr. STUDDS, Mrs. FOWLER, Mr. RAHALL, Mr. HASTINGS of Florida, Mr. NADLER, Mr. SHAYS, Mr. BECERRA, Mrs. SEASTRAND, and Mr. MCHALE):

H.R. 1023. A bill to provide procedures for claims for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products; to the Committee on the Judiciary.

By Ms. DUNN of Washington (for herself, Mr. COLLINS of Georgia, Mr. KLUG, Mr. BALLENGER, Mr. CHRISTENSEN, Mr. CUNNINGHAM, Mr. DORNAN, Mr. GUTKNECHT, Mr. HANCOCK, Mr. HASTINGS of Washington, Mr. HERGER, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mr. METCALF, Mr. MILLER of Florida, Ms. MOLINARI, Mr. NETHERCUTT, Mr. NEY, Mr. NORWOOD, Mr. PAXON, Mr. POSHARD, Mr. QUINN, Mrs. SMITH of Washington, Mr. TALENT, Mr. TATE, Mrs. WALDHOLTZ, Mr. WELLER, and Mr. WHITE):

H.R. 1024. A bill to improve the dissemination of information and printing procedures of the Government; to the Committee on House Oversight.

By Mr. BILBRAY (for himself, Mr. KIM, Mr. MOORHEAD, Mr. OREIER, Mr. CUNNINGHAM, Mr. PACKARD, Mr. COX, Mr. ROHRABACHER, Mr. DORNAN, Mr. ROYCE, Mr. MCKEON, Mr. THOMAS, Mr. BAKER of California, Mr. DOOLITTLE, Mr. HERGER, Mr. RADANOVICH, Mr. BONO, Mr. RIGGS, Mr. GALLEGLY, Mr. CALVERT, Mrs. SEASTRAND, Mr. HORN, Mr. POMBO, Mr. LEWIS of California, and Mr. HUNTER):

H.R. 1025. A bill to recind the Federal implementation plan promulgated by the Administrator of the Environmental Protection Agency for the South Coast, Ventura, and Sacramento areas of California; to the Committee on Commerce.

By Mr. HEFLEY:

H.R. 1026. A bill to designate the U.S. Post Office building located at 201 East Pikes Peak Avenue in Colorado Springs, CO, as the ''Winfield Scott Stratton Post Office''; to the Committee on Government Reform and Oversight.

By Mrs. KENNELLY (for herself, Mr. OLVER, Mr. RAHALL, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FRANK of Massachusetts, Mr. HINCHEY, Mr. TORRES, Mr. FROST, Mr. ANDREWS, Ms. LOFGREN, Mr. EVANS, Mr. ACKERMAN, Ms. PELOSI, Mr. STUPAK, Mr. MARTINEZ, and Mr. SAXTON):

H.R. 1027. A bill to amend the Internal Revenue Code of 1986 to repeal the provision which includes unemployment compensation in income subject to tax; to the Committee on Ways and Means.

By Mr. REGULA (for himself, Mr. SHAYS, Mr. ROHRABACHER, Mr. PACKARD, Mr. HANSEN, Mr. BEREUTER, Mr. WELLER, Mr. HANCOCK, and Mr. BALLENGER):

H.R. 1028. A bill to provide for the retrocession of the District of Columbia to the State of Maryland, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TORKILDSEN (for himself, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. EMERSON, Mr. FRANK of Massachusetts, Mr. OLVER, Mr. MARKEY, Mr. BILIRAKIS, Mr. KING, Mr. BLUTE, Mr. SHAYS, Mrs. MORELLA, Ms. PRYCE, Mr. KENNEDY of Massachusetts, and Mr. JACOBS):

H.R. 1029. A bill to improve the enforcement of child support obligations in both intrastate and interstate cases by requiring the imposition and execution of liens against the property of persons who owe overdue support; to the Committee on Ways and Means.

By Mr. GUTKNECHT (for himself, Mr. RAMSTAD, and Mr. SENSENBRENNER):

H.R. 1032. A bill to reaffirm the Federal Government's commitment to electric consumers and environmental protection by reaffirming the requirement of the Nuclear Waste Policy Act of 1982 that the Secretary of Energy provide for the safe disposal of spent nuclear fuel beginning not later than January 31, 1998, and for other purposes; to the Committee on Commerce.

By Mr. KING (for himself, Mr. ENGEL, and Mr. NEY):

H.R. 1033. A bill to impose comprehensive economic sanctions against Iran; to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MEYERS of Kansas:

H.R. 1034. A bill to amend the Internal Revenue Code of 1986 to increase the health insurance tax deduction for self-employed individuals; to the Committee on Ways and Means.

H.R. 1035. A bill to amend the Internal Revenue Code of 1986 to encourage multiple employer arrangements to provide basic health benefits through eliminating commonality of interest or geographic location requirement for tax exempt trust status; to the Committee on Ways and Means.

By Mr. ROEMER (for himself, Mr. MINGE, Ms. HARMAN, Mr. PETE GEREN of Texas, Mr. MCHALE, Mr. STENHOLM, Mr. CONDIT, Mr. DEAL of Georgia, Mr. TANNER, Mr. TAYLOR of Mississippi, Mr. GIBBONS, Mr. BROWDER, Mr. DOOLEY, Mr. JACOBS, Mr. BAESLER, Mr. FARR, Mr. PETERSON of Minnesota, Mr. MONTGOMERY, Mr. POSHARD, and Mrs. THURMAN):

H. Res. 94. Resolution expressing the sense of the House of Representatives that reduction of the Federal deficit should be a very high budgetary priority of the Government and that savings from the enactment of spending-reduction legislation should be applied primarily to deficit reduction; to the Committee on Government Reform and Oversight.

By Mr. WELDON of Pennsylvania (for himself and Mr. ANDREWS):

H. Res. 95. Resolution amending the Rules of the House of Representatives to establish a Citizens' Commission on Congressional Ethics, and for other purposes; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII:

17. The SPEAKER presented a memorial of the House of Representatives of the State of Georgia, relative to travel expenses and per diem of State legislators; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CALVERT:

H.R. 1030. A bill for the relief of John M. Ragsdale; to the Committee on the Judiciary.

By Mr. RAMSTAD:

H.R. 1031. A bill for the relief of Oscar Salas-Velazquez; 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. 26: Mr. BAKER of California and Ms. DUNN of Washington.

H.R. 47: Mr. BARTLETT of Maryland and Mr. BAKER of Louisiana.

H.R. 62: Mr. BAKER of Louisiana.

H.R. 104: Mr. SMITH of New Jersey.

H.R. 200: Mr. PICKETT, Mr. MCHUGH, Mr. TAYLOR of North Carolina, and Mr. COMBEST.

H.R. 236: Mr. MARTINI.

H.R. 240: Mr. SOLOMON.

H.R. 328: Mr. ENGLISH of Pennsylvania.

H.R. 359: Mr. HOLDEN and Mr. WAMP.

H.R. 394: Mr. BAKER of Louisiana, Mr. ORTON, Mr. MCKEON, Mr. FIELDS of Texas, Ms. DUNN of Washington, and Mr. WELLER.

H.R. 450: Mr. ENSIGN and Mr. BACHUS.

H.R. 485: Mr. BERMAN.

H.R. 563: Mr. COOLEY and Mr. BARTLETT of Maryland.

H.R. 574: Mr. GONZALEZ, Mr. CHAPMAN, Mr. TEJEDA, Mr. FROST, and Mr. WILSON.

H.R. 582: Mr. SKEEN and Ms. LOFGREN.

H.R. 588: Mr. ROMERO-BARCELÓ.

H.R. 658: Mr. WAXMAN and Mr. DELLUMS.

H.R. 662: Mr. BOUCHER, Mr. STUMP, Mr. SAXTON, Mr. MANTON, Mr. BLUTE, Ms. MOLINARI, and Mrs. MORELLA.

H.R. 682: Mr. GALLEGLY, Mr. ROBERTS, Mr. COBLE, Mr. HANCOCK, and Mr. ENGLISH of Pennsylvania.

H.R. 698: Mr. DORNAN, Mr. MOLLOHAN, and Mr. RAHALL.

H.R. 699: Mr. GENE GREEN of Texas and Mr. FROST.

H.R. 700: Mr. BARTLETT of Maryland, Ms. MOLINARI, Mr. HASTINGS of Washington, Mr. ENSIGN, Mr. HANCOCK, Mr. MCINNIS, Mr. HOEKSTRA, Mr. ROYCE, Mr. METCALF, Mr. NORWOOD, Mr. LIGHTFOOT, Mr. KIM, Mr. WELLER, Mr. SAM JOHNSON, Mr. FOLEY, Mr. TALENT, Mr. BALLENGER, Mr. BROWDER, Mr. DEAL of Georgia, Mr. CHABOT, and Mr. PORTMAN.

H.R. 714: Mr. FAWELL, Mr. COSTELLO, Mr. YATES, Mr. LIPINSKI, Mr. EVANS, Mr. HASTERT, Mr. LAHOOD, Mr. PORTER, Mr. HYDE, Mr. RUSH, Mr. MANZULLO, and Mr. DURBIN.

H.R. 721: Mr. STUDDS, Mr. BARRETT of Wisconsin, Mr. FATTAH, Mr. KENNEDY of Rhode Island, Mr. BEILENSON, Mr. WAXMAN, Ms. RIVERS, Ms. FURSE, Mr. SCHUMER, Mr. BROWN of California, Mr. OLVER, Ms. ESHOO, Ms. LOFGREN, Mr. ANDREWS, Mr. LEWIS of Georgia, Mr. REED, Mrs. LOWEY, and Mr. EVANS.

H.R. 739: Mr. SAXTON and Mr. GILCHREST.

H.R. 759: Mr. UPTON and Mr. BAKER of California.

H.R. 810: Mr. SMITH of New Jersey.

H.R. 842: Mr. YOUNG of Alaska, Mr. LIPINSKI, Mr. CLINGER, Mr. WISE, Mr. BATEMAN, Mr. TRAFICANT, Mr. EMERSON, Mr. DEFAZIO, Mr. COBLE, Mr. HAYES, Ms. MOLINARI, Mr. CLEMENT, Mr. ZELIFF, Mr. COSTELLO, Mr. EWING, Mr. PARKER, Mr. GILCHREST, Mr. LAUGHLIN, Mr. HUTCHINSON, Mr. CRAMER, Mr. BAKER of California, Miss COLLINS of Michigan, Mr. KIM, Ms. DANNER, Mr. HORN, Mr. CLYBURN, Mr. FRANKS of New Jersey, Ms. BROWN of Florida, Mr. BLUTE, Mr. BARCIA of Michigan, Mr. MICA, Mr. FILNER, Mr. QUINN, Mr. TUCKER, Mrs. FOWLER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. EHLERS, Mr. BREWSTER, Mr. BACHUS, Mr. WELLER, Mr. WAMP, Mr. LATHAM, Mr. LATOURETTE, Mrs. SEASTRAND, Mr. TATE, Mrs. KELLY, Mr. LAHOOD, Mr. MARTINI, Mr. MCKEON, Mr. ENGLISH of Pennsylvania, Mr. FOX, Mr. TALENT, Mr. PETE GEREN of Texas, Mr. COYNE, Mr. QUILLEN, Mr. GENE GREEN of Texas, Mr. SHAW, Mr. POMEROY, Mr. FROST, Mr. WELDON of Florida, Mr. COLLINS of Gerogia, Mr. PAYNE of Virginia, Mr. BAKER of Louisiana, Mr. BRYANT of Tennessee, Mr. THORNTON, Mr. BALDACCI, Mr. KLECZKA, Mr. TORRICELLI, Mr. ORTIZ, Mr. HOLDEN, Mr. MARTINEZ, Mr. GEKAS, Mr. EHRLICH, Mr. ABERCROMBIE, Mr. MASCARA, Mr. WARD, Mr. ROHRABACHER, Mr. WILSON, Mr. EVANS, and Mr. GORDON.

H.R. 860: Mr. LARGENT and Mr. FIELDS of Texas.

H.R. 861: Mr. FILNER.

H.R. 881: Mr. ORTON, Mrs. LOWEY, Ms. DUNN of Washington, and Mr. SHAYS.

H.R. 882: Mr. STEARNS, Ms. MOLINARI, Mr. MASCARA, Mr. PETRI, Mr. GENE GREEN of Texas, Mr. ENGLISH of Pennsylvania, Mr. BENTSEN, Mr. KING, Mr. BLUTE, Mr. FOX, Mrs. SEASTRAND, and Mr. HUTCHINSON.

H.R. 884: Mr. DELLUMS.

H.R. 911: Mr. BAKER of Louisiana and Mr. MARTINI.

H.R. 959: Ms. DUNN of Washington and Mr. EVANS.

H.R. 969: Mr. BORSKI.

H.R. 1005: Mr. STOCKMAN and Mr. ROHRABACHER.

H.J. Res. 27: Mr. PETE GEREN of Texas.

H. Con. Res. 12: Mr. SPENCE and Mr. SOUDER.

H. Con. Res. 21: Mr. ACKERMAN, Mr. BERMAN, Mr. DELLUMS, Mr. EVANS, Mr. HINCHEY, Mr. JEFFERSON, Mr. LANTOS, Mr. MCNULTY, Mrs. MINK of Hawaii, Mr. RICHARDSON, Mr. SCHUMER, and Mr. OBERSTAR.

H. Con. Res. 23: Mr. YATES, Ms. DELAURO, Mr. ORTON, Mr. GUNDERSON, Mr. FIELDS of Louisiana, Mr. EDWARDS, Mr. BAKER of Louisiana, Mr. OLVER, Mr. KILDEE, Mr. WARD, Mr. BARRETT of Nebraska, Mr. WAXMAN, Mr. DIXON, Mr. MORAN, Mrs. MORELLA, Mr. BREWSTER, and Mr. MARTINI.

H. Con. Res. 28: Mr. BONILLA, Mr. KOLBE, Mr. PASTOR, Mr. NETHERCUTT, and Ms. DUNN of Washington.

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. 607: Mr. QUINN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 450

OFFERED BY: MR. ABERCROMBIE

AMENDMENT NO. 40: At the end of section 5 (page 5, after line 7), add the following new subsection:

''(c) MINERALS PRODUCTION IMPROVEMENTS.—Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) COAL REMINING.—Any regulatory rulemaking action by the Office of Surface Mining of the Department of the Interior to encourage remining of previously mined and inadequately reclaimed coal mine operations.

(2) VALUATION OF GAS PRODUCTION ON FEDERAL LANDS.—Any regulatory rulemaking action by the Minerals Management Service of the Department of the Interior to streamline and improve the methods used to assign a value to gas for royalty purposes.

(3) UNAUTHORIZED USE AND OCCUPANCY OF MINING CLAIMS.—Any regulatory rulemaking action by the Bureau of Land Management of the Department of the Interior to prohibit the illegal use of mining claims for residential, recreational, or other non-mining related uses.''

H.R. 450

OFFERED BY: MR. COOLEY

AMENDMENT NO. 41: In the proposed section 6(2)(B), strike the period at the end and insert a semicolon, and after and immediately below clause (ii) insert the following:

except that in the case of a regulatory rulemaking action under any Federal law for which appropriations are not specifically and explicitly authorized for the fiscal year in which the action is taken, the term means the period beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out that Federal law or the date that is 5 years after the date of the enactment of this Act.

H.R. 450

OFFERED BY: MR. HANSEN

AMENDMENT NO. 42: At the end of section 5, add the following new subsection:

(c) EXCEPTION FOR REGULATIONS PROHIBITING SMOKING OR PURCHASE OF TOBACCO PRODUCTS.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action authorized by any other law to prohibit smoking in public places or to regulate tobacco products.

H.R. 450

OFFERED BY: MR. MFUME

AMENDMENT NO. 43: At the end of the bill add the following new section:

SEC. . REGULATIONS RELATED TO LIMITATIONS ON BENEFITS WITH RESPECT TO DRUG ADDICTION OR ALCOHOLISM.

Section 3(a) or 4(a), or both, shall not apply to any regulatory rulemaking action (or any such action relating thereto) by the Social Security Administration under provisions of the Social Security Independence Program Improvements Act of 1994 (Public Law 103–296) affecting the payment of benefits to individuals whose drug addiction or alcoholism is a contributing factor material to the determination of disability, with respect to which interim Rules were published February 10, 1995 (60 Fed. Reg. 8140).

H.R. 450

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 44: In section 6(3)(B), strike ''or'' at the end of clause (iv), strike the period at the end of clause (v) and insert ''; or'', and insert after clause (v) the following:

''(vi) any agency action that is taken by an agency to meet the negotiated rulemaking requirements of Pub. L. No. 103–413, the Indian Self-Determination Act Amendments of 1994.''

H.R. 450

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 45: At the end of the bill add the following new section:

SEC. . RULES OF FEDERAL LAND MANAGEMENT AGENCIES NOT AFFECTED.

Nothing in this Act shall affect the ability of the Federal land management agencies (including the Bureau of Land Management, the United States Forest Service, the United States Fish and Wildlife Service, and the National Park Service) to promulgate and implement rules affecting use of or action on Federal lands within the boundaries of authorized units of the national conservation system.

H.R. 450

OFFERED BY: MR. SCHIFF

AMENDMENT NO. 46: In section 6(3)(B), strike ''or'' after the semicolon at the end of clause (iv), strike the period at the end of clause (v) and insert ''; or'', and at the end add the following new clause:

(vi) any action by a Federal agency with respect to a redesignation request submitted by a municipality under the Clean Air Act.

H.R. 450

OFFERED BY: MR. TATE

AMENDMENT NO. 47: At the end of the bill add the following new section:

SEC. . DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term ''small business'' means any business with 100 or fewer employees.

H.R. 450

OFFERED BY: MR. TOWNS

AMENDMENT NO. 48: At the end of section 6(4) (page , line), before the period insert the following: ''or to increase consumer market access, information, or choice''.

H.R. 450

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 49: At the end of the bill add the following new section:

SEC. . TRADE SANCTIONS NOT PROHIBITED.

Nothing in this Act shall be construed to prohibit the imposition of trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.

H.R. 450

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 50: At the end of the bill add the following new section:

SEC. . RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as limiting the promulgation of rules that ensure the collection of taxes from, or limits tax loopholes of, foreign subsidiaries doing business in the United States.

H.R. 1022

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 1: 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;

H.R. 1022

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 2: At the end of the bill (page 37, after line 13), add the following new title:

TITLE VII—SUNSET

SEC. 701.

This Act shall cease to be in effect on January 3, 2000.

H.R. 1022

OFFERED BY: MR. ROEMER

AMENDMENT NO. 3: Strike section 401 (page , lines , through) 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 or 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 , lines through) relating to substantial evidence and strike ''(1) IN GENERAL.—'' in section 202(b) (page , line).

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Senate

(Legislative day of Wednesday, February 22, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable LAUCH FAIRCLOTH, a Senator from the State of North Carolina.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, the Reverend Dr. Earnest Gibson, First Rising Mount Zion Baptist Church, Washington, DC.

PRAYER

The guest Chaplain, the Reverend Dr. Ernest R. Gibson, pastor of First Rising Mount Zion Baptist Church, offered the following prayer:

Let us pray:

Blessed are the peacemakers: for they shall be called the children of God.—Matthew 5:9.

O gracious God, Thou who hast created all things and created Thine human creatures in Thine own image, we adore Thee and praise Thee. We magnify Thy name. There is none like Thee in all the Earth.

Thou hast given this country representative government and led us into peaceful paths. Thou hast given us men and women, through the electoral process, whom the people of this Nation have chosen to speak for them.

Lord, we ask Thee to be with Your elected servants as they consider what is best for Your people and nation. Help them to be sensitive to the needs of those whom You called Your ''little ones.'' Lord, may every legislative decision be one in which we can rejoice, thank the Senate, and give Your Name the honor and glory.

In the name of Him who said to Moses, and to others, ''I will be with thee.'' Amen.

APPOINTMENT OF THE ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will read a communication to the Senate.

The assistant legislative clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 23, 1995.

To the Senate:

Under the provisions of rule 1, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable LAUCH FAIRCLOTH, a Senator from the State of North Carolina, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized to speak for up to 20 minutes.

Mr. MURKOWSKI. Mr. President, I wish you a good morning.

THE ADMINISTRATION'S RESPONSE TO THE THREAT TO U.S. NATIONAL SECURITY POSED BY U.S. GROWING DEPENDENCE ON FOREIGN ENERGY

Mr. MURKOWSKI. Mr. President, I rise to discuss President Clinton's ''do nothing—and I repeat ''do nothing''—response to the threat to our national security from the rising tide of oil imports.

Mr. President, the threat posed by our growing dependence on foreign energy is once again in the spotlight because of last Thursday's release of the Commerce Department's report to the President titled ''The Effect of Imports of Crude Oil and Refined Petroleum Products on the National Security.'' The report found that:

> * * * the reduction in exploration, dwindling reserves, falling production, relatively high cost of U.S. production, and the resulting low rates of return on investments all point toward a contraction of the U.S. petroleum industry and increasing imports from OPEC sources. Growing import dependence, in turn, increases U.S. vulnerability to a supply disruption because non-OPEC sources lack surge production capacity; and there are at present no substitutes for oil-based transportation fuels which account for two-thirds of U.S. petroleum consumption.

Based on these findings, the Secretary of Commerce formally advised the President that:

> The Department found that petroleum imports threaten to impair the national security. I recommend that you confirm this finding.

Mr. President, it is reasonable to expect the President of the United States to take bold action—bold action—if the national security is at risk. President Clinton agreed that it is at risk, but he simply refuses to take action or propose anything. In his statement, President Clinton said:

> I am today concurring with the Department of Commerce's finding that the nation's growing reliance on imports of crude oil and refined petroleum products threaten the nation's security because they increase U.S. vulnerability to oil supply interruptions.

So far, so good. But President Clinton went on to say:

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I also concur with the Department's recommendation that the Administration continue its present efforts to improve U.S. energy security, rather than to adopt a specific import adjustment mechanism.

So that is out.

Further, Mr. President, translated into English, President Clinton will not do anything; the administration will simply continue its existing policies—the very policies that allowed the threat to our national security to occur in the first place. I would have hoped that he would come up with at least one new initiative. I know that I could have. But he did not.

It is not that the report is trivial and can be ignored. It was put together by a high-level interagency task force led by the Department of Commerce, and included every major Federal agency; namely, the Department of Defense, the Department of State, the Department of the Treasury, the Department of the Interior, the Department of Labor, the Department of Energy, the Office of Management and Budget, the Council of Economic Advisers, and the U.S. Trade Representative. Public hearings were held throughout the country, and testimony was received from 69 witnesses. The report is well researched, thoughtful, and based on fact.

It is not that the President does not have any authority to act. He certainly does. Under the Trade Expansion Act, once a determination is made that imports threaten the national security, the President obtains broad powers. These powers have been used in the past against other threats to the national security, just as they should have been put to use here. Moreover, even if the President did not want to make use of the Trade Expansion Act authority, there is a host of other regulatory and administrative changes the President could take under existing law. If the President found these powers too limited, he could have proposed legislative changes. But for reasons I cannot fathom, he has not done a single thing other than continue the administration's policy which makes us more dependent on imports.

The President's don't worry, be happy attitude may be disturbing, but I guess it is not surprising. He is equally unwilling to promote hydroelectric power, nuclear power, or coal power. He strongly supports the use of natural gas, but not the domestic production of natural gas. Based on unfounded fears of the environmental community, he is unwilling to open up even the smallest amount of the Arctic National Wildlife Refuge for exploration and development, just as he does not want to see additional onshore and offshore Federal lands opened up.

I find it ironic that at the very moment that the President of the United States is saying that the administration will do nothing new to promote energy production in the United States, the Secretary of Energy is in China promoting Chinese energy production. Perhaps we should invite the Chinese Secretary of Energy to the United States to help our industry.

To this Senator, the President's decision to do absolutely nothing about a threat to our national security is nothing short of incredible. To agree with the Department of Commerce that the national security is at risk, but to take no action, is simply unconscionable. That is particularly mystifying because in 1992 candidate Bill Clinton made the following statement:

Our reliance on foreign oil is a genuine threat to our national and economic security. When George Bush took office, foreign oil made up a third of our trade deficit, and since then the U.S. has not had an energy policy. Now we import nearly half our oil, which accounts for two-thirds of our trade deficit. Even James Watkins, the President's Secretary of Energy, has written that the U.S. imports much of its oil ''from potentially unreliable suppliers half a world away.'' That kind of dependence makes us vulnerable, and we must change that situation.

That was President Clinton the candidate.

Mr. President, there is an old saying that those who do not learn from the past are condemned to repeat it.

Does President Clinton remember the shortages, price increases, and long gasoline lines caused by the 1973 Arab oil embargo?

Does he remember the energy shortages during the 1976–77 winter, which shut down schools and businesses throughout the Midwest?

Does he remember the Khomeni revolution and the Iraq-Iran war which threatened international oil supplies?

Does he remember our reflagging Kuwaiti oil tankers to allow the United States Navy to protect them from Iran?

And, finally, does he remember Iraq's invasion of Kuwait, which threatened two-thirds of the world's oil reserves and resulted in one-half million United States troops laying their lives on the line?

Mr. President, that was a war over oil, make no mistake about it.

In refusing to take any action, however modest, President Clinton is putting hope over experience. He is also placing our energy and economic destiny into the hands of foreign producers—producing nations who have demonstrated time and time again, that they have their political and economic interests in mind, not ours.

Mark my words: If we do not pay attention to the present, we will relive the past.

We will look at the energy situation very briefly this morning.

Mr. President, there is no question that each day our energy situation is increasingly perilous. That is obvious from the data which I would now like to provide for the benefit of the Senate. I will first describe the rapid decline in U.S. crude oil production, and the state of natural gas production.

In 1970, U.S. crude oil production hit its all-time peak of 9.6 million barrels per day. In 1973, the year of the Arab oil embargo, U.S. production had fallen to 9.2 million barrels per day. Today, we produce only 6.6 million barrels per day, a 28-percent decline since 1973 and a 32-percent decline since 1970.

Today, the United States produces less crude oil than we did back in 1955. Had environmentalists succeeded in preventing the development of the Prudhoe Bay in Alaska, the United States would now be producing less oil than before 1949, the first year for which we have data.

I might add, that Prudhoe Bay has been contributing about 25 percent of the Nation's total crude oil for the last 17 years. That production is now in decline. We would like to open up new areas in Alaska to replace the decline of Prudhoe Bay, but clearly it is not the present policy at this time. I would hope the President would see fit to change his mind. He has been known to do that on occasion.

As bad as that sounds, it is only going to get worse. According to the Department of Energy, in 5 years the United States will be producing only 5.4 million barrels per day of crude oil. In the year 2005—only 10 years from now—U.S. oil production will fall to 5.2 million barrels per day. Thus, unless we take action, and take it now, in the year 2005 we will be producing about the same amount of crude oil as we did back in 1949.

To put this all in perspective, in 1949 there were only 36 million cars on the road; today there are 143 million on the road, four times as many. The good news, of course, is that energy efficiency has increased dramatically.

Although natural gas production has increased over the past 2 years, it is still 13 percent below the 1973 production rate. Moreover, the Department of Energy forecasts that natural gas production will not keep pace with increased demand over the next decade.

Let me now very briefly talk about our dwindling reserves of crude oil and natural gas.

As worrisome as the decline in U.S. production may be, the decline in U.S. proven reserves of crude oil and natural gas is even more worrisome.

From 1949 until 1968, the combined U.S. reserves of crude oil and natural gas increased every year. Beginning in 1968, however, production exceeded net additions to proved reserves, and net reserves began their current decline. Since 1968, except for the addition of Alaska's North Slope reserves in 1970, our combined proven reserves of oil and gas have consistently declined.

Today, U.S. proven reserves of crude oil are 40 percent below their peak in 1979. They are even lower than they were back in 1949.

Today, U.S. proven reserves of natural gas are 43 percent below their peak in 1967. They are also lower than they were back in 1949.

In this connection, it is interesting to note that the Commerce Department's report cites the decisions

''against developing other geological prospects such as the Arctic National Wildlife Refuge and the Outer Continental Shelf'' as key factors contributing to the decline of U.S. oil reserves.

It should not come as any surprise that the combination of increasing demand and declining production results in growing foreign dependence on imported oil.

In 1973, the year of the Arab oil embargo, we imported 6.3 million barrels per day of crude oil and refined petroleum products. We were 36 percent dependent on foreign oil.

Today, we import 8.9 million barrels per day of oil, making us more than 50 percent foreign dependent.

By the year 2005, the Department of Energy projects that we will import 12.5 million barrels per day of oil, making us 68 percent foreign dependent.

Although we are less dependent on imports of natural gas than we are on imports of oil, our natural gas imports are also rising. In 1973, we imported 5 percent of the natural gas we consumed. Today, we are importing 12 percent, and the Department of Energy projects that by the year 2005 our foreign dependence will increase to 14 percent.

As the Commerce Department's report notes, our growing dependence on foreign energy is very worrisome because:

''The United States and the OECD countries have limited prospects to offset a major oil supply disruption * * *.'' and that ''(d)uring a major oil supply disruption, there could be substantial economic austerity as a result of the decreased availability of oil * * * (which would) pose hardships for the U.S. economy.''

Our foreign oil dependency also has significant financial implications for the United States, particularly with respect to the trade deficit.

Each and every day we spend $140 million on foreign energy—$55 billion last year alone. Altogether, over the past decade we have spent one-half trillion dollars on imported energy.

Clearly, our economy would have been healthier and more of our workers employed if we had spent that money on domestically produced energy instead of on imports.

Imports of foreign energy have cost oil workers thousands of jobs, according to IPAA and Department of Commerce statistics. In 1981, there were 15,000 independent oil and gas producers; today there are less than 8,000. Total employment in oil and gas production has fallen from 700,000 in 1982, to 350,000 today—a 50-percent decline. We can only expect this to get worse over the next decade as domestic production declines and imports increase.

You do not have to be a rocket scientist to figure out what it all means. The Department of Commerce is right on target. Our economic and national security is threatened. Our growing dependence on foreign energy leaves the United States vulnerable to the whims of foreign producers. No matter how stable our energy supply now appears, the price and availability of energy from foreign nations has been, and will continue to be, a function of their political and economic priorities, not ours.

The problem is largely self-made. For example, the entire east coast of the United States is under a leasing moratorium, just as is the west coast and the eastern Gulf of Mexico off Florida's coast. There is great oil and gas potential there which can be developed with due regard to the environment. Drill in ANWR? Not a chance, says the environmental community.

We must not forget that the picture is no better for our other energy resources. For example, no new nuclear powerplant has been announced for two decades. It is difficult and costly for U.S. refineries to comply with environmental restrictions. Federal environmental laws and regulations likewise make it difficult and very costly to build a natural gas pipeline, a coal-fired powerplant, an electric transmission line, or a hydroelectric dam.

There is much that can be done to promote the production of domestic energy from our abundance resources. It ranges from the mundane to the controversial. But if we do not take action, our children are going to be very critical of us as they sit in long gasoline lines or are cold at night or are unemployed.

Mr. President, the Commerce Department's report is a clarion call to action, not a lullaby to put us to sleep. We have a choice: Produce more energy domestically, or suffer the consequences of our dependency. I choose the former; President Clinton chooses the latter.

Finally, Mr. President, I ask unanimous consent that the press release from the Independent Petroleum Association of America, the American Petroleum Institute, and the National Stripper Well Association be printed in the RECORD following my statement.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MURKOWSKI. I thank the Chair.

Mr. President, these press releases really express the petroleum industry's deep disappointment with the President's response to the Commerce Department's finding that oil imports threaten the national security.

Mr. President, I also want to bring to the attention of the Senate a letter to the President dated February 10, 1995, sent by 70 Members of Congress, myself included. This bipartisan letter identifies a host of administrative, regulatory, and legislative actions that the President could have taken in response to the Department of Commerce report. But as I have stated before, the President instead decided to do nothing, and this is disappointing to me and to my colleagues who signed the letter.

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

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

CONGRESS OF THE UNITED STATES
Washington, DC, February 10, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: The Secretary of Commerce recently reported to you the results of an investigation, conducted under the Trade Expansion Act, into the impact of crude oil imports on the national security of the United States. The investigation determined that oil imports threaten to impair the national security of the United States. While this finding may be startling to some, that is exactly the point that so many of us made when we met with you, Secretary Bentsen, and Deputy Secretary White last June.

As required by the Administration's Domestic Natural Gas and Oil Initiative, the Department of Energy recently completed a cost benefit analysis to quantify the costs of imported oil that are not reflected in the price. DOE's analysis determined that the United States pays a hidden and exorbitant economic and environmental price for imported oil.

Clearly, it is imperative that we take immediate action to alleviate this threat to our national security. By removing unnecessary impediments to domestic exploration and development we can strengthen our domestic oil and gas industry and begin to correct this dangerous oil trade deficit.

During the 103rd Congress, a bipartisan group of Senators and Representatives submitted to you the attached comprehensive domestic oil and gas policy initiative. This is a balanced package of legislative proposals and regulatory actions that could immediately boost domestic energy production.

As you will recall, the Departments of Energy, Treasury, and Interior favorably expressed a willingness to work within the framework of this bipartisan policy proposal in an effort to respond to the crisis in the domestic oil and gas industry.

In addition to the widespread support on Capitol Hill, all of the segments of the domestic energy industry enthusiastically support our proposed solutions.

Mr. President, the Trade Expansion Act requires you to take action within ninety days of the Secretary of Commerce's report. We strongly believe that our recommendations to preserve marginal well production, encourage new oil and natural gas drilling, reduce regulatory compliance costs, abolish existing prohibitions against the export of domestic crude oil production provided that full and adequate protections for the domestic merchant marine industry are assured, and ensure reasonable access to oil and gas resources on public lands, provides a blueprint for fast, effective action to protect our Nation's vital economic and security interests.

We are confident that working together with the Administration, we can quickly implement these proposals and reduce our dangerous dependence on imported oil.

We look forward to working with you to protect our Country's future.

Sincerely,

Bill K. Brewster, Glenn Poshard, Frank H. Murkowski, J. Bennett Johnston, Craig Thomas, Jim Inhofe, Jim McCrery, Pete V. Domenici, Jeff Bingaman, Conrad Burns, Howell Heflin, Kay Bailey Hutchison.

Nancy Landon Kassebaum, Don Nickles, Paul Simon, Richard Shelby, Larry E.

Craig, John Breaux, Alan Simpson, Trent Lott, Ted Stevens, Thad Cochran.

Frank D. Lucas, Tom A. Coburn, Henry Bonilla, Jerry F. Costello, Pete Geren, Ralph M. Hall, Barbara Cubin, Blanche Lambert Lincoln, Sonny Callahan, Greg Laughlin, Wm. J. Jefferson, Bob Livingston, ——— ———.

Jim Chapman, Ernest Istook, Tim Hutchinson, James Hayes, W.J. Billy Tauzin, Ken Bentsen, Gene Green, Charles Wilson, Pat Danner, Alan B. Mollohan, Chet Edwards, Bob Wise, Don Young.

Larry Combest, Steve Largent, Ray Thornton, Lamar Smith, Jack Fields, Wally Herger, Joe Skeen, Sam Johnson.

Charlie Stenholm, Jay Dickey, Frank Tejeda, Jerry F. Costello, Solomon P. Ortiz, Calvin Dooley, Mac Thornberry, Bill Thomas, Dave Camp.

PROPOSAL, MARCH 25, 1994

A TAX CREDIT TO PRESERVE MARGINAL PRODUCTION AND TO ENCOURAGE NEW DRILLING

The provision will first establish a tax credit for existing marginal wells. The provision will allow a $3 per barrel tax credit for the first 3 barrels of daily production from an existing marginal oil well and a $0.50 per Mcf tax credit for the first 18 Mcf of daily natural gas production from a marginal well.

The current definition of marginal wells will be expanded to include a new category for ''high water cut property''—producing 25 barrels per day or less per well, with produced waters accounting for 95 percent of total production. In addition, techniques such as waterflooding and disposal, cyclic gas injection, horizontal drilling, and gravity drainage should be encouraged to enable domestic producers to capture more of the oil in a given marginally economic property.

The provision will also include a tax credit for production from new wells that have been drilled after June 1, 1994. The provision will allow a $3 per barrel tax credit for the first 15 barrels of daily production for such oil wells and a $0.50 per Mcf for the first 300 Mcf per day for such gas wells.

The tax credit will be phased out in equal increments as prices for oil and natural gas rise. The phaseout prices, which are based on BTU equivalence, are as follows: Oil—phase out between $14 and $20; Gas—phase out between $2.49 and $3.55.

The tax credit is creditable against regular tax and AMT.

ADDITIONAL LEGISLATIVE INITIATIVES

Geological and Geophysical Costs. We continue to urge the administration to support the current expensing of G&G costs. We understand that the administration is studying the tax treatment of G&G costs, and we recognize that legislative action may be required.

Eliminate the Net Income Limitations on Percentage Depletion. Currently, the depletion deduction cannot exceed 100% of income from the property, and the deductions from all properties cannot exceed 65% of taxable income. Many of producers have so little income from the property that the net income limitations further restrict the value of their deductions. We support the repeal of both these limitations.

Limitation on Exports. We favor abolishing the existing prohibitions against the export of domestic crude oil production provided that full and adequate protections for the domestic merchant marine industry are assured.

OCS Deepwater and Frontier Area Production. With domestic reserves dwindling, areas with potential for new production are the deepwater of the Outer Continental Shelf (water depths greater than 400 meters) and frontier areas. The costs of finding and producing most oil and gas in these areas exceed the current price for that oil and gas. We support the consideration of a per barrel tax credit to encourage deepwater and frontier production.

ADMINISTRATIVE/REGULATORY INITIATIVES

Oil Pollution Act of 1990. We believe that the financial responsibility requirements of OPA '90 are excessive, and we support a reduction in the dollar levels. In addition, the agencies implementing the financial responsibility requirements should revise their regulations to make the requirements more realistic in several ways. First, the regulations must recognize that Protection and Indemnity Clubs function as indemnitors, rather than guarantors. Second, we support a thorough examination of existing resources to identify those that are available for immediate response and those that are available to pay damage claims and restoration costs. Third, we believe that the MMS should propose regulations regarding de minimis quantities. Finally, the MMS should apply the requirement for offshore facilities to maintain financial responsibility only to the area seaward of the coastline, consistent with prior agency actions implementing the OPA '90 and with the February 28, 1994, Memorandum of Understanding establishing Federal jurisdictional boundaries for offshore facilities.

Royalty Reduction. To remain competitive in attracting capital, U.S. royalty laws should be reassessed. The existing royalty reduction for marginal oil wells on public lands (onshore) should be expanded to include marginal natural gas wells. The royalty reduction for offshore production should be extended for new activity, especially deep water and other frontier areas, and marginal properties. Finally, we support legislation that would temporarily suspend the collection of royalties from wells in deep water, such as the bill that was approved by the Senate Energy and Natural Resources Committee.

Royalty Collection. 'Reinventing Government'' legislative proposals establish an unworkable, unfair penalty regime that will have particularly adverse affects on natural gas production. The Administration should withdraw this proposals and work with industry to eliminate royalty collection problems.

Underground Injection Control. The EPA is developing revised regulations, reportedly deviating from recommendations made by the Advisory Committee on UIC. Indications that the EPA is considering tightening regulations are disappointing, especially in light of its report to Congress which found that any problems could be solved by enforcing existing regulations, rather than adopting new rules. This proposal could be extremely costly to the industry without improving environmental protection. We oppose the EPA proposed revision of existing UIC regulations.

Natural Resources Damage Assessment. The Departments of Interior and Commerce are developing regulations to impose liability on natural resource producers for injuries caused by hazardous discharges. Although relevant statutes do not require it, damages could include emotional loss of persons who do not suffer from direct contact or use of the natural resources. The ''non-use'' damage proposal relies on an economic methodology known as contingent valuation (CV).[1] However, a panel of economists created by NOAA was unable to confirm that CV was a reliable methodology. We believe that CV for damage assessments is seriously flawed and oppose the inclusion of liability for non-use value loss in the final regulations.

Oil and Gas Leasing on Public Lands. The Interior Department is conducting an internal review of leasing to promote a new approach called ''ecosystem management.'' Current law, the Federal Land Policy Management Act (FLMPA), is based on multiple use, including oil and gas leasing activity. We urge the Interior Department to abide by the principle of multiple use.

EXHIBIT 1

INDEPENDENT PETROLEUM ASSOCIATION OF AMERICA

Independent Oil and Gas Producers Reject Clinton Administration's Do-Nothing Strategy, Call for Congressional Hearings on Risks Posed by Oil Imports.—Independent producers are stunned and disappointed by President Clinton's response to a Commerce Department finding that oil imports threaten to impair national security. ''The good news is the president agreed that oil imports pose a national security threat. The bad news is he's not going to do anything about it,'' said IPAA Chairman George Alcorn. ''That's a do-nothing approach from an administration that talks about taking action but fails to follow-through.''

''It is unprecedented for a president not to take any new action, direct or indirect, to address the national security threat,'' said Alcorn. ''All other presidents who have concurred with the national security finding have proposed specific new initiatives.''

IPAA and a nationwide coalition of producers petitioned Commerce to launch the investigation under section 232 of the Trade Expansion Act last March following a drop in world oil prices that forced producers to shut-in wells and lay off thousands of employees. Last year the amount of oil the United States imported reached an all-time high—over 50 percent of demand—while domestic production fell to a 40-year low. During the first two years of the Clinton administration, over 22,000 more American workers in the U.S. oil and gas industry lost their jobs. ''It has all happened on the Clinton administration's watch,'' said Alcorn.

''This industry has been made noncompetitive by over-regulation and a confiscatory tax policy. Congress has recognized the threat and asked for presidential leadership in a letter written only a week ago,'' said Alcorn. ''Faced with congressional support and evidence provided by the administration's own investigation that the loss of this strategic American industry poses a national security risk, the president still proposes no specific action.''

''The lack of leadership and action by this administration again demonstrates a flawed view of national security and economic stability that cannot be allowed to prevail,'' said Alcorn. ''Therefore we are calling upon Congress to investigate the threatened impairment of national security and to act where the president has failed to do so.''

IPAA Hails Energy Bill.—Today the Oklahoma Congressional delegation led by Sen. Don Nickles (R–Okla.), a key member of the Senate leadership and a member of the Finance Committee and Energy and Natural

[1] A simplified example of the use of CV is as follows: Trustees representing the public's interest in natural resources injured by an oil spill conduct a survey in which individuals are asked to state an amount they or their household would pay to prevent this injury. The reported amounts are averaged and then multiplied by the number of affected individuals or households. Since no actual use of the injured natural resource is required, the multiplier is frequently quite large and the resulting ''damage'' figure can run into the billions.

Resources Committee, introduced a comprehensive energy bill designed to help put the domestic oil and natural gas industry back to work and strengthen the U.S. economy by increasing domestic production and creating jobs throughout the 33 oil and gas producing states.

''This bill goes a long way toward developing a national energy strategy that will make the domestic oil and gas producer more competitive,'' said IPAA President Denise Bode. ''These energy initiatives are far-reaching because they will impact virtually every producer who explores for and produces oil and natural gas in the United States. The legislation is the foundation for much-needed energy reforms and it has the support of independent producers.''

The bill was introduced in the House and Senate by Congressmen Bill Brewster, Tom Coburn, Ernest Istook, Steve Largent, Frank Lucas, J.C. Watts and Senators Nickles and James Inhofe. It includes tax and regulatory measures that will help maintain production from marginally economic wells, encourage new drilling, provide relief from an unpredictable royalty collection system, promote the cost-benefit analysis of new regulations and support the export of Alaska North Slope crude oil.

''This energy bill is clearly a way we can alleviate the oil import crisis and jump-start the domestic industry,'' said Bode. ''It will put domestic producers back to work, benefiting the nation with more jobs, economic wealth and tax revenue.''

If you need additional information or would like to talk to an independent producer for a local angle on this story contact Kate Hutcheons or Jeff Eshelman.

AMERICAN PETROLEUM INSTITUTE

WASHINGTON, February 22.—The surest and most important way to stem rising oil imports is to produce more oil and natural gas at home, the American Petroleum Institute emphasized today.

The API made that observation after expressing disappointment in President Clinton's reaction to the Commerce Department's study and finding that rising oil imports are a threat to the nation.

''The President had the opportunity to express his commitment to open federal lands to new oil and gas leasing, exploration and development,'' the API said in a statement, ''but he chose to emphasize federal programs that have had no impact on rising oil imports, such as promoting alternative fuels and renewable energy resources.''

The coastal plain of the Arctic National Wildlife Refuge in Alaska holds the promise of billions of barrels of oil, as do the offshore areas of California and Florida, now closed to leasing by the federal government, API noted. The new Congress indicates a willingness to grant greater access to federal lands, but the President's support is vital, API added.

In 1994, for the first time in history, more than half of the oil used in the United States was imported. The 8,894,000 barrels a day of crude oil and petroleum products amounted to 50.4 percent of domestic demand and set an all-time record. At the same time, domestic crude oil production averaged 6,629,000 barrels a day—the lowest level in 40 years.

The President often speaks of jobs and the need for federal revenues. Both could be attained by opening new areas to oil and gas development, API said. Tens of thousands of jobs, not only in the oil fields, but in the host of service industries and factories throughout the country would be created. At the same time billions of dollars in revenues would accrue to the federal treasury in the payment of bonuses, rentals, royalties and income taxes.

The Bureau of Labor Statistics reported that in 1982, employment in the exploration and development sector of the petroleum industry reached a high of 754,500. At the end of December 1994, that number stood at 332,800—a loss of 421,300 jobs! The principal cause, the API said, were unwise federal government policies closing lands onshore and offshore to oil and gas development.

''The opportunity exists now to reverse these unwise and unsound policies,'' API said, ''and initiate policies to increase oil and gas production that would impact on oil imports.''

NATIONAL STRIPPER WELL ASSOCIATION BLASTS CLINTON ADMINISTRATION'S RESPONSE TO OIL IMPORTS SECURITY RISK—JOINS CALL FOR CONGRESSIONAL HEARINGS

Virginia Lazenby, president of the National Stripper Well Association, made the following statement regarding President Clinton's Feb. 16 response to the Commerce Department's finding that oil imports threaten to impair national security:

''I am enraged, not for myself, but for the thousands of U.S. oil and natural gas producers the National Stripper Well Association represents.

President Clinton agrees that the rising level of oil imports—now over 50 percent—pose a threat to U.S. security. That's a step in the right direction. What the Clinton administration failed to do is address the threat by proposing new initiatives such as tax and regulatory measures that would help boost domestic production. The Clinton administration's inaction is unacceptable.

In addition to the nine-month national security investigation, other studies were completed last year, including one by the National Petroleum Council, which supports the call for the passage of initiatives to maintain production from the nation's marginally economic wells. NSWA played a key role in developing the report. At the time of its release Department of Energy Secretary Hazel O'Leary said ''There are actions we can and must take that will benefit the gas and oil industry.''

Why the administration has decided against taking action is shocking. Nearly half-a-million people in the domestic oil and gas industry have been forced out of their jobs over the last decade as low-priced oil has been imported into the United States. Domestic production is at a 40-year-low. The nation can not afford to lose an increasing amount of production from marginal wells which represents $10 billion of avoided imports each year.

NSWA joins the Independent Petroleum Association of America in its call for Congressional hearings on this matter and hopes that the members of Congress will take action.''

The National Stripper Well Association represents domestic producers who produce oil and gas from so-called stripper or marginal wells which are wells that produce less than 15 barrels per day. NSWA was among the groups that petitioned the Commerce Department to conduct the national security investigation last March.

THE 50TH ANNIVERSARY OF THE FLAG RAISING AT IWO JIMA

Mr. MURKOWSKI. Mr. President, last week, a somber time passed on this floor when some of our colleagues remembered the momentous battle of Iwo Jima in the Second World War. As Senator BUMPERS so eloquently reminded us, nearly 6,000 of our marines were lost forever in that battle waged 50 years ago this week and were never to know the world they helped save from tyranny in that most dreadful struggle.

There are many others who remember Iwo Jima, Mr. President, and each has his own story. One of my constituents, Herb Rhodes of Anchorage, AK, was at Iwo in February 1945. As a member of the 5th U.S. Marine Division dispatched to Red Beach II, Herb was severely wounded in the initial attack on February 19, 1945. There were a total of 6,821 American lives lost in those first 4 days following the landing on the beach at Iwo Jima, making this battle one of the costliest of the war.

In a compilation of photos, stories, and historical information gathered by Lyn Crowley, an engineering officer with the 5th Marine Division, Herb and his former comrades in arms recount the events of that now famous day, 50 years ago, when a 40-man platoon made its way to the top of Mount Suribachi. Of these 40 men, 36 were wounded or killed in subsequent fighting on Iwo Jima. This compilation, titled ''The Flags of Iwo Jima,'' recounts the first U.S. flag on Suribachi—the one it is said that ''nobody remembers.''

This is so because the first flag was very small and could not be seen down the mountain or across the island. The 5th Marine commander then ordered a larger flag be raised as a sign of encouragement to our troops, who were still in the throes of a great battle.

This second raising of Old Glory was captured for all time by combat photographer Joe Rosenthal. His photograph on Mount Suribachi became the model for the Marine Memorial that we all know so well. The photograph itself—of the second flag raising, not the first—is said to be the most famous photograph of wartime history

I promised Herb that I would speak here in order to remind us of the acts of all brave marines, the sacrifice and loss suffered by the Nation, and indeed, I speak to honor my friend Herb Rhodes and his marine brothers who climbed Suribachi in February 1945 and were the first to raise the flag. With humility and gratitude, I know that we live better lives because many of them gave their lives for us. My feelings are shared by many in Congress, and throughout our Nation and the world.

I know that Herb Rhodes will agree that the marines who fought on Iwo Jima gave their all to earn victory. This is as true for the marines who were the first to reach the top of Mount Suribachi as it is for those captured in Joe Rosenthal's photograph. Indeed, glory and honor are due to all those who sacrificed their lives or who put themselves in harm's way on Iwo Jima. While some of our warriors were captured on film, and some are immortalized in bronze in Arlington Cemetery, these serve to symbolize the heroism of all who fought to save liberty. Herb Rhodes and his soldier brothers deserve our everlasting gratitude on

this historic day, and as long as our freedom endures.

On this 50th anniversary of the battle on Iwo Jima, we remember flags raised by marines all over the world. And we remember flags draped over marines, airmen, sailors, and soldiers, in honored glory, from Iwo Jima to Omaha Beach to Da Nang. Today and every day, we remember all our brave heroes.

Do I have any remaining time, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 1 minute and 40 seconds.

Mr. MURKOWSKI. I see my friend from Colorado is in the Chamber. The Senator from Texas had asked me to yield if I had any remaining time, but I do not see the Senator from Texas, so I obviously will yield to my good friend from Colorado.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Colorado [Mr. CAMPBELL], is recognized for up to 10 minutes.

AMERICA'S ENERGY CRISIS

Mr. CAMPBELL. Mr. President, I am here today to speak about another bill, but I listened with interest to the comments of my colleague from Alaska on our energy crisis and would like to associate myself with his comments.

I know, as does he, that we are more dependent now, I guess, than at any time in our history on foreign oil. And anyone who thinks that the war in the gulf was anything other than a war over oil is being naive. I think, as my friend from Alaska, that trading the blood of American soldiers is a pretty darned poor trade for oil. But clearly, if we do not have some kind of coherent energy policy and if we do not move to develop our resources, we are destined to do more battle on foreign lands.

It also is interesting to me to note that when we do have public hearings about developing America's natural resources, some of the people who protest the development show up in automobiles getting about 4 miles to the gallon.

At any rate, I look forward to working with the chairman on trying to enhance production of American resources.

THE NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT

Mr. CAMPBELL. Mr. President, I want to take a few moments to speak on legislation I introduced last week entitled the ''Native American Financial Services Organization Act,'' S. 436. This legislative initiative is the culmination of extensive deliberations between officials from the Department of Housing and Urban Development, the Department of the Treasury, the USDA, members of my staff, and staff of the Senate Committee on Indian Affairs.

The primary purpose of the Native American Financial Services Organization Act is to begin to look at innovative funding mechanisms to address the critical housing needs prevalent in most native American communities.

The cornerstone of this legislation is the establishment of a native American Financial Services Organization as a limited-government chartered corporation that would have the authority to:

Assist native American communities to create local financial institutions that will attract capital investment in housing and economic development in Indian communities.

And, to develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on native American lands, such as issues relating to trust lands, discrimination, and inapplicability of standard underwriting criteria.

As a matter of consistency this legislation is intended to supplement, not duplicate, the efforts of any other government-sponsored enterprise or organization.

Through a cooperative agreement with the Community Development Financial Institutions [CDFI] fund established in the Riegle Community Development Banking and Regulatory Improvement Act, the Native American Financial Services Organization will provide technical assistance to native American financial institutions pursuant to the provisions of the CDFI fund.

Mr. President, last week Secretary Cisneros testified before the Committee on Indian Affairs. In his remarks, he discussed HUD's reinvention blueprint for native American programs in the context of overall HUD reorganization.

I was particularly impressed with his commitment to revitalize and reorganize the Department of Housing and Urban Development so that local communities, and in this instance Indian communities, are further empowered to administer housing programs with greater flexibility.

In addition to consolidating many existing programs into funds, which will be administered as block grants, the Secretary reiterated his commitment to seek out alternative, innovative funding mechanisms that could be a catalyst for supplementing existing Federal dollars with greater private investment.

Mr. President, as the Chair is probably aware, housing on Indian reservations is terrible. The existing housing conditions prevalent in many Indian reservation communities are so bad an estimated 50,000 families are in need of new homes. And further, according to a study completed by the Commission on American Indian, Alaska Native, and Native Hawaiian Housing, the total backlog of needed homes approaches 5,500 or an estimated cost of $460 million.

I think it is realistic to say that under our current fiscal constraints, Congress will probably not be able to appropriate the necessary funding to meet such a large backlog of basic housing needs.

It is for this very reason that I believe the Native American Financial Services Organization Act is a viable solution to existing housing crisis in our Indian reservation communities. I want to thank my colleagues Senator MCCAIN, Senator INOUYE, and Senator DASCHLE for cosponsoring this important legislative initiative and look forward to its speedy passage.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

THE NO DUCK SEASON CANARD

Mrs. HUTCHISON. Mr. President, it is about time to lay to rest the fears of duck hunters across America about the effects of S. 219, the Regulatory Transition Act of 1995, on this year's duck hunting season.

This bill, which would impose a moratorium on all new Federal regulations, is an integral part of our regulatory reform agenda. It is designed to protect the public from regulatory overzealousness, but certainly not at the expense of one of our country's most enjoyable pastimes.

The legislation introduced by Senator DON NICKLES, Senator BOND, and myself, cosponsored by 36 Members of the Senate, clearly exempts regulatory activity if the President finds the action is a routine administrative action or principally related to public property benefits or contracts.

No activity of the Federal Government can be considered more routine than setting limits on duck bags.

But, fueled by faulty information and media hype, millions of our country's sportsmen are crying foul. We call these tactics the close-the-Washington-Monument syndrome. The bureaucrats say if you are going to do something we do not like we will make the most ridiculous decision possible and try to blame you for it.

The proponents of this legislation have no intention of shooting themselves in the foot by losing the support of duck hunters for new regulatory common sense in our Federal Government. I have cosponsored the Federal regulatory moratorium and am a lead sponsor of the moratorium on the Endangered Species Act because they are important tools in our fight to protect private property rights and to safeguard small businesses and communities throughout the country from excessive Government regulation. Ill-conceived regulation curbs economic growth and curtails productivity at a significant cost to our taxpayers and it costs jobs in America.

While the moratorium would achieve the desired effect of slowing down this

administration's appetite for Government control of our businesses, it certainly is not intended to prevent routine Government procedures, or to deprive our citizens of their favorite leisure sports. And we have gone out of our way to take care of these concerns.

While the opponents of these bills are likely to continue to try to ruffle the feathers by trying to scare the public, the public's interest would be far better served by imposing moratoriums. It will prevent further regulatory burdens from being added before this Congress can revise current laws, and add common sense to overzealous regulations. That is our goal, common sense.

I think the close-the-Washington-Monument tactics show how little common sense there has been in the regulatory climate. The public understands one point all too clearly: Regulatory reform is an issue we cannot afford to duck.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Dakota is recognized to speak for up to 15 minutes.

HUNGER

Mr. DORGAN. Mr. President, the other evening in a meeting in North Dakota with a couple hundred North Dakotans, mostly farmers, I asked to do something different. I asked if those who came to the meeting to participate would spend a little time talking about what is right, what works, which Government programs are good and address real needs in the right way?

It was an interesting exercise. The sport in America, the pastime in our country that consumes the minutes of virtually every town meeting of every Member of Congress, is talking about what is wrong. I understand that. We should figure out what is wrong and make it right. But it is also important to understand that there are a lot of things done in this country that are good, that are worthwhile, that make this country better.

There is, it seems to me, a requirement from time to time for us to stop and think about that. What is it that works? What is worthwhile?

We have in this country today something called a Contract With America, which was offered by the majority party in the House of Representatives. In the last election, when the American people decided who would govern, 20 percent of those who were eligible to vote cast their vote for Republicans, 19 percent of those eligible to vote cast their vote for Democrats. In other words, the Republicans won 20 percent to 19 percent, and 61 percent decided they would not bother to vote at all. That was the score. The 20-to-19 victory produced was called a mandate by some. This 1 percent mandate in the House of Representatives then provided us with something called a Contract With America. The Contract With America has some things in it that I support and some things that we on the Democratic side of the aisle have brought to the floor of the Senate previously. There are things in it that I think are bipartisan and that will enjoy bipartisan support. There are other things that cause me great concern, which is where I think we are going to be in some public policy aggressive discussions later this year.

We are now discussing the constitutional amendment for a balanced budget on the floor of the Senate. Consuming a substantial amount of time in that debate is the notion that there are some people in this Congress who want to spend a lot of money and there are others who are conservative that do not.

Something happened last week that once again belies that general notion. In the House of Representatives, the majority party, the conservatives, the ones who push the Contract With America, said they wanted to add $600 million in defense spending to a bill. The Secretary of Defense said, ''No, we do not want that. We do not need that. We do not support that.'' The conservatives said, ''No, no, no, we insist. We want $600 million more for you to spend.''

The question is, Who is conservative and who is liberal? We have conservatives saying the Defense Department should be given more money than they want or need because that is where they want to spend money. Where did they get it? They said, ''We will not increase the deficit. We will take the money that's in an account for improvements for schools in low-income neighborhoods and we will use that to give the Defense Department money it says it does not need. We will cut job training for disadvantaged youth in order to give the Defense Department money the Defense Department says it does not want.'' This coming from conservatives.

So, who is a liberal and who is a conservative? Who are the big spenders? Are the big spenders people who want to stuff another $600 million over to the Pentagon when the people who run the Pentagon say, ''We do not want it, we do not need it, we did not ask for it, do not give it to us?''

I take from this lesson the general notion that is there is really not a plugged nickel's worth of difference between Republicans and Democrats, conservatives and liberals, in their appetite for spending money. Everyone wants to spend resources. The question is, on what? One wants to build star wars, another wants a feeding program for children. But both want to spend money.

I think a century from now one will be able to look back at this society, at this country, at this group of people and make a reasonably good judgment about who we were and what we were about and what kind of people we were by how we decided to spend public resources.

One will be able to look at the Federal budget 100 years from now and decide: Here is what the American people felt. Here is what they thought was important in the year 1995, because the Federal priorities on spending, the priorities of the Federal and State governments and the other uses of public funds establishes what our country and its people thought was important.

There are some things in this country that are of national importance, that we have decided were important over 20 and 50 years. I have worked on one of these issues a great deal for many, many years. It is that issue—hunger—which persuaded me to come to the floor for just a couple of minutes today. I have traveled to refugee camps around the world. I chaired a task force on hunger with the chair of the Hunger Committee, the late Mickey Leland, when I was a Member of the House of Representatives. We have the winds of hunger blowing every day in every way in every country around the world—killing 40,000 to 45,000 people a day, most of them children. And yet it is not a headline anywhere. It is just a persistent, chronic problem that imposes massive suffering on millions and millions of people. Hunger is not some mysterious disease for which we do not have a cure. We know what causes it. We know what cures it. Hunger is a very serious problem, and there is a national responsibility and a national requirement to respond to it.

The national priority to respond to hunger has been manifested in things like the school hot lunch program, the WIC program, the Food Stamp Program, a whole range of programs that invest in those who find themselves with the misfortune of being poor and hungry, particularly in young people.

We are told now in the Contract With America that the new way to respond to these issues is through block grants. Substantially cut the total amount of money for a number of programs, especially programs that affect the poor, the vulnerable, and the hungry. Substantially cut the money in the aggregate, roll it into one block grant, move it back to the States, and say to the States, ''Use it as you wish. Address these problems as you will. It is your choice.'' Presumably, the State governments are more efficient and more effective than the Federal Government.

I will admit that there are many areas where the delivery of services by State governments can be more efficient and more effective. I also would say that, just because people talk about wanting to create block grants and use them as the device to save money, this does not in any way obliterate urgent national needs. Hunger and poverty are among those urgent national needs.

Block grants will create a system, to ask the poor and the most vulnerable—and, unfortunately, especially the hungry and the children—to compete against a range of other urgent needs because, if we say we are going to roll all of these programs into a block

grant, there then is no national priority that says we are going to feed hungry kids. It becomes a decision by 50 different States about how much money they have to feed hungry kids versus the needs of all of other interests that are at their doorsteps asking for funds. Block grants themselves are not, in my judgment, the answer.

Yes, we use block grants from time to time, and, yes, they can be effective in some cases. But, frankly, I am pretty unimpressed with some of these new Governors who are busy cutting taxes at the State level and puffing out their chests, walking around holding their suspenders, and boasting about what a great job they are doing cutting taxes back at home. Then they come here and walk through these doors with a tin cup asking if they can have money, no strings attached, in the form of block grants which eliminate the kind of things we have targeted as national needs, things that effectively respond to hunger in children. If they can get their hands on that money with no strings attached, then they have the resources to respond to the problems they have caused by their own tax cuts. I say, if they want resources, let them raise them.

If you want to cause maximum waste in government, just decide to create a government in which you disconnect where you raise money from where you spend it. Decide to raise it here and spend it there, I guarantee you it will be free money in the eyes of those who spend it. You can look at program after program for examples. Go back to the Law Enforcement Assistance Act (LEAA) and ask yourselves if some of the most egregious wastes of Federal money did not occur under its block grants. I have some specific examples I could use, but I will do that at a later time.

The point I want to make today is that it might be out of fashion to be poor. It might be out of fashion to be hungry. There may not be a lot of high-paid lobbyists around supporting the interests of the hungry, but that does not mean that they are not people with compelling needs, and that does not mean that we do not have a responsibility as a nation to respond to their needs.

The young boy named David Bright came to Congress one day. He was 10 years old, living with his mother and a brother and a sister in a homeless shelter in New York, lost, troubled, living in squalid poverty. He talked about the rats in the shelters. Then he said something I have never forgotten. He said, ''No 10-year-old boy like me should have to put his head down on his desk at school in the afternoon because it hurts to be hungry.'' No 10-year-old boy should have to put his head down on his desk at school in the afternoon because it hurts to be hungry.

If anyone in this Chamber or in the House Chamber or elsewhere can look in the eyes of 10-year-old kids who are hungry because their family does not have enough money to buy groceries, their family does not have a home, their family does not have enough to eat and say that there is not a national need, not an urgent priority, you do not rank up here, you go down and compete someplace for some block grant that we gave to a Governor who talks about cutting taxes back home, then this is a debate I am anxious to have on this floor.

We need to debate what our national priorities are. Yes, we need incentives to tell people who are down and out, ''Here is a stepladder to get up and going again.'' We need incentives to say, ''You go from welfare to work.'' We need all of those things. I will be one supporting others on this floor who say, ''Let us change the welfare system.'' But I will not be part and parcel of that discussion and decide, as some have, that this is a kind of a survival-of-the-fittest society where, if you are poor, you do not matter, and if you are a kid who is hungry, you are not a national need.

When I see what happens over in the House, where they say, ''We are conservatives. We think that the Government wastes too much money, and so here is 600 million bucks we want to stick into the Pentagon,'' and the Pentagon says, ''We do not want it and we do not need it and please do not give it to us,'' and the House says, ''Sorry, but we are going to give it to you anyway, and we will take the money from a program that helps poor kids,'' then I think something is wrong with the thinking around here. That's why I hope we can have legislation and substantial debate about what this Nation's urgent needs and priorities are.

As we do that, I at least hope all of us will understand this country's kids deserve to have a prominent place in the array of national needs that this Congress decides to establish. We have spent a long time looking at this country's problems and trying to address them. No one here, I think, has decided to do that in any other manner but with good will and with their best judgment. We have made some mistakes along the way. There is no question about that. But we have also done some good things, and I would hate very much to see this wave of emotion about the Contract With America sweep out the door with some of the inefficient things that we certainly should change a set of good programs and a set of urgent national priorities that respond to the interests of the most vulnerable in this country, our children.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that I be recognized to speak for 10 minutes as if in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, before I begin the substance of my remarks, I would like to comment briefly on the comments of the Senator from North Dakota. In case he missed an election last November 8, the American people want to do things differently from what was just espoused by the Senator from North Dakota. It is not old fashioned to want to have a change in the way that we address the problems affecting America. It is not old fashioned to recognize that the programs so greatly espoused and seeking to be continued by the Senator from North Dakota have failed.

I would urge him to consider the words of our new Congressman from Oklahoma, Congressman J.C. WATTS, Jr., who said, ''We don't measure compassion by the number of people who are on welfare. We measure compassion by the number of people we can get over the welfare.''

The spirited defense of the status quo and business as usual just articulated by the Senator from North Dakota is ample evidence to me that he has not gotten the message of November 8 as the American people want things done differently, not business as usual. I believe that, if the Senator in North Dakota would check around, he would find that the overwhelming majority of Americans want the Contract With America passed.

They want the Contract With America because they lost confidence in the way that the Senator from North Dakota and the leadership on the other side of the aisle was running America. They are totally dissatisfied. They want change. They are going to get change. I am proud of the job that is being done by my colleagues in the House and the courage that they are showing in taking on some sacred cows.

If the Senator from North Dakota thinks this old line about being cruel to poor people and depriving food from people's mouths is going to work, my message to him is, it ''ain't'' going to work.

I also look forward to a spirited debate and discussion with him because we have to find new ways to attack old problems, rather than going back to the old ways of spending more money on programs that have failed to fulfill our obligation to those in our society.

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. McCAIN. I only have 10 minutes. I will be glad to yield to the Senator from North Dakota at the expiration of my time, if I have any remaining.

THE BASE CLOSING COMMISSION

Mr. McCAIN. Mr. President, I am deeply concerned about the fact that there will not be, I am told by the leadership, a vote on the nominees for the Base Closing Commission today.

The fact is, on February 28, the Secretary of Defense will file for the Federal Register a list of bases that the

Secretary of Defense is recommending that will be closed for the consideration of the Base Closing Commission.

Mr. President, this will make it very difficult, if not impossible, for the remaining nominees to the Base Closing Commission to be confirmed by the Senate.

Mr. President, I view failure to move forward with the base closing process as an unconscionable act that will deprive the young men and women in the military today of their ability to defend this Nation's vital national security interests. We cannot spend money on bases and infrastructure which are no longer needed in light of the reduction of some 40 percent in the defense budget.

We have, in the words of former Chairman of the Joint Chiefs of Staff, Colin Powell, reduced our defense spending somewhere around 40 to 45 percent since 1985. At the same time, we have reduced our base infrastructure by some 10 to 15 percent.

We have gone through two painful rounds of base closings and now the third one, hopefully the last, will be facing us. If we do not move forward with this base closing process, we will not close bases in this country. We have proven that to anyone's satisfaction, which is why we went to the base closing process to start with.

Mr. President, there are people on both sides of the aisle and both ends of Pennsylvania Avenue who do not want to see this process move forward.

I believe that there is one egregious incident, for example, of a nominee, Gen. J.B. Davis, where incorrect information was spread around Hill offices which tied him to an organization that had considerable financial interests at many installations. I do not know who originated the memorandum setting out this flawed data, but it was further disseminated by consultants and others who somehow failed to check the facts of this matter.

But the primary fact is, Mr. President, if we do not move forward with the base closing process, we have forgotten several things. The cold war is over. The defense budget is small. We have excess infrastructure that needs to be closed. The BRAC will go on regardless of Senate action, but will suffer in quality if the names are not brought to a vote immediately. I believe my constituents and our national security interests deserve the best possible Commission we can provide. I hope that all my colleagues will agree with that.

Mr. President, if we do not approve the nominees, then former Senator Alan Dixon, who is the Chairman of the Commission, by law must proceed with the process. That will leave the review of the entire base closing proposals in the hands of one individual. He will have only one choice and that will be to rubberstamp whatever the Defense Department has recommended.

I am convinced that that is not what the Congress had in mind when we set up the BRAC process. And I am convinced that the American people will thereby be shortchanged and bases may be closed that do not need to be closed and bases will be kept open that do not need to be kept open.

Mr. President, I think that it is clear that the fact that one of the names was removed almost without cause—or at least for some period of time there was no information—from the nominating list by the White House contributed to this problem significantly. But I think there are ways that we could have worked it out, maybe, by withholding one name nominated by the other party as well as one nominated by the Republicans, and the other names sent forward, we could have worked effectively in that fashion.

I am convinced that if we do not move forward today on these nominations, it places the entire concept of base closing in significant jeopardy.

Mr. President I hope that the leadership will reconsider their decision on this issue and move forward today with the nominees for the Base Closing Commission for the sake of national security and for the sake of young men and women that are in our military today.

Mr. President, I yield to the Senator from North Dakota what remaining time I have.

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

WELFARE REFORM

Mr. DORGAN. Mr. President, I do not intend to use all the time.

I just wanted to observe that the Senator was wondering whether we felt the election meant anything about welfare reform. Well, there will not be that kind of debate, because we will not have that kind of debate. Most of us feel we should reform the welfare system.

My point was not the welfare system. My point was that I do not believe the last election was a message from the American people that hunger among our children is not a national priority, nor would I expect the Senator from Arizona would interpret the election that way, either.

Mr. MCCAIN. Mr. President, I appreciate the remarks of my friend from North Dakota. I wish that he had taken some measures during the 1986–94 period when he was in the majority to bring forward meaningful welfare reform of the welfare system. And since he did not, this side of the aisle will, both from the other body as well as from this one.

I thank the Chair and I yield back the remainder of my time.

RAY NATTER

Mr. DOMENICI. Mr. President, since 1989, Ray Natter has been the Republican general counsel on the Senate Banking Committee. Ray came to the Senate in 1987 after mastering the complicated area of banking law as special counsel to the House Banking Committee and senior counsel at the Federal Reserve. Prior to coming to the Hill, Ray also spent 10 years as a legislative attorney at the Congressional Research Service. Without a doubt, Ray knows banking law and the legislative process.

Ray worked on several important issues in the last Congress, including interstate banking, fair trade in financial services and community development banking. In previous years, he had a significant impact on various important pieces of legislation, including the drafting of the Resolution Trust Corporation Completion Act, which helped end the savings and loan crisis.

When Ray worked for Chairman Garn he not only wrote significant portions of FIRREA and FDICIA, he also worked on the important issue of lender liability, which was particularly critical to bankers in my State.

Regardless of how busy he was or how many major banking bills Ray was working on, he always had time for the problems that I needed help with. Sometimes New Mexicans had ideas for legislation that I would ask Ray to review. Sometimes I would have a constituent who felt the RTC needed a little congressional oversight. Ray always gave me good counsel and advised me of all the pertinent laws.

When I was new on the Banking Committee, Ray helped me and my staff navigate the complicated world of financial institution regulation. He was always knowledgeable, accurate and willing to give his time to ensure that we became as well-informed as he was on these difficult issues.

I am not going to serve on the Banking Committee this Congress. I would have preferred to stay on the Banking Committee but too many others wanted an opportunity to participate under Chairman D'AMATO's leadership.

I want to thank Ray for his 8 years of service to the Senate Banking Committee, three chairman, and through passage of numerous public laws. Ray will be joining the staff of the general counsel of the Comptroller of the Currency. The Senate will miss Ray's expertise and his willingness to help members of the Banking Committee and the Senate. I have no doubt that the Comptroller's Office will recognize immediately that they have landed one of the best banking lawyers in Washington.

THE 1995 BIRD HUNTING SEASON

Mr. WELLSTONE. Mr. President, on the Senate floor today, one of my colleagues challenged my concern shared by thousands of Minnesotans that S. 219, a bill that would create a moratorium on new regulations, would have the effect of limiting or eliminating the 1995 migratory bird hunting season. I take strong exception to my colleague's comments and will continue to

fight to protect this cherished annual Minnesota event.

The divergence in our two views apparently comes down to this: The junior Senator from Texas apparently believes that the U.S. Fish and Wildlife Service's annual rulemaking process required by current law to open the hunt fits under some exclusion in S. 219 for routine administrative matters. I see no such exclusion.

Presumably, the language in S. 219 that my colleague thinks exempts the annual migratory bird hunting rulemaking from the strictures of the moratorium is found in the section which excludes ''any agency action that the head of the agency certifies is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process, * * * or otherwise reducing regulatory burdens * * *.'' Clearly, the duck hunting rulemaking does not ''repeal[], narrow[], or streamlin[e] * * * [an] administrative process.'' In my view, reading this language to exempt the duck hunting rulemaking is forced, at best.

I might point out that my colleague is from a southern State, where the normal duck hunting season opens later than it does in Minnesota. If the Fish and Wildlife Service's estimated best-case scenario proves correct, S. 219 would serve to delay the necessary rulemaking, and thus the opening of the season in Minnesota, by no less than 30 days. Since Minnesotans do the majority of their hunting at the local shoot early in the season—beginning around the beginning of October—before the local ducks fly south, such a delay would effectively cancel this part of the season. On the other hand, in Texas the regular duck season opens in mid-to-late November. Therefore, the Texas season may not be as affected by the delay in the rulemaking process.

If S. 219 becomes law without being changed to clearly exempt the 1995 duck hunting rulemaking from the moratorium, here is a possible—perhaps even likely—scenario: The Fish and Wildlife Service proceeds, as it has been, with rulemaking action to open the 1995 season on time. Somebody opposed to duck hunting sues to stop the hunt—that's right, the moratorium bill also allows lawsuits for people adversely affected by an agency violation of the moratorium. The whole thing winds up in court.

Yesterday, I introduced a bill to protect the 1995 hunting season from S. 219's moratorium provision. If the sponsors of S. 219 do not mean to threaten the 1995 duck hunt, then why don't they come on board my bill? I say S. 219 is perfectly clear—it would negatively impact the 1995 season in Minnesota.

So I challenge the sponsors of S. 219 to ask the Governmental Affairs Committee to adopt explicit language exempting the 1995 duck hunting season rulemaking from the moratorium. The language of my bill would do that nicely. If they would just fix the problem they created in the moratorium bill, then this whole issue would go away. If it is not the intent of the sponsors of S. 219 to impact the 1995 duck hunting season, then surely they should have no objection to my request.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES!

Mr. HELMS. Mr. President, for nearly 3 years I have reported to the Senate the exact total of the Federal debt as of the close of business the previous day.

This debt has been run up by the liberal big-spenders in Congress.

Mr. President, as of the close of business yesterday, Wednesday, February 22, the Federal debt stood at exactly $4,835,998,510,879.83, meaning that on a per capita basis, every man, woman, and child in America owes $18,357.53 as his or her share of the Federal debt.

Mr. President, a little over 2 years ago—January 5, 1993—the debt stood at $4,167,872,986,583.67—$15,986.56 for every American. During the 103d Congress the Federal debt increased by more than $6 billion.

The point is that so many politicians talk a good game at home about bringing the Federal debt under control, but support bloated spending bills when they get back to Washington.

TRIBUTE TO FRED DALLIMORE

Mr. REID. Mr. President, it gives me great pleasure to pay tribute, today, to a native son of Nevada, Fred Dallimore. Fred is completing his 26th year, as a baseball coach, at the University of Nevada, Las Vegas. He has served as the head coach for the last 22 years. His career is a distinguished one. Under his guidance, UNLV has made 6 NCAA appearances and has had 16 winning seasons. The 728 career victories he has attained ranks him 36th among the NCAA all-time winningest division I coaches. More than 80 young men, coached by Fred, have advanced to professional baseball. Several have made it to the major leagues including the San Francisco Giants, Matt Williams, a Nevadan from Carson City.

Fred's success at UNLV is the result of dedication, loyalty, and a lot of hard work. Over the years it was not unusual to see Fred out on Roger Barnson Field mowing the grass, dragging and watering the field, and performing every duty necessary to prepare the field for practice and games. The brand new Earl E. Wilson Baseball Stadium at Barnson Field is a state-of-the-art facility made possible by a gift from the Wilson estate. It is also the culmination of a dream come true for Fred.

Fred comes from a long line of native Nevadans. He was born in Reno, NV on October 21, 1944. He attended Reno High School where he was an all around athlete lettering in football and baseball. An All State pitcher, in his senior year, he led Reno to the State AAA baseball championship. During his 4 years at the University of Nevada, Reno he earned All West Coast and All Far West honors as a left handed pitcher. His 11–1 record his senior year earned him All American honors as chosen by the American Association of Collegiate Baseball Coaches, Player of the Year, as selected by the San Francisco Examiner and the Sierra Nevada Sportswriters and Broadcaster Athlete of the Year. The University of Nevada, Reno honored him in 1982 by inducting him into the UNR Athletic Hall of Fame. In 1994 UNLV honored him by inducting his 1980 baseball team into the UNLV Athletic Hall of Fame.

Fred and his wife Alice are the proud parents of two children, Jamie and Brian.

Fred is a husband, father, teacher, and coach. I am proud to have him as a friend.

COMMENDING THE CENTENNIAL OF THE CHIROPRACTIC PROFESSION

Mr. BRYAN. Mr. President, I rise today to recognize the chiropractic profession which was founded on September 18, 1895, and is celebrating 100 years of providing chiropractic services to Americans across the country.

The chiropractic profession was founded in Davenport, IA, when the first chiropractic adjustment was performed in an office building on a janitor named Harvey Lillard. One hundred years later, the chiropractic profession is now recognized by Congress which included chiropractic care under Medicare and authorized the commissioning of chiropractors as officers in the military.

Today, the chiropractic profession is practiced by doctors throughout the world, including 50,000 chiropractic physicians throughout the United States. As the number of chiropractors continues to grow, so do the standards in chiropractic education, research, and practice. This has led to broadening acceptance of the benefits of chiropractic health care by the public and the health care community.

According to health care experts, as many as 80 percent of Americans will suffer back pain at some point in their lives. Low back problems are the most common health complaints experienced by working Americans today. For this reason, every year millions of Americans choose chiropractic health care for the restoration and maintenance of their health. For many who suffer from pain, chiropractic care is a natural method of alleviation that does not require the use of drugs or surgery. Chiropractors around the country have made and continue to make a significant contribution to the health and welfare of many people whose lives would not be the same without their services.

On March 18, members of the chiropractic profession will gather in Las

Vegas to honor those dedicated to enhancing the quality of life for many people in the Silver State. I would like to extend my thanks and appreciation to the devoted professionals involved in this occupation for their commitment and service. Chiropractors have made many Nevadans' lives better through their practice.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION.

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

The 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.

Mr. WELLSTONE. Mr. President, I know that my colleague, Senator KERREY from Nebraska, has come to the floor to speak.

I ask unanimous consent that, after he speaks, it then be in order to call up a motion.

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

Mr. WELLSTONE. I thank the Chair.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, this debate is about amending the U.S. Constitution. If we approve the proposal as offered by the distinguished Senator from Utah and others—as the House already has—it will be up to the States of this country to ratify or reject what would become the 28th constitutional change in 206 years.

The Constitution of the United States represents the greatest democratic achievement in the history of human civilization. It—and the self-evident truths which are its bases—has guided the decisions and the heroic sacrifices of Americans for two centuries. Its precepts are the guiding light and have been a shining beacon of hope for millions across the globe who hunger for the freedoms that democracy guarantees. It has served not only us, it has served the world, as well.

It is not, Mr. President, a document, therefore, to be amended lightly. Indeed, my strongest objection to this proposal is that it does not belong in our Constitution; it belongs in our law.

In addition to this argument, I also intend to suggest that the political will to enact changes in law to balance our budget—which was missing from many previous Congresses—now appears to be here.

In fact, I wish the time taken to debate this change in our Constitution was instead spent debating the changes needed in the statutes that dictate current and future spending. This does not mean, Mr. President, I agree with those who have complained about the length of time we have spent on this proposal. This complaint is without merit.

This great document should not be amended in a rush of passion. It is evident from the Constitution itself that its authors intended the process of amendment to be slow, difficult, and laborious. So difficult that it has been attempted with success only 17 times since the Bill of Rights. This document is not meant to be tampered with in a trivial fashion.

As I said, the proposed 28th amendment to the Constitution is intended to affect the behavior of America's congressional representatives. In that regard, it is unique. Except for the 25th amendment, which addresses the issue of transfer of power, other amendments affecting the behavior of all Americans by limiting the power of Government, protecting public freedoms, prohibiting the majority from encroaching on the rights of the minority or regulating the behavior of the States.

This would be the only amendment aimed at regulating the behavior of 535 Americans, who the amendment assumes are incapable of making the difficult decisions without the guidance of the Constitution's hand. That theory is grounded in the assumption that Congress and the public lack the political will to balance the budget.

Specifically, the proposal contains 294 words. It would raise from a simple majority to three-fifths the vote necessary in Congress for deficit spending. It would set a goal of balancing our budget by the year 2002.

The amendment empowers Congress to pass legislation detailing how to enforce that goal, but does not itself specify enforcement measures. The only answer to the question of what will happen if Congress and the President fail to balance the budget is that nobody knows. The only mechanism our country has for enforcing the Constitution is the courts. So the amendment's ambiguity prevents the serious possibility of protracted court battles which give unelected judiciary unwarranted control over budget policy.

The proponents of this amendment sincerely believe our Constitution needs to be changed in order to force Members of Congress to change their behavior, which supporters argue they will not do because they are afraid of offending the citizens who have sent them here in the first place. On that basis there is a long list of constitutional change they should propose, including campaign finance reform, lobbying reform, and term limits, just to name a few.

Mr. President, I support the goal of a balanced budget, and have fought and am fighting and will continue to fight to achieve it. However, desirability of a goal cannot become the only standard to which we hold constitutional amendments. Constitutional amendments must meet a higher standard.

The Constitution and its 27 amendments express broadly our values as a Nation. The Constitution does not dictate specific policies, fiscal or otherwise. We attempted to use the Constitution for that purpose once, banning alcohol in the 18th amendment, and it proved to be a colossal failure. Fundamentally, we should amend the Constitution to make broad statements of national principle. And most importantly, Mr. President, we should amend the Constitution as an act of last resort when no other means are adequate to reach our goals.

We do so out of reverence for a document we have believed for two centuries should not be changed except in the most extraordinary circumstances. We have used constitutional amendments to express our preference as a Nation for the principles of free speech, the right to vote and the right of each individual to live free.

The question before Members today is whether the need for a balanced budget belongs in such distinguished company. While I oppose this amendment, Mr. President, I understand the arguments for it. I have had the privilege of serving here for 6 years and I am entering my seventh budget cycle as a consequence. Every time the President of either party, since I have been here, has sent a budget to this body it has been greeted with speeches and promises and rhetoric about the need to balance the budget. And each time, those speeches and promises and rhetoric have been greeted with votes in the opposite direction.

Many of those whose judgment I most respect in this body support this amendment, including the senior Senator from Nebraska, whose reputation as a budget cutter needs no expounding by me. I am sympathetic. Clearly something is wrong with a system which so consistently produces deficits so large.

The question for me is not whether something is wrong, but precisely, what is wrong? Do we run a massive deficit because something in the Constitution is broken? Were the Founding Fathers mistaken in assigning the elected representatives of the people the task of setting fiscal and budget policy? And is a constitutional amendment, as opposed to a statute requiring a balanced budget, the only workable solution? If the answers to these questions were yes, then a constitutional amendment in my judgment would be appropriate. But my answer in all three of these questions, is a resounding no.

If, on the other hand, the problem lies in the behavior of the 535 individuals whose actions produce the deficit, as opposed to the document that governs it, then a constitutional amendment is both an inappropriate and ineffective means for balancing the budget. If a simple statute rather than an

amendment will work, we should leave the Constitution alone.

Supporters of the amendment note we tried statute in 1985 in the form of the Gramm-Rudman-Hollings law and that law failed miserably. Therefore, the argument goes, a more powerful tool than ordinary statute—in other words, constitutional amendment—is necessary. The assumption, apparently is that a constitutional amendment mandate would provide the legal and the political cover needed to cast the tough votes in a climate in which the political will for doing so does not exist.

But the fact is, Mr. President, Gramm-Rudman-Hollings failed not because it was a statute as opposed to an amendment, but because the political will to balance the budget did not exist in 1985. Gramm-Rudman-Hollings set deficit targets to set up on a glidepath, a term we are hearing again today, to achieve zero deficits by 1991.

The deficit target for 1986 was $172 billion. We end up $222 billion in the hole. President Reagan's budgets did not even meet the Gramm-Rudman-Hollings targets in that year, much less a balanced budget. And even though Gramm-Rudman-Hollings provided the legal and political cover for deficit reduction, neither Congress nor the President has the stomach for it. Now we are attempting to find in the Constitution what we could not find in ourselves.

I believe, Mr. President, that 1995 and 1985 are two very different times. I have heard the American people say loud and clear in this last November election that not only does the will to balance the budget exist, it thrives. We all know that the political will to balance the budget exists today to a much larger degree than it did in 1985. In fact, there is much more enthusiasm than existed even in 1994. The political dynamic has changed in this Congress. I believe the political will now exists to make the tough choices.

To illustrate this change, consider our attitude toward spending cuts today. A year ago when a bipartisan coalition of Senators offered and fought for an amendment which would have cut $94 billion in spending over 5 years, the administration argued against it, saying our economy would enter a recession. But since the election, Mr. President, the same administration opponents are scrambling to propose cuts that are larger than the ones that they opposed just a little over a year ago.

There are far more Senators and Representatives today who are prepared to vote for spending cuts than there were last year. And there is evidence of a willingness to form bipartisan coalitions in the beginning to tackle the problem, including our most politically charged problem, Federal entitlements.

So I say that after the rhetoric for and against this amendment is over, let Senators get to work to show Americans we have the courage this amendment presumes that we lack. While it is true that the President's recently submitted budget does little to reduce the deficit, the stomach for the tough choices does exist in this body. If the appeal of a balanced budget amendment is simply the legal or political cover it provides for the tough choice, a statutory change would provide the same cover. If the presumption behind the amendment is that the political will to balance the budget does not exist, then make no mistake, those who lack that political will can find a way to circumvent this amendment.

An amendment to the Constitution of the United States is a powerful weapon, not one to be taken lightly. This weapon can be disarmed with 60 votes in the Senate, only 9 more than it takes for deficit spending today.

And beyond all the legal maneuvers, there is no cover for tough decisions but the courage to make them. So I simply am not convinced a balanced budget amendment is necessary. It assumes a structural flaw in our Constitution that prevents the 535 Members of Congress from balancing the budget. In fact, there is no such flaw in the Constitution. To the extent such a flaw exists, it is in the 535 Members of Congress themselves, not the document that governs us.

The fact is, we can balance the budget this year if we wanted to, and we can by statute direct the Congress to balance the budget by 2002, 2003, or any other date that we choose.

Furthermore, I believe this debate is misdirected. The balanced budget amendment tells us what to do over the next 7 years but ignores the following 20, the years which ought to command our attention.

A balanced budget by the year 2002 still ignores the most important fiscal challenge we face: The rapid growth in entitlement spending over the next 30 years. The year on which we ought to be focused is not 2002, but 2012 when the baby boomer generation begins to retire and places a severe strain on the Federal budget.

Our biggest fiscal challenge is demographic, not constitutional, and the amendment before us does not and cannot address it. Unfortunately and conveniently, this demographic challenge is kept from our view, not by an incomplete Constitution, but by a budgeting process that discourages long-term planning.

The budget the President sent us tells us what to do for the next 5 years—5 years, Mr. President. The balanced budget amendment tells us what happens over 7 years. Five- and seven-year spans are completely inadequate when the most difficult budget decisions we need to make deal with problems we will face 20, 25 and 30 years down the road, when the aging of our population propels entitlement spending out of control.

The most important recommendation of the Bipartisan Commission on Entitlement and Tax Reform is that we began to look at the impact of the budget over 30 years, rather than just 5 or 7. The reason that our country looks very different and our current budgets look very different viewed over that span is, as I said, not one of our Constitution, not, indeed, even one of our statute, but one of demographics.

We can see the trend in the short-term. The big four entitlement programs—Social Security, Medicare, Medicaid, and Federal retirement—will consume 44 percent of the budget this year. Mandatory spending will consume 65 percent. By 2000, it will be 70 percent. By 2005, the number is 78 percent. Those numbers, Mr. President, are straight from CBO. If we project further, we see that by 2012, mandatory spending plus interest on the national debt will consume every dollar we collect in taxes. By 2013, we will be forced to begin dipping into the surplus of the Social Security trust funds to cover benefit payments, a practice that will go on for no more than 16 years before the trust fund goes bankrupt in the year 2029.

These trends have nothing to do with the Constitution, political will or pork barrel politics. They have to do with the simple fact that our population is getting older while the work force gets smaller. My generation did not have as many children as our parents expected and, as a consequence, the system under which each generation of workers supports the preceding generation of retirees simply will not hold up much longer.

Indeed, long-term entitlement reform, coupled with a reasonable reduction in discretionary spending, including defense, would reduce interest rates dramatically and achieve the goal of this amendment without tampering with the Constitution.

In this context, I need to address the role of Social Security in this debate. I have heard speaker after speaker come to the floor on both sides of the issue and announce their support for this program. I agree with them all. Social Security is one of the most, if not the most, important and successful Government programs we operate. Social Security should not and, indeed, does not need to be used to balance the budget. However, we cannot ignore the fact that Social Security will start running a deficit in 2013, due, as I mentioned earlier, to the retirement of the baby boomer generation and the fact that more retirees will be drawing from the trust funds while fewer workers contribute to it.

The general fund currently borrows against the surplus, and when Social Security begins running a deficit, the decisionmaking capacity of future Congresses will be limited, because large amounts of the general fund will have to be used to repay the money we are borrowing from the trust fund today. That situation will tempt future Congresses to run Social Security in deficit if it is exempted from deficit calculations. That development would, of

course, only further jeopardize the program.

Even today, our decisionmaking capacity is already limited by the growth of entitlement spending. In 1963, a little more than 30 years ago, spending on entitlements and interest on the national debt consumed 30 percent of our Federal budget. This year, entitlements and net interest will devour 65 percent. The present budget assumes 66 percent for next year and by 2000, the number will be 70 percent.

Mr. President, that is the problem that we face. That is why we are forced year after year after year to come and cut domestic discretionary programs, whether it is defense or nondefense. The pressure is coming from entitlement programs that are consuming a larger and larger percent of our budget inexorably by the year 2013, it will be 100 percent, converting the Federal Government into an ATM machine.

The result is a question of fairness between generations. Today there are roughly five workers paying taxes to support the taxes of each retiree. When my generation retires, there will be fewer than three workers per retiree. Unless we take action now, the choice forced upon our children will be excruciating. Continue to fund benefits at current levels by radically raising taxes on the working population or slash benefits dramatically.

Finally, Mr. President, as we debate this amendment, I hope we keep our eyes on a larger prize in blind reference to the idea of a balanced budget. Our goals should, in my view, be economic prosperity. I support deficit reduction as a means to that end. Deficit reduction is important not as an abstract ideal but as an economic comparative. I believe in balancing the budget because it is the surest and most powerful way to increase national savings. And increased national savings will lead to increased national productivity which in turn will lead to higher standards of living for the American family.

There is no short cut to savings and no substitute that will get results. Increased national savings mean lower long-term interest rates and increased job growth in the private sector. The balanced budget amendment assumes that a balanced budget is always the best economic policy. A balanced budget, Mr. President, is usually the best economic strategy, but it is by no means always the best strategy for this country. Downward turns in the economy complicate the picture. Downward turns will result in lower revenues and higher spending so there will be times, although very few of them, when a strict requirement for balancing the budget harms the economy by requiring the collection of more and more taxes to cover more and more spending in an economic environment which makes revenue collection more difficult in the first place.

As I say, I believe those times are few and far between. But the Constitution is too blunt an instrument to distinguish between good times and bad. The American people hired us to do that job, not to cede it to a legal document that cannot assess the evolving needs of our economy.

The bottom line for me as we debate this amendment is whether it moves us toward achieving the correct goals and whether, if it does, we need to amend the Constitution to get there.

My answer to the first question is mixed. I believe a balanced budget is an important goal, but only as a component of an overall economic strategy which recognizes that skyrocketing entitlement spending is the most serious fiscal challenge we face.

My answer to the second question is more certain. I believe that once we set those goals, we can achieve them by statute or, more importantly, by changing our own behavior rather than changing the Constitution. My respect for this document precludes me from voting to tamper with it when I am not convinced that we must. This proposal for a 28th amendment does not command for me the same reverence in which I hold the 1st amendment or the 13th or the 19th and, therefore, Mr. President, while I will continue to fight for its admirable goal, I will vote no on the balanced budget amendment.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that it be in order for me to call up motion No. 3 at the desk and that it be considered as one of my relevant amendments.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Reserving the right to object, Mr. President, if I might, it is my understanding that there are two unanimous consent requests which deal with two amendments of the Senator from Minnesota. I wonder if I might make those requests and see if they are suitable to the Senator from Minnesota, and we can proceed in that manner.

Mr. WELLSTONE. Mr. President, that will be fine with me.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. WELLSTONE. I do.

UNANIMOUS-CONSENT AGREEMENTS

Mr. KYL. Mr. President, I ask unanimous consent that Senator WELLSTONE be recognized to call up his motion dealing with homeless children; and that time prior to a motion to table be limited to the following: 45 minutes under the control of Senator WELLSTONE; 15 minutes under the control of Senator HATCH; and that following the conclusion or yielding back of time, the majority leader, or his designee, be recognized to table the Wellstone motion; and that that vote occur at 3 p.m. today.

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

Mr. KYL. Mr. President, I ask unanimous consent that immediately following the disposition of the Wellstone motion dealing with homeless children, Senator WELLSTONE be recognized to call up his filed motion No. 2, and that time prior to a motion to table be limited to the following: 45 minutes under the control of Senator WELLSTONE, 15 minutes under the control of Senator HATCH, and that following the conclusion or yielding back of time the majority leader or his designee be recognized to make a motion to table the Wellstone motion, and that vote occur in the stacked sequence to begin at 3 p.m. today.

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

MOTION TO REFER

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, first of all, I thank the Senator from Arizona and I thank the Chair.

Mr. President, let me for my colleagues——

The PRESIDING OFFICER. Will the Senator suspend for just a moment while the clerk states the motion, please.

The legislative clerk read as follows:

> The Senator from Minnesota [Mr. WELLSTONE] moves to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and at the earliest date possible, to issue a report, the text of which shall be as follows:
>
> ''It is the sense of the Committee that in enacting the policy changes necessary to achieve the more than $1 trillion in deficit reduction necessary to achieve a balanced budget, Congress should take no action which would increase the number of hungry or homeless children.''

Mr. WELLSTONE. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the clerk. The motion is self-explanatory, it is very reasonable, and it is very important.

What this motion says is not that we should delay the vote on the balanced budget amendment. We will have that vote. This is not a part of that constitutional amendment at all. This is just simply a motion which says we will go on record through the Senate Budget Committee that in whatever ways we move forward to balance the budget, whether this constitutional amendment is passed or not —there is really no linkage here—we will go on record, and I would like to again now go through the operative language, it is the sense of the Senate to the Budget Committee:

> That in enacting the policy changes necessary to achieve the more than $1 trillion in deficit reduction necessary to achieve a balanced budget, Congress should take no action which would increase the number of hungry or homeless children.

That is what this motion says. One more time, it is not an amendment to this constitutional amendment. It does not put off the date that we vote on this amendment. I simply ask that the Senate go on record through the Budget Committee that if this amendment passes or even if this amendment does not pass, we will take no action which would increase the number of hungry or homeless children.

Mr. President, I have been in the Chamber from the beginning of this session with just this amendment which has received, I think, 43 votes. I do not understand why the Senate is not willing to go on record on this question.

Mr. President, this motion is essentially a statement by the Senate; it is a request to colleagues, Democrats and Republicans alike, that we speak boldly and we speak directly, as we understand children are the most vulnerable citizens in this country.

Every time I hear one of my colleagues talk about how we have to reduce the deficit—and by the way, sometimes people get confused between annual deficit and this huge debt we have built up—and that we cannot put this deficit on the shoulders of our children and our grandchildren, the best thing we can do for the children of our Nation is to balance the budget, I say to myself, fine, I agree. I am a father. I am a grandfather. But what about the vulnerable children in the United States of America today?

Why cannot the Senate go on record—it is a sense of the Senate—that we certainly understand as we go forward with deficit reduction we will not do anything which would increase hunger or homelessness among children in our Nation. Is that too much to ask? What possibly could be the reason for voting no?

Senators are talking about how we have to balance the budget for the sake of the children of the future. How about the lives of children living now? How about children right now who happen to be among the most vulnerable group in this Nation?

The context is important. The Food Research and Action Center in 1991 estimated that 5.5 million children under 12 years of age are hungry at least one day a month in the United States of America. Second Harvest estimated that, in 1993, emergency food programs served 10,798,375 children. The U.S. Council of Mayors found that, in 1994, 64 percent of the persons receiving food assistance were from families with children. Carnegie Foundation, late 1980's—68 percent of public schoolteachers reported that undernourished children and youth are a problem in school. By the way, I talk to teachers in Minnesota who tell me the same thing.

Children are among the homeless in this country and indeed families with children are a substantial segment of the homeless population. The U.S. Council of Mayors estimates that, in 1994, 26 percent of the homeless were children, based upon requests from emergency shelters. That is a pretty large percentage of the homeless population. And, in 1988, the Institute of Medicine estimated that 100,000 children are homeless each day.

Mr. President, what does it mean that children are hungry? In comparison to nonhungry children, hungry children are more than three times likely to suffer from unwanted weight loss, more than four times as likely to suffer from fatigue, almost three times as likely to suffer from irritability, and more than 12 times as likely to report disease.

Mr. President, let me discuss the context one more time. I have been in this Chamber from the beginning of this session with this basic proposition, either in amendment form, or now, in the most reasonable form possible; as just a motion, a sense of the Senate that would go to the Budget Committee. It is not a part of the constitutional amendment. This motion merely has us going on record that as we move toward a balanced budget, which we are all for as well as deficit reduction, we are not going to take any action that would increase the number of hungry or homeless children in America. Will the Senate not go on record supporting this?

I hear Senators say that they are going to make these cuts; that is the best thing they can do for our children and our grandchildren. What about these children? One out of every four children in America is poor.

Children's Defense Fund came out with a study last year—this data is accurate and I wish it was not. I wish this was not the reality. One day in the life of American children, three children die from child abuse. One day in the life of American children, nine children are murdered. One day in the life of American children, 13 children die from guns. One day in the life of American children, 27 children, a classroomful, die from poverty. One day in the life of American children, 63 babies die before they are 1 month old. One day in the life of American children, 101 babies die before their first birthday. One day in the life of American children, 145 babies are born at very low birthweight, less than 5.5 pounds—yet the House of Representatives yesterday voted to block grant and cut Women, Infants and Children programs. Cut nutrition programs—that was the vote in the House yesterday.

One day in the life of American children, 636 babies are born to women who had late or no prenatal care. One day in the life of American children, 1,234 children run away from home. One day in the life of American children, 2,868 babies are born into poverty. One day in the life of American children, 7,945 children are reported abused or neglected. One day in the life of American children, 100,000 children are homeless.

I hope my colleagues are not bored by these statistics. These are real people. These are children in the United States of America. These children, all of these children, are our children.

Moments in America for children? Every 35 seconds a child drops out of school in America. Every 30 seconds, a child is born into poverty, every 30 seconds a child is born into poverty. Every 2 minutes a child is born low birth weight. Every 2 minutes a child is born to a woman who had no prenatal care. Every 4 minutes a child is arrested for alcohol-related crime. Every 7 minutes a child is arrested for drug-related crime. I have given this figure before: Every 2 hours a child is murdered and every 4 hours a child takes his or her life in the United States of America.

Mr. President, I received a letter from Ona. I do not use last names because I never know whether citizens want to have their names used or not. Ona is 8.

My name is Ona and I go to public school and I'm 8. My class has 26 kids in it and only three of them, Iman, Jasmin, and me bring lunches to school. Twenty-three kids in my class depend on the school lunch and now you want to cut those programs. Which do you think is more important, cutting the debt or having poor helpless children having nothing to eat? Senator, that's not right because almost my entire class depends on school breakfast and school lunch, and if you cut these programs they will starve. How do they explain to a starving child, oh, we are cutting the debt. It will be good for you.

She is 8 years old. How come my colleagues do not get this?

How do they explain to a starving child, oh, we are cutting the debt. It will be good for you. Life is already hard enough for us with pollution, crime and disease. I hope you change your mind.

Ona, you do not have to ask me to change my mind. And she is so right.

Some of my colleagues say this is just a scare tactic. Prove me wrong. I will give you a chance at 3 o'clock today to prove me wrong. ''This is just a scare tactic.'' Who is kidding whom? Look at the headlines:

''House Panels Vote Social Funding Cuts.''

''Republicans Trim Nutrition, Housing.''

Washington Post, front page story:

House Republicans, wielding their budget-cutting axes more forcefully than at any time since taking power, yesterday proposed slashing some $5.2 billion of spending approved by previous Democratic Congresses * * *.

Included in the lengthy list of cuts voted out by five appropriations subcommittees during a hectic day of meetings were rural housing loans, nutrition programs for children and pregnant women * * *.

Let me repeat:

* * * nutrition programs for children and pregnant women, spending on urban parks, and assistance to the poor and elderly for protecting their homes against the cold.

That is right. They want to eliminate LIHEAP, Low-Income Home Energy Assistance Program. I have spent time with families in Minnesota—it is a cold weather State—who depend on

LIHEAP. You are going to cut their energy assistance so they have a choice between heat or eat?

It is time to get a little bit more real with people in this country about what this agenda translates into. Another headline, ''House Panel Moves To Cut Federal Child Care, School Lunch Funds.'' Washington Post, Thursday, February 23, 1995.

I have been saying that this would happen from the beginning of the session and I have had people on the other side of the aisle say we are not going to do that. ''We care as much about children as you do.'' Prove me wrong. You get a chance to vote on this today.

The article reads:

After a full day of beating back Democratic amendments to restore the programs or soften their impact on welfare recipients, Chairman William Goodling said his committee will complete work today on a bill that will abolish the school breakfast, lunch and other nutrition programs for women and children and replace them with a block grant to the States.

The Republican measure would freeze the amount of money given to States for child care at $1.94 billion a year, the current level. Representative George Miller [who is right] charged that because the number of needy children is expected to increase, the freeze would cut off child payments for more than 377,000 children in the year 2000.

By contrast, funding for the school lunch and nutrition programs would be allowed to grow by $1.87 billion over 5 years. But committee Democrats said this was grossly inadequate and would fall $5 to $7 billion short of what is needed.

It is block granted but it is bait and switch. It is block granted with cuts and, in addition, it is no longer an entitlement. So during more difficult times such as recession, if there are additional children who now need the assistance, those who are receiving assistance will have their assistance cut or some will be cut off the support. It is simple.

''House Moves To Cut Federal Child Care, School Lunch Funds.''

''House Panels Vote Social Funding Cuts, Republicans Trim Nutrition, Housing.''

Including the Women, Infants, and Children Program.

I have had some colleagues say to me this is just a scare tactic. But it is not. Because this is precisely where the cuts are taking place.

Mr. President, may I have order in the Chamber?

The PRESIDING OFFICER. The Senator will suspend until the Sergeant at Arms has restored order in the galleries, please.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I wish that I did not have to come to the floor with this motion.

I wish that this was not real. But the evidence is crystal clear. All you have to do is look at the state of children in America today. They are the most vulnerable citizens, the most poor. I am just saying to my colleague, can we not go on record that we are not going to pass any legislation or make any cuts that will increase hunger among children?

Then I look at what has happened on the House side. They are cutting nutrition programs—cutting nutrition programs—the very thing that my colleagues over here said we will not do. And what people now say is do not worry about the House. The U.S. Senate is a different body, and it is. We are more deliberative. We do not ram things through. We are more careful. But now what I have to say to some of my colleagues is two or three times I have come to this floor and asked you to please go on record that we will not do anything that would increase hunger or homelessness among children. And each time, you voted no.

Mr. President, The Children's Defense Fund that reported on where this balanced budget amendment will take us—I do not have the chart I usually have with me. But, roughly speaking, if you include in this package the baseline CBO projections plus tax cuts, which do not make a lot of sense when you are trying to do deficit reduction, broad-based tax cuts, plus increases in the Pentagon budget, it is about $1.3 trillion that needs to be cut between now and the year 2002.

Mr. President, if Social Security is off the table—and it should be—if you are going to have to pay the interest on the debt and if military spending is going up, then it is pretty clear what is left. When you look at what has been taken off the table and what has been left on the table, it is crystal clear that you are going to have to have, about 30-percent cuts across the board. It may be that veterans programs will not be cut 30 percent. I hope not. But you basically have higher education; you have Medicare and Medicaid; you have veterans; and you have these low-income children's programs.

Yesterday in the House, they are talking about cutting the Women, Infants, and Children Program, and the school lunch program. They are talking about eliminating the low-income energy assistance program. That is for low-income people in cold-weather States like Minnesota. I visited with those families. These issues are real to them.

But when Senator FEINGOLD and I came out on the floor of the Senate last week, and we had a very reasonable motion, that the Senate would go on record through the Budget Committee that we will consider $425 billion of tax expenditures, many of them loopholes, deductions and outright dodges for the largest corporations and financial institutions in America, they voted it down.

So I understand what the Children's Defense Fund understands, that on present legislative course, this is where we are heading: By year 2002, 7.5 million children lose federally subsidized lunches, 6.6 million children lose their health care through Medicaid, 3 million children lose food stamps, and 2 million young children and mothers lose nutritional assistance through the WIC program. This is a very destructive way to ensure that our children are not burdened by debt.

May I repeat that? This is a very destructive way of assuring that our children will not be burdened by debt, to cut into the very nutrition programs that benefit children right now who are so vulnerable in the United States of America, all for the sake of making sure that our children in the future are not burdened by debt.

I wish my colleagues were as concerned about the children right now as they are about the children in the future.

Mr. President, I might ask the Chair how much time I have remaining.

The PRESIDING OFFICER. The Senator from Minnesota has approximately 20 minutes remaining.

Mr. WELLSTONE. I thank the Chair.

Mr. President, if the Senator from Utah is interested in responding, then I will yield the floor for a moment and reserve the rest of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my colleague.

Mr. President, I ask unanimous consent that Senator BYRD be recognized to call up his amendment No. 301 following the remarks of Senator HOLLINGS today, and that time prior to a motion to table be limited to the following: 45 minutes under the control of Senator BYRD, 30 minutes under the control of Senator HATCH, and that following the conclusion or yielding back of the time, the majority leader or his designee be recognized to make a motion to table the Byrd amendment, and that vote occur in the stacked sequence beginning at 3 p.m. today.

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

Mr. HATCH. I thank you, Mr. President. I thank my colleague from Minnesota.

Mr. President, we are now—let me take a few minutes—in our 25th day since this amendment was brought to the floor. Twenty-five days have expired since we started debating the balanced budget amendment. As you can see, I have added one more day, the 25th. This red line all the way from there over to here happens to be the baseline of $4.8 trillion, which is our national debt. It is $18,500 for every man, woman, and child in America, plus it is going up every day. Each day that we have debated this balanced budget amendment, I just want the American people to understand that our national debt has gone up $829 billion. We are now in the 25th day, and our national debt has been increased since we began this debate $2.736 billion.

I do not care who you are. You have to draw the analogy between Rome

under Nero, as he fiddled while Rome burned. Fortunately, we do have a vote next Tuesday. We will decide this one way or the other, whether we are going to put a mechanism into the Constitution that will force Members of Congress to at least look at these details and do something about it. We will make it more difficult for them to spend more and to take more. It does not stop them, but it certainly makes it more difficult.

What I have to say is that predicted opponents of the balanced budget amendment are trotting out a series of sympathetic Government beneficiaries and attempting either to exempt them from the balanced budget amendment or use them to argue against not just the amendment but indeed against balancing the budget at all.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. HATCH. Yes.

Mr. WELLSTONE. The Senator understands that this is a motion. It is not an amendment to the constitutional amendment to balance the budget. This has no linkage. This is simply a sense-of-the-Senate to the Budget Committee that when it comes to balancing the budget, we will go on record that we will not increase the number of hungry and homeless children. That is all this motion says.

The Senator speaks to that, and that is why I asked the question.

Mr. HATCH. I understand. This motion, in my opinion, is just another in a parade of exemptions which the opponents of the balanced budget amendment have tried to tack on. I know the Senator is sincere. I have worked with him ever since he has been here. He has a great deal of sincerity with regard to the people who are in difficulty and have difficulty, and especially the homeless. But I think, in that sense, it is just as inappropriate as the other motions that have been brought to the Senate.

Mr. WELLSTONE. Will the Senator yield?

Mr. HATCH. Yes, I will be happy to yield.

Mr. WELLSTONE. Mr. President, does the Senator understand that this is not an amendment to the constitutional amendment and, in that sense, it is not an exemption? It just simply asks us to go on record, through the Budget Committee, that we will not do anything that would increase more hunger or homelessness among children. Does the Senator understand that?

Mr. HATCH. I do.

Mr. WELLSTONE. That is all I am asking.

Could the Senator tell me, does the Senator know, during this period of time, how many more hungry or homeless children there have been in the United States of America?

Mr. HATCH. I do not think anybody fully knows.

Mr. WELLSTONE. But is it not interesting that we do not know what we do not want to know. Why do we not know?

Mr. HATCH. I disagree with the Senator that I do not want to know. I think the Senator knows my whole career has been spent helping those who are less fortunate.

Mr. WELLSTONE. The Senator does. I certainly do understand that. That is why I asked the Senator from Utah, who is probably one of the Senators I consider to be a really good friend.

Let me ask the Senator, why is this an unreasonable proposition, given the headline ''Republicans Trim Nutrition, Housing,'' what is going on on the House side right now, and given the fear of so many of the people that are working down in the trenches with children, that we both admire, about where these cuts are going to take place?

This is not an amendment to the constitutional amendment. This is just a sense of the Senate. Why is it so unreasonable, since we will have the vote on Tuesday—no more delay—why is it so unreasonable for me to ask the Senate to go on record that we will not make any cuts that will increase hunger or homelessness among children? Why does the Senator from Utah not support this, since he cares about this certainly as much as I do, and others?

(Mr. KEMPTHORNE assumed the chair.)

Mr. HATCH. Let me try to answer the Senator.

Mr. President, the Founders gave Congress the power to spend money. They did not go on record as being opposed to action which would increase the number of homeless children or any other budget policy issue. They understood that the Constitution establishes the processes and the procedures under which our Government operates or would operate from that point on. Which policy choices may be made under those procedures do not belong in the discussion of the great principles of our Constitution.

We are talking about a constitutional amendment that could save our country, because our country, as we can easily see, is going more and more into debt to the point where interest against the national debt is now consuming 50 percent of all personal income taxes paid every year.

Now, I know my colleague is concerned about the homeless—so am I—and so many others, from child care right on through to people with AIDS.

I testified yesterday in favor of the Kennedy-Hatch Ryan White bill, which, of course, provides money for the cities with hardcore AIDS problems. So I feel very deeply about these issues.

But I feel very deeply that those moneys are not going to be there if we keep running this country into bankruptcy. And if we think we have homeless people now, wait until you see what happens as that interest keeps going to the point where it consumes all of our personal income taxes. It is now consuming half of the personal income taxes paid in America today. We are going up, as this balanced budget amendment debt tracker shows, as this debate continues. We are already up to $20 billion, almost $21 billion, in the 25 days that we have debated this amendment.

Now, Mr. President, I am concerned about it. Of course, we will do what we think is best for the children of America and for the homeless of America. But the least thing we can do for them is to pass the balanced budget amendment so they have a future, so that Members of Congress, most of whom are altruistic and want to do good for people, have to live within certain means, have to live within the means of this country.

You know, if you think about it, if we pass the balanced budget amendment, then I think we will have an answer to the question why a child born today will pay an extra $100,000 in taxes over his or her lifetime for the debt that is being projected to accumulate in just the first 18 years of that child's life. And there will be another $5,000 in taxes for every additional $200 billion deficit.

Mr. President, our President has sent us a budget that for the next 12 years projects $200 billion deficits a year. That is billion, with a ''b.'' Every year that happens, these children's taxes will go up $5,000 more. They will become more tax debt owing, $5,000 more for each year there is a $200 billion deficit. So if it is 12 years, that is $60,000 more on top of the current $100,000 they are going to be saddled with because of the way we have been handling situations.

Mr. President, most Government programs have beneficiaries with some political popularity or power or attractiveness. And that is why they receive benefits in the first place. But this kind of thinking, that we should spend for these worthy beneficiaries whether we have the money or not, is precisely why we have the colossal national debt that we do.

And I am just pointing to the balanced budget amendment debt tracker, which just shows the 25 days of increased debt, $21 billion so far.

The power of the tax spenders has always been built on appealing to an attractive, narrow interest and that power has always outweighed the more diffused interest of the taxpayers and of our children, who cannot yet vote whose moneys we are spending in advance.

Mr. President, this is business as usual, and it is what the balanced budget amendment is designed to end. The purpose of the balanced budget amendment is to ensure that Congress takes into account increased taxes, stagnant wages, higher interest rates, and the insurmountable debt that we will leave to our children if we keep spending the money that we do not have.

The parade of special interest groups embodied by so many of the amendments which have been offered against this balanced budget amendment, including this one, is to take the focus off our children's future and put it on the short-term interest of another, perhaps worthy, special interest group. There are thousands of special interest groups in our country. I wish we had enough money to take care of all of them and to do it in a way that would give them dignity and would help them to find their own way, would empower them to be able to make something of their lives. There is no question that all of us want to do that.

But we are never going to do it—we are going to have more homeless, we are going to have more children bereft of what they need, we are going to have less of a future for them—if we do not pass this balanced budget amendment and get this spending under control.

Make no mistake, those who keep bringing up these amendments for special interest groups, who are needy and whom we all want to help, in order to kill this amendment by 1,000 cuts, I think their efforts ought to be rejected. And that does not mean that they are not sincere or they are not good people or they are not trying to do their best.

I find no fault with my friend from Minnesota in worrying about those who are homeless. I do, too. But if we are really worried about them, then let us get this country's spending practices under control so that this country's economy is strong so we can help them. I am willing to do that, and I have a reputation around here for trying.

I think the Senate should get on with its business of weighing each of the interests presented to make choices among all the worthy programs within the constraints of the revenues we are willing to raise, like reasonable economic actors.

Our problem today is, because we do not have a balanced budget amendment, people do not care how much they spend of the future of our children. They can feel very good towards themselves that they are compassionate and considerate of those who need help. But what they do not tell is the other side of that coin—that all of us are going to need help in the future if this country's economy becomes less than what it is, and it has no other way to go if we do not start getting our spending under control.

So I suggest that, in spite of the sincerity of my friend from Minnesota, we vote down this amendment, as we have had to do, in order to preserve this concept of a balanced budget in the Constitution.

This is our last chance. This is the first time in history, the first time in history, that the House of Representatives has had the guts, as a collective body, to get a two-thirds vote—which is very, very difficult to do—to pass the balanced budget amendment.

The reason they have is because of the budget-courageous Democrats and Republicans who decided the country is more important than any special interest. And that we have to get the country under control and spending practices under control if we are really going to help the special interests, many of whom are worthy interests.

On the one hand, I commend the distinguished Senator for his compassion and his desire to help people. On the other hand, I have difficulties with those who have brought up these amendments because every one of these amendments would make the balanced budget amendment less important.

I reserve the balance of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I find the remarks of my good friend from Utah to be very important. I want to come back to a couple of basic points because I really believe that the vote on this motion is a real moment of truth here.

First of all, Mr. President, this is not an amendment to the constitutional amendment to balance the budget. That is not what they are voting on.

This motion just says that we go on record we will not take any action which will increase the number of hungry or homeless children. It is that simple. I did not say we should balance the budget. I did not say we should not have serious deficit reduction. We have to make choices. It is a question of whether there is a standard of fairness. I want the Senate to go on record.

Second of all, Mr. President, my colleague from Utah talked all about the Constitution, and therefore this is no place for a discussion of hunger and homelessness among children, because it is a different order of question. I might remind my colleague that the Preamble of the Constitution says: ''We, the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defense, promote the general Welfare.'' I would think that children are a part of how we promote the general welfare. Do not tell me that being on the floor of the Senate and talking about children does not have anything to do with the founding documents of our Nation. We talk about promoting the general welfare, I assume that includes children.

The third point, Mr. President, I heard my colleague use the words ''special interest'' more than once. Children are special interests. We are all for the future, and we are all talking about we want to make sure that our children and grandchildren do not have to carry this debt. How about the children now?

Now, Mr. President, I do not have such a fancy chart but the facts remain. Every 5 seconds a student drops out of school; every 30 seconds, a baby is born into poverty; every 2 minutes a baby is born at low birthweight; every 2 minutes a baby is born to a mother who had no prenatal care; every 4 minutes a child is arrested for an alcohol-related crime; every 5 minutes a child is arrested for a violent crime; every 7 minutes a child is arrested for a drug crime; every 2 hours a child is murdered; every 4 hours a child commits suicide.

I spoke about 100,000 homeless and 5 million hungry children earlier.

I hear my colleague talking about our generosity. We cannot talk about our generosity. We have abandoned many children in the United States of America. I might add we devalued the work of many adults that work with those children. That is what these statistics say. And now, rather than investing more in our children, we are cutting programs.

Three children die from child abuse; 1 day, 9 children are murdered; 1 day, 63 babies die before they are one month old; 1 day, 101 babies die before their first birthday; 1 day, 145 babies are born at very low birthweight. And I can go on and on.

Mr. President, why do we not juxtapose these figures, these statistics about children in America today, with the headlines in the Washington Post, ''House Panels Vote Special Funding Cuts, Republicans Trim Nutrition, Housing''; ''House Panel Moves To Cut Federal Child Care, School Lunch Funds.'' I do not really think my colleagues can have it both ways.

Let me get right down to the essence of this motion. We have these figures. We have the Children's Defense Fund which has been the organization most down in the trenches with children. I have State-by-State variations. I could read from every State—Idaho, Minnesota, Utah—about the projected cuts, because we know there will be cuts in these programs. We have to cut somewhere.

Now, I came on to the floor of the Senate during the Congressional Accountability Act, and I had an amendment that came from Minnesota that essentially said before we send the balanced budget amendment to the States, let Senators lay out where we will be making the cuts. It was voted down. The minority leader, Senator DASCHLE, had a similar amendment. It was voted down.

My colleagues will not specify where they will make the cuts, but when Senator FEINGOLD and I said how about oil company subsidies, pharmaceutical subsidies, or $425 billion in tax holes, loopholes, deductions, and sometimes outright dodges, would we consider that in how we would balance the budget? No. That was the vote.

My colleague from Utah says we have to make difficult choices. That is true. I am for cutting the Pentagon budget. I do not think military contractors are in a position where they cannot afford to tighten their belt. They are not being asked to tighten their belt. Nor

are we going after tax dodges and loopholes and deductions, and we have a bidding war on tax cuts. So there we have $1.3 trillion. We will not specify where we make the cuts, but we know what is left.

I am saying to my colleagues, we cannot have it both ways. Do not, one more time on the floor of the U.S. Senate, say to me or say to children in this country, that this is just a scare tactic. I wish it were just a scare tactic. Or this is just a political strategy to get people on record.

What I am saying to my colleagues is, is it too much to ask that we go on record saying to our Budget Committee, as we go forward with deficit reduction and as we go forward to balancing the budget which we are all for one way or the other, we go on record, we are not going to do anything that will increase hunger, homelessness among children? Know why my colleagues will not vote for this Mr. President? Because that is what we are going to do.

The reason my colleagues will not vote for this is because that is precisely what we are going to do.

I do not understand for the life of me why I cannot get the U.S. Senate on record on this very fundamental basic question. We cannot go forward with deficit reduction. I do not want to let colleagues say he is just doing this motion because he is not in favor of deficit reduction. That is not true. I voted for huge deficit reduction. I want to see all sorts of cuts. I would like to see the oil companies tighten their belt. I do not hear anything about that. But, no, I do not want to see the most vulnerable citizens being hurt.

Mr. President, I have heard a couple of colleagues talk about the last election. And the people voted for change. People voted for change, but not this kind of change. There is too much goodness in the United States of America to cut nutrition programs and school lunch programs and child care programs, all in the name of deficit reduction. That is not where people in the United States of America want to see the cuts. My colleagues need to understand that.

So, Mr. President, I come out here determined because I have a real sense of trepidation. I know what is going to happen with these programs. I know the majority leader was out on the floor saying we care as much about children as the Senator from Minnesota. I know my colleague from Utah says that.

I now say prove me wrong. Prove now this afternoon that this is just a scare tactic. I want to be wrong. Prove this afternoon that this is just some political strategy. Let us go on record, Democrats and Republicans alike, that we are serious about deficit reduction, we are serious about balancing the budget, because I think we all are. And what we are going to do is go on record this afternoon, not with an amendment to this constitutional amendment—that is not what this is. This is just simply a motion to go on record that when we make these cuts, we are not going to do anything to increase hunger or homelessness among children. I do not understand why I cannot get 100 votes for it.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. Mr. President, if the Senator from Utah is finished with his remarks, I will be pleased to yield him some of my time if he needs it, or I will yield back my time.

Mr. HATCH. I will be happy to agree to that, to yield back time on both sides. And then the votes are to be stacked, as I understand it, beginning at 3.

The PRESIDING OFFICER. The vote is scheduled to occur at 3 o'clock.

Mr. HATCH. Then I yield back the remainder of my time.

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATCH. Mr. President, is it appropriate for me to table and ask for the yeas and nays with the understanding that the vote not occur until 3, or should we just wait until then?

The PRESIDING OFFICER. First we must announce the result of the request for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I move to table the amendment and ask for the yeas and nays, with the understanding that it will not be voted upon until 3 o'clock.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur beginning at 3 o'clock today.

Mr. WELLSTONE. For a few moments, I will 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. 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. Mr. President, while we are waiting for the next amendment, let me just say a few words about the impact of the deficit on the average American.

We need to stop talking and start working on getting our fiscal house in order by passing the balanced budget amendment and working together to balance the budget.

The American people want and need us to do this. Our large national debts and the yearly deficits that help it grow hurt real people, average working people all over the country—everybody. Continuing down the path we are on will only make matters worse for all of us and all of our children and grandchildren.

Recently, the Washington Post ran an article by James Glassman, who I believe did an excellent job of stating in an understandable way how and why the deficit hurts the average working American. He called his discussion the ''Plain English Guide to the Federal Budget,'' and it began with the sage assertion that ''big deficits can make you poor.''

That is it in a nutshell, Mr. President. For all of those of you who are listening to the debate, you should know this and tell your Senators that you want them to pass the balanced budget amendment to stop making you poor. ''Big deficits can make you poor.'' Mr. Glassman explained, ''they tend to retard the growth of the private sector, raise interest rates, and weaken our economy.''

That is exactly why we need the balanced budget amendment, because Congress' fiscal madness is destroying the ability of the working American to make enough money to survive.

Every year, hard-working Americans pay the price for our profligacy. The tax foundation has calculated that in 1994, the average American worked from January 1 to May 5 just to pay his or her taxes. They did not get to keep 1 cent of the money they earned until May 6. Put another way, in an 8-hour work day, the average American works the first 2 hours 45 minutes just to pay his or her taxes. This is bad enough but that is not the end of the story.

The increasing Federal debt will force us to raise taxes to astronomical rates just to keep the country solvent. The National Taxpayers Union has estimated that a child born today will pay on average $100,000 in extra taxes over the course of his or her lifetime just to pay for the interest on the national debt which accumulates during the first 18 years of that child's life. Just think, by the time a child becomes old enough to vote, there will already be a $100,000 tax bill looming on his or her horizon if we do not get it under control, and that is only to pay the interest on the debt accumulated in that child's first 18 years.

The National Taxpayers Union has also determined that for every year we endure another $200 billion deficit, it costs the average child over $5,000 in additional taxes over his or her lifetime—every year we do that. Mr. President, the budget submitted by President Clinton, as I have said earlier, projects $200 billion deficits for each of the next 5 years, actually each of the next 12 years. By conceding defeat on deficit reduction, President Clinton is condemning every child in America just over the next 5 years to an additional $25,000 in extra taxes—in that child's next 5 years.

When a child born this year is 10 years old, in fiscal year 2005, the CBO's conservative projections show that the

deficit will top $400 billion, more than twice today's levels. That year alone, this child will be socked with a $10,000 tax bill just to pay interest on the deficit—that year alone. The debt will reach nearly $6.8 trillion or 58 percent of our GDP. Now, that is the CBO, the Congressional Budget Office, Economic and Budget Outlook for fiscal year 1996 to the year 2000.

But the bad news about the debt does not end there either. The Competitiveness Policy Council has shown that the rising budget deficits have led to a 15 percent decline in real wages in the last 15 years, and the National Taxpayers Union has further calculated that in the next 45 years, unless we get our spending under control, after-tax incomes will rise over the total 45 years by a cumulative meager $125. That is all we will gain over 45 years is another $125.

Mr. President, these deficits are strangling middle-class Americans throughout our country. How can people be expected to bear the burden of stagnating wages and higher tax bills and rates? We simply cannot continue blindly down this road to economic oblivion.

Why act now? Why? Because so much is riding on our vote. Next Tuesday, this is going to be the most important vote in the eyes of many in this century.

If we do not act, just think of the fate we are leaving to our future generations. As Senator DASCHLE said last Congress when he voted in favor of the balanced budget amendment, ''We are leaving a legacy of debt for our children and grandchildren.''

Every child born in America today comes into this world, as I have said, over $18,500 in debt. That is what they are born with, and that is growing.

In President Clinton's fiscal year 1995 budget, it was estimated that for children born in 1993, the lifetime net tax rate will be 82 percent. The net tax rate is the estimate of taxes paid to the Government less transfers received, if the Government's total spending is not reduced from its projected path and if we do not pay more than projected. The 82-percent figure for our children stands in stark contrast to the 29 percent net tax rate for the generations of Americans born in the 1920's and the 34.4-percent net tax rate for the generation born in the 1960's. Now, that comes right out of the Clinton administration 1995 budget generational forecasting. That is this administration.

It took our Nation 205 years, from 1776 to 1981, to reach a $1 trillion national debt. It took only 11 years to quadruple that figure. Today, the national debt stands at more than $4.8 trillion. Citizens of other nations, like Argentina, Canada and Italy, have faced stagnant and lower living standards when their governments ran up huge debts. Our future generations face higher interest rates, less affordable housing, fewer jobs, lower wages, and a loss of economic sovereignty.

Now, we must get Government spending under control. The only way to do that is to change the way Congress does business with a permanent unavoidable rule. That rule will be the balanced budget amendment that we are debating here—bipartisan consensus, Democrat-Republican amendment. It will force Congress to consider the costs as well as the benefits of every program in the Federal Government. We will lower the unbelievable amount of Government spending and bring the deficit under control.

All other attempts to balance the budget have failed and failed miserably. We went through all of the statutes that we have tried to use. Every one of them has failed. Every year the debt grows relentlessly, sapping the life out of the American economy as it does. Under the President's latest plan, the debt will grow another $1 trillion in the next 5 years. This is not an attempt to reduce the deficit. It is a recognition that unless we change the budget process to eliminate Congress' spending bias, it is impossible to reduce the deficit.

Mr. President, we now have the opportunity to make a historic change. We can pass the balanced budget amendment and preserve the future for our children, our grandchildren, and this country. So I urge my colleagues to support the balanced budget amendment so that we and our children will have a prosperous tomorrow. As we have said, every day while we talk about the debt, we leave our children and our grandchildren in debt a shocking amount, $829 million each day. This must end and it must end soon.

Mr. President, let us stop talking and start acting to bring this country to fiscal sanity. Let us pass the balanced budget amendment and send it to the States for ratification and get along on this business of balancing the budget.

In just the 25 days we have been debating this amendment, our national debt has gone up almost $21 billion, and it is going up every day right on through February 28. I am hoping there will be a liberation day February 28 when this balanced budget amendment passes, and it will be the beginning of liberation and freedom, more freedom than ever before because it will mean that Congress will have to get spending under control and live within its means over a period of time. This balanced budget amendment will be the mechanism by which we will get Congress to do that which it should have been doing all of these years.

We have only balanced the budget once in the last 36 years, and I suggest, Mr. President, that this is our time to really strike out and do what is right and liberate Americans from the crushing burden of national debt and these deficits that occur every year.

I notice the distinguished Senator from Minnesota is prepared to go ahead, so I will yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I will shortly call up my motion. I, first of all, just want, in the debate time we have, to respond to some of the words of my colleague from Utah.

Mr. President, as far as liberating the people of this country, we have, roughly speaking, a CBO baseline of $1 trillion plus we have to cut to reach a balanced budget by the year 2002. Then for reasons that escape me, there have been proposals to raise the military budget by some $82 billion over 5 years plus—not cut, increase. Then in addition—all of it has to do with, I guess, political popularity—there has been a bidding war on tax cuts. So what we are saying to people is we are going to balance the budget by 2002, but we are going to increase the Pentagon budget and, by the way, one of the ways we can balance the budget is by cutting your taxes more.

That is pretty amazing. But, by the way, Mr. President, this is a foolproof formula for political success in the very short term. That is to say, we can say to people in the country, ''We call on you to sacrifice. What we would like for you to sacrifice by way of deficit reduction is to let us cut your taxes further.'' It is not surprising people say we would be pleased to make that sacrifice. Of course it does not work out that way. That adds to the deficit.

So when I hear my colleague talk about liberating people, I want to be clear. This is the credibility gap. We have heard on the other side of the aisle, roughly speaking, about $277 billion of budget cuts, to reach $1.481 trillion worth of cuts. That is a pretty huge credibility gap. Over and over again some of us have tried to get everybody to be honest and straightforward about where these cuts are going to take place. For a while at least a good many of us talked about how our State legislatures should know what cuts are going to be made. I was on the floor with a resolution that came from my State. The State wanted to know how these cuts would impact Minnesota. We talked about: Legislatures should know, people in the country should know. But we do not know. We are voting for this balanced budget amendment without our own Budget Committee laying out any kind of projections.

The reason I mention all this is that people may agree in the abstract but not in the specifics. For example, we have no separation of capital budget from operating budget. My family does not cash flow our mortgage. We do not cash flow the car we buy. Families separate capital budgets from operating budgets. Over 40 legislatures do but we do not.

Then in addition we were not willing to specify where the cuts would take place. We were not willing to take Social Security off the table in terms of what might be considered deficit reduction. And we are going to raise the

Pentagon budget. And we are going to have tax cuts. And we do not want to touch any of the subsidies that go to large oil companies or all the rest.

We will see whether people feel liberated. I guess the way we are going to get from $277 billion to $1.481 trillion is to cut Federal child care, school lunch programs, and to cut child nutrition programs. By the way, that is not what people in the country are for. There are a whole lot of other choices we can make instead. So I just want to remind my colleagues I think it is not so simple as it seems.

MOTION TO REFER

Mr. WELLSTONE. Mr. President, I now call up my motion No. 2, which has been previously filed and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] moves to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and at the earliest date possible, to issue a report, the text of which shall be as follows:

''It is the sense of the Committee that in enacting the policy changes necessary to achieve the more than $1 trillion in deficit reduction necessary to achieve a balanced budget, Congress should take no action which would result in significant reductions in assistance to students who want an opportunity to attend college.''

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, this is not an amendment to the constitutional amendment. This has nothing to do with the vote Tuesday. It is not linked to this constitutional amendment, but it does make it clear that the Senate should go on record that we will take no action that will result in significant reductions in assistance to students who want the opportunity to attend college.

Just yesterday the House Appropriations Subcommittee for Labor-HHS slashed a student aid grant program, an education program for dropouts and homeless people, and the vocational education grant program. Please remember all those who signed the Contract With America have signed a document that says they intend to support cuts in student aid.

This motion really comes from my own background as a college teacher. So many of us talk about the importance of doing a good job of representing the middle class. My prior amendment dealt with hungry and homeless children. I think they are a very special interest. They do not have a lot of people lobbying for them here. But now I really am talking about the middle class. I would just like to say to my colleagues, there really is nothing more important that we could do to do well for the people we represent, including middle-class people, than to make sure, through good public policy, that higher education is affordable.

What this amendment says is we go on record we are not going to take any action that will result in reductions in assistance to students who want an opportunity to attend college. I do not think that is too much to ask.

I was a college teacher for 20 years and I had an opportunity teaching—I guess you could say 5 generations of students. You know, you count them 4 years at a time. I had an opportunity to see how a spark of learning, if ignited, can take a student from any background to a life of creativity and accomplishment. The worst thing we could do would be to pour cold water on that spark.

We always talk about higher education as key to a successful economy, to a literate, high morale, trained work force. That is true. I also think John Dewey, the great educational philosopher, was right that higher education, for that matter K–12 education, is critical to representative democracy because we have to have men and women who can think on their own two feet, who have conceptual tools that they can use to understand the world that they live in and who understand the courses of action that are available to them to contribute to our country and to their communities.

But if you talk to families in Idaho or Minnesota or Utah or Wyoming, I know that listed among their top three concerns is how are we going to be able to send our sons and daughters on to college? I want to be very clear. I spend a lot of time on campuses and all too often I will meet students who sell their plasma at the beginning of the semester to buy a textbook. Let me repeat that. All too often I meet students who sell plasma at the beginning of the semester to buy their textbooks. All too often I meet students who are working 40 hours a week while going to school—that is not uncommon. That is why it takes many students 6 years to complete their undergraduate work rather than 4 years.

I think the nontraditional students have become the traditional students. Students are no longer out of the ''Brady Bunch.'' They are no longer 19 years of age and living in the dorm. I think almost the majority of students are older, they have gone back to school, many of them are single parents, many of them have children. It is terribly important that we go on record that we will not take any action that could result in significant reduction to assistance to students who want an opportunity to attend college.

I do not think that is too much to ask.

I remember a gathering at Moorhead State, Moorhead, MN. A student said to me, in front of everyone, ''You know, my mother and father, they told me that the college years would be the best years of my life.''

Then he looked at a really crowded forum. He looked at everybody, and he hesitated, and he said, ''These are not the best years of my life. I am working three minimum-wage jobs, 40 hours a week, and trying to go to school. These don't feel like the best years of my life.'' This whole question of how we make higher education affordable is key to what our Nation is all about, which is a nation of opportunity for every person from every background.

The total cost of attending a 4-year public institution averages about $7,600 a year. The average cost to go to a 4-year private institution is around $16,000 a year. Tuition alone has increased more than 120 percent over the last 10 years.

Mr. President, today I am going to be formally requesting of the General Accounting Office that they do a study of the increase in tuition costs, the magnitude of it, and the way it affects our young people, or not so young people.

At this cost, higher education is out of reach for many middle-class families. For the 1993–94 academic year, students borrowed a record amount, $23 billion, from federally guaranteed loan programs, and the average loan exceeded $2,700 annually. By the way, understand that because the whole ratio of grants to loans has shifted to the loans, students graduate in enormous debt when they are getting ready to start out their life.

I feel very, very lucky. It was just a matter of accident of when I was born that I was able to go to the University of North Carolina. Above and beyond wrestling, and I think I had some academic scholarship, I was able to receive a National Defense Act low-interest loan because I was going to go into education. I did not graduate saddled with that kind of debt. But that is not the case today.

Krista—I will not use her last name—is a sophomore who will be graduating from community college and going to Mankato State University to get a B.A. She is 24 years old and married. She writes:

I do not receive State or Federal grants, nor do I receive any scholarships. In order to pay for my 2 years at a community college, I had to take out over $5,000 in student loans. Last year, I was receiving help through the State Work-Study Program. When that was cut, I suffered again. I realize that part of education is receiving some debt and that it should not be a free ride. But neither should it be a weight tied around my neck. So I ask that whatever decision you make, you consider that many students like myself are choking with this weight.

Congress should go on record. We will not do anything that will result in significant reductions to students who want an opportunity to attend college. Is that too much to ask; that we go on record on this basic question that affects a huge, broad section of the population?

As I said earlier, the typical student these days is not the Brady Bunch kid who graduates from high school and goes straight on to college: 45 percent of the student bodies these days are over 25 years of age; 45 percent of the students are over 25 years old. In fact, nearly 20 percent of all students are

older than 35, and many of them are single parents.

Mr. President, many of them are students of color. And by the way, we want to talk about, with welfare reform, single parents being able to be on their own and going to school.

It has to be affordable. We cannot be cutting these grant programs and low-interest loan programs. But we are going to. You bet we are going to, because there is no other way we can get to $1.481 trillion by 2002. We know it. I hear discussion about we want to take this debt burden off the shoulders of the young. What are we doing to the young right now?

Denise, from a suburb of Minneapolis, writes:

I am a 29-year-old single parent, currently enrolled as a junior at the University of Minnesota. Because of the excellent support of financial aid and other programs, I have been successfully maintaining a 3.76 GPA.

That is pretty good. That is out of 4.0.

Before returning to school, from the time my son was 6 weeks old, I worked as a medical assistant making $9 an hour. Without the needed assistance, the rug would be pulled out from under me. I cannot make it otherwise. Don't cut grant and loan assistance that would deny me my opportunity to pursue my higher education and my dream in life, Senators.

That is what Denise writes.

Sandra, from St. Louis Park, another suburb:

I am devastated at the idea of any financial aid cuts. Not only would I need to drop out of college—I am a sophomore—but it would leave me with only two options. First, I could obtain an entry-level position; second, I could remain a public assistance recipient for awhile. At any rate, the best I could do for myself and my son in society is to maintain at the below-poverty level.

I faced these obstacles after a miserable divorce, which left me without home or money or even credit to plan for the future. I have goals not only for myself, but to be allowed to contribute and replace whatever I have used. By the time I graduate in 1997, I will be financially independent. Likewise, I am setting an example for my son to achieve independence and pride, which are invaluable to our society.

Sandra is saying to us: Senators, please, when you do your deficit reduction, and I want you to, and you go to balance the budget, whether this amendment is passed, please do not make any significant reductions in higher education programs that would deny me my opportunity to attend college.

Our Federal commitment to higher education should be strengthened, not cut. But we are going to cut it. In 1990, about 5 million students received Federal student aid under one or more Federal programs. In the 1993–94 academic year, about 3.8 million students received Pell grants, 4.5 million received Stafford loans, 991,000 received supplementary education opportunity grants, 697,000 received Perkins loans, 713,000 received Federal work-study awards, and 650,000 received State student incentive grants.

Most of this financial aid is based upon need. Pell grants are targeted to the neediest students and the campus State programs give financial aid offices the flexibility to respond to unique student needs. And they are needed. These programs help low-income and middle-income families. Of the Pell grants awarded to dependent students, those who are financially dependent on their parents, 41 percent go to students with families with incomes less than $12,000 a year and 91 percent go to students with families of incomes below $30,000. This is a critical lifeline program. Among Pell recipients who were financially independent, 73 percent have incomes below $12,000 a year.

I could go on and on. Let me just assure you that all the low-interest loans and on campus work-study programs are all targeted toward students that come from low- and moderate-income families.

Mr. President, we say that we are for the young and we are for opportunity. We cannot give lie to that commitment. We have to be willing to make some investment. I just have to tell you, Mr. President, the most shortsighted thing we could do would be to now cut in these very programs.

By the way, there is a huge difference in the future of those who go to college and those who do not. I could go through the statistics. But I do not think I will because I think we all know. If you graduate from college, you have a much better chance than if you graduate from high school, a much better chance to be able to do well economically for yourself and for your family.

Mr. President, if there is anything to the American dream—I can say this as a son of a Jewish immigrant from Russia who loved books and ideas—the biggest thing in our family was that children go on to higher education; they could do better than their parents; they could have a rewarding life.

But let us be clear about it. We are going to have to cut $1.4 trillion from the budget. We have to pay the interest on the debt. I think there is a commitment to not touch Social Security, as there should be. We are going to increase the Pentagon budget. We are going to do the tax cuts. So where else is there to cut?

If you just take what is left on the table, you would have to cut 30 percent across the board from domestic discretionary spending. I do not know whether that is going to be Medicare or veterans' benefits. It looks from the House for sure that it is going to be nutrition programs and child care programs.

I do not know whether it is going to be Pell grants, Stafford loans, what loan programs, but it is going to happen—30 percent across the board, maybe more in some, maybe less in others.

So let us talk a little bit about what this means.

Pell grants would be slashed by one-third, from a maximum of $2,230 to $1,560. Alternatively, if we did not do that, we could just slash the number of students receiving Pell grants. So some 1.1 million students would not receive Federal aid at all to attend college.

Mr. President, there are proposals to no longer exempt the interest that students accumulate—I believe Chairman KASICH of the House Budget Committee said—while they are at college or university. Find out how the students in Idaho or Minnesota like that. Interest that accumulates on their loans while in school will no longer be forgiven, and then that gets added on. I think for a typical family that ends up to over $3,000 more in interest.

Mr. President, the campus-based programs also would include supplementary education opportunity grant programs. And the contract talks about the termination of some of these programs. That is $583 million. The work study program, that is $616 million; and the Perkins Loan Program, that is $176 million. If these programs are cut, that is a $1.4 billion cut in financial aid.

So, Mr. President, let me go back to this motion. Let us be straightforward. Are we going to, in balancing this budget, put into effect deep cuts in a Pell Grant Program which right now is hugely inadequate in relation to those students that need this grant assistance? Are we going to put into effect deep cuts, 30 percent or more, in needs-based, work-study or low-interest loan programs? Is that what we are going to do?

Well, Mr. President, my motion just simply says that we go on record, a sense of the Senate that we will take no action that would result in significant reductions in assistance to students who want the opportunity to attend college. That is what this motion says.

Mr. President, might I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 25 minutes remaining.

Mr. WELLSTONE. Mr. President, there are other Senators here. I do not know whether they want to speak on this or not. I have more to say on this.

I think the Senator from Wyoming wants to respond.

Let me just reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ABRAHAM). Who yields time?

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I greatly appreciate that from my friend from Minnesota.

I have listened with great interest. I yield myself 11 minutes of the remaining time of the floor manager and would share with my colleague from Minnesota that I had not intended to come by, but I was moved by his comments. His remarks were very heartfelt. They were very sincere. I have no doubt that he speaks from the heart

when he expresses these concerns about the Nation's children, and that has been the subject of the morning's activity.

The reason I came here, Mr. President, is that all of us share these passions, all of us share these pent-up feelings. And yet those passions and feelings led me to almost precisely the opposite conclusion reached by my friend from Minnesota.

I look at our Nation, I look at our Federal budget, and I see the injustice done to America's children. I see a Federal Government that spends 11 times as much per capita on the elderly as we do on the children. I see a Government unresponsive to the needs of children. We see these poverty rates for children surpassing poverty rates for any other group. I am completely in agreement with the Senator from Minnesota when he decries the diversion of national resources from the children.

But I will tell you what is happening to children in this country. What is happening is we have gone from a society that used to channel its resources toward the young into one which channels resources away from them. If you want to know why we do not devote the proper share of resources to our children, it is very simple. It is because of exploding spending in other parts of the Federal budget is paralyzing our ability to make proper choices.

Here is a statistic, and I shared it the other day: In the year 2013—and this scenario was agreed to by 30 of the 32 of us on the Entitlements Commission—due to the growth in entitlements, every penny of Federal revenue under current law will only be sufficient to fund entitlements and interest on the debt.

That is not a dry statistic. It means something. It means this country is depriving itself of the ability to make decisions how to provide for transportation, education, and child nutrition.

All of this leads to one issue. What are we going to do with Social Security, Medicare, Medicaid, and Federal retirement? This is not about defense or spending on highways or education. It is about writing checks from one generation to another.

Some powerful statistics have been shared by the Senator from Minnesota. May I share just a few of my own. Here is one: The national debt is 48,000 bucks per taxpayer. Assuming 100 million taxpayers, that will soon be 50,000 bucks a taxpayer, with a national debt of $5 trillion.

Children now come into life owing that when they are born. That is the burden we place on them. We pay more than $200 billion a year to finance the debt. What could that do for child nutrition, for vaccination, for education? It is not there. It is gone. Went out the window. An interest payment.

Also, I do not find the argument compelling that we should simply give up on a balanced budget amendment and continue to add to that burden. And we will always give up, because we will come to this floor and vote for everything our constituents ask us to bring home. We are like pack horses. They just load us with requests for funding, and we come out here and we load the money home.

Here is another statistic for you. The elderly make up 12 percent of the Nation's population. What percent of the Federal entitlement spending do they receive? The answer is 60 percent. Not 60 percent to the most needy population group—children—but 60 percent going to this other relatively smaller group, the 12 percent of our country who are senior citizens.

And here is one for you. If you are a millionaire, a millionaire over the age of 65, these are the various Federal entitlements you can receive. You can get Social Security, Medicare, an extra tax deduction, senior nutrition programs, and other subsidies under the Older Americans Act. That is if you are a millionaire—and those keep coming after you receive your entire lifetime contributions in Social Security back, plus interest.

We act around here as if there are no consequences to what we do. I wish I had not served on the Entitlements Commission, and yet I am very pleased I did. I admire Senator KERREY and Senator Danforth so very much.

So the reaction from everybody I talk to is, ''Well, OK, I do have some ideas. Where are they? Why don't we means test part B premiums so that a millionaire pays as much for the benefit as the working class taxpayer?''

On, no, we could not do that.

What are we going to do when two people are paying in and one person is taking out of the Social Security system? How long do you think people are going to stand still for that?

So the inevitable result of shoveling so much of our Nation's resources in the direction of one politically organized, powerful voter group—the seniors—is precisely why we are here in this situation.

It is a situation where there is nothing left for the children. That is precisely why we must stand up to the endless pressure to lavish entitlement benefits even on wealthy seniors. I am not talking about needy seniors portrayed as foraging out of garbage cans in alleys, but whether upper income beneficiaries should receive those ever-increasing Government benefits.

I implore the body to free itself from illusions about our Federal budget situation. We cannot hold entitlement benefits for the wealthy sacrosanct on one day—when they now make up the majority of the budget—and come on hard the next to decry the lack of help for our children. That simply does not add up.

In the year 2040 what fraction of the national payroll taxes will be needed simply to support two programs, Social Security and Medicare under current law? The answer is 38 to 53 percent before we collect a penny of income tax.

Anyone truly concerned about the welfare of the children should come here and explain why we should fail to means test Medicare part B, why we should give full Social Security COLA's to millionaires—when COLA's were never part of the original contract. Remember these are the programs sucking it up. So, explain that to our children, why we should continue to do this to them.

When I am joined by Senators who are ready to do this kind of work, I will feel more heartened in the cause. Then I guess there is another thing. I heard the letters read, and they are poignant.

Let me tell you one from real life. My wife's father worked on the railroad in Greybull, WY. He died when she was 16. Her mother and the two other children had only their home. So their mother went to Laramie, the home of the University of Wyoming, and became a house mother at the Kappa Sig house. My wife Ann and her twin sister Nan worked their way all the way through college. So did their brother Rob. The sisters worked as waitresses, and they worked as cabin girls at dude ranches. She bought all of her own clothes and necessities, worked for everything she obtained, and earned all of her own money, and never thought of herself as a victim. It is called going to work to achieve something you can achieve.

Now we have an entire country waiting for the Federal Government to make them whole. And we can all read stories like those shared. It is now a nation of victims. The greatest victims are the children, and the greatest reason for that is because there is not one on the floor who will take on the senior citizens of America who—regardless of their net worth or their income—are pulling the temple down.

I have no further remarks at this time. I reserve the remainder of the time for Senator HATCH.

Mr. WELLSTONE. Mr. President, I would like to respond to my colleague from Wyoming.

Part of the reason I have so much respect for the Senator is because of his directness. I must say to my colleague, at the moment I find myself in profound disagreement with his remarks.

First of all, given what the Senator from Wyoming has said, he ought to support both of these motions. It sounds like we are in agreement on at least one part of the equation. I really appreciate the fact that he has come out here and said that there is a huge disconnect between our rhetoric and the speeches we give and our support of young people.

I think the Senator from Wyoming has been clear about that. In a sense I think he would be supportive especially of the first motion—that is No. 1—which makes it clear when we sort out these priorities and make the tough decisions, the most vulnerable citizens are the homeless and hungry children. There is nothing the Senator from Wyoming said that would prevent him

from supporting that motion. Everything he said, I think, would make him want to support that.

Second of all, my own view about these deficits and this debt that we have built up, is that I at least can say that when we went back to the early 1980's and decided that we would go forward with what President Bush once called voodoo economics, what was called euphemistically, the Economic Recovery Act, huge tax cuts for the wealthiest, dramatic increases in the Pentagon budget. And remember, all of that was going to lead to productivity and jobs—this was the Laffer curve—and it would reduce deficits.

It did not work out that way, did it? We really got ourselves into a mess. I was not here during that time. We have to work ourselves out of that mess. I must say I think the 2002, I think that the direction we are going in right now does not add up.

Now, Mr. President, getting back to the issue here. I appreciate my colleague's concern about children because before I was told that I was out here for the special interests. I think children are a very special interest. I disagree that our only choice is between older people, elderly citizens and the children.

My colleague said this way, now we get to the stereotype of the greedy geezers that are out there in the golf courses living high on the hog.

Mr. President, I believe—and it is off the top of my head—that the average income of a man 65 years of age and over is $15,000 a year. For a woman, it is $8,000 a year. Now, Mr. President, that is hardly the profile of these older people, that they are the problem.

I was at a gathering in Rosedale, Fairview Senior Center, the other day. I think it was a very interesting gathering. I asked the people there—and of every gathering of senior citizens—what are the top three issues you care about. They always put children at the top. We are talking about the children and the grandchildren of the elderly in this country.

It is not true that the elderly are so wealthy and have such high incomes. I would say to my colleague here that if we want to talk about why there should be a subsidy on part B Medicare for older people making incomes of $100,000 a year and over, I agree. The problem is there are not very many older people that make $100,000 a year and over. It just is not true.

Senator Hubert Humphrey from Minnesota said the test of a society and a government is the way we treat people in the dawn of life, children; the way we treat people in the twilight of their lives, the elderly; and the way we treat people in the shadow of their lives, those struggling with an illness or a disability and those who are needy or poor. I believe that.

The choices are not between our going on record that we will not do anything that will increase hunger or homelessness among children, or going on record to do anything that would cut programs that enable people to be able to go on and afford higher education, versus we have to cut benefits for the elderly across the board.

Mr. President, there are other options. We did not need to get into this bidding war on tax cuts. But we have. And the projections on that—and again I am speaking off the top of my head—I believe it was $500 billion, up to 2002 and then another $700 billion beyond. Going in the opposite direction of deficit reduction.

I would say to my colleagues, if you are so concerned about deficit reduction, why are you talking about these broad-based tax cuts? Mr. President, there are other choices. It is not children versus the elderly. I do not accept this tradeoff. I do not believe a rigorous analysis supports this tradeoff. We do not have to be increasing the Pentagon budget. We could be cutting it.

I cosponsored a bill with Senators BUMPERS and BRADLEY that dealt with about $30 billion in military cuts over 5 years based on some GAO studies of some wasteful weaponry. Weapons and programs that make no sense. But the military contractors are not being asked to tighten their belts.

Finally, Mr. President, let me just say two other things. First, Senator FEINGOLD and I have examined a book from the Joint Tax Committee, I say to the Senator from South Carolina, it must have been this thick on tax expenditures, some of which go back before 1950, some of which are necessary, but many of which are just outright tax dodges for corporations in America, and the U.S. Senate would not vote for a motion that said we should at least consider some of these subsidies.

And, second, even though we do not need to get into the debate today about single payer, which the General Accounting Office and Congressional Budget Office said would save over $100 billion in expenses every year with universal coverage, I must remind my colleagues that the big entitlement programs that are skyrocketing are health care programs, but the insurance companies did not like that. I introduced a bill that dealt with the Medicare entitlement program, but rather than cut it, it was a way of really being able to afford these programs.

So let us not have some false choice in dichotomy out here on the floor that a Senator from Minnesota can only come out here fighting for children and fighting for affordable higher education if that Senator from Minnesota is willing to say, ''We've got to have deep, drastic cuts in programs that support elderly citizens in this Nation.''

No. 1, it is not true that they have such high income and wealth, and they are all greedy geezers out on the golf course. That is a cultural stereotype and, two, those are not the only choices. I just outlined four other options, none of which are being considered.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Sixteen minutes.

Mr. WELLSTONE. Mr. President, let me make one other point and then I will yield the floor to the Senator from Montana, reserving, after that, the remainder of my time.

Mr. President, let me one more time focus attention on these two motions. The first motion is a motion to refer to the Budget Committee a sense of the Senate that when we do deficit reduction and balance the budget that we are not going to do anything to increase the number of homeless and hungry children. This is not an amendment to the constitutional amendment to balance the budget at all. It does not say the vote on the amendment is put off. It is separate. It just says when we do the deficit reduction and move forward to balancing the budget—all of us are in favor of doing that; not all are in favor of this constitutional amendment—that we go on record that we are not going to do anything to increase hunger and homelessness. I say to my friend from South Carolina, part of reason I do this are these headlines: ''House Panel Moves to Cut Child School Lunch Program,'' ''House Panel Trims Nutrition Programs and Housing Programs,'' the WIC Program.

The second motion is very similar. It is not an amendment to the constitutional amendment to balance the budget. It is just a sense of the Senate that we go on record ''that we take no action that would result in significant reductions in assistance to students who want an opportunity to attend college.''

My colleague from Wyoming talked about how he heard me read some letters from students in Minnesota and he thought too many students were viewing themselves as victims. I do not think that is what the students are saying.

The alarm clock has gone off, students and young people in the country; it is time to get engaged because you need to understand there are going to be deep cuts on the present course in Pell grants and low-interest loans, not in a lot of other areas that I mentioned. The only way you are going to be able to do something about it is to get involved in politics.

We need to have an education day all across this Nation, within the next month, where all congressional delegations are called back home—Democrats and Republicans alike—and meet with younger people, college students, high school students, teachers, parents in which we need to go on record as to whether or not we are or are not going to support affordable higher education.

They are not feeling like victims, I say to my colleague from Wyoming, Mr. President. That was not the point of those letters. What those letters were saying is, we want you to do a good job of representing us, and we believe that one of the most important

issues for us—and I hear it from the parents as well—is to make sure higher education is affordable. Of course, we are willing to contribute; of course, we do, but we feel like that is some thing that is a part of what this country is about: Affordable education. That is all that meant. That is all this motion is about.

Mr. President, I yield the floor to the Senator from Montana, after which I will reserve the remainder of my time.

Mr. BAUCUS. Mr. President, I wonder if I can have 6 minutes of the time of the Senator from Minnesota.

Mr. WELLSTONE. That will be fine.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business for the purpose of introduction of a bill.

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

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 465 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BAUCUS. I thank the Chair, and I deeply thank my good friend from Minnesota for so graciously yielding the time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank my colleague from Montana for his fine work.

Mr. President, I wonder whether or not the Senator from Utah might want to respond. We will wait for just a moment.

I do not think, Mr. President, there is any reason to repeat arguments, but I wish to wait for my colleague.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, again, I understand what my colleague is trying to do, but I just have to say, well, here we go again, another exemption. We have already seen various proposals to exempt veterans, Social Security, homeless children, capital expenditures, and here is another one, college tuition. When will it end? I suppose next Tuesday it will end.

Mr. President, these are all very important groups. I feel very deeply about all of them collectively myself. But all these proposed exemptions demonstrate exactly what the problem is. We cannot reduce the deficit because there is no incentive to do it. Every time we try, somebody brings up another exemption that they want to take care of or another special interest group, all of which have merit, all of which have meaning. But that is why we need a balanced budget amendment—free from special interest exemptions and loopholes—to get this country's fiscal house in order.

The balanced budget amendment that we propose here is a bipartisan consensus, Democrat-Republican amendment that we have worked on for decades. We have brought a vast majority of people in both Houses together on it. For the first time in history, the House of Representatives has passed it by the requisite two-thirds vote. It has not been easy. Everybody knows that. But what it does is it sets rules within which we will have to set priorities.

This debate about priorities, it seems to me, should wait until after the balanced budget amendment passes. Then we will get serious about the priorities that have to be made. No one wants to harm anyone who relies on governmental assistance—nobody, least of all this Senator. None of us does. But we must make choices among priorities, and we must make these choices among priorities within the constraints of our resources. We no longer can afford to just throw money at everything. Priorities are going to change from year to year. So every year after we pass this amendment, every year we will debate priorities. Some are going to fare very well, as you know—in fact, most all of them will. But the fact of the matter is we will have to debate them, and we will have to set fiscal constraints for the first time since I have been here, and to me that is pretty important. I think it is to anybody who looks at it.

However, that debate will only come after we pass this balanced budget amendment. It is the only way. I think almost everybody knows that here.

Now, the distinguished Senator, for whom I have great feeling as a person, as a compassionate individual, is arguing for some pretty good interest groups here. He is arguing for some good exemptions. On the other hand, no exemption is good if it takes away from somebody else, if it makes it more difficult to help others who may be just as needy, if not more so.

The best way to handle this is with a balanced budget amendment that sets a mechanism in place, that shows us how to do it and has a rule to it and reason to it that makes us make priority choices. It is the fair way to do it. It is the only way to do it, and that is what this balanced budget amendment does. So I hope our colleagues will vote for the balanced budget amendment next Tuesday. I do hope we will vote down these two motions to defer because I think they just point out more than anything else, or at least as much as the other amendments why we need a balanced budget amendment.

I am prepared to yield back the remainder of my time if the distinguished Senator from Minnesota is.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. If I might respond, I must say that the Senator's last remark makes me extremely nervous, when he states these motions—again, these are not amendments to the constitutional amendment to balance the budget—these motions really make the case for why we need a balanced budget amendment.

The Senator said a little earlier that no one wants to hurt the most vulnerable citizens, so I do not know why a motion that we go on record as we move to balancing the budget we are not going to do anything to increase hunger or homelessness among children makes the case for a balanced budget amendment.

My colleague from Utah keeps talking about these exemptions, and I just would say to my colleague, if the proponents of this amendment would have provided some detailed analysis as to where we are going to make the cuts, then I would not have to be in the Chamber saying let us at least go on record we are not going to do this to children or we are going to make sure that higher education is not affordable, let us make sure of that. If there was a detailed analysis, there would be no reason for any of us to come out to the floor to make these motions.

There is no detailed analysis. We have tried over and over again to get Senators to step up to the plate. They have been unwilling to do so. The credibility gap is huge—so far I have heard $277 billion of budget cuts outlined by my colleagues on the other side of the aisle. That takes us a little bit toward $1.481 trillion, not very far.

Mr. President, I have to say one more time the Senator from Nebraska [Mr. KERREY] said it well. We can go forward every single year with more deficit reduction. I voted for I think the largest deficit reduction we have had probably in the last decade and a half. I stepped up to the plate and we can do much more on deficit reduction and we can balance the budget. I do not know that it can be done in 2002. I think that is an unrealistic date. I think it is a political date. But we absolutely have to do it.

Mr. President, you do not need to have a balanced budget amendment in the constitution, locking us into all these cuts without telling anybody in the country what we are going to do in order for us to step up to the plate every single year and do the necessary deficit reduction.

I might add, there is another deficit. There is an investment deficit, especially in education and children and young people. We can do that now.

Finally, I do not understand this discussion about special interests. My view is that, yes, children and young people are very special interests. But, I say to my colleague, it simply is not the case—I hope he is not arguing: Look, the reason we cannot vote for these motions is we know we are going to make cuts in this area because we have to make cuts in this area if we are going to balance the budget.

That is not true. We do not have to make cuts in these areas if we are going to balance the budget. Mr. President, $420 billion of tax expenditures—we do not have to raise the Pentagon budget, we do not have to do all the tax

cuts. There are lots of other ways to balance the budget as opposed to focusing on the young, focusing on education, or focusing on the most vulnerable citizens.

My final point. The reason I have been so insistent today on the floor of the Senate about these motions—and I am going to wear my political science hat for a moment; I am a political scientist—is my sad but true judgment that all too often the actual deficit reduction and cuts are made based upon the path of least political resistance. Those citizens who do not have a lobbyist, do not make the large contributions, are not the heavy hitters, are not the big players, are the very citizens who are asked to tighten their belts. The very citizens we ask to tighten their belts are the very citizens that cannot.

I have been out here saying we ought to consider cutting subsidies for oil companies, subsidies for pharmaceutical companies, all sorts of other subsidies for large corporations and financial institutions and the silence on the other side of the aisle has been deafening. It has been voted down.

Mr. HATCH. Will the Senator yield on that point?

Mr. WELLSTONE. I would be pleased to.

Mr. HATCH. I think the Senator makes a good point, but it is a good point for the balanced budget amendment, that if there are subsidies to large corporate America and other entities that he disagrees with, we will have to look at those. That is why I think, to be honest with you, we need the balanced budget amendment.

Is my colleague prepared to yield back his remaining time? I am, too.

Mr. WELLSTONE. I have about 15 seconds left.

Let me be clear. Neither of these motions say anything about voting for or against the balanced budget amendment. I hope my colleagues will support me on the question if the choices we have to make are we are not going to take any action which would increase the number of hungry or homeless children and we are not going to make higher education not affordable for young people who want to go on to colleges and universities. That is all it says. It is a sense of the Senate. We ought to be able to vote for that right now, advocates for the balanced budget amendment and those who are opposed.

I yield the remainder of my time if I have any time to yield back.

The PRESIDING OFFICER. Time is up.

Mr. HATCH. Mr. President, I yield the remainder of my time and I move to table the amendment and will ask for the yeas and nays with the understanding that the vote will be at another time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, let me acknowledge my respect and friendship for the distinguished Senator from Utah. He has worked hard on this issue, but I rise today to speak out against the particular language in section 7 of the amendment that includes Social Security revenues in its definition of receipts.

I have supported and would continue to support a balanced budget amendment to the Constitution if we did not have to breach the contract of 1935 with respect to Social Security.

Taking Social Security out of deficit calculations is not just another attempt to carve out exemptions. There are no special taxes for education. There is no special tax for women, infants and children feeding. There are no special taxes for law enforcement. However, the Social Security tax is exclusively levied for the benefit of future recipients.

So the matter of excluding Social Security funds from deficit calculations should not be confused or distorted. In 1983 we received the Greenspan Commission report and increased FICA taxes on middle America. If we had come at that time and said: These taxes will be used to pay for defense or welfare or foreign aid, that legislation would have been killed immediately. If you said these taxes were going to be used for the deficit, people would have said: ''Wait a minute. We are talking about the Social Security deficit. We are not talking about the overall Government deficit.''

Mr. President, I voted three times for a balanced budget amendment to the Constitution and have worked as hard as anyone to get the bills paid. It has not always been easy, but I am quite willing to stand on my record. In the 104th Congress, the very first bill passed was designed to put the Government under the same rules and regulations that the average citizen has to abide by.

In that regard, Mr. President, many of the laws that we enact here in Washington require Americans to tell the truth. As part of the statutes of the United States, we have the Truth in Fabrics Act, the Truth in Furs Act, the Truth in Lending Act, the Truth in Lending Simplification and Reform Act, the Truth in Mileage Act of 1986, the Truth in Negotiations Act for Military Procurement, the Truth in Savings Act, the Truth in Securities Act, and others as well. But, much to my chagrin, the fact of the matter is that we do not have a Truth in Budgeting Act.

Like Fred Astaire, we tap dance all around a particular issue with fancy dance steps until we are left like an octopus that is cornered—with nothing left to do but to squirt out the dark ink of confusion and escape to the next election.

I graduated from truth in budgeting and I know the issue. As a young Governor elected back in 1958. I was only 36 years of age, and we were the second lowest per-capita income State. I realized at that particular time that no one was going to invest in Podunk. To attract investment and create jobs, we had not only to pay our bills but we had to guarantee they would stay paid. To do it, we raised taxes. I could hear all of the arguments bandied about: It falls on the middle class; it is the regressive; we have a poor State, and shouldn't be raising taxes.

But I was not granted the luxury of choice. I had to raise taxes and suffer the consequences. That in part led to my defeat in 1962 when I ran for the Senate. But in public life, I think you ought to lose a good election like that. It is the most instructive lesson you can learn. I remember that election better than the six times since that I have been elected to the U.S. Senate.

But as Governor of South Carolina, I had a little provision that intrigued the folks at Standard & Poors and Moody's. We had put in a rule that required the comptroller to issue a certificate to the Governor for each quarter that the expenditures were within the revenues. If the books were not in balance, the Governor was required by law to cut spending straight across the board. The bond agencies said, ''We had not heard of that.'' They called me a few weeks later and said that South Carolina would qualify for a AAA credit rating.

While some may think that a constitutional amendment is an iron-clad guarantee, I know from hard experience that such is not the case. We have an amendment to the South Carolina Constitution that was enacted in 1895 that says, in effect, ''The budget shall be balanced.'' It was a constitutional provision quite similar to what we are debating, but it was honored more by violation than by conformance.

Specifically, with respect to truth in budgeting, there is an old legal maxim that he who seeks equity must do equity. He who comes in the court of equity must come with clean hands. I have asked my colleagues to show me their plan to balance the budget. But in seeking this equity, I have also done equity. I have put in my own so-called budget, which I proposed in January. I have put it in the RECORD several times and would now ask unanimous consent that it again printed in the RECORD.

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

HOLLINGS RELEASES REALITIES ON TRUTH IN BUDGETING

Reality No. 1: $1.2 trillion in spending cuts is necessary.

Reality No. 2: There aren't enough savings in entitlements. Have welfare reform, but a jobs program will cost; savings are questionable. Health reform can and should save some, but slowing growth from 10 to 5 percent doesn't offer enough savings. Social Security won't be cut and will be off-budget again.

Reality No. 3: We should hold the line on the budget on Defense; that would be no savings.

Reality No. 4: Savings must come from freezes and cuts in domestic discretionary spending but that's not enough to stop hemorrhaging interest costs.

Reality No. 5: Taxes are necessary to stop hemorrhage in interest costs.

	1996	1997	1998	1999	2000	2001	2002
Deficit CBO Jan. 95 (using trust funds)	207	224	225	253	284	297	322
Freeze discretionary outlays after 1998	0	0	0	−19	−38	−58	−78
Spending cuts	−37	−74	−111	−128	−146	−163	−180
Interest savings	−1	−5	−11	−20	−32	−46	−64
Total savings ($1.2 trillion)	−38	−79	−122	−167	−216	−267	−322
Remaining deficit using trust funds	169	145	103	86	68	30	0
Remaining deficit excluding trust funds	287	264	222	202	185	149	121
5 percent VAT	96	155	172	184	190	196	200
Net deficit excluding trust funds	187	97	27	(17)	(54)	(111)	(159)
Gross debt	5,142	5,257	5,300	5,305	5,272	5,200	5,091
Average interest rate on debt (percent)	7.0	7.1	6.9	6.8	6.7	6.7	6.7
Interest cost on the debt	367	370	368	368	366	360	354

Note.—Figures are in billions. Figures don't include the billions necessary for a middle-class tax cut.

Nondefense discretionary spending cuts	1996	1997
Space station	2.1	2.1
Eliminate CDBG	2.0	2.0
Eliminate low-income home energy assistance	1.4	1.5
Eliminate arts funding	1.0	1.0
Eliminate funding for campus based aid	1.4	1.4
Eliminate funding for impact aid	1.0	1.0
Reduce law enforcement funding to control drugs	1.5	1.8
Eliminate Federal wastewater grants	0.8	1.6
Eliminate SBA loans	0.21	0.282
Reduce Federal aid for mass transit	0.5	0.1
Eliminate EDA	0.02	0.1
Reduce Federal rent subsidies	0.1	0.2
Reduce overhead for university research	0.2	0.3
Repeal Davis-Bacon	0.2	0.5
Reduce State Dept. funding and end misc. activities	0.1	0.2
End P.L. 480 title I and III sales	0.4	0.6
Eliminate overseas broadcasting	0.458	0.570
Eliminate the Bureau of Mines	0.1	0.2
Eliminate expansion of rural housing assistance	0.1	0.2
Eliminate USTTA	0.012	0.16
Eliminate ATP	0.1	0.2
Eliminate airport grant in aids	0.3	1.0
Eliminate Federal highway demonstration projects	0.1	0.3
Eliminate Amtrak subsidies	0.4	0.4
Eliminate RDA loan guarantees	0.0	0.1
Eliminate Appalachian Regional Commission	0.0	0.1
Eliminate untargeted funds for math and science	0.1	0.2
Cut Federal salaries by 4 percent	4.0	4.0
Charge Federal employees commercial rates for parking	0.1	0.1
Reduce agricultural research extension activities	0.2	0.2
Cancel advanced solid rocket motor	0.3	0.4
Eliminate legal services	0.4	0.4
Reduce Federal travel by 30 percent	0.4	0.4
Reduce energy funding for Energy Technology Develop.	0.2	0.5
Reduce Superfund cleanup costs	0.2	0.4
Reduce REA subsidies	0.1	0.1
Eliminate postal subsidies for nonprofits	0.1	0.1
Reduce NIH funding	0.5	1.1
Eliminate Federal Crop Insurance Program	0.3	0.3
Reduce Justice State-local assistance grants	0.1	0.2
Reduce export-import direct loans	0.1	0.2
Eliminate library programs	0.1	0.1
Modify Service Contract Act	0.2	0.2
Eliminate HUD special purpose grants	0.2	0.3
Reduce housing programs	0.4	1.0
Eliminate Community Investment Program	0.1	0.4
Reduce Strategic Petroleum Program	0.1	0.1
Eliminate Senior Community Service Program	0.1	0.4
Reduce USDA spending for export marketing	0.02	0.02
Reduce maternal and child health grants	0.2	0.4
Close veterans hospitals	0.1	0.2
Reduce number of political employees	0.1	0.1
Reduce management costs for VA health care	0.2	0.4
Reduce PMA subsidy	0.0	1.2
Reduce below cost timber sales	0.0	0.1
Reduce the legislative branch 15 percent	0.3	0.3
Eliminate Small Business Development Centers	0.056	0.074
Eliminate minority assistance score, small business interstate and other technical assistance programs, women's business assistance, international trade assistance, empowerment zones	0.033	0.046
Eliminate new State Department construction projects	0.010	0.023
Eliminate Int'l Boundaries and Water Commission	0.013	0.02
Eliminate Asia Foundation	0.013	0.015
Eliminate International Fisheries Commission	0.015	0.015
Eliminate Arms Control Disarmament Agency	0.041	0.054
Eliminate NED	0.014	0.034
Eliminate Fulbright and other international exchanges	0.119	0.207
Eliminate North-South Center	0.002	0.004
Eliminate U.S. contribution to WHO, OAS, and other international organizations including the United Nations	0.873	0.873
Eliminate participation in U.N. peacekeeping	0.533	0.533
Eliminate Byrne grant	0.112	0.306
Eliminate Community Policing Program	0.286	0.780
Moratorium on new Federal prison construction	0.208	0.140
Reduce coast guard 10 percent	0.208	0.260
Eliminate Manufacturing Extension Program	0.03	0.06
Eliminate coastal zone management	0.03	0.06
Eliminate national Marine sanctuaries	0.007	0.012
Eliminate climate and global change research	0.047	0.078
Eliminate national sea grant	0.032	0.054
Eliminate State weather modification grant	0.002	0.003
Cut weather service operations 10 percent	0.031	0.051
Eliminate regional climate centers	0.002	0.003
Eliminate Minority Business Development Agency	0.022	0.044
Eliminate Public Telecommunications Facilities Program grant	0.003	0.016
Eliminate children's educational television	0.0	0.002
Eliminate national information infrastructure grant	0.001	0.032
Cut Pell grants 20 percent	0.250	1.24
Eliminate education research	0.042	0.283
Cut Head Start 50 percent	0.840	1.8
Eliminate meals and services for the elderly	0.335	0.473
Eliminate title II social service block grant	2.7	2.8
Eliminate community services block grant	0.317	0.470
Eliminate rehabilitation services	1.85	2.30
Eliminate vocational education	0.176	1.2
Eliminate chapter 1 20 percent	0.173	1.16
Reduce special education 20 percent	0.072	0.480
Eliminate bilingual education	0.029	0.196
Eliminate JTPA	0.250	4.5
Eliminate child welfare services	0.240	0.289
Eliminate CDC Breast Cancer Program	0.048	0.089
Eliminate CDC AIDS Control Program	0.283	0.525
Eliminate Ryan White AIDS Program	0.228	0.468
Eliminate maternal and child health	0.246	0.506
Eliminate Family Planning Program	0.069	0.143
Eliminate CDC Immunization Program	0.168	0.345
Eliminate Tuberculosis Program	0.042	0.087
Eliminate agricultural research service	0.546	0.656
Reduce WIC 50 percent	1.579	1.735
Eliminate TEFAP:.		
Administrative	0.024	0.040
Commodities	0.025	0.025
Reduce cooperative State research service 20 percent	0.044	0.070
Reduce animal plant health inspection service 10 percent	0.036	0.044
Reduce food safety inspection service 10 percent	0.047	0.052
Total	36.942	58.407

Mr. HOLLINGS. I thank the distinguished Chair.

Mr. President, the 49er's did not go to the Super Bowl in Miami last month, take their seats in the grandstand there in the Joe Robbie Stadium, and start shouting, ''We want a touchdown, we want a touchdown.'' They got down on the field and they scored the touchdown.

Similarly, we are the Government, and now it is our duty, our responsibility to act.

When we tried to move the ball downfield 2 years ago with the largest deficit reduction package in our history, we could not get a single vote on the other side of the aisle in the House and in the Senate.

Likewise, when those on the other side of the aisle start to criticize the President by saying—''Where's his courage? He's waving the white flag,'' it is truly the pot calling the kettle black.

(Mr. KYL assumed the chair.)

Mr. HOLLINGS. Mr. President, it is high time we had some truth in budgeting.

Look at the record that I have made here of some 110 proposed spending cuts, eliminations, or retrenchments of different programs. You will see the savings that it gives in 1996 and 1997.

I struggled, taking some of the CBO cuts, the Concord Coalition cuts, the Kasich spending cuts and others. And you will see there are 110 of them here, amounting only to $37 billion in the first year and $58 billion in the second year. This 2-year projection is important because it underscores the fact that the Congress will have to have further cuts next year and each year thereafter to stay on the glide path. Thus, the reality is that you are not going to balance the budget from spending cuts and growth alone.

Aversion to higher taxes is usually a necessary, healthy impulse in a political democracy. But when the alternative becomes self-evidently threadbare and groundless, as has the growth argument, we are no longer dealing with legitimate skepticism, but with what amounts to, in the words of David Stockman, ''a demagogic fetish.''

We will have to do the best we can on spending cuts. We will have to freeze spending. That is what President Clinton had in his budget along with spending cuts of $144 billion.

We will have to close tax loopholes and prevent the transitional rule crowd from putting in $200 million for airlines out in St. Louis. That provision was part of GATT but had nothing to do with international trade. We have to curb such practices and tell the American people the truth.

I once took a lie detector test, but the after first question—I flunked. They asked a question, and I started my answer, ''Well, in my humble opinion,'' and the needle just went right off the chart. Luckily, the fellow gave me a second chance and after 2 hours I passed.

Well, here we go with the truth. We have to have taxes. This predicament did not develop overnight. President Bush was a good man but he was misled on the critical need to bring the deficit under control. I made my own efforts appearing before the Finance Committee and introducing a value-added tax for the deficit and debt.

Today, with a 5-percent value-added consumption tax and $1.2 trillion in spending cuts over 7 years, we can put Government back into the black by the year 1999 and start paying off our $4.8 trillion debt. You do not have to wait for the year 2002.

I have just been informed that the proponents of the constitutional

amendment have the votes. Assuming that to be true, people tell me, why don't you go along now and save your record? Mr. President, I want to save my record. That is why I am talking. We have a record of a contract started in 1935. We have a record of a trust. I want to save that record.

Mr. BYRD. Would the Senator yield?

Mr. HOLLINGS. Mr. President, I yield.

Mr. BYRD. Mr. President, I do not believe they have the votes yet. They may have them in the final analysis but I do not believe they have them yet.

Mr. HOLLINGS. Mr. President, I will try to move along so the distinguished Senator from West Virginia can be heard here.

Mr. President, we need truth in budgeting. We should tell the American people that the big lie in the land is the slogan ''I'm against taxes'' because the simple fact is that we are raising taxes $1 billion a day through interest payments on the gross Federal debt.

When the Simon amendment came up in 1993, I was not an original cosponsor, but I had supported the amendment in 1986. I voted for the Simon amendment believing at the time that the Hollings amendment passed in 1990 which took the Social Security trust fund off-budget excluded these funds from deficit calculations. When my amendment passed the Senate by a vote of 98 to 2, I believed, as similarly asserted by the distinguished majority whip, Senator LOTT, that: ''Nobody, Republican, Democrat, conservative, liberal, moderate, is even thinking about using Social Security to balance the budget.''

But Mr. President, unbeknownst to me, just 13 days before the vote, Senator GRAMM of Texas, who has been a leader on budget matters, introduced a bill to balance the budget. Later on in the year, I had my staff scrutinize it; they found this particular provision which I wish the Senator from Utah would listen to this:

Exclusion from budget, section 13–301 of the Budget Enforcement Act of 1990 is amended by adding at the end thereof the following: ''This subsection shall apply to fiscal years beginning with fiscal year 2001.''

I found this provision particularly interesting because back on July 10, 1990, Senator GRAMM had been the lone dissenting vote when I introduced the Hollings amendment to take Social Security off-budget.

I ask unanimous consent at this particular time that rollcall vote in the Budget Committee be printed in the RECORD.

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

1990 HOLLINGS MOTION TO REPORT THE SOCIAL SECURITY PRESERVATION ACT

The Committee agreed to the Hollings motion to report the Social Security Preservation Act by a vote of 20 yeas to 1 nay:

Yeas: Mr. Sasser, Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Sanford, Mr. Wirth, Mr. Fowler, Mr. Conrad, Mr. Dodd, Mr. Robb, Mr. Domenici, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, and Mr. Bond.

Nays: Mr. Gramm.

Mr. HOLLINGS. Having voted against my amendment in the Budget Committee, having proposed to amend section 13301 of the Budget Enforcement Act, I said, ''Heavens above, I better start checking this thing.'' I soon recognized that the Constitution preempts statutory law, and that the amendment to take the Social Security Trust fund off-budget would be constitutionally repealed by the language of this balanced budget amendment.

John Mitchell, the famous Attorney General of the United States under President Nixon, said, ''Watch what we do, not what we say.'' And what do they do? When I argue about these things, I go right to the author of that particular Simon balanced budget amendment. I refer to the Monday, February 20, roll call, by the distinguished Senator from Illinois and I quote:

One paradox is that some Democrats during the Senate debate that is now underway are offering amendments that would imperil both the balanced budget amendment and Social Security by taking Social Security off the budget. These waivers are being offered in the name of protecting—

That is a true statement, they are offered to protect Social Security.

* * * Sponsors of these amendments have an argument that is superficially popular.

We are not trying to make it popular; we are trying to make it law.

Opening a Social Security loophole in the balanced budget amendment also invites abuse by future Congresses undermining confidence in the integrity of Social Security.

Now, my dear colleagues, who is opening a Social Security loophole? It is open right now. It is right there. What section 7 does is create the loophole. Whoever votes for this language is opening the loophole. ''Invites abuse by future Congresses.'' Mr. President, I am not talking about future Congresses. I am talking about this present Congress that is willing to abuse the Social Security trust now. I have told them time and time again, you have HOLLINGS' vote if you put in the Social Security trust fund exemption.

That is clear as a bell. They know it. But they think they have the votes. My distinguished colleague from West Virginia thinks otherwise. I hope he is right.

My friend, the chairman of the Budget Committee, Senator DOMENICI of New Mexico, and the former Senator of New Hampshire, Warren Rudman, of the Concord Coalition, are both on the Strengthening of America Commission and have put out a proposal to balance the budget. Remember John Mitchell. ''Watch what they do, not what they say.'' Here is what they say in their plan. I quote:

The goal of the plan is to balance the unified budget without using the Social Security surplus by the year 2002. America would then be saving its Social Security surplus, helping to avoid a fiscal train wreck 25 years from now when the general fund must begin repaying the Social Security trust fund. Continuing to divert Social Security surplus to fund current spending instead of building up reserves for the future is bad fiscal policy and bad social policy.

Mr. President, when the same gentleman took to the floor here last week and, he instead talked about including supplementary security income under the rubric of Social Security. He noted that under the law, SSI is administered by the Social Security group. True. However, he further claimed future Congresses might include SSI outlays as part of the Social Security trust fund.

Now, we live in the real world. Any Senator who is fool enough to try and finance welfare with Social Security trust funds would make a quick exit from the political scene. They will not need a term limitation bill to be passed. He would be run off the floor of the Senate or House of Representatives. I do not believe he could get a single cosponsor or Senator to support him. But even if he did, he would have to get 60 of them because a 60-vote point of order would lie against such a change.

I read here where the distinguished Senator from New Hampshire—and I read here from a release. It is reported about their particular news conference last week, talking about Senator Tsongas, former Senator Tsongas, and former Senator Rudman, and I am just reading the report. I will give you the quote.

Both former Senators emphasized the need for Social Security to remain on the table in the budget cutting process.

Now, that is the report. And here is the quote from Senator Rudman.

''To try to fool the American people by setting Social Security aside is delaying the inevitable,'' said Rudman, who added that protecting entitlement spending from cuts would result in the need for ''unworkable'' cuts in the nondefense discretionary spending and aid to state and local governments.

Here again they raise the straw man. We are not talking about fooling anybody about the inevitable. We are talking about the fraud that is being exacted on the people of America, and particularly people paying into Social Security this minute. The young woman who is paying in now, her money will be spent under Section 7. Then when she gets eligible in the year 2020, 2025, they will have to tax her a second time.

I quoted earlier from Senator Rudman. Let me now quote from the other co-founder of the Concord Coalition, Paul Tsongas, who was even harsher. And I quote:

''Those who vote to exempt Social Security are voting to kill the balanced budget amendment,'' said Tsongas, co-founder of the Concord Coalition and anti-deficit Group. ''They are putting their own reelection ahead of the future of their children and grandchildren.''

Who is putting their future ahead of the children and grandchildren? Anybody who votes for section 7 of the present balanced budget amendment joint resolution proposal, that's who. they are the ones, ''putting their own reelection ahead of the future of their children and grandchildren.''

I have worked in the vineyards for a long time trying to restore the discipline of a balanced budget in the U.S. Government. I obtained it at the State level. I voted for it in 1968–69 when we called over to Marvin Watson and we cut $5 billion more. Do you know the entire budget in 1968–69, for the Great Society, for the war in Vietnam, was $178 billion? Now we are up to $1.6 trillion. But we gave Richard Milhous Nixon not only a balanced budget but a $3.2 billion surplus.

I got together with Senator Harry Byrd in 1978. We put into law the Byrd amendment which was later amended by the Reagan crowd. We took Social Security off-budget under President Bush, and now they are asking me to repeal that law by voting for section 7 of the balanced budget amendment.

No way. The Social Security surplus is now almost $500 billion. By the year 2002 we are supposed to have a $1 trillion surplus. But instead, we keep spending it for foreign aid, for welfare, for all these other things that you can possibly think of in the budget except Social Security.

Here is Robert M. Ball. I ask unanimous consent that this entire letter be printed in the RECORD.

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

ROBERT M. BALL,
Alexandria, VA, January 5, 1995.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HOLLINGS: Last month the Entitlement Commission, appointed jointly by the President and the Congress, held its final meeting without coming to agreement, but with many Commissioners issuing statements of their individual views. I have been and remain greatly concerned about the misinformation about Social Security that has accompanied discussion of this last meeting and which persistently accompanies so many discussions of Social Security financing. Since most of my career has been devoted to Social Security policy and administration, I feel obligated to do what I can to set the record straight.

First, a word about my experience. I was U.S. Commissioner of Social Security under Presidents Kennedy, Johnson, and Nixon, and after leaving government I have continued to give advice on Social Security to both the Congress and the Executive Branch. I was a member of the statutory Advisory Councils in 1979 and 1991 and am a member of the current Advisory Council that is now studying the program and that will report its findings and recommendations later this year. I was also a member of the small negotiating group from the Greenspan Commission which worked out the agreement with the White House that led to the 1983 Amendments.

The Entitlement Commission looked at many programs in addition to Social Security, and frequently in its presentations lumped everything together, but it also, correctly, made separate proposals and separate cost estimates for Social Security. There was a consensus that Social Security was adequately financed for a long time, but not for the full 75 years for which the estimates are traditionally made. What the Commission did not say, however, is equally important.

The Commission did not find that Social Security benefits would have to be drastically cut or contribution rates greatly increased to bring the program into long-run balance. True, some Commission members talked this way, one referring to Social Security as ''unsustainable,'' and the plan proposed by Chairman Kerrey and Vice-Chairman Danforth would, over time, have resulted in benefit cuts of over 40 percent for workers earning the average wage (partly offset by a compulsory government saving plan, also included in their recommendation). Such drastic cuts were necessary in their plan because they nearly doubled Social Security's estimated shortfall by cutting the employee contribution, and then, in addition, greatly over-financed the program, using the surplus to show a smaller deficit in the rest of the budget.

But at the same time that Senators Kerrey and Danforth submitted their preferred plan, they demonstrated that Social Security could be brought into long-range balance with much more moderate changes. The alternative they presented to the Commission avoided any contribution increases and brought the program into balance entirely by benefit cuts. Over the long run, cuts for the average worker would have reached 15 percent. Had they depended partly on contribution rate increases (which would not have been necessary until some 25 years from now), the benefit reductions, of course, could have been cut in half, or reduced even more.

Four points about Social Security financing are critical for an informed debate about Social Security's future:

First, Social Security is adequately financed for the next 20 to 25 years and consequently, as has been indicated by the President and the Congressional leadership, no changes in Social Security are needed for the next few years. However, it would be desirable soon thereafter to balance estimated income and outgo over the whole 75 years for which the estimates are made.

The Trustees of the Social Security funds estimate that the funding provided under present law will produce a continued buildup in the Social Security Trust Funds until about 2020 when the official estimates start to show a decline in the funds and later on a shortfall. Although there is plenty of time to await studied consideration of the best course of action (including the recommendations to be made by the current Advisory Council), it would bolster public confidence in the program to put in the law soon changes to be effective later that would eliminate the estimated long-run deficit.

Second, there are many ways of bringing Social Security into long-range balance within the principles of the program and avoiding most of the 15 percent benefit cut in the Commission Chairman's ''modest'' alternative.

One way to produce balance, at least theoretically, would be to: (a) accept the Commission staff's estimate of the saving to Social Security of an expected Labor Department correction of the Consumer Price Index (CPI). (This alone reduces the long range deficit by a third); (b) credit Social Security with the proceeds of the 1993 tax increase on Social Security benefits, just as the earlier taxing provisions credited the proceeds to Social Security. (Adding this saving to the CPI correction cuts the deficit in half.) In the 1993 change, the proceeds went to the Hospital Insurance Trust Fund because the Budget rules would have required 60 votes in the Senate to increase income for Social Security; and, (c) schedule a contribution rate increase in 2020 of one percent of covered earnings each for employers and employees. (This change would eliminate the other half of the deficit.) Such a rate increase is not trivial, but is easily supportable—offsetting only about 9 percent of the growth in earnings projection between now and then.

Because the effect of the change in the CPI is uncertain, and the saving in the staff estimate so large, I have attached an illustration showing another way the program could be brought into long-range balance with modest changes and without relying on savings from the CPI revision. Of course, there are many ways of combining more benefit cuts with lower contribution rate increases than in the illustration, including raising the first age at which full retirement benefits are paid from the presently scheduled 67 to, say, 68. The point here is simply that the alarmist rhetoric used by some Entitlement Commission members about the need for major cutbacks in Social Security is completely unjustified.

Third, the estimates of long-range Social Security costs and of the proposals for change take full account of the retirement of the baby boomers.

It is now commonplace among journalists to assume that the decline in the number of contributors per beneficiary, which begins about 2010, will cause enormous problems for Social Security as future workers face an ''impossibly large burden of support for retirees.'' But this new rate does not come as a surprise, and its effect has been included in the Trustees' Social Security cost estimates and in the estimates for the Social Security changes discussed here.

Stepping back from considering Social Security financing alone, and looking instead at the basic economic question of the burden of support of dependents, we find no problem at all. In estimating the ability of a workforce to support dependents, what counts is the ratio of all non-workers, old and young, to the active workers producing the goods and services on which all must depend. As the following numbers indicate, the total dependency burden will never be as high as it was in 1965 when the baby boomers were children.

Dependents—both those 65 and over and those under 20—per 1,000 active workers

Year:	
1965	946
1990	700
2010	652
2040	791
2070	828

As economist Frank Ackerman has observed, ''If we could afford to live through the childhood of the baby-boom generation, we can afford to live through their retirement.''

(4) The widespread belief that Social Security is contributing to the current budget deficit and has caused part of the rise in the national debt is just wrong.

Since 1937, when Social Security first collected earmarked contributions from employers and employees, $4.3 trillion has been paid in and $3.9 trillion has been paid out, including administrative expenses (now running at one cent for each dollar of benefits). This leaves a balance of about $400 billion, just about right today for a contingency reserve.

Social Security is a contributory program supported by deductions from workers' earning, matched by employers (and to a small

extent by taxation of Social Security benefits). As part of Social Security's financing plan, the contribution rates are now producing surpluses and will for many years. However, it would be bad policy if in order to reduce the general deficit, Social Security were called on to build greater surpluses than needed to finance the program. Flat-rate earmarked deductions from workers' earnings are justified as a way of paying for specified social insurance benefits, but not as a substitute for the general taxes needed to pay for other government services. Cutting Social Security benefits to help meet the budget deficit while imposing higher contribution rates than needed for Social Security financing would be unfair and would certainly lack public support. As the Commission concluded in its Interim Report, any savings from Social Security changes ''should be used to restore the long-term soundness of the Social Security Trust Fund.''

The Social Security program deserves the bipartisan backing it has enjoyed in recent years, not just because it is popular, but because it works. It is our biggest anti-poverty program, and, at the same time, it is a universal retirement, disability, and life insurance system, important to just about everyone. Social Security is keeping 15 million people out of poverty and many millions more from near poverty. Today the poverty rate for senior households is about 13 percent, approximately the same as for the population as a whole, but without Social Security, it would be about 50 percent, and public assistance paid for by the general taxpayer would be much, much larger. Social Security requires all of us—provident and improvident alike—to join with our employers in paying directly toward our own future security, and thus holds down the need for public assistance.

* * * * *

ILLUSTRATIVE PLAN TO BRING SOCIAL SECURITY INTO LONG RANGE BALANCE [1]

[Figures shown are a percent of taxable payrolls]

Current estimate of long-range deficit	.....	2.13
Extend Social Security to the one-third of State and local employees not now covered (new hires only as was done when Federal employees were covered) [2]	0.23	.....
Credit Social Security with the proceeds from the 1993 tax increase on Social Security benefits [3]	0.36	.....
Compute benefits over 38 years instead of 35 years as in present law	0.30	.....
Tax Social Security benefits for those who have incomes above $25,000 if single; and $32,000 if joint income tax filers, in the same way government career pensions and private pensions are taxed (that is, to the extent benefits exceed what the worker has paid in, computed individually)	0.14	.....
Increase the contribution rate one percentage point each, for employees and employers, beginning in 2020	1.12	.....
Total	2.15	.....
Interaction among the various proposals	−.02	.....
Reduction in deficit	.....	2.13
Deficit after changes	.....	0

[1] Many other plans are easily developed, some reducing benefits more—for example, by raising the age of first eligibility for full benefits to 68 instead of the presently scheduled age 67—other raising contributions more—for example, by moving the effective date of a rate increase from 2020 to 2010. All sorts of combinations are possible. The current Advisory Council is studying them all and is expected to report to the President and the Congress in the fall of 1995. The point of this illustration is to demonstrate that Social Security can be brought into balance for the long run with modest benefit reduction and tax increases, all within the traditional principles of the program.

[2] This the last large group of employees excluded from Social Security, and it is only fair that they should be part of our national program. There is net gain to Social Security because under present law most of these workers will qualify for Social Security based on earnings other than state and local employment and yet will be paying on less than their full earnings.

[3] In the 1993 Amendments increasing the tax on Social Security benefits, the proceeds were assigned to the Hospital Insurance Trust Fund only because the Budget rules would have required 60 Senate votes to increase income to the Social Security Funds.

Mr. HOLLINGS. This is dated January 5. He talked about the Kerrey-Danforth commission, the entitlement commission, and the entire letter will be printed but I refer to this sentence here.

The commission did not find that Social Security benefits would have to be drastically cut or contribution rates greatly increased to bring the program into long run balance.

Later on, I read again:

Social Security is adequately financed for the next 20 to 25 years.

I read on further:

The point here is simply that the alarmist rhetoric used by some entitlement commission members about the need for major cutbacks in Social Security is completely unjustified.

Then further on I read this sentence:

The widespread belief that Social Security is contributing to the current budget deficit and has caused part of the rise in the national debt is just wrong.

Mr. President, I will have the entire letter printed. Time is of the essence here. We have to move along. Robert Ball has worked under President Kennedy, President Johnson, President Nixon and, after leaving there he has been the chief adviser to the Social Security Administration and to the executive branch—total credibility.

I have another item. I ask unanimous consent this article in Business Week dated February 20 be printed in the RECORD.

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

[From Business Week, Feb. 20, 1995]

SOCIAL SECURITY: IF IT AIN'T BROKE, DON'T TINKER

(By Robert Kuttner)

Social Security is supposedly in long-term demographic crisis—too many retirees living longer, not enough wage earners to pay the freight. As a result, there have been calls for reduced Social Security payouts, deferred retirements, perhaps even means-testing. But a closer look at the economic assumptions behind the Social Security Trustees' Report reveals a very different sort of crisis—one that calls for different solutions.

Social Security is financed by payroll taxes. Unless we raise tax rates, growth in payroll-tax receipts will depend on growth in taxable wages. The trustees project likely annual real wage growth of just 1% per year over the next 75 years. By contrast, during the past 75 years, annual real wage growth was about 1.7%. Because of compounding, this seemingly small difference puts the economy on a wholly divergent growth trajectory. With 1% real annual wage growth, Social Security will be hundreds of billions in the red. With 1.7% growth, the system will be in the black forever.

Why the trustees' pessimism? Wage growth has indeed been dismal during the past two decades. From 1953 to 1973, annual productivity grew by 2.3%, and wages grew annually at 2%. But in the slow-growth decades from 1973 to 1993, while annual productivity grew at just 0.9%, real wages actually declined—an average of 0.2% per year.

PRODUCTIVITY

The key question is whether coming decades will resemble the fat years or the lean ones. Here perhaps is some good news. First, 1973–93 had unusual demographic trends unlikely to be repeated. Baby boomers and women flooded into the workforce, leaving less wage per worker. Baby boomers, male and female, are now more experienced and presumably more productive workers. Women workers are now being paid wages closer to their male counterparts. On both counts, the one-time depression in wages should be reversed.

A second source of lower wages has been the galloping increase in the cost of fringe benefits. Wages are subject to Social Security taxes; benefits are not. Here again, the recent past does not predict the future. One way or another, via market forces or government regulation, the escalation in health premiums will level off. The other major fringe benefit, pensions, is already declining as a share of total compensation.

Third, many economists expect the boom in information technology to translate, at last, into higher productivity. Economic history suggests long lags between the introduction of new, productivity-enhancing technology and its broad economic diffusion. In addition, as Massachusetts Institute of Technology economist Frank S. Levy notes, the productivity gains of the 1950s showed up almost immediately in higher purchasing power because they were concentrated in consumer goods. The productivity improvements of the 1980s and '90s, in contrast, have been in producer technologies. However, as computers proliferate and information technology produces productivity gains in everything from banking and retailing to telephone service, these gains will likely yield gains in real wages, too.

MORONIC

Offseting this optimism, however, are two other factors. First, income distribution has become increasingly unequal. If that trend continues, too few of the productivity gains will show up in pay packets subject to payroll taxation. Moreover, despite the new competitiveness and resulting low inflation, the Federal Reserve seems determined not to let the economy reach its full growth potential. But here the solution is not to wreck Social Security. It is rather to pursue policies that reverse the growing income inequality and permit greater economic expansion.

Nobody, of course, can predict the rate of wage increases 75 years into the future. As one expert working on the Social Security actuarial assumptions confesses, on deepest background: ''The whole exercise, really, is moronic.'' During the past 75 years, we experienced one entirely unanticipated wage collapse, the Great Depression; an equally unexpected stimulus to wage growth, World War II; and a third unpredicted slowdown after 1973.

In truth, even under pessimistic assumptions, Social Security will remain nicely in balance for at least the next 20 years. Whether the system goes into the red after that depends on trends nobody can forecast with certainty. Rather than hack away at Social Security, Congress should legislate standby adjustments to take effect only if the doomsayers prove right. We should continue to pursue economic expansion and rising wages—both for Social Security and for their own sakes.

Mr. HOLLINGS. I will just read one sentence there, by the distinguished economist Robert Kuttner.

In truth, even under pessimistic assumptions, Social Security will remain nicely in balance for at least the next 20 years.

We have the authorities. We know what is happening. But they have used this argument that Social Security is insolvent as the dark ink of the octopus in order to confuse people.

We face two arguments. One concerns discipline: Congress is never going to do it unless you put it in the Constitution. False. I ask unanimous consent to have printed in the RECORD an article that I wrote last year entitled, ''From Tragedy to Farce'' which addresses this issue. I ask unanimous consent to have that printed in the RECORD.

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

[From the Charlotte Observer, Mar. 1, 1994]

FROM TRAGEDY TO FARCE—IF HISTORY REPEATS ITSELF, A BALANCED-BUDGET AMENDMENT WON'T FORCE CONGRESS TO BE DISCIPLINED—JUST CREATIVE

(By Ernest Hollings)

Here's a terrific, no-pain solution to Washington's budget deficit mess. Instead of cutting spending, raising taxes and angering voters in an election year, why not zap the deficits by simply declaring them unconstitutional? Why not a balanced-budget amendment to the Constitution?

Mind you, I support the balanced-budget amendment, knowing full-well it alone won't balance the budget. What I oppose is the cynical selling of this amendment by politicians who have no intention of following through with the nasty, wrist-slashing work of actually balancing the federal budget.

Recall that Congress has passed a balanced-budget amendment once before. It was called Gramm-Rudman-Hollings. Like today's balanced-budget amendment, the 1985 Gramm-Rudman-Hollings amendment boldly promised a balanced budget in five years' time. It, too, was embraced by big, bipartisan congressional majorities and enjoyed public support. Gramm-Rudman-Hollings cut the deficit to a low-water mark of $150 billion, but was later gutted by a succession of budget summits. The deficits exploded once again.

LESSONS OF A CRACK-UP

A wise man once observed that history repeats itself, the first time as tragedy and the second time as farce. The balanced budget amendment could prove to be the ultimate farce unless we learn from the mistake of the past. As a veteran of the Gramm-Rudman-Hollings crack-up of 1990, I offer the following lessons.

Follow the money. The deficit this fiscal year, $223 billion, is nearly the same as when we began the Gramm-Rudman-Hollings exercise in 1985. The difference is that, after eight years of steady economizing, we have already strip-mined the easy budget cuts. What's more, Congress last year took the unprecedented step of imposing a hard freeze on discretionary spending for the next five years. A balanced-budget amendment on top of this will require cuts of nearly $600 billion between 1995 and 1999.

Using the Congressional Budget Office's most recent projections, to balance the budget by 1999 without new taxes we would have to cut all federal spending (except mandatory spending for judges' pay and interest on the debt) by $26 billion in 1995, $73 billion in 1996, $119 billion in 1997, $162 billion in 1998, and $205 billion in 1999. This includes cutting Social Security by $130 billion by 1999.

Of course, Congress wouldn't dare cut Social Security by one dollar. So exempt Social Security from cuts: now the required across-the-board cuts rise from 10.7% to 14.2% in 1999.

Inevitably, other programs—including veterans' benefits, military pay, the Women, Infants and Children nutrition program—would also be sheltered from cuts. As the burden of $600 billion in cuts falls on a smaller and smaller share of the total budget, reductions of 20% and up would be required in unprotected areas such as law enforcement, education and environmental protection.

Beware of political chickens posing as budget hawks. Sixty-one senators and 271 representatives hitched a ride on the Gramm-Rudman-Hollings bandwagon in 1985. But later, when those same politicians were asked to cast tough votes to actually cut the deficit, they lit out for the tall grass. For example, in 1990 in the Senate Budget Committee, I proposed a strict spending freeze to meet that year's Gramm-Rudman-Hollings deficit-reduction target; the most zealous supporters of Gramm-Rudman-Hollings joined forces to kill the freeze.

Face it, most members of Congress view a ''yea'' on the balanced-budget amendment as a free vote. They get to preen their deficit-hawk feathers in an election year, comfortable in their belief that doomsday won't arrive until 1999.

The rule in Washington's budget battles is: ''Fight until you see the whites of their eyes.'' The theory of the balanced-budget amendment is identical to that of Gramm-Rudman-Hollings: if you put a gun to Congress' head, Congress will get discipline. The reality, however, is that when you put a gun to Congress' head, Congress gets creative.

Bear in mind that both Gramm-Rudman-Hollings and the balanced-budget amendment are strictly process-oriented mechanisms. Process can always be defeated by 3ore process. The process of Gramm-Rudman-Hollings was defeated by the counter-process of the ''budget summits.''

History now repeats itself with the balanced-budget amendment. Already the cloakroom conspirators are talking about ''process reforms'' that will assist in ''balancing'' the budget: moving more programs ''off budget'' and creating a separate ''capital budget'' to finance ''investments'' with deficit spending. What's more, the balanced-budget amendment expressly allows Social Security Trust Fund surpluses to be siphoned off to help ''balance'' the budget; in 1999 alone, we will be robbing $100 billion from Social Security. ''Balanced budget,'' indeed.

AVOID THE GAMESMANSHIP

So let us debate, pass and ratify the balanced-budget amendment. But let's avoid the gamesmanship that betrayed Gramm-Rudman-Hollings. If you're not for massive cuts in federal spending, or for making up the difference with new taxes, then hold the hypocrisy; vote no on this amendment.

Mr. HOLLINGS. That was almost a year ago. I said at that time: Watch what they do, not what they say. Congress gets very creative.

Point: Right this minute, section 7 gives them creatively $636 billion that they will not have to find in order to comply with the literal wording of the balanced budget amendment to the Constitution.

Thus, in the year 2002, the budget will not be balanced. There will be trillions of dollars worth of IOU's in the Social Security trust fund. But they will say, ''we have complied literally with the wording.'' That is one particular creativity that you see going on now through the violation of the Hollings amendment—a reason for calling this a fraud.

I have made the tough votes. Just yesterday I voted to table Senator ROCKEFELLER's amendment to exempt veteran's programs from deficit calculations. I helped coauthor the WIC Program, education programs, but I would likewise vote against amendments to exempt them from deficit calculations. Those programs do not have trust funds; we do under Social Security.

There are other ideas of creativity around this town. Mr. Greenspan has given cover to those who want to redefine CPI. Reducing it by 1 point would forgo the need for an additional $150 billion in spending cuts over 5 years.

Similarly, there's a move not to continue with the pay-as-you-go provisions requiring legislation outside the budget resolution to be deficit neutral over 10 years. When President Clinton wanted a 5-year rule so he did not require the 60-vote margin on GATT, I held fast. I said, ''We have to maintain the discipline.''

When I offered an amendment to make the 10-year rule part of the Congressional Budget Act last week before the Budget Committee, Republicans said, ''No, no, not now, maybe a later time would be better.'' They are going to get it a later time, that you can be sure of.

So there it is. You can see what is on course. The distinguished Speaker of the House said earlier this year at a town meeting in Kennesaw, GA:

> We have a handful of bureaucrats who all professional economists agree have an error in their calculations. If they cannot get it right in the next 30 days or so, we will zero them out. We will transfer the responsibility to either the Federal Reserve or the Treasury or tell them to get it right.

That is what they are going to do. They are going to do away with the Secretary of Labor and the Bureau of Labor Statistics because, if they do not do it the way we want, we will get a different referee.

It is my hope that we will amend section 7 excluding Social Security so that we will pass this balanced budget amendment. They think they can pressure old HOLLINGS. But I stood for the truth in public service all my life. I found out it paid off. Let us sober up in this town, speak the truth, and come under the auspices of the first thing we passed last month which puts Congress under the same rules as the people outside this beltway. Let's have truth in budgeting.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that I be recognized to call up an amendment at the desk.

Mr. SANTORUM. Mr. President, I object.

Mr. FEINGOLD. I ask unanimous consent to be allowed to speak for 1 minute.

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

Mr. FEINGOLD. Thank you, Mr. President.

I have been waiting here for 4 hours to bring up an amendment, which I am sure the other side would only take 10 minutes to bring up and we could probably move to a vote.

The Senator who is about to speak, the Senator from West Virginia, has been courteous enough to not object to that procedure. Unfortunately, the other side has objected.

But this is an item that is timely and I think should be disposed of today, so I will seek unanimous consent again later on today or seek the floor again for that purpose. I regret that this has not been possible.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. SANTORUM. Will the Senator from West Virginia yield?

Mr. BYRD. Yes.

Mr. SANTORUM. We have a vote scheduled at 3 o'clock and time is allocated that would put us past that time. Could I ask unanimous consent that the Senator yield back 7½ minutes and our side would yield back 7½ minutes and, therefore, we would come within the hour of debate?

Mr. BYRD. Would the Senator wait a little while and let me see how I am going to come out? Perhaps we could work it out.

Mr. SANTORUM. I am happy to do that.

Mr. BYRD. Mr. President, not a day goes by that we are not shocked by a violent crime described on the nightly news or in the newspaper. We live in a world, in a country, in cities and towns, in which violent crimes—murders, robberies, and rapes—have become commonplace. Within this body, one Senator's wife was held at gunpoint in front of her home, and another Senator's aid was murdered just a few blocks from this Chamber.

The statistics are overwhelming. In 1993, the most recent year for which data are available, there were over 1.9 million violent crimes committed in this country. There were 24,530 murders. There were 104,810 reported—Reported—forcible rapes. There were 659,760 robberies. There were 1.135 million aggravated assaults. Clearly crime is a serious national problem which must be addressed.

According to the Federal Bureau of Investigation, a violent crime occurs in America once every 16 seconds.

And the stopwatch is set, as you can see, at 16. It represents one violent crime every 16 seconds.

Someone is murdered every 21 minutes. A woman is raped every 5 minutes.

A robbery is committed every 48 seconds. One burglary is committed every 11 seconds. One motor vehicle is stolen every 20 seconds. One property crime is committed every 3 seconds.

Today, Mr. President, Americans are over four times more likely to be the victim of a violent crime than they were 30 years ago. This increase has occurred during almost the same time period that I have served as a Member of the Senate. In the past three decades, the rate of violent crimes has increased 364 percent—eight times faster than the population of this country has grown.

This crime plague is no longer confined to urban areas and large cities. Administrator Thomas A. Constantine, of the Drug Enforcement Administration, said it best when he recently testified before the Senate Judiciary Committee:

> And this epidemic of violent crime is no longer confined to big cities like New York or Los Angeles or Miami. It has reached deep into our heartland. Last year, for example, Indianapolis, Indiana, a city known more for its Midwestern hospitality than its violence, recorded a homicide increase of over 60 percent * * *. Homicides in Buffalo, New York, increased by almost 20 percent from 1993 to 1994. And, in Richmond, Virginia, homicides increased over 30 percent from 1983 to 1994.

My own State of West Virginia has prided itself for many years for having the lowest overall crime rate in the Nation. In West Virginia, unlocked doors and evening strolls have long been the way of life, but that is changing, and it is a crying shame. Crime in West Virginia has increased threefold since the 1960's. Over the past 5 years, the rate of violent crime in West Virginia has risen by 11 percent, a rise greater than the national average. The numbers of murders, rapes, and assaults are climbing, and, paralleling the national pattern. Even the number of juvenile crimes in West Virginia is skyrocketing.

Now in West Virginia's small, rural communities, drugs are being peddled, children are shooting children, women are being attacked on the streets in front of their homes, and families are connecting alarms to their bedroom windows.

Like so many other States, West Virginia has recognized the crucial need to respond to rising crime rates by putting more police on the streets, building more prisons, and providing better resources to law enforcement.

Mr. President, I have several charts that indicate the level of this crime epidemic and how it is breaking out among the youth in this Nation.

The first chart shows that the record level of all violent crime has risen over the past decade. In 1985, approximately 1.3 million Americans were victims of violent crime. In 1993, that number had risen to over 1.9 million Americans. That is a 45-percent increase in just eight years!

The next chart shows the number of murders committed. In 1985, there were 18,980, murders in the United States. In this same 8-year period (1985–1993), the number of murders per year had risen to 24,530. That is an increase of 29 percent!

The next chart is the most alarming. For in spite of all of our law enforcement efforts at the Sttate and national levels, press reports show that juvenile crime is increasing at a breathtaking rate. From 1984 to 1993, the juvenile arrest rate for murder has risen from 1,305 to 3,788. In other words, it almost tripled.

Mr. President, many of the advocates of this balanced budget amendment have stated their intentions that defense and Social Security should be spared from any of the cuts that will occur under this constitutional amendment to balance the budget if it is, indeed, adopted by the Congress and ratified by the record number of States. I say that again: The advocates of this ill-advised amendment have stated their intentions that defense and Social Security should be spared. But it does not make any difference what their intentions may be. It is what that constitutional amendment says. That is where the courts would ultimately look. They will look within the four corners of the document itself, the amendment itself.

It does not make any difference what the advocates say. It is not their intention to do this. It is not their intention to do that. It is not their intention to include defense. It is going to be exempted. It is not their intention to include Social Security. It does not make any difference what their intention is. It does not say that in the constitutional amendment itself. It does not say that defense will be exempted. It does not say the Social Security will be exempted. That is where one has to look to see what the amendment says and what it will do.

Mr. KENNEDY. Will the Senator yield?

Mr. BYRD. Mr. President, yes, I yield.

Mr. KENNEDY. Mr. President, during the Senator's study of this amendment, about what the amendment does do and does not do, during the course of the Senate Judiciary Committee hearings, we had the testimony of Mr. Dellinger that was similar to the kind of testimony that was had during the course of your own hearings about what the responsibility of the Chief Executive might be if this were to go into effect.

There was very substantial constitutional opinion that a President, having sworn to uphold the Constitution, would therefore be required to actually impound the expenditures if the receipts and expenditures did not balance.

This has not, really, been debated or discussed very much. I had hoped at some time to have an amendment to try to make sure that the Senate as an institution was going to have an opportunity to address that issue. I understand that given our situation we may have to defer the vote on that until Tuesday next.

I am interested in the Senator's concern about that particular issue; to

wit, that a President, should the balanced budget amendment actually be ratified, would be put in a position that, having sworn to uphold the Constitution, that he may be compelled, himself, to go ahead and impound the resources or funds or appropriations, and that this would be something that would be a far reach from whatever had been thought of by our Founding Fathers or considered during the Constitutional Convention, which I know the Senator has talked about during the earlier discussion and debate.

I just wonder whether the Senator from West Virginia, as one who chaired those hearings, had heard a considerable amount of debate and discussion about this issue, whether he had formed any opinion or whether he himself was concerned about the ambiguity. The reason I bring this up, as the Senator was just pointing out to the Members that there is so much that is left unsaid and so much left unstated and so much left up in the air, this, too, might be something that at least, as far as the Senator from West Virginia is concerned, would be left up in the air prior to consideration or prior to the vote.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his question. It goes right to the heart of the matter. During the hearings that were conducted last year by the Appropriations Committee in 1993, the year before last, during those hearings several constitutional scholars were invited to appear before that committee. I was then the chairman.

All of those constitutional scholars who appeared before that committee had a great concern with respect to this constitutional amendment. As precisely as I recall, the same amendment—I do not think any changes had been made in it since those hearings were held. I believe that it is, word for word, as it was then.

Most all of them, if not all, were concerned about the very possibilities that the Senator has stated.

Mr. KENNEDY. Will the Senator yield, Mr. President, on this point?

Mr. BYRD. Mr. President I yield.

Mr. KENNEDY. Mr. President, I have the hearings here, the excerpts. Here Archibald Cox, in his statement, talks about impounding funds under some appropriations, while continuing spending under others. ''Probably this would be the sensible course; but it means that the proposed amendment would enlarge the power of the President, vis-a-vis the Congress.''

That is Archibald Cox who indicated that that power would be with the President. And Walter Dellinger, who is a distinguished constitutional scholar, was asked, ''Would the amendment authorize the President to impound funds?''

Mr. Dellinger said, ''Yes, I think it would.''

And Charles Fried, who was a distinguished Solicitor General during the Reagan period, when asked during the course of hearings, he said that ''total outlays shall not exceed total revenues.''

If in the course of a budget year earlier projections prove false, this provision would offer a President ample warrant to impound appropriated funds. In the past such impoundments were based on claims of the President's inherent powers.

Coming close to the point of voting on the Senator's amendment—and the Senator was talking about the ambiguity of this amendment, about what was included and what was not—at an appropriate time, I will offer an amendment that will make it clear, that opportunity for the Senate to go on record that we do not believe we should give that kind of a power, the power of general impoundment, to a president, if this were to go into effect.

The principal reason I asked the Senator from West Virginia is whether he feels that this is an issue that ought to be addressed as well, in the course of the debate.

Mr. BYRD. Mr. President, I do.

I think there is very much a likelihood that power would be shifted from the legislative branch to the executive and to the courts. I can imagine easily the situation in which the Congress failed to enforce the amendment by appropriate legislation.

By the way, the President can veto that ''appropriate legislation'' if he does not agree with it. I can see a situation in which the Congress failed to enforce and implement the article, in which case the counsel to the President would advise the President: Mr. President, this budget is out of balance. People on Capitol Hill, just like they were back there when they adopted the amendment with flying colors, if it is so adopted, they still do not have the spine that that amendment was supposed to implant in their frail bodies. And, consequently, Mr. President, it is up to you to see that this is done. We recommend that you impound moneys.

The President would say: Naturally, well, I cannot do that, because of the 1974 Budget Impoundment and Control Act, I cannot do that. That would be against the law.''

The council would say, ''Well, Mr. President, there is now a higher law. It has been written into the organic law of this country; therefore, you are bound, upholding your oath of office, to balance this budget.'' And the President would impound moneys.

Of course, then matters would get into courts because some of the people, some of the citizens who are entitled under the laws to receive certain funds, certain payments from certain programs would say, ''Well, look, the book says I'm entitled to'' thus and so. They go into the courts and the courts will be brought into the action. There is nothing in here that forbids courts to enforce this amendment, nothing in here that requires them to enforce it. Those constitutional scholars, many of those professors, as the Senator has pointed out, who appeared before the Appropriations Committee, so stated.

Mr. KENNEDY. Just finally, in the Senator's review of those debates on the power of the executive and legislative branches that took place at the Constitutional Convention, does not the Senator feel that this is really standing the whole Constitution on its head in terms of how our Founding Fathers view the delegate powers to the executive and to the legislative branches? Does this not really effectively corrupt the whole separation of powers, as envisioned by the Founding Fathers, as to the taxing authority and the executive authority?

Mr. BYRD. The Senator has asked a very timely and decisive question. If Congress does not enforce this amendment, once it is in the Constitution, if it were not enforced, then that would be the other nightmare. One can speak of all the nightmares that would occur during the enforcement of this amendment.

If it is not enforced, on the other hand, that constitutes another nightmare in that the faith and confidence of the American people in the Constitution of the United States will be damaged, and the Constitution will suffer thereby.

Mr. KENNEDY. Could I be correct in concluding, when Senator JOHNSTON and I have an opportunity to offer an amendment that would just state, ''Nothing in this article shall authorize the President to impound funds appropriated by Congress by law or to impose taxes, duties or fees,'' that the Senator would support that amendment?

Mr. BYRD. I would like to read the language, but I am certainly supportive of the concept and would, in all likelihood, support the amendment.

Mr. KENNEDY. I thank the Senator for yielding for those questions. I hope to have an opportunity to submit that amendment and to speak to the amendment and have an opportunity to vote on it. I thank the Senator from West Virginia.

Mr. BYRD. I thank the Senator from Massachusetts.

John Marshall said that this Constitution is intended to endure for ages to come and, consequently, to be adapted to the various crises of human affairs. I think we are going very much against what John Marshall said and we will, in my judgment, be committing a horrible and unforgivable blunder if we adopt this amendment. Furthermore, as Senators are aware, the so-called ''Contract With America'' contains a massive tax cut. If we exempt defense and Social Security from budget cuts and if we adopt the tax cuts called for by those who signed onto the so-called ''Contract With America,'' and if we pay for the interest on the national debt, then every other program in the budget would have to be cut by 30 percent across-the-board in order to achieve budget balance by the year 2002.

It is clear, then, that a balanced budget amendment would have a catastrophic impact on Federal law enforcement and our efforts to combat violent crime in America. In the words of the Assistant Attorney General, Sheila F. Anthony:

* * * Congress should be keenly aware of the impact that such an amendment could have on the essential operations of the federal government in general, and of the Department of Justice in particular. In a word, the impact could be devastating!

It would significantly setback any progress that this Nation has made in combatting violent crime, the importation of illegal drugs, and illegal immigration. Instead of bolstering and enhancing our law enforcement programs as proposed in the FY 1996 budget, we will be dismantling and disarming our side in the war against violent crime, and retreating in our efforts to control our Nation's borders.

I think it is important to take a brief look at what has happened to law enforcement funding during the past few years in response to the rising tidal wave of crime. When I assumed the chairmanship of the Senate Appropriations Committee in January 1989, the Department of Justice budget stood at $5.4 billion. The budget for Treasury law enforcement bureaus was $2.083 billion. The Violent Crime Reduction Trust Fund did not even exist. That was just 6 years ago. And during that period of very tight limitations on discretionary spending—with the help of our subcommittee chairmen, Senator HOLLINGS and Senator DeConcini, and the leadership of our authorizing committee chairman, Senator BIDEN, and the support of members on the other side of the aisle, such as former Senator Rudman, Senator DOMENICI, Senator BOND, Senator THURMOND, Senator HATCH, and, of course, Senator HATFIELD—we put forth aggressive efforts to fight the war on violent crime.

Last August, we sent an appropriations bill to the President that provided the Department of Justice with budgetary resources totalling $13.7 billion—a funding increase of over 250 percent in just six years. For the Department of Treasury law enforcement programs, fiscal year 1995 appropriations totaled $2.8 billion, or a 36-percent increase since 1989. And, we provided $38 million to the Departments of Health and Human Services and Education, for crime prevention programs that did not exist in 1989. We aggressively attacked the crime problem because the people were demanding that the issue be addressed. And they were right to demand it because their demand got results. This increased spending has been well worthwhile. It is providing a big bang for the buck, but not big enough.

For example, look at our Federal Bureau of Prisons. In 1989, our Federal Prison System housed 54,000 inmates and had an operational budget of $1.2 billion. We made resources available to build additional prisons and have continued to provide increased funding for prison guards and support personnel to activate those prisons. The Federal Prison System's annual budget has doubled since 1989 to $2.6 billion. In 1995, our Federal Prison System will house over 102,000 inmates. In just six years we have doubled the number of criminals who have been put away under lock and key and taken off the streets so that they can no longer terrorize law-abiding citizens.

But, the greatest growth in Department of Justice appropriations has been in Federal assistance to state and local law enforcement agencies. In 1989, the Congress provided $229 million in such assistance. In 1995, the Justice Department will make available almost $2.4 billion for state and local law enforcement assistance programs. Much of this increase was provided through appropriations which funded the new Violent Crime Control and Law Enforcement Act of 1994, commonly called ''the crime bill.''

Appropriations were also increased for the main investigative and prosecutorial divisions of the Department of Justice—the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Marshal, and U.S. Attorneys. Total funding for these bureaus has been increased from $2.5 billion in 1989, to $4.5 billion this year.

For FY 1996, the President's budget proposes to continue large increases for the Department of Justice and Federal law enforcement. The budget proposes to increase the Department's budget from its current level of $13.7 billion to $16.5 billion. That is an increase of $2.8 billion in just 1 year, for the activation of prisons and the construction of new prisons in Texas, California and Hawaii. In the next 5 years, as prisons under construction are activated and brought on line, we will be adding 30,000 new prison beds to the Federal system. The 5-year budget projections for the Federal Prison System call for the agency's operating budget to rise from its current level of $2.3 billion to over $3.5 billion. Please note, this increased requirement will occur during the same period that the balanced budget amendment calls for the budget to be balanced.

For the Immigration and Naturalization Service, the President's budget request proposes an increase of $442 million or 21 percent. It would provide for 700 new Border Patrol agents, 680 new inspectors for border crossings, and 165 support staff so agents can patrol the border and not spend their time performing paperwork. And the budget proposes to increase by $170 million payments to States for the cost of housing incarcerated illegal aliens in State prisons.

With respect to total law enforcement assistance to State and local governments, this is again the area of the largest increases in the President's fiscal year 1996 budget. For the Justice Department, the budget would increase such assistance by almost $1.6 billion or 66 percent. The budget contains $3.965 billion for programs such as, Byrne formula grants, community policing, juvenile justice programs, violence against women, and prison grants. Again, much of this assistance—$3.456 billion or 87 percent—would come through appropriations pursuant to the Violent Crime Reduction Trust Fund established in the 1994 crime bill.

The President's budget has proposed that violent crime prevention programs operated by the Departments of Education and Health and Human Services be increased. In fiscal year 1996, it proposes $175 million for prevention programs financed through the new Violent Crime Reduction Trust Fund, an increase of $137 million above current levels. These programs will help local communities strengthen their prevention efforts through economic partnerships, before and after school programs, rape education and prevention programs, shelter grants for battered women, and demonstration grants.

IMPACT OF BALANCED BUDGET AMENDMENT ON LAW ENFORCEMENT PROGRAMS

Mr. President, with a balanced budget amendment in force we will likely not be seeing that continued enhancement of law enforcement the President has described in his budget proposal. Unless we exempt Federal law enforcement and violent crime programs, we will destroy everything that has been achieved since 1989. We will be sounding the retreat in our war against crime and backpeddling on our hard won efforts to protect law-abiding citizens.

If the Federal law enforcement and violent crime reduction and prevention programs receive their fair share of reductions required by the balanced budget amendment, then the following types of impacts would occur:

For example, the Federal Prison System will not be bringing new prison beds on-line this year. It will not be adding another 30,000 beds and new prisons in the next 5 years as prisons are delivered by contractors and come out of the pipeline. We will not provide for the new staffing and operational requirements to operate these facilities. No, instead the Bureau of Prisons would have to close 37 of the 79 existing Federal prison facilities. We would either have to let prisoners go, or crowd over 100,000 Federal inmates into the remaining facilities. Overcrowding would be at over 250 percent. Let me say that again. Overcrowding would be at over 250 percent.

There has been a lot of discussion in local newspapers about overcrowding and violence at the District of Columbia's Lorton prison facilities just 20 miles south of here. That is what the future holds for our Federal prisons under a balanced budget amendment, with the balancing done on the back of non-defense discretionary programs.

Secondly, a balanced budget amendment would severely set back, if not totally destroy, our efforts to combat

illegal immigration and control our borders. At the very time the Mexican peso is being devalued and the economic attraction of the United States is greatest, we would be letting down our guard.

We would not be providing the increased numbers of Border Patrol agents and inspectors proposed in the fiscal year 1996 budget. We would instead be laying off or ''RIF'ing'' agents that we added during the past 2 years, and would go well below the staffing levels in effect when I took over as chairman of the Appropriations Committee. The Border Patrol would be reduced by approximately 1,600 agent and support positions. INS inspectors would be cut by approximately 400 positions. The INS detention and deportation program would be reduced by over 500 positions.

The impact of reductions of this magnitude cannot be overstated. The lack of patrols will allow more illegal aliens to cross the border and reach the United States. Patrols in critical choke points such as San Diego, California, and El Paso, Texas, would have to be cut back. The staffing reductions at ports of entry would cause horrendous traffic jams at the border, and would have a negative impact on commercial and noncommercial traffic to and from Mexico and Canada. The number of aliens who could be detained and the number of removals which could be accomplished annually will drop. This would facilitate efforts by aliens to abscond and remain in the country illegally.

Moreover, a balanced budget amendment would also have a debilitating impact on our Federal investigative and prosecutorial agencies.

The U.S. Attorney offices across the country would have to significantly reduce the number and experience level of Assistant U.S. Attorneys. The Federal Government would have to decline to prosecute cases where there is shared jurisdiction with State and local laws. At a time when violent crime is the foremost concern of American citizens, the U.S. Attorneys would not have the resources necessary to prosecute violent offenders in a timely manner.

The Federal Bureau of Investigation and the Drug Enforcement Administration are personnel intensive and would be severely impacted by reductions necessitated by a balanced budget amendment. The FBI would lose over 4,100 agents and over 5,000 support positions. The DEA would have to cut 2,000 positions, including almost 900 agents. Both the FBI and DEA would have to discontinue hiring and training of new agents. Both agencies would have to reduce investigative operations and focus solely on crimes that are Federal in nature. The FBI and DEA's support to State and local task forces, such as Safe Streets, would have to be disbanded. Finally, both agencies would have to close small rural offices across the country.

Additionally, with respect to State and local assistance for law enforcement and prevention of violent crime, the balanced budget amendment would undo much of the progress made in last year's crime bill. We would have to make severe reductions to a number of programs, including community policing, grants to construct prisons, programs to prevent violence against women, Byrne formula grants, and crime prevention programs. Valuable prevention programs, like the Community Schools Program and the National Domestic Hotline run by the Department of Health and Human Services, would have to be reduced significantly. New prevention programs authorized from the Violent Crime Reduction Trust Fund, such as community programs on domestic violence, grants for battered women's shelters, education to prevent and reduce sexual abuse of runaway children—would never get off the ground.

This would have a staggering impact on programs designed to prevent domestic violence and rape. For example, failing to fund the Crime Trust Fund programs on rape prevention would deny services to 700,000 women in fiscal year 1996. Eliminating the domestic violence demonstration program would deny critical education services designed to prevent domestic violence to nearly 2 million Americans.

A balanced budget amendment would also force significant reductions in the Bureau of Alcohol, Tobacco and Firearms at the Department of the Treasury. ATF would be reduced by some $116 million, or one-quarter of its size and personnel. Investigations of armed career felons using firearms to commit crimes would be substantially curtailed. This would result in more illegal firearms on the streets being used for illegal activities. The National Tracing Center, which aids in tracing weapons used in crimes, would be virtually inoperable. Recent gun legislation, such as Brady and the assault weapons ban, could not be effectively implemented. The balanced budget amendment would essentially undo everything the Congress has done in this area in the past 10 years. In addition thereto, even the U.S. Secret Service, with its very essential mission of Presidential protection, would likely be cut under a balanced budget amendment.

EXEMPTING LAW ENFORCEMENT AND PREVENTION PROGRAMS

Now, Mr. President, my amendment is very simple. It provides Federal law enforcement, and violent crime reduction and prevention programs with the same protection as we assume would be accorded the Department of Defense and Social Security. These crime control programs, in fact, are defense and security programs. They are domestic defense programs designed to protect Americans against threats to their security and safety.

Without my amendment, the balanced budget measure likely would debilitate Federal law enforcement and violent crime reduction and prevention programs. It would largely nullify the crime bill.

My amendment protects the Senate's commitment to the war on violent crime, and our efforts to combat illegal immigration. It sends the right signal to organized crime, to drug smugglers, to those who commit violent crimes. And, it sends the right signal to the man and women serving our Nation—to FBI agents, to DEA agents, ATF and Customs agents, to U.S. prosecutors and Border Patrol agents out on the line. And, it sends the right signal to the American public that we are not going to undo the progress that we have made.

As chairman of the Appropriations Committee during the past 6 years and as a Member of this body, I have worked very, very hard to provide these law enforcement programs with the resources necessary to fight crime.

As I said earlier I was joined in this by the distinguished Senator from South Carolina, Mr. HOLLINGS, former distinguished Senator, Mr. DECONCINI, from Arizona, and Senator HATFIELD, the then-ranking member of the Appropriations Committee, now the chairman, and the subcommittee chairmen and ranking members of the subcommittees to which I have already alluded.

Look at the record. As I have stated, enhancements in Justice and Treasury law enforcement programs to combat violent crime was carried out on a bipartisan basis. I would hope that we could continue to accord these law enforcement and violent crime reduction and prevention programs with protection on a bipartisan basis now.

This Senator is surely not going to let this progress be undone if he can help it. I am not sure that I can. That would be my desire and hope. If it is the will of this Senate to balance the budget on the back of law enforcement, then we must ensure that the funding for these programs is protected.

We have talked a great deal about the Constitution in this debate but let me take a moment here and read from another great document which has also been an inspiration to generations of Americans, The Declaration of Independence.

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed, that whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its Foundation on such Principles, and organizing its Powers in such Form, as to them shall seem most likely to effect their Safety and Happiness.

Note the words ''Life, Liberty, and the Pursuit of Happiness.''

There is one murder every 21 minutes in this country. Are we guaranteeing

the unalienable right of life? There is one forcible rape every 5 minutes in America and one violent crime every 16 seconds in the United States. What about the unalienable rights of life and liberty in light of those chilling statistics? There is one burglary every 11 seconds and one property crime every 3 seconds. Have we done our job in protecting the pursuit of happiness? These are dismal, dismal numbers and they rob our people daily of their lives, their liberties, and their happiness.

This balanced budget amendment and the cuts it will most assuredly impose upon funding that is designed to protect the life, liberty, and the safety of our citizens in their homes and on their streets will lessen our ability to provide our people with what to me is a basic right—namely freedom from the terror of violent crime.

Unless we continue our strong commitment to keep the criminals off our streets, track them down, lock them up, and reclaim this violent, violent country, we will be failing in our duty to provide our people with their basic right to safety.

Our children are increasingly under the influence of drug dealers. Our schools, in many communities, are hotbeds of crime and drug use. Life, limb, and personal property are daily at peril in America, and we owe our law-abiding citizens every effort we can muster to control the awful scourge of violent crime in America. The enemy within can be every bit as dangerous as the enemy from without. The rampant plague of crime threatens the very fiber of American life, and government must not turn away from its duty and commitment to make America's streets safe once again.

It is a priority. It takes money to fight crime, money to lock up criminals, money to stop the drug dealers. And unless we protect our law enforcement effort from the deep chop of the balanced budget knife, that money will not flow to the cities and towns of America and the thugs and the criminals will win.

Arguments rage about what government ought and ought not to be doing in this land, but I believe that there can be little disagreement about government's role with regard to battling crime and protecting law-abiding citizens at risk from thugs and drug dealers. We must protect the effort we have begun. We must insulate our law enforcement efforts from the slash of the budget ax. The crime clock is ticking. Let us take this step to slow the bloody whirl of its hands.

Mr. President, there was a time agreement on this amendment. Whatever time I have used, I will be happy to charge it against the time that was on the amendment or I will be happy to cut down on the time, if the distinguished Senator from Utah wishes to do so. I apologize for taking this amount of time. I hope I am not cutting out the time for my colleague on the other side of the aisle.

AMENDMENT NO. 301

(Purpose: To protect Federal outlays for law enforcement and the reduction and prevention of violent crime)

Mr. BYRD. Mr. President, I call up amendment No. 301, which is at the desk, and which is on the list.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 301.

The amendment is as follows:

On page 3, line 8, strike ''principal.'' and insert ''principal and those for law enforcement and the reduction and prevention of violent crime.''.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, can I inquire how much time is left?

The PRESIDING OFFICER. Under the present agreement the time is charged to the amendment as offered and it is the opinion of the Chair that the Senator began to speak at 2 o'clock, the Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent the time I have taken making my statement be charged against the time on the amendment.

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

Mr. BYRD. It is my understanding there was a desire to start voting at 3 o'clock?

Mr. HATCH. That is correct. Mr. President, I appreciate my colleague. As usual, he is always very gracious. I understand the time for the voting will begin at 3, so this will be the third vote.

If I could just say a few words about the Senator's amendment.

Mr. President, I believe my record on fighting for crime control legislation is equal to that of any other Member in this body. Violent crime is rampant in our society. The distinguished Senator from West Virginia has made that case, and the American people have demanded that we respond to this crisis as well.

Indeed, the issue is far too important for our Nation to be used as a political football, and I do not accuse the distinguished Senator from West Virginia of doing that. But I do believe that it deserves effort other than on the balanced budget amendment. His amendment to exclude spending for law enforcement and the reduction and prevention of violent crime in the constraints of the balanced budget amendment is in reality, in my opinion, a spending loophole that has very little to do with addressing our people's very real fear of violent crime.

There are those of my colleagues who would argue that this amendment creating a crime loophole in this constitutional amendment is a responsible thing to do. They would have the rest of us, as well as the American people, believe that this loophole would not be abused. But I have to disagree. Let me just give an illustration here.

When the violent crime reduction trust fund provision passed the Senate as a part of H.R. 3355 on November 19, 1993, it authorized that $22.268 billion, the anticipated savings from reductions in the Federal work force, be placed in a segregated trust fund over 5 years. This money was to be used only for crime fighting programs authorized in the crime bill. Moreover, discretionary spending cap reductions were included to ensure that the creation of this trust fund would not increase the budget deficit.

Now, let me take a minute to remind my colleagues what happened to the trust fund provision before it returned to the Senate as a part of the conference report on the crime bill.

This chart shows it. ''The Crime Bill Trust Fund Social Spending Spigot'' is what this particular chart is called. It shows the additions to the crime bill, as originally passed, both by the Senate and as enacted. When we got through with the Senate, we had added the Ounce of Prevention Council, $75 million; community schools, $400 million; National Community Economic Partnership, $40 million; local crime prevention block grants $391 million; $300 million for drug treatment in State prisons; $900 million more for drug treatment, which some of our colleagues were not all that enthusiastic about but we agreed to. By the time it got through the House and through the conference committee, look at how that increased. It jumped from $2.186 billion in social spending to $5.390 billion, and we had things in there like the FACES Program; the Local Partnership Act, which is just a gift to the cities without any restraints whatsoever; the model intensive grants program.

I could go through each one of those and explain how hardly any of the money would go to fight crime. Look at the assistance for at-risk youth; $3 million for urban recreation and at-risk youth, community-based justice grants, drug treatment of Federal prison and police recruitment grants.

Look at how everything else jumped, too. These add-ons in the Senate all jumped again, this time immeasurably, like this one from $75 million jumped; this one for community schools, $400 million to $566 million; National Community Economic Partnership from $40 million to $271 million. Local crime prevention block grants actually went down. I have to give credit for that. And then the others, of course, we have a number of programs that were not even in the mix.

This is precisely why we need a balanced budget amendment. Somewhere between the Senate and the House of Representatives we went from $2.168 billion in add-ons, to $5.390 billion in what was really characterized as absolute pork barrel spending.

Really, the Local Partnership Act was a provision—this right here, the Local Partnership Act—$1.622 billion was a thinly disguised retread of the

President's failed economic stimulus bill from the previous years. Proponents threw in the catchy phrase ''to prevent crime'' a few times, and, thus, managed to expropriate $1.6 billion in crime control funding for education, substance abuse treatment, jobs programs to ''prevent crime.''

The Model Intensive Grant Program, right here, for $625 million was to be directed by the Attorney General to fund up to 15 model programs for crime prevention in chronic, high-intensive crime areas.

The criteria for the programs were very general, allowing recipients to spend money on virtually anything, so long as the applicant for the funds claims the spending is linked to crime control, no matter how tenuous the link. This includes spending on ''deterioration or lack of public facilities,'' inadequate public facilities such as public transportation, as well as unemployment services and drug treatment.

I could go through all of the rest. There are some perfect examples here of how much we jumped the bill from $2.186 billion to $5.390 billion. These are excesses that we pointed out, that I think made a difference in the last election.

My point is this: I know that the distinguished Senator from West Virginia is sincere. I know that he is well-intentioned here. If we create a loophole like this in the name of trying to solve violent crime, we are not doing any better than we were before. We have shown you that, frankly, Congress is not serious about keeping spending under control. We are going to spend our country right directly into bankruptcy. To jump $2.186 billion, after both Senator BIDEN, the leading Democrat in the Senate, and I put our names on that bill—that bill would have passed overwhelmingly through both bodies. Then, by the time it went to the House it was larded up like never before. That is the reason to have a balanced budget amendment.

The violent crime reduction trust fund created an irresponsible incentive to redefine programs with no clear relationship to crime fighting as anticrime measures in order to secure funding for them under this trust fund.

By my count, the violent crime reduction trust fund became a magnet for at least 16 social spending programs, as shown by this chart. Indeed, this understates the record, because some of the worst boondoggles were collapsed into the Local Crime Prevention Block Grant Program. And as the chart also shows, an additional $3.2 billion was authorized to be spent out of the trust fund to pay for these programs in addition to the $5.390 billion.

How much more tempting is it going to be for Congress to convert popular spending programs into anticrime measures when such a definition is the only way in which to avoid the tough choices required by the balanced budget amendment? This exemption will create a constitutional shell game.

The example of the violent crime reduction trust fund amply demonstrates that when Congress is given an easy loophole to pass popular-sounding programs, it takes it. This is not a partisan accusation; it is an unfortunate fact of congressional life. I urge my colleagues to reject this loophole for spending under the guise of law enforcement, and the reduction and prevention of violent crime. This amendment is not about crime control, and the American people deserve better.

We talk about law enforcement. We talk about civil law enforcement as well as criminal law enforcement. Those terms are not defined in the amendment. The ''reduction and prevention of violent crime.'' What does that mean? When is there a violent crime? We all know one when we see one. But on the other hand there are a number of other things that are called violent crime that we may think are not so violent. There are a lot of issues that are really not addressed by this loophole that would be created here.

What does my colleague intend to bring within the definition of ''law enforcement''? Does he include spending for enforcement of our civil laws? If he says yes, then every Federal agency which has civil jurisdiction could be exempt; HHS, Education, et cetera. If he says no to it, then perhaps my colleague should have drafted the amendment to be a little more specific.

What does my colleague from West Virginia intend to include within the definition of ''the reduction and prevention of violent crime''? Does he mean to include the programs contained in the 1994 crime bill? These programs right here? These are just some of them. Does he mean all of these or does he mean a whole raft of others? If so, then I assume he means to include the job training programs. There are 163 of those. Will they all be exempt from the balanced budget amendment? There are 163 actually currently administered by 15 departments at a cost of $20 billion annually; almost $25 billion, if the truth is known. Is that all going to be exempt from a balanced budget amendment?

What does my colleague mean when he proposes to place in the Constitution a special carve-out for spending on the ''prevention of violent crime''? Does this include the amount spent to restore civil order to Haiti? Does DOD spending on interdiction fall within this exception? If it does, then all of these are loopholes through which they could drive anything.

Mr. President, I hope that our colleagues will vote down this amendment. I know my colleague means well. But we are talking about the Constitution and we cannot afford to do this. So I hope that we can vote this down.

I know the time is up.

I move to table the amendment, and I ask for the yeas and nays.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HATCH. Certainly.

Mr. BYRD. Mr. President, I hope that Senators will reject the tabling motion. This amendment will exempt spending for law enforcement and for reducing and preventing violent crimes from the requirements of this balanced budget amendment.

I thank the distinguished Senator for yielding.

Mr. HATCH. I thank my colleague.

Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE THE MOTION TO REFER

The PRESIDING OFFICER. Under the previous order, the question occurs on agreeing to the motion to table the Wellstone motion to refer House Joint Resolution 1, with instructions.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Arizona [Mr. MCCAIN] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 35, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—60

Abraham	Faircloth	Murkowski
Ashcroft	Frist	Nickles
Bennett	Gorton	Nunn
Bingaman	Grams	Packwood
Bond	Grassley	Pressler
Bradley	Gregg	Reid
Brown	Hatch	Robb
Burns	Helms	Roth
Campbell	Hollings	Santorum
Chafee	Hutchison	Shelby
Coats	Jeffords	Simon
Cochran	Kassebaum	Simpson
Cohen	Kempthorne	Smith
Coverdell	Kerrey	Snowe
Craig	Kyl	Specter
D'Amato	Lieberman	Stevens
DeWine	Lott	Thomas
Dole	Lugar	Thompson
Domenici	Mack	Thurmond
Exon	McConnell	Warner

NAYS—35

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Inouye	Pell
Byrd	Johnston	Pryor
Conrad	Kennedy	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Wellstone
Dorgan	Lautenberg	

NOT VOTING—5

Gramm	Heflin	McCain
Hatfield	Inhofe	

So the motion to table the motion to refer was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that the remaining stacked rollcall votes by 10 minutes each.

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

VOTE ON MOTION TO TABLE THE MOTION TO REFER

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to lay on the table the second Wellstone motion to refer House Joint Resolution 1 to the Budget Committee with instructions. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Arizona, [Mr. MCCAIN] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 35, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—60

Abraham	Faircloth	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bingaman	Graham	Nunn
Bond	Grams	Packwood
Bradley	Grassley	Pressler
Brown	Gregg	Reid
Burns	Hatch	Roth
Campbell	Helms	Santorum
Chafee	Hollings	Shelby
Coats	Hutchison	Simon
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Smith
Coverdell	Kempthorne	Snowe
Craig	Kerrey	Specter
D'Amato	Kyl	Stevens
DeWine	Lieberman	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Exon	Mack	Warner

NAYS—35

Akaka	Feingold	Levin
Baucus	Feinstein	Mikulski
Biden	Ford	Moseley-Braun
Boxer	Glenn	Moynihan
Breaux	Harkin	Murray
Bryan	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	

NOT VOTING—5

Gramm	Heflin	McCain
Hatfield	Inhofe	

So the motion to lay on the table the motion to refer to the Budget Committee with instructions was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 301

The PRESIDING OFFICER. The question occurs on agreeing to the motion to table amendment No. 301 offered by the Senator from West Virginia [Mr. BYRD]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announced that the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. INHOFE], and the Senator from Arizona [Mr. MCCAIN], are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''yea.''

Mr. FORD. I announce that the Senator from Alabama [Mr. HEFLIN], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 27, as follows:

[Rollcall Vote No. 79 Leg.]

YEAS—68

Abraham	Exon	McConnell
Ashcroft	Faircloth	Moseley-Braun
Baucus	Feingold	Murkowski
Bennett	Frist	Nickles
Bingaman	Gorton	Nunn
Bond	Graham	Packwood
Bradley	Grams	Pressler
Brown	Grassley	Reid
Bryan	Gregg	Robb
Burns	Hatch	Roth
Campbell	Helms	Santorum
Chafee	Hollings	Shelby
Coats	Hutchison	Simon
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Smith
Conrad	Kempthorne	Snowe
Coverdell	Kerrey	Specter
Craig	Kohl	Stevens
D'Amato	Kyl	Thomas
DeWine	Lieberman	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Dorgan	Mack	

NAYS—27

Akaka	Ford	Levin
Biden	Glenn	Mikulski
Boxer	Harkin	Moynihan
Breaux	Inouye	Murray
Bumpers	Johnston	Pell
Byrd	Kennedy	Pryor
Daschle	Kerry	Rockefeller
Dodd	Lautenberg	Sarbanes
Feinstein	Leahy	Wellstone

NOT VOTING—5

Gramm	Heflin	McCain
Hatfield	Inhofe	

The motion to table the amendment (No. 301) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I have been waiting a number of hours to call up an amendment pending at the desk. But I understand that the Senator from California has an amendment that she wishes to call up next.

So, Mr. President, I ask unanimous consent that the Senator from California be recognized to call up her amendment, and that immediately thereafter her amendment be set aside and I be recognized to call up an amendment.

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

The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, thank you very much.

AMENDMENT NO. 274

(Purpose: To propose a substitute)

Mrs. FEINSTEIN. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] for herself, Mr. FORD, Mr. HOLLINGS, Mr. MCCAIN, Mr. BUMPERS, Ms. MIKULSKI, Mr. HARKIN, Mr. KOHL, Mr. DASCHLE, Mr. REID, and Mr. DORGAN, proposes an amendment numbered 274.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

Strike all after the resolving clause and insert the following: ''That the following article is proposed as an amendment to the Constitution of the United States which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

''ARTICLE—

''SECTION 1. Total outlays for any fiscal year shall not exceed the 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. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purpose of this article.

''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.''.

Mrs. FEINSTEIN. Mr. President, this amendment is a substitute amendment. Essentially, it is the balanced budget amendment as presented with Social Security excluded using the exact language of the REID amendment. It is word for word the original balanced budget amendment excluding Social Security.

It is cosponsored by Senators FORD, HOLLINGS, MCCAIN, BUMPERS, MIKULSKI, HARKIN, KOHL, DASCHLE, REID, and DORGAN.

Mr. President, I believe this substitute amendment plays a pivotal role as a vehicle to pass the balanced budget amendment.

We hope to debate it further and take the vote on this on Tuesday.

Let me just point out that as it currently stands, the balanced budget amendment essentially would utilize about $705 billion of FICA tax revenues—those are taxes paid for retirement—for purposes of masking the debt and balancing the budget. Many of us do not believe this is right. We do not believe it is morally right, and we do not believe it is ethically right.

The only way to protect Social Security, to keep it out of the balanced budget amendment, is by exempting it through this substitute constitutional amendment. As I previously stated, the exact words of the REID amendment are included and incorporated within this substitute balanced budget amendment.

We will be speaking and arguing further for it, I hope, on Tuesday.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the amendment is temporarily set aside and the Chair recognizes the Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President.

AMENDMENT NO. 291

Mr. FEINGOLD. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 291.

The amendment is as follows:

On page 3, line 8, after ''principal.'' insert ''The receipts and outlays of the Tennessee Valley Authority shall not be counted as receipts or outlays for purposes of this article.''

Mr. FEINGOLD. Mr. President, this amendment is fairly straightforward.

Last week, Mr. President, we had a debate and a vote on a motion I proposed which would have had the effect of nullifying the provisions of the committee report to the Judiciary Committee which created a special exemption for the Tennessee Valley Authority Power Program. The TVA was the only Federal program mentioned in the entire committee report that was given this kind of special treatment.

Although we did not prevail, my motion received bipartisan support. Since that time, a number of Members have come up to me and told me that it was right to pursue what I like to call this constitutional pork. Members who were both for and against the balanced budget amendment appear to have been taken aback at the audacity of the TVA supporters to insert this kind of provision into the actual legislative history of the constitutional amendment.

A number of organizations supporting the balanced budget amendment, such as the National Taxpayers Union, the Concord Coalition, and the Citizens Against Government Waste have also indicated that they did not agree with the idea of placing this language in the committee report for only one special program. Some said it was just plain wrong to do it.

Nonetheless, Mr. President, I recognize that the proponents of the balanced budget amendment are determined that no amendments or motions, with the exception of the Dole second-degree amendment with respect to Social Security and the right-to-know amendment, would be adopted. That has been an open goal that has been achieved thus far.

Mr. President, what I propose to do is to offer this amendment which tracks the language that was placed in the committee report that exempted TVA from the balanced budget amendment and then urge that my amendment be rejected. In other words, this is an opportunity for the Senate now to go on record to oppose this special treatment provided for the TVA in the committee report and, at the same time, in no way would disturb the balanced budget amendment itself. The Senate would simply go on record showing that we do not want this kind of protection guaranteed for one program and not others.

By offering this amendment and asking that it be rejected, the entire Senate would have the opportunity to reject the committee language and therefore nullify its impact as legislative history when the courts get around to interpreting the balanced budget amendment and, for that matter, when this Congress or future Congresses get around to balancing the budget.

So, Mr. President, our action to reject this amendment does not answer the question of whether TVA should have any of its subsidies cut when the Congress gets around to try to achieve a balanced budget amendment. What it does say, and all it says, is that the TVA should be on the table just like every other Federal program, including Social Security, which, at this point, is still on the table.

If Congress decides, as some TVA proponents claim and as is stated in the language of the committee report, that the electric Power Program is paid for entirely by the ratepayers, then Congress can act accordingly at that time. If they win that argument, so be it.

If, however, Congress decides that the appropriations to TVA for its stewardship program is subsidizing its Power Program, or if Congress decides that the TVA ought to pay for the overhead cost of selling its debt obligation and low-interest loans, or if Congress decides there is some other inappropriate subsidy, then it will be free to make those decisions.

The point is, these are issues that Congress needs to decide, not as a part of the process of proposing a balanced budget amendment, but as a part of the process of making the tough choices. These options should not be curtailed or limited because the TVA proponents have been successful in slipping favorable language into the committee report at an earlier stage.

Mr. President, yesterday morning, as we went into session, I had a chance to hear Chairman HATCH resume the debate on the balanced budget amendment. This is what the chairman said the principal justification for the balanced budget would be. He said, ''The balanced budget amendment would introduce an element of competition into the spending process;'' that every program would have to compete. He said programs will not be allowed to simply show that they by themselves are meritorious, but they are going to have to show they are meritorious in the context of the whole budget picture. He said it will not be enough for a program just to show that it is worthy, but that it has to be worthy compared in the context of the whole; that it actually is a priority item.

It was this very rhetoric, Mr. President, that encouraged me to return to this subject and to make sure that the Senate as a whole is clear about its intent on this matter and not just let it be decided by some committee language which the courts would feel constrained to respect.

Mr. President, I understand that there may be some on the other side of this issue who will argue that the Senate's rejection of this amendment should not be interpreted as rejecting the committee report language, but rather simply an expression of the view that the language referring to the TVA should not be in the Constitution itself.

Mr. President, just so the legislative history is clear on the issue, I am the author of this amendment and the intent of the author of the amendment is crystal clear. The TVA should not have a special status carved out for it under the balanced budget amendment. I am seeking to have the Senate reject this amendment so the full Senate can go on record as saying that TVA, like other programs, is going to be on the table when Congress starts cutting Federal subsidies to achieve a balanced budget.

Notwithstanding what other statements the proponents of the language inserted in the committee report may make, the author of the amendment intends the vote to serve as a repudiation of the notion that the TVA has some special protected status. And I trust that those who seek to use legislative history as a guide in interpreting the amendment, should it be ratified, will give due weight to the author of the amendment.

So, Mr. President, I move to table the pending amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

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

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Would the Senator withhold his request?

Mr. FEINGOLD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. FEINGOLD. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued with the call of the roll.

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

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

UNANIMOUS-CONSENT AGREEMENTS

Mr. THOMPSON. Mr. President, I ask unanimous consent that the vote occur in relation to the amendment No. 274 on Tuesday, February 28, at 2:15 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. THOMPSON. Mr. President, I further ask unanimous consent that the vote occur in relation to amendment No. 291 on Tuesday, February 28, in the stacked sequence to begin at 2:15 p.m., and that the pending motion to table be vitiated and Senator DORGAN be recognized to move to table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President it is my intention to move to table amendment 291.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. DORGAN. I will be happy to yield to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I ask the Senator, with his motion to table, is his intent the same as my intent on the previous motion to table, which is to make it clear that the Senate does not seek to exempt the Tennessee Valley Authority from the balanced budget amendment and to override the committee language to that effect?

Mr. DORGAN. The Senator states it correctly; that is exactly the intent of my motion to table.

Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will occur on Tuesday under the previous order.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the parliamentary procedure is that there is time for debate or discussion of the amendment just moved to be tabled?

The PRESIDING OFFICER. The Pastore time has expired, so debate can be on any topic at this particular time.

Mr. FORD. Mr. President, I ask recognition then, please.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, the Senator from Wisconsin is to be commended for his efforts on this issue. He cares about it deeply, and I understand that. Furthermore, he has used a unique parliamentary situation in an attempt to achieve the outcome that he desires. Unfortunately for him and fortunately for me and for the other supporters of the TVA exemption, he has come close but has not succeeded in his quest. For reasons that I will go into in a minute, his amendment simply will not work.

The Senator from Wisconsin has proposed through four different amendments to change the legislative history on this particular matter. Because he is reasonably confident that the supporters of the balanced budget amendment will vote down the motion that he proposes, the Senate will have gone on record as being opposed to excluding TVA or like agencies from the balanced budget amendment.

He has gone on record as saying he will vote to table his own amendment, from which he now has backed up and had a neutral Senator, so-called neutral Senator, come in and move to table.

For an answer to why he would do such a thing, let us look at the amendments he proposes. Each amendment would add the following sentence to the end of section 7 which otherwise describes House Joint Resolution 1 as covering all receipts and all outlays of the United States except borrowings. Amendments 291 and 292 are identical and they say:

> The receipts and outlays of the Tennessee Valley Authority shall not be counted as receipts and outlays for the purpose of this article.

Amendments 293 and 294 are identical, and I quote:

> The receipts and outlays of all quasi-Federal agencies created under authority of Acts of Congress shall not be counted as receipts and outlays for the purposes of this article.

Each amendment would have the effect of creating an exemption to the general coverage language of House Joint Resolution 1. Nos. 291 and 292 would exempt all receipts and outlays of TVA; 293 and 294 would exempt all receipts and outlays of quasi-Federal agencies.

All of the Feingold amendments are broader than the scope of the legislative history contained in the Judiciary Committee's report.

Now, Mr. President, let me repeat that. We are talking about developing legislative history here. All of the Feingold amendments are broader—broader—than the scope of the legislative history contained in the Judiciary Committee's report and extend its exemption to funds for which no exemption justification has been provided. That is the fact.

Amendments numbered 291 and 292 would exempt all funds of TVA. TVA operates with two distinctly different kinds of funds. Let me repeat that. TVA operates with two distinctly different kinds of funds. It receives appropriations from Congress to cover its nonpower programs. These are like funds received by all other Federal agencies and there is no reason why they should be specifically exempted. The funds of TVA's electric power program are an entirely different matter and it was only these funds to which the committee's legislative history was directed. The legislative history of the committee was directed only at the electric power program.

You can hear all you want to hear and you can say all you want to say, but the committee legislative history is very, very narrow. Amendments Nos. 293 and 294 would expand the exemption to all funds. That is the Senator's amendment, now, of quasi-Federal agencies. First the term quasi-Federal agency has no meaning, absolutely no meaning. It is only a phrase, loosely used to refer to agencies which in some way or another may not fit the speaker's view of what is an ordinary Federal agency. Moreover, the term does not address the more important issue of how the agency is financed. Even an agency which might be regarded as quasi-Federal may have certain funds

which should not be exempted from the balanced budget amendment. As noted above, TVA itself is an example of two separate funds, one from the utility, the ratepayers, and the other one that is appropriated by the Congress.

Do any of the amendments have merit? Amendments Nos. 291 and 292 would have merit if their inserted sentence were modified to read as follows: The receipts and outlays of the electric power program of the Tennessee Valley Authority shall not be counted as receipts and outlays for the purpose of this article.

As so modified, they would expressly state the intent of the language contained in the Judiciary Committee's report.

The Feingold amendments as currently written could be defeated while still reaffirming the meaning of the legislative history in the committee report. The Feingold amendments can be defeated while still reaffirming the meaning of the legislative history in the committee report.

I do not know how many judges are going to be looking at the legislative history and see the Senator from Kentucky, Senator FORD, did not move and was not allowed to move to table these amendments. I hope I have that much authority that, boy, they will see whether Senator FORD moved to table or not. But, boy, that is great. You have a lot of influence, want to influence the court—legislative decisions in the future. It is right interesting procedure.

The Feingold amendments as currently written could be defeated while still reaffirming the meaning of the legislative history in the committee report.

Amendments Nos. 293 and 294 certainly should not be adopted. The term quasi-Federal agency has no clear meaning. I want to reinforce that. These amendments would make open-ended exemptions for an uncertain group of Federal agencies—an uncertain group—regardless of their budget impact on the taxpayers.

Amendments Nos. 291 and 292 also should not be adopted since they would exempt all TVA programs, not just the one program, the power program, for which an exemption makes sense. Indeed, the amendments appear to be a somewhat disingenuous attempt to get supporters of the balanced budget amendment to back an exemption for ordinary appropriations-funded programs. In contrast, the language of the Judiciary Committee makes it very, very clear—a clear distinction between those two entirely different kinds of programs.

Let us look at why the TVA power program should be exempted. The TVA power program is financially independent from the rest of Government. Just take that one sentence. The TVA power program is financially independent from the rest of Government. It survives only on the revenues it receives from sales of electric power. Those revenues supply the funds to pay its expenses. Those revenues are also the only security for power program borrowing. Take those two things and look at them very closely and think about them very closely. It survives only on revenue it receives, and the revenue it receives pays its expenses and is the only security for the funds it borrows.

Power bonds are, by law, neither obligations of nor guaranteed by the U.S. Government. Power bonds are, by law, neither obligations of nor guaranteed by the U.S. Government. Taxpayer funds are not used for the power program. Even capital and operating expenses for TVA's multipurpose dams are allocated to power and nonpower, and the power program pays its share.

TVA power program activity is not driven by Presidential or congressional policy decisions. It is driven only by the needs of the 8 million persons and businesses who rely on it as their sole source of electric power. Its annual receipts and its expenditures are governed only by what is necessary to meet their electric power needs, both today and in the future. Although the power program's annual budget is included in the President's and the congressional budgets, its inclusion is for information purposes only. It does not require congressional approval or congressional action. In other words, the TVA power program budget is a budget estimate. It is not a budget request.

Another way of looking at why the TVA power program should be exempt is to examine what could happen if it were not exempt. A low tax collection year or one in which entitlements or appropriations were large could result in TVA's being unable to borrow the funds necessary to build or maintain generating plants to ensure a continued supply of electric power to a large area of this country, in spite of the fact that taxpayers are not responsible for paying off these bonds.

Finally, as Congress seeks to reduce Federal mandates, should it add a new mandate for persons in one region of the country who happen to receive their electric power without a taxpayer subsidy from TVA? It makes as much sense for Congress to control Wisconsin Electric's annual budget as it does to control that of the TVA power program.

Let us look at the difference now between this proposal and Social Security. The level of Social Security receipts is determined by a Congress-approved tax rate. The level of Social Security outlays are a function of a Congress-approved benefits scheme. In contrast, TVA's power program budget is provided to Congress each year for informational purposes only. It does not require congressional approval or action.

So, in conclusion, I and other supporters of the TVA exemption are voting to table this amendment, not because it would reaffirm the report language, but because this amendment goes too far. It goes way beyond the scope of the Judiciary Committee statement about TVA. Some parts of TVA are like all other Federal agencies and should be included in the budget just as any other, and we do not object to that. However, as I have stated previously, the funds of TVA's electric power program are an entirely different matter, and it was only those funds to which the committee's statement was directed and that is the committee legislative language.

For these reasons, and these reasons alone, I am voting to table the amendment by my colleague from Wisconsin.

I yield the floor.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Tennessee.

Mr. THOMPSON. Mr. President, I think at the outset it is appropriate to state that what we are dealing with here is a straw man. An attempt is being made to make it appear that a Government spending program is being exempted from the balanced budget amendment. Of course, everyone understands that—with the statute that we are dealing with and with the language that they are dealing with—that is not the case. Now we are arguing among ourselves as to who gets to beat up the straw man first and who gets to put the first wound on him and the straw man that we all know is going to be defeated. That is the process that we are involving ourselves here in this historic moment when we are trying to address the real issues concerning a balanced budget amendment. It is unfortunate but true.

Mr. President, as I understand it, the Senator from Wisconsin has now offered an amendment which he wants to have defeated. I am happy to lend my assistance. I believe we have now reached an illogical extension of this debate by some of those who oppose the balanced budget amendment. In an attempt to defeat the balanced budget amendment, amendments are now being offered that even their sponsors want defeated.

After failing a few days ago to exclude language from the committee report, the Senator from Wisconsin now proposes to include the language in the Constitution of the United States with yet another amendment. I find this strange even by Washington, DC standards. If as much effort had gone into balancing the budget over the last few years as has gone into this exercise, we would not need the balanced budget amendment.

In the lowest courts of record of this Nation, involving the most insignificant boundary line dispute or intersection fender bender, one who submits a pleading attests that it is made in good faith and that there is reason to believe that there is merit in the matter that is being asserted. Apparently, that rule does not apply when it comes to offering an amendment to the Constitution of the United States.

We are debating and will soon be voting on one of the most important matters to ever come before this Congress, and amendments such as these trivialize this process. While there is no logic to this maneuvering, the purpose is clear—to hamstring and defeat the last clear chance we have in this country to develop some fiscal responsibility in our governing process. The purpose of such amendments is first and last to defeat the balanced budget amendment. Such amendments are not designed to ensure that spending projects are covered by the balanced budget amendment. Rather they are designed to ensure that no spending program whatsoever is restrained by a balanced budget amendment.

As I understand it, what brought about this momentous issue was language in the Senate Judiciary Committee report which stated:

Among the federal programs that would not be covered by S.J. Res. 1 is the Electric Power Program of the Tennessee Valley Authority.

Of course, what has not been publicized very much is the following language; the next sentence in that report, as a matter of fact. It points out that since 1959 the financing of that program has been the sole responsibility of its own electric ratepayers, not the U.S. Treasury and the Nation's taxpayers. Consequently, the receipts and outlays of that program are not a part of the problem that Senate Joint Resolution 1 is directed to solving.

This language, of course, states the obvious. The financing of the TVA power program is done by the electric ratepayers. There is no outlay of Federal funds with regard to this program. If the TVA power program runs short, the TVA ratepayers must make up the difference. The TVA does not operate like Amtrak or the Postal Corporation where Federal taxpayers pay the difference between receipts and outlays. The Judiciary Committee report language does not make the Federal taxpayer responsible for the TVA power program. It simply restates what has been true since 1959 when the TVA power program became exclusively responsible for its own receipts and outlays.

Now as I understand it, the Feingold amendment tracks the committee report language to an extent. The Senator from Wisconsin is apparently under the impression that by offering his language and having it voted down, it will in some way negate this legislative history. Of course, it will not.

In the first place, the Senator's language covers receipts and outlays of all TVA activities, including its nonpower activities. These have always been on budget and are covered by the balanced budget amendment, as they should be. Therefore, the Senator's language is much broader then the committee report language. And voting down the Senator's language which includes TVA's nonpower activities will in no way affect the legislative history that pertains only to the power program.

However, even if the proposed amendment tracked the committee report language exactly, it would still be of no effect because, again, the report language simply states the fact that there are no Federal outlays with regard to the TVA power program. Thus it along with some other programs, is not covered by the constitutional amendment. If the Senator is under the impression that a decision by this body not to make such a clearly inappropriate matter a part of the Constitution of the United States of America in some way changes the facts contained in the language, then I submit that he is again sadly mistaken. By the same token, if someone proposed an amendment enshrining the law of gravity into the Constitution and it were voted down as inappropriate, objects would still fall to the floor when dropped.

Therefore, since the adoption of the Feingold amendment would have the effect of taking the TVA nonpower program off budget, and since the defeat of the Feingold amendment would have none of the significance its sponsor wants to attribute to it, I join the Senator from Wisconsin in urging the defeat of his own amendment.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, let me express my pleasure to the Senator from Kentucky and the Senator from Tennessee for supporting in effect my motion to table and the motion to table of the Senator from North Dakota. That is exactly what I had hoped they would indicate. I believe that the only reason we are having this discussion at this point is quite simply that somebody pulled a fast one here in the committee and now we are out on the floor actually discussing it.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. FEINGOLD. For a question.

Mr. FORD. Is the Senator aware that every amendment to the Constitution—this is not an accident—that TVA power was included; that the same statement has been in every committee report that the Judiciary Committee has issued on a balanced budget amendment in the last 10 years?

Mr. FEINGOLD. I would be happy to yield for the question.

Mr. FORD. That is the question. Was he aware of the fact?

Mr. FEINGOLD. I am aware of the fact, and I told the Senator from Kentucky that I just got here 2 years ago. And, yes, I confess I did not discover this language until this year. I did not find this little caper in there until now.

Mr. FORD. It is no caper.

Mr. FEINGOLD. Had I been here 10 years ago, maybe it would have taken me 3 or 4 years to find it. But there it is. I wish I had found it last year. But fortunately I have had an opportunity to join the Judiciary Committee now, and my staff had more of a chance to find these things. We found it. It is time to get rid of it.

Mr. President, there was an effort here to try to undo the real intent of the balanced budget amendment. There is an attempt, a classic attempt, to abrogate, to say you are for the balanced budget amendment, but say, of course, that it does not apply to my State, to my program. I think there is not a reasonable person who would not agree that this is part of the problem. It is always easy to support cuts if it does not affect your own home State.

However, this notion of actually putting the exemption into the Constitution, which my opponents on this are being very candid about now—they are saying that is exactly what you are trying to do—is something new. The other side is trying to exempt TVA. It is not just idle talk. The purpose of the committee language is to exempt it. That is why they are trying to make this distinction between my motion to table and committee language.

But it is not working because everyone knows what the intent is of the people who put it in there. And everybody knows what my intent is. It is laid on the record. In fact, Mr. President, today in the Washington Post, there is an editorial entitled ''Constitutional Pork.'' It is all about this problem, this committee language.

I ask unanimous consent that the editorial from the Washington Post, dated February 23, be printed in the RECORD.

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

[From the Washington Post, Feb. 23, 1995]

CONSTITUTIONAL PORK

Tucked away in the Senate committee report on the balanced budget amendment are three sentences about the Tennessee Valley Authority, the most important of which reads: ''Among the Federal programs that would not be covered by S.J. Res. 1 is the electric power program of the Tennessee Valley Authority.''

What that means is that assuming the courts follow legislative intent, the Tennessee Valley Authority—which provides power to the people of the south-central states—would have the distinction of being the one agency excluded from the impact of the balanced budget amendment. The rationale for this, offered by Sens. Fred Thompson (R–Tenn.) and Howell Heflin (D–Ala.), is that, as Mr. Thompson put it, ''the financing of the TVA power program has been the sole responsibility of its electric rate payers, not the U.S. Treasury and the nation's taxpayers.''

Not exactly, says Sen. Russell Feingold (D–Wis.), who is trying to eliminate the TVA protection. Mr. Feingold notes a 1994 Congressional Budget Office study which estimated that raising the rates paid by TVA users to cover various costs associated with land and water management in its system could cut federal outlays by as much as $70 million annually. ''TVA supporters know that TVA is on the short list of most deficit reduction advocates,'' Mr. Feingold declares, ''and that is why they want to provide it with special protection that no other program of any kind in the federal government is getting.''

Mr. Feingold surely has the better of this argument. If TVA is in no way either part of the deficit problem or potentially part of the solution, why do Sens. Heflin and Thompson need to insist on special language protecting the program? And if TVA is indeed a drain, then the two senators and their colleagues in the region should not be given free passes to tell their constituents that they voted for a balanced budget amendment and protected the TVA. If they really think the balanced budget amendment is such a good idea, they should be willing to vote for it without this provision, which Mr. Feingold refers to as ''constitutional pork.''

Mr. Feingold lost a vote last week on a motion to strip the language in the committee report protecting TVA, though he won significant Republican support. Now he plans to try to call the bluff of his opponents by proposing to add specific language to the amendment protecting the TVA. His hope is that most senators will be too embarrassed to do directly in the text of a constitutional amendment what they tried to do in slippery fashion in the committee report. If the Senate refused to include the TVA protection in the amendment, this would create a different ''legislative history'' and discourage courts forced to deal with the budget amendment in the future from giving TVA priority over other programs.

The entire episode, as Mr. Feingold notes, underscores the folly of trying to deal with budget issues through a constitutional amendment. A balanced budget amendment could move the most basic of legislative questions (such as the future of the TVA) out of the legislative process and into the judiciary, which is exactly where they don't belong. The Senate should surely give no special protections to the TVA. Just as surely, it should vote the balanced budget amendment down.

Mr. FEINGOLD. Mr. President, fortunately this editorial lays out exactly the intent, my intent, the intent of the Senator from North Dakota, and that is to undo, explicitly undo, what was done in the committee; to say that the Senate as a whole would table such language that would have the effect of exempting either all or part of the Tennessee Valley Authority.

Mr. President, the Senator from Kentucky indicated that I had put four amendments in for possible introduction as amendments, and that is correct. But I have chosen one amendment and that amendment is this one. It is the one that, by its rejection, overrides the language of the committee report. It would have the effect of overriding the committee report by tabling the very language from the committee report. That is the purpose of amendment No. 291.

It is not a disingenuous attempt. It is the only way I could think of to override the effect of this committee report which the members did not explicitly consider.

Everybody should understand there was not a point in the process of the consideration of the balanced budget amendment in the Judiciary Committee where we all said, ''OK, let's decide if the TVA should be exempt or not.'' The whole process was done and the committee report was written, and then it was thrown in there, presumably at the staff level. That is how it was done. And I guess that is the way it is done when it is business as usual, when you are trying to protect your own pork but at the same time you are saying you are for a balanced budget. It is a lot better to do it in a quiet staff room than it is to do it out on the floor of the Senate or even in front of the Judiciary Committee. That is what was done here.

I assure everyone who is looking at this what was done here was something people did not want us to know about.

My intent is not something any judge is ever going to have to wonder about. The Senator from Kentucky says they are going to have to be able to read it and limit it some way. But I laid my intent right on the record. The purpose of the motion to table is to override the committee language that seeks to exempt the TVA. Whether it seeks to exempt part of the TVA or all of the TVA or something in between, the intent of the motion to table, as explicitly stated by the two Senators who have moved to table, is to override the committee language. Now, I wonder how a court will have any trouble figuring that out. Clearly, they know the difference.

In fact, this is a very interesting proposition in terms of legislative history. What is being suggested here is that, even if the U.S. Senate as a body explicitly votes to table certain language, the courts are going to find the committee report to be more persuasive than the rollcall vote of the Members of the U.S. Senate. I doubt it. I would not bet the farm on that interpretation of legislative history. I think you will find you will come up wanting with that approach.

So let us be clear. My intent and the whole purpose of this is to not allow a committee report to find its way into constitutional interpretation or to exempt some or all of the Tennessee Valley Authority.

Let us get back to the real issue here. The real issue is: Why do I have to even be out here at all? Only because something was attempted which no one would try to do out here on the floor, to exempt one particular program from one particular area while everybody else has to compete fairly.

So I am very happy about the way the record stands now. And I am a lot happier than I was when I did not have these two Senators supporting me on the record to override the intent of the committee.

Mr. President, let me just say a few words about the other issue that has been raised about this notion that somehow the TVA has nothing to do with the Federal budget. That is what they are saying. This is a great deal, they say. We are making money on it, they say. It is a good thing for the Federal Government, which it may well be.

But the point is, there are an awful lot of people that think it is a loser or it is time to phase it out. It was a wonderful thing when Franklin Roosevelt brought this forth, and it really helped that area of the country during the Depression, but it is not open and shut at all that this program is a moneymaker for our country. In fact, an awful lot of people think it should be one of the top items for cuts. That is what the National Taxpayers Union has said. That is what the Congressional Budget Office has said. That is what a number of pieces of legislation already introduced this session by Members of both parties and both Houses have said.

Let me read briefly from the ''CBO Reducing the Deficit: Spending and Revenue Options,'' March 1994.

> Because many of TVA's stewardship activities are necessary to maintain its power system, their costs would more appropriately be borne by users of the power. . . Direct costs to the Federal Government could be reduced by about $70 million annually if the TVA were to increase power rates or fees to cover costs of all stewardship activities. . .

A very different view than this view has been offered out here that says it has nothing to do with Federal dollars.

Let me cite from the ''Department of Energy Federal Energy Subsidies: Direct and Indirect Interventions in Energy Markets,'' November 1992.

> When compared with interest rates paid by investor-owned utilities, the TVA is estimated to have benefited from a subsidy of $231 million in FY 1990.

A few pages later, the report says:

> Historically, TVA was granted subsidies in the form of low-interest loans, debt forgiveness, and lower payments in lieu of taxation.

In fiscal year 1988, TVA received a subsidy—a subsidy, Mr. President—of $661.9 million in the form of lower payments in lieu of taxes, and that $661.9 million ''* * * can be counted as revenue losses to all levels of government.''

This is real money. It is almost up to the point where, as the former Senator from Illinois, Senator Dirksen, said, we are talking about real money from the Federal Government transferred away from our ability to balance our budget.

The report also says, TVA

> . . . Sells a large portion of its debt to the Federal Financing Bank (FFB). . . . TVA's ability to access FFB acts as a subsidy in two ways. First, TVA does not incur any expenses to underwriters or marketing expense when it goes to the FFB. Second, it obtains financing at lower interest rates through the FFB.

So I will concede this to my friends on this issue, this is debatable. Yes, it is debatable whether or not the Federal Government has to pay out directly or indirectly to the TVA. But there is one thing that is clear and it is that at a very minimum it is debatable and that we cannot resolve it here today and that this is not the place to be resolving it.

Why are we resolving it today? Because certain Senators decided that they should not have to go through that same scrutiny that all the rest of us do, which is that later on, whether we pass the balanced budget amendment or not, we have to all get out here and fight and fight hard for our own programs and our own home States.

I see the Chair is from a dairy State. I am from a dairy State. Would it not be nice to have a constitutional exemption for the dairy program? But that is not the way this process should work, and we all know it. It is not fair. It is just not fair to exempt one program and let everyone else in this country have to fight like heck to protect the hard-working people in their home States, all of whom, I assure you, in every one of these 50 States, have arguments just as worthy.

So this attempt to enshrine this in the Constitution is one that is a bit of an embarrassment, it seems to me.

All I am trying to do here—and apparently we will prevail on this now—is to just get rid of it. A mistake was made by trying to do this in the Judiciary Committee. We all make mistakes, and it is understandable, certainly not the most horrible thing that was ever done around this place. But when you make a mistake, it is time to clean it up and correct it. Our motion to table cleans up the mistake and returns to a notion of fair play, whether the balanced budget amendment passes or not.

So, Mr. President, I guess I am going to have to leave it to the future. We have to see if the balanced budget amendment passes. We have to see if it gets ratified. But some day maybe somebody will take a look at this record, and I guess they are going to have to decide which side was playing games, which side was trying to pull a fast one, and which side was just trying to put everybody on the same playing field.

I am absolutely confident that when the courts look at this, when the Congress looks at this and, most importantly, when the American people look at this, they will all conclude that one side was trying to have their cake and eat it, too—to pose for the holy picture and say you are balancing a Federal budget but to still keep the pork in your own back yard. That is an outrageous example of trying to have your cake and eat it, too. All we are trying to do is clean it up.

I thank the Chair.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

AMENDMENTS NOS. 259 AND 298, EN BLOC

Mr. GRAHAM. Mr. President, I would like to call up two amendments, Nos. 259 and 298.

The PRESIDING OFFICER. Are you calling them up en bloc?

Mr. GRAHAM. I am calling them up en bloc, and I am going to debate both of those amendments. Then I will ask for a rollcall vote on each of those amendments in that sequence.

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. The clerk will report the amendments.

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes amendments en bloc numbered 259 and 298.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 259

On page 2, line 8, strike ''held by the public''.

AMENDMENT NO. 298

On page 2, line 8, after ''increased,'' insert ''except for increases in the limit on the debt of the United States held by the public to reflect net redemptions from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund''.

Mr. GRAHAM. Parliamentary inquiry, Mr. President. Would it be appropriate at this time to ask for the yeas and nays on amendments numbered 259 and 298?

The PRESIDING OFFICER. They are pending. It would be appropriate.

Mr. GRAHAM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. There is not a sufficient second at this point. The Senator from Utah is recognized.

Mr. HATCH. Has the Senator called up his amendment?

Mr. GRAHAM. I have called up the amendments 259 and 298. I have asked they be voted on in sequence. I am now asking that that vote be by recorded vote.

Mr. HATCH. If I may, Mr. President, as I understand it, all amendments will be voted on after 2:15 on Tuesday.

The PRESIDING OFFICER. That is correct.

Mr. HATCH. I move to table both amendments, and I ask for the yeas and nays.

Mr. BUMPERS addressed the Chair.

Mr. GRAHAM. Mr. President, I asked for a rollcall on the yeas and nays on this, with the intention of then presenting a discussion on these amendments.

I ask, if the Senator is going to ask for a tabling motion, that he withhold until after we have had an opportunity to debate the two amendments.

Mr. HATCH. I leave the motion to table there and I ask unanimous consent that the Senator be given more time if he needs to debate the amendment.

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

Mr. HATCH. Are the yeas and nays ordered?

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BUMPERS. Mr. President, I do not understand what the Senator from Utah said. A motion to table normally shuts off all debate.

Mr. HATCH. I ask unanimous consent that we move to table both amendments, and that debate continue after the motion to table, after receiving the yeas and nays on the motion to table.

Mr. BUMPERS. Is there agreement for time on this amendment?

Mr. HATCH. How much time does the Senator want?

Mr. GRAHAM. Mr. President, I anticipate my presentation will take approximately 15 to 20 minutes, and I know the Senator from Nevada, Senator REID, wanted to ask some questions of my amendment.

Mr. BUMPERS. Finally, Mr. President, if I may ask the distinguished Senator from Utah how long are we planning to go tonight?

Mr. HATCH. Not much longer, as far as I am concerned. I think after these two amendments, I will be happy to see if we could start to wind down. I understand that there may be a Kennedy amendment that will be offered afterwards, and a Nunn amendment.

Mr. BUMPERS. Mr. President, I wanted to offer an amendment following the Senator from Florida with the idea that we could debate it for awhile, until we wanted to go out, and have it begin in the morning first thing.

Mr. HATCH. Mr. President, that will be fine. I understand that Senator KENNEDY has an amendment, and also Senator NUNN may have an amendment. Any way we can work it out, I am happy. I am amenable to anything the Senator from Arkansas and his colleagues would like to do.

Mr. BUMPERS. I have no objection. We will discuss this.

Mr. HATCH. Mr. President, I ask for the yeas and nays on the two motions to table the two amendments.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Parliamentary inquiry. Have motions to table—with the yeas and nays—been ordered on each of the amendments, all up to date?

The PRESIDING OFFICER. They have not been ordered on the Feinstein amendment.

Mr. HATCH. I ask for the yeas and nays on that amendment, as well.

Mr. President, I withhold that.

UNANIMOUS-CONSENT AGREEMENT

Mr. BUMPERS. Will the Senator from Florida yield for a moment for a unanimous consent agreement?

Mr. President, I ask unanimous consent that I be recognized to offer a motion for an amendment at the desk immediately following conclusion of the debate on the Graham amendment.

The PRESIDING OFFICER. Is there objection? There being no objection, it is so ordered.

Mr. GRAHAM. Mr. President, parliamentary inquiry. We have ordered the yeas and nays on these two amendments, on motions to table amendments numbered 259 and 298; am I correct?

The PRESIDING OFFICER. That is correct.

AMENDMENTS NO. 259 AND 298

Mr. GRAHAM. Mr. President, I am offering these two amendments, both of which relate to section 2 of the proposed constitutional amendment, which is one of the most important, and I suggest, least understood provisions in this constitutional amendment.

If I could, I would like to read the language of section 2. The very fact that it is the second section of this amendment, coming immediately after the section which states the basic principle that the Federal Government shall balance its revenues and expenditures, is indicative of the importance which the authors of the amendment attach to section 2. I will discuss that further in a moment.

Section 2 reads as follows:

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.

Within those words, constituting one sentence of the balanced budget amendment, are a number of important policy considerations.

My amendments focus on one of those policy implications which constitute just four words in the section. Those are the words ''held by the public.'' The requirement of a three-fifths vote of the whole number of each House is applied to raising the debt ceiling as it relates to that debt held by the public.

I was curious as to what the rationale behind this provision of the section was, so I sought as one source of clarification the book which has been distributed to all Members of the Senate by the Congressional Leaders United For A Balanced Budget Amendment.

In that description, the following information is given relative to section 2, and particularly the language ''held by the public.'' It states that:

Because borrowing and increases in any limits on cumulative borrowing must be enacted by law, section 2 makes the amendment effectively self-enforcing.

So this is a very important section because it makes the rest of the balanced budget amendment self-enforcing, self-enforcing by requiring a three-fifths vote to raise the limit set by law for debt held by the public.

The statement by the Congressional Leaders United for the Balanced Budget goes on to state that by lowering ''the blackmail threshold'' associated with passage of the regular debt limit bill from 50 percent plus 1 in either body to 40 percent plus 1, section 2 increases the motivation of the administration and the leadership, including the chairs of the relevant committees, to do whatever is necessary legislatively and cooperatively, even to the point of balancing the budget to avoid facing such a difficult debt vote.

So the purpose of this provision is to enforce the balanced budget amendment and, two, to create a blackmail threshold at 40 percent plus 1; that is, if 41 Senators refuse to go along with a proposal to raise the limit on debt held by the public, that would be such an enforcement figure that collectively we will do all that we can to avoid having to be placed into that position. That is the rationale for this amendment.

Mr. President, as we commence this process of possibly placing this language into the Constitution of the United States, let me provide, and I hope this is not excessively tedious, a little background regarding this statement of debt held by the public

The projection of the Congressional Budget Office is that the end of this fiscal year, which will be September 30, 1995, the gross Federal debt—all debt owed by the Federal Government—will be $4.942 trillion, a shade less than $5 trillion. That debt can be divided in a number of ways, but this amendment calls for it to be divided into two sectors.

One sector is debt held by the public, and these are some of the entities which constitute the public which holds the debt of the Federal Government: State and local governments happen to be the largest public holder of the Federal debt. They hold $641 billion. Foreign governments and private sources, $601 billion, and so forth throughout this analysis.

The second sector of the national debt is debt held by Government accounts. These are the accounts that are not part of the debt held by the public. These are primarily the trust funds of the Federal Government whose surpluses must be invested in Federal Treasury obligations.

The largest of those, of course, is Social Security, which has $488 billion of debt of the Federal Government. We are going to talk extensively about that Social Security indebtedness.

All the other Federal Government accounts, which include primarily those that are analogous to Social Security in that they are accounts designed to provide for the retirement of persons, for instance, Civil Service is $346 billion; military retirement, $105 billion; and then others of significance are Medicare, $150 billion, the Department of Transportation has $30 billion in its account, the unemployment compensation account has $40 billion. Cumulative of all these other accounts, excluding Social Security, is $837 billion, or a total of $1.325 trillion are debts of the Federal Government which are not held by the public, but rather by one of these Government accounts.

With this background, I would like to talk about some of the policy implications of restricting to a three-fifths vote only this portion of the national debt. Under this amendment, it will take a three-fifths vote of the whole number of the Members of both Houses of Congress to raise the debt held by the public. The debt held by Government accounts can be raised by the legislative majority which we currently utilize.

The last time we voted on increasing the national debt, which was in Public Law 103–66 on August 10, 1993, we voted—and this is the language in the statute, Mr. President—''to increase the public debt limit,'' not debt held by the public, but the public debt limit. And we increased it to $4.900 trillion. One fact that obviously creates is that before the end of this fiscal year, we are going to have to raise the debt limit because we are going to break the $4.900 trillion level prior to the end of this fiscal year.

As I turn to some of the policy implications of this section 2, I would like to state a couple of assumptions that I am going to make so that if anyone would like to engage in further discussion, they would do so with those assumptions in mind and might wish to discuss them further.

The first is primarily because we do not have projections through the year 2025 and beyond for these other Government accounts and, second, because although they are very significant, $837 billion, relative to the scale of the policy issues we are going to be dealing with, they will not substantially affect the policy considerations. To the degree they do affect the policy considerations, as I will explain, they make the concerns I am going to express even more serious. I am not focusing on this component, the Federal debt structure. My comments are focused on the Social Security borrowing.

And second, as the statement of the Congressional Leaders United for a Balanced Budget indicates, I am assuming that the purpose of this three-fifths vote is to make it very difficult to raise the amount of debt held by the public; that the purpose of this is to create a political hydraulics that is going to make it difficult to raise debt held by the public and make it relatively easier to raise debt held by Government accounts. That is clearly the purpose of the distinction that has been made in this amendment.

So let us turn to what is going to be the implication of adopting a balanced budget amendment with section 2 as it is currently written.

Where are we today? As this chart demonstrates, at the end of this fiscal year we will have a total debt of $4.942 trillion. Of that amount, $488 billion is in the red zone, which is the Social Security trust fund. Everything else, which is the debt held by the public, plus the debt held by Government accounts other than Social Security, is in the blue zone. That amount is $4.452 trillion.

The constitutional amendment calls for us reaching a critical date in the year 2002 when we are to come into balance. The projection is that between now and the year 2002, we will increase the Federal debt by approximately $1 trillion. So, that when we reach the year 2002, we will have a total national debt of $6 trillion. Of that amount, the Social Security trust fund surpluses will be $1.40 trillion in the year 2002. Social Security will represent that much of the indebtedness. Everything else, including the debt held by the public, plus the non-Social Security Government accounts will be $4.96 trillion.

If the purpose of this is to make it very difficult to raise the debt held by the public, the debt held by the public will assumedly, essentially, stay at the same $4.96 trillion level from the year 2002. We have gone out to year 2028. But since there is no restraint in this supermajority on borrowing from trust funds, and particularly from Social Security, which is the trust fund that is going to be, of course, the one rising dramatically, we are going to see the debt rise to $7.098 trillion by the year 2018. This will occur when the surplus in the Social Security fund reaches its apex. We will be adding to the national debt under this amendment by a majority vote, an additional $2 trillion. I do not think that is what the public believes they are getting with this amendment, that they are going to get an additional $1 trillion between now and 2002 and then $2 trillion between 2002 and 2018.

Mr. REID. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. REID. I have been listening to the statement of the Senator from Florida—and I have stated in the Chamber publicly on other occasions how much I appreciate the Senator's excellent work on an amendment that was offered regarding Social Security, but I have listened to the statement the Senator has made today, and it seems to me—and this is a question I ask the Senator from Florida—would not a reasonable person assume that if Congress passes a balanced budget amendment, the national debt would remain constant, at least not rise, because we would assume the budget would be in balance?

Mr. GRAHAM. Well, that is the difference between passing a cliche and passing an actual constitutional amendment. This constitutional amendment I think virtually assures that we are going to have a national debt of approximately $3 trillion over the next 20-plus years above the national debt that we have today.

Mr. REID. I ask the Senator further, would that be the difference between the amount of Social Security surplus and the normal debt, so-called normal debt?

Mr. GRAHAM. The Senator is absolutely correct. This is the chart that shows what that Social Security surplus is going to be in each year from 1995 to the year 2029, when the Social Security trust fund is exhausted and is at zero.

Mr. REID. I ask my friend a further question. Let us assume in 2018, when the Social Security trust fund reserves begin to diminish—and that is about the date I think the Senator has on the chart—what will be the Government's options for meeting the contractual obligations it has with the Social Security beneficiaries?

Mr. GRAHAM. The Senator asked a very salient question. I might say before answering, it is one of the reasons we should have adopted the amendment the Senator offered last week because it would have segregated Social Security and allowed us to focus on its problems, which are serious, without having it commingled with the rest of the Federal budget. But the amendment, unfortunately, was defeated so we are now locked into a situation in which we are going to continue to do what we are doing now, which is to use the Social Security surplus to mask the extent of our real deficit. We are going to be taking the surplus of Social Security, not investing it in stocks, bonds, or other securities as would a traditional pension plan, including pension plans of State and local governments; we are going to be investing it in the Federal Government to finance our national debt.

As this chart indicates, by the year 2018 our national debt will be $7.098 trillion and Social Security will hold $3 trillion. Three-eighths of our total national debt will be held by the Social Security system. The question is, what are we going to do when we get to the point that Social Security begins to draw down that surplus? What we are going to do is either have to, first, dramatically cut spending for Social Security benefits or other Federal programs in order to generate the cash to pay for the Social Security redemptions; second, dramatically increase taxes to pay for the Social Security redemptions; third, some combination; or, fourth, continue with borrowing, but now we will have to be borrowing from debt held by the public because there will not be a Social Security alternative to draw from.

Mr. REID. I ask my friend one further question. The Senator has stated on this floor on a previous occasion that the surpluses that will be developed in the Social Security trust fund during the next 20-plus years is on purpose. Is that not right?

Mr. GRAHAM. The building of the surpluses, as the Senator from Nevada correctly states, is not as an aberration. We are doing this because this more or less tracks the demographics of the U.S. population. During the period from now until about the year 2018 or 2019, when the number of people going into the Social Security system as a percentage of the total population is relatively low—I do not know what year the Senator was born in Searchlight, NV. Could he inform us of that?

Mr. REID. December 1939.

Mr. GRAHAM. I was born almost 3 years prior to the Senator from Nevada. We were both born during a period of national depression. There were not very many people being born in either Pennsuco, FL, or Searchlight, NV, in those years of the 1930's. So there are not a lot of Americans who have birth dates in the years in which we were born.

Conversely, I know the Senator has children who were born probably in the 1960's. I have four of those children. There were large numbers of people born in the period after World War II, in the 1940's, 1950's, and 1960's. Those folks are going to start retiring in about the year 2019, and so instead of having a surplus, we are going to start to spend down the Social Security system and do it dramatically. In 10 years, we will go from over $3 trillion of surplus to zero surplus in the Social Security system. And we are going to have the challenge—not us individually, but our successors here and the citizens of this country—to calculate how to meet that enormous obligation under this balanced budget amendment.

Mr. REID. I ask my friend an additional question. Why would an amendment to balance the budget be placed in the Constitution while allowing the limit on the public debt to rise to the portions illustrated in the Senator's previous chart? That I do not understand.

Mr. GRAHAM. And it runs exactly counter—the answer is I cannot answer the question. I hope maybe some of those who are the authors could explain why they have done this.

In the material that was distributed, it states, ''The purpose of this section is to motivate an avoidance of deficits.'' That is a direct quote from the materials distributed by Congressional Leadership United for a Balanced Budget.

The reality is that the opposite occurs. The national debt goes from $5 trillion today to $6 trillion. This is going to happen in almost any event. But this is what is not necessary, and that is this dramatic increase in the national debt from $6 trillion to $8 trillion that will occur roughly between the year 2002 and 2018, and which is virtually mandated by the structure of this balanced budget amendment.

Mr. REID. So, if I understand the Senator correctly, the Senator, having been Governor of one of the largest States in the Union, having handled billion-dollar budgets there, and having had the experience he has had here—including being a member of the Finance Committee—the Senator cannot explain to me why the balanced budget amendment is written the way it is?

Mr. GRAHAM. I cannot. And there is a way to solve this problem. This is not a conflict which is beyond our ability to resolve.

I suggest that the resolution is found in the amendment which is currently pending and that is the simple step of

eliminating the phrase ''held by the public'' from the constitutional amendment, so that the amendment will now read:

The limit on the debt of the United States 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.

What that will require is that there will be a three-fifths vote required to increase the national debt, whether it comes from debt held by the public or debt held by the Social Security trust fund.

With that approach you get a dramatically different structure of our Nation's fiscal future. Going back to the assumptions that I started with, which is that the whole purpose of the three-fifths vote, as stated by its authors, is to create a blackmail threshold that will make it virtually impossible to raise the national debt, that would indicate we will move to the $6 trillion level between now and the year 2002 when the constitutional amendment becomes operative. Then there will be no increase in the national debt from the year 2002 into the indefinite future. We will plateau at $6 trillion.

The consequence is going to be that we will see the Social Security trust fund continuing to generate substantial surpluses between now and the year 2018, which will become a larger share of our total debt. But at the same time we will be buying down the debt held by the public. We will be substituting Social Security indebtedness for debt held by the public. We will be doing what I think the sponsors of this amendment want to do. We will be releasing capital back into the country for productive investment.

We will be making the Social Security system sound because we will not be adding an enormous amount of debt, we will be stabilizing our debt and placing us in a position after the year 2018 to do a graceful shift from Social Security back to debt held by the public and be able, by this borrowing from debt held by the public, to meet our Social Security obligations without the enormous tax or spending cuts that will be required if we do not adopt this amendment.

Mr. REID. I appreciate my friend yielding for the questions. He has been very lucid and straightforward in his answer.

Mr. CRAIG. Will the Senator yield for a question?

Mr. GRAHAM. Yes.

Mr. CRAIG. Mr. President, I will make these questions constructive, as I hope they will be, because I helped craft this amendment over the last 5 to 6 years. We were faced with how do we deal with trust funds, because they are inside the budget, unique to Social Security. The law that created the Social Security system does not allow the trust funds to be invested outside Government. That is the law of the land today. Of course I do not think—certainly not this Senator, possibly the Senator from Florida—does not believe the trust funds of Social Security should be put at risk out in the private marketplace.

What happens if you invest in stocks and bonds and they bottom out? Who comes back in and picks the system back up? That is a legitimate concern. I think those who were here in the 1930's when the Social Security system was crafted had that in mind. That was their concern.

So here we were, faced with the situation of these revenues coming in as a result of the 1983 fix on Social Security, and having to deal with them. The Senator and I are on the Board of Trustees of the Social Security system. There are no others. It is the Congress of the United States that is pledged to keep this system solvent and secure for its recipients. But in come the revenues and we borrow them. We are doing it today and even under the Senator's amendment we will do it tomorrow.

As a result of that understanding, as we crafted this amendment it was our concern, knowing that, that we cut down on the other debt that is out there and accumulating, recognizing this was a debt owed—it was a note owed so that is a debt, certainly—back to the trust funds of the system. But at the same time, this Government is caught in the dilemma that they must use those moneys. Obviously that system cannot earn money if the money is not borrowed from it. So we just do not collect it and set it off to the side and create a nonearning environment. We borrow it and pay back the going rate on the Treasury note. That is a responsibility that we have. That is what this amendment has in mind and why it was worded the way it was worded.

I must say, while I find the argument of the Senator from Florida intriguing, we ran this through the system a good many times over the last 5 years to try to solve that problem, believing we have, and I am convinced we have. So I am curious. I mean it in all good faith, how do you deal with what the Senator is proposing? Obviously we are going to use those moneys inside Government and they will be needed, they will be owed at some time back to the trust fund.

I am the baby boomer in this debate right now, whereas our colleague from Searchlight was not. I am one of those people who was born in 1945 and I am in that group that is going to be in that peak. The Federal Government, by its commitment through the Social Security system—not Social Security, the Federal Government—is going to guarantee that because they are taking the notes out at this moment and they must pay them back. That is the way the system is structured under the law.

I find it confusing in this regard. Would we not have to change the law of Social Security that drives the system today to get to where we want to get, or to where the Senator wants to get with his amendment?

Mr. GRAHAM. No, absolutely not.

Mr. CRAIG. Please help me there, then.

Mr. GRAHAM. My amendment calls for the Social Security surpluses to continue to be invested in the Federal Government.

Mr. CRAIG. Yes.

Mr. GRAHAM. I would like to review a little of the history of how we got to where we are and why I think that history makes this chart the likely consequence of adopting the amendment in its current form. The difference is that my amendment will call for a stabilization of total Federal debt because it will require a three-fifths vote to raise total debt, not just the debt held by the public. And it will, therefore, force public debt to be displaced by the growing amount of Social Security.

When Social Security was adopted, it utilized a pay-as-you-go financing mechanism. We took in an amount of money each year sufficient to meet that year's obligation. We did not have a surplus. This was a nonissue.

In the late 1970's people began to recognize that we had these terrific demographic shifts that were going to be occurring over the next 30, 40 years because of the dramatically different birth rates in different periods of American history. So one of the key changes made in the 1983 reforms was to go to a surplus structure for Social Security, thus producing this curve.

There was an implicit assumption in this surplus Social Security and that was that we were going to be operating a balanced Federal budget for the rest of our expenditures. The way we would be securing this surplus money was we would be using it to reduce the amount of public indebtedness. This is the chart that the 1983 Social Security reform was predicated upon, a balance and a cap on the total national debt and a substitution of public debt for Social Security debt.

Then, beginning in the year 2018, without having added any debt in this period, we would be in a position to go back to the public and say: OK, now we have all these IOU's that the Social Security Administration is holding. We need to cash them in order to get the revenue to pay off the Social Security obligations to folks like our friend, the Senator from Idaho. And, we will do so without putting any additional strain on the Federal Government because we will not be increasing the amount of debt service. We will just be shifting it from the Social Security fund to debt held by non-Social Security entities.

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

Mr. GRAHAM. Yes.

Mr. CRAIG. When you shift the debt from, in other words, that held by the Social Security trust fund to the public, where do you get the money to cause the shift because you have money outgoing to the recipient at that point? And we know that in this baby boomer scenario that becomes a very rapid demand level on the trust fund system.

Mr. GRAHAM. The way we intended to manage it, based on the 1983 structure, was to go to the general public with Federal borrowings.

Mr. CRAIG. In other words, borrowing the money.

Mr. GRAHAM. Yes, in order to replace the money that we had previously borrowed from the Social Security fund. What worries me is in the purpose of this amendment, by putting a cap on debt held by the public with a three-fifths vote, is to preclude that substitution. Then we are going to have a situation in which with no additional borrowing, combined with a drawdown of the Social Security surplus from almost $3 trillion to zero over a period of 10 years, the only way we can fill this gap is by taxation or dramatic spending cuts.

Mr. CRAIG. In the year 2020 to 2035 when that $3 trillion worth of liability, if you will, of those trust fund comes due. You are talking about either raising taxes by $3 trillion or borrowing and raising debt by $3 trillion dollar.

Mr. GRAHAM. No. I am saying I think the amendment is intended to preclude the borrowing option because it says you would have to have——

Mr. CRAIG. Except by a three-fifths?

Mr. GRAHAM. Yes. That corresponds to the debt ceiling argument which would allow borrowing under those circumstances.

My second amendment is going to make it easier to do that. But if the theory of the three-fifths vote is that essentially that is a statement that we are making that it should not be done—that is what the language of the congressional leadership stated—then that is in fact adhered to. When we have this drawdown of the Social Security surplus, no additional borrowing from the general public is permitted because it is capped at this level by the three-fifths margin. When we reach that point, and try to finance a $3 trillion indebtedness in a 10-year period with reliance on taxation or spending cuts or some combination, the consequence is going to be this train wreck, a wreck in the scale of which we have never quite seen before.

Mr. CRAIG. That $3 trillion indebtedness is going to be out there in any scenario. Will it not be easier for the Federal Government to be able to deal with it if it does not have extra hundreds of millions or trillions of dollars that it has borrowed from the public? In other words, if you will turn your chart that causes you problems upside down, it is the same chart as the one you are showing me. The reality is based on the law of Social Security. The Federal Government is going to borrow the reserves of the trust fund and it must pay them back starting dramatically in the year 2020 through the year 2035. Under either scenario, that is reality because it is not this amendment that is causing it. It is the law of the Social Security System that is doing it.

Mr. GRAHAM. I beg to disagree.

Mr. CRAIG. Then where is the money going at this point?

Mr. GRAHAM. Here is the structure of the balanced budget amendment. Section 1 says that we will have an integrated Federal budget in which Social Security and all trust funds will be commingled with the rest of the Federal Government. That is the definition of income and expenditure as provided in section 7. Does the Senator agree with that?

Mr. CRAIG. I am sorry?

Mr. GRAHAM. Section 1 as defined by section 7 will constitutionally require an integrated or a consolidated Federal budget; that is, all sources of income, all sources of expenditures will be amalgamated for purposes of determining whether we have a balanced budget or not.

Mr. CRAIG. All sources of expenditures and income. Is that correct?

Mr. GRAHAM. So we are constitutionally requiring a consolidated Federal budget. That is a correct premise. I believe that is what section 7 says. Then with the structure of the Social Security system that we have, each year from now until 2019, we will have a balanced budget by having our regular accounts out of balance to the extent that we have a Social Security surplus; that is, if this amendment were to be operative in the year 2002 when we have a Social Security surplus of approximately $110 billion, every other account in the Federal Government can be out of balance by $110 billion and the surplus from Social Security will bring the total into balance.

Mr. CRAIG. Because of the general fund, because the law of Social Security requires the Federal Government to borrow the money, and that usually is invested in the general fund account.

Mr. GRAHAM. But we have another choice; that is, what I think we ought to be doing is we ought to be balancing our general revenue accounts and using the surplus of Social Security not to mask our spending but rather using the surplus of Social Security as a real surplus including a real surplus that will be buying down an amount of public debt so that when we get to the point where we have run through the happy days of big Social Security surplus and face the very tough days of having to pay off all of that surplus, we will not have added $12 trillion to the national debt. If you really want to have a conservative balanced budget amendment, it ought to be an amendment that says we will put a three-fifths requirement on the law to increase the borrowing from whatever source, Social Security, other Federal trust funds, or the general public. That is an amendment that would be truly conservative. That would be an amendment which our grandchildren and the Senator from Idaho would very much appreciate. That would be an amendment that would give them the greatest assurance that their Social Security benefits are going to be real when they reach the age of eligibility.

All of what I have said relates to the first amendment that I have offered, which has the simple objective of striking the four words ''held by the public'' and requires the three-fifths vote to apply to all of Federal increases in the debt limit.

If we do not adopt that amendment——

Mr. LEVIN. Will the Senator yield before he goes to the second amendment for a couple of questions?

Mr. GRAHAM. Yes.

Mr. LEVIN. I have followed the presentation both here and back in my office. It is a very significant and important presentation. How much on the average would the annual deficit be permitted to be during that period of the peak without it appearing as though there were a deficit at all? In other words, I believe the Senator said it is a $2 trillion peak over about a 12-year period, something like that.

Mr. GRAHAM. Yes.

Mr. LEVIN. Does that mean basically, unless his amendment is adopted, that under the current wording of the balanced budget amendment that we could average a deficit of about $200 billion a year and mask it?

Mr. GRAHAM. In the year 2002, which is the year that the constitutional amendment kicks in, Social Security will have a surplus of $1.04 trillion; we will say $1 trillion. During the next 16 years, it grows to $3.02 trillion, or roughly $2 trillion. So $2 trillion divided by 16.

Mr. LEVIN. About $120 billion a year, perhaps.

Mr. GRAHAM. I do not have my calculator, but it would be significant.

Mr. LEVIN. So in terms of the annual average deficit, which will be masked in the absence of the amendment of the Senator from Florida, during that period there could be a $120 billion deficit per year on the average, which would not, in effect, violate the current wording of the constitutional amendment; is that correct?

Mr. GRAHAM. That is right. And this could take place with a majority vote. This does not require a supermajority of the Congress in order to achieve this unexpected result.

Mr. LEVIN. I think the Senator from Florida is pointing out something which is extraordinarily significant. I hope that those who support this amendment understand that, without the adoption either of the amendment of the Senator from Florida or the amendment of the Senator from California, this outcome will result.

My second question relates to the substitute of the Senator from California. The Senator from Florida mentioned that Senator REID of Nevada had offered an amendment the other day which was defeated, and that had it passed, I believe the Senator from Florida said, this problem would have been solved; is that correct?

Mr. GRAHAM. The answer is yes. Because the Reid amendment, now incorporated in the amendment of the Senator from California, would have not required a consolidated Federal budget but rather would have separated Social Security from it. It would have had to balance our budget in general accounts without being able to use Social Security surpluses as a mask and thus we would have avoided the train wreck which we are setting up for our grandchildren.

Mr. LEVIN. And, if the Senator would further yield for a question, if the substitute of the Senator from California is adopted, will that then resolve this issue?

Mr. GRAHAM. If the substitute of the Senator from California is adopted and if, as I understand it, it is the essence of the Reid amendment, then I would suggest that my amendments could be withdrawn.

Mr. LEVIN. Finally, if the Senator would yield for an additional question. The Senator has made reference to questions and answers from the Congressional Leaders United for a Balanced Budget. I have seen that same group referred to. I am wondering whether or not the Senator can tell us what the membership of that is and, perhaps, if he cannot, the Senator from Idaho can, because in documents which have been placed in the RECORD by the Senator from Idaho I have seen the reference to that group, but I do not know who is in it.

Mr. GRAHAM. I received this document from the Congressional Leaders United for a Balanced Budget. I do not believe it indicates who the members are.

Mr. LEVIN. The Senator from Idaho has put in the RECORD documents which I have also referred to and plan on referring to tomorrow. He put the document in on March 1.

Mr. President, I ask unanimous consent, since the Senator from Florida has the floor, whether or not I might ask the Senator from Idaho a question without the Senator from Florida losing his right to the floor.

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

Mr. LEVIN. I wonder if the Senator from Idaho could tell us who the individuals are that make up the Congressional Leaders United for a Balanced Budget, because a number of us keep referring to those documents that are in the CONGRESSIONAL RECORD that my friend put in the RECORD.

Mr. CRAIG. I appreciate the Senator's inquiry and he honors me by that inquiry. Congressional Leaders United for a Balanced Budget was originally formed by both Senators and Representatives in the early 1980's. I chaired it in the House and the former Senator from California, now Gov. Pete Wilson, chaired it here in the Senate. We brought our staffs together and through that, along with experts we brought in overtime to testify on this, accumulated a base of knowledge and understanding of the issue.

So the best and cleanest and appropriate answer is that it is an ad hoc group of both Senators today and House Members who work under Congressional Leaders United for a Balanced Budget for the purposes of promoting this legislation that we have before us.

Mr. LEVIN. If I could ask unanimous consent that I be allowed to proceed, would the Senator from Idaho be able or willing to provide for the record the membership of the group? The reason is that Congressman SCHAEFER has put into the CONGRESSIONAL RECORD the same questions and answers basically, and he is the prime sponsor of the constitutional amendment in the House of Representatives. It is basically the same questions and answers which he has put in as his. I think that is a pretty strong statement coming from the prime sponsor.

Would the Senator from Idaho be willing to put in the RECORD the membership of the group?

Mr. CRAIG. I would be happy to. There is nothing nefarious about it at all. Senators come together, as do House Members, for the purpose of discussion and they find organizational titles. I would be happy to do so.

Mr. LEVIN. May I quickly add, I did not mean to suggest anything the least bit untoward or nefarious at all. We have ad hoc commissions all the time. I know very well I will know the members and admire many of them, indeed all of them. I did not mean to suggest anything unusual or untoward.

But we are all making reference to a group and it seems to me we would like to know who the members of this group are, so we can get a feel whether they include both sponsors and opponents of the constitutional amendment as to who it is that are members of the group. I would appreciate that list for the record.

I thank the Senator from Florida. I want to commend him on pointing out some very, very significant material for all the reasons which he has identified. We will be masking a deficit unless we adopt either the Feinstein substitute or the amendment of the Senator from Florida.

(Ms. SNOWE assumed the chair.)

Mr. GRAHAM. Madam President, I thank my friend from Michigan for his comments. I would say, in all honesty, that the adoption of the amendment as offered by the Senator from Nevada and the Senator from California, of which I was proud to be a cosponsor, would actually be the superior way to deal with this issue because it would solve the problem of no longer requiring that Social Security be commingled with the rest of the Federal budget as well as effectively rendering denuding the potential danger contained in section 2.

So let me just summarize the first amendment. It is a very simple amendment. It strikes the phrase ''debt held by the public,'' would require that the three-fifths vote be applied to all increases in debt from whatever source, would have as its objective to avoid the addition of $2 trillion of debt between the year 2002 and 2018 and almost an assured fiscal crisis thereafter, and substitute in lieu thereof a cap on Federal debt after the year 2002, a substitution of the Social Security trust fund surpluses for debt held by the public during the period from 2002 to 2018, and then a reversal of that as the Social Security system has to redeem the IOU's that it holds from the Treasury in order to be able to meet its obligations.

That is amendment No. 1, which, in our sequencing, is Amendment No. 259.

My amendment No. 2, unfortunately, is a much wordier amendment. Let me read that amendment. It would take the language of section 2 which says, ''The limit on the debt of the United States held by the public shall not be increased,'' and it inserts this phrase, ''except for increases in the limit on the debt of the United States held by the public to reflect net redemptions from the Federal Old Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.''

In essence what we would be saying is that by a majority vote, not a three-fifths vote, the Federal Government would be able to borrow funds—and this would occur based on current projections after the year 2018—the Federal Government would be able to raise the limit of debt of the public by a majority rather than a three-fifths vote for the purpose of redeeming the IOU's the Social Security trust fund will have accumulated and substituting debt that would be held by the public.

It will, in my opinion, be necessary in order to maintain this alternative as a means of financing the enormous transition that will occur in Social Security after the year 2018, without punishing spending cuts, tax increases, or some combination of those.

Madam President, I hope that this body will not just take the position that no amendments are to be considered, that regardless of merit we will mindlessly mow down all proposed changes.

I am a supporter of the balanced budget amendment. I have voted for the balanced budget amendment in the past. I hope to vote for the balanced budget amendment in 1995. I want to vote for a responsible balanced budget amendment. I do not want to leave to our children and grandchildren an enormous debt based on our failure to exercise the discipline which is the purpose of the balanced budget amendment.

That is why I have been supporting it. I also do not want to leave to our children and grandchildren the train wreck which is going to occur if we have a provision that requires a three-fifths vote to raise money from the general public to substitute and be able

to redeem the enormous borrowing that we are going to be making from Social Security over the next 20-plus years.

I believe this is a dramatically more conservative approach than the one that is contained in the balanced budget amendment as currently submitted. It is the difference between having a ceiling of $6 trillion of national debt to one that would have national debt rising to the level of almost $8 trillion. If you are a conservative, if you are concerned about the kind of America that we will leave to the next generation, if you have been appalled at what we have done in the last 15 years where the debt went from less than $1 trillion to now almost $5 trillion in a period of 15 years, you ought to be equally appalled by the prospect of a debt growing from $5 trillion to $8 trillion in the next 20-plus years.

Madam President, we do not have to condemn ourselves to this future. We have an alternative. The alternative is either adopting the amendment offered by the Senator from Nevada and now reoffered by the Senator from California, or as a first fallback, adopting the amendment which I have offered that would require a three-fifths vote for any increase of the national debt, thus forcing a readjustment of Social Security debt, for public debt, in the next period and after the year 2018, allowing a readjustment to finance the Social Security obligation that we will have.

If we do not do either of those, at least we ought to not require a three-fifths vote to fund this enormous debt that we are going to be encouraging by consolidated Federal budget using the mask of Social Security to balloon the national debt by an unnecessary $2 trillion, and then leave it to our grandchildren through taxation or spending cuts to finance this Social Security obligation.

Madam President, I feel emotional about this in part because I am the father of four children who were born as baby boomers and will be in the first line of those affected by this amendment. I am the grandfather of four children, soon to be eight grandchildren as a result of births that are en route, and I do not want to have my children and my grandchildren turn to me 20 years from now and say ''Granddaddy, why did you do this to me when you did not have to do so?''

I believe we have the opportunity to pass a balanced budget amendment that will allow Members to say to our children and our grandchildren: We stopped this profligate Federal spending. We required Members to do as most other individuals, families, businesses, and governments in America have to do. That is, balance their books on a more or less yearly basis. And we did it in an intelligent way that did not require citizens to pay an enormous sacrifice in their generation because we were living off the mask of this Social Security surplus during the last years of our generation's life. That is what is at stake.

As I say, Madam President, I know there is a tremendous momentum to say, ''Let's not accept any amendments. That is perfection. This is what we must adopt.'' I urge that over the next few days—and this will be voted on Tuesday afternoon—that there will be some serious consideration of the implications of this issue.

I say to our Presiding Officer and to my colleagues that I am anxious to meet with any Member of this body, to meet with any group which is concerned about this issue, to discuss its implications, to try to collectively learn what it is we are doing and to determine what would be the most prompt path.

These are an important 4 days that we have between now and Tuesday. I hope we use those days wisely.

Thank you.

UNANIMOUS-CONSENT AGREEMENT

Mr. CRAIG. Madam President, I am about to propose a unanimous consent.

I will be more than happy to meet with the Senator from Florida and respond to those questions. I know he is sincere in his effort and I will make every effort to accommodate him.

I now ask unanimous consent that the votes occur in relation to the pending amendments numbered 259 and numbered 298 on Tuesday, February 28, in the stacked sequence to begin at 2:15 p.m.

Mr. GRAHAM. Reserving the right to object, and I will not do so, will the vote on the amendments occur after the vote on the amendment as offered by the Senator from California?

Mr. CRAIG. It is my understanding that that is the stacked sequence; is it not? I believe that is the correct answer, yes.

The PRESIDING OFFICER. No, it would come after the amendment of the Senator from Wisconsin.

Mr. GRAHAM. But would the amendment of the Senator from California occur prior to this amendment?

The PRESIDING OFFICER. Yes, it would.

Mr. GRAHAM. As I indicated, should the amendment by the Senator from California be adopted, I am prepared to withdraw my amendments, because they would have been solved in a larger and, I think, more effective manner.

If the amendment by the Senator from California is not adopted, I think it becomes urgent that one, and preferably the first of the two amendments that I am offering, be adopted.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BUMPERS. Madam President, I ask unanimous consent that I be permitted to yield to the Senator from Rhode Island for not to exceed 3 minutes, following which the senior Senator from Virginia be recognized for not to exceed 3 minutes, following which the senior Senator from Massachusetts be recognized for 2 minutes for the purpose of laying down an amendment, so that the amendment would qualify for a vote on Tuesday, and that immediately following the laying down of the amendment by the senior Senator from Massachusetts, I be recognized again for the purpose of calling up my amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Madam President, I ask my colleague if he might extend a little more latitude to the two Senators.

Mr. BUMPERS. Of course. I was told by the Senator from Rhode Island that he thought 3 minutes each would do it. I will be happy to yield for a longer period. What would the Senator suggest?

Mr. WARNER. Perhaps not to exceed a total of 12 minutes. The Senator from Rhode Island and I wish to address the commemorative to Iwo Jima.

Mr. BUMPERS. I modify my unanimous-consent request to yield 12 minutes to the two Senators equally divided.

Mr. KENNEDY. Reserving the right to object, I have a 15-second request. Could I ask the Senator be permitted——

Mr. BUMPERS. I amend the unanimous consent request to allow the Senator from Massachusetts to go first.

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

AMENDMENT NO. 267

(Purpose: To provide that the balanced budget constitutional amendment does not authorize the President to impound lawfully appropriated funds or impose taxes, duties, or fees)

Mr. KENNEDY. Madam President, I ask unanimous consent to call up my amendment No. 267, which was previously filed.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. JOHNSTON, proposes an amendment numbered 267.

Mr. KENNEDY. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, between lines 8 and 9, insert the following:

''SECTION 8. Nothing in this article shall authorize the President to impound funds appropriated by Congress by law, or to impose taxes, duties, or fees.

Mr. KENNEDY. Madam President, it is my understanding that the vote in relation to my amendment will occur in the sequence on Tuesday afternoon.

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Madam President, my amendment would simply make it

clear that nothing in the proposed constitutional amendment would authorize the President to impound funds appropriated by Congress by law or to impose taxes, duties, or fees.

I ask unanimous consent that a discussion of this issue set forth in ''Minority Views'' contained in the report of the Committee on the Judiciary be printed in the RECORD.

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

B. THE AMENDMENT WOULD GIVE THE PRESIDENT BROAD POWERS TO IMPOUND APPROPRIATED FUNDS

That the balanced budget constitutional amendment would authorize the President to impound funds appropriated by Congress is clear from the text of the Constitution and the proposed amendment. Article II, section 3, obligates the President to ''take care that the Laws be faithfully executed,'' and article II, section 7, requires the President to take an oath to ''preserve, protect and defend the Constitution.''

Section 1 of the proposed constitutional amendment provides that ''[t]otal 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.'' The amendment thus would forbid outlays from exceeding revenues by more than the amount specifically authorized by a three-fifths supermajority of each House of Congress. In any fiscal year in which it is clear that in the absence of congressional action, ''total outlays'' will exceed ''total receipts'' by a greater-than-authorized amount, the President is bound by the Constitution and the oath of office it prescribes to prevent the unauthorized deficit.

The powers and obligations conferred upon the President by the Constitution and the proposed constitutional amendment would clearly be read by the courts to include the power to impound appropriated funds where the expenditure of those funds would cause total outlays to exceed total receipts by an amount greater than that authorized by the requisite congressional supermajorities.

This commonsense reading of the proposed constitutional amendment is shared by a broad range of highly regarded legal scholars. Assistant Attorney General Walter Dellinger, who as head of the Office of Legal Counsel at the Department of Justice is responsible for advising the President and the Attorney General regarding the scope and limits on presidential authority, testified before the Judiciary Committee that the proposed constitutional amendment would authorize the President to impound funds to insure that outlays do not exceed receipts. Similarly, Harvard University Law School Professor Charles Fried, who served as Solicitor General during the Reagan Administration, testified that in a year when actual revenues fell below projections and bigger-than-authorized deficit occurred, section 1 ''would offer a President ample warrant to impound appropriated funds.'' Others who share this view include former Attorney General Nicholas deB. Katzenbach, Stanford University Law School Professor Kathleen Sullivan, Yale University Law School Professor Burke Marshall, and Harvard University Law School Professor Laurence H. Tribe.

The fact that the proposed constitutional amendment would confer impoundment authority on the President is confirmed by the actions of the Judiciary Committee this year. Supporters of the amendment opposed and defeated an amendment offered by Senator Kennedy before the Judiciary Committee that would have added the following section to the proposed amendment:

''SECTION . Nothing in this article shall authorize the President to impound funds appropriated by Congress by law, or to impose taxes, duties or fees.''

If the supporters of the proposed constitutional amendment do not intend to give impoundment authority to the President, there is no legitimate explanation of their failure to include the text of the Kennedy amendment in the proposed article.

The impoundment power that would be conferred on the President by the proposed constitutional amendment is far broader than any proposed presidential line-item veto authority now under consideration by the Congress. The line-item veto proposals would allow a President to refrain from spending funds proposed to be spent by a particular item of appropriation in a particular appropriations bill presented to the President. As Assistant Attorney General Dellinger testified, the impoundment authority conferred upon the President by the proposed constitutional amendment would allow a President to order across-the-board cuts in all Federal programs, target specific programs for abolition, or target expenditures intended for particular States or regions for impoundment.

The Committee majority makes two arguments to support its assertion that the balanced budget constitutional amendment does not give the President impoundment authority. Both are wrong.

The first is the suggestion that ''up to the end of the fiscal year, the President has nothing to impound because Congress in the amendment has the power to ratify or to specify the amount of deficit spending that may occur in that fiscal year.'' In essence, the majority asserts that there will never be an unauthorized, and therefore unconstitutional, deficit, because Congress will always step in at the end of the year and ratify whatever deficit has occurred. If true, then the balanced budget is a complete sham, because it would impose no fiscal discipline whatsoever.

But if the majority is wrong in its prediction—that is, if a Congress failed to act before the end of a fiscal year to ratify a previously unauthorized deficit, all of the expenditures undertaken by the Federal government throughout the fiscal year would be unconstitutional and open to challenge in the state and Federal courts (see part I.A, supra). It is inconceivable that the President, sworn to preserve, protect and defend the Constitution, would be found to be powerless to prevent such a result.

Second, the majority argues that ''under section 6 of the amendment, Congress can specify exactly what type of enforcement mechanism it wants and the President, as Chief Executive, is duty bound to enforce that particular congressional scheme to the exclusion of impoundment.'' The fact that Congress is required by section 6 of the proposed amendment to enact enforcement legislation certainly does not suggest that the amendment itself would not grant the president authority to impound appropriated funds. Nothing in the proposed article stipulates that the enforcement legislation must be effective to prevent violations of the amendment. Indeed, there is every reason to believe that no enforcement legislation could prevent violations for occurring.

The President's obligation to faithfully execute the laws is independent of Congress's. That duty is not ''limited to the enforcement of acts of Congress * * * according to their express terms, * * * it include[s] the rights, duties and obligations growing out of the Constitution itself, * * * and all the protection implied by the nature of the government under the Constitution[.]'' *In re Neagle,* 135 U.S. 1, 64 (1890). If an unconstitutional deficit were occurring, Congress could not constitutionally stop the President from seeking to prevent it.

C. THE PROPOSED AMENDMENT MANY ALSO CONFER UPON THE PRESIDENT THE AUTHORITY TO IMPOSE TAXES, DUTIES AND FEES

As discussed above, when a greater-than-authorized deficit occurs, the balanced budget constitutional amendment would impose upon the President an obligation to stop it. While greater attention has been paid to the prospect that the amendment would grant the President authority to impound appropriated funds, the amendment would enable future Presidents to assert that they have the power unilaterally to raise taxes, duties or fees in order to generate additional revenue to avoid an unauthorized deficit. See Testimony of Assistant Attorney General Walter Dellinger, 1995 Judiciary Committee Hearings at 102.

This outcome would turn on its head the allocation of powers envisioned by the Framers. No longer would ''the legislative department alone ha[ve] access to the pockets of the people'' as Madison promised in The Federalist No. 48. Instead, intermixing of legislative and executive power in the President's hands would constitute the ''source of danger'' against which Madison warned.

Mr. KENNEDY. I thank my colleague.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

COMMEMORATING THE 50TH ANNIVERSARY OF THE BATTLE OF IWO JIMA

Mr. CHAFEE. Madam President, first I want to thank the distinguished senior Senator from Arkansas for letting us interrupt the sequence.

Last week, Madam President, following the inspiring remarks by that very senior Senator from Arkansas, there were several very eloquent and moving statements made on this floor regarding the battle for Iwo Jima and the 50th anniversary which we are commemorating currently.

Over the next several days, there will be additional statements dealing with that battle which many believe was the most ferocious of the Pacific war. The actual invasion commenced on February 19, 1945, with the battle lasting 35 days. On February 22, 50 years ago yesterday, D-day plus 3, marines from the 4th and 5th Divisions continued their relentless attack against entrenched enemy positions on Iwo Jima. It was very difficult going.

The first 2 bloody days on the island netted gains at a high price in marines killed and wounded—an indication of what was going to come in the succeeding 32 additional days of combat.

The job of taking Mount Suribachi, the 556-foot high extinct volcano at the southern end of Iwo Jima, fell to the 28th Marine Regiment commanded by Col. Harry E. Liversedge.

On the slopes of Mount Suribachi, the Japanese had constructed an exceedingly clever labyrinth of dug-in

gun positions for coast defense, artillery, mortars and machine gun emplacements. These defensive positions were accompanied by an elaborate cave and tunnel system.

From the volcano's rim—that is the top of Mount Suribachi—everything that went on at both sets of the invasion beaches and, indeed, on most of the island, could be observed. Mount Suribachi was a position that had to be taken by the marines.

The men of the 28th Marine Division were the ones that did it. Just 50 years ago today, February 23, 1945, Mount Suribachi was captured by those valiant marines, and so I think it is only fitting, Madam President, that we do take a few minutes to recall the heroism and the constancy and valor of those marines who seized that position.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I am particularly privileged to join my distinguished colleague from Rhode Island. He is too humble to mention he served on Guadalcanal as a rifleman.

During the Battle of Iwo Jima, he was back in the United States being trained as an officer and later was deployed back to the Pacific as a platoon commander in the Battle for Okinawa.

This Senator, I say humbly, had just joined the Navy at this point in time, and I was awaiting my first assignment. I remember so well the sailors—all of us—gathering around the radio—for that was the only communication we had—listening to the reports from Iwo Jima, and later we studied, of course, the films and read the detailed stories of this great battle.

History records that one-third of the casualties taken by the Marine Corps during the entire Pacific war occurred in this historic battle. But I want to mention to my colleague, in furtherance, of Senator CHAFEE's observation about the flag raising, that there were two flag raisings on Iwo Jima. The first flag raising spontaneously occurred about 10:20 in the morning when a first lieutenant with a 40-man patrol finally scaled the heights and lifted the first flag. Fortunately, that flag was observed by James Forrestal, aboard a ship offshore, Secretary of the Navy, a position which my distinguished colleague later occupied and I had the privilege of following him.

Secretary Forrestal is said to have observed to Gen. HOLLAND SMITH, the commanding officer of all the marines in that operation, ''the raising of the flag means a Marine Corps for another 500 years.''

Later in the day, it was determined by senior officers that the first small flag could not be observed throughout the island. A second marine detail, therefore, was set up scaling the same arduous terrain to raise a larger flag, simply to allow our flag to be observed by a greater number of the marines locked in fierce combat.

The second flag was raised by Sgt. Michael Strank, Cpl. Harlon Block, Pfc. Franklin Sousley, Pfc. Ira Hayes, Pharmacist's Mate Second Class John Bradley, and Pfc. Rene Gagnon. The more visible Stars and Stripes was the one that was captured by the famous photographer Rosenthal, and now used as a model for the famous Marine Corps War Memorial near Arlington Cemetery.

So I am privileged to join my distinguished colleague, but I would like to add another point. Recently, we saw a very serious controversy about the *Enola Gay*, the plane that dropped the atom bomb, being a part of the commemorative exhibit being planned by the Smithsonian Institution.

There was, unfortunately, research done and initial reports written, which, in my judgment, and in the judgment of many, particularly those who were privileged to serve in uniform in World War II, did not properly reflect the facts of that war.

Fortunately, cooler heads and wiser minds have taken that situation now and brought it more nearly into balance, primarily as a result of many veterans organizations, particularly the American Legion and the Air Force Association.

But I point out that this battle portrays the extraordinary losses incurred in the Pacific conflict, and I hope those researchers who wrote the initial reports questioning the mission of the *Enola Gay*, have followed the excellent coverage in remembrance of this battle and recognized the mistakes they perpetrated in their earlier assessments of the war and why this country was involved.

My research shows that this is the last battle of World War II when President Roosevelt was Commander in Chief from beginning to end. He died early in April during the course of the battle on Okinawa, which Senator CHAFEE was in, so this was President Roosevelt's last battle. I think it is most appropriate that we join today with others in making this remembrance.

After brief service as a sailor in World War II, I joined the Marines and served in Korea. I always feel that my Senate career is largely owing to my two opportunities to serve in the military. The military helped me greatly to get an education and start a career. I shall always be grateful. And I do not ever associate my career with the distinguished combat records of Senator CHAFEE, or many others in the Senate. I was simply a volunteer during World War II and again for Korea. I shall be forever grateful for the privilege of serving my country during those two periods of our history and being with those who distinguished themselves.

I thank my colleague and long time friend for joining me on the floor this evening.

Mr. CHAFEE. Thank you, Senator WARNER. In the succeeding days, I am sure that others will come forward with statements commemorating other events that took place 50 years ago in Iwo Jima as the battle progressed for those 35 plus days, and which, as I say, those who studied the wars in the Pacific—many of them, not all—say that was the most ferocious battle. I thank the senior Senator from Virginia and the Chair. Also, I would like to thank the senior Senator from Arkansas.

Mr. WARNER. I talked to retired Brigadier General Hittle who served as an Assistant Secretary of the Navy under Senator CHAFEE and myself, and who participated in the battle of Iwo Jima. On behalf of that distinguished individual and dearly beloved friend, I would like to include a short statement of his recollections of that battle and particularly the performance of one of his marines in that battle.

I ask unanimous consent that a statement by General Hittle be printed in the RECORD.

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

STATEMENT BY GENERAL HITTLE

I first met Elmer Montgomery when he reported to my G–4 Section of the 3rd Marine Division on Guam. He was the replacement for the Section's stenographer. He was older than most of the men in the Division and I noticed that when he had some spare time, he would lean his chair back against the side of the G–4 quanset hut, take a small white Bible out of his pocket, and deliberately zip it open, read, and find contentment. Elmer was not a loner. He liked his fellow Marines, but he would silently wince when hearing some of his fellow Marines use profanity.

In February 1945, we sailed for an island called Iwo Jima. A few days after the landings of the 4th and 5th divisions, the 3rd went ashore and was assigned to attack up the center of the island. A couple of days later, when the front line units had suffered heavy casualties, all Division Sections had to send several men up to the front.

It's no easy task to pick men, knowing that they will go into the ''meatgrinder.'' As I was finishing making the selections, Colonel Beyeo (later a Brigadier General USMC (ret)) popped into my dugout. He said that Sergeant Montgomery wanted to see me. I went out and saw Elmer standing a few feet away. I thought I would put his mind at ease and said ''You weren't among those picked.'' For the first time, he argued with me. He said ''I want to go up front, I have a lot of hunting experience in the mountains, and I want to look after these kids.'' He wouldn't take no for an answer. Then I relented. I told him that he was old enough (35 years) to know what he was doing, and only because he was insisting, he could go forward. That's the last time I saw Elmer. A few hours later he was second in command of an attacking platoon. All the company officers were casualties.

As the platoon attacked, it was pinned down by machine-gun fire in a saucer like depression, if any Marine stood up, he was mowed down by machine-gun fire. The Japanese mortars were beginning to zero in. Sensing the potential finality of the platoon's position, he yelled to his men ''When I stand up, move out of the depression.'' Elmer then stood up and began firing from the hip and rushed the machine-gun positions.

The platoon was saved, but Elmer's body was never found. In a few minutes, our artillery pounded that ground and the Japanese

positions. Elmer and his white leather-covered Bible became forever a part of the hallowed grounds of Iwo Jima.

Elmer was awarded post-humously the Navy Cross.

When I was Assistant Secretary of the Navy, I was instrumental in having a new destroyer named in honor of Sergeant Elmer Montgomery. I spoke at the keel laying, and twenty years later, I spoke at the decommissioning of this ship. And today, if anyone should ask me if I used my position as Assistant Secretary of the Navy to influence the naming of the Sergeant Elmer Montgomery, I can look him squarely in the eye, and in all truth, say ''I sure did.''

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

MOTION TO REFER

Mr. BUMPERS. Mr. President, I send a motion to refer to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] moves to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 and issue a report, at the earliest possible date, which shall include the following:

''Section 1. 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) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002.''

''Section 2. Prohibition on budget resolutions that fail to set forth a balanced budget.—Section 301 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following new subsection:

''(k) Congressional Enforcement of a Balanced Budget.—

''(1) Beginning in 2001, it shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that sets forth a level of outlays for fiscal year 2002 or any subsequent fiscal year that exceeds the level of receipts for that fiscal year.

''(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection.''

''Section 3. Point of order against budget resolutions that fail to establish a glide path for a balanced budget by 2002 and set forth a balanced budget in 2002 and beyond.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

''SEC. . Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in 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.''

MOTION TO REFER, AS MODIFIED

Mr. BUMPERS. Madam President, I ask unanimous consent that I be permitted to modify the motion. I have discussed this with the Senator from Idaho. It is a motion that would require a 60-vote majority instead of a simple majority one place in the bill.

The PRESIDING OFFICER. The Senator has that right.

Without objection, the motion is so modified.

The motion, as modified, is as follows:

Motion to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 and issue a report, at the earliest possible date, which shall include the following:

''Section 1. 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) It shall not be in order to consider any concurrent resolution on the budget (or amendment, motion, or conference report thereon) that fails to set forth appropriate levels for all items described in subsection (a)(1) through (7) for all fiscal years through 2002.''

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''(2) The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this subsection.''

''Section 3. Point of order against budget resolutions that fail to establish a glide path for a balanced budget by 2002 and set forth a balanced budget in 2002 and beyond.—

(a) Section 904 of the Congressional Budget Act of 1974 is amended by inserting ''301(j),'' after ''301(i),'' in both places it appears.

(b) Add the following new section immediately following Section 904 of the Congressional Budget Act of 1974:

''SEC. . Section 301(k) may be waived (A) in any fiscal year by an affirmative vote of three-fifths of the whole number of each House; (B) in any fiscal year in which a declaration of war is in effect; or (C) in 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 4.—Section 306 of the Congressional Budget Act of 1974 is amended as follows:

(1) Immediately following ''Sec. 306.'' insert the following:

''(a) Except for bills, resolutions, amendments, motions, or conference reports, which would amend the congressional budget process''.

(2) Add the following at the end of subparagraph (a):

''(b) No bill, resolution, amendment, motion, or conference report, which would amend the congressional budget process shall be considered by either House.''

Mr. BUMPERS. Madam President, I have more to say on this amendment than we have time for tonight. Besides that, the Senator from Georgia, Senator NUNN, wants to be recognized a little late to offer an amendment, and I know the Senator from Idaho has been here a long time and he is tired.

Let me start off by making a few introductory comments about this whole process and not just about my amendment. This afternoon, as I reflected on the talking thoughts on the amendment, I thought, what on Earth is going on when we have an amendment before this body that was passed by the House of Representatives to amend the Constitution of the United States—we took it, and it is now House Joint Resolution 1, and we have probably voted close to 30 times. We voted about 70 times since we came in on January 3. We voted on amendments on this about 30 times and every single one of them, I believe, has been tabled. The distinguished floor manager on the Republican side of the aisle has moved to table every amendment and has prevailed almost on a straight party line vote on every amendment.

Madam President, I think party discipline, at times, is a wonderful thing. That is what this Nation is all about. We have two parties. I hope we can keep it that way. I am not for third parties. I hear some sophistry about how that would work wonders for the country. I think we have done reasonably well with two political parties and I believe in party unity and discipline—to a point.

But I would like to call the attention of my colleagues to how really bizarre this is. Here we are talking about the organic law of the Nation which has provided us with 205 years of unfettered freedom because of the brilliance of James Madison, John Jay, Alexander Hamilton, George Washington, and all of the other Founders who crafted that brilliant document. Can you imagine in Philadelphia in 1787 George Washington, presiding over the Constitutional Convention to craft that document, saying, James Madison and I have sat down and crafted this amendment and we will broach no changes; and somebody says, Mr. Chairman—or whatever his title was—I have an amendment that I think would improve that, and James Madison says, Mr. President, I move to table that. That is the end of that amendment. Alexander Hamilton, who believed in more central Government—and I did not particularly agree with him, but he was a brilliant man—says, Mr. President, I have an amendment to change three words here that I believe would improve article and amend article IV on unlawful searches

and seizures; and Madison says, I move to table that. Voted on and that is it.

Who here believes that the Constitution of the United States would be the document it is today if at the Constitutional Convention the Founding Fathers had carried on in such a manner? There are 100 Senators—two from each State of the Nation—and we have a right to offer amendments, but they are not even being entertained. They are just being summarily dismissed because they say, if we change this document, House Joint Resolution 1, this amendment to the Constitution, if we change one jot or tittle, the House will not take it back.

Deliberative body? Well, that is laughable. We are not deliberating. Some people here are trying to actually improve it. Others, like me, are trying to kill it. But everybody gets the same treatment —they get tabled, harassment, and out of here.

Going back to the Bill of Rights, the first 10 amendments to the Constitution were submitted in 1789, the same time the Constitution was ratified; and the first 10 amendments, which were the Bill of Rights, were adopted at the same time the Constitution was. Since that time, Madam President, there have been 11,000 proposals offered in the U.S. Congress to tinker with that document—11,000. We have had almost one a day since we came back here January 3, 1995. The last time I checked, 35 constitutional amendments had been proposed to the Constitution since January 3. That is the reason the other day—I think I mentioned this once before, but it is worth repeating. I went down to Wake Forest to speak at a convocation celebrating the 100th year of Wake Forest Law School. When they called me and said, ''What will your topic be?'' I said, ''I will call it 'Trivializing the Constitution.' '' That is what I spoke on, the trivializing the Constitution. There were 11,000 efforts to change a document that the most brilliant minds ever assembled under one roof put together, which has made this country what it is.

And so we come here with an amendment that is as unworkable as prohibition. You know, everybody in this country wanted to put a social policy in the Constitution. They said we want to stop people from drinking, so we put it in the Constitution. About 14 years later we took it out. Do you know why? Because we found we had made a miserable mistake. Regardless of how you feel about drinking, that was not the issue. The issue was that we were setting social policy in the Constitution, and all we got out of it was organized crime—Al Capone, the founder of rumrunning in this country.

Organized crime is still firmly in place in this country. We were tinkering with the Constitution, and a misguided amendment caused it. The figures on this thing are so staggering, people do not want to hear it. Senators do not want to hear it. People who watch C-SPAN do not want to hear it. They do not relate to it. Think about it—promising the American people they would balance the budget by 2002, but first we are going to spend $471 billion more in tax cuts and increase defense spending— If you took Social Security out of the equation, as the Republicans have suggested, approximately $2 trillion in spending would have to be cut to balance the budget by 2002. How many people in this body do you think, Madam President, believe we are going to cut $2 trillion in 7 years? The answer is in the question.

Unhappily for all of us, the constitutional amendment is popular. A vote against House Joint Resolution 1 will not be the first unpopular vote I ever cast. But, as Woodrow Wilson said in his inaugural address, the biggest question for every politician who is a public servant in the mode of a statesman, the biggest question he always has to ask himself, is what part of the public demand should be honored and what part should be rejected.

Politicians try to provide everything on the agenda for everybody. We have a $4.5 trillion debt to prove that. But statesmen have to ask themselves, does the proposal expand individual liberties? Does it provide for domestic or international tranquility? Does it educate our people? Does it provide for more health and general welfare? Or is it something to run for reelection on in 1996?

I do not intend to denigrate or debase my colleagues, but I daresay, Madam President, if this amendment were being voted on in secret and every Senator knew that not one soul would ever know how he or she voted, you might possibly muster 40 votes max.

But the reason the amendment is so popular is because the people of this country think that if you put language in the Constitution, something magical happens. What they do not understand is that there is a real possibility that nothing would happen. For example, Congress might be able to ignore the constitutional requirement if the courts were unwilling or unable to enforce it, as some proponents of the balanced budget amendment suggest.

On the other hand, Congress might blindly follow the provisions of this amendment in a manner that causes economic ruin. For example, say we are in the midst of a recession, headed for a depression. We need to unbalance the budget in order to spend money to create some jobs because the unemployment rate has skyrocketed, as occurred during the Depression when it was 25 percent. If you have 41 people in the Senate who say, ''I am not voting to unbalance the budget under any conditions'', you could be faced with is an apocalypse. And I am telling you, Madam President, that is not a farfetched idea. I have watched, on this floor since I have been in the Senate, people vote to spend money on everything they could find and then when it came time to raise the debt ceiling they said,

No! I am not going to vote to raise the debt ceiling. I just got through voting for $250 billion for a defense budget and for the space station and everything else I could find to spend money for, but I am not voting to raise the debt ceiling. I am going to go back and tell my people what a great fiscal conservative I am.

The people of this country, and indeed the Congress, in their infinite wisdom have seen fit to tinker with the Constitution very, very rarely. As Norman Ornstein said amending the Constitution should be ''the fix of last resort''. This is a perfect description, ''the fix of last resort.''

To my friends who pride themselves on being conservatives, which I do when it comes to fiscal matters, do you know what Robert Goldwin at the conservative American Enterprise Institute said? ''True conservatives do not muck with the Constitution.'' All you conservatives, let me repeat it. This great man at the American Enterprise Institute said, ''True conservatives do not muck with the Constitution.''

My motion would refer House Joint Resolution 1 to the Budget Committee with instructions that the Committee report language which includes the requirements of my proposed amendment. Now, Madam President, my proposed amendment is designed for those members who really do not want to muck with the Constitution. I invite my colleagues to look at these two charts which describes why my proposed amendment is designed to do what needs to be done legislatively and, in my opinion, has more force and effect than a constitutional amendment.

Can you believe that we are debating an amendment to balance the budget, and at the same time people are saying, ''let's go on a spending spree until the year 2002 and pray to God that people have forgotten what we said in 1995''. Let us not deal with the deficit until the year 2002.

I say let us start right now. My proposed amendment, if enacted into law, would require that we will have a balanced budget by the year 2002. The constitutional amendment calls for a balanced budget, but contains no enforcement mechanism that would actually require a balanced budget. If that is not a dramatic difference, I do not understand the mother tongue, English. My amendment requires a balanced budget; the constitutional amendment calls for one. It does not demand it at all.

My proposed amendment says you can waive the balanced budget requirement by a three-fifths vote. So does the constitutional amendment. My proposed amendment says you waive it if there is a declaration of war. The constitutional amendment says the same thing. My proposed amendment says if we are in a military conflict, a majority of each house can waive the requirement. The constitutional amendment includes the same provision.

My proposed amendment would require that each annual Budget Resolution passed by Congress between now and 2002 contain a glide path showing how we will get to a balanced budget by 2002. Everybody says we cannot balance the budget overnight. Everybody knows we cannot do it overnight.

My proposed amendment is enforceable because a budget resolution could not be passed if it did not balance the budget in 2002. If a budget resolution is not passed, Congress is prohibited from enacting appropriations and tax bills. The constitutional amendment, on the other hand, may or may not be enforceable. Nobody knows for sure.

The most beautiful thing about my proposed amendment is it is more enforceable than the constitutional amendment and it does not touch the Constitution.

My proposed amendment also protects Social Security. The constitutional amendment raids the Social Security system to the tune of $681 billion between now and the year 2002.

My proposed amendment says, ''Action now.'' Do you know what the constitutional amendment that we are debating here says? ''No requirement for action until the year 2002, at the earliest.''

That is right, America; 7 years before we even start on this whole thing and no requirement to do otherwise.

Madam President, I have some more things I want to say, but everybody wants to get out of here. My distinguished friend from Georgia has an amendment he wants to lay down and discuss for a moment.

So I ask unanimous consent that I be permitted to yield to the Senator from Georgia for that purpose, that my motion be temporarily laid aside, and that it become the pending business when we return to House Joint Resolution 1 tomorrow morning.

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

The Senator from Georgia.

Mr. NUNN. Madam President, I thank my friend from Arkansas. I appreciate his yielding at this point. I do have two amendments. I would like to call up both amendments for the purpose of making sure they are eligible to be voted on, and then I will talk about one amendment tonight relating to judicial review.

AMENDMENT NO. 299

(Purpose: To permit waiver of the amendment during an economic emergency)

Mr. NUNN. Madam President, I would like to call up an amendment relating to economic emergency, which is amendment No. 299, and ask it be sequenced.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 299.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 2, strike lines 18 through 25 and insert the following:

''SEC. 5. The provisions of this article shall not apply to any fiscal year—

''(1) if at any time during that fiscal year the United States is in a state of war declared by the Congress pursuant to section 8 of article I of this Constitution; or

''(2) if, with respect to that fiscal year, the Senate and the House of Representatives agree to a concurrent resolution stating, in substance, that a national economic emergency requires the suspension of the application of this article for that fiscal year.

In exercising its power under paragraph (2) of this section, the Senate and House of Representatives shall take into consideration the extent and rate of industrial activity, unemployment, and inflation, and such other factors as they deem appropriate.''

AMENDMENT NO. 300

(Purpose: To limit judicial review)

Mr. NUNN. Madam President, I ask unanimous consent that amendment be set aside and that I call up amendment No. 300 at this point in time. I ask it be sequenced.

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

The clerk will report.

The bill clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 300.

Mr. NUNN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, line 3, after the period insert ''The power of any court to order relief pursuant to any case or controversy arising under this article shall not extend to ordering any remedies other than a declaratory judgment or such remedies as are specifically authorized in implementing legislation pursuant to this section.''.

Mr. NUNN. Madam President, the amendment that is amendment No. 300 relates to judicial review under the balanced budget amendment that is now pending before the Senate. I intend to offer this amendment and have it voted on on Tuesday, and I am very hopeful this body will agree to the amendment.

My amendment would provide that the power of any court to order relief under the balanced budget amendment could not extend to any relief other than a declaratory judgment or such remedies as may be specifically authorized in legislation implementing the balanced budget amendment.

Madam President, this amendment is identical to the Danforth amendment that was agreed to last year as a part of the balanced budget amendment which was voted on last year but not passed. I voted for that amendment but I did so after the Danforth amendment was incorporated in that amendment because I felt, and continue to feel, that this is absolutely essential if we are going to pass a constitutional amendment, if it is going to be ratified by the States, and if it is going to be able to function properly under our system of Government.

In my judgment, adoption of a balanced budget amendment without a limitation of judicial review would radically alter the balance of powers among the three branches of Government that is fundamental to our democracy. As former Deputy Attorney General Nicholas Katzenbach 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.

Former Solicitor and Federal Judge Robert Bork has expressed his grave concern that the balanced budget amendment:

* * * would likely [result in] hundreds, if not thousands of lawsuits around the country, many of them on inconsistent theories and providing inconsistent results.

Under the Constitution, the taxing and spending powers are vested in the two policymaking branches of Government, the legislative and executive branches. These branches are elected by the people. The powers to tax, borrow, and pay debts are expressly vested in the Congress under article I, section 7, 8, and 9, under the 16th amendment. The power to appropriate funds is expressly vested in the Congress under article I, section 9. The power to implement and execute the laws made under the powers of Congress is vested in the President, under article II, section 1.

The Founders of this Nation fought a revolution in opposition to taxation without representation. They would have found it inconceivable that the power to tax might be vested in the unelected, lifetime tenured members of the judicial branch of government.

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. 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 tenured judges.

Madam President, I have no doubt that a majority, a large majority of the people I represent in the State of Georgia, are in favor of a balanced budget. Many of those people, if not most, would favor the sort of last resort effort to balance that budget by constitutional amendment, if that is the only way to do it, and that is what we are debating now. I do not believe, however, very many constituents in the State of Georgia would want the Federal courts to make these crucial decisions. I do not believe they would want any risk of that attendant to a

constitutional amendment that we are voting on in the next few days.

One of the arguments that has been offered against the judicial review limitation—and of course we voted on a very similar amendment to my amendment, sponsored by the Senator from Louisiana, Senator JOHNSTON, last week. It was defeated by 47 votes for it, 51 votes against it. And one of the arguments that was offered against that Johnston amendment which I voted for, and was very disappointed when it did not pass, is that it is unnecessary because the Supreme Court has tended to treat taxation and spending issues as political questions not appropriate for judicial review.

I do not agree with this argument against the Johnston amendment and against the Danforth amendment. There have been unfortunate encroachments on the political question doctrine which demonstrate the potential and the high risk for an activist judiciary to assert the power to tax.

In testimony on the balanced budget amendment, Assistant Attorney General Walter Dellinger has cited the case of *Missouri* v. *Jenkins*, 495 U.S. 33. That was a 1990 case in which the Supreme Court considered a decision by a district court to order specific taxes in order to implement the lower court's desegregation plans. Although the Supreme Court in that case did not approve the district court's imposition of specific taxes, the Supreme Court approved a decision by the court of appeals mandating taxation so long as the specific details were left to the State.

In other words, to those who say this is not a danger, I say look at the Missouri case, where the court, upheld by the Supreme Court, made it clear that the lower court's decision could hold, mandating taxation by the State.

If that precedent holds and somebody comes in under this constitutional amendment and makes a case that has standing, they would very likely find some Federal judge who would be willing to take this case, the Missouri case, and act on it and perhaps even order taxation under that theory.

If the Supreme Court can permit Federal courts to order the imposition of taxes to address nonbudgetary issues—that is what the Missouri case was—in my view, it is quite likely the court would consider it appropriate to order taxation to meet the specific constitutional objective of a balanced budget. It seems to me it is more likely that they would order it in that case than it even was in the Missouri case.

Madam President, an alternative argument against this amendment is, because there have been relatively few cases in which the Supreme Court has stretched the political question doctrine, we can rely on legislative history of this balanced budget amendment to discourage the court from asserting new powers over the budget.

Again, I do not agree. Legislative history has not been particularly helpful. In fact, it may even be considered harmful. The discussion in the committee report, for instance, on page 9, the committee report that brings out this amendment, expressly declines to state that the amendment precludes judicial review. Instead, the report states—this is the report before us by the Judiciary Committee:

> By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanctions 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.

Madam President, there is a vast difference between actually prohibiting judicial review as opposed to merely refusing to establish congressional sanction for judicial review. That is what this committee report does.

An activist court—we have many Federal judges that are still in activist category in a number of appeals courts—an activist court faced with a lawsuit based upon the balanced budget amendment, in my view, will have no trouble pointing out that Congress consciously decided not to prohibit judicial review. Legislative history of the balanced budget amendment underscores 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 a constitutional amendment in a manner that would protect the prerogatives of the legislative branch.

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, said—this is one of the lead sponsors on the House side, Representative SCHAEFER:

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

He went on, the same Representative SCHAEFER, one of the prime authors of this amendment on the House side, quoting him again:

> The courts could invalidate an individual appropriation, or attack that. They could rule as to whether a given act of Congress, or action by the Executive, violated the requirements of this amendment.

In other words, Madam President, one of the prime authors of this amendment on the House side explicitly invites the court to get in the rulings on tax and spending decisions.

I find this very troubling. The statements by a lead sponsor in the House represents a wide open invitation for unelected life tenure members of the judicial branch to make fundamental policy decisions on budgetary matters. I have the highest respect for the judiciary. I do not believe, however, that making budget decisions is a role that would be sought or welcomed by the American people in terms of Federal judges carrying this out. In fact, I think a number of Federal judges, probably a majority them, would not welcome this kind of responsibility or this kind of jurisdiction. It is certainly not a role that our constituents would expect to be filled by unelected Federal officials. If we start having unelected officials making tax and budgetary decisions, we are basically going to be unraveling the Boston Tea Party in terms of the forefathers when they did not want taxation without representation.

Madam President, another argument in opposition to a limitation on judicial review is that cases will be dismissed because plaintiffs lack standing. As noted in the judiciary report, pages 9 and 10, the powers of the judiciary under article III of the Constitution traditionally have been limited by the constitutional doctrine that a lawsuit cannot be considered by the Federal courts unless a plaintiff can demonstrate that he or she has standing to bring litigation. Under current Supreme Court doctrine, the plaintiff must show that he or she suffered an injury, in fact that the injury is traceable to the alleged unlawful conduct, and that the relief sought would redress the injury. The Judiciary Committee report asserts that it would be vastly improbable that a litigant could meet these standards.

Again, I do not agree with that report. Assistant Attorney General Walter Dellinger provided the following examples of individuals who would have standing.

If a crime bill authorizes forfeitures, it thereby increases Federal revenue. A criminal defendant would have standing to challenge a forfeiture on the grounds that the bill was passed by voice vote rather than by a rollcall vote as required by the balanced budget amendment.

Another example from Assistant Attorney General Walter Dellinger is that if the President were to reduce Social Security benefits in order to address the balanced budget amendment, a Social Security recipient would have standing to challenge the President's decision.

It is not too difficult to contemplate other scenarios. If welfare benefits are cut by the President, a welfare recipient could challenge the authority of the President to do so. At least that is the risk. If the President declines to cut welfare benefits, a State could challenge the President's failure to do so. If a State terminates a highway improvement contract because the President cut Federal funds, it is likely that both the State and the contractor would have standing to challenge the President's actions.

In each of these cases, the litigant, whether an individual, a company or a State would have standing because the litigant could meet all three elements of the test of standing: The entity suffered an injury in fact, No. 1; the injury was clearly traceable to the action or inaction under the balanced budget amendment, No. 2; and, No. 3, the relief sought, which would be invalidating the action or mandating a tax or expenditure, would redress the injury.

As Senator JOHNSTON noted on February 15, the experience of the States with balanced budget amendments demonstrates the likelihood that the court will find standing to institute lawsuits under the balanced budget amendment as reflected in litigation that is taking place in Louisiana, Georgia, Wisconsin, and California. Some have suggested that, because the States did not experience a flood of litigation, there is nothing to worry about. Again, I do not agree.

As former Solicitor General and Harvard Law School Professor Charles Fried noted, and quoting him:

> The experience of State court adjudication under State constitutional provisions that require balanced budgets and impose debt limitation shows that courts can get intimately involved in the budget process and that they almost certainly will.

Madam President, it would only take one or two well-placed cases a year to create budgetary chaos during the years that it would take from the time the lawsuit was initiated to the time that it was resolved by the Supreme Court of the United States. It does not take but one case to put clouds over a whole issue, such as bond issues or Treasury notes.

I do not think we are thinking through what we are doing here in not putting an amendment in here that makes this judicial review clear and makes it clear where the limitations are.

Madam President, some have contended that a constitutional provision governing judicial review is not necessary because Congress can restrict judicial review by statute in the future. Again, I dissent. I do not agree.

In the first place, there is no guarantee that such limitations would be placed in the implementing legislation. If we believe judicial review should be restricted under this constitutional amendment, we need to say that and we need to say it now before we pass it and before the States vote on it.

Second, although 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.

If there is, I want someone to show it to me. Where is the case by the Supreme Court that says Congress can cut off the right of the Supreme Court to issue a ruling on the Constitution of the United States? I have not seen that ruling.

As noted in the highly respected analysis of the Constitution prepared by the Congressional Research Service:

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

Let me read that again. The Congressional Research Service says:

> [T]hat Congress may through the exercise of its power 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.

Madam President, the only way to ensure the validity of legislation restricting jurisdiction on a constitutional matter is to expressly restrict judicial review in the text of the constitutional amendment. If we do not do that, we are inviting litigation, we are inviting judicial chaos, and we are inviting at least a risk of the fundamental overturning of the balance of powers and the separation of powers between our branches of Government.

I do not believe a conservative body wants to do that. I just cannot believe we want to do that, particularly since we passed the same amendment last year and we have rejected it this year, which is even more of an invitation for the courts to construe that we really are inviting judicial review. It is inconceivable to me that we are not going to get 50 votes to make this clear. It is really literally inconceivable.

Some have asked, ''How can we have a balanced budget amendment and how can it be enforced without judicial review?''

The first thing I would say on that, Madam President, is that we all take an oath to abide by the Constitution. That is part of the oath that we subscribe to when we come into this body. I do not believe that Members of this body will intentionally violate that oath, nor do I believe they will risk the wrath of their constituents by violating the Constitution.

We may have 60 Senators who decide it is not a year for a balanced budget under this amendment, but that is in keeping with the amendment. That is not in defiance of it. It is permitted under the amendment.

If Congress finds that such judicial review is desirable, it can tailor a statute to meet particular requirements.

I have heard people say, ''You don't need to propose it in this amendment because we can come back by statute and do this.'' It seems to me that that is simply not the case. I do not agree with that.

But I do believe that if we pass this amendment and then we decide that we want some judicial review—I probably will not want it—but if some people decide it, then there is no reason they cannot propose it, because this amendment permits the Congress to grant judicial review by statute if the Congress decides to do so.

So we can tailor a statute to meet requirements in the future. We will have all the flexibility we need to meet that.

Under my amendment, Congress can decide based on experience what remedies are best—whether judicial review should include only declaratory relief or whether it should include injunctions; whether it should be directed only at spending or whether it should include taxes. On the latter, I certainly will adamantly oppose any kind of judicial review that gives the courts the power to set spending or to set taxes. These are decisions Congress should make and it should be made based on experience.

The amendment in its present form, I believe, is defective because it fails to address these issues. It leaves the whole situation ambiguous.

In fact, as I have said, it leaves it worse than ambiguous because we are now debating essentially the same constitutional amendment we had last year. Last year, the Danforth amendment, which precluded this kind of judicial review without expressed statute, was passed. It was part of that amendment. This year, it has been expressly defeated on the floor of the U.S. Senate. And I would submit that any Federal judge would look at that that wants to get involved and they would say, ''There is our invitation that Congress clearly could have precluded it. They consciously precluded it last year, 1994, and they did not preclude it in 1959.'' And some of the authors of the amendment on the House side even invited this kind of judicial review.

Madam President, I know that many of my colleagues have grave reservations about this overall balanced budget amendment because of its impact on congressional spending powers. I understand these concerns, but, frankly, I think that we are down to the point where we have about 40 years of experience and without a constitutional amendment we have simply not come to grips with our fiscal problems.

It is my hope that I can vote for this constitutional amendment. But I will not be able to vote for it unless we make it clear that the judiciary of this country is not going to tax and spend and we are not going to change our form of Government back door by a constitutional amendment that is ambiguous on this question.

I understand the concerns that people have, many concerns about what will happen in various forms of spending under this constitutional amendment. Those concerns are legitimate. Many of those concerns, however, go to the question of whether we are going to ever have a balanced budget at all under any such kind of provision.

I also understand and have great identification with the view expressed by those who supported the Reid amendment on the Social Security exclusion. Some people have described that, in my view, certainly from my

perspective, erroneously as being an amendment that says we are not going to touch Social Security. Far from it. My view and my position on that is the Social Security system has to be dealt with. I do not think we have to do anything that hurts people on Social Security now, or those about to retire. But we cannot continue to borrow the money from the Social Security trust fund every year, put it in the operating fund, and then put a Treasury bill in the Social Security trust fund.

Not only are we doing that, this constitutional amendment, unless we deal with that—and we are not dealing with it now because the Reid amendment was defeated—this constitutional amendment basically invites, it invites raiding the trust fund. Because it defines debt as being debt held by the public. Trust fund debt, putting a Treasury bill in the trust fund, is not debt held by the public. And we have what probably is inadvertent—I hope it is inadvertent—we have an inadvertent provision here in this amendment that basically invites building up more surpluses in the trust fund because you can borrow those funds with impunity from the operating fund and it does not require 60 votes.

Now I think that is another flaw that needs to be dealt with. And I would think the authors of this amendment would want to deal with these flaws. But we are about to put something in the Constitution. I know the argument is that if we make any amendment here it has to go back to the House and that causes trouble; it would cost time.

Madam President, we are about to amend the Constitution of the United States. We are about to put a provision in here that may be here 50 years from now, 100 years from now, or 200 years from now. I cannot conceive of passing something that we believe or a majority believe is flawed in an effort to get something through in a rapid fashion.

I hope that we will deal with Social Security also, because, if we do not, Madam President, in spite of the fact that the 2002 date may be met—and I hope it is under this, if it is passed and ratified by the States; that is we, by the definition of this amendment, may have a balanced budget in 2002—and that would be an improvement, certainly an improvement over the present situation—it really will not be a balance because we will be borrowing about $100 billion that year from the Social Security trust fund and that will count as a balance. We will put a Treasury bill in the Social Security trust fund and then we will say that we have met the balance.

And yet, by the year 2013 or 2014, in that neighborhood, the general operating fund will owe the Social Security trust fund about $3 trillion. We will do that. We will have that kind of debt to the Social Security trust fund even if we meet the mandate in this balanced budget amendment by 2002. And even if we have a balanced budget amendment in 2002, 2003, or 2004, if we meet it every year, we are still going to be rolling up debt. We are still going to have an operating budget that is out of balance because we are operating by borrowing from the Social Security trust fund.

Not only the principal; we are borrowing the interest. What happens when the baby boomers retire? We will wake up in this country and we will find we owe $3 trillion. We no longer will have three workers for every retiree. We will be moving 2½ down to 2.

At some point in the 2020's what we will have to do in order to have a Social Security fund be able to meet its payments, we will have to begin paying back that $3 trillion. Guess what happens then? We will be able to say for a few more years the Social Security trust fund can meet its obligations, but the general fund is going to have to borrow money, or we will have to tax people much, much greater than we are taxing now. In fact, the tax rates could become almost unbearable and almost unworkable in that situation.

Now, I have to say that if we deal with this Social Security question like the REID amendment or some other amendment, and I hope we will, in my opinion, in all honesty, it will take more than 7 years to get the budget balanced. We should not keep the 7-year provision in this bill because we will have to find another $110 or $120 billion in the year 2002. It will probably take more like 10 years.

But I cannot think of anything more disillusioning to the American people than to go through the whole constitutional action here, pass it in the Senate, pass it in the House, pass it in three-fourths of the States, get down do 2002, 2003, 2004 and discover we have been borrowing money from the Social Security every year and that we still do not really have a balanced operational budget.

Only in the macro sense will we have the economic effect, but we will be rolling up debt after debt after debt. We will owe $3 trillion by the time many of our children will be getting to the point they retire. That is going to be very, very disturbing.

It is my hope that we will deal with both of these matters. On the Social Security I know there are a lot of people who feel that way. If we do not deal with it here, it will come up over and over and over again this year. We will be caught in a catch-22. We will be caught in a catch-22.

I may not vote against this amendment because of Social Security, although I may. I have not decided that. I certainly know that I am not going to be able to support this unless we deal with the judicial part of this judicial review.

Assuming we pass this, we are going to be dealing with it, they will continue big efforts on the floor of the House and the Senate to get Social Security out of here—not because Social Security itself does not have to be addressed. It does. We will have to address it separately. We should be addressing the Social Security system not as a way of building up surpluses that mask the true size of the Federal deficit. We ought to be dealing with it to preserve the integrity of that fund over a long period of time, and to make sure that our elderly people are fully protected. I am afraid that is not the way we will go.

Madam President, one final thought. The way this amendment is worded now where it is only debt held by the public that counts in terms of debt, what we have is a major enticement for a loophole in this amendment. The loophole is, if we create more surplus in the trust funds, the Social Security trust fund, the airport trust fund, the highway trust fund, where our gas taxes go, the more surpluses we build up in there, the less we are going to have to do on deficits because those surpluses can be borrowed under the provisions of this amendment with impunity.

They will not count as deficit. They will not count as debt. I think that is a major mistake. I think it is a real flaw in this amendment. I think it will come back to haunt us. If this passes and is ratified we will have people—year after year, and at some point it will probably pass—come to the point where they say we are not going to continue to use these Social Security surpluses. We will stop that.

It may happen on the budget resolution. At some point, the people of this country will find out and we will pass that kind of recusal. It may be on a budget resolution, and then we will be in the dilemma. We will have 7 years to get the budget balanced under this constitutional amendment.

We are not going to be able to change that by statute. We will not be able to meet the requirements, because at some point we are going to come to our senses and quit borrowing that Social Security trust fund each and every year. Then we will be in a situation, I predict, where we will not be able to meet the requirements of the balanced budget amendment by 2002, setting off a whole other round of disillusioned people out there, wondering if we will ever be able to deal with our fiscal problems responsibly.

Madam President, I point these flaws out because I am one who hopes to be able to support this constitutional amendment as a last resort. I think having a constitutional amendment to deal with fiscal matters and budgetary questions is really a tragedy. I think it is an indictment of our entire political process that we are at this point. But we are at this point.

I am one of those who would, if we have the right provisions in this amendment, I will vote for it. If we do not, it will be very difficult, but I will have to cast my vote no. The judicial part to me is enormously important, as I have said over and over again in this presentation, and I have said it privately to my colleagues, and I have said it in many different forums. The

last thing we need added to our budgetary difficulties in this country is to have Federal judges setting tax and spending policy.

Madam President, I understand both of my amendments are now in order and are sequenced, and I will be entitled to have votes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HATCH. Madam President, I have listened carefully to the comments of my colleague. I have to say that I am disappointed he feels the way he does because I believe that the amendment that he offers does not accomplish what he wants to accomplish anyway.

Declaratory relief can be just as intrusive as an injunction. When a court declares a statute unconstitutional, it has the same effect as enjoining the Constitution. Exactly the same thing.

My dear friend and colleague, who I have a great deal of admiration for and who I respect very much, seems to agree that the standing doctrine would give the courts the ability to interfere with the budgetary process, but because it is a possibility that the courts might interfere, certainly not a probability under anybody's viewpoint, that he would like to see that changed. Well, that may be. Others would like to not see it changed.

The Senator cited Missouri versus Jenkins. I have to say Missouri versus Jenkins is a 14th amendment case. The 14th amendment only applies to States. Frankly, it does not apply to the Federal Government. We have never had a ruling from the Supreme Court that applies to budgetary policy or macroeconomic policy in that sense, where the courts will tell a Federal Government to tax and spend.

The courts have maintained an aloofness from that. It is not a question in the mind of most who look at it. Missouri versus Jenkins is an example, but that case only applies to the States. As I say, it is a 14th amendment school desegregation case. The court in Jenkins noted that its result does not duplicate coequal branches or implicate coequal branches of government. There is no way that that case applies.

In fact, even that case is under severe questioning by almost everybody in law today as having gone too far, even though it was a desegregation case, which is considerably different from what we are talking about here.

I am confident, and I have no doubt at all, that we can deal with the judicial activism problem through implementing legislation. Here are some examples, the Norris-La Guardia Act, it is in effect today where Congress prohibited courts from enjoining labor disputes. We abide by it to this day because the courts were enjoining labor disputes. In contract and a whole variety of other areas, the courts were interfering. But the Congress decided to limit the jurisdiction of the courts and to this day we have abided by that limitation. The Anti-Injunction Act, prohibiting courts from enjoining collection of taxes.

We will, in the Judiciary Committee, make it a top priority, and certainly it will be a top priority of mine, to draft implementing legislation to deal with this matter. I hope my colleague will not get himself in such a position that he cannot vote for this when it is the best he is ever going to see under those circumstances.

Mr. President, the balanced budget amendment is a fine-tuned law. It manages to strike the delicate balance between reviewability by the courts and limitations on the court's ability to interfere with congressional authority. But the proposed amendment could destroy that balance and endanger the ability of the balanced budget amendment to effectuate real change in the way Congress does business.

The Nunn amendment, which is virtually identical to Senator DANFORTH's amendment of last year to the balanced budget amendment, would limit judicial remedies to declaratory judgments or such remedies that Congress specifies in implementing legislation.

If the purpose of the Nunn amendment is to prevent judicial activism, to prohibit the courts from ordering the raising of taxes, the cutting of spending programs, or the slashing of the Federal budget, as a vehicle it does not accomplish its aim. Simply put, in many circumstances a declaratory judgment can be as intrusive as an injunction. Consider a hypothetical situation where a Federal spending program is unconstitutional. Whether a court restrains the implementation of the program by injunction or declares that program unconstitutional, the effect is the same: The agency will not enforce the program.

The intrusive nature of declaratory relief was at least implicitly recognized by Justice Felix Frankfurter in *Colegrove* v. *Green,* 328 U.S. 549 (1946). In writing for the majority, Justice Frankfurter opined that a declatory judgment is a statutory equitable remedy that should only be granted when standards for granting an injunction are met.

Moreover, I fear that expressly permitting declaratory relief in House Joint Resolution 1 may be construed by some activist court as a constitutional invitation to interfere in the budgetary process—the very situation that Senator NUNN seeks to avoid.

Finally, I believe this amendment is unnecessary. The long existing and well-recognized precepts of standing, justiciability, separation of powers, as well as the political question doctrine, refrain courts from interfering with the budgetary process. Furthermore, as a further safeguard against judicial activism, pursuant to both article III of the Constitution and section 6 of House Joint Resolution 1, Congress may limit the jurisdiction of courts and the remedies that courts may provide. The Judiciary Committee will study this and draft implementing legislation to prevent undue judicial activism. The proper place to do this is in implementing legislation and not in the body of a constitutional amendment. No constitutional provision presently contains a jurisdictional limitation on courts.

Let me explain at greater length why I think the Nunn amendment is unnecessary:

JUDICIAL ENFORCEMENT

First let me state that I wholeheartedly agree with former Attorney General William P. Barr, who stated that if House Joint Resolution 1 is ratified there is:

* * * little risk that the amendment will become the basis for judicial micromanagement or superintendence of the Federal budget process. Furthermore, to the extent such judicial intrusion does arise, the amendment itself equips Congress to correct the problem by statute. On balance, moreover, whatever remote risk there may be that courts will play an overly intrusive role in enforcing the amendment, that risk is, in my opinion, vastly outweighed by the benefits of such an amendment.

CONGRESS' POWER TO RESTRAIN THE COURTS

In order to resist the ambition of the courts, the Framers gave to Congress in article III of the Constitution the authority to limit the jurisdiction of the courts and the type of remedies the courts may render. If Congress truly fears certain courts may decide to ignore law and precedent, Congress—if it finds it necessary—may, through implementing legislation, forbid courts the use of their injunctive powers altogether. Or Congress could create an exclusive cause of action or tribunal with carefully limited powers, satisfactory to Congress, to deal with balanced budget complaints.

But Congress should not, as the distinguished Senator from Georgia proposes, limit judicial review to declaratory judgments. I believe that House Joint Resolution 1 strikes the right balance in terms of judicial review. By remaining silent about judicial review in the amendment itself, its authors have refused to establish congressional sanction for the Federal courts to involve themselves in fundamental macroeconomic and budgetary questions. At the same time, this balanced budget amendment does not undermine the court's equally fundamental obligation, as first stated in *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803), to ''say what the law is.'' After all, while I am confident that courts will not be able to interfere with our budgetary prerogatives, I am frank enough to say I cannot predict every conceivable lawsuit which might arise under this amendment, and which does not implicate these budgetary prerogatives. A litigant, in such narrow circumstances, if he or she can demonstrate standing, ought to be able to have their case heard.

It is simply wrong to assume that Congress would just sit by in the unlikely event that a court would commit some overreaching act. Believe me, Congress knows how to defend itself.

Congress knows how to restrict the jurisdiction of courts or limit the scope of judicial remedies. But I do not think this necessary. Lower courts follow precedent, and the precepts of standing, separation of powers, and the political question doctrine effectively limit the ability of courts to interfere in the budgetary process.

Nevertheless, if necessary, a shield against judicial interference is section 6 of House Joint Resolution 1 itself. Under this section, Congress may adopt statutory remedies and mechanisms for any purported budgetary shortfall, such as sequestration, rescission, or the establishment of a contingency fund. Pursuant to section 6, it is clear that Congress, if it finds it necessary, could limit the type of remedies a court may grant or limit courts' jurisdiction in some other manner to proscribe judicial overreaching. This is not at all a new device; Congress has adopted such limitations in other circumstances pursuant to its article III authority.

In fact, Congress may also limit judicial review to particular special tribunals with limited authority to grant relief. Such a tribunal was set up as recently as the Reagan administration, which needed a special claims tribunal to settle claims on Iranian assets.

Beyond which, in the virtually impossible scenario where these safeguards fail, Congress can take whatever action it must to moot any case in which a risk of judicial overreaching becomes real.

STANDING, SEPARATION OF POWERS, AND POLITICAL QUESTIONS

There exists three basic constraints which prevent the courts from interfering in the budgetary process. First, limitations on Federal courts contained in article III of the Constitution, primarily the doctrine of ''standing.'' Second, the deference courts owe to Congress under both the political question doctrine and section 6 of the amendment itself, which confers enforcement authority in Congress. Third, the limits on judicial remedies which can be imposed on a coordinate branch of government—in this case, of course, the legislative branch. These are limitations on remedies that are self-imposed by courts and that, in appropriate circumstances, may be imposed on the courts by Congress. These limitations, such as the doctrine of separation of powers, prohibit courts from raising taxes, a power exclusively delegated to Congress by the Constitution and not altered by the balanced budget amendment.

Consequently, contrary to the contention of opponents of the balanced budget amendment, separation of power concerns further the purpose of the amendment in that it assures that the burden to balance the budget falls squarely on the shoulders of Congress—which is consistent with the intent of the Framers of the Constitution that all budgetary matters be placed in the hands of Congress.

STANDING

Concerning the doctrine of ''standing,'' it is beyond dispute that to succeed in any lawsuit, a litigant must first demonstrate standing to sue. To demonstrate article III standing, a litigant at a minimum must meet three requirements that were enunciated by the Supreme Court in *Lujan* v. *Defenders of Wildlife*, 112 S.Ct. 2130 (19920: First, Injury in fact—that the litigant suffered some concrete and particularized injury; second, traceability—that the concrete injury was both caused by and is traceable to the unlawful conduct; and third, redressibility—that the relief sought will redress the alleged injury. It is a large hurdle for a litigant to demonstrate the ''injury in fact'' requirement; that is, something more concrete than a ''generalized grievance'' and burden shared by all citizens and taxpayers.

Even in the vastly improbable case where an ''injury in fact'' was established, a litigant would find it nearly impossible to establish the ''traceability'' and ''redressibility'' requirements of the article III standing test. After all, there will be hundreds and hundreds of Federal spending programs even after Federal spending is brought under control. Furthermore, because the Congress would have numerous options to achieve balanced budget compliance, there would be no legitimate basis for a court to nullify or modify a specific spending measure objected to by the litigant.

As to the ''redressibility'' prong, this requirement would be difficult to meet simply because courts are wary of becoming involved in the budget process—which is legislative in nature—and separation of power concerns will prevent courts from specifying adjustments to any Federal program or expenditures. Thus, for this reason, *Missouri* v. *Jenkins*, 495 U.S. 33 (1990), where the Supreme Court upheld a district court's power to order a local school district to levy taxes to support a desegregation plan, is inapposite. Plainly put, the Jenkins case is not applicable to the balanced budget amendment because section 1 of the 14th amendment—from which the judiciary derives its power to rule against the States in equal protection claims—does not apply to the Federal Government and because the separation of powers doctrine prevents judicial encroachments on Congress' bailiwick. Courts simply will not have the authority to order Congress to raise taxes.

POLITICAL QUESTION

The well-established political question and justifiability doctrines will mandate that courts give the greatest deference to congressional budgetary measures, particularly since section 6 of House Joint Resolution 1 explicitly confers on Congress the responsibility of enforcing the amendment, and the amendment allows Congress to ''rely on estimates of outlays and receipts.'' Under these circumstances, it is extremely unlikely that a court would substitute its judgment for that of Congress.

Moreover, despite the argument of some opponents of the balanced budget amendment, the ''taxpayer'' standing case, *Flast* v. *Cohen*, 392 U.S. 83 (1968), is not applicable to enforcement of the balanced budget amendment. The Flast case has been limited by the Supreme Court to establishment clause cases. Also, Flast is, by its own terms, limited to cases challenging taxes created for an illicit purpose.

I also believe that there would be no so-called congressional standing for Members of Congress to commence actions under the balanced budget amendment. Because Members of Congress would not be able to demonstrate that they were ''harmed in fact'' by any dilution or nullification of their vote—and because under the doctrine of ''equitable discretion,'' Members would not be able to show that substantial relief could not otherwise be obtained from fellow legislators through the enactment, repeal, or amendment of a statute—it is hardly likely that Members of Congress would have standing to challenge actions under the balanced budget amendment.

Mr. President, I believe it is clear that the enforcement concerns about the balanced budget amendment do not amount to a hill of beans. The fear of the demon of judicial interference is exorcised by the reality of over a century of constitutional doctrines that prevent unelected courts from interfering with the power of the democratic branch of Government and that bestow Congress with the means to protect its prerogatives.

Madam President, I will over the weekend try to answer every question that he has raised because I know that he is raising sincere questions. We have answered some of them, but we will answer all of them.

I hope he will keep his options open, because this is no small matter. We have worked on this ever since I have been in the Senate. It has been Democrats and Republicans. We have no way of pleasing everybody in this body or that body. It has taken a consensus. It has taken the work of literally hundreds of us to get to this point.

I wish I could accommodate every Senator who wants to change something here, but I cannot. Anybody who says that Social Security debt is not public debt I do not think understands the budget. The fact of the matter is we owe that as the Federal Government, and we owe it to the public from whom it is borrowed. And that is every senior citizen in this country that will exist at the time those notes come due.

But be that as it may, we have done the best we can. I believe the amendment will be voted up next Tuesday, but if it is voted down, so be it. I have lived with it as long as anybody. I have done everything I possibly can to satisfy everybody. So has Senator SIMON and others who have worked on this,

and there is just no way we can do that.

Frankly, it is a choice between doing nothing, again, or doing what we can do. That is what it comes down to. I think when the votes are cast next Tuesday, we are going to do what we can do because everybody here knows we have to take drastic action. We can no longer afford to let this thing go; we just no longer can afford to do it.

I have a lot of respect for my colleague from Georgia, and I would like to accommodate him in every way. I wish I could. I always try to do that with him because he is one of the great Senators here, and I am not just saying that. I know that and I feel that, and he is my friend. But I just plain do not believe that a constitutional case can be made that will allow the courts to interfere in the budgetary process of the Congress without the Congress slapping the living daylights out of the courts.

I suppose anything is possible, but with the amendment that he has, declaratory judgment relief may put us in a bigger bind than not having it there at all. That is why I did not like that last year, to be honest with you. It would be a lot better for us to work on restricting the jurisdiction of the court, which we can do, as we did in the Norris-LaGuardia Act, and a number of other cases, and do it in a straight-up, intentionally good way. It would pass overwhelmingly if not unanimously in both bodies. We can do that and do it right without scuttling the one chance in history to get spending under control and to get our priorities under control, part of which the distinguished Senator from Georgia and I would fight our guts out for, and that is the national security interests of this country.

The only way we are ever going to get to that point where we really start being concerned in the Federal Government about the real priorities of government, especially the Federal Government, is to have this consensus, have it written into the Constitution whereby we have a rule that requires us to do something. This is our chance.

If I could make it perfect, I would do that. There are ways that I would write this differently if I were the sole arbiter or dictator in this body. I am sure that is true with just about everybody in this body. But we come to a point sometimes in this life where we have to do the best we can.

Frankly, if the distinguished Senator insists on having these amendments added to it, we lose votes otherwise. And we lose anyway if his vote is the deciding vote in this matter, and it very well may be—I suspect it is—or at least comes close to being. I am not going to give up no matter who votes against this.

To make a long story short, I wish I could accommodate him. So do a lot of others. I would always accommodate my friend from Georgia, if I could. But we always have 535 people we have to accommodate around here if we do that.

Look, I believe we have done the best job we can to bring an amendment to the floor of both Houses. This amendment has passed before. I believe my colleague has voted for it before. The last one did have this declaratory judgment in, and I did not like that and neither did a lot of others, but we swallowed hard and took it at that time because the Senate had to pass it, and we did not pass it, by the way. We lost by four votes. It did not work. We did get Senator Danforth. But the fact of the matter is, it did not pass.

Mr. NUNN. Will the Senator yield?

Mr. HATCH. I will be glad to.

Mr. NUNN. I thank my friend from Utah. I know how hard he has worked on this. I do know, having managed bills on the floor, that you cannot accommodate everyone. I understand that. You have to count the votes and make those judgments. I respect that.

As my friend knows, I have immense respect for him and his leadership in this matter and on every other matter. The reason I put in the Danforth amendment, as you know, the Johnston amendment had nothing in it about declaratory judgment, and that was voted down. The Danforth amendment had been accepted. I would just as soon have left out the declaratory judgment part. That was put in because that amendment was accepted by the Senator from Utah and the Senate last year.

I have another amendment here that basically says:

> 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.

I am perfectly willing to modify my amendment and substitute this, which leaves out any reference to declaratory judgment. I can do that now, or if you want to look it over.

Mr. HATCH. I have to say that is preferable. But I also have to say, I think that my friend knows how I feel about him; I do not have a person I look up to more than my friend from Georgia in this whole body. But I am worried if my friend insists that either language has to go in here—I would like to accommodate him—but if he insists on it, I think this battle may well be over, because even if we could pass it here, I am not sure we can over there.

They have done a good job. It comes down to doing the best we can. I have to say, I can make this amendment more perfect. I can give you a variety of ways of doing that, but I cannot get a consensus to go with me. It has been a hard thing for me, too.

Look, I spent my lifetime, as the distinguished Senator has, in the law. I hold the ABA rating for Martindale-Hubbell, and I really feel deeply about the law. I feel deeply that we could write other things in here that might make it more perfect—no doubt about it—but I cannot get a consensus. I hope my friend will consider that because we worked our guts out to get this here. This is the last chance I think we may ever have to pass it.

I have to say that that amendment, even if that were accepted, would do very little more than what we can do by doing good implementing legislation afterwards. And I promise my friend that I will write that with him to his satisfaction and help get it through both Houses of Congress, and I think we can do it before the summer is up.

But let me tell you, I think it will work just as well as any other change where we have limited jurisdiction of the courts. I will work together with him to do that. I do not think my friend has any doubt that Congress is going to zealously guard its rights. If any court—if any court—tries to infringe on our budgetary process, we are going to slap that court down so fast their heads are going to be spinning.

Mr. NUNN. I say to my friend from Utah, I have two problems with that argument. If Congress is going to zealously guard this right, this is the time to do it when we are amending the Constitution, because once you have put it in the Constitution, you have elevated the whole matter to the judges and the judges then decide their responsibility and their duties under the Constitution. And there is no case that indicates that the Supreme Court is willing for Congress to make the final decision about which jurisdiction the courts have in interpreting the Constitution of the United States.

Mr. HATCH. There are a lot of cases—I will try to look them up for the Senator—where the court has deferred completely to Congress, and in every budgetary case of congressional budgetmaking, the courts have stayed out of them.

Mr. NUNN. I say to my friend, I think he is absolutely sincere in that, and I hope his legal arguments will prevail both in this body and in the courts if this amendment becomes law.

I also will say, those who passed the 14th amendment to the Constitution that resulted in an interpretation in the Jenkins versus Missouri case, I suspect those people would have been shocked to find that the Federal courts used the 14th amendment to require a State to raise taxes.

I doubt very seriously if any of the authors of the 14th amendment anticipated that later on the Federal courts were going to require a State to raise taxes. I think they would have been in pretty much the same position you are in now. They would have argued vigorously that it would never happen. But it did happen. I think it could happen in this manner. It may even be more likely here in dealing with budgetary matters and putting an explicit provision into the Constitution.

Mr. HATCH. If my friend will yield, I think that is not a great concern. I will

tell you why. First of all, Jenkins versus Missouri was a desegregation case where the court decided to enforce desegregation the way it did, and it used the 14th amendment, which only applies to the States. It cannot be used to apply to the Federal Government.

Mr. NUNN. This amendment can.

Mr. HATCH. Not really. In section 6, it says, ''Congress shall enforce and implement this article by appropriate legislation.'' In other words, we have constitutional impetus. If my friend would work with me to come up with implementing legislation that would restrict the courts—which it will—and which will pass overwhelmingly in both bodies, we have the total authority and direction under this amendment to do that. I cannot imagine any court in the land that would ignore that mandate in a constitutional amendment; I just cannot.

Mr. NUNN. My problem is, I say to my friend—and I know he is an eminent legal scholar, but there are other constitutional scholars, such as Nicholas Katzenbach, Robert Bork, Mr. Freed, Larry Tribe, and a number of others, who fundamentally disagree with that analysis.

Mr. HATCH. But they cannot disagree with the fact that, look, there is no provision in the Constitution today, and neither will this be a provision, that will limit judicial review. That is a premise I think we have to agree with.

Mr. NUNN. The 11th amendment to the Constitution is an explicit part of the Constitution, and it does limit judicial review. It says:

''The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.''

Mr. HATCH. We are talking about implementing legislation mandated by a constitutional amendment that allows us—in fact, mandates us—to come up with implementing legislation to enforce this article. That is different from that. I agree the courts can have judicial review—I do not think there is any question about that—on anything they want to take jurisdiction of, but they have to abide by section 6. ''The Congress shall enforce and implement this article by appropriate legislation.'' And they will abide by that. I do not think Judge Bork or Freed or Dellinger, any of them, would say that is not going to be abided by if you and I and we pass it through Congress, do legislation implementing this that says the courts do not have the power to do so.

Mr. NUNN. My problem is, that is a big ''if.'' If we cannot do it now because there are people who oppose it here, and if we cannot make this clear now when you and I both agree that we do not want the courts involved in this, what makes the Senator believe we can do it by statute?

Mr. HATCH. It would be easy to do by statute because I believe——

Mr. NUNN. Why, when one of the authors of the amendment on the House side says he wants judicial review? Evidently, there are people over on the House side that want judicial review. Otherwise, the Senator would not be in the box he is in, in terms of not being able to get this amendment accepted.

Mr. HATCH. He was a cosponsor of the amendment. He is not even an attorney. He is an intelligent person but not a constitutional scholar. I do not think that anybody doubts that his comment that he wants judicial review means a doggone thing.

Mr. NUNN. To get legislation passed, we do not have to get 50 percent of the constitutional scholars, we have to get 50 percent of the people voting.

Mr. HATCH. Right. I do not think the Senator from Georgia doubts for a minute that we can get 51 percent in each body to pass implementing legislation that would limit the jurisdiction of the courts in this matter.

Mr. NUNN. I would not have doubted it until we started debating this several days ago and, to my surprise, I saw the Johnston amendment defeated. I would not have doubted it until then. I cannot conceive a U.S. Senate—now a conservative majority—leaving in an ambiguity about whether the Federal courts are going to be given the license or invitation to take over taxing and spending decisions under a constitutional amendment. I could not conceive that until 2 weeks ago.

Mr. HATCH. Remember that I as the manager of the bill led the fight to defeat that amendment. I will lead the fight to make sure the implementing legislation does what the Senator from Georgia wants it to do.

There is no way that this amendment solves every problem with regard to budgeting or with regard to balancing the budget that can possibly come up. There is no way you can do that without writing a 300-page statute. And even then you cannot do it.

So what I am saying is that I hope my colleague will at least let me work on answering his questions over the weekend. I hope he will look at the answer and keep his powder dry on this and look at the fact that we have done our single best—our collective best, really—to come up with an amendment that is the only one we can come up with. It will work. We can implement it.

The implementing language can be the way the Senator would like it to be, I have no doubt in my mind. I do not think the distinguished Senator from Georgia has much doubt that we can pass the implementing legislation on this. I have even gotten the acquiescence of the Speaker of the House that he will work hard to get it passed. I do not have any doubt at all that we will do that.

The Johnston amendment—even if it were accepted—would still have to have implementing legislation one way or the other. We can do what the Senator wants done, and I have no doubt that we can—and I do not think anybody doubts that, including the Senator from Georgia especially, if we all come together—and still make that giant step to try to get spending under control.

Mr. NUNN. I say to my friend that there is a vast difference in having to pass implementing legislation in order to block a court from exercising jurisdiction and having to pass implementing legislation if they are going to have jurisdiction.

If we pass this amendment, the implementing legislation would be required, but in the absence thereof, the courts would have no jurisdiction. If we do not pass this amendment, it is my great fear that the courts will have jurisdiction unless we pass implementing legislation; and even if we do, the courts can say that implementing legislation exceeds the powers of Congress to limit their constitutional review because they have jurisdiction over the Constitution. When we put this in there, it is an invitation to assert that jurisdiction. Maybe they would not do it. Maybe it would not happen next year or the year after or in 5 years. But we have a risk that at some time this amendment—without clarity on the judicial review provision—could change the balance of powers in this country and basically eliminate a whole part of the separation of powers. I do not think the people of this country really want that.

Mr. HATCH. That is true in every provision in the Constitution. The courts have the right of judicial review if they want to exercise it. If we take that position, we would have to exclude them from everything in the Constitution that we do not want them to be involved in. The fact is that the courts have been scrupulous, for the most part—other than in Jenkins—in these areas. Jenkins does not apply because it is a 14th amendment case. But even then it is held in disrepute by most scholars because it went too far. Still it was not on point, nor can it be used on point.

If we are going to have runaway courts, it will not make any difference what we write into this amendment. The fact is that we have to have some faith in the courts that they are going to live within the constraints that the Constitution allows for. In this particular case we have article III, which allows us to restrain or restrict the jurisdiction of the courts, which I propose we can do in implementing legislation. And we have section 6 here of the amendment, which tells us we have to implement this and enforce this legislation.

So all I am saying is that I am not sure we are arguing differently. I am concerned, just like my friend from Georgia is. But I think we can resolve

it by working together to get it resolved without scuttling the whole effort that has now taken almost 4 solid weeks on the floor.

Mr. NUNN. I say to my friend that I thank him for listening, and I thank him for his concern and leadership. I assure him that until the final vote, I will continue to listen to him and try to work with him. It is my hope, though, that there would be some revisiting going on between the people who are saying they could not accept this amendment and the Senator from Utah, because the people I talked to on the House side, including Republican and Democratic leadership—not all of them, but a number—who are leading the way on this amendment, indicate to me this kind of provision would be acceptable and even welcomed by them.

Mr. HATCH. Some feel that way, and others do not. That is one of the problems I have.

Mr. NUNN. There is a group of those who want the judiciary to basically get involved in these decisions.

Mr. HATCH. Those who want to defeat the amendment—there are still some of those, and we have found in the process that there are some of those who even voted for it in the past but who now would like to see it defeated.

Mr. NUNN. I am not one of those.

Mr. HATCH. I am not suggesting that.

Mr. NUNN. I would like to say that.

Mr. HATCH. I hope it is not true. I am counting the Senator is not.

The fact is that is the kind of problem we have been faced with. All I can say is I am trying to do the best I can as one inferior mortal, to try to bring this thing to fruition and try to do the best I can to get us to a point where we really have the chance to do something about our national debt. To me this is our only chance, and I do not think I am standing here alone on that. Even the Senator from Georgia has acknowledged that we need something like this to do it. It is just he wishes he could write this into it.

Mr. NUNN. I wish we did not need it, but we do, I am afraid.

Mr. HATCH. I thank my friend from Georgia, and we will try to bring more light to this subject as the week goes on.

Mr. MOYNIHAN. Madam President, in my remarks yesterday I continued the examination of our experience since the advent of contemporary economics in moderating the business cycle and substantially resolving the crisess of capitalism which in the century before World War II was widely seen as implacable and unresolvable. The business cycle of the industrial age with its extraordinary alterations of boom and bust was a new experience for mankind. Many concluded it was an unacceptable experience—that capitalism had to go; that private ownership had to go. Then a learning process took place and the problem has moderated to the point when it can be said within reason to have been resolved.

The swings that we experienced would be near-to-unbelievable today; certainly unacceptable.

In 1906, output increased by 11.6 percent, to be followed 2 years later by a decline of 8.2 percent in 1908, and an increase of 16.6 percent in 1909.

In 1918, output increased by 12.3 percent to be followed by 3 years of negative growth including a drop in output of 8.7 percent in 1921.

Then came the Great Depression. After increasing by 6.7 percent in 1929, output fell by 9.9 percent in 1930, another 7.7 percent in 1931, and then a further decline of an incredible 14.8 percent in 1932.

After World War II all this changed, following a brief adjustment period, as we converted from a war-time to peacetime economy. Since then the largest reduction in output was 2.2 percent in 1982.

In my earlier remarks I attributed the steady growth in the post World War II period to ''a great achievement in social learning'' which we would put in jeopardy if we adopted the balanced budget amendment.

We have learned to moderate the business cycle using the budget as a counter-cyclical tool. We used this knowledge in both Republicans and Democratic administrations. For example, George P. Shultz—one of the most admired public men of his generation—while OMB director in the Nixon administration put in place expansionary budget policies that stimulated the economy following the 1970–71 recession.

In my remarks on February 10 and February 13, and again yesterday, I indicated that several economists, including staff working for Charles Shultze, chairman of the Council of Economic Advisers in the Carter administration, have concluded that if we try to balance the budget in the middle of a recession that the unemployment rate could exceed 10 percent—a level that was reached only momentarily, during the 1981–82 recession, in all of the post-World II era.

In today's Wall Street Journal, Al Hunt reports on a Treasury Department study which confirms this analysis for the 1990–92 recession—a mild recession in which the unemployment rate rose from 5.1 percent in June 1990 to 7.7 percent in June 1992. Analysts at the Treasury Department estimate that

> * * * if a balanced budget amendment had been in effect—and the cyclical increase in the deficit had been offset by spending cuts and tax increases—the unemployment rate would have peaked somewhere in the range of 8.3 to 9.4 percent.
>
> The implication of this analysis is that employment would have been about 1.5 million lower in mid–1992 * * * if a balanced budget amendment had been in effect.

Clearly, if the recession had been deeper—in the 1979–82 period the unemployment rate increased from 5.6 to 10.8 percent—or if the unemployment rate at the beginning of the recession had been higher—the unemployment rate last month was 5.7 percent—then the unemployment rate would have increased to more than 10 percent if a balanced budget amendment had been in effect.

The Treasury Department study also analyzed the effects of the balanced budget amendment on the unemployment rate of each State. Even in the mild recession of 1990–1992, the unemployment rate could reach double digits in the following States, many of which are large industrial States:

Alaska, 10.6 percent;

California, 12.1 percent;

Florida, 10.4 percent;

Massachusetts, 10.9 percent;

Michigan, 10.0 percent;

New Jersey, 11.8 percent;

My own state of New York, 11.4 percent;

Rhode Island, 10.6 percent;

West Virginia, 13.5 percent.

Madam President, I ask unanimous consent that the text of the Treasury Department study entitled ''The Balanced Budget Amendment and the Economy'' be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1)

Mr. MOYNIHAN. Madam President, and what is our reaction to the potential economic impact of the balanced budget amendment? According to Louis Uchitelle of the New York Times,

> Such estimates of the potential impact are not emphasized very much, however, in the debate over the balanced budget amendment. So far, the battle has focused on its value as a tool to shrink government or to discipline spending. But if the amendment is enacted, the side effect would be huge: a system that has softened recessions since the 1930's would be dismantled.

Let me repeat part of this observation: ''if the amendment is enacted, the side effect would be huge: a system that has softened recessions since the 1930's would be dismantled.''

To put it simply, if ratified, the balanced budget amendment would substitute budget policies that magnify the business cycle for policies that have dampened cycles in the post World War II period. In the pre-World War II period the Federal budget, except for war years, was about 2–3 percent of the GDP and had very little influence on macro-economic activity. After World War II, the Federal budget exceeds 10 percent of GDP and becomes an important instrument for stablizing the economy.

The transformation is clearly discernible from this chart. After World War II, automatic stabilizers—which go into effect long before the National Bureau of of Economic Research has made a determination that we are in or have had a recession—and discretionary fiscal policy hugely moderate the business cycle.

Up until now the Federal budget in the post-World War II period has cushioned the effects of a recession. In this chart we have seen the result—only a few tiny declines. But now, if we tried to balance the budget in a recession, we would amplify the shocks and return the economy to the panics and depressions of the pre-World War II period shown on the chart.

What happens if we undo all that we have learned over the past 60 years? Joseph Stiglitz, a member of the President's Council of Economic Advisers, observes, in his comments to New York Times reporter Louis Uchitelle, that ''The Government would become, almost inevitably, a destabilizer of the economy rather than a stabilizer.''

The Treasury study, referred to earlier in my remarks, concludes with a theme that I have emphasized over the past few weeks on the floor of the Senate, as I have reviewed the history of fiscal policy over the past 40 years.

On February 8 I stated:

* * * I make the point that there is nothing inherent in American democracy that suggests we amend our basic and abiding law to deal with the fugitive tendencies of a given moment. I rise today to provide documentation as to how a series of one-time events of the 1980's led to our present fiscal disorders, even as events in the 1990's point to a way out of them.

Similarly the Treasury study concludes:

Large deficits in the recent past have led many to believe that a balanced budget amendment to the Constitution is the only way to ensure fiscal discipline. The large deficits of the 1930's and early 1990's, however, are an exception to the general pattern since World War II * * *.

The relatively small deficits prior to the 1980's and the experience of the past two years shows that fiscal discipline does not require such drastic action as amending the Constitution and the severe economic consequences that would result.

The choices before us are best summed up by William Hoagland, the respected Republican staff director of the Senate Budget Committee. In the New York Times article by Mr. Uchitelle Mr. Hoagland is quoted as follows:

There are risks associated with a balanced budget and I don't think anyone should deny them * * * Nevertheless, the debate on the floor has been dominated by what we must do to get the budget in balance, not what the risks of a balanced budget might be.

Before we adopt this balanced budget amendment let's make sure we understand the risks. As I study the pre and post-World War II patterns of economic cycles, that are clearly evident on this chart, I conclude that the risks are too great.

EXHIBIT 1

THE BALANCED BUDGET AMENDMENT AND THE ECONOMY: HOW A BALANCED BUDGET AMENDMENT WOULD HAVE WORSENED THE RECESSION OF 1990–1992

INTRODUCTION

So far the debate over a balanced budget amendment has been primarily a political debate. Proponents of ''cutting'' have squared off against proponents of ''spending.'' The one thing that has been oddly lacking is a straightforward discussion of how a balanced budget amendment might affect the economy. Thus, this paper examines the possible consequences of a balanced budget amendment on jobs, on incomes, and on the long-term standards of living of the American people.

Simply put, a balanced budget amendment could cause significant harm to the economy. The balanced budget amendment currently being considered by Congress would require the federal budget to be balanced by a date certain. This requirement could harm the American economy and American workers in two basic ways. First, the economy may have trouble handling the elimination of the deficit too fast—by cutting spending and raising taxes by about $1.2 trillion between now and 2002 ($1.6 trillion if tax cuts proposed in the Contract With America are adopted). Perhaps more importantly, requiring a balanced budget in every year, regardless of the economic situation, would hamper the ability of the federal government to lessen the impact of recessions.

DANGER TO THE ECONOMY

A balanced budget amendment would make economic recessions more severe than they otherwise would be. Currently the federal budget helps to lessen the impact of recessions through ''automatic stabilizers.'' These automatic stabilizers allow spending to increase and revenue to fall during times of economic hardship. For example, spending on federal government programs like unemployment compensation and food stamps automatically increase as the economy goes into recession because more people become eligible for the programs. In addition, as people earn less money as a result of a recession, they pay less in taxes. While these changes in spending and taxes increase the deficit, they serve to reduce the damage done by recessions to the American economy and American families.

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.

How do automatic stabilizers work? On average, every one dollar drop in production and incomes as the economy enters a recession generates a twenty-seven cent increase in the deficit, as tax revenues fall and spending on programs rises.

Thus, a one dollar fall in incomes and spending becomes a fall of only 73 cents to the economy as a whole. Shocks to total demand and spending would therefore be more than one-third larger if the federal budget were forced to be in year-by-year balance as the economy goes through business cycles.

The principal benefit of the automatic stabilizers is that they are automatic and take effect immediately. We lack the advance notice of a recession for either Congress or the Federal Reserve to react effectively. For example, as of early 1991, the Federal Reserve concluded that it had adopted appropriate anti-recessionary policies and expected a recovery by mid-1992. It did not anticipate the further rise in unemployment.

Thus, while the Federal Reserve bears an important part of the responsibility for managing the business cycle, its ability to ''fine tune'' the economy is limited. Given the lags with which its policies affect the economy, the Federal Reserve would have difficulty compensating for the elimination of automatic stabilizers during recessions and the shock to the economy of reducing the deficit too fast. Even with the most effective Federal Reserve policy, a balanced budget amendment would amplify recessions and harm the economy.

THE RECESSION OF 1992

To illustrate how the business cycle would change under an amendment, consider the recession of 1990–1992. During this recession, the unemployment rate rose from 5.1 percent in June of 1990 to 7.7 percent in June of 1992. The automatic stabilizers in the federal budget injected roughly $87 billion into the economy in 1992 relative to 1990. This cyclical increase in the deficit helped to mitigate the impact of the recession, making the unemployment rate between 0.7 and 1.7 percentage points lower in June of 1992 than it otherwise would have been. Thus, if a balanced budget amendment had been in effect—and the cyclical increase in the deficit had been offset by spending cuts and tax increases—the unemployment rate would have peaked somewhere in the range of 8.3 to 9.4 percent.

The implication of this analysis is that employment would have been about 1.5 million lower in mid-1992—as shown in Chart A—if a balanced budget amendment had been in effect.

CONCLUSION

Large deficits in the recent past have led many to believe that a balanced budget amendment to the Constitution is the only way to ensure fiscal discipline. The large deficits of the 1980s and early 1990s, however, are an exception to the general pattern since World War II.

Further, while the deficit as a share of the Gross Domestic Product (GDP) did rise to high levels during the 1980s, this ratio is now on a downward trend. The deficit as a share of GDP, which was 4.9 percent in 1992, is currently projected to steadily decline to 1.6 percent of GDP in 2005. The Administration and Congress have achieved this through difficult decisions to reduce spending and to increase revenues (see chart B).

For example, before this Administration took office, the deficit was projected to be $400 billion in 1998—current projections show that this has been cut by more than half, to $194 billion. In fact, the federal budget is currently in primary surplus—revenues exceed the federal government's spending on all federal programs combined. The deficit is due solely to the cost of paying interest on the debt accumulated largely during the high deficits of the 1980s—not because we are overspending today (see Chart C).

The relatively small deficits prior to the 1980s and the experience of the past two years shows that fiscal discipline does not require such drastic action as amending the Constitution and the severe economic consequences that would result.

THE IMPACT ON ALABAMA JOBS IF A BALANCED BUDGET AMENDMENT HAD BEEN IN PLACE DURING THE RECESSION OF 1990–1992

The Balanced Budget Amendment and Alabama:

During the recession of 1990–1992, the unemployment rate in Alabama rose from 6.7 percent to a peak of 7.5 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Alabama would have peaked at a higher level: between 7.7 and 8.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,300 to 10,000 in Alabama in the recession of 1990–1992.

THE IMPACT ON ALASKA JOBS

The Balanced Budget Amendment and Alaska:

During the recession of 1990–1992, the unemployment rate in Alaska rose from 6.9 percent to a peak of 9.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Alaska

would have peaked at a higher level: between 9.6 and 10.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 4,000 in Alaska in the recession of 1990–1992.

THE IMPACT ON ARIZONA JOBS

The Balanced Budget Amendment and Arizona:

During the recession of 1990–1992, the unemployment rate in Arizona rose from 5.5 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Arizona would have peaked at a higher level: between 8.2 and 9.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 8,500 to 25,500 in Arizona in the recession of 1990–1992.

THE IMPACT ON ARKANSAS JOBS

The Balanced Budget Amendment and Arkansas:

During the recession of 1990–1992 the unemployment rate in Arkansas rose from 6.8 percent to a peak of 7.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Arkansas would have peaked at a higher level: between 7.5 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,600 to 4,800 in Arkansas in the recession of 1990–1992.

THE IMPACT ON CALIFORNIA JOBS

The Balanced Budget Amendment and California:

During the recession of 1990–1992, the unemployment rate in California rose from 5.3 percent to a peak of 9.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in California would have peaked at a higher level: between 10.2 and 12.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 129,400 to 388,100 in California in the recession of 1990–1992.

THE IMPACT ON COLORADO JOBS

The Balanced Budget Amendment and Colorado:

During the recession of 1990–1992, the unemployment rate in Colorado rose from 5.0 percent to a peak of 6.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Colorado would have peaked at a higher level: between 6.5 and 7.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 4,700 to 14,200 in Colorado in the recession of 1990–1992.

THE IMPACT ON CONNECTICUT JOBS

The Balanced Budget Amendment and Connecticut:

During the recession of 1990–1992, the unemployment rate in Connecticut rose from 5.0 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Connecticut would have peaked at a higher level: between 8.3 and 9.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 10,500 to 31,400 in Connecticut in the recession of 1990–1992.

THE IMPACT ON DELAWARE JOBS

The Balanced Budget Amendment and Delaware:

During the recession of 1990–1992, the unemployment rate in Delaware rose from 4.2 percent to a peak of 5.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Delaware would have peaked at a higher level: between 5.9 and 6.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,100 to 3,300 in Delaware in the recession of 1990–1992.

THE IMPACT ON FLORIDA JOBS

The Balanced Budget Amendment and Florida:

During the recession of 1990–1992, the unemployment rate in Florida rose from 5.7 percent to a peak of 8.5 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Florida would have peaked at a higher level: between 9.1 and 10.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 38,800 to 116,500 in Florida in the recession of 1990–1992.

THE IMPACT ON GEORGIA JOBS

The Balanced Budget Amendment and Georgia:

During the recession of 1990–1992, the unemployment rate in Georgia rose from 5.4 percent to a peak of 7.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Georgia would have peaked at a higher level: between 7.4 and 8.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 11,500 to 34,400 in Georgia in the recession of 1990–1992.

THE IMPACT ON HAWAII JOBS

The Balanced Budget Amendment and Hawaii:

During the recession of 1990–1992, the unemployment rate in Hawaii rose from 2.7 percent to a peak of 4.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Hawaii would have peaked at a higher level: between 5.2 and 6.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,500 to 7,600 in Hawaii in the recession of 1990–1992.

THE IMPACT ON IDAHO JOBS

The Balanced Budget Amendment and Idaho:

During the recession of 1990–1992, the unemployment rate in Idaho remained stable at 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Idaho would have peaked at a higher level: between 6.6 and 6.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 700 to 2,200 in Idaho in the recession of 1990–1992.

THE IMPACT ON ILLINOIS JOBS

The Balanced Budget Amendment and Illinois:

During the recession of 1990–1992, the unemployment rate in Illinois rose from 6.5 percent to a peak of 8.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Illinois would have peaked at a higher level: between 8.8 and 9.7 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 24,200 to 72,200 in Illinois in the recession of 1990–1992.

THE IMPACT ON INDIANA JOBS

The Balanced Budget Amendment and Indiana:

During the recession of 1990–1992, the unemployment rate in Indiana rose from 5.1 percent to a peak of 6.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Indiana would have peaked at a higher level: between 7.2 and 8.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 10,300 to 31,000 in Indiana in the recession of 1990–1992.

THE IMPACT ON IOWA JOBS

The Balanced Budget Amendment and Iowa:

During the recession of 1990–1992, the unemployment rate in Iowa rose from 4.2 percent to a peak of 4.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Iowa would have peaked at a higher level: between 4.9 and 5.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 200 to 600 in Iowa in the recession of 1990–1992.

THE IMPACT ON KANSAS JOBS

The Balanced Budget Amendment and Kansas:

During the recession of 1990–1992, the unemployment rate in Kansas fell—from 4.5 percent to 3.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Kansas at the time of highest nationwide unemployment would have been between 4.1 and 4.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,900 to 5,600 in Kansas in the recession of 1990–1992.

THE IMPACT ON KENTUCKY JOBS

The Balanced Budget Amendment and Kentucky:

During the recession of 1990–1992, the unemployment rate in Kentucky rose from 5.7 percent to a peak of 7.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Kentucky would have peaked at a higher level: between 7.3 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 4,900 to 14,700 in Kentucky in the recession of 1990–1992.

THE IMPACT ON LOUISIANA JOBS

The Balanced Budget Amendment and Louisiana:

During the recession of 1990–1992, the unemployment rate in Louisiana rose from 6.2 percent to a peak of 7.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Louisiana would have peaked at a higher level: between 7.6 and 8.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,400 to 16,200 in Louisiana in the recession of 1990–1992.

THE IMPACT ON MAINE JOBS

The Balanced Budget Amendment and Maine:

During the recession of 1990–1992, the unemployment rate in Maine rose from 5.0 percent to a peak of 6.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Maine would have peaked at a higher level: between 7.1 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,400 to 7,100 in Maine in the recession of 1990–1992.

THE IMPACT ON MARYLAND JOBS

The Balanced Budget Amendment and Maryland:

During the recession of 1990–1992, the unemployment rate in Maryland rose from 4.7 percent to a peak of 6.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Maryland would have peaked at a higher level: between 7.0 and 9.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 11,000 to 32,900 in Maryland in the recession of 1990–1992.

THE IMPACT ON MASSACHUSETTS JOBS

The Balanced Budget Amendment and Massachusetts:

During the recession of 1990–1992, the unemployment rate in Massachusetts rose from 6.2 percent to a peak of 9.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Massachusetts would have peaked at a higher level: between 9.6 and 10.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 18,700 to 56,100 in Massachusetts in the recession of 1990–1992.

THE IMPACT ON MICHIGAN JOBS

The Balanced Budget Amendment and Michigan:

During the recession of 1990–1992, the unemployment rate in Michigan rose from 7.3 percent to a peak of 8.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Michigan would have peaked at a higher level: between 9.3 and 10.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,500 to 46,600 in Michigan in the recession of 1990–1992.

THE IMPACT ON MINNESOTA JOBS

The Balanced Budget Amendment and Minnesota:

During the recession of 1990–1992, the unemployment rate in Minnesota rose from 4.9 percent to a peak of 5.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Minnesota would have peaked at a higher level: between 5.4 and 5.7 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,400 to 10,200 in Minnesota in the recession of 1990–1992.

THE IMPACT ON MISSISSIPPI JOBS

The Balanced Budget Amendment and Mississippi:

During the recession of 1990–1992, the unemployment rate in Mississippi rose from 7.3 percent to a peak of 8.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Mississippi would have peaked at a higher level: between 8.9 and 9.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,300 to 9,800 in Mississippi in the recession of 1990–1992.

THE IMPACT ON MISSOURI JOBS

The Balanced Budget Amendment and Missouri:

During the recession of 1990–1992, the unemployment rate in Missouri was steady at 5.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Missouri would have peaked at a higher level: between 5.9 and 6.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 3,800 to 11,300 in Missouri in the recession of 1990–1992.

THE IMPACT ON MONTANA JOBS

The Balanced Budget Amendment and Montana:

During the recession of 1990–1992, the unemployment rate in Montana rose from 5.6 percent to a peak of 6.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Montana would have peaked at a higher level: between 7.0 and 7.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,000 to 3,000 in Montana in the recession of 1990–1992.

THE IMPACT ON NEBRASKA JOBS

The Balanced Budget Amendment and Nebraska:

During the recession of 1990–1992, the unemployment rate in Nebraska rose from 2.1 percent to a peak of 3.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Nebraska would have peaked at a higher level: between 3.3 and 3.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,900 to 5,600 in Nebraska in the recession of 1990–1992.

THE IMPACT ON NEVADA JOBS

The Balanced Budget Amendment and Nevada:

During the recession of 1990–1992, the unemployment rate in Nevada rose from 4.8 percent to a peak of 6.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Nevada would have peaked at a higher level: between 7.0 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,800 to 8,300 in Nevada in the recession of 1990–1992.

THE IMPACT ON NEW HAMPSHIRE JOBS

The Balanced Budget Amendment and New Hampshire:

During the recession of 1990–1992, the unemployment rate in New Hampshire rose from 5.7 percent to a peak of 7.6 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Hampshire would have peaked at a higher level: between 8.0 and 8.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,500 to 7,400 in New Hampshire in the recession of 1990–1992.

THE IMPACT ON NEW JERSEY JOBS

The Balanced Budget Amendment and New Jersey:

During the recession of 1990–1992, the unemployment rate in New Jersey rose from 4.9 percent to a peak of 9.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Jersey would have peaked at a higher level: between 9.9 and 11.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 34,400 to 103,100 in New Jersey in the recession of 1990–1992.

THE IMPACT ON NEW MEXICO JOBS

The Balanced Budget Amendment and New Mexico:

During the recession of 1990–1992, the unemployment rate in New Mexico rose from 6.2 percent to a peak of 6.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New Mexico would have peaked at a higher level: between 7.1 and 7.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,100 to 3,300 in New Mexico in the recession of 1990–1992.

THE IMPACT ON NEW YORK JOBS

The Balanced Budget Amendment and New York:

During the recession of 1990–1992, the unemployment rate in New York rose from 5.3 percent to a peak of 8.9 percent.

Had the balanced budget amendment been in effect, the unemployment rate in New York would have peaked at a higher level: between 9.7 and 11.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 65,900 to 197,600 in New York in the recession of 1990–1992.

THE IMPACT ON NORTH CAROLINA JOBS

The Balanced Budget Amendment and North Carolina:

During the recession of 1990–1992, the unemployment rate in North Carolina rose from 4.4 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in North Carolina would have peaked at a higher level: between 6.9 and 7.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,400 to 46,200 in North Carolina in the recession of 1990–1992.

THE IMPACT ON NORTH DAKOTA JOBS

The Balanced Budget Amendment and North Dakota:

During the recession of 1990–1992, the unemployment rate in North Dakota rose from 3.9 percent to a peak of 4.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in North Dakota would have peaked at a higher level: between 5.0 and 5.4 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 600 to 1,900 in North Dakota in the recession of 1990–1992.

THE IMPACT ON OHIO JOBS

The Balanced Budget Amendment and Ohio:

During the recession of 1990–1992, the unemployment rate in Ohio rose from 5.4 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Ohio would have peaked at a higher level: between 8.2 and 9.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 26,800 to 80,300 in Ohio in the recession of 1990–1992.

THE IMPACT ON OKLAHOMA JOBS

The Balanced Budget Amendment and Oklahoma:

During the recession of 1990–1992, the unemployment rate in Oklahoma was steady at 5.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Oklahoma would have peaked at a higher level: between 5.7 and 6.0 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,100 to 6,400 in Oklahoma in the recession of 1990–1992.

THE IMPACT ON OREGON JOBS

The Balanced Budget Amendment and Oregon:

During the recession of 1990–1992, the unemployment rate in Oregon rose from 5.6 percent to a peak of 7.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Oregon would have peaked at a higher level: between 7.8 and 8.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,900 to 17,700 in Oregon in the recession of 1990–1992.

THE IMPACT ON PENNSYLVANIA JOBS

The Balanced Budget Amendment and Pennsylvania:

During the recession of 1990–1992, the unemployment rate in Pennsylvania rose from 5.0 percent to a peak of 7.7 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Pennsylvania would have peaked at a higher level: between 8.3 and 9.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 33,700 to 101,200 in Pennsylvania in the recession of 1990–1992.

THE IMPACT ON RHODE ISLAND JOBS

The Balanced Budget Amendment and Rhode Island:

During the recession of 1990–1992, the unemployment rate in Rhode Island rose from 7.0 percent to a peak of 9.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Rhode Island would have peaked at a higher level: between 9.6 and 10.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 2,300 to 6,900 in Rhode Island in the recession of 1990–1992.

THE IMPACT ON SOUTH CAROLINA JOBS

The Balanced Budget Amendment and South Carolina:

During the recession of 1990–1992, the unemployment rate in South Carolina rose from 4.7 percent to a peak of 6.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in South Carolina would have peaked at a higher level: between 6.4 and 7.1 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,400 to 16,300 in South Carolina in the recession of 1990–1992.

THE IMPACT ON SOUTH DAKOTA JOBS

The Balanced Budget Amendment and South Dakota:

During the recession of 1990–1992, the unemployment rate in South Dakota *fell*—from 3.8 percent to 3.1 percent.

Had the balanced budget amendment been in effect, the unemployment rate in South Dakota would have been higher in June 1992: between 3.3 and 3.6 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 500 to 1,500 in South Dakota in the recession of 1990–1992.

THE IMPACT ON TENNESSEE JOBS

The Balanced Budget Amendment and Tennessee:

During the recession of 1990–1992. the unemployment rate in Tennessee rose from 5.1 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Tennessee would have peaked at a higher level: between 6.7 and 7.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 6,900 to 20,600 in Tennessee in the recession of 1990–1992.

THE IMPACT ON TEXAS JOBS

The Balanced Budget Amendment and Texas:

During the recession of 1990–1992, the unemployment rate in Texas rose from 6.2 percent to a peak of 7.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Texas would have peaked at a higher level: between 8.2 and 8.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 30,700 to 92,200 in Texas in the recession of 1990–1992.

THE IMPACT ON UTAH JOBS

The Balanced Budget Amendment and Utah:

During the recession of 1990–1992, the unemployment rate in Utah rose from 4.3 percent to a peak of 5.0 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Utah would have peaked at a higher level: between 5.2 and 5.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 3,900 in Utah in the recession of 1990–1992.

THE IMPACT ON VERMONT JOBS

The Balanced Budget Amendment and Vermont:

During the recession of 1990–1992, the unemployment rate in Vermont rose from 5.0 percent to a peak of 6.9 percent.

Had the balanced budget amendment been effect, the unemployment rate in Vermont would have peaked at a higher level: between 7.3 and 8.2 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 1,300 to 3,800 in Vermont in the recession of 1990–1992.

THE IMPACT ON VIRGINIA JOBS

The Balanced Budget Amendment and Virginia:

During the recession of 1990–1992, the unemployment rate in Virginia rose from 4.3 percent to a peak of 6.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Virginia would have peaked at a higher level between 6.9 and 7.9 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,400 to 46,200 in Virginia in the recession of 1990–1992.

THE IMPACT ON WASHINGTON JOBS

The Balanced Budget Amendment and Washington:

During the recession of 1990–1992, the unemployment rate in Washington rose from 4.7 percent to a peak of 7.4 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Washington would have peaked at a higher level between 8.0 and 9.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 15,200 to 45,700 in Washington in the recession of 1990–1992.

THE IMPACT ON WEST VIRGINIA JOBS

The Balanced Budget Amendment and West Virginia:

During the recession of 1990–1992, the unemployment rate in West Virginia rose from 8.1 percent to a peak of 11.3 percent.

Had the balanced budget amendment been in effect, the unemployment rate in West Virginia would have peaked at a higher level between 12.0 and 13.5 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,000 to 15,000 in West Virginia in the recession of 1990–1992.

THE IMPACT ON WISCONSIN JOBS

The Balanced Budget Amendment and Wisconsin:

During the recession of 1990–1992, the unemployment rate in Wisconsin rose from 4.3 percent to a peak of 5.2 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Wisconsin would have peaked at a higher level between 5.4 and 5.8 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 5,300 to 15,800 in Wisconsin in the recession of 1990–1992.

THE IMPACT OF WYOMING JOBS IF A BALANCED BUDGET AMENDMENT HAD BEEN IN PLACE DURING THE RECESSION OF 1990–1992

The Balanced Budget Amendment and Wyoming:

During the recession of 1990–1992, the unemployment rate in Wyoming rose from 5.4 percent to a peak of 5.8 percent.

Had the balanced budget amendment been in effect, the unemployment rate in Wyoming would have peaked at higher level between 6.0 and 6.3 percent.

Thus the balanced budget amendment would have led to an additional rise in unemployment of 300 to 1,000 in Wyoming in the recession of 1990–1992.

The Balanced Budget Amendment and the United States:

During the recession of 1990–1992, the unemployment rate in the United States rose from 5.1 percent to a peak of 7.7 percent in June of 1992.

Had the balanced budget amendment been in effect, the unemployment rate would have peaked at a higher level: in the range of 8.3 to 9.4 percent.

Thus the balanced budget amendment would have led to a rise in nationwide unemployment of 750,000 to 2.2 million in the recession of 1990–1992.

Why Does a Balanced Budget Amendment Raise Unemployment?

Under current law, spending on federal government programs like unemployment compensation and food stamps automatically increases as the economy goes into recession. In addition, as people earn less money as a result of a recession they pay lower taxes. These changes in spending and taxes affect the federal deficit. The increases in the federal deficit during recessions are ''automatic stabilizers'' that reduce the damage done by recessions to the American economy and American workers.

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 most harm to the economy, and aggravate the recession.

SUMMARY OF METHODOLOGY.

From the cycle peak in June 1990 to the unemployment rate peak in June 1992, the unemployment rate rose by 2.6 percentage points.

Using a (low estimate of the) Okun's Law coefficient of 2, and an automatic stabilizer magnitude (estimated over 1953–1994) of 0.27, the associated cyclical swing in the deficit is some 1.4 percentage points of GDP.

In the absence of automatic stabilizers the Keynesian multiplier would be higher than we usually assume. Estimate the multiplier in the absence of automatic stabilizers at 1.7, as opposed to 1.2 in the presence of automatic stabilizers.

Thus the downward shock to exogenous demand of 1.4 percent of GDP administered by the tax increases and spending cuts necessary to offset the cyclical component of the deficit would have depressed GDP by some 2.4 percent.

Using an Okun's law coefficient of 2, the central scenario estimate of the extra rise in unemployment in the absence of automatic stabilizers is 1.2 percentage points.

Obtain a favorable scenario by assuming that Federal Reserve action manages to offset half of the increase in the size of the recession.

Obtain an unfavorable scenario by assuming that the size of automatic stabilizers has trended upward in the post-WWII period, and using a higher Okun's law coefficient of 2.5.

Distribute the rise in the unemployment rate across states proportionately to their 1990–1992 recession-driven increase in unemployment.

EXPLANATION OF VOTE ON AMENDMENT NO. 306

Mr. McCAIN. Madam President, I wanted to take a moment to explain my position for the record on the vote

on the Rockefeller amendment. I voted to table Senator JOHN ROCKEFELLER's amendment on the balanced budget amendment. Senators on the other side of the aisle would have you believe that this Congress is ready and willing to break a sacred obligation to care for our veterans and their survivors. Binding future Congresses in how we manage veterans' programs is counterproductive micromanagement which could very well harm the best interests of veterans and has no place in a constitutional amendment. No one should interpret my vote as waning in my personal commitment to veterans and their families. I have always worked hard to properly fund veterans' programs and I will personally do everything I can to ensure veterans benefits are fully funded in the future. The truth of the matter is that this country has a moral obligation to those who have paid dearly through their pain and suffering in defense of the freedoms that all Americans enjoy today and we must not and will not abdicate our responsibilities.

PROTECTING FEDERAL LAW ENFORCEMENT DOLLARS—AMENDMENT NO. 301

Mrs. MURRAY. Madam President, I rise in support of Senator BYRD's amendment to protect Federal outlays for law enforcement, and the reduction and prevention of crime.

I am proud of the Violent Crime Control and Law Enforcement Act we passed last year. It is a comprehensive approach to solving our Nation's crime problem. It includes: funds for 100,000 new police officers across the Nation; a ban on the manufacture, sale, and future possession of 19 semiautomatic assault weapons; and increased penalties for Federal violent crimes and sex crimes.

However, passing tougher laws and putting more police on our streets will not stop the violence that is ravaging our Nation. These measures, while effective, are only part of the larger solution. We also must focus on preventive measures if we hope to find permanent solutions to the epidemic of violence.

Last year's crime bill does just that. The legislation includes: the Violence Against Women Act, which authorizes funding for rape education and community prevention programs, battered women's shelters, and a national family violence hotline.

The crime bill also authorizes local grants for education, after-school safe haven programs, and other initiatives aimed at reducing gang membership among young people. The bill provides for grants to localities for crime prevention measures, including: police partnerships for children, supervised child visitation centers, and partnerships between senior citizens and police.

In addition, the legislation provides grants to law enforcement to create partnerships with child and family support agencies to fight crimes committed against children.

Madam President, I believe in the value and necessity of these vital programs. As a woman, a mother, and a former teacher I want to make sure we let our children know we care about them, they can trust us to do the right thing, and we will not turn our backs on them.

Although I am pleased that Republican proposals to redirect these important prevention dollars do not target the Violence Against Women Act, I am disturbed about the implications for programs aimed at our Nation's youth.

Our children are afraid, and sadly, they have every reason to be. Every day, 5,703 teenagers are victims of violent crimes. Every 2 hours, a child is murdered. Every 5 seconds of the schoolday, a student drops out of public school.

We, as adults, have a responsibility to care for our children, to teach them to value themselves and their communities, and not to give up on them. It is time for us as adults to address the issue of violence honestly. Violence is a symptom of deeper problems. Lets not restrict our attention to punishing criminals and building more prisons, while ignoring the causes of violence among our children.

I have talked with young people throughout the State of Washington. My overwhelming conclusion is that a lot of the youth on our streets have been victims themselves—victims of abusive adults, victims of our overburdened school system, and victims of a juvenile justice system that cannot respond to their real needs. These disaffected kids invariably have kids of their own, and the cycle of violence begins again. Prevention and education are the keys to breaking this dangerous pattern of violence.

Madam President, the dollars allocated to fund the Violent Crime Control and Law Enforcement Act of 1994 are extremely important. I applaud Senator BYRD's effort to safeguard these crime fighting dollars.

UNANIMOUS-CONSENT AGREEMENTS

Mr. HATCH. I ask unanimous consent that the vote occur in relation to the pending amendment numbered 267 and the Bumpers motion and amendments numbered 299 and 300 on Tuesday, February 28, in the stacked sequence to begin at 2:15 p.m.

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

Mr. HATCH. I ask unanimous consent that at 11:30 a.m. on Tuesday, February 28, Senator HATCH be recognized to control the next 30 minutes for debate only.

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

Mr. HATCH. I ask unanimous consent that at 12 noon the next 30 minutes be under the control of Senator BYRD for debate only.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. HATCH. I further ask that following the conclusion of the stacked votes on Tuesday, February 28, Senator BYRD be recognized for up to 15 minutes for debate only, to be followed by 15 minutes under the control of Senator HATCH for debate only, to be followed by 15 minutes under the control of Senator DASCHLE for debate only, with the last 15 minutes under the control of Senator DOLE to close the debate prior to the final vote on House Joint Resolution 1.

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

EXECUTIVE CALENDAR

Mr. HATCH. As if in executive session, I ask unanimous consent that the Senate immediately proceed to the consideration of the following nominations on the Executive Calendar en bloc: Calendar Nos. 8, 9, 10, and 11, and all nominations placed on the Secretary's desk; further, that the nominations be confirmed en bloc, the motion to reconsider be laid upon the table en bloc; that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of Title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Dale W. Thompson, Jr., 000–00–0000, U.S. Air Force

ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, Section 1370:

To be lieutenant general

Lt. Gen. Jerry R. Rutherford, 000–00–0000, U.S. Army

NAVY

The following-named officer for appointment to the grade of Vice Admiral while assigned to be position of importance and responsibility under Title 10, United States Code, Section 601:

To be vice admiral

Rear Adm. John A. Lockard, 000–00–0000, U.S. Navy

DEPARTMENT OF DEFENSE

Eleanor Hill, of Virginia, to be Inspector General, Department of Defense, vice Susan J. Crawford.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Alan L. Christensen, and ending Gardner G. Bassett, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Air Force nominations beginning Barrett W. Bader, and ending Joseph N. Zemis, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 6, 1995.

Air Force nominations beginning Jonathan E. Adams, and ending Sharon G. Freier,

which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Air Force nominations beginning Timothy L. Anderson, and ending Raymond E. Ratajik, Jr., which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Army nominations beginning Rodger T. Hosig, and ending Sara M. Lowe, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Army nomination of Frederick B. Brown, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Army nominations beginning Ronnie Abner, and ending Vincent A. Zike, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

Navy nominations beginning James P. Screen III, and ending Jason R.J. Testa, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of January 23, 1995.

MESSAGES FROM THE HOUSE

At 11:53 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 830. An act to amend chapter 35 of title 44, United States Code, to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes.

The message also announced that pursuant to the provisions of 22 U.S.C. 1928a, the Speaker appoints to the U.S. Group of the North Atlantic Assembly the following members on the part of the House: Mr. ROSE, Mr. HAMILTON, Mr. COLEMAN, and Mr. RUSH.

The message further announced that pursuant to the provisions of section 3 of Public Law 94–304, as amended by section 1 of Public Law 99–7, the Speaker appoints to the Commission on Security and Cooperation in Europe the following members on the part of the House: Mr. PORTER, Mr. WOLF, Mr. FUNDERBURK, Mr. SALMON, Mr. HOYER, Mr. MARKEY, Mr. RICHARDSON, and Mr. CARDIN.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 889. An act making emergency supplemental appropriations and rescissions to preserve and enhance the military readiness of the Department of Defense for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 830. An act to amend chapter 35 of title 44, United States Code, to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Lacy H. Thornburg, of North Carolina, to be U.S. District Judge for the District of North Carolina.

Sidney H. Stein, of New York, to be U.S. District Judge for the Southern District of New York.

Thadd Heartfield, of Texas, to be U.S. District Judge for the Eastern District of Texas.

David Folsom, of Texas, to be U.S. District Judge for the Eastern District of Texas.

Sandra L. Lynch, of Massachusetts, to be U.S. Circuit Judge for the First Circuit.

(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. HATCH (for himself, Mr. BIDEN, Mr. GRASSLEY, and Mr. HEFLIN):

S. 464. A bill to make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS:

S. 465. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BREAUX:

S. 466. A bill to amend title II of the Social Security Act to repeal the rule providing for termination of disabled adult child's benefits upon marriage; to the Committee on Finance.

By Mr. BOND:

S. 467. A bill for the relief of Benchmark Rail Group, Inc., and for other purposes; to the Committee on the Judiciary.

By Mr. GLENN (for himself and Mr. DEWINE):

S. 468. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GREGG (for himself and Mr. COATS):

S. 469. A bill to eliminate the National Education Standards and Improvement Council and opportunity-to-learn standards; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself and Mr. INOUYE):

S. 470. A bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; to the Committee on Commerce, Science, and Transportation.

By Mr. BIDEN (for himself, Mr. D'AMATO, Mr. HOLLINGS, Mr. ROTH, and Mr. STEVENS):

S. 471. A bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans Affairs.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 472. A bill to consolidate and expand Federal child care services to promote self sufficiency and support working families, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOND (for himself, Mr. SIMON, Mr. ASHCROFT, and Ms. MOSELEY-BRAUN):

S.J. Res. 27. A joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. BIDEN, Mr. GRASSLEY, and Mr. HEFLIN):

S. 464. A bill to make the reporting deadlines for studies conducted in Federal court demonstration districts consistent with the deadlines for pilot districts, and for other purposes; to the Committee on the Judiciary.

THE CIVIL JUSTICE REFORM ACT AMENDMENT ACT OF 1995

Mr. HATCH. Mr. President, I am pleased to introduce legislation that would work a purely technical correction to extend the time period for a study currently being conducted in certain Federal courts.

The Civil Justice Reform Act of 1990 set up two programs to study various innovative programs in court management. One program involves so-called pilot courts, and the other involves what are referred to as demonstration districts. Those court programs were originally established for a 3-year period, with the studies to be conducted over a 4-year period and the resulting reports transmitted to Congress by December 31, 1995. The Rand Corp. has been carrying out the study of the pilot courts, while the Federal Judicial Center is conducting the study of the demonstration districts.

Last year, the pilot court programs were extended for an additional year, and the Rand Corp. received a 1-year extension for its study of those courts. That extension was included in the Judicial Amendments Act of 1994.

Through an oversight, however, no extension was included for the demonstration districts.

The legislation I am introducing would grant precisely the same 1-year extension for the demonstration districts as was granted for the pilot courts. That will make the two programs and their studies consistent so that the final reports can be directly compared. That was precisely the intent behind the identical deadlines that were established when the two study programs were set up. This legislation will restore that end. Also, the extension of the deadline will improve the study, since more cases will be complete and included in the study. Improving the reliability and consistency of the resulting reports can only help us improve the efficiency of our courts.

Finally, this 1-year extension will entail no additional costs since the demonstration districts are planning to continue the programs under study in any event. The extension of the deadline will not affect the budget or personnel of any Federal entity.

I also note that this purely technical bill has bipartisan support: Senators BIDEN, GRASSLEY, and HEFLIN are original cosponsors.

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

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

S. 464

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

SECTION 1. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION DEMONSTRATION PROGRAMS.

Section 104 of the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note) is amended—

(1) in subsection (a)(1) by striking ''4-year period'' and inserting ''5-year period''; and

(2) in subsection (d) by striking ''December 31, 1995,'' and inserting ''December 31, 1996,''.

By Mr. BAUCUS:

S. 465. A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste, and for other purposes; to the Committee on Environment and Public Works.

THE INTERSTATE WASTE CONTROL ACT OF 1995

Mr. BAUCUS. Mr. President, I rise to introduce the State and Local Government Interstate Waste Control Act of 1995. This bill will give our cities and States the authority they need to restrict imports of trash coming from other States.

COMMERCE IN GARBAGE

Not many people think of garbage as a commodity like other products that flow in interstate commerce but it is.

Every year, the United States produces more than 200 million tons of municipal waste. Seven percent of this garbage—1 ton in 14—is sent to a landfill or incinerator in another State.

Nearly every State is a seller or buyer in the municipal waste market. Forty-seven States export some garbage, and 44 import some garbage.

When you think about it, trading garbage makes sense, especially for border towns. In Montana, for example, two towns have made arrangements to share landfills with western North Dakota towns. And some trash, from the Wyoming areas of Yellowstone Park, is disposed of in Montana.

These arrangements save money for the communities involved. And shared regional landfills can be a policy that makes sense.

DECIDE OUR OWN DESTINY

But it only makes sense when everyone involved agrees to it. Nobody should have barrels of garbage emptied over their heads. And it is a nasty fact that some people see big thinly populated States like Montana as potential trash cans.

The people of Montana, or any other State, should not be forced to take trash they do not want. The citizens of Miles City, for example, have been fighting to stop a proposed mega-landfill from taking out-of-State waste.

This idea would have brought entire coal trains full of garbage to dump on a small prairie town. These trains average 110 cars each. One hundred and ten open-roofed coal cars full of trash. Like prairie garbage schooners. It is an outrage.

Miles City, like all cities, should be able to decide whether it wants these trains. We should be able to control our own destiny. And we want the right to say ''no.''

If we see landfill sharing as appropriate for our needs, fine. But we ought to be able to reject these arrangements when we don't like them. As Deborah Hanson of the Custer Resource Alliance put it a couple of years ago, ''we want to guarantee that Montana will not become a dumping ground.''

It's that simple, Mr. President. No city or State should become a dumping ground simply because an exporting community does not have the will to take care of its own garbage.

Today, however, we do not have that power. Neither local communities, nor Governor Racicot, nor the legislature can reject unwanted garbage imports. The Supreme Court has repeatedly struck down State laws aimed at restricting out-of-State garbage, because these laws violate the Constitution's interstate commerce protections. And that must change.

THE INTERSTATE WASTE BILL

Mr. President, we have been working on this issue for 6 years. We have explored all options in an effort to find a workable solution.

We have held hearings and debated the issues. The Senate passed interstate waste bills in the 101st Congress, the 102d Congress, and again last Congress. It is time to put this issue behind us.

If we build on the progress we made last year, we can pass a bill that becomes law. I believe that this bill strikes the right compromise to do just that. It is largely the same bill that the Senate and the House came close to agreeing on last year. We came within a fingernail's width of agreement last year, and it is time to finish the job.

The bill resolves a problem that our States cannot solve without congressional action.

STRIKING A BALANCE

And it strikes a balance that will work for every community, in every State. It has four major points:

First, it allows every Governor to freeze future imports of garbage at the amount his or her State received in 1993.

Second, it bans any new imports of municipal waste unless the community receiving the garbage specifically wants it.

Third, it requires large exporting States to reduce their future exports. This will encourage recycling and other efforts to cut the amount of garbage we produce.

And fourth, to ensure that no State becomes a dumping ground for any other State, the bill authorizes a Governor to limit imports from any single State.

Thus, this bill empowers States and communities. It lets them decide whether they want more out-of-State garbage. If the community wants new imports, it can enter a host community agreement subject to the approval of the Governor. The decision is up to the people at home.

In summary, Mr. President, this bill will give States the power to restrict trash imports. It will require exporting States to reduce their exports. And it will do all this without disrupting beneficial existing arrangements or creating incentives for illegal disposal.

Finally, and most important, it will give people in rural towns some say in their own lives and communities. Some control over their destiny.

It will mean more decisions by ordinary middle-class people, and fewer decisions by big Government and big business. And that is what the people want.

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

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

S. 465

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

SEC. 101. SHORT TITLE.

This Act may be cited as the ''State and Local Government Interstate Waste Control Act of 1995''.

SEC. 102. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

''(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

''(1) IN GENERAL.—(A) Except as provided in subsections (c), (e), and (h), effective January 1, 1996, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

''(B) An authorization granted after enactment of this section pursuant to subparagraph (A) shall—

''(i) be granted by formal action at a meeting;

''(ii) be recorded in writing in the official record of the meeting; and

''(iii) remain in effect according to its terms.

''(C) An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

''(D) Promptly, but not later than 90 days after such an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization granted under this subsection.

''(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

''(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities (expressed in terms of volume) of waste to be handled.

''(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

''(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

''(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

''(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

''(F) A list of all required Federal, State, and local permits.

''(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

''(H) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

''(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

''(J) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

''(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

''(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

''(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

''(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

''(b) ANNUAL STATE REPORT.—

''(1) IN GENERAL.—Within 90 days after enactment of this section and on April 1 of each year thereafter the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located information specifying the amount and State of origin of out-of-State municipal solid waste received for disposal during the preceding calendar year. Within 120 days after enactment of this section and on July 1 of each year thereafter each such State shall publish and make available to the Administrator, the governor of the State of origin and the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding calendar year.

''(2) CONTENTS.—Each submission referred to in this subsection shall be such as would result in criminal penalties in case of false or misleading information. Such submission shall include the amount of waste received, the State of origin, the identity of the generator, the date of shipment, and the type, of out-of-State municipal solid waste.

''(3) LIST.—The Administrator shall publish a list of States that the Administrator has determined have exported out of State in any of the following calendar years an amount of municipal solid waste in excess of—

''(A) 3.5 million tons in 1996;

''(B) 3.0 million tons in 1997;

''(C) 3.0 million tons in 1998;

''(D) 2.5 million tons in 1999;

''(E) 2.5 million tons in 2000;

''(F) 1.5 million tons in 2001;

''(G) 1.0 million tons in 2002;

''(I) 1.0 million tons in 2003; and

''(J) 1.0 million tons in each calendar year after 2003.

The list for any calendar year shall be published by June 1 of the following calendar year.

''(4) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

''(c) FREEZE.—

''(1) ANNUAL AMOUNT.—(A) Beginning January 1, 1996, except as provided in paragraph (2) and unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (3), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (e) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

''(B) At the request of an affected local government that has not executed a host community agreement, the Governor may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the amount described in subparagraph (A). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

''(C) A limit or prohibition under this section shall be treated as conflicting and inconsistent with a permit or host community agreement if—

''(i) the permit or host community agreement establishes a higher limit; or

''(ii) the permit or host community agreement does not establish any limit.

''(2) LIMITATION ON GOVERNOR'S AUTHORITY.—A Governor may not exercise the authority granted under this subsection in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (e) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

''(3) UNIFORMITY.—Any limitation imposed by a Governor under paragraph (1)(A)—

''(A) shall be applicable throughout the State;

''(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

''(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of place of origin.

''(d) RATCHET.—

''(1) IN GENERAL.—Unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, immediately upon the date of publication of the list required under subsection (b)(3), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (4), may prohibit the disposal of out-of-State municipal solid waste, at any landfill or incinerator covered by the exceptions in subsection (e) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under subsection (b)(3) as having exported, to landfills or incinerators not covered by host community agreements or permits, in any of the following calendar years

an amount of municipal solid waste in excess of the following:

''(A) 3.5 million tons in 1996.

''(B) 3.0 million tons in 1997.

''(C) 3.0 million tons in 1998.

''(D) 2.5 million tons in 1999.

''(E) 2.5 million tons in 2000.

''(F) 1.5 million tons in 2001.

''(G) 1.5 million tons in 2002.

''(H) 1.0 million tons in 2003.

''(I) 1.0 million tons in each calendar year after 2003.

''(2) ADDITIONAL EXPORT LIMITS.—

''(A) PROHIBITION.—No State may export to any one State more than the following amounts of municipal solid waste in any of the following calendar years:

''(i) 1.4 million tons, or 90 percent of the 1993 levels exported to the State, whichever is greater, in 1996;

''(ii) 1.3 million tons, or 90 percent of the 1996 levels exported to the State, whichever is greater, in 1997;

''(iii) 1.2 million tons, or 90 percent of the 1997 levels exported to a State, whichever is greater, in 1998;

''(iv) 1.1 million tons, or 90 percent of the 1998 levels exported to a State, whichever is greater, in 1999;

''(v) 1 million tons in 2000;

''(vi) 800,000 tons in 2001;

''(vii) 600,000 tons in 2002; or

''(ix) 600,000 tons in any year after 2002,

to landfills or incinerators not covered by host community agreements or permits authorizing receipt of out-of-State municipal solid waste.

''(B) ACTION BY GOVERNOR.—The Governor of an importing State may restrict levels of imports of municipal solid waste into that State to reflect the levels specified in subparagraph (A) if—

''(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement of the importing State's intention to impose the requirements of this section;

''(ii) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

''(iii) the restrictions imposed by the Governor of the importing State are uniform at all facilities within the State receiving municipal solid waste from the exporting State.

''(3) DURATION.—The authority provided by paragraph (1) or (2) or both shall apply for as long as a State exceeds the levels allowable under paragraph (1) or (2), as the case may be.

''(4) UNIFORMITY.—Any restriction imposed by a State under paragraph (1) or (2)—

''(A) shall be applicable throughout the State;

''(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

''(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin, in the case of States in violation of paragraph (1) or (2).

''(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

''(1) IN GENERAL.—The prohibition on the disposal of out-of-State municipal solid waste in subsection (a) shall not apply to landfills and incinerators that—

''(A) were in operation on the date of enactment of this section and received during calendar year 1993 documented shipments of out-of-State municipal solid waste, or

''(B) before the date of enactment of this section, the owner or operator entered into a host community agreement or received a permit specifically authorizing the owner or operator to accept at the landfill or incinerator municipal solid waste generated outside the State in which it is or will be located.

''(2) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator that is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or permit referenced in paragraph (1). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste received, the place of origin of the waste, and the duration of any relevant contract.

''(3) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

''(4) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) that contains two contiguous major cities each of which is in a different State.

''(f) NEEDS DETERMINATION.—Any comprehensive solid waste management plan adopted by an affected local government pursuant to Federal or State law may take into account local and regional needs for solid waste disposal capacity. Any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity only in a manner that is not inconsistent with the provisions of this section. Nothing in this subsection shall be construed to prohibit or preclude any State government or solid waste management district, as defined under State law, from requiring any affected local government to site, construct, expand, or require the installation of environmental equipment at, any solid waste facility.

''(g) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.

''(h) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed to have any effect on State law relating to contracts or to authorize or result in the violation or failure to perform the terms of a written, legally binding contract entered into before enactment of this section during the life of the contract as determined under State law.

''(i) DEFINITIONS.—As used in this section:

''(1) AFFECTED LOCAL GOVERNMENT.—(A) For any landfill or incinerator, the term 'affected local government' means—

''(i) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which the landfill or incinerator is located or proposed to be located; or

''(ii) if there is no such body created by State law—

''(I) the elected officials of the city, town, township, borough, county, or parish selected by the Governor and exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located; or

''(II) if a Governor fails to make a selection under subclause (I), and publish a notice regarding the selection, within 90 days after the date of enactment of this section, the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

The Governor shall publish a notice regarding the selection described in clause (ii).

''(B) Notwithstanding subparagraph (A), for purposes of host community agreements entered into before the date of enactment of this section (or before the date of publication of notice, in the case of subparagraph (A)(ii)), the term shall mean either the public body described in clause (i) or the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for municipal solid waste management or the use of land on which the facility is located or proposed to be located.

''(C) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in one of the jurisdictions described in subparagraph (A) and received for disposal or incineration in another.

''(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out-of-State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included.

''(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public, from a residential source, or from a commercial, institutional, or industrial source (or any combination thereof) to the extent such waste is essentially the same as waste normally generated by households or was collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d), such as paper, food, wood, yard wastes, plastics, leather, rubber, appliances, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include any of the following:

''(A) Any solid waste identified or listed as a hazardous waste under section 3001.

''(B) Any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

''(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

''(D) Any solid waste that is—

''(i) generated by an industrial facility; and

''(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated.

''(E) Any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation.

''(F) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

''(G) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

''(H) Any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph).

''(I) Any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

''(4) OUT-OF-STATE MUNICIPAL SOLID WASTE.—The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is not consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

''(5) SPECIFICALLY AUTHORIZED; SPECIFICALLY AUTHORIZES.—The terms 'specifically authorized' and 'specifically authorizes' refer to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to 'any place of origin', reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources or locations outside the State.''.

SEC. 103. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following new item:

''Sec. 4011. Interstate transportation and disposal of municipal solid waste.''.

SUMMARY OF STATE AND LOCAL GOVERNMENT INTERSTATE WASTE CONTROL ACT OF 1995

The State and Local Government Interstate Waste Control Act of 1995 provides the following new legal authority to every State to restrict out-of-State municipal solid waste.

Restriction on receipt of Out-of-State MSW. Municipal solid waste imports are banned unless the affected local community, as defined by the Governor or State law, agrees to accept the waste.

MSW Import Freeze. A governor may unilaterally freeze out-of-State MSW at 1993 levels.

MSW Export State Rachet. A governor may unilaterally ban out-of-State MSW from any State exporting more than 3.5 million tons of MSW in 1996, 3.0 million tons in 1997 and 1998, 2.5 million tons of MSW in 1999 and 2000, 1.5 million tons in 2001 and 2002, and 1 million tons of MSW in 2003 and every year thereafter.

MSW Import State Rachet. A Governor may unilaterally restrict out-of-State MSW, imported from any one State in excess of the following levels: In 1996, more than 1.4 million tons or 90 percent of the 1993 levels of such waste exported to such State, whichever is greater; in 1997, 1.3 million tons or 90% of the 1996 levels of such waste exported to such State, whichever is greater; in 1998, 1.2 million tons of 90 percent of the 1997 levels of such waste exported to such State, whichever is greater; in 1999, 1.1 million tons, or 90% of the 1998 levels of such waste exported to such State, whichever is greater; in 2000, 1 million tons; in 2001, 800,000 tons; and in 2002 and each year thereafter, 600,000 tons.

International Imports. The bill also allows any Governor to exercise these authorities to ban or limit MSW imported from Canada (and other countries) if not inconsistent with GATT and NAFTA.

Protection of Host Community Agreements. The bill explicitly prohibits a Governor from limiting or prohibiting MSW imports to landfills or incinerators (including waste-to-energy facilities) that have a host community agreement (as defined in the bill). Such agreements must expressly authorize the receipt of out-of-State MSW.

Needs Determination. The bill allows a State plan to take into account local and regional needs for solid waste disposal capacity through State permitting provided that it is implemented in a manner that is not inconsistent with the provisions of the bill.

By Mr. BREAUX:

S. 466. A bill to amend title II of the Social Security Act to repeal the rule providing for termination of disabled adult child's benefits upon marriage; to the Committee on Finance.

THE SOCIAL SECURITY ACT AMENDMENT ACT OF 1995

• Mr. BREAUX. Mr. President, I reintroduce legislation that would resolve a long-standing inequity in the rules that govern eligibility under the Social Security Act's coverage of disabled individuals.

The so-called disabled adult child benefit under title II of the Social Security Act provides benefits to the disabled children of individuals who receive old age or disability insurance benefits. Eligible individuals receive a cash benefit and Medicare coverage. Very often the Medicare coverage that individuals receive is more important than the cash benefit, because the severely disabled recipients have nowhere else to go to get insurance that would cover their preexisting, often severe disabilities.

Under current law, individuals who receive the disabled adult child benefit automatically lose their benefits if they get married, regardless of their income. This penalty is archaic and should be removed from the law. When these provisions were originally enacted society had a different view of the disabled than it does today. The notion was that, upon marriage, disabled individuals would leave their dependence relationship with the Social Security program only to enter into a dependence relationship on a spouse. Today, we have come to realize that disabled people can be productive members of society in their own right. They can and should be free to marry, and raise families and engage in the pursuit of happiness like everyone else in this country. This automatic loss of benefits, especially of the all-important Medicare coverage—is a huge obstacle for disabled adult child recipients who want to do so.

Mr. President, the bill I am reintroducing today would repeal the provision which requires that these individuals lose their benefits when they marry.

Several years ago, a constituent of mine named Jimmy Rick drove his wheelchair all the way to Washington, DC, and Capitol Hill from his home in Amide, LA, in order to bring this matter to my attention. Mr. Rica has been paralyzed from the neck down since he was 3 years old and has had a series of incredibly painful and debilitating operations over the course of his 46 years. Every night of his life he must sleep in an iron lung. Somehow, he still managed to pilot his wheel chair the 1,100 miles from Aide, LA, to Capitol Hill to explain the effect that the marriage provision has had on his life.

Mr. Rick and his wife, Dona, had to wait 7 years before they could get married and adopt children. He was completely dependent on the Medicare coverage he had as a beneficiary and could not have gotten insurance anywhere else. Jimmy and Dona could not get married until she found a job with the U.S. Postal Service that carried the kind of health insurance coverage that Jimmy absolutely needed in order to survive. Since their marriage in May 1990 the Ricks have adopted two children, and they would like to adopt more. They are a happy, productive and stable family. The archaic marriage penalty in the Social Security law only served to delay this happy circumstance for 7 unnecessary years.

This Congress will be the third Congress in which I have introduced this legislation. In June 1992, the Senate Finance Committee approved a provision based on this legislation as part of a larger measure that would have liberalized the Social Security earnings limit. Unfortunately, the provision was stripped before the legislation passed due to conflict with the Budget Committee's interpretation of rules related to on-budget versus off-budget financing. Try to explain that to constituents whose day to day lives were drastically affected by an unreasonable provision of the law.

Mr. President, I hope that this legislation, which will strengthen the concept of the family and allow thousands of disabled persons to marry who cannot now do so, receives the favorable

attention of my colleagues and can finally be passed into law.

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

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

S. 466

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

SECTION 1. REPEAL OF RULE PROVIDING FOR TERMINATION OF DISABLED ADULT CHILD'S BENEFITS UPON MARRIAGE.

(a) IN GENERAL.—Section 202(d) of the Social Security Act (42 U.S.C. 402(d)) is amended—

(1) in paragraph (1)(D), by striking ''or marries,'';

(2) by striking paragraph (5); and

(3) in paragraph (6)—

(A) by inserting ''(other than by reason of death)'' after ''terminated'',

(B) by striking ''(provided no event specified in paragraph (1)(D) has occurred)'', and

(C) by striking ''the first month in which an event specified in paragraph (1)(D) occurs'' in subparagraph (C) and inserting ''the month in which the child's death occurs''.

(b) Conforming Amendments.—

(1) Section 202(d) of such Act (as amended by subsection (a)) is further amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (5), (6), (7), and (8), respectively.

(2) Section 202(s)(2) of such Act (42 U.S.C. 402(s)(2)) is amended by striking ''So much of subsections (b)(3), (c)(4), (d)(5), (g)(3), and (h)(4) of this section as precedes the semicolon,'' and inserting ''Subsections (b)(3), (c)(4), (g)(3), and (h)(4) of this section''.

(3) Section 223(e) of such Act (42 U.S.C. 423(e)) is amended by striking ''(d)(6)(A)(ii), (d)(6)(B),'' and inserting ''(d)(5)(A)(ii), (d)(5)(B)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to marriages occurring on or after May 1, 1995.●

By Mr. BOND:

S. 467. A bill for the relief of Benchmark Rail Group, Inc., and for other purposes; to the Committee on the Judiciary.

THE BENCHMARK RAIL GROUP RELIEF ACT OF 1995

● Mr. BOND. Mr. President, at the end of last session this body passed legislation to provide relief to the Benchmark Rail Group, Inc., a company in St. Louis, MO, that performed emergency work, at the request of the Southern California Regional Rail Authority, following the Northridge earthquake in California. Unfortunately, the House did not act on this legislation.

It was not until after several weeks into the emergency repair work on rail lines in the Los Angeles area that Benchmark learned of a provision in California State law that requires State agencies to only hire contractors licensed to do work in the State of California. This provision disqualified Benchmark from receiving payment owed—approximately $500,000.

FEMA, following the direction provided under section 406(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, contributed 90 percent to the net eligible cost of repair, restoration, reconstruction, and replacement of public facilities as a result of the earthquake. On August 23, 1994, funds were obligated by FEMA for various projects undertaken by the Metropolitan Transit Authority, including Southern California Regional Rail Authority and the work performed by the Benchmark Rail Group. Because of the provision of California State law, unfortunately the funds obligated cannot be awarded to Benchmark by the State of California or the Southern California Regional Rail Authority.

In a letter to Governor Wilson, FEMA stated that:

Benchmark Rail Group of St. Louis, MO, travelled halfway across the country at the invitation of the Southern California Regional Rail Authority to help people in dire need of assistance. this action was clearly an example of the concept of people-helping-people at work

According to the letter:

FEMA is precluded from directly paying Benchmark or otherwise effectuating or facilitating payment to Benchmark because of limitations imposed by both State and Federal law.

FEMA cannot pay Benchmark for two reasons. First, ''the Federal Government, in the performance of its duties and responsibilities, cannot ignore or abrogate State law. Since the failure to have a particular California license is the obstacle to payment by the State, FEMA is not legally in a position to do what the State of California, the Metropolitan Transit Authority and the Southern California Regional Rail Authority cannot do.'' Second, the Stafford Act prohibits FEMA from providing funds directly to Benchmark, since the company is not an eligible grantee. Section 406(a) of the Stafford Act and the applicable regulations authorizes reimbursement by FEMA only to the grantee of the Federal share of disaster assistance funds which must be a State or local government.

The State of California, like FEMA, recognized the problem and tried to resolve it last summer. Governor Wilson worked with the California State Legislature to amend California law to authorize payment to Benchmark. The effort got underway late in the legislative session and failed. Governor Wilson wrote to FEMA and stated:

We are hopeful that this problem can be resolved if FEMA obtains the administrative flexibility to make the Stafford Act payment directly to Benchmark.

The legislation that was introduced by the former senior Senator of Missouri, Senator Danforth, and passed this body last year, and which I am reintroducing today, would do just that. This legislation directs FEMA to reimburse Benchmark for all work which is eligible for reimbursement under the Stafford Act, including the 90-percent share that FEMA would ordinarily pay and the 10-percent share that the non-Federal entity would pay.

It is unfortunate that Benchmark Rail Group has gotten caught in the middle of State and Federal bureaucracy. Benchmark, who rushed to help others suffering from a natural disaster, now is suffering and cannot get help because of the inflexibility in both Federal and State law. I believe we have a responsibility to make certain that Benchmark is compensated for the work performed. I urge my colleagues to support this legislation.●

By Mr. GLENN (for himself and Mr. DEWINE):

S. 468. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in Ohio, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL POWER ACT AMENDMENT ACT OF 1995

● Mr. GLENN. Mr. President, today with my colleague, Mr. DEWINE, I am introducing a bill to extend the time limitation on an already issued Federal Energy Regulatory Commission [FERC] license for the Summit pumped energy storage project in Norton, OH. Legislation authorizing the FERC to grant this extension has been introduced in the House by Congressman SAWYER.

Upon completion of environmental, engineering and other project review, the FERC issued a license to Summit Energy Storage, Inc., for the Summit pumped storage hydropower project. The 1,500 megawatt Summit project, to be located in Summit and Medina Counties, OH, will generate an estimated maximum 3,900 gigawatt-hours of electricity per year.

Section 13 of the Federal Power Act prescribes the time limits for commencement of construction of a hydropower project once FERC has issued a license. The licensee must begin construction not more than 2 years from the date the license is issued, unless FERC extends the initial 2-year deadline. FERC has extended the Summit project's construction commencement deadline for the one permissible 2-year period, setting the current deadline of April 11, 1995. The bills we introduce would grant FERC authority to extend the commencement of construction deadline for up to 6 additional years.

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

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

S. 468

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

SECTION 1. EXTENSION OF DEADLINE.

(A) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project numbered 9423, the Commission may, at the request of the licensee for the project, in accordance with the good faith, due diligence, and public interest requirements of that section and the Commission's procedures under that section,

extend the time period during which the licensee is required to commence the construction of the project, under the extension described in subsection (b), for not more than 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—This section shall take effect on the date of the expiration of the extension of the period required for commencement of construction of the project described in subsection (a) that the Commission issued, prior to the date of enactment of this Act, under section 13 of the Federal Power Act (16 U.S.C. 806).●

By Mr. GREGG (for himself and Mr. COATS):

S. 469. A bill to eliminate the National Education Standards and Improvement Council and opportunity-to-learn standards; to the Committee on Labor and Human Resources.

EDUCATION LEGISLATION

● Mr. GREGG. Mr. President: I introduce legislation that begins to undo the damage caused by the passage of Goals 2000: Educate America Act during the last Congress. My legislation will not only eliminate the National Education Standards and Improvement Council but will also repeal opportunity to learn standards. Both of these, created under Goals 2000, specifically shift a significant amount of the control of curriculum and management of elementary and secondary schools from local communities and States to the Federal Government.

By repealing these two pieces of Goals 2000, we rid States and localities of the most offensive provisions of this legislation and move to restore local control of education. The first step is eliminating the National Education Standard and Improvement Council [NESIC], also referred to as the National School Board. This body is charged with certifying national content and performance standards and opportunity to learn standards. These standards basically address all areas affecting the way elementary and secondary schools are operated. We have already seen the failure of national standards with the creation of U.S. history standards. Let's stop this disaster before it goes any further.

The second step in the process of restoring local control is to eliminate opportunity to learn standards. Basically, these standards are a Federal methodology of how people teach, what they are taught and the atmosphere in which they are taught. Opportunity to learn standards deal with input; they address curriculum, instructional materials, teacher capabilities, and school facilities. Since when is the Federal Government involved in deciding how many pencils each classroom should have?

Proponents of opportunity to learn standards insist that the implementation of these standards is voluntary. However, if a State wants their fair share of the available funds, they must develop these standards, even if they have no intention of using them; this does not appear to be voluntary to me.

We must make it clear that energizing local communities, the parents, the teachers, the principals, and the school boards is the key to improving education. My legislation does just that.

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

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

S. 469

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

SECTION 1. ELIMINATION OF THE NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL AND OPPORTUNITY-TO-LEARN STANDARDS.

Title II of the Goals 2000: Educate America Act (20 U.S.C. 5821 et seq.) is amended—

(1) by repealing part B (20 U.S.C. 5841 et seq.); and

(2) by redesignating parts C and D (20 U.S.C. 5861 et seq. and 5871 et seq.) as parts B and C, respectively.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—

(1) The table of contents for the Goals 2000: Educate America Act is amended, in the items relating to title II—

(A) by striking the items relating to part B;

(B) by striking ''PART C'' and inserting ''PART B''; and

(C) by striking ''PART D'' and inserting ''PART C''.

(2) Section 2 of such Act (20 U.S.C. 5801) is amended—

(A) in paragraph (4)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon;

(ii) by striking subparagraph (C); and

(iii) by redesignating subparagraph (D) as subparagraph (C); and

(B) in paragraph (6)—

(i) by striking subparagraph (C); and

(ii) by redesignating subparagraphs (D) through (F) as subparagraphs (C) through (E), respectively.

(3) Section 3(a) of such Act (20 U.S.C. 5802) is amended—

(A) by striking paragraph (7); and

(B) by redesignating paragraphs (8) through (14) as paragraphs (7) through (13), respectively.

(4) Section 201(3) of such Act (20 U.S.C. 5821(3)) is amended by striking '', voluntary national student performance'' and all that follows through ''such Council'' and inserting ''and voluntary national student performance standards''.

(5) Section 202(j) of such Act (20 U.S.C. 5822(j)) is amended by striking '', student performance, or opportunity-to-learn'' and inserting ''or student performance''.

(6) Section 203 of such Act (20 U.S.C. 5823) is amended—

(A) in subsection (a)—

(i) by striking paragraphs (2) and (3);

(ii) by redesignating paragraphs (4) through (6) as paragraphs (2) through (4), respectively; and

(iii) by amending paragraph (2) (as redesignated by clause (ii)) to read as follows:

''(2) review voluntary national content standards and voluntary national student performance standards;''; and

(B) in subsection (b)(1)—

(i) in subparagraph (A), by inserting ''and'' after the semicolon;

(ii) in subparagraph (B), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (C).

(7) Section 204(a)(2) of such Act (20 U.S.C. 5824(a)(2)) is amended—

(A) by striking ''voluntary national opportunity-to-learn standards,''; and

(B) by striking ''described in section 213(f)''.

(8) Section 241 of such Act (20 U.S.C. 5871) is amended—

(A) in subsection (a), by striking ''(a) NATIONAL EDUCATION GOALS PANEL.—''; and

(B) by striking subsections (b) through (d).

(9) Section 304(a)(2) of such Act (20 U.S.C. 5884(a)(2)) is amended—

(A) in subparagraph (A), by adding ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C).

(10) Section 306 of such Act (20 U.S.C. 5886) is amended—

(A) by striking subsection (d); and

(B) in subsection (o), by striking ''State opportunity-to-learn standards or strategies,''.

(11) Section 308(b)(2) of such Act (20 U.S.C. 5888(b)(2)) is amended—

(A) in the matter preceding clause (i) of subparagraph (A), by striking ''State opportunity-to-learn standards,''; and

(B) in subparagraph (A), by striking ''including—'' and all that follows through ''title II;'' and inserting ''including through consortia of States;''.

(12) Section 312(b) (20 U.S.C. 5892(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(13) Section 314(a)(6)(A) of such Act (20 U.S.C. 5894(a)(6)(A)) is amended by striking ''certified by the National Education Standards and Improvement Council and''.

(14) Section 315 of such Act (20 U.S.C. 5895) is amended—

(A) in subsection (b)—

(i) in paragraph (1)(C), by striking '', including the requirements for timetables for opportunity-to-learn standards,'';

(ii) by striking paragraph (2);

(iii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(iv) in paragraph (1)(A), by striking ''paragraph (4) of this subsection'' and inserting ''paragraph (3)'';

(v) in paragraph (2) (as redesignated by clause (iii))—

(I) by striking subparagraph (A);

(II) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(III) in subparagraph (A) (as redesignated in subclause (II)) by striking '', voluntary natural student performance standards, and voluntary natural opportunity-to-learn standards developed under part B of title II of this Act'' and inserting ''and voluntary national student performance standards'';

(vi) in subparagraph (B) of paragraph (3) (as redesignated by clause (ii)), by striking ''paragraph (5),'' and inserting ''paragraph (4),''; and

(vii) in paragraph (4) (as redesignated by clause (ii)), by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (3)'';

(B) in the matter preceding subparagraph (A) of subsection (c)(2)—

(i) by striking ''subsection (b)(4)'' and inserting ''subsection (b)(3)''; and

(ii) by striking ''and to provide a framework for the implementation of opportunity-to-learn standards or strategies''; and

(C) in subsection (f), by striking ''subsection (b)(4)'' each place it appears and inserting ''subsection (b)(3)''.

(15)(A) Section 316 of such Act (20 U.S.C. 5896) is repealed.

(B) The table of contents for such Act is amended by striking the item relating to section 316.

(16) Section 317 of such Act (20 U.S.C. 5897) is amended—

(A) in subsection (d)(4), by striking ''promote the standards and strategies described in section 306(d),''; and

(B) in subsection (e)—

(i) in paragraph (2), by inserting ''and'' after the semicolon;

(ii) by striking paragraph (3); and

(iii) by redesignating paragraph (4) as paragraph (3).

(17) Section 503 of such Act (20 U.S.C. 5933) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking ''28'' and inserting ''27'';

(II) by striking subparagraph (D); and

(III) by redesignating subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively;

(ii) in paragraphs (2), (3), and (5), by striking ''subparagraphs (E), (F), and (G)'' each place it appears and inserting ''subparagraphs (D), (E), and (F)'';

(iii) in paragraph (2), by striking ''subparagraph (G)'' and inserting ''subparagraph (F)'';

(iv) in paragraph (4), by striking ''(C), and (D)'' and inserting ''and (C)''; and

(v) in the matter preceding subparagraph (A) of paragraph (5), by striking ''subparagraph (E), (F), or (G)'' and inserting ''subparagraph (D), (E), or (F)''; and

(B) in subsection (c)—

(i) in paragraph (1)(B), by striking ''subparagraph (E)'' and inserting ''subparagraph (D)''; and

(ii) in paragraph (2), by striking ''subparagraphs (E), (F), and (G)'' and inserting ''subparagraphs (D), (E), and (F)''.

(18) Section 504 of such Act (20 U.S.C. 5934) is amended—

(A) by striking subsection (f); and

(B) by redesignating subsection (g) as subsection (f).

(b) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—

(1) Section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311) is amended—

(A) in subsection (b)(8)(B), by striking ''(which may include opportunity-to-learn standards or strategies developed under the Goals 2000: Educate America Act)'';

(B) in subsection (f), by striking ''opportunity-to-learn standards or strategies,'';

(C) by striking subsection (g); and

(D) by redesignating subsection (h) as subsection (g).

(2) Section 1116 of such Act (20 U.S.C. 6317) is amended—

(A) in subsection (c)—

(i) in paragraph (2)(A)(i), by striking all beginning with '', which may'' through ''Act''; and

(ii) in paragraph (5)(B)(i)—

(I) in subclause (VI), by inserting ''and'' after the semicolon;

(II) in subclause (VII), by striking ''; and'' and inserting a period; and

(III) by striking subclause (VIII); and

(B) in subsection (d)—

(i) in paragraph (4)(B), by striking all beginning with '', and may'' through ''Act''; and

(ii) in paragraph (6)(B)(i)—

(I) by striking subclause (IV); and

(II) by redesignating subclauses (V) through (VIII) as subclauses (IV) through (VII), respectively.

(3) Section 1501(a)(2)(B) of such Act (20 U.S.C. 6491(a)(2)(B)) is amended—

(A) by striking clause (v); and

(B) by redesignating clauses (vi) through (x) as clauses (v) through (ix), respectively.

(4) Section 10101(b)(1)(A)(i) of such Act (20 U.S.C. 8001(b)(1)(A)(i)) is amended by striking ''and opportunity-to-learn standards or strategies for student learning''.

(5) Section 14701(b)(1)(B)(v) of such Act (20 U.S.C. 8941(b)(1)(B)(v)) is amended by striking ''the National Education Goals Panel,'' and all that follows through ''assessments)'' and inserting ''and the National Education Goals Panel''.

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 428 of the General Education Provisions Act (20 U.S.C. 1228b), as amended by section 237 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended by striking ''the National Education Standards and Improvement Council,''.

(d) EDUCATION AMENDMENTS OF 1978.—Section 1121(b) of the Education Amendments of 1978 (25 U.S.C. 2001(b)), as amended by section 381 of the Improving America's Schools Act of 1994 (Public Law 103–382) is amended by striking ''213(a)'' and inserting ''203(a)(2)''.●

By Mr. HOLLINGS (for himself and Mr. INOUYE):

S. 470. A bill to amend the Communications Act of 1934 to prohibit the distribution to the public of violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; to the Committee on Commerce, Science, and Transportation.

THE CHILDREN'S PROTECTION FROM TELEVISION VIOLENCE ACT

● Mr. HOLLINGS. Mr. President, today I am re-introducing legislation that will protect children from the harmful effects of gratuitous television violence. As the President said in his State of the Union Address, the entertainment industry has a ''* * * responsibility to assess the impact of [its] work and to understand the damage that comes from the incessant, repetitive mindless violence that permeates our media all the time.'' I do not believe the industry has done its best to honor that special responsibility.

My approach is the most reasonable and feasible way to deal with the reality that television has become the permanent babysitter and some-time parent. The television does not simply occupy a child's time; it has become one of the more powerful influences in a child's life. Yet it continues to be nothing but a vast wasteland.

We've heard all the commitments to reduce the level of violence on television. We've heard the commitments to improve the quality of children's programming. But what has been the result? More violence. The industry's primary focus continues to be the bottom line—not on the quality of the programming and its educational value.

The evidence is overwhelming. Arnold Goldstein, the Director of the Center for Research on Aggression at Syracuse University, has done extensive research in the area of violence and its impact on youth. His research conclusively finds a link between TV violence and real-world violence and adds support to congressional efforts to curb the amount of violence on television. The Commerce Committee's hearing record last Congress provides further evidence of the extent of violence in society. Each year, over 20,000 people are murdered in the United States—1 person is killed every 22 minutes. Violence is the second leading cause of death for Americans between the ages of 15 and 24. The Centers for Disease Control now considers violence to be a public health problem.

According to several studies, television violence increased in the 1980's both during prime time and during children's television hours. Evidence shows that children spend more time watching television than they spend in school. For example, children between the ages of 2 and 11 watch television an average of 28 hours per week. Furthermore, a University of Pennsylvania study documented that a record 32 violent acts per hour were shown during children's shows in 1992. The American Psychological Association [APA] estimates that a typical child will watch 8,000 murders and 100,000 acts of violence before finishing elementary school.

The Commerce Committee has been looking at the issue of television violence and its impact on youth. Last Congress, the Commerce Committee held a hearing on this issue and found that there is indeed a compelling governmental interest to protect children from the harmful effects of violence on television. To address this interest, my bill directs the Federal Communications Commission [FCC] to adopt rules to require the networks and cable industry to channel violent programming into times of the day when children are not likely to comprise a substantial part of the audience. This is consistent with Supreme Court decisions recognizing the compelling nature of the Government's interest in helping parents supervise their children and in independently protecting the well being of its youth.

I am sensitive to the constitutional concerns raised by this issue. However, I believe the safe harbor mandated by my bill is sound public policy and is the least restrictive means to protect children. The courts have found many deficiencies in past legislative efforts to curb indecent programming. In fact, the U.S. Court of Appeals for the District of Columbia ruled that the safe harbor timeframe for indecent broadcasts from 12 midnight to 6 a.m. was unconstitutional. The court said the timeframe mandated by Congress and adopted in the FCC's rules was overly broad and not based upon a sufficient record.

My bill avoids the deficiencies found in prior legislative efforts. In Action for Children's Television versus FCC (Act IV), the court said the FCC's effort to implement a safe harbor for indecent programming failed because its regulations attempted to protect every person—adults and children—from the

harmful effects of indecent programming. The FCC failed to balance properly the first amendment considerations necessary to restrict indecent broadcasts since the FCC's rules did not exclude adults from the persons to be protected from indecent broadcasts.

In his concurring opinion, Judge Edwards asserted that violent programming is more harmful to children than indecent broadcasts and that a more compelling case can be made for regulating violence—if the regulation is narrowly tailored. Judge Edwards stated that ''the strength of the Government's interest in shielding children from exposure to indecent programming is tied directly to the magnitude of the harms sought to be prevented. The apparent lack of specific evidence of harms from indecent programming stands in direct contrast, for example, to the evidence of harm caused by violent programming—a genre that, as yet, has gone virtually unregulated.''

My bill does not ban programs with violence, and it does not regulate the content of any program. Rather, it directs the FCC to adopt rules to require the networks and the cable industry to channel violent programming into time slots when children are not likely to comprise a substantial part of the audience.

The programming that children watch today is no longer produced by a few Hollywood studios and broadcast by three networks. We now have an established fourth network, several emerging networks, independent television stations, and cable television, all of which have multiple sources of programming. Therefore, we can no longer hold just the three networks responsible for what children watch. That is why my bill adopts a broad approach directed at all providers of video programming.

I am convinced this bill is the least restrictive means by which we can limit children's exposure to violent programming. I urge my colleagues to consider it carefully.

I ask unanimously consent that the text of the bill be printed in the RECORD.

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

S. 470

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 ''Children's Protection from Violent Programming Act of 1995''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Television influences children's perception of the values and behavior that are common and acceptable in society.

(2) Television station operators, cable television system operators, and video programmers should follow practices in connection with video programming that take into consideration that television broadcast and cable programming—

(A) has established a uniquely pervasive presence in the lives of all Americans; and

(B) is readily accessible to children.

(3) Violent video programming influences children, as does indecent programming.

(4) There is empirical evidence that children exposed to violent video programming at a young age have a higher tendency for violent and aggressive behavior later in life than those children not so exposed. Children exposed to violent video programming are prone to assume that acts of violence are acceptable behavior and therefore to imitate such behavior.

(5) There is a compelling governmental interest in limiting the negative influences of violent video programming on children.

(6) There is a compelling governmental interest in channeling programming with violent content to periods of the day when children are not likely to comprise a substantial portion of the television audience.

(7) Restricting the hours when violent video programming is shown is the least restrictive and most narrowly tailored means to achieve that compelling governmental interest.

(8) Warning labels about the violent content of video programming will not in themselves prevent children from watching violent video programming.

SEC. 3. UNLAWFUL DISTRIBUTION OF VIOLENT PROGRAMMING.

Title VII of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following new section:

''SEC. 714. UNLAWFUL DISTRIBUTION OF VIOLENT PROGRAMMING.

''(a) UNLAWFUL DISTRIBUTION.—It shall be unlawful for any person to—

''(1) distribute to the public any violent video programming during hours when children are reasonably likely to comprise a substantial portion of the audience; or

''(2) knowingly produce or provide material for such distribution.

''(b) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding to implement the provisions of this section and shall promulgate final regulations pursuant to that proceeding not later than 9 months after the date of enactment of the Children's Protection From Violent Programming Act of 1995. As part of that proceeding, the Commission—

''(1) may exempt from the prohibition under subsection (a) programming (including news programs, documentaries, educational programs, and sporting events) whose distribution does not conflict with the objective of protecting children from the negative influences of violent video programming, as that objective is reflected in the findings in section 2 of the Children's Protection From Violent Programming Act of 1995;

''(2) shall exempt premium and pay-per-view cable programming; and

''(3) shall define the term 'hours when children are reasonable likely to comprise a substantial portion of the audience' and the term 'violent video programming'.

''(c) REPEAT VIOLATIONS.—If a person repeatedly violates this section or any regulation promulgated under this section, the Commission shall, after notice and opportunity for hearing, immediately repeal any license issued to that person under this Act.

''(d) CONSIDERATION OF VIOLATIONS IN LICENSE RENEWALS.—The Commission shall consider, among the elements in its review of an application for renewal of a license under this Act, whether the licensee has complied with this section and the regulations promulgated under this section.

''(e) DEFINITION.—As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite.''.

SEC. 4. EFFECTIVE DATE.

The prohibition contained in section 714 of the Communications Act of 1934 (as added by section 3 of this Act) and the regulations promulgated thereunder shall be effective on the date that is 1 year after the date of enactment of this Act.●

By Mr. BIDEN (for himself, Mr. D'AMATO, Mr. HOLLINGS, Mr. ROTH, and Mr. STEVENS):

S. 471. A bill to provide for the payment to States of plot allowances for certain veterans eligible for burial in a national cemetery who are buried in cemeteries of such States; to the Committee on Veterans' Affairs.

THE VETERANS PLOT ALLOWANCE ACT OF 1995

● Mr. BIDEN. Mr. President, today, I am reintroducing legislation I first offered last year regarding the $150 veterans plot allowance to states. My bill would provide a payment for all veterans—not just some veterans—who are buried free of charge in a State veterans cemetery, if they are eligible for burial in a national veterans cemetery. I am pleased to be joined in this effort today by Senators D'AMATO, HOLLINGS, ROTH, and STEVENS.

The imperative for enacting this legislation is even greater today than it was when I introduced the same bill last May. Earlier this week, the Associated Press reported that our national cemeteries are fast running out of space. Of the 114 national cemeteries, 56—one short of half—are already full. And, space exists for just 230,000 more caskets and the cremated remains of just 50,000 more veterans. Compared that with the 27 million veterans living today who will be eligible for burial in a national cemetery.

For those familiar with veterans issues, these statistics will not come as a great shock. In fact, the rapidly dwindling space in national cemeteries is one of the main reasons that over a decade ago, Congress established the state cemetery grant program. In doing so, we hoped to encourage States to build State veterans cemeteries to ease the burden on the national cemetery system.

This Federal-State partnership has not only worked, it is a shining example of what the States and the Federal Government can do together. Since the creation of the program, over 25 States have built State veterans cemeteries—and there are now 42 such cemeteries throughout the United States. For States like Delaware, which do not have a national cemetery at all, the State cemetery program ensures that veterans will receive the dignified burial they deserve in a veterans-only cemetery, while being buried closer to home than if they were buried in a national cemetery.

Now, however, I fear that this partnership is at risk—precisely when we need it the most. The reason is because of an anomaly in the law. States are required to bury in a State-owned veterans cemetery those veterans who are eligible for burial in a national veterans cemetery—that is, all honorably

discharged veterans. To help meet the cost, the Federal Government promised to pay a $150 plot allowance to the State for each veteran who is buried free of charge. But—and here is the catch—this payment is not made for all honorably discharged veterans. Rather, a State is eligible for the plot allowance only for burying veterans who meet a set of more restrictive criteria. Specifically, the plot allowance is paid only for those veterans who: First, were receiving veterans disability compensation or a veterans pension; second, died in a VA hospital; third, were indigent, and the body was unclaimed; or fourth, were, or could have been, discharged from the military due to a disability.

In short, State-owned veterans cemeteries exist to help relieve the Federal Government of its responsibility to bury all veterans in national cemeteries. At the same time, States do not receive the $150 plot allowance for burying all national cemetery eligible veterans. It seems to me that this disparate treatment is in conflict with the very purpose for which State veterans cemeteries were established.

And, because of the limits on the payment of the plot allowance, I have heard anecdotal evidence in recent years that some States may soon stop burying veterans free of charge. They claim that they cannot afford to do so when the Federal Government does not pay the $150 plot allowance.

To further complicate matters, last year, Congress extended eligibility for burial in a national cemetery to National Guard members and reservists who have served at least 20 years. By their eligibility for burial in a national cemetery, they are also now eligible for burial in State veterans cemeteries. But, of course, few, if any, will meet the four-point criteria I mentioned a moment ago—and the States will not receive a $150 plot allowance for their burial.

So, Mr. President, as we are asking more of State veterans cemeteries—through expanded eligibility and through decreased space in national cemeteries—and as State veterans cemeteries become more vital to the national cemetery system, we need to ensure that States continue to participate in the program. To guarantee that—and to be fair to the States—my legislation would simply provide States the $150 plot allowance for burying without charge any veterans eligible for burial in a national veterans cemetery. No more restricted criteria. No more contradictory goals. Only one simple and fair rule: If a State buries a veteran in lieu of burial in a national cemetery, the State is paid the plot allowance.

If my legislation were enacted, the Congressional Budget Office has estimated that it would cost the Federal Government about $1 million annually. While my bill does not have offsetting reductions in other Federal spending to cover this cost, I am committed to finding such reductions before the measure is passed.

Mr. President, on this, the 50th anniversary of the Battle of Iwo Jima—at a time when we are honoring the brave men who fought there and the almost 7,000 who died there—it is well to remember that the Federal Government is duty-bound to give all of our veterans a decent and dignified burial. The legislation I am introducing today will help to ensure that we live up to that solemn commitment. I urge my colleagues to cosponsor this bill.●

By Mr. DODD (for himself and Mr. KENNEDY):

S. 472. A bill to consolidate and expand Federal child care services to promote self-sufficiency and support working families, and for other purposes; to the Committee on Labor and Human Resources.

THE CHILD CARE CONSOLIDATION AND INVESTMENT ACT OF 1995

Mr. DODD. Mr. President, I rise today to introduce the Child Care Consolidation and Investment Act. I am pleased to offer this legislation with my colleague, Senator KENNEDY.

The bill would consolidate major child care programs, including the child care and development block grant to create a seamless system of child care for working parents; expand access to affordable child care in order to promote work and self-sufficiency; ensure that parents will not be forced to leave their children in unsafe situations to comply with work requirements; and build on the child care and development block grant to encourage parental choice, provide for quality and ensure basic health and safety standards.

I attended a hearing of the Subcommittee on Children and Families last week which highlighted the need for this legislation. We heard from several witnesses about the desperate need for an increased investment in child care. We also heard about the unintended but terrible consequences of imposing work requirements or time limits for welfare without a corresponding investment in child care.

In addition, witnesses discussed the importance of emphasizing quality child care. It is not enough to simply warehouse our children. We must provide them with a safe, clean, stimulating environment. They deserve no less. That is why our bill would preserve and build on the quality component of the child care and development block grant.

The bill seeks to simplify and consolidate Federal child care programs in hopes of creating seamless support so that individuals have access to child care as they move from welfare to job training to work. But it recognizes that consolidation, as important as it is, is no substitute for devoting resources to meet the needs of our kids.

Finally, the bill would seek to put child care at its rightful place in the center of the welfare reform debate. It would require any State that imposes work requirements on welfare recipients to offer child care assistance for the recipients' children.

BARRIERS BETWEEN WELFARE AND WORK

I think we all share the same goal in reforming the welfare system—to encourage self-sufficiency and reward work. To get the job done, we must identify the barriers between individuals on welfare and work—and then do our best to eliminate those barriers.

Our bill recognizes that one of the most significant barriers to work is a lack of affordable, quality child care. But most of the welfare reform proposals coming from the other side of the aisle are woefully inadequate on this point.

Most of the plans would put welfare recipients to work. I wholeheartedly agree that work and job training requirements are critical if we ever hope to break the cycle of poverty. Placing work at the center of our welfare policy is the right approach.

But this raises an important question. Since two-thirds of families receiving aid to families with dependent children have at least one pre-school age child, what happens to the children while their parents are at work? Where do they go? Who will look out for them?

The major Republican proposal in the House completely ignores these questions. Instead of putting children at the center of the welfare reform debate—as they should be—some Republicans are treating them as nuisances to be swept under the rug.

At a time when we should be investing in child care to make work possible, the House bill would cut child care funding. The House bill would eliminate child care subsidies for 377,000 kids by the year 2000, and cut funding by 24 percent by that time. The House bill would also completely eliminate quality standards—even minimal health and safety requirements.

During a subcommittee mark-up in the other body last week, Representative JIM NUSSLE had the following to say about proposals to ensure child care as part of welfare reform:

> Pretty soon we'll have the department of the alarm clocks to wake them up in the morning and the department of bedtime stories to tuck them in at night. It's not the Government's responsibility.

That kind of flip, cavalier attitude toward our Nation's children is completely unacceptable. I would suggest the Government does have a responsibility to young children. It is not kids' fault that their parents are on welfare, and they shouldn't be punished for the mistakes or bad luck of adults.

I maintain that if we are going to put welfare parents to work, we have an obligation to do something for their kids. It's just that simple.

MAKING A BAD SITUATION WORSE

Demand for child care already outstrips the supply. There are now thousands of children on waiting lists in 37

States. You don't need to be an economist to understand what would happen if 2 to 3 million additional children need child care when their parents are put to work.

A bad situation will grow worse. Increased demand will drive up fees—pricing more working families out of the system. Former welfare recipients will find it difficult to remain in the job market if they have no one to care for their kids. The quality of child care will decline. We will find that we haven't reformed much of anything.

We must recognize that to build a welfare system that truly rewards work, we must have a national child care policy that makes work possible.

We have a wealth of hard evidence to prove this point:

A study by the Illinois Department of Public Aid found that 42 percent of AFDC recipients said that child care problems kept them from working full-time. Twenty percent said they had abandoned jobs and returned to welfare within the previous year—because of inadequate child care.

Child care expenses and simple economics often conspire to make welfare more attractive than work. The GAO found that the median family income of the working poor was $159 higher per month than those of AFDC recipients. But working poor families pay an average of $260 per month on child care—more than enough to wipe out the economic advantage they get from working.

If we want to replace welfare with work, it is obvious we must do something about child care. And if we want to do something about child care for the working poor, the child care development block grant is the place to start: 70 percent of the children served by the block grant have working parents and 67 percent of the children have family incomes at or below poverty.

The child care development block grant provides funds to States to help parents pay for care. It encourages States to increase the number of providers and make it easier for parents to find the care they need.

The new investments in child care have already paid off. In many States, the financial support available for low-income families has more than doubled.

QUALITY

The child care development block grant is also noteworthy because it provides the States with money to invest in quality, a provision that sets it apart from any other source of Federal child care funds.

A major study released this month clearly illustrated how critical this emphasis on quality is. The multiyear, multistate study, entitled ''Cost, Quality, and Child Outcomes in Child Care Centers,'' was conducted by a team of researchers at four universities. It found that only one in seven child care centers provides good quality child care.

For infants and toddlers, the situation is particularly bad. A staggering 40 percent of child care centers do not meet minimal standards for this group, meaning basic sanitary conditions are not met, there are safety problems or learning is not encouraged.

The poor quality of child care already puts our kids at risk. The situation will only grow worse if we try to shove millions more kids into the system with no thought to the quality of that system.

That's why our bill would build on the block grant's commitment to quality. The block grant's quality set-aside funds a variety of efforts, including renovations and repairs to help centers meet State licensing standards, the purchase of educational materials, support for low-income family home child care providers, and training and technical assistance for staff. These are critical efforts, and they should be continued.

Child care has been a strongly bipartisan issue in the Senate, and I hope colleagues from both sides of the aisle will join us in this effort to put children at the center of the welfare reform debate. Let's not leave our kids behind.

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

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

S. 472

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 ''Child Care Consolidation and Investment Act of 1995''.

SEC. 2. FINDINGS.

Congress finds that—

(1) fragmentation of the Federal Government's major child care assistance programs has left gaps for many parents moving from welfare to work;

(2) child care problems have prevented 34 percent of poor mothers between the ages 21 and 29 from working;

(3) ⅔ of all families receiving assistance under the Aid to Families with Dependent Children program have at least one preschool age child and need child care in order to work;

(4) there already exists an unmet need for child care assistance—37 States now have waiting lists that can run as high as 35,000 individuals;

(5) child care directly affects an individual's ability to stay in the work force;

(6) welfare reform that places work at its center will increase the demand for child care and require an additional investment of resources;

(7) child care consumes $260 per month or about 27 percent of income for average working poor families, leaving them with less income than families eligible for assistance under the Aid to Families with Dependent Children program;

(8) quality must be a central feature of the child care policy of the United States;

(9) only 1 in 7 day care centers offer good quality care;

(10) 40 percent of day care centers serving infants and toddlers do not meet basic sanitary conditions, have safety problems, and do not encourage learning; and

(11) only 9 percent of family and relative day care is considered good quality care.

SEC. 3. PURPOSE.

It is the purpose of this Act to—

(1) eliminate program fragmentation and create a seamless system of high quality child care that allows for continuity of care for children as parents move from welfare to job training to work;

(2) provide for parental choice among high quality child care programs; and

(3) increase the availability of high quality affordable child care in order to promote self sufficiency and support working families.

SEC. 4. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

(a) APPROPRIATIONS.—Section 658B of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended to read as follows:

''SEC. 658B. APPROPRIATION.

''(a) IN GENERAL.—For the purpose of providing child care services for eligible children through the awarding of grants to States under this subchapter, the Secretary of Health and Human Services shall pay, from funds in Treasury not otherwise appropriated, $2,302,000,000 for fiscal year 1996, $2,790,000,000 for fiscal year 1997, $3,040,000,000 for fiscal year 1998, $3,460,000,000 for fiscal year 1999, and $4,030,000,000 for fiscal year 2000.

''(b) ADJUSTMENTS.—If the amounts appropriated under subsection (a) are not sufficient to provide services to each child whose parent is required to undertake education, job training, job search, or employment as a condition of eligibility for benefits under part A of title IV of the Social Security Act, the Secretary shall pay, from funds in the Treasury not otherwise appropriated, such sums as may be necessary to ensure the implementation of section 658E(c)(3)(E) with respect to each such child.''.

(b) AWARDING OF GRANTS.—Section 658C of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858a) is amended by striking ''is authorized to'' and inserting ''shall''.

(c) SUPPLEMENTATION.—Section 658E(c)(2)(J) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(2)(J)) is amended by inserting ''in fiscal year 1995'' before the period.

(d) SET-ASIDES FOR QUALITY AND WORKING FAMILIES, AND CHILD CARE GUARANTEE.—Section 658E(c)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858c(c)(3))—

(1) in subparagraph (C), by striking ''25 percent'' and inserting ''20 percent''; and

(2) by adding at the end thereof the following new subparagraphs:

''(D) ASSISTANCE FOR LOW-INCOME WORKING FAMILIES.—The State shall reserve not less than 50 percent of the amount provided to the State and available for providing services under this subchapter, to carry out child care activities to support low-income working families residing in the State.

''(E) CHILD CARE GUARANTEE.—The State plan shall provide assurances that the availability of child care under the grant will be coordinated in an appropriate manner (as determined by the Secretary) with the requirements of part A of title IV of the Social Security Act. Such coordination shall ensure that the parent of a dependent child is not required to undertake an education, job training, job search, or employment requirement unless child care assistance in an appropriate child care program is made available.''.

(e) MATCHING REQUIREMENT.—Section 658E(c) of the Child Care and Development

Block Grant Act of 1990 (42 U.S.C. 9858c(c)) is amended by adding at the end thereof the following new paragraph:

''(6) MATCHING REQUIREMENT.—With respect to amounts made available to a State in each fiscal year beginning with fiscal year 1996, that exceed the aggregate amounts received by the State for child care services in fiscal year 1995, the State plan shall provide that, with respect to the costs to be incurred by the State in carrying out the activities for which a grant under this subchapter is awarded, the State will make available (directly or through in-kind donations from public or private entities) non-Federal contributions in an amount equal to not less than $1 for every $4 of Federal funds provided under the grant.''.

(f) IMPROVING QUALITY.—

(1) INCREASE IN REQUIRED FUNDING.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended by striking ''not less than 20 percent'' and inserting ''50 percent''.

(2) QUALITY IMPROVEMENT INCENTIVE INITIATIVE.—Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended—

(1) by striking ''A State'' and inserting ''(a) IN GENERAL.—A State''; and

(B) by adding at the end thereof the following new subsection:

''(b) QUALITY IMPROVEMENT INCENTIVE INITIATIVE.—

''(1) IN GENERAL.—The Secretary shall establish a child care quality improvement incentive initiative to make funds available to States that demonstrate progress in the implementation of—

''(A) innovative teacher training programs such as the Department of Defense staff development and compensation program for child care personnel; or

''(B) enhanced child care quality standards and licensing and monitoring procedures.

''(2) FUNDING.—From the amounts made available for each fiscal year under subsection (a), the Secretary shall reserve not to exceed $50,000,000 in each such fiscal year to carry out this subsection.''.

(g) BEFORE- AND AFTER-SCHOOL SERVICES.—Section 658H(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858f(a)) is amended by striking ''not less than 75 percent'' and inserting ''50 percent''.

(h) PAYMENTS.—Section 658J(a) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858h) is amended by striking ''Subject to the availability of appropriation, a'' and inserting ''A''.

(i) ALLOTMENTS.—Section 658O(b) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)) is amended by adding at the end thereof the following new paragraph:

''(5) ALLOTMENT.—

''(A) BASE ALLOTMENT.—Effective beginning with fiscal year 1996, the amount allotted to a State under this section shall include the base amount that the State received under this Act, and under the provisions repealed under section 5 of the Child Care Consolidation and Investment Act of 1995, in fiscal year 1995.

''(B) ADDITIONAL AMOUNTS.—Effective beginning with fiscal year 1996, any amounts appropriated under section 658B for a fiscal year and remaining after the requirement of subparagraph (A) is complied with, shall be allotted to States pursuant to the formula described in paragraph (1).''.

SEC. 5. PROGRAM REPEALS.

(a) AFDC JOBS AND TRANSITIONAL CHILD CARE.—

(1) REPEAL.—Paragraphs (1), (3), (4), (5), (6), and (7) of section 402(g) of the Social Security Act (42 U.S.C. 602(g)) are repealed.

(2) CONFORMING AMENDMENTS.—Part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended—

(A) in section 402(a)(19) (42 U.S.C. 602(a)(19))—

(i) in subparagraph (B)(i)(I), by striking ''section 402(g)'' and inserting ''the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)'';

(ii) in subparagraph (C)(iii)(II), by striking ''section 402(g)'' and inserting ''the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)'';

(iii) in subparagraph (D), by striking ''section 402(g)'' and inserting ''the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)''; and

(iv) in subparagraph (F)(iv), by striking ''section 402(g)'' and inserting ''section 402(g)(2) and the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)'';

(B) in section 402(g)(2) (42 U.S.C. 602(g)(2)), by striking ''(in addition to guaranteeing child care under paragraph (1))''; and

(C) in section 403(*l*)(1)(A) (42 U.S.C. 603(*l*)(1)(A)), by striking ''(including expenditures for child care under section 402(g)(1)(A)(i), but only in the case of a State with respect to which section 1108 applies)''.

(b) AT-RISK CHILD CARE.—Sections 402(i) and 403(n) of the Social Security Act (42 U.S.C. 602(i), 603(n)) are repealed.

(c) STATE DEPENDENT CARE GRANTS.—Subchapter E of chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9871 et seq.) is repealed.

(d) CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT.—The Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10901 et seq.) is repealed.

(e) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL FOR TECHNICAL AND CONFORMING AMENDMENTS.—The Secretary of Health and Human Services shall, within 90 days after the date of the enactment of this Act, submit to the appropriate committees of the Congress, a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of subsections (a) and (c).

Mr. KENNEDY. Mr. President, I am pleased to join Senator DODD in introducing the Child Care Consolidation and Investment Act of 1995.

For far too many American families ''Home Alone'' is not just a movie, but a daily crisis. The struggle for decent child care is a fact of life that all working families understand—regardless of their income.

Today and everyday, millions of American families face impossible choices—cruel choices, between the jobs they need and the children they love—heart-wrenching choices between putting food on the table and finding safe and affordable child care for their young sons and daughters.

Nine million children live in single-parent working families. Twenty-seven million more children live in two-parent families where both parents work. The average cost of child care is nearly $5,000 a year—yet the take home pay from a minimum wage job is stuck at $8,500. This standard of living is not manageable. It is not fair and it is not acceptable.

We have heard a lot about turning welfare into work, but not nearly enough about who will care for the 10 million children on AFDC when their parents are in job training or at work. If we are serious about promoting work, if we mean it when we talk about strengthening families instead of punishing then, we must deal with the essential issue of child care.

We know that every day, millions of young children are left in unsupervised settings and in poor quality child care that jeopardize their health and safety—not because their parents do not care, but because they lack options, lack information, and lack cash.

Today, 21 million low-income children under 12 are eligible for services under the Federal child care programs. Yet only 6 percent of these children receive this essential support. Government cannot replace parents, but it can and should help them in their efforts to make ends meet and care for the children.

Quality child care creates opportunity and increases productivity—not just for one generation, but for two generations. Child care is not about giving parents a blank check. It is about giving them a fair chance. Leaving children out of welfare reform will make a mockery of any such reform. It will pass the real life tragedy of dependency on from this generation to the next. Families cannot afford that—and neither can the Nation.

The current child care and development block grant is a tribute to bipartisan cooperation and effective partnerships. For the families whose lives it has touched, it has made child care more affordable and resource and referral services more available. It has guaranteed higher quality. It strikes a good balance between flexibility and accountability.

Unfortunately, this sound structure does not guide all Federal child care spending, but it should. It is the strong foundation on which child care reform should be constructed.

We must create a system of support that allows families to move from welfare to job training to work without continually disrupting the care of their children. We must build a system with assistance based on need, not on welfare status. I support this approach to consolidation and our legislation moves us in that direction.

The Child Care Consolidation and Investment Act of 1995 combines the major child care efforts into a single funding stream, rather than maintaining separate programs for families on welfare, families recently off welfare, and families at-risk of falling onto welfare—each with its own rules, regulations, and eligibility standards. Families have enough stress in their lives without having to weave their way through this maze—all too often only to hear that there is no more help available.

But consolidation alone will never be enough. In the end, it will only mean well-organized deck chairs on a ship that is sinking. Consolidation can streamline bureaucracy and enhance efficiency, but it will not produce real

savings to meet the every-increasing need for quality child care.

To do more than end welfare, we must remove the existing barriers to self-sufficiency, not raise them higher. For many, that barrier is lack of child care. One in three poor women not in the labor force say child care is their greatest barrier to participation. One in five part-time workers say they would work longer hours if child care is available and affordable.

Two-thirds of AFDC families have at least one preschool child. They need child care assistance in order to enroll in job training, job search, or educational activities.

There have been loud calls for cutting benefits and ending welfare. But there has been a deafening silence on child care. It is time to break that silence and put together a realistic program—based not on rhetoric but on results.

The bill approved Act passed by the House Republicans will roll back the positive advances we have made. According to estimates from the Department of Health and Human Services, the proposal will cut child care funds by 20 percent—a $2.5 billion reduction over the next 5 years. In the year 2000, 400,000 fewer children will receive this essential assistance. That does not sound like progress and it isn't progress. More children ''Home Alone'' is never progress.

On top of all that, now they even want to slash nutrition aid for schools and for child care food programs. If taking food out of the mouths of hungry children is not Republican extremism, I do not know what is. Republicans like to boast about their new ideas, but these ideas are out to lunch.

In contrast, the Child Care Consolidation and Investment Act provides the resources needed to promote self-sufficiency and to support working families. It is a realistic pro-work and pro-family proposal. The Act will give AFDC families a helping hand and it will give working families a fighting chance for a better life. It will bring a long-needed cease-fire to the battle for limited slots between families trying to get off welfare and families trying to stay off welfare—a battle with no winners.

We must reject any policy that pulls the rug out from under families just as they are getting on their feet. Such approaches are callous and counterproductive. In Massachusetts, of mothers who left welfare for work and then returned to welfare, 35 percent said child care problems were the reason. Additional support at that critical time could have made all the difference.

Recent studies remind us of the mediocre to poor quality of child care that most children receive. Only one in seven child care centers offers quality care and only 9 percent of family day care homes are found to be of high quality. Children deserve more than custodial care. They need individual attention and a safe place to learn and grow.

As the Inspector General of the Department of Health and Human Services stated in a recent report:

> The Child Care and Development Block Grant has been the principal source of Federal support to strengthen the quality and enhance the supply of child care. The implementation of the Act has been instrumental in raising the standards of other child care programs.

This act will take the next step by applying the requirement of quality standards to all Federal efforts, and by continuing to set aside a percentage of all child care funds to enable States to strengthen the quality of their programs. The innovative approaches that States have taken under this act have benefited all children in child care—not just those receiving assistance.

Clearly, for all of us who care about working families and genuine welfare reform, facing up to the challenge of child care deserves much higher priority than it has had so far.

By Mr. BOND (for himself, Mr. SIMON, Mr. ASHCROFT, and Ms. MOSELEY-BRAUN):

S.J. Res. 27. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois; to the Committee on the Judiciary.

THE BI-STATE COMPACT AMENDMENT ACT OF 1995

● Mr. BOND. Mr. President, I am pleased to introduce this joint resolution with my friend and colleague, Senator ASHCROFT; the distinguished senior Senator from the State of Illinois, Senator SIMON; and my colleague and junior Senator from the State of Illinois, Senator MOSELY-BRAUN.

The Bi-State Development Agency of the Missouri-Illinois Metropolitan District is an interstate compact agency. The purpose of this joint resolution is to seek congressional approval for legislation enacted by the States of Missouri and Illinois which grants additional powers to the agency.

Since the agency's passenger transportation systems operate through various local jurisdictions, the agency has had difficulty insuring that fare evasion and other conduct prohibited on agency facilities and conveyances, and the penalties therefore, are uniform. In addition, issues have arisen regarding the jurisdiction of various local peace officers to arrest for conduct occurring on the light rail system.

The legislatures of the States of Missouri and Illinois have enacted legislation to confer the additional powers necessary to resolve the uniformity issues which the Bi-State Development Agency faces. To move forward, these changes approved by the elected officials of Missouri and Illinois now need congressional approval. I urge my colleagues to support this joint resolution.●

ADDITIONAL COSPONSORS

S. 228

At the request of Mr. MCCONNELL, his name was added as a cosponsor of S. 228, a bill to amend certain provisions of title 5, United States Code, relating to the treatment of Members of Congress and Congressional employees for retirement purposes.

S. 233

At the request of Mr. MCCAIN, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 233, a bill to provide for the termination of reporting requirements of certain executive reports submitted to the Congress, and for other purposes.

S. 256

At the request of Mr. DOLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 351

At the request of Mr. HATCH, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 351, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for increasing research activities.

S. 357

At the request of Mr. AKAKA, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 357, a bill to amend the National Parks and Recreation Act of 1978 to establish the Friends of Kaloko-Honokohau, an advisory commission for the Kaloko-Honokohau National Historical Park, and for other purposes.

S. 413

At the request of Mr. DASCHLE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 413, a bill to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under such Act, and for other purposes.

S. 434

At the request of Mr. KOHL, the names of the Senator from Nebraska [Mr. EXON], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 434, a bill to amend the Internal Revenue Code of 1986 to increase the deductibility of business meal expenses for individuals who are subject to Federal limitations on hours of service.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office.

AMENDMENT NO. 274

At the request of Mrs. FEINSTEIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of amendment No. 274 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place Monday, March 6, 1995, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony regarding S. 333, the Department of Energy Risk Management Act of 1995.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Maureen Koetz at (202) 224–0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, February 23, 1995 at 9:30 a.m. in open session to receive testimony from the unified commanders on their military strategies, operational requirements, and the defense authorization request for fiscal year 1996, including the future years defense program.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, February 23, 1995 at 10 a.m. for a hearing on S. 4 and S. 14, line-item veto.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, February 23, at 10 a.m. for a markup on S. 219, Regulatory Transition Act of 1995, and S. 4 and S. 14, line-item veto.

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

COMMITTEE ON THE JUDICIARY

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, February 23, 1995, on the nominations of:

Sandra L. Lynch, of Massachusetts, to be U.S. Circuit Judge for the First Circuit;

Lacy H. Thornburg, of North Carolina, to be U.S. District Judge for the Western District of North Carolina;

Sidney H. Stein, of New York, to be U.S. District Judge for the Southern District of New York;

Thadd Heartfield, of Texas, to be U.S. District Judge for the Eastern District of Texas; and

David Folsom, of Texas, to be U.S. District Judge for the Eastern District of Texas.

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

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet for a hearing on reauthorization of the National Foundation on the Arts and Humanities Act of 1965, during the session of the Senate on Thursday, February 23, 1995, at 9:30 a.m.

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

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to meet Thursday, February 23, 1995, at 2 p.m. to conduct a hearing on the legislation to approve the National Highway System and the Department of Transportation's fiscal year 1996 budget request for the Federal-aid highway program.

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

ADDITIONAL STATEMENTS

LONG-TERM CARE FAMILY PROTECTION ACT OF 1995

• Mr. COHEN. Mr. President, last week I introduced legislation aimed at improving access to affordable long-term care services. This bill allows families with exorbitant health care bills to deduct long-term care costs as medical expenses, creates incentives for older Americans and their families to plan for future long-term care expenses, and removes tax barriers that stifle the private long-term care insurance market.

Henry David Thoreau once wrote that ''If you have built castles in the air, your work need not be lost; that is where they should be. Now put the foundations under them.''

Each day Americans, quite unknowingly, heed Thoreau's advice as they work to safeguard their families, their homes, and their dreams from the precarious circumstances life may hand them from time to time. As he suggests, we work not only to build our castles, but strive to protect them once they are built.

Unfortunately, most of us have not adequately protected ourselves and our families from one of the most devastating financial risks that could face us in our entire lifetime—the need for long-term care services.

While approximately 38 million people lack basic health insurance, almost every American family is exposed to the catastrophic costs of long-term care. In fact, less than 3 percent of all Americans have insurance to cover long-term care. With average nursing home costs nearing $40,000 per year and home health care costing from $50 to $200 per day, long-term care expenses can quickly wipe out the lifetime savings of a disabled individual and his or her family.

Sadly, many families erroneously assume that their current insurance or Medicare will cover long-term care expenses. It is only when a loved-one becomes disabled that they discover coverage is limited to acute medical care and that long nursing home stays and extended home care services must be paid for out-of-pocket. In fact, a 1994 public opinion poll conducted for the Employee Benefit Research Institute found that 45 percent of all respondents believe that Medicare pays for long-term care, when in fact it does not.

And despite what many of us believe, the chance of needing long-term care is significant and increasing as life expectancies increase. In 1990 for example, people age 65 or older faced a 43-percent risk of entering a nursing home. About 1 in 5 of those seniors are estimated to be in a nursing home stay over 1 year, about 1 in 10 would be in a facility for 5 years or longer and many more would receive caregiving from friends, families, and home care workers.

As chairman of the Senate Special Committee on Aging, I know the obstacles many disabled older Americans and their families face paying for necessary long-term care. Despite heroic caregiving efforts by spouses, children, and friends, many disabled Americans do not receive the appropriate medical and social services they desperately need. Families are literally torn apart or pushed to the brink of financial disaster due to the overwhelming costs of long-term care.

This lack of protection pulls the rug out from under hard working families at a time when they are in their greatest need. Growing frail or learning to function with severe disabilities is a formidable task in itself. Yet this is only half the battle for an uninsured older American—since at the same time they must face huge financial burdens posed by long-term care.

The legislation levels the playing field between acute and long-term care services, and provides all Americans with incentives to purchase protection against the risk of catastrophic long-term care expenses. As healthy and as independent as we may want to stay,

the fountain of youth has yet to be discovered.

We are all vulnerable to diseases such as Alzheimer's Parkinson's, and osteoporosis that can leave us mentally or physically disabled. We must accept the risk of needing long-term care and consider it in our normal retirement planning.

This bill encourages personal responsibility and makes it easier for individuals to plan for their future long-term care needs. It provides important tax incentives for the purchase of long-term care insurance and places consumer protections on long-term care insurance policies so quality products will be affordable and accessible to more Americans.

It allows States to develop programs under which individuals can keep more of their assets and still qualify for Medicaid if they take steps to finance their own long-term care needs, allows individuals to make tax free withdrawals from their individual retirement accounts without penalty if they purchase private long-term care insurance, and provides for consumer education to help families decide how to best plan for their own particular circumstances.

Stimulating the private market through tax incentives and asset protection programs is a long-term investment in reducing Americans' reliance on Medicaid, and other Federal and State entitlements. Just as employer-sponsored health insurance got a boost after Congress exempted employers' payments for health insurance from corporate taxes, the long-term care market needs a major boost if we are seriously going to encourage individuals to provide for their own long-term care needs.

Last year Congress was involved in an exhausting debate over how to reform our entire health care system. To my great disappointment, that debate did not yield legislation that could be passed on a bipartisan basis. Instead we fought an all or nothing battle for health care reform that left the American public no better off than when we began.

Long-term care reform was one of the victims of this all or nothing strategy. Several bills contained provisions to establish a non-means-tested long-term care program that would have cost taxpayers over $48 billion. While the program would have certainly provided necessary long-term care services to many families, it was simply unrealistic to build a large publicly funded program at a time when we were trying to balance the budget. Furthermore, creating a non-means-tested program would have only strengthened the misconception that the Government will pay for long-term care and that there is little need to purchase protection.

As Abraham Lincoln once cautioned, ''We must not promise what we ought not, lest we be called on to perform what we cannot.''

The provisions included in the long-term care reform bill I am introducing today are not only reasonable, but enjoy strong bipartisan support. They were included in almost every health care bill introduced last year and are an important part of the Senior's Equity Act in the House Republican Contract With America.

A strong private long-term care market will not only give individuals greater financial security for their future, but will ease the financial burden on the Federal Government for years to come, as our population ages and more elderly persons require long-term care.

I strongly urge my colleagues to cosponsor this legislation which will improve the financial security of older Americans and their families both now and in the future. ●

RELEASE OF GAO HIGH RISK LIST REPORT

● Mr. GLENN. Mr. President, the General Accounting Office [GAO] has just released its second series of reports which identify the Federal program areas they consider most vulnerable to waste, fraud, abuse, and mismanagement—placing hundreds of billions of taxpayer dollars at risk.

GAO began its high-risk program in 1990, with much encouragement on my behalf as the then-chairman of the Committee on Governmental Affairs. Its purpose was to highlight problems that were costing the Government—meaning U.S. taxpayers—billions of dollars.

In 1992, GAO issued a series of reports that outlined the problems, root causes, and needed actions for each of the areas designated as high-risk. At that time, some agencies were beginning to address their high risks but progress was minimal and the task ahead was daunting.

Under my leadership, the Committee on Governmental Affairs strongly supported GAO's high-risk effort. We worked with them as well as agency heads to address problems resulting from a lack of accountability and weak management controls. We also labored hard to provide the necessary oversight and follow-up legislation, on a bipartisan basis, to finally begin addressing these major problems and start a concentrated and systemic approach to governmentwide management.

Efforts like strengthening and expanding the Inspectors General Act to detect and prevent fraud, waste, and abuse. Or the Chief Financial Officers [CFO] Act of 1990, which is forcing Federal agencies to establish formal financial management structures, including a chief financial officer, and that for the very first time in our Nation's history will produce audited financial statements for certain accounts and programs. Just last year, we also passed the Government Management Reform Act [GMRA] which, among other things, will require—beginning with fiscal year 1997—an audited financial statement on programs and operations for the Government as a whole.

Also, I was pleased to work with Senator ROTH, our new committee chairman with a long interest in these areas, to pass the 1993 Government Performance and Results Act [GPRA]. This legislation mandates that Federal agencies develop performance measurement systems so that we can begin to determine how these programs are working, whether they meet their objectives, and what return and value we are getting for our money.

Another important bipartisan effort is our committee's continuing work to reauthorize the Paperwork Reduction Act. As in the last Congress, our committee has reported out legislation to reauthorize and improve the act. We are now waiting action by the full Senate, which we are sure will duplicate last year's unanimous vote in favor of the legislation. Our bill strengthens the Act's paperwork clearance requirements. It also gives new focus to the Act's information resources management [IRM] provisions. The IRM reforms are critically important and will help agencies address the information technology risks highlighted in GAO's new report.

One other area here deserves attention, that is comprehensive procurement reform legislation, the Federal Acquisition Streamlining Act [FASA] of 1994, which was passed due to the efforts of myself and several other Members on both sides of the aisle. it significantly streamlines the procurement process, saving time and taxpayer dollars, through the revision and consolidation of acquisition states to bring a dose of common sense and reality into our acquisition process.

I do believe that as these laws become more fully implemented, as well as integrated, we will have come a long way toward finally getting control of the creature we call ''government.'' These measures will, unlike any previous laws we have passed, improve the performance of Federal programs and allow us to use financial and budgetary information to better chart the course of Government expenditures.

But, as this GAO series shows, we are not there yet. In fact, we have quite a ways to go.

That is not to say there is not any good news the taxpayers can be thankful for. On the contrary, there is.

For example, according to GAO, 5 out of the 18 previously designated high risk areas have made enough progress as a result of this concentrated effort to be taken off the list. The Bank Insurance Fund, for instance, went from being in the red, that is from having a negative fund balance to a $17.5 billion surplus since the last report. The dramatic turnaround was caused by the combination of an improving economy, legislative actions, and agency and industry reforms.

Congressional actions also played a key role in reducing the risks posed by the Resolution Trust Corporation

[RTC] and the Pension Benefit Guaranty Corporation [PBGC], thereby enabling those agencies to be removed from the high-risk program.

There is still a bit of more good news from which taxpayers can take some justifiable relief. According to GAO's report, 10 of the 13 areas that remain on its high-risk list have meaningful improvement initiatives underway. Because so many of these initiatives are in the earliest stages of implementation and will require continued commitment and resolve to see them through, it is premature to declare any victories. But there is some hope: The high-risk program experience clearly shows that focusing on high-risk problems prompts long-needed improvement actions.

And hope will be needed because, notwithstanding the improvements cited and areas removed, GAO'S high-risk list has grown. In its new series, GAO has categorized its 20 current high-risk areas into 6 broad categories that represent the Government's most critical problems.

These categories cover almost all of the Government's $1.25 trillion revenue collection efforts and hundreds of billions of dollars in expenditures. They represent areas where the Government is carelessly and needlessly losing billions of dollars and missing huge opportunities to achieve its objectives at less cost and with better service delivery.

Let us take a look at them.

First, accountability and cost-effective management is not provided for in Department of Defense [DOD] programs. DOD spending for 1995 is estimated at $270 billion, 18 percent of the total Federal budget and about half of all discretionary funds. Yet DOD cannot accurately account for how it spends its funds or for the $1 trillion in assets it has worldwide.

GAO cites four areas particularly vulnerable: financial management systems, practices, and procedures; contract management; the weapons systems acquisition process, and inventory management. Because these areas are so broad and the weaknesses so pervasive, DOD's entire budget can be considered at-risk. Some egregious examples of Defense problems include:

Vendors who have been paid $29 billion in disbursements that cannot be matched against purchase invoices to determine if these payments were proper.

A former Navy officer received $3 million in fraudulent payments for over 100 false invoice claims, and approximately $8 million in Army payroll payments were made to unauthorized persons, including 6 ghost soldiers and 76 deserters.

Contractors themselves—not DOD—detected and returned to the Pentagon $957 million in overpayments during fiscal year 1994 alone.

DOD, with $80 billion a year at stake, has not yet solved pervasive problems in its weapons systems acquisition process, including unreliable cost data, unrealistic schedule estimates, and unaffordable program plans.

DOD, even after disposing of $43 billion in unneeded inventory over the past 3 years, still holds unnecessary items valued at $36 billion, or 47 percent of its current inventory.

Second, revenue owed to the Government is not collected and accounted for.

The Internal Revenue Service [IRS] and the Customs Service [USCS] currently collect $1.25 trillion annually, but neither agency can say how much more is owed to the Government and ought to be collected. The inability to adequately estimate what is due the Government could be costing the Government billions of dollars.

A 1992 IRS estimate put unreported taxes—the so-called tax gap—at $127 billion; however, IRS admits that this estimate was not based on current, complete data. In addition, both IRS and Customs remain unable to accurately account for amounts that have been collected. GAO considers four revenue collection areas to be high-risk: IRS financial management; IRS tax receivables; IRS filing fraud, and Customs Service financial management. Examples of revenue collection problems include:

Over $90 billion of transactions were not posted to taxpayer accounts.

Delinquent taxes receivable nearly doubled from $87 billion to $156 billion between 1990 and 1994, while annual collections of delinquent taxes declined from $25.5 billion to $23.5 billion.

During the first 6 months of 1994, IRS identified nearly 35,000 fraudulent paper returns and 24,000 fraudulent electronic returns—increases of 151 percent and 51 percent, respectively, over the same period 1 year before. While IRS admits to losing tens of millions of dollars to detected fraud schemes, some estimates indicate undetected fraud could be costing the Government billions of dollars.

Serious problems remain in the seized asset program at the Customs Service, placing tons of illegal drugs and millions of dollars in cash and other property vulnerable to theft and misappropriation. In just one case, thieves broke into a Customs facility and stole 356 pounds of cocaine.

The Customs Service has not implemented the controls, systems, and processes to ensure that carriers, importers, and their agents comply with trade laws, or that important trade statistics are reliable.

Third, multibillion-dollar investments in information technology do not provide an adequate return.

The Government has spent more than $200 billion on information management systems during the last 12 years. Yet, successful automation projects are the exception rather than the rule. As a result, critical financial, program, and management information systems remain largely incompatible, costly to operate and maintain, and woefully inadequate in meeting current users' needs.

GAO has chosen four multibillion dollar information technology initiatives—there are evidently other projects with similar difficulties available to chose from—to add to its high-risk list because these particular ones have experienced past failures, involve complex technology, or are critical to agencies' missions. These projects do not just have financial implications. Rather, they impact the very health and safety of all Americans—the air traffic control system and the national weather system, for example.

The $36 billion air traffic control modernization project has been plagued by failures and critical components have had to be canceled, replaced, and/or restructured.

After spending $2.5 billion of its estimated $8 billion cost, IRS' tax system modernization [TSM] initiative still doesn't have the necessary business and technical foundation to achieve the systems' goals and objectives. To persuade IRS of the need to develop an overall plan for the modernization, Congress reduced IRS' fiscal year 1995 budget request by $339 million.

DOD is spending some $3 billion annually on its corporate information management [CIM] initiative even though it has yet to examine the business processes being automated for reengineering opportunities.

The National Weather Service modernization project has more than doubled in cost to $4 billion and its completion is estimated to be 4 years behind schedule.

Fourth, Medicare claims fraud and abuse is widespread.

Last year the Government spent over $440 million a day, or $162 billion, on Medicare. Only the costs for DOD, Social Security, and interest on the debt are higher. And it is estimated that Medicare spending will more than double by the year 2003 to more than $389 billion.

While no one, including GAO, has been able to quantify exactly how much of Medicare spending is attributable to fraud and abuse, health care experts have estimated that 10 percent of national health spending is lost to such practices. Even if the number were lower—say 8 or 6 percent—when applied to $162 billion, that amount is devastating. And it will become even more devastating as the program grows. The Health Care Financing Administration [HCFA] is aware that health care scams and abusive practices plague Medicare, but the exploitation continues. For example:

Medicare has been charged rates as high as $600 per hour for speech and occupational therapy, though therapists' salaries range from under $20 to $32 per hour.

One shell company, which existed solely for the purpose of billing—and bilking—Medicare, added about $135,000 in administrative costs to the cost of therapy services in 1 year.

Medicare has paid health maintenance organizations [HMO's] from 6 to 28 percent more than it would have spent had those same beneficiaries remained in the fee-for-service sector.

A national psychiatric hospital chain, charged with fraudulently increasing its reimbursements, in 1994 paid over $300 million in the largest settlement to the Federal Government for health care fraud.

Fifth, loan program losses are too high.

The Federal Government has become the Nation's largest source of credit. It obligated almost $23 billion in new direct loans and guaranteed $204 billion in new non-Federal lending last year. Now, whether you agree with the Government's role as a banker or not, you have to agree that the Government is not doing a good job of minimizing its losses on its loan and guarantees.

The Office of Management and Budget [OMB] has estimated that of the $241 billion owed the Government for direct loans and claims paid on defaulted guaranteed loans, $50 billion is delinquent and at risk of loss. GAO's high risk program concentrates on three lending programs:

Farm loan programs have become a continuous source of credit for many borrowers and have had a high rate of loan defaults, resulting in the loss of over $6 billion of taxpayers' money from 1991 through 1994. In addition, its outstanding loan portfolio still contains nearly $5 billion in delinquent debt.

Student financial aid programs have been successful in providing money for postsecondary education but have been costly, nearly $25 billion in losses in the guaranteed student loan program alone with $2.4 billion in losses just last year.

The Department of Housing and Urban Development [HUD], which ensures some $400 billion in housing loans, guarantees more than $400 billion in outstanding securities, and spends $25 billion a year on housing programs, is at risk because of fundamental management weaknesses.

Sixth. The management of Federal contracts at civilian agencies needs improvement.

Civilian agencies spend tens of billions of dollars per year on contracts, yet they often don't get what they pay for or they reimburse contractors for unallowable or unreasonable costs. According to GAO, at the heart of contracting problems, there is a lack of senior-level management attention. GAO has focused on three contracting areas:

The Department of Energy [DOE] spends about $15 billion annually through management and operating contracts but has failed to protect the Government's interests. DOE did not require its contractors to prepare auditble financial statements nor did it audit, every 5 years as is required, the net expenditures reports contractors did prepare.

The National Aeronautics and Space Administration [NASA] spends about $12 billion to $13 billion each year—90 percent of its funding—on contracts, but with poor oversight. In addition, NASA has traditionally assumed virtually all risks related to contract costs and results. This has led to frequent funding increases, schedule delays, and performance problems on many of NASA's large space projects.

Contract management problems in the multibillion-dollar Environmental Protection Agency [EPA] Superfund hazardous waste cleanup program have provided contractors too little incentive to control costs. A recent review of three contractors showed that all three billed the Government for entertainment, tickets for sporting events, or alcoholic beverage costs that were not allowable. But contractors are probably not too worried about what they bill. As of August 1994, there were 528 unfilled requests for audits of Superfund contractor costs.

These are just the highlights of GAO's new high-risk list. They show what we're up against if we are to achieve real and measurable progress in the battle against Government waste and mismanagement. While this series indicates that with a concerted and committed effort it is possible to correct and rectify program weaknesses—putting less taxpayer dollars at risk—it also reveals what happens when systems are deficient or administrators are less than vigilant, or both.

Only with a continuing and persistent effort can we in Congress, working with the administration and GAO, attack these problems, one by one, case by case. If we are ever to restore people's faith in Government—and its overall credibility—it has to be done, and done quickly. As I have in the past, I will pledge my best efforts with the eventual hope that, one day, there will be no high-risk list at all. I urge my colleagues to work together to accomplish this goal.●

THE CONGRESSIONAL PENSION EQUITY ACT

● Mr. MCCONNELL. Mr. President, I am pleased to become a cosponsor of S. 228, the Congressional Pension Equity Act. I commend Senator BRYAN for his leadership on this issue and I look forward to working with him to reform our pension system and bring it in line with all other Federal civilian pensions.

Like pensions in the private sector, the pension a member of Congress receives is based upon length of service and rate of pay. So, naturally a senior member, or staffer, earns a bigger pension than an individual with just a few years of service. But, under the current system members and staff receive substantially more generous pensions than other Federal employees. This bill will rectify that situation and bring parity between the legislative branch and the executive branch. Those who serve in Congress should be treated the same as other Federal employees.

For those who claim that people come to Congress and serve too long, this fix should end the careerism charge. Overly generous pensions will no longer entice people to stay in their congressional jobs. Congressional service will be no more desirable than other Federal service, and members and staff will not be deterred from rotating out of Congress.

This bill makes three important changes to congressional pensions. First, it places a cap on retirement benefits. Now, retired members can wind up receiving pensions that are bigger than the salaries they made while in Congress. The bill will ensure that pension benefits do not exceed the highest salary earned while in Congress. Second, it establishes a uniform rate of accrual for all Federal employees, so that congressional employees earn their pension benefits at the same rate as all other Federal employees. And, finally it adjusts the contribution rate for congressional employees to conform to the rate paid by all other employees. Currently, members and staff pay a slightly higher contribution for a much more generous benefit. This bill will require congressional and executive branch employees, including Members of Congress, to pay the same for the same benefit.

Congressional retirement benefits are not an entitlement. We are in the midst of streamlining and cutting back the scope of the Federal Government. We are trying to make the Federal Government more efficient and effective. That's what the American people want and what they deserve. Well, one place to begin is with congressional pensions. This bill represents that effort. I look forward to early consideration of this bill by the Government Affairs Committee and its swift passage by the Senate.●

TRIBUTE TO THE CONCERNED CITIZENS OF BAYONNE

● Mr. LAUTENBERG. Mr. President, I rise today to recognize and pay tribute to the Concerned Citizens of Bayonne [CCB] on the organization's 25th anniversary. I also want to call special attention to the contributions that Mr. Frank Perrucci has made to the organization and the community.

In 1970, Frank and Jean Perrucci, Vinnie Perrucci, Joseph Brache, Sal Covella, Penny Covella, Pete Capitano, John Baccarella, Jean McMahon, and Nicholas Mangelli met at Frank and Jean's home in Bayonne. It was here that they agreed unanimously to form the Concerned Citizens of Bayonne, so that citizens could participate in decisions which affect Bayonne, Hudson County, and New Jersey.

No time was wasted. They immediately became involved in the upgrading of the jury system, led the opposition to the taxation of Social Security

benefits, heightened community awareness on the evils of pornography, and called attention to the location of a toxic waste facility in Newark Bay.

The CCB continuously reaffirms its belief that a strong and vibrant community exists only where its citizens get involved and stay involved. They accomplish this by initiating community efforts to support projects such as building an indoor ice skating rink, keeping parks clean, and supporting programs like Toys for Tots and Pennies for Miss Liberty. They have participated in and led fundraising drives to assist the Bayonne Hospital, the high school football team, Italian earthquake victims, and the starving millions in Ethiopia.

Mr. Frank Perrucci, while carving out his own career as a leader with the Laborers' International Union of North America, always found time for others. He served as an aide to Congressmen Dominick Daniels and Joseph LeFante and is a former director of community development in Bayonne. Over the years, as captain of the Catholic War Veterans color guard, he has travelled extensively throughout New Jersey, participating in veterans events and parades.

Frank, himself a member of the merchant marine and a soldier during WWII, made sure that his organization always remembered to support American military troops during peacetime and war.

During Desert Storm, CCB members regularly corresponded with military personnel overseas, as well as conducted drives to send ''goodies'' and necessities to those supporting democracy so far from home.

Aside from being the proud husband of Jean, the father of four wonderful children and seven grandchildren, Frank Perrucci is quoted as saying that the proudest part of his life is serving others through the committed, loyal, and hard-working members of the Concerned Citizens of Bayonne.

Therefore, Mr. President, I take special pleasure in standing before you today to thank and congratulate Mr. Frank Perrucci and the members of the Concerned Citizens of Bayonne. They are a special group of people who know what it takes to make a strong community. They have unselfishly committed themselves time after time to keeping Bayonne one of the safest, cleanest, and proudest cities in the United States.●

BISHOP KENNETH POVISH

● Mr. ABRAHAM. Mr. President, I rise today to honor an exemplary individual, Bishop Kenneth Povish. This year Bishop Povish will celebrate his 45th year as a priest, his 25th year as a Bishop and his 20th year as bishop of the diocese of Lansing, MI.

I was lucky enough to grow up in Lansing and attend college in that community. Thus I came to know Bishop Povish as a man who has dedicated his life to serving his community's spiritual needs.

Bishop Povish was born in Alpena, MI. There he attended parochial grammar schools and public high school. After graduating from Detroit Sacred Heart Seminary in 1946, he went on to earn his master's degree in education from the Catholic University of America in 1950. In that same year Bishop Povish was ordained a priest in Saginaw, MI, and began his pastoral duties in Rogers City. In 1952 he became assistant at Saint Hyacinth Catholic Church in Bay City, MI.

Among his many accomplishments, Bishop Povish helped found Saint Paul's Seminary in Saginaw, MI. There he taught Latin, history, and religion and, from 1960 to 1966, served as dean of the college. He then went on to train over 400 lay catechists as diocesan director of the Confraternity of Christian Doctrine. In 1970 Pope Paul VI named him bishop and assigned him to Crookston, MN, until 1975.

Luckily for Lansing, Bishop Povish then was named to current position as bishop of that city. Since then he has enriched the spiritual life of his community in many ways. He established the Bishop's Council on Alcoholism and has written extensively on that subject. He has reached out to the less fortunate and shown his deep faith by teaching others the ways of Jesus Christ.

Mr. President, it is an honor to stand before my colleagues on behalf of the citizens of Michigan to congratulate Bishop Povish on his 45 years of selfless dedication to the Catholic Church and to the Lansing community. May God bless Bishop Povish and allow him to continue his service to those in need of faith, hope, and charity, especially in my hometown of Lansing, MI.●

HONORING ENGINEERS DURING NATIONAL ENGINEERS WEEK

● Mr. D'AMATO. Mr. President, I rise today to honor our Nation's engineers during National Engineers Week. Although we might not realize their presence, engineers have worked tirelessly to improve our world through science and technology.

Without engineers, there would be no transportation. Engineers design cars, trains, and buses, as well as devices that improve them. If not for engineers, we would have no structurally sound buildings, bridges, or highways. And their achievements do not end there.

Engineers create the technology that help doctors diagnose illnesses. Working with the medical profession, they have developed sensitive equipment used in medical research. Options are now available for so many people that would not otherwise be able to lead normal and productive lives.

Transportation, infrastructure, and medicine are just some of the areas influenced by the mastery of the engineer. Engineers' effect on the communications industry has catapulted us into a new age of technology. Magnetic tape recording, developed by an engineer, is used in audio cassettes, videotape, computer floppy disks, and credit card magnetic strips. We use these items everyday and never even think twice about it, thanks to engineers.

And who is responsible for the progress in the entertainment industry? We are seeing more of the morphing technique in movies and commercials. Animation has become so advanced because of these technological geniuses. This profession has brought us some of the most complex special effects that keep us spellbound during a movie.

For their efforts to improve the world we live in, the engineering profession should be applauded. For their work to improve our future, they should be admired.

That is why, during this National Engineers Week, I am taking the opportunity to thank engineers, in all fields, for their accomplishments.●

IN HONOR OF CHARLIE RODGERS

● Mr. McCONNELL. Mr. President, it is with great sadness that I rise today to honor an outstanding Kentuckian who recently passed away. Charlie Rodgers of Hopkins County, KY was an outstanding citizen as well as a leader in his profession and community.

Mr. Rodgers gave wholeheartedly to his community. Mr. Rodgers was the retired owner of Hales Furniture Store. During his lifetime he served as president of the Downtown Retail Merchants Association, president of the Rotary Club, chairman of the Salvation Army, and charter member of the Salvation Army Board of Directors. Mr. Rodgers was also the recipient of the Salvation Army's Other Award. He was a member of the Providence Rural Methodist Church and dedicated many hours to religious service.

Mr Rodgers was actively involved in both local and State level politics. He served as a leader in the development of the Republican Party in his county. Mr. Rodgers served on the State Board of Elections for two 4-year terms, and was as member of the State Republican Party for 20 years. Although he had always shown an interest in politics, he never sought election to public office until 1993 when he ran for the third district magistrate seat. He won this election upsetting a long time democratic stronghold.

While we all admire Mr. Rodgers' success in serving his community, church, and the Republican Party to the best of his ability, I believe that Charlie Rodgers was even more prosperous as an individual. All who encountered him knew that they were dealing with a true Kentucky gentlemen. He was looked upon as a very honest, kind, and compassionate man.

Charlie Rodgers, and his wife Peggy, are both long-time friends of mine. Mr.

President, I can say with great certainty that his commitment to integrity and honesty was unwavering and shone through in everything that he was involved in.

Mr. President, I ask my colleagues to join me in honoring Charlie Rodgers. Hopkins County will certainly miss his presence and sense of devotion. I am confident that Mr. Rodgers strength of character and breadth of accomplishment will remain a standard of excellence for generations to come.●

ORDER FOR STAR PRINT—S. 202 AND S. 207

Mr. HATCH. I ask unanimous consent that S. 202 and S. 207 be star printed to reflect the following changes which I now send to the desk.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

ORDERS FOR FRIDAY, FEBRUARY 24, 1995

Mr. HATCH. I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. on Friday, February 24, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day; there then be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with the following Senators to speak for up to the designated times: Senator DASCHLE, 20 minutes; Senator SIMPSON, 20 minutes; Senator LAUTENBERG, 10 minutes; Senator BURNS, 15 minutes.

I further ask unanimous consent that at the hour of 11 a.m. the Senate resume consideration of H.J. Res. 1, the balanced budget amendment, and the Bumpers motion be the pending question.

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

PROGRAM

Mr. HATCH. For the information of all of my colleagues, as previously announced, there will be no rollcall votes during Friday's situation. As a reminder, under the consent agreement, all amendments must be offered by 3 p.m. tomorrow.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 7:54 p.m., recessed until Friday, February 24, 1995, at 9:45 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 23, 1995:

DEPARTMENT OF DEFENSE

ELEANOR HILL, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF DEFENSE.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

DALE W. THOMPSON, JR., 000–00–0000

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

JERRY R. RUTHERFORD, 000–00–0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

JOHN A. LOCKARD, 000–00–0000

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING ALAN L. CHRISTENSEN, AND ENDING GARDNER G. BASSETT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

AIR FORCE NOMINATIONS BEGINNING BARRETT W. BADER, AND ENDING JOSEPH N. ZEMIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 6, 1995.

AIR FORCE NOMINATIONS BEGINNING JONATHAN E. ADAMS, AND ENDING SHARON G. FREIER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

AIR FORCE NOMINATIONS BEGINNING TIMOTHY L. ANDERSON, AND ENDING RAYMOND E. RATAJIK, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING RODGER T. HOSIG, AND ENDING SARA M. LOWE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

ARMY NOMINATION OF FREDERICK B. BROWN, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

ARMY NOMINATIONS BEGINNING RONNIE ABNER, AND ENDING VINCENT A. ZIKE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING JAMES P. SCREEN III, AND ENDING JASON R.J. TESTA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JANUARY 23, 1995.

EXTENSIONS OF REMARKS

200TH BIRTHDAY OF THE U.S. NAVY SUPPLY CORPS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. SPENCE. Mr. Speaker, I rise today to recognize the more than 5,000 men and women of the U.S. Navy Supply Corps, active and reserve, who on February 23, 1995 will celebrate its 200th birthday of distinguished service to our Nation and Navy. The naval officers who proudly wear the Supply Corps oak leaf are the business managers of the Navy and are responsible for the logistics support of operating forces in the fleet and naval shore installations worldwide.

The Supply Corps has come a long way since its birth in 1795, when Tench Francis, of Philadelphia, became the first Purveyor of Public Supplies. The original charter of the Supply Corps has distinguished itself throughout its long history by ensuring that the United States has been ready to defend American freedom and interests in every conflict since the War of 1812. Its responsibilities have grown tremendously and have kept pace with the challenge of providing logistics support to a modern, high-technology Navy, which has grown in size and complexity. Today, the Navy Supply Corps employs the latest technologies and management skills to supply our Navy at the lowest possible cost and with the greatest efficiency.

Having progressed from supplying wooden frigates with cannon balls to equipping AEGIS destroyers with Tomahawk cruise missiles, the U.S. Navy Supply Corps continues to carry out its vital mission to keep our Navy well equipped and ready to respond at a moment's notice. I ask my colleagues to join me in congratulating the officers of the U.S. Navy Supply Corps on its 200th birthday.

PERSONAL EXPLANATION

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. SKEEN. Mr. Speaker, on February 16, 1995, I was unavoidably delayed, and I did not record my vote on rollcall No. 140. Had I been present, I would have voted ''aye.''

HONORING MAX HOPPER

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. LARGENT. Mr. Speaker, all of America's travelers owe Max Hopper a note of thanks. I stand here today to express my appreciation for his leadership and his remarkable contributions to the travel industry. In his 23 years of service with AMR Corporation, Mr. Hopper earned recognition as the father of travel automation for his significant role in developing SABRE into the world's largest computer reservations system.

Thanks to Mr. Hopper's achievements, hundreds of thousands of travel industry professionals in 64 countries worldwide have access to a state-of-the-art global electronic marketplace which enables them to provide the highest quality reservations and information services to consumers.

His was an extraordinary career, and one which merits recognition and a salute from the aviation industry, travel professions, and the traveling public. I wish him good health and happiness in retirement.

DON'T CUT COPS FAST GRANTS

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. FRANK of Massachusetts. Mr. Speaker, the Fall River Herald News is a newspaper closely attuned to the needs of the community in which it is located, and surrounding communities. It is a nonpartisan newspaper with an editorial policy that reflects its honest assessment of what is best for the people in its circulation area.

I was therefore very pleased—although not surprised—to see a strong editorial in the February 14 issue of the Herald News which strongly opposes the pending Republican legislation which would undo the law we passed last year providing police officers for our local communities. As the Herald News notes, ''the GOP's efforts to rewrite the crime bill amount to little more than a petulant and misguided attempt to deny Clinton and the Democrats any credit for the war on crime. How childish.''

Mr. Speaker, this editorial makes an excellent contribution to this current debate and for that reason I ask that it be reprinted here.

[From the Fall River Herald News, Feb. 14, 1995]

DON'T CUT COPS FAST GRANTS

Politics is a truly unique game. We all know the rules: If a member of the opposition party gets caught in some kind of scandal, you cry foul. If a member of your own party gets caught in a scandal, you look the other way.

Sadly, the game is played the same way when it comes to legislating. An idea, a piece of legislation, is never worthy of consideration unless your own party thought of it first. Just ask the Republicans.

The crime bill pushed by President Clinton last fall was hardly free of controversy. Some gun owners objected to the ban on assault weapons, while liberals objected to the expansion of the death penalty. But one thing just about everyone seemed to agree on was the idea of providing funds to thousands of small towns around the nation to hire more police officers. The idea of beefing up local officers on the street has enormous support among the public.

But then again, that bill was passed last fall, when Democrats still controlled Congress. After the November election, Republicans won a majority in both the House and Senate. And the crime bill became an immediate target for them.

Republicans and Democrats have some clear ideological differences on the issue of crime. Republicans want to change federal laws to allow prosecutors to use evidence gathered in violation of the Constitution's Fourth Amendment protections against illegal searches, if it is determined that police acted in good faith. Republicans also want to impose a one-year limit for death row inmates to file federal appeals of their sentences.

Democrats worry that both measures would violate civil liberties and hurt the individual's ability to get a fair trial.

These controversial issues can legitimately be debated by both sides. But what seems far less controversial are the COPS FAST grants, which cover three years to help pay for the salary and benefits of additional police officers. In this region, it provided the Dartmouth Police Department with $128,524 to hire two new officers, while several other communities got money to hire one officer each, including Berkley, Dighton, Freetown, Rehoboth, Seekonk and Swansea. Outside of drug dealers and other criminals, who's complaining about having more police on the streets?

The GOP is. They say the COPS FAST money should be eliminated and turned into block grants that would be made available to cities and counties. The GOP would allow local officials to decide how to spend the money, rather than ''require'' communities to spend the funds on new police officers.

But so far, few police chiefs have complained about getting money to hire new officers. As the old saying goes, if it's not broke, don't fix it.

The GOP's efforts to rewrite the crime bill amount to little more than a petulant and misguided attempt to deny Clinton and the Democrats any credit for the war on crime. How childish.

CRIME BILL EDITORIALS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. BEREUTER. Mr. Speaker, this Member wishes to commend two recent editorials regarding H.R. 728, the Local Government Law Enforcement Block Grants Act, to his colleagues. Editorials from Omaha World Herald and the Lincoln Journal support the House-passed local government block grant program over the grant programs in the 1994 crime control bill that would provide money for the COPS program and other specific grant programs.

According to the Lincoln Journal editorial from February 20, 1995:

. . . When Congress passed a crime bill with a 100,000 officer component last year, dozens

of Nebraska communities, including Lincoln, rushed forward to grab the first round of grants and cash in on the chance to add people to their police forces. President Clinton, sensing that 100,00 is still a magic and marvelously symbolic number, has chosen to make it the centerpiece of his first veto threat. Tinker with that portion of the crime bill, he is warning Republicans who are all too anxious to do just that, and bipartisanship will go by the boards.

The Journal is certainly interested to hear the news that the President is—apparently—prepared to make one of his few firm stands. But the Journal is not interested in seeing him issue a veto for the sake of a single number—even a six-figure number.

In this case, it is the Republicans who have the better plan. They want to let states and individual communities decide how to take a bite out of crime. They want to distribute money and leave the decision at the local level as to whether it will be spent directly on more police officers or on some other crime efforts that are regarded as more effective.

It make sense for a variety of reasons, including flexibility. In a metropolitan setting, the oft-maligned idea of midnight basketball might actually offer more help in crime prevention. In cities like Lincoln, where community policing is much in vogue, it might make more sense to spend it on a satellite police station or some need that is closely aligned with community policing.

It is also important ton note that the Federal commitment to putting more police on the street does not extent to training or equipment and that it is only good for three years. After that, as it appears now, grant recipients would be left to stand the entire cost of however many personnel they hire.

The second editorial is from the February 17, 1995, Omaha World Herald.

NO FALSE PROMISES IN HOUSE CRIME PLAN

President Clinton has been in a huff over congressional efforts to redesign the crime bill he signed into law in 1994. The president says he will veto any attempt to dismantle a program that promised to put 100,000 police officers on the streets.

However, Clinton's claim that the $8.8 billion allocated by Congress for that purpose would actually finance that many officers has always been suspect. City officials in Omaha and a number of other places soon discovered that Congress had attached so many strings to the money that applying for it was in some cases impractical.

For one thing, cities can't add even one officer unless they put up their own money first—25 percent of the total. The federal funding runs out after five years. Moreover, law enforcement experts said the $8.8 billion wouldn't come close to covering the cost of hiring, training and equipping 100,000 officers without forcing communities to come up with still more of their own money. By some accounts, the federal money would pay for closer to 20,000 new officers.

The House has now voted to cancel $7.5 billion in unspent funds for the police buildup. Also canceled would be $3.9 billion in unspent funds for social programs that the previous Congress had included under the heading of ''crime prevention.'' Instead, the House proposes $10 billion in block grants to the states. States and cities could design their own anti-crime programs.

Clinton has been adamant about preserving the 100,000-officer program. But the House idea is better. It makes no false promises. And it takes government another step away from the idea that Big Brother in Washington knows more about fighting crime than the mayors and police chiefs who are engaged in that fight every day.

PERSONAL EXPLANATION

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. RADANOVICH. Mr. Speaker, due to unavoidable travel delays I missed two votes taken Tuesday, February 20, 1995.

Had I been present I would have made the following votes:

First, yea on the previous question on Rule H.R. 831.

Second, yea on the rule on H.R. 831.

PROCLAMATION CONGRATULATING MURPHY'S FURNITURE AND CARPET

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues:

Whereas, Murphy's Furniture & Carpet celebrate its 70th anniversary, founded in 1925 by Theodore T. Murphy; and,

Whereas, the Murphy's Furniture & Carpet is one of Noble County's oldest and most progressive businesses and one of its valued institutions in the Caldwell community; and,

Whereas, this establishment has achieved a praiseworthy record of service as evidenced by its many satisfied customers; and,

Whereas, through enterprises such as Murphy's our country continues to grow and prosper; and,

Whereas, the unwavering dedication to the founder, Theodore T. Murphy and owners Clair J. Murphy and J. Murphy, the employees of Murphy's have been a vital factor in the success of the business, and they are all well deserving of the respect of the community; and,

Whereas, the city of Caldwell and all the surrounding areas of Ohio, with a real sense of pleasure commend Murphy Furniture & Carpet as an outstanding business and join in the celebration of their 70 year anniversary this twenty-third day of February in the year one thousand nine hundred ninety-five.

NATIONAL ENGINEERS WEEK

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. WALKER. Mr. Speaker, I rise today in recognition of National Engineers Week. Celebrated annually since 1951, National Engineers Week is intended to raise awareness of the many contributions engineers make to our society.

There are more than 1.8 million engineers in the United States making it the Nation's second largest profession. From building microchips to constructing skyscrapers, engineers contribute a great deal to the productivity of the United States and it is only fitting that we designate this week in their honor.

Many events are planned for this week, including the finals of the National Engineers Week Future City Competition. The competition features seventh and eighth grade students presenting their computer-designed scale models of 21st century cities.

Each year National Engineers Week coincides with the celebration of Washington's birthday. As a surveyor, Washington is considered the Nation's First Engineer.

As chairman of the House Science Committee, I maintain a great interest in engineering. In every field, in every profession, engineers are an instrumental part of American research and development.

Among my colleagues in the House several are engineers. They include: Representative ROSCOE G. BARTLETT, MD; Representative JOE BARTON, TX; Representative MICHAEL BILIRAKIS, FL; Representative BOB FILNER, CA; Representative JOHN N. HOSTETTLER, IN; Representative JAY KIM, CA; Representative LEWIS F. PAYNE, VA; Representative JOE SKEEN, NM; and the ranking minority member of the Science Committee, Representative GEORGE E. BROWN, JR., CA.

Mr. Speaker, I join my colleagues and the American people in paying tribute to the many and varied contributions which engineers have made to this country.

A TRIBUTE TO COMDR. ROY J. BALACONIS

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like the House of Representatives to take a moment to commend one of the finest officers in the U.S. Navy. He is Comdr. Roy J. Balaconis, of the U.S.S. *Mitscher*, one of the Navy's newest and finest ships, an Aegis Destroyer.

To become the Commander of an Aegis Destroyer, which is the Rolls Royce of the fleet, one must be a tremendous officer. Commander Balaconis certainly fits the bill. He served under the chairman of the Joint Chiefs of Staff during the gulf war, specifically because of his knowledge of the Navy's Tomahawk missile. He had the foresight to develop a thesis which utilized the Tomahawk missile in a scenario where it supported and sustained a surface and air confrontation in the Middle East during the time of crisis * * * and this was some 2 years before Operation Desert Storm/Shield. His thesis basically became the manual for Tomahawk use during the gulf war.

Mr. Speaker, now Commander Balaconis has his own ship, and he is continuing to utilize his unique leadership skills. A member of my staff recently took a tour of his ship, and Commander Balaconis repeatedly stopped to talk to every member of his crew with whom they came into contact. Additionally, there were several members of his crew's families on board, and Commander Balaconis also stopped to speak with each of them, and the concern he showed was genuine. Commander Balaconis always referred to his crew and their families as part of the Mitscher family.

Mr. Speaker, the men on his ship feel his enthusiasm and share in his desire to succeed. The high morale is evident in every

member of his crew, both officers and enlisted. Although being a Commander alone warrants respect, his men respect him for more than that. They respect him because of who he is.

Mr. Speaker, Comdr. Roy Balaconis is a truly dynamic leader, and is definitely an asset to the U.S. Navy and our country. His accomplishments are certainly deserving of our recognition and praise.

BLACK HISTORY MONTH

SPEECH OF

HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1995

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, it has been said that the 1995 National Black History theme represents a milestone in the life of black Americans. It causes us to reflect on the visions of three men who were repressed by slavery, disillusioned by the Bill of Rights, and despite these setbacks—championed the cause for freedom through vigilant and aggressive action.

These three individuals, Frederick Douglas, W.E.B. DuBois, and Booker T. Washington, were prolific scholars and great leaders.

Their determination to change the course of history for black Americans, planted the seeds of progress that later blossomed into the political and economic freedom that we continue to cultivate. The course of history for black Americans was greatly influenced by these three giants, whose visions have seen a nation through 300 years of conflict.

As we celebrate Black History Month, it is important to remember these men * * * who have been termed our first ''civil rights generals'' in a war that seems to never end.

Mr. Speaker, I want to use my time today to pay tribute to a group of Americans who have given their lives in wars of a different kind: Black Americans who have proudly served their country in the military.

It is not news that more than 25 percent of the young men and women who served our country in the Persian Gulf were black. Were it not for the more than 100,000 thousand black soldiers, sailors, and airmen, former President Bush probably could not have launched the war to drive Saddam Hussein from Kuwait.

Nor is it news, Mr. Speaker, that a disproportionate number of black Americans served in Vietnam. But it is important to remember that black Americans have served in every battle in which this country was ever engaged.

Yes, Mr. Speaker, we can go all the way back to the American Revolution, the first war in our country's history. In the most serious clash between the Americans and the British—the Boston Massacre of 1770—one of the five colonists who fell in action was a runaway slave, Crispus Attucks.

Gen. Andrew Jackson, this country's seventh President, heaped the greatest praise upon the thousands of black soldiers who played a decisive role in the War of 1812.

In the Civil War—this country's bloodiest battle—the question for blacks was this: Would they remain loyal to their immediate oppressors who owned them outright, or would they sacrifice their very lives for the freedom of their race and their country?

The answer was simple. Nearly 200,000 black combat troops fought in the Union Army, and one in every four men in the Union Navy was black.

In this country's First World War, the most famous of the eight Black regiments was unquestionably the ''Fighting 369th.'' In 1918, this unit went into action and remained on the front lines for 191 consecutive days—''Without losing a trench, retreating an inch, or surrendering a prisoner.''

Upon their triumphant return to this country, Dr. W.E.B. DuBois served notice on America that returning black servicemen meant to realize full equality under the law as first-class citizens. He said:

> We stand again to look America squarely in the face. It lynches, It disenfranchises, It insults us.—we return fighting. Make way for democracy. We saved it in France, and we will save it in the U.S.A.

On the infamous morning of December 7, 1941, when Japanese fighters flew over Pearl Harbor and rained a hail of bombs and bullets on the slumbering U.S. Naval Base, Dorie Miller, A black messman, was going about his duties collecting the laundry, when the sounds of battle sirens and exploding shells rent the air.

Miller rushed up on deck, and instantly hauled his wounded captain to safety. Moments later, he sprung into action behind an anti-aircraft gun he had never been trained to operate.

Firing calmly and accurately, he brought down four zero fighter planes before the cry to abandon ship was heeded by all survivors. On May 7, 1942, this great seaman was cited for bravery by Fleet Adm. Chester Nimitz, who decorated him with a Silver Star, and so acknowledged the Nation's debt to a black man of ''extraordinary courage.''

Mr. Speaker, as a child I can remember assisting my father in his plans to welcome home Dorie Miller, a fellow Texan. As a Member of congress, I have introduced legislation to pay the appropriate tribute to this great American, who fought so nobly for his country, the Congressional Medal of Honor.

The experience of settling America, and the burden of defending it, have been shared by many groups of people. As one historian has noted—blacks, too, have built this Nation, forged its destiny in peace, and defended it in war. Black men and women began serving America long before the Nation had come into being, and have fought long and honorably in every major American conflict since.

America is free because, as Dr. Martin Luther King, Jr. once said, ''Though they have often been reduced to a 'fifty percent citizen' on American soil, black soldiers have always been one hundred percent citizens in warfare.''

Mr. Speaker, it is fitting and proper that we recognize and honor the vast contributions to this Nation's military history, and this country's freedom, by black men and women who have fought and died for a better world.

AMADOR HIGH SCHOOL RECOGNITION

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. BAKER of California. Mr. Speaker it is with great pleasure that I commend an outstanding group of young people from Amador Valley High School in Pleasanton, CA, who have, for the second year in a row, won the California championship in the State's annual ''Bill of Rights'' competition.

This superb program, the full title of which is ''We the People . . . the Citizen and the Constitution,'' encourages debate and speech competition among high school students as they discuss the meaning of the Constitution for our day. The competition, established by the U.S. Congress and the Department of Education, is a dynamic way of encouraging young men and women to consider the ongoing importance of the Constitution to our daily lives.

The Amador Valley team, ably coached by civics teacher Skip Mohatt, is now raising funds to come to the national championship competition in here in Washington, April 29 through May 2. Having placed third in last year's national contest, they are eager to come back and compete again.

These teenagers are discovering in an exciting way how our amazing Constitution continues to enable us to live as a free people. They deserve high praise for their commitment to academic excellence, energetic scholarship, and true intellectual curiosity. I am pleased to commend them in the CONGRESSIONAL RECORD.

HONORING MR. ROBERT L. CALLAHAN

HON. JOHN LINDER

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. LINDER. Mr. Speaker, I rise today to commend a fellow citizen of the State of Georgia and a great American, Mr. Robert L. Callahan, Jr. Over nearly 35 years of legal practice in the field of administrative law, Mr. Callahan has made tremendous and far-reaching contributions to the development of administrative law in general, as well as to the development of food and drug law in particular. He has been a tireless worker, without fanfare or public recognition, in support of common sense and fair play in the practice of law. Mr. Callahan's efforts have helped to shape much of a U.S. system of food law and regulation that is generally taken for granted but which literally affects every American daily.

It is because of these accomplishments that I ask my colleagues to join me today in this commendation of Mr. Robert L. Callahan, Jr.

TRIBUTE TO MORT PYE

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to bring attention to the career of the preeminent newsman in the State on New Jersey.

Mort Pye has recently retired after spending 32 years as editor of the Star-Ledger in Newark, building it into the largest and most-respected newspaper in our State. Thanks to Mr. Pye's work, the Star-Ledger is not only the largest circulation newspaper in New Jersey but the 14th-largest daily paper in the Nation. Its Sunday edition ranks as the 12th-largest newspaper in the Nation. That translates into nearly 1.3 million daily readers and 1.9 million on Sundays.

I have known Mr. Pye throughout my public life and have particularly fond memories from the many editorial board meetings I attended in Newwark. Mr. Pye was always the most insightful questioner at these sessions, yet he also knew how to sit back and listen to the answers. Being a good listener is one of the hallmarks of a good journalist. I grew to have only the highest respect for his professionalism and the personal integrity he brought on the Star-Ledger. The preeminence the paper has achieved in journalistic circles is a direct reflection of his professionalism.

Mr. Pye holds an honorary doctorate degree from Rutgers University. But he is not one of the new-style reporters who emerge from lofty journalism programs in big-name universities with an advanced academic degree but no idea of which end of the pencil to use. Instead, he is a good, old-fashioned newsman, and proud of the well-earned title.

Mr. Pye began his newspaper career 54 years ago at the Long Island Press, where he started as a reporter and rose through the ranks to become assistant editor. He covered fires, accidents, courts, town councils, politics, features, and all the other bread-and-butter stories that make up daily newspaper work. By the time he came to the Star-Ledger in 1957 as managing editor he was a seasoned veteran. He was promoted to editor in 1963 as further recognition of his ability to impart his skills and love of journalism to younger reporters and editors.

Under Mr. Pye's direction, the Star-Ledger grew in circulation and news coverage, establishing 15 news bureaus across our State. Staff members from these bureaus and the main office in Newark cover virtually every story of any significance that takes place in New Jersey, from town council meetings to national headlines. The Star-Ledger has the largest bureau at our Statehouse in Trenton—11 full-time reporters—giving New Jerseyans the most-detailed account of their State government available anywhere. In addition, the Star-Ledger currently has the only Washington bureau operated by a New Jersey newspaper.

Donald Newhouse, president of the Star-Ledger, described Mr. Pye's dedication in a recent article, which I quote: ''Mr. Pye has 'charted the paper's course, established the policies required to follow that course and directed the day-to-day activities that carry out those policies.' He has, in fact, created 'The Newspaper for New Jersey.' ''

I agree. Mort Pye has truly made the Star-Ledger the ''Newspaper for New Jersey.'' I join his countless admirers and friends throughout New Jersey in wishing him Godspeed and much-deserved enjoyment in retirement.

TRIBUTE TO WILLIAM HENRY HADDIX

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. SMITH of Michigan. Mr. Speaker, 50 years ago a small group of marines raised a flag on a faraway island in the Pacific Ocean: Iwo Jima. The scene was immortalized for all Americans in the famous photo and memorial statue near Arlington Cemetery.

The battle for Iwo Jima paved the way to victory over Japan. It was not without cost; 6,000 Marines were killed. Pvt. William Henry Haddix was one of these who made the supreme sacrifice of his life. A lad of just 22 when he died, Bill left behind a young wife and two small children.

He also left behind a beautiful and precious legacy. Just days before he died he had written his wife and family. Private Haddix's daughter—Susan Haddix Harrison from Jackson, MI—has generously shared his deeply moving and meaningful letter with me. The letter includes a poem by Private Haddix about his experience on Iwo Jima. Interwoven in the fabric of the words are the golden threads of faith in God and duty to country.

IWO JIMA

I have landed on an island
In the Pacific salty air
where heat, rain, mud and bugs
are an everyday affair.

The nights are long and dreary
as the pale moon lights the sky,
and I lie awake a thinking
as the hours creep slowly by.

Where men must go on fighting
for land that must be won
In dirt, grit, slime and sweat
beneath the burning sun.

I can't help but dream of home
and the ones I love so dear,
It makes a man cuss the day
he ever landed here.

All luxuries are forgotten
In this land so far away
and it takes a lot of guts
for the guy who has to stay.

I pray for you my darling
every single night
and know God will care for you
because you're living right.

When we meet our enemy
be it day or night
It's do or die for that poor guy
for we fight with all our might.

Should I ever receive a call from God
I know darn good and well,
That I'm bound to go to heaven
for I've served my time in Hell.

William H. Haddix,
Private, 28th Replacement Draft,
Co. B, 3rd Marine Division.

Private Haddix did not ask that he may live. He was prepared to die if need be. All he asked is that he may be ready if he was called. And he asked that his sacrifice may not be in vain.

Today, we salute Private Haddix and all the men of honor and courage who fought beside him five decades ago. We should always remember their bravery, their honor, and their dedication to our Nation. Our most precious inheritance is freedom, but we should remember that it was not free to those who earned it.

BLACK HISTORY MONTH

SPEECH OF

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 22, 1995

Mr. STARK. Mr. Speaker, today, as we celebrate Black History Month, I would like to recognize 258 African-American World War II veterans who have wrongfully had to live with the shame of being mutineers. For over 50 years, some of these men have hidden their past, when it should be proudly and widely shared with the rest of our country.

In 1944, when our Nation was at war with one of the world's most infamous racists—Adolph Hitler—almost all the men assigned to load munitions onto Liberty ships in this country were black. Upon their enlistment, many of the black naval recruits expected to be trained as sailors and go to sea, but instead, were assigned without proper training to the menial and dangerous work at the Port Chicago Naval Weapons Station in the San Francisco Bay area. During their stint at Port Chicago black sailors were quickly introduced to the discriminatory attitude of the Navy.

Then on July 17, at 10:18 p.m., two explosions with a force equal to the bomb dropped on Hiroshima nearly leveled the area. Two military cargo ships loaded with ammunition and the entire Port Chicago waterfront were vaporized by the blast and literally disappeared from the face of the earth. The blast left 320 dead, of which 202 were black. After a relatively short investigation, the cause of the explosion was never identified.

Shortly afterward, another tragedy ensued. On August 9, after spending several weeks picking up the remains of their friends, the surviving black sailors were ordered to return to loading ammunition at Mare Island under the same unsafe conditions that sparked the explosion in July. Afraid, 258 of them refused to comply and were immediately imprisoned on a barge. Several days later, after being threatened with the death penalty, 208 of them agreed to return to work. The remaining 50 were charged—not with disobeying an order—but with mutiny, an act punishable by death.

The court-martial proceedings were ''one of the worst frame-ups we have come across,'' wrote NAACP attorney Thurgood Marshall in his appeal on behalf of the men. The shame of these mutiny trials also aroused the passion and activism of First Lady Eleanor Roosevelt when she wrote a letter to the Secretary of the Navy asking for leniency in the sentencing of the men. Mrs. Roosevelt was one voice among many who joined in the campaign on behalf of the convicted Port Chicago sailors. Recent revelations discovered by Oakland, CA, author Robert Allen, Ph.D., fully exposed the racial segregation and bias in the Navy

and strongly support Justice Marshall's belief that the black sailors did not receive a fair trial because of their race.

The court-martial convictions of these African-American sailors was not only a great injustice, but also an event in our country's history that should be duly recognized. Historians believe that the Port Chicago explosion and the following events helped speed the desegregation of the military by President Truman. As we well know, this action earned him a place in our history books as a great advocate of civil rights. However, the men who valiantly protested the conditions in Port Chicago, have had to live with the shame of being mutineers.

In recent years, Congress initiated efforts to secure a review of these convictions based on new evidence that demonstrated significant racial prejudice in the trial proceedings. On January 7, 1994, the Navy refused to overturn the convictions following a review mandated by legislation approved by Congress. Although the Navy found that racial discrimination had existed, it decided there was no basis for overturning the convictions. More recently, Congressmen RONALD DELLUMS, GEORGE MILLER, and myself have urged President Clinton to consider expunging their records.

Many of these veterans and their families have lived with this unjust decision for many years. It is time for the United States to admit to this national disgrace and remove the stigma of dishonor from these brave men. I ask my colleagues to join me in recognizing the contribution of these civil rights leaders to our country.

THE DANGERS OF PLUTONIUM

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. DELLUMS. Mr. Speaker, today more than 300 people are gathered in Berkeley, CA, in the 9th California District, to mark the 54th anniversary of the discovery of plutonium on the University of California's Berkeley campus. They gather to express their concerns about the dangers associated with the continued trafficking in highly toxic radioactive plutonium and plutonium waste. The principle vehicle for this will be a public hearing on ''The History and Consequences of Civilian Plutonium Use.''

The event that has brought them together is the Pacific Plutonium Forum, sponsored by Plutonium Free Future, a United States-Japan citizens's organization and the Plutonium Free Future Women's Network, a women's international campaign for safe energy based in Berkeley. They are acting in cooperation with the Citizens' Nuclear Information Center of Tokyo; the Nuclear Control Institute of Washington, DC; the Plutonium Action Network of Hiroshima and Kyoto; and, the World Information Service on Energy of Paris.

The forum has attracted a distinguished list of participants, including His Excellency Bernard Dowiyogo, President of the island nation of Nauru in the Pacific; Dr. Carlos Arellano Lennox, director of Environmental Research at the Panama Canal Institute of the University of Panama and the former president of Panama's National Assembly; as well as representatives from more than 20 countries, including leading scientists, scholars, experts on energy and the environment, and citizens activists.

The forum also will include a candlelight vigil: to heal the wounds of the nuclear age, fitting held on the campus at which Nobel Laureates Drs. Glenn Seaborg and Ed McMillan discovered plutonium 54 years ago today.

Participants are gathered to consider alternatives to plutonium energy production and to urge all nations involved to cease such programs and to seek safer, more ecologically sound energy alternatives. Ending civilian plutonium use by all nations will ease serious environmental threats and will reduce for all who inhabit the globe the national security risks posed by the potential for the proliferation of nuclear weapons.

I join with the forum participants in highlighting our deep concerns over this week's sea shipment of 1,200 tons of high-level plutonium waste from France to Japan, most likely via the Panama Canal. This toxic, radioactive waste is produced by extracting plutonium from the spent fuel of Japanese nuclear reactors—much of the original fuel for which was composed of U.S.-origin materials.

There is considerable scientific evidence suggesting that the containers in which this waste is to be shipped do not meet sufficient safety requirements, and that they may be susceptible to damage by fire, corrosion, or collision during transport at sea and by the additional dangers of these type posed by their ultimate placement in the highly active seismic zone of Japan Aomori prefecture.

A number of my colleagues have called on President Clinton, Energy Secretary O'Leary, and other senior administration officials to urge Japan, France, and Great Britain—the Governments most directly involved—to postpone the planned shipment until the critical environmental, health, and safety issues can be addressed and satisfactorily answered. Today, I join with these colleagues in calling for the shipment to be postponed until a definitive scientific assessment on the risks involved can be completed.

I also will ask the Departments of Energy, Defense, and State to review their approval of these sea shipments of plutonium and plutonium waste and to seek ways to assist Japan with finding alternatives for energy security that do not involve the use of plutonium.

Beyond raising our concerns regarding the transport of plutonium, I join the Forum's participants in calling for a critical reappraisal of the role of nuclear weapons in national security strategies and the efficacy of the continued civilian use of plutonium in energy production. As we approach the 50th anniversaries of the atomic bombings of Hiroshima and Nagasaki, it is incumbent on the world community to assess the entire legacy of the nuclear age, both positive and negative, and to form new policies for the next 50 years that better serve the world's environmental and energy needs.

I proudly join the citizens of Berkeley who, 2 years ago, passed the first public resolution calling for a plutonium-free world, and who have this week reaffirmed that clear and courageous conviction by organizing this historic gathering.

Mr. Speaker, I urge my colleagues to reflect on the dangers that plutonium poses to our security and the world's environment and, I congratulate these citizens for taking the time to further explore this problem at today's Forum.

RECOGNITION OF REBEL ROY STEINER, JR.

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 23, 1995

Mr. HILLIARD. Mr. Speaker, I rise today to congratulate an outstanding young jurist from my congressional district, Mr. Rebel Roy Steiner, Jr., of Birmingham.

Mr. Steiner has just been named a partner in the Los Angeles law firm of Loeb & Loeb, one of our Nation's largest law firms which specializes in the music and motion picture industry. Mr. Steiner was named a partner to the firm's entertainment law division.

I am especially proud of this young man because he is a shining example of how a good education can better your life. Mr. Steiner was educated in the public schools of Birmingham, the University of Alabama, where he received a B.A. degree in history, and was selected a member of Phi Beta Kappa National Honor Society. He then attended the Yale Law School.

Many of our young people think it only a distant dream to be able to work on record and motion picture soundtracks with stars such as Vince Gill, Frank Sinatra, and Diana Ross. Rebel Steiner knows that these goals are more than mere dreams, they are all attainable with hard work, and a will to succeed. My heartfelt congratulations are extended to Mr. Steiner, and his family.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2985–S3070

Measures Introduced: Nine bills and one resolution were introduced, as follows: S. 464–472 and S.J. Res. 27. **Page S3052**

Balanced Budget Constitutional Amendment: Senate resumed consideration of H.J. Res. 1, proposing a balanced budget amendment to the Constitution of the United States, taking action on amendments and motions proposed thereto, as follows:

Pages S2995–S3034, S3036–51

Rejected:

(1) Wellstone motion to refer H.J. Res. 1 to the Committee on the Budget with instructions. (By 60 yeas to 35 nays (Vote No. 77), Senate tabled the motion.) **Pages S2997–S3002, S3020–21**

(2) Wellstone motion to refer H.J. Res. 1 to the Committee on the Budget with instructions. (By 60 yeas to 35 nays (Vote No. 78), Senate tabled the motion.) **Pages S3004–09, S3021**

(3) Byrd Amendment No. 301, to protect Federal outlays for law enforcement and the reduction and prevention of violent crime. (By 68 yeas to 27 nays (Vote No. 79), Senate tabled the amendment.)

Pages S3019–21

Pending:

(1) Feinstein Amendment No. 274, in the nature of a substitute. **Pages S3021–22**

(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. **Pages S3022–27**

(3) Graham Amendment No. 259, to strike the limitation on debt held by the public. **Pages S3027–33**

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

Pages S3027–33

(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. **Pages S3033–34**

(6) Bumpers modified motion to refer H.J. Res. 1 to the Committee on the Budget with instructions. **Pages S3036–38**

(7) Nunn Amendment No. 299, to permit waiver of the amendment during an economic emergency. **Page S3038**

(8) Nunn Amendment No. 300, to limit judicial review. **Pages S3038–46**

Unanimous-consent agreements were reached providing for final disposition of the pending amendments and motion. **Pages S3023, S3033, S3051**

Senate will continue consideration of the resolution on Friday, February 24, 1995.

Nominations Confirmed: Senate confirmed the following nominations:

Eleanor Hill, of Virginia, to be Inspector General, Department of Defense.

1 Air Force nomination in the rank of general.

1 Army nomination in the rank of general.

1 Navy nomination in the rank of admiral.

Routine lists in the Air Force, Army, Navy.

Pages S3051–52, S3070

Messages From the House: **Page S3052**

Measures Referred: **Page S3052**

Measures Placed on Calendar: **Page S3052**

Executive Reports of Committees: **Page S3052**

Statements on Introduced Bills: **Pages S3052–64**

Additional Cosponsors: **Pages S3064–65**

Notices of Hearings: **Page S3065**

Authority for Committees: **Page S3065**

Additional Statements: **Pages S3065–70**

Record Votes: Three record votes were taken today. (Total—79) **Pages S3020–21**

Recess: Senate convened at 9:15 a.m., and recessed at 7:54 p.m., until 9:45 a.m., on Friday, February 24, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S3070.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee resumed hearings on proposed legislation authorizing funds for fiscal year 1996 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands, receiving testimony from Gen. Joseph W. Ashy, USAF, Commander in Chief, United States Space Command; Adm. Henry G. Chiles, Jr., USN, Commander in Chief, United States Strategic Command; Gen. Robert L. Rutherford, USAF, Commander in Chief, United States Transportation Command; and Gen. Wayne A. Downing, USA, Commander in Chief, United States Special Operations Command.

Hearings were recessed subject to call.

HHS BUDGET

Committee on the Budget: Committee concluded hearings on the President's proposed budget request for fiscal year 1996 for the Department of Health and Human Services, after receiving testimony from Donna E. Shalala, Secretary of Health and Human Services.

NATIONAL HIGHWAY SYSTEM

Committee on Environment and Public Works: Subcommittee on Transportation and Infrastructure concluded hearings on S. 440, to provide for the designation of the National Highway System, and to examine the President's proposed budget request for fiscal year 1996 for the Department of Transportation's Federal-aid highway program, after receiving testimony from Mortimer L. Downey, Deputy Secretary, Rodney E. Slater, Administrator, Federal Highway Administration; Ricardo Martinez, Administrator, National Highway Traffic Safety Administration; and Gordon J. Linton, Administrator, Federal Transit Administration, all of the Department of Transportation; Harry W. Blunt, Jr., Concord Coach Lines, Inc., Concord, New Hampshire; Hank Dittmar, Surface Transportation Policy Project, Washington, D.C.; and Robert E. Martinez, Virginia Department of Transportation, Richmond, and Francis B. Francois, Washington, D.C., both on behalf of the American Association of State Highway and Transportation Officials.

LINE-ITEM VETO

Committee on Governmental Affairs: Committee concluded hearings on S. 4, to grant the power to the President to reduce budget authority, and S. 14, to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed cancellations of budget items, after receiving testimony from Senator Bradley; Representative Blute; Louis Fisher, Senior Specialist in Separation of Powers, Congressional Research Service, Library of Congress; and Allen Schick, George Mason University, Fairfax, Virginia.

NOMINATIONS

Committee on the Judiciary: Committee ordered favorably reported the nominations of Sandra L. Lynch, of Massachusetts, to be United States Circuit Judge for the First Circuit; Lacy H. Thornburg, to be United States District Judge for the Western District of North Carolina; Sidney H. Stein, to be United States District Judge for the Southern District of New York; and Thadd Heartfield and David Folsom, each to be a United States District Judge for the Eastern District of Texas.

ARTS AND HUMANITIES

Committee on Labor and Human Resources: Subcommittee on Education, Arts and Humanities held hearings on proposed legislation authorizing funds for programs of the National Foundation on the Arts and Humanities Act of 1965, focusing on the National Endowment for the Arts, receiving testimony from Mayor Joseph P. Riley, Jr., Charleston, South Carolina; Christopher Reeve, Creative Coalition, Bedford, New York; George White, Eugene O'Neill Theatre Center, New York, New York; John D. Ong, BF Goodrich Company, Cleveland, Ohio; Harold M. Williams, J. Paul Getty Trust, Santa Monica, California; Richard S. Gurin, Binney and Smith Inc., Easton, Pennsylvania; Dean Amhaus, Wisconsin Arts Board, Madison; Leonard Garment, Mudge Rose Guthrie Alexander and Ferdon, on behalf of the Independent Commission on the Arts, and Laurence Jarvik, Center for the Study of Popular Culture, both of Washington, D.C.; and Charles T. Clotfelter, Duke University, Durham, North Carolina.

Hearings will continue on Thursday, March 2.

House of Representatives

Chamber Action

Bills Introduced: Sixteen public bills, H.R. 1018–1029 and 1032–1035; two private bills, H.R. 1030–1031; and two resolutions, H. Res. 94–95, were introduced. **Pages H2175–76**

Reports Filed: The following reports were filed as follows:

H.R. 925, to compensate owners of private property for the effect of certain regulatory restrictions, amended (H. Rept. 104–46);

H.R. 716, to amend the Fishermen's Protective Act (H. Rept. 104–47);

H.R. 926, to promote regulatory flexibility and enhance public participation in Federal agency rulemaking, amended (H. Rept. 104–48); and

H.R. 937, to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, amended (H. Rept. 104–49, Part 1). **Page H2175**

Journal: By a yea-and-nay vote of 344 yeas to 61 nays, with 1 voting ''present'', Roll No. 158, the House approved the Journal of Wednesday, February 22. **Pages H2069–70**

Committee To Sit: It was made in order that the Committee on Economic and Educational Opportunities and its subcommittees be permitted to sit today during the proceedings of the House under the 5-minute rule. **Page H2073**

Regulatory Transition Act: House completed all general debate and began consideration of amendments on H.R. 450, to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, but came to no resolution thereon. Consideration of amendments will resume on Friday, February 24. **Pages H2087**

Agreed To:

The Condit amendment that extends the moratorium on new rulemaking under the Endangered Species Act of 1973 until December 31, 1996, or until the date Congress enacts a reform of the existing law, whichever comes first; **Pages H2101–07**

The Burton of Indiana amendment that excludes from the proposed moratorium all agency actions which are required by the Uruguay Round Agreements Act; **Pages H2117–19**

The Spratt amendment that exempts from the moratorium regulatory aids that promote business competitiveness in the areas textile imports; customs modernization; trade sanctions against China; FCC's transfer of spectrum; personal communications services licenses; wide-area specialized mobile radio licenses; and improved trading opportunities for regional exchanges (agreed to by recorded vote of 235 ayes to 189 noes, Roll No. 162); **Pages H2120–24**

The Norton amendment, as amended by the McIntosh amendment, that excludes from any rulemaking moratorium on regulatory rulemaking actions the establishment or enforcement of any statutory right that prohibits discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status (agreed to by a recorded vote of 405 ayes, Roll No. 165); and **Pages H2142–44**

The Hayes amendment that excludes from any rulemaking moratorium any regulatory program to establish or conduct a recreational or subsistence activity, including but not limited to hunting, fishing, and camping (agreed to by a recorded vote of 383 ayes to 34 noes, with 4 voting ''present'', Roll No. 166). **Pages H2144–47**

Rejected:

The Collins of Illinois en bloc amendment that sought to make the moratorium prospective effective only regarding regulations issued after the bill's enactment; and specifies that no provision shall be construed to authorize or require any action that is subject to judicial review (rejected by a recorded vote of 155 ayes to 271 noes, Roll No. 160); **Pages H2107–12**

The Slaughter amendment that sought to exempt regulatory rulemaking actions agencies make relating to food and water safety, meat and poultry, drinking water safety, and the regulation of imported food in lead cans (rejected by a recorded vote of 177 ayes to 249 noes, Roll No. 161); **Pages H2112–17**

The Waxman amendment that sought to restrict regulatory rulemaking activities relating to the issuance of substantive rules, interpretative rules, statements of agency policy, or notices of proposed rulemaking (rejected by a recorded vote of 167 ayes to 259 noes, Roll No. 163); and **Pages H2124–29**

The Collins of Illinois amendment that sought to exempt from the moratorium the following six ''common sense'' rules: published by the FEC on February 9, 1995, governing personal use of campaign funds; published by the INS on December 5, 1995, to improve procedures for disposing of asylum requests; published by HUD on December 21, 1994, to establish a preference for the elderly for Section 8 housing; published by HUD on January 26, 1995, to eliminate drugs from Federally-assisted housing;

published by HUD on January 12, 1995, to designate urban empowerment zones; published February 3, 1995, to provide compensation to veterans afflicted with Gulf War Syndrome; issued by the Justice Department that requires convicted child molesters to register with local authorities as part of a nation-wide database; and published November 21, 1994, by the Department of the Interior establishing a hunting season for migratory birds (rejected by a recorded vote of 181 ayes to 242 noes, Roll No. 164). **Pages H2137–42**

H. Res. 93, the rule under which the bill is being considered, was agreed to earlier by a yea-and-nay vote of 252 yeas to 175 nays, Roll No. 159. **Pages H2073–86**

Holocaust Remembrance: House agreed to H. Con. Res. 20, permitting the use of the rotunda of the Capitol for a ceremony to commemorate the days of remembrance of victims of the Holocaust. **Pages H2086–87**

Agreed to the Thomas amendment in the nature of a substitute. **Page H2087**

Agreed to strike the preamble and amend the title. **Page H2087**

Committee Elections: House agreed to H. Res. 86, electing members of the Joint Committee on Printing and the Joint Committee on the Library. **Page H2087**

Meeting Hour: House agreed to meet at 9:00 a.m. on Friday, February 24. **Page H2144**

Committees To Sit: It was made in order that the following committees and subcommittees be permitted to sit on Friday, February 24, during the proceedings of the House under the five-minute rule: Committees on Banking and Financial Services, Commerce, International Relations, Judiciary, Transportation and Infrastructure, and Veterans Affairs. **Page H2148**

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H2177–78.

Lobbyists: The compilation by the Clerk of the House and the Secretary of the Senate of all new registrations and reports for the fourth calendar quarter of 1994, and reports for the third calendar quarter of 1994 received too late to be previously published, that were filed by persons engaged in lobbying activities appear in this issue of the CONGRESSIONAL RECORD. **Pages HL1–96**

Quorum Calls—Votes: Two yea-and-nay votes and seven recorded votes developed during the proceedings of the House today and appear on pages H2069–70, H2085–86, H2111–12, H2117, H2124, H2128–29, H2141–42, H2143–44, and H2147.

Adjournment: Met at 10:00 a.m. and adjourned at 12 a.m. on Friday, February 24.

Committee Meetings

FEDERAL TAX CODE EFFECTS ON FARMERS, RANCHERS, AND RURAL COMMUNITIES

Committee on Agriculture: Subcommittee on General Farm Commodities held a hearing on the Effects of the Federal Tax Code on Farmers, Ranchers, and Rural Communities. Testimony was heard from Representatives Meyers of Kansas, Pomeroy, Smith of Michigan, Johnson of South Dakota, Herger and Minge; Alan Barkema, Assistant Vice President and Economist, Federal Reserve Bank of Kansas; and public witnesses.

AGRICULTURE, RURAL DEVELOPMENT, FDA AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Food Safety and Inspection Service. Testimony was heard from Michael R. Taylor, Acting Under Secretary, Food Safety, USDA.

RESCISSION; COMMERCE, JUSTICE, STATE AND JUDICIARY APPROPRIATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, and State and the Judiciary, and Related Agencies approved for full Committee action a rescission measure for Fiscal Year 1995.

The Subcommittee also held a hearing on the Secretary of Commerce. Testimony was heard from Ronald H. Brown, Secretary of Commerce.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on Corps of Engineers: North Central Division, New England Division, Pacific Ocean Division, South Pacific Division, and on North Atlantic Division. Testimony was heard from the following officials of the Corps of Engineers, Department of the Army: Col. Richard W. Craig, USA, Division Commander, North Central Division; Col. Earle C. Richardson, Division Engineer, New England Division; Brig. Gen. Bruce K. Scott, USA, Division Commander, South Pacific Division; Brig. Gen. Henry S. Miller, USA, Commander and Division Engineer, Pacific Ocean Division; and Brig. Gen. Milton Hunter, USA, Commanding General, North Atlantic Division.

INTERIOR APPROPRIATIONS

Committee on Appropriations: Subcommittee on Interior and Related Agencies held a hearing on Fish and Wildlife Service. Testimony was heard from George T. Frampton, Jr., Assistant Secretary, Fish and Wildlife and Parks, Department of the Interior.

LABOR, HHS AND EDUCATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing on OSHA, Mine Safety and Health Administration, Employment Standards Administration, Office of the American Workplace, Pension and Welfare Benefits Administration, and on the Bureau of Labor Statistics. Testimony was heard from the following officials of the Department of Labor: Joseph A. Dear, Assistant Secretary, Occupational Safety and Health; Thomas P. Glynn, Deputy Secretary; and Katharine G. Abraham, Commissioner, Bureau of Labor Statistics.

LEGISLATIVE APPROPRIATIONS

Committee on Appropriations: Subcommittee on Legislative held a hearing on the OTA and the GAO. Testimony was heard from Roger C. Herdman, Director, OTA; Charles A. Bowsher, Comptroller General, GAO; Members of Congress; and public witnesses.

MILITARY CONSTRUCTION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Military Construction held a Budget Overview hearing. Testimony was heard from the following officials of the Department of Defense: Joshua Gotbaum, Assistant Secretary (Economic Security); and Robert E. Bayer, Deputy Assistant Secretary (Installations), Office of the Assistant Secretary (Economic Security).

RESCISSION

Committee on Appropriations: Subcommittee on Transportation and Related Agencies approved for full Committee action a rescission measure for Fiscal Year 1995.

RESCISSION; TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government approved for full Committee action a rescission measure for Fiscal Year 1995.

The Subcommittee also held a hearing on the Secretary of the Treasury. Testimony was heard from Robert E. Rubin, Secretary of the Treasury.

RESCISSION; VA, HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Veterans' Affairs, and Housing and Urban Development, and Independent Agencies approved for full Committee action a rescission measure for Fiscal Year 1995.

The Subcommittee also held a hearing on the Office of Consumer Affairs and on the Consumer Information Center. Testimony was heard from Bernice Friedlander, Acting Director, U.S. Office of Consumer Affairs, Department of Health and Human Services; and Teresa N. Nasif, Director, Consumer Information Center, GSA.

MEXICAN SITUATION

Committee on Banking, Finance, and Urban Affairs: Ordered reported amended H. Res. 80, requesting the President to submit information to the House of Representatives concerning actions taken through the exchange stabilization fund to strengthen the Mexican peso and stabilize the economy of Mexico.

OVERSIGHT—HUMPHREY-HAWKINS BIENNIAL REPORT TO THE CONGRESS

Committee on Banking, Finance, and Urban Affairs: Subcommittee on Domestic and International Monetary Policy held a hearing on the Humphrey-Hawkins oversight hearing on the Biennial Report to the Congress. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

ADMINISTRATION'S HUD BUDGET

Committee on the Budget: Continued hearings on the Administration's HUD Budget. Testimony was heard from Henry Cisneros, Secretary of Housing and Urban Development; and public witnesses.

COMMON SENSE PRODUCT LIABILITY REFORM ACT

Committee on Commerce: Ordered reported amended H.R. 917, Common Sense Product Liability Reform Act.

WELFARE REFORM CONSOLIDATION ACT

Committee on Economic and Educational Opportunities: Ordered reported amended H.R. 999, Welfare Reform Consolidation Act of 1995.

OVERSIGHT—U.S. POSTAL SERVICE

Committee on Government Reform and Oversight: Subcommittee on Postal Service held a hearing on the general oversight of the U.S. Postal Service. Testimony was heard from the following officials of the U.S. Postal Service: Marvin T. Runyon, Postmaster

General and CEO; Michael Coughlin, Deputy Postmaster General; and William Henderson, Chief Operating Officer and Executive Vice President; and the following officials of the General Government Division, GAO: Michael E. Motley, Associate Director, Government Business Operations Issues; and James Campbell, Assistant Director, Government Business Operations Issues.

Hearings continue March 2.

NORTH KOREAN MILITARY AND NUCLEAR PROLIFERATION THREAT

Committee on International Relations: Subcommittee on Asia and the Pacific and the Subcommittee on International Economic Policy and Trade held a joint hearing on the North Korean Military and Nuclear Proliferation Threat: Evaluation of the United States-DPRK Agreed Framework. Testimony was heard from Ambassador At Large Robert L. Gallucci, Department of State; Edward Warner, Assistant Secretary, Strategy and Requirements, Department of Defense; and public witnesses.

FOREIGN RELATIONS AUTHORIZATIONS

Committee on International Relations: Subcommittee on International Operations and Human Rights continued hearings on Foreign Relations Authorization: Arms Control and Disarmament Agency. Testimony was heard from John Holum, Director, U.S. Arms Control and Disarmament Agency.

Hearings continue March 1.

CUBA AND UNITED STATES POLICY

Committee on International Relations: Subcommittee on Western Hemisphere Affairs held a hearing on Cuba and United States Policy. Testimony was heard from public witnesses.

COMMON SENSE LEGAL STANDARDS REFORM ACT; ATTORNEY ACCOUNTABILITY ACT

Committee on the Judiciary: Ordered reported amended the following bills: H.R. 956, Common Sense Legal Standards Act of 1995; and H.R. 988, Attorney Accountability Act of 1995.

DEFENSE AUTHORIZATION

Committee on National Security: Continued hearings on the Fiscal Year 1996 National Defense authorization request. Testimony was heard from Gen. J. H. Binford Peay III, USA, Commander in Chief, U.S. Central Command.

Hearings continue February 28.

BASE CLOSURE AND REALIGNMENT ISSUES

Committee on National Security: Subcommittee on Military Installations and Facilities held a hearing on base closure and realignment issues. Testimony was heard from Joshua Gotbaum, Assistant Secretary, Economic Security, Department of Defense; and Frank C. Conahan, Senior Adviser to the Comptroller General, Defense and International Affairs Programs, GAO.

OVERSIGHT

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on U.S. Geological Survey and Bureau of Mines fiscal year 1966 budget requests. Testimony was heard from the following officials of the Department of the Interior: Gordon P. Eaton, Director, U.S. Geological Survey; and Rhea Lydia Graham, Director, U.S. Bureau of Mines; and public witnesses.

MAGNUSON FISHERIES CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans held a hearing on the reauthorization of the Magnuson Fisheries Conservation and Management Act, in particular H.R. 39, Fishery Conservation and Management Amendments of 1995. Testimony was heard from Rolland Schmitten, Assistant Administrator, National Marine Fisheries Service, NOAA, Department of Commerce; and public witnesses.

NATIONAL PARK SYSTEM REFORM ACT

Committee on Resources: Subcommittee on National Parks, Forests and Lands held a hearing on H.R. 260, National Park System Reform Act of 1995. Testimony was heard from Roger Kennedy, Director, National Park Service, Department of the Interior; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

RESTRUCTURING AIR TRAFFIC CONTROL AS A PRIVATE OR GOVERNMENT CORPORATION

Committee on Transportation and Infrastructure: Subcommittee on Aviation concluded hearings on Restructuring Air Traffic Control as a Private or Government Corporation. Testimony was heard from Representatives Wolf and Lightfoot; Kenneth M. Mead, Director, Transportation Issues, Resources, Community, and Economic Development Division, GAO; the following former Administrators of the FAA, Department of Transportation: Najeeb Halaby, James Busey, and Donald Engen; and public witnesses.

MEDICARE SELECT POLICIES OFFERED IN STATES; ADMINISTRATION'S BUDGET PROPOSAL—MEDICARE PROVISIONS

Committee on Ways and Means: Subcommittee on Health approved for full Committee action H.R. 483, to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States.

The Subcommittee also held a hearing on Medicare provisions in the Administration's budget. Testimony was heard from Sarah F. Jaggar, Director, Health Financing and Policy, GAO; and public witnesses.

INTELLIGENCE SUPPORT TO TARGETING PRECISION WEAPONS

Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session to hold a hearing on Intelligence Support to Targeting of Precision Weapons. Testimony was heard from departmental witnesses.

COMMITTEE MEETINGS FOR FRIDAY, FEBRUARY 24, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations, Subcommittee on VA, HUD, and Independent Agencies, to hold hearings on proposed budget estimates for fiscal year 1996 for the American Battle Monuments Commission, Cemeterial Expenses, Army, Consumer Information Center, Consumer Product Safety Commission, Office of Consumer Affairs, and Court of Veterans Appeals, 9:30 a.m., SD–138.

Committee on the Judiciary, Subcommittee on Administrative Oversight and the Courts, to resume hearings on S. 343, to reform the regulatory process, 9:30 a.m., SD–226.

House

Committee on Appropriations, Subcommittee on District of Columbia, on Review of the District of Columbia's Audit and Financial Condition, 9 a.m., 2360 Rayburn.

Subcommittee on Energy and Water Development, on the Galvin Report: Alternative Futures for the DOE National Laboratories, 10 a.m., 2362B Rayburn.

Subcommittee on Labor, Health and Human Services, Education and Related Agencies, on Pension Benefit Guaranty Corporation and Inspector General, Department of Labor, 10 a.m., 2558 Rayburn.

Subcommittee on Legislative, to mark up Fiscal Year 1995 Rescission, 9:30 a.m., H–144 Capitol.

Committee on Banking, Finance, and Urban Affairs, Subcommittee on Financial Institutions and Consumer Credit, hearing on the National Credit Union Administration's seizure of Capital Federal Corporate Credit Union into conservatorship, 10 a.m., 2128 Rayburn.

Committee on Commerce, Subcommittee on Energy and Power, oversight hearing on the privatization of the U.S. Enrichment Corporation, 9:30 a.m., 2123 Rayburn.

Committee on International Relations, to consider Budget recommendations for the report to the Committee on the Budget, 9:30 a.m.; and a hearing on United States Policy and Activities in Haiti, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Immigration and Claims, oversight hearing on foreign visitors who violate the terms of their visa by remaining in the United States indefinitely, 9:30 a.m., 2237 Rayburn.

Committee on Rules, to consider the Risk Assessment and Cost Benefit Act of 1995, 10 a.m., H–313 Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Water Resources and Environment, to continue hearings on the reauthorization of the Federal Water Pollution Control Act, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, hearing on Department of Veterans Affairs budget request for fiscal year 1996, 9 a.m., 334 Cannon.

Next Meeting of the SENATE

9:45 a.m., Friday, February 24

Senate Chamber

Program for Friday: After the recognition of four Senators for speeches and the transaction of any morning business (not to extend beyond 11 a.m.), Senate will resume consideration of H.J. Res. 1, Balanced Budget Constitutional Amendment.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m. Friday, February 24

House Chamber

Program for Friday: Continued consideration of H.R. 450, Regulatory Transition Act.

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