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House of Representatives

The House met at 9:30 a.m. and was called to order by the Speaker pro tempore [Mr. BARRETT of Nebraska].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
January 17, 1995.

I hereby designate the Honorable BILL BARRETT to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates.

The Chair will alternate recognition between the parties, with each party limited to 30 minutes and each Member other than the majority and minority leaders limited to 5 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. BUNNING] for 5 minutes.

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

MAJOR LEAGUE BASEBALL

Mr. BUNNING. Mr. Speaker, last week, the owners of major league baseball visited Capitol Hill to urge Members of Congress to leave their exemption from the antitrust laws alone.

Many of you may also have seen a letter which went out last week from Acting Major League Baseball Commissioner Bud Selig, which outlined a number of reasons that he felt vindicated the existence of the antitrust exemption.

I thought it was time that you heard the other side of the story.

Mr. Selig, in his letter, insisted that major league baseball does not operate as an economic cartel.

That is wrong. Major league baseball operates as a cartel in classic monopoly fashion. The owners, not market forces, dictate how the supply of its product will be allocated. The antitrust exemption shields major league baseball from market forces and makes competition impossible. That sounds like a monopoly to me.

Mr. Selig also insists that repeal of the antitrust exemption would not end the baseball strike. Wrong again. All signs point the other way. Don Fehr, the head of the Major League Baseball Players Association, has publicly stated many times that if the exemption were repealed, he would strongly urge the players to end the strike.

Mr. Selig insisted that the players should agree to a salary cap because it is good and because it has worked for football and basketball.

Wrong yet again. Football and basketball do have salary caps, but those caps were negotiated through the collective bargaining process. The baseball owners want to impose the cap unilaterally.

Baseball has a problem because the owners have been unable to reach agreement on how to share revenues between small market teams and large market teams.

But, instead of hammering out an agreement, they are now trying to arbtrarily impose a salary cap on the players to force the players to solve the owners' problem for them.

Mr. Selig said that the antitrust exemption has not hurt the players. That is as wrong as wrong can be. I know it is hard to feel sorry for baseball players with median salaries of half a million dollars. And it is also true that the baseball players union has been very effective in the past several decades and has been able to win—through collective bargaining—some of the rights that other American workers have been guaranteed by law.

But the antitrust exemption does hurt players. It is a constant threat hanging over their heads. The owners know—that because of the exemption—that if they are able to break the union, the players have no place to turn.

Mr. Selig, in his letter, insisted that repealing the exemption would hurt baseball, fans, and communities that have franchises.

He is wrong again. The other major professional sports do not have an antitrust exemption but franchise movement has been slight.

After eight work stoppages in the last 24 years, and the current strike that has destroyed one season and threatens another, it is hard to imagine anyone suggesting that the antitrust exemption is good for the fans.

And then Mr. Selig dredged up the old trusty line that repealing and antitrust exemption would destroy the minor leagues.

This is a very effective line because minor league teams are scattered around the country and touch the lives and economies of small towns throughout the Nation.

But the plain truth of the matter is major league baseball has to have the minor leagues. It traditionally takes longer to develop professional baseball players than football or basketball players.

If the minor leagues were done away with, the decline in quality would be devastating to the integrity of the game and destroy baseball. The owners are smart enough not to jeopardize their investments in their teams by letting that happen.

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The minor leagues are indispensable to the future of major league baseball. Repeal of the exemption does not threaten them in any way. That's a smoke screen.

Through it all, I can understand where Mr. Selig is coming from.

Major league baseball has to have this exemption removed for the good of the fans, the game, and anybody else that wants a season in 1995.

THE LEGISLATIVE SEASON

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from West Virginia [Mr. WISE] is recognized during morning business for 5 minutes.

Mr. WISE. Mr. Speaker, the gentleman before me spoke about the baseball season. I want to speak some about the legislative season. It has had its opening day and now goes into the first games of the season. The first game, obviously, being this Thursday and Friday as I understand it, the unfunded mandates bill that will be on the floor of the House.

I have no problems with voting on this issue. I have no problems with voting on any of the issues that are in the so-called Contract With America that the Republican Party is bringing forth. Indeed, I think that the debate is wholesome and worthwhile to have on many of these issues.

To debate though means debate. It means having the opportunity. It means being able to play, using the baseball analogy, it means being able to play a full nine innings. But what does not help this House is when you go immediately from the opening ball to the ninth inning. That is what is happening in the unfunded mandates bill. That is my concern about what is happening with the important balanced budget amendment and others. Let me explain.

As a member of the Committee on Government Reform and Oversight, which has the unfunded mandates bill, I had the chance to participate last week in an extraordinary process, a process by which the committee, which had not met previously, suddenly comes into session in its opening session, which is traditionally known as its organizing meeting, that is where you go through the amenities and announce who is on what committee, and then launched from the point into taking up the unfunded mandates bill without a hearing, without a hearing. That is right. A bill which is going to rewrite the relationship between Federal, State, and local governments and, indeed, in some cases the private sector was taken up without a hearing.

There was a hearing of sorts. The gentleman from the Republican side was permitted, who is not a member of the committee but is a sponsor of the bill, was permitted to address the committee for a number of minutes about the reasons he thought it was a good bill, describing what was in it. Our side was not permitted to ask questions. Our side was not permitted to offer its own witness, if such be the case, if that be a proper description of what the gentleman testifying was doing.

We were told it was not a hearing. But at the same time we could not bring our folks in. At that point then we asked about the, whether we would have the opportunity to ask questions throughout. We would, except then we learned subsequently every amendment was limited to 5 minutes for the proponents, 5 minutes for the opponents.

It did not stop there. As we were going through the bill, looking forward to offering some amendments at certain parts, certain sections, some of those sections were removed from our committee's jurisdiction. It probably was the most extraordinary procedure that I have seen.

I have great respect for the Chair of our committee, who is known on both sides of the aisle for being eminently fair. I have great respect for our committee, because our committee, I believe, in the past has worked on a bipartisan basis. I have been assured that this is not going to be the usual run of business. Yet it sets a very disturbing tone.

Could there not have been a hearing, 1 day? We have been several days now waiting to get this bill to the floor. We are going to be here until Thursday and then take the bill and the rule up Thursday, as I understand it, and begin the amendment process on Friday. Could there not have been a 1 day's delay so that there could have been a hearing so the proponents and opponents could have had their chance? One of things, for instance, that concerns me is what happens to coal mine safety laws? I am told, ''Don't worry, Bob, they won't be affected, particularly those that are passed before this bill becomes law.'' Well, perhaps.

What happens to occupational safety and health? What happens to regulation of banking industry and the financial industries? What happens to all of this important area?

So that is why I think it would have been wise and appropriate to at least hold a hearing. Balanced budget amendment will come up, amendments were cut off by 6 the previous, in the committee markup then. And so I hope and urge the Republican majority to recognize the importance of the procedure here.

We want to, we all want to play in this baseball game, but we want to make sure there are equal times at bat, equal opportunities to pitch, equal opportunities to fully participate in this game and that we do not run, go immediately from opening pitch to the ninth inning and then the game is called.

So if the American people are going to truly have faith in this process, and in this contract, which the majority has vowed to have voted on by the 100 days, then it must know that there has been a full process there.

As far as the unfunded mandates bill, I have no problem with requiring that there be an analysis of what the cost is to State and local governments. I have no problem with greater consideration being given to those issues. I have no problem with saying that Congress, before you pass something onto somebody else, every one ought to know how much it costs and be able to evaluate.

What I do have a problem with is where we have an opportunity to participate fully and to explore this bill.

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 11 a.m.

Accordingly (at 9 o'clock and 43 minutes a.m.) the House stood in recess until 11 a.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 a.m.

PRAYER

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

Our hearts are grateful, O loving God, that we are surrounded by others who support us in our worries, who celebrate with us in our victories, and whose presence is ever with us. At our best moments we acknowledge that we do not walk alone or possess all the strengths or energy or courage to face the opportunities and the challenges of each day. With appreciation and with thanksgiving, we remember those whose lives are bound with ours and whose grace is ever with us. 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.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Nebraska [Mr. CHRISTENSEN] will lead the House in the Pledge of Allegiance.

Mr. CHRISTENSEN 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.

SELECTION OF MEMBERS OF COMMITTEE ON WAYS AND MEANS AS OFFICIAL ADVISERS TO VARIOUS U.S. DELEGATIONS RELATING TO TRADE AGREEMENTS

The SPEAKER. Pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211) and upon the recommendation of the chairman of the Committee on Ways and Means, the Chair has selected the following members of that committee to be accredited by the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the 1st session of the 104th Congress:

Mr. ARCHER of Texas;
Mr. CRANE of Illinois;
Mr. THOMAS of California;
Mr. GIBBONS of Florida; and
Mr. RANGEL of New York.

CONTRACT WITH AMERICA

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

Mr. GOSS. Mr. Speaker, our contract with America states, on the first day of Congress, a Republican House will: force Congress to live under the same laws as everyone else; cut one-third of committee staff, and cut the congressional budget.

We have done that.

In the next 87 days, we will vote on the following 10 items:

No. 1, a balanced budget amendment and line-item veto;

No. 2, a new crime bill to stop violent criminals;

No. 3, welfare reform to encourage work, not dependence;

No. 4, family reinforcement to crack down on deadbeat dads and protect our children;

No. 5, tax cuts for families to lift Government's burden from middle-income Americans and senior citizens too;

No. 6, national security restoration to protect our freedoms and our military chain of command;

No. 7, Senior Citizens' Equity Act to allow our seniors to work without Government penalties from their Government;

No. 8, Government regulation and unfunded mandate reforms;

No. 9, commonsense legal reform to end frivolous lawsuits that are costly, and

No. 10, congressional term limits to make Congress a citizen legislature.

This is our Contract with America. This will happpen.

RUSSIAN AID

(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, the new $64,000 question for Congress: Is Boris Yeltsin Russia's George Washington? Or is Boris Yeltsin just another Joseph Stalin? One thing is for sure, we have a national debt that is out of sight, a trade deficit that continues to grow. The American people are worried about losing their homes, losing their jobs, and we keep sending billions of dollars over to Russia and we keep wining and dining Boris Yeltsin.

Ladies and gentlemen, we turned our back when it was only 140 of the Old Guard he slaughtered. Now he is attacking citizens in Chechnya. I say one thing is very sure, we have very little money. If we have any, we should spend it in America. Even when we do, we call it pork. Well, if it is pork in America, let me tell you we are sending a prize-winning Porky the Pig over there in Russia. And if there is going to be freedom in Russia, the Russian people should die for it.

Think about it.

ANNOUNCEMENT REGARDING RULES COMMITTEE MEETINGS

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

Mr. SOLOMON. Mr. Speaker, I want to remind my colleagues that the Rules Committee will meet tomorrow at 11 a.m., to report an open rule for the consideration of H.R. 5, the Unfunded Mandate Reform Act of 1995.

The rule may include and this is why I rise today, to let Members know, a provision giving priority in recognition to Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD prior to their consideration—though this would not be mandatory.

General debate is scheduled for Thursday of this week on the floor, and the amendment process will begin on Friday, so Members wishing to have priority recognition should submit their amendments for printing in the RECORD no later than Thursday.

I would point out that it is not necessary to submit your amendments to the Rules Committee or to come up and testify, since we do plan on providing an open amendment process.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted to an amendment in the nature of a substitute, we will make in order the changes recommended by the committees of jurisdiction.

Mr. Speaker, I also would like to let the membership now that we intend to meet at 1 p.m. on Monday, January 23, to take testimony on a rule for the consideration of House Joint Resolution 1, which is the balanced budget constitutional amendment.

As I announced last Wednesday on the floor and through a ''Dear Colleague'' letter sent to all Members last week, the rule may include a provision permitting only the offering of amendments in the nature of a substitute by Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD, and this is the important part, no later than this coming Friday, January 20.

Mr. Speaker, Members wishing to testify in support of their substitutes at next Monday's hearing should contact the Rules Committee at extension 5–9191 by Friday of this week.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield for an inquiry?

Mr. SOLOMON. If I have the time I will be glad to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, the only inquiry I have is that members of the Committee on the Judiciary were concerned because the committee did not have a 7-day notice before the markup, and had written the chairman of the Judiciary Committee asking him to reopen it because many amendments were not presented in the markup of that constitutional amendment.

My understanding is the Parliamentarian said we should have to deal with the 7-day notice. Will the Rules Committee delay the meeting on the rule until we have had the 7-day notice?

Mr. SOLOMON. I would say to the gentlewoman we could not do that. We are under a time constraint, as the gentlewoman knows, and since January 4 we have set the time schedule so that Members developing alternatives in the nature of a substitute have had plenty of time. I for one am interested in that myself and we have been discussing it with Members on both sides of the aisle. I believe by this coming Friday, 3 weeks will have passed and we all will have had time to develop our alternatives if we have them. And we are going to consider all of those alternatives, as you know, up in the Rules Committee.

Mrs. SCHROEDER. If the gentleman will yield further, the issue was not that per se, but that the Committee on the Judiciary, which marked up the constitutional amendment, did not get 7 days' notice as of the markup, which under the rules of the House is required, and we did not get to deal with the issues that go right to the core of that balanced budget amendment: Judicial review and standing. Those to me go right to the core of whether it works or not. So that is our issue.

Should not the committee finish that, because we will not know what kind of substitutes?

The SPEAKER. The Chair recognized the gentleman from New York for 1 minute. This is not debate time beyond that.

Mr. SOLOMON. I thank the Speaker. We cannot take up more of the time. I will tell the gentlewoman I will be glad to discuss it with the chairman and ranking member of the committee. I believe the 7 days' time has been ample, but we will discuss it with

them. And I thank the gentlewoman for her inquiry.

□ 1110

PROTECT SOCIAL SECURITY

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

Ms. FURSE. Mr. Speaker, the Republican leadership has repeatedly said that when it came to cutting spending, everything was on the table except Social Security, and I agree wholeheartedly.

But now I find, to my dismay, that the Contract With America's balanced budget amendment does exactly the opposite. It leaves Social Security wide open to raiding. In addition, last week the Republicans voted down a proposal to show America exactly how they are going to balance the budget. They also rejected a proposal to apply the unfunded mandates bill to the Contract With America.

I think we should be honest with the American people. I think we should support honesty in budgeting and support a balanced budget amendment which protects Social Security.

The people who elected us have only our word to rely on. That is the real contract with our constituents.

URGING PASSAGE OF BALANCED BUDGET AMENDMENT WITH THREE-FIFTHS PROVISION

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

Mr. CHRISTENSEN. Mr. Speaker, on November 8, the American people sent Washington a message that the Federal Government is too big, too powerful, and spends too much money.

That is why they overwhelmingly support a balanced budget amendment.

But not just any amendment.

The American people want an amendment that makes it more difficult to raise taxes and forces Congress to make tough spending decisions.

That is why it is imperative that the balanced budget amendment include strong taxpayer protection.

The three-fifths provision does just that.

It requires not just a simple majority, but a three-fifths supermajority to raise taxes.

If we do not ensure the inclusion of the three-fifths provision in a balanced budget amendment, then we are giving this body license to continue its cycle of wasteful spending and irresponsible tax increases.

Mr. Speaker, I want the Government's license revoked.

We must empower people, not Government. Passage of the balanced budget amendment with the three-fifths provision is the first step in the right direction.

THE PLOT THICKENS

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

Mr. MILLER of California. Mr. Speaker and Members of the House, the plot surrounding our Speaker's book deal continues to thicken.

We find that while the Contract With America is committed to open meetings that the Speaker is, in fact, committed to a series of closed meetings; first, the closed meetings between he and Rupert Murdoch at which $4.5 million is on the table and the future of telecommunications policy and foreign ownership of our airwaves is also on the table, a meeting the Speaker said never took place, and now there are four or five versions of what took place at that meeting.

Now we see that the Republican leadership is now committed to a closed meeting between the heads of the telecommunications corporations in this country and the Republican membership, no cameras, no press, no Democrats, no balance, but to privately have a meeting because it is only in private that they could have an honest discussion about the future of America's airwaves and multi-billion-dollar decisions for the consumers.

Somehow the Contract With America's commitment to open meetings rings a little hollow when the real meetings are held in private and in violation of House rules. The plot thickens.

THE AMERICAN PEOPLE WANT A BALANCED BUDGET

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

Mr. HAYWORTH. Mr. Speaker, 81 percent of Americans support a balanced budget amendment, but a few folks are trying to put on the brakes. They say they will not support a balanced budget amendment unless they know exactly how we are going to pay for it.

Mr. Speaker, when President Kennedy stood at this podium behind me here and said we needed to put a man on the Moon, Americans did not demand at the outset to know the type of launching pad or rocket that was going to be used. We set the goal first; then methods for achieving that goal evolved.

The truth is some in this Chamber do not want Congress to balance the budget and have to live with the same kind of fiscal discipline that every family in America experiences every day. They want to continue runaway spending while our constituents are balancing heir checkbooks and working hard to make ends meet.

The American people have told us with a resounding voice they want us to balance the budget. For the sake of all our children, let us provide the leadership once and for all to solve this problem.

Where there is a will, there is a way. We will find a way to balance the budget. What we need is the will now to honor our Contract With America.

TIME FOR FULL DISCLOSURE OF BOOK DEAL

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

Mr. DURBIN. Mr. Speaker, this morning's Wall Street Journal discloses that the conservative Heritage Foundation is holding a closed-door, Republicans-only meeting to discuss changes in Federal telecommunications policy, changes involving billions of dollars.

The list of participants include Chairman Rupert Murdoch, owner of the same publishing company that has offered the Speaker a multimillion-dollar book contract.

Mr. Speaker, this closed-door meeting and the special interests attending it make it clear why your multimillion-dollar book deal is an issue which will not go away. It is time for at least full disclosure of your book deal, and as painful as it may be, it is time to realize good government may require you, Mr. Speaker, to end this book deal once and for all.

TAKING OUR STREETS BACK ACT OF 1995

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

Mr. BARR. Mr. Speaker, the House Committee on the Judiciary Subcommittee on Crime is scheduled to conduct hearings on the Taking Our Streets Back Act of 1995 later this week.

This bill, of which I am proud to be an original sponsor, is a crucial first step in restoring the right of the American people to be secure in their person and property. I say the first step because this bill cannot remedy all of the shortcomings now existing in Federal anticrime programs. A number of initiatives will be required, because unfortunately the Federal role in crime prevention has suffered misdirection by this body for decades. The most recent example is last year's crime bill which attained new heights in wasteful pork-barrel spending and social spending programs.

Crime is not reduced by expanding bureaucracies. Our first priority must be to remove the violent criminals so that we can reclaim our communities.

In the days ahead I will detail how our new bill delivers on the promise to reduce crime my colleagues and I pledged as part of the Contract With America.

WHAT IS GOING ON?

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

Ms. DELAURO. Mr. Speaker, the stories surrounding the meeting between Speaker GINGRICH and Rupert Murdoch have turned into a political chameleon, changing its colors with each new cycle.

First, the Speaker's office could not recall the meeting. Then the Gingrich spokesman said nothing serious was discussed at the meeting, and it was merely a courtesy call. The following day, the account of the meeting changed again. The Speaker said he and Murdoch discussed the FEC complaint against Murdoch's ownership of Fox television, but that it only came up in passing. Now we learn that Fox Television's top lobbyist was in the meeting.

It is time for the Speaker to come clean on his multi-million-dollar book deal and his secret meeting with Mr. Murdoch.

We were promised open government and not closed-door deals. The Wall Street Journal said this morning there was another closed-door meeting this week with Mr. Murdoch and telecommunications leaders that is planned.

What is going on? The Speaker needs to come clean. We need an outside counsel to review this mess.

CHANGING THE SUBJECT

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

Mr. JONES. Mr. Speaker, in last November's election, the American people decided to change the direction of the Federal Government. The people decided they wanted to pay less taxes. The people wanted fewer Federal mandates. The people wanted less government.

The American people want to change the Congress. House Democrats want to change the subject. Rather than join with Republicans in passing the Contract With America, Democrats are trying to sabotage the process. Rather than arguing about policy, Democrats talk about GOPAC. Rather than embracing the balanced-budget amendment, some Democrats find excuses to vote against it.

Mr. Speaker, this is sad. When it comes to reform, House Democrats would rather change the subject then change the Congress.

HOW ABOUT LOAN GUARANTEES FOR WEST VIRGINIA?

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

Mr. WISE. Mr. Speaker, I want to rise and challenge the loan guarantee program that is going to get rammed through this House probably this week. It started out a couple of weeks ago as a $9 billion loan guarantee program as the Mexican peso was devalued. Then it rose to $18 billion, then $25 billion, and the last I saw in the newspaper, $40 billion loan guarantee program.

As I traveled the Second District of West Virginia this weekend, I ran into questions. In Calhoun County, for instance, where they are running short of money for the Arnoldsburg sewer project, why can we not have a loan guarantee program that will help that project? What about the eastern panhandle homebuilders I met with? When the farmers' home money has run out, hundreds of homebuilders are sitting there without homes they are able to finance. How about a loan guarantee program for them?

How about central West Virginia as we try to renovate the Western State Hospital? That could use a loan guarantee program. Or in the Kanawha Valley as we try to move ahead in economic development and some threatened extinction of the Economic Development Administration that creates jobs; how about a loan guarantee program for that?

Forty billion dollars is a large guarantee.

□ 1120

WE NEED A BALANCED-BUDGET AMENDMENT

(Mrs. SMITH of Washington asked and was given permission to address the House for 1 minute.)

Mrs. SMITH of Washington. Mr. Speaker, the honor of serving the people of Washington's Third District sometimes makes it difficult to spend enough time at home with my family. So I usually devote Sundays for that purpose to spend time with my kids and grandkids. I did, however, come back to a transcript on my desk waiting for me that was rather disturbing. It was a transcript of NBC's ''Meet the Press'' from Sunday. I was disappointed to read that Secretary Reich's comments said the President is against simply balancing the budget.

I went on to read because I thought he cannot, certainly, be saying that, not after he said that he supported it. But he went on to say the goal of a balanced budget is not my goal.

Well, Mr. Speaker, the balanced-budget amendment may be the most important measure that this Congress brings up this session, not because the American people said it, not because the Republicans made it their top goal, but because it is the most important thing we can do for our children and grandchildren.

I spent the day with my grandchildren this Sunday, and it is very clear that if I am not going to hand them a debt, I have to get busy right now and take action.

WE ARE THE TRUSTEES OF THE PUBLIC AIRWAVES

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, Americans all know that when they hear a fox is guarding the chicken house, they should be very concerned. They soon are going to know that when a different kind of fox comes with their lobbyists to meet with the Speaker, they ought to also be concerned because the airwaves are supposed to be public. We now are learning more and more about Mr. Murdoch's meeting with his lobbyist, Mr. Murdoch representing the Fox Broadcasting Network, and how he is trying to get different privileges versus NBC, all of which are supposed to be on the public airwaves, which, of course, we are supposed to be trustees of. All that going on with the little book deal on the side.

I think we need to get the cloud out of this Chamber that that has caused. We need to get it to a special prosecutor. We need to get on with it. And we really need to bring back the faith the American people have here that this is not a coin-operated legislative machine, that people can come as citizens and bring their petitions and that we truly are going to be the trustees of the public airwaves.

HOW THE AMERICAN PEOPLE BALANCE THEIR BUDGET

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

Mr. SCARBOROUGH. Mr. Speaker, we have a new Congress that is moving forward with true reforms, with great changes for this country, for the 21st century.

Yet all we hear from some obstructionists are stories about foxes guarding chicken houses, about GOPAC, about making up imaginary Nazi historians and anything else to distract the American voters from the simple truth that we are moving forward with true reform.

Not only do they cause a disservice to this country but they also cause a disservice to the entire body and prevent us from answering the simple question that they have continually asked time and time again: How do we balance the budget?

Well, we do not do it by demagogery and stories about foxes and hounds and chicken houses and Nazi historians. We do it by sticking to the facts and getting to go to work and doing what needed to be done for the past 40 years while the Democrats held the checkbook. We do it the way the middle-class American family does it, by only spending what we have.

BALANCED BUDGET AMENDMENT NOT A GOAL OF THE CLINTON ADMINISTRATION

(Mrs. CHENOWETH asked and was given permission to address the House for 1 minute.)

Mrs. CHENOWETH. Mr. Speaker, this weekend the Secretary of Labor did state, as we heard on national TV, that balancing the budget is not a goal of the Clinton administration. And you and I both know that without the authority of the President, the Secretary would not have said that nor reflected that view. At a time when every single hardworking American is calling on the Federal Government to get its act together and balance the budget, the Clinton administration is saying, ''No, we won't.'' At a time when every hardworking American family is demanding that Government balance their budgets just like they have to balance their checkbook, the Clinton administration is saying, ''No, we won't.'' At a time when the American people are demanding that the bitter defenders of the old order change their ways and support the concept of balancing the Federal budget, the Clinton administration is saying, ''No, we won't.''

Mr. Speaker, I stand here today and I say, ''Yes, we will.'' I have heard the people's message as have you, loud and clear, and they want a smaller, smarter Government that costs less and is less intrusive in their lives.

PREVIOUS PRESIDENTS COULD HAVE STOPPED SPENDING IN ITS TRACKS

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

Mr. HOYER. Mr. Speaker, I had not intended to give a 1-minute, but I hear this carping about the balanced budget amendment. Twelve out of the last 14 years, we have had a Republican President. Not once, not once did any one of those Republican Presidents submit a balanced budget to the Congress of the United States, not once.

Second, one person, from 1982 to 1989, could have stopped spending in its tracks: Ronald Reagan.

And from 1989 to January 1993, one person, one person, one person could have stopped spending in its tracks: George Bush.

We went from a budget deficit of $945 billion in 1980 to a budget deficit of $4.5 trillion, 12 years into Republican leadership of the country.

CONGRESS HAS AUTHORITY FOR SPENDING THE MONEY

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

Mr. CHAMBLISS. Mr. Speaker, I came here with a 1-minute speech on unfunded mandates, but as I just listened to my colleague from the other side of the aisle, I cannot help but ask one question. That is: How much money can the President of the United States spend? The Congress of the United States has authority for spending money.

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

Mr. CHAMBLISS. No, I will not.

THE AMERICAN PEOPLE WANT A BALANCED BUDGET AMENDMENT

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

Mr. WELDON of Florida. Mr. Speaker, I too rise to speak on the issue of the recent quote from our Secretary of Labor, where he said the President is against simply balancing the budget. I believe the American people have clearly spoken this year that they really want serious action, and the fact that they have elected, for the first time in 40 years, a Republican House of Representatives, they are expecting and demanding serious action be taken on this issue of a deficit.

People are concerned; they are concerned about the future for themselves, for their children and their grandchildren. To hear our Secretary of Labor stating that the goal of the balanced budget ''is not my goal,'' and the President is against simply balancing the budget, Mr. Speaker, I believe is a grave disappointment, and the American people need to speak to our President, they need to speak to our Secretary of Labor so that they get the message.

The people want the budget balanced.

WE NEED TO MAKE TOUGH CHOICES TO BALANCE OUR BUDGET

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

Mr. GRAHAM. Mr. Speaker, I too rise to speak on an important topic to everybody in this Nation; that is, the balanced budget amendment.

I will comment on what my colleague across the aisle said. If you want to blame people, that is fine, there is plenty of blame to go around. The only thing the balanced budget threatens is politicians' ability to spend money beyond their means. We simply cannot write bad checks up here and get away with it.

If you want to stop that at home, let people know that you want a bad check from the Congress, and that would be the only one I know who is against a balanced budget amendment.

When we do that, and I hope we do, we have to make some hard choices. The National Corporation for Public Broadcasting, PBS, and the National Endowment for the Arts are things that mean a lot to me personally. But when it comes time to balance the budget, we are going to have to say ''no'' to groups of people we have never said ''no'' to before.

That is what you do every day at home, you have to do things that you have to do within your budget constraints; you have to say ''no'' to yourself. That is a new and novel idea up here, to say ''no.''

But let the great debate begin, once the balanced budget amendment passes, I hope we will have the courage to say ''no,'' even to worthwhile projects.

□ 1130

PROVIDING FOR LUMP SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO ELIGIBLE FORMER EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the Committee on House Oversight be discharged from further consideration of the resolution (H. Res. 35) providing for payment of a lump sum for accrued annual leave to eligible former employees of the House of Representatives, and ask for its immediate consideration in the House.

The Clerk read the title of the resolution.

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

Mr. HOYER. Mr. Speaker, reserving the right to object, under my reservation, I will be glad to yield to the gentleman from California [Mr. THOMAS], the chairman of the Committee on House Oversight, for the purpose of explaining the objectives of this legislation.

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

Mr. HOYER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for yielding, and I would tell my colleague that the House Republican transition team has developed a plan for wholesale restructuring of the administration of the House officer. As the gentleman knows, the restructuring involves the transfers of various functions of the new House officers with clear probability of consolidation, reclassification and, to a certain extent, elimination of positions that are under the Committee on House Oversight's jurisdiction.

House rules adopted on opening day, January 4, 1995, require that committee staff be reduced by one-third from corresponding levels in the 103d Congress. In addition to that, three committees have been eliminated. Because of this the Speaker has publicly announced his intention to provide a mechanism for the payment of accrued leave for up to 30 days for departing committee and administrative support

employees. Currently there is no provision in House rules, or in public law, for the lump sum payment of accrued leave, and on January 11, 1995, as the gentleman well knows, the Committee on House Oversight passed a motion to instruct the chairman of the committee to introduce this particular resolution that is in front of us.

The resolution that we are looking at, House Resolution 35, authorizes compensation to departing committee and administrative support employees in the form of a lump sum payment for any accrued leave, up to a maximum of 30 days, as certified by their committee chairmen or the relevant employing authority. It also allows Members, not just committees, but Members, in this Congress to compensate any departing personal office staff for any annual leave accrued under each Member's office policy. Any employee who is rehired in the legislative branch within 30 days will not receive that accrued leave payment since there was a simple interruption of employment rather than termination.

Accrued leave compensation for departing committee staff will be paid out of the appropriate House account. Compensation for departing Member office employees will be paid from the Member's 1995 clerk hire account. Compensation for departing administrative support employees will be paid from funds already appropriated for the relevant employing authority for fiscal year 1995 operations. Further, any committee or administrative support employee who is terminated prior to July 1, 1995, as a result of the continuing restructuring will also be entitled to compensation under this resolution for accrued leave up to 30 days.

I will also tell the gentleman that there is an amendment at the desk, which I will offer at the appropriate time, which makes a date change in the resolution from January 3, 1995, which was the date in the motion that passed the committee, to December 31, 1994. It was not the intent of the committee to exclude from eligibility for accrued leave payments those employees who may have been taken off the payroll between December 31 and January 3, and so the amendment simply backs up the time from January 3 to include December 31, January 1, and January 2.

Mr. HOYER. Mr. Speaker, further reserving the right to object, I want to congratulate the chairman of the Committee on House Oversight for bringing this legislation forward. There have been a lot of discussions. We have a lot of individuals who, as a result of the changeover in terms of the Republican leadership of the House of Representatives, there has been a substantial change of personnel. This policy was very important, in my opinion, and shared on this side of the aisle, and shared, I think, in a bipartisan fashion to treat those departing employees fairly so that in, at minimum, they received consideration for the annual leave they had accrued during the course of their service for the Congress and for individual members, and I congratulate the gentleman from California [Mr. THOMAS] for his leadership in this effort in a bipartisan fashion.

We have adopted this; it is a good policy.

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

Mr. HOYER. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for yielding, and I do want to underscore the fact that, as the gentleman knows, and he was very cooperative in moving this forward, we have actually extended this policy beyond the specific discussion of those committee and administrative personnel who were leaving to make sure that the Members' personnel offices were treated in a similar fashion. Since there is no policy on the books, this is a policy which will now be established which I do believe is useful, not only in the transition, but in the professional handling of staff which will be further seen in the bill on accountability to come up just after this, and I thank the gentleman.

Mr. HOYER. Mr. Speaker, further reserving the right to object, I understand the gentleman has no further speakers on this issue. If that is the case, I will withdraw my reservation of objection.

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 resolution, as follows:

H. RES. 35

Resolved,

SECTION 1. LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—An eligible employee of the House of Representatives—

(1) who is separated from employment involuntarily;

(2) whose last day of employment is during the period beginning on January 3, 1995, and ending on June 30, 1995; and

(3) who is not reemployed by the House of Representatives, the Senate, or an agency of the legislative branch within 30 days after such last day of employment;

shall be paid a lump sum for the accrued annual leave of the employee.

(b) PAYMENT.—The lump sum—

(1) shall be paid, as certified under subsection (c), in an amount equal to the value of the total accrued annual leave of the employee or the value of 30 days of accrued annual leave of the employee, whichever is less;

(2) shall be paid—

(A) for clerk hire employees, from the clerk hire allowance of the Member for calendar year 1995;

(B) for committee employees, from amounts appropriated for committees; and

(C) for other employees, from amounts appropriated to the employing authority for fiscal year 1995; and

(3) shall be computed using the rate of pay in effect with respect to the employee on the last day of employment of the employee.

(c) CERTIFICATION.—For purposes of this resolution, accrued annual leave of an employee shall be certified by the appropriate employing authority—

(1) as of December 31, 1994, in the case of an employee whose last day of employment is January 3, 1995; and

(2) as of the last day of employment of the employee, in the case of an employee whose last day of employment is after January 3, 1995, and before July 1, 1995.

SEC. 2. REGULATIONS.

The Committee on House Oversight shall have authority to prescribe regulations to carry out this resolution.

SEC. 3. DEFINITIONS.

As used in this resolution—

(1) the term ''eligible employee'' means, with respect to the House of Representatives, an employee whose pay is disbursed by the Clerk of the House of Representatives or the Chief Administrative Officer of the House of Representatives, as applicable, except that such term does not include—

(A) an employee under the clerk hire allowance whose appointing Member is not a Member of the House of Representatives in the One Hundred Fourth Congress; or

(B) a uniformed or civilian support employee under the Capitol Police Board; and

(2) The term ''agency of the legislative branch'' means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

AMENDMENT OFFERED BY MR. THOMAS

Mr. THOMAS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS: Page 1, line 9, strike out ''January 3, 1995'' and insert in lieu thereof ''December 31, 1994''.

Page 3, beginning on line 5, strike out ''January 3, 1995'' and insert in lieu thereof ''December 31, 1994, or January 1, 2, or 3, 1995''.

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

The amendment was agreed to.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall vote, if postponed, will be taken after debate has concluded on the motion to suspend the rules, but not before 5 p.m. today.

CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Mr. THOMAS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2) to make certain laws applicable to the legislative branch of the Federal Government.

The Clerk read as follows:

S. 2

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Congressional Accountability Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—GENERAL

Sec. 101. Definitions.
Sec. 102. Application of laws.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

Sec. 201. Rights and protections under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, and title I of the Americans with Disabilities Act of 1990.
Sec. 202. Rights and protections under the Family and Medical Leave Act of 1993.
Sec. 203. Rights and protections under the Fair Labor Standards Act of 1938.
Sec. 204. Rights and protections under the Employee Polygraph Protection Act of 1988.
Sec. 205. Rights and protections under the Worker Adjustment and Retraining Notification Act.
Sec. 206. Rights and protections relating to veterans' employment and reemployment.
Sec. 207. Prohibition of intimidation or reprisal.

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

Sec. 210. Rights and protections under the Americans with Disabilities Act of 1990 relating to public services and accommodations; procedures for remedy of violations.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Sec. 215. Rights and protections under the Occupational Safety and Health Act of 1970; procedures for remedy of violations.

PART D—LABOR-MANAGEMENT RELATIONS

Sec. 220. Application of chapter 71 of title 5, United States Code, relating to Federal service labor-management relations; procedures for remedy of violations.

PART E—GENERAL

Sec. 225. Generally applicable remedies and limitations.

PART F—STUDY

Sec. 230. Study and recommendations regarding General Accounting Office, Government Printing Office, and Library of Congress.

TITLE III—OFFICE OF COMPLIANCE

Sec. 301. Establishment of Office of Compliance.
Sec. 302. Officers, staff, and other personnel.
Sec. 303. Procedural rules.
Sec. 304. Substantive regulations.
Sec. 305. Expenses.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

Sec. 401. Procedure for consideration of alleged violations.
Sec. 402. Counseling.
Sec. 403. Mediation.
Sec. 404. Election of proceeding.
Sec. 405. Complaint and hearing.
Sec. 406. Appeal to the Board.
Sec. 407. Judicial review of Board decisions and enforcement.
Sec. 408. Civil action.
Sec. 409. Judicial review of regulations.
Sec. 410. Other judicial review prohibited.
Sec. 411. Effect of failure to issue regulations.
Sec. 412. Expedited review of certain appeals.
Sec. 413. Privileges and immunities.
Sec. 414. Settlement of complaints.
Sec. 415. Payments.
Sec. 416. Confidentiality.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Exercise of rulemaking powers.
Sec. 502. Political affiliation and place of residence.
Sec. 503. Nondiscrimination rules of the House and Senate.
Sec. 504. Technical and conforming amendments.
Sec. 505. Judicial branch coverage study.
Sec. 506. Savings provisions.
Sec. 507. Use of frequent flyer miles.
Sec. 508. Sense of Senate regarding adoption of simplified and streamlined acquisition procedures for Senate acquisitions.
Sec. 509. Severability.

TITLE I—GENERAL

SEC. 101. DEFINITIONS.

Except as otherwise specifically provided in this Act, as used in this Act:

(1) BOARD.—The term ''Board'' means the Board of Directors of the Office of Compliance.

(2) CHAIR.—The term ''Chair'' means the Chair of the Board of Directors of the Office of Compliance.

(3) COVERED EMPLOYEE.—The term ''covered employee'' means any employee of—

(A) the House of Representatives;
(B) the Senate;
(C) the Capitol Guide Service;
(D) the Capitol Police;
(E) the Congressional Budget Office;
(F) the Office of the Architect of the Capitol;
(G) the Office of the Attending Physician;
(H) the Office of Compliance; or
(I) the Office of Technology Assessment.

(4) EMPLOYEE.—The term ''employee'' includes an applicant for employment and a former employee.

(5) EMPLOYEE OF THE OFFICE OF THE ARCHITECT OF THE CAPITOL.—The term ''employee of the Office of the Architect of the Capitol'' includes any employee of the Office of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants.

(6) EMPLOYEE OF THE CAPITOL POLICE.—The term ''employee of the Capitol Police'' includes any member or officer of the Capitol Police.

(7) EMPLOYEE OF THE HOUSE OF REPRESENTATIVES.—The term ''employee of the House of Representatives'' includes an individual occupying a position the pay for which is disbursed by the Clerk of the House of Representatives, or another official designated by the House of Representatives, or any employment position in an entity that is paid with funds derived from the clerk-hire allowance of the House of Representatives but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(8) EMPLOYEE OF THE SENATE.—The term ''employee of the Senate'' includes any employee whose pay is disbursed by the Secretary of the Senate, but not any such individual employed by any entity listed in subparagraphs (C) through (I) of paragraph (3).

(9) EMPLOYING OFFICE.—The term ''employing office'' means—

(A) the personal office of a Member of the House of Representatives or of a Senator;
(B) a committee of the House of Representatives or the Senate or a joint committee;
(C) any other office headed by a person with the final authority to appoint, hire, discharge, and set the terms, conditions, or privileges of the employment of an employee of the House of Representatives or the Senate; or
(D) the Capitol Guide Board, the Capitol Police Board, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, and the Office of Technology Assessment.

(10) EXECUTIVE DIRECTOR.—The term ''Executive Director'' means the Executive Director of the Office of Compliance.

(11) GENERAL COUNSEL.—The term ''General Counsel'' means the General Counsel of the Office of Compliance.

(12) OFFICE.—The term ''Office'' means the Office of Compliance.

SEC. 102. APPLICATION OF LAWS.

(a) LAWS MADE APPLICABLE.—The following laws shall apply, as prescribed by this Act, to the legislative branch of the Federal Government:

(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).
(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).
(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).
(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).
(5) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.).
(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).
(7) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.
(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).
(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).
(10) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).
(11) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(b) LAWS WHICH MAY BE MADE APPLICABLE.—

(1) IN GENERAL.—The Board shall review provisions of Federal law (including regulations) relating to (A) the terms and conditions of employment (including hiring, promotion, demotion, termination, salary, wages, overtime compensation, benefits, work assignments or reassignments, grievance and disciplinary procedures, protection from discrimination in personnel actions, occupational health and safety, and family and medical and other leave) of employees, and (B) access to public services and accommodations,

(2) BOARD REPORT.—Beginning on December 31, 1996, and every 2 years thereafter, the Board shall report on (A) whether or to what

degree the provisions described in paragraph (1) are applicable or inapplicable to the legislative branch, and (B) with respect to provisions inapplicable to the legislative branch, whether such provisions should be made applicable to the legislative branch. The presiding officers of the House of Representatives and the Senate shall cause each such report to be printed in the Congressional Record and each such report shall be referred to the committees of the House of Representatives and the Senate with jurisdiction.

(3) REPORTS OF CONGRESSIONAL COMMITTEES.—Each report accompanying any bill or joint resolution relating to terms and conditions of employment or access to public services or accommodations reported by a committee of the House of Representatives or the Senate shall—

(A) describe the manner in which the provisions of the bill or joint resolution apply to the legislative branch; or

(B) in the case of a provision not applicable to the legislative branch, include a statement of the reasons the provision does not apply.

On the objection of any Member, it shall not be in order for the Senate or the House of Representatives to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph. This paragraph may be waived in either House by majority vote of that House.

TITLE II—EXTENSION OF RIGHTS AND PROTECTIONS

PART A—EMPLOYMENT DISCRIMINATION, FAMILY AND MEDICAL LEAVE, FAIR LABOR STANDARDS, EMPLOYEE POLYGRAPH PROTECTION, WORKER ADJUSTMENT AND RETRAINING, EMPLOYMENT AND REEMPLOYMENT OF VETERANS, AND INTIMIDATION

SEC. 201. RIGHTS AND PROTECTIONS UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, THE REHABILITATION ACT OF 1973, AND TITLE I OF THE AMERICANS WITH DISABILITIES ACT OF 1990.

(a) DISCRIMINATORY PRACTICES PROHIBITED.—All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–2);

(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–12114).

(b) REMEDY.—

(1) CIVIL RIGHTS.—The remedy for a violation of subsection (a)(1) shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).

(2) AGE DISCRIMINATION.—The remedy for a violation of subsection (a)(2) shall be—

(A) such remedy as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

(B) such liquidated damages as would be appropriate if awarded under section 7(b) of such Act (29 U.S.C. 626(b)).

In addition, the waiver provisions of section 7(f) of such Act (29 U.S.C. 626(f)) shall apply to covered employees.

(3) DISABILITIES DISCRIMINATION.—The remedy for a violation of subsection (a)(3) shall be—

(A) such remedy as would be appropriate if awarded under section 505(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 794a(a)(1)) or section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a)); and

(B) such compensatory damages as would be appropriate if awarded under sections 1977A(a)(2), 1977A(a)(3), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(2), 1981a(a)(3), 1981a(b)(2), and 1981a(b)(3)(D)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—

(1) SECTION 717 OF THE CIVIL RIGHTS ACT OF 1964.—Section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(2) SECTION 15 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967.—Section 15(a) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(a)) is amended by—

(A) striking ''legislative and'';

(B) striking ''branches'' and inserting ''branch''; and

(C) inserting ''Government Printing Office, the General Accounting Office, and the'' after ''and in the''.

(3) SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209) is amended—

(A) by striking subsections (a) and (b) of section 509;

(B) in subsection (c), by striking ''(c) INSTRUMENTALITIES OF CONGRESS.—'' and inserting ''The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:'';

(C) by striking the second sentence of paragraph (2);

(D) in paragraph (4), by striking ''the instrumentalities of the Congress include'' and inserting ''the term 'instrumentality of the Congress' means'', by striking ''the Architect of the Capitol, the Congressional Budget Office'', by inserting ''and'' before ''the Library'', and by striking ''the Office of Technology Assessment, and the United States Botanic Garden'';

(E) by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

''(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''; and

(F) by amending the title of the section to read ''**INSTRUMENTALITIES OF THE CONGRESS**''.

(d) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 202. RIGHTS AND PROTECTIONS UNDER THE FAMILY AND MEDICAL LEAVE ACT OF 1993.

(a) FAMILY AND MEDICAL LEAVE RIGHTS AND PROTECTIONS PROVIDED.—

(1) IN GENERAL.—The rights and protections established by sections 101 through 105 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 through 2615) shall apply to covered employees.

(2) DEFINITION.—For purposes of the application described in paragraph (1)—

(A) the term ''employer'' as used in the Family and Medical Leave Act of 1993 means any employing office, and

(B) the term ''eligible employee'' as used in the Family and Medical Leave Act of 1993 means a covered employee who has been employed in any employing office for 12 months and for at least 1,250 hours of employment during the previous 12 months.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under paragraph (1) of section 107(a) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617(a)(1)).

(c) APPLICATION TO GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—

(1) AMENDMENTS TO THE FAMILY AND MEDICAL LEAVE ACT OF 1993.—

(A) COVERAGE.—Section 101(4)(A) of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611(4)(A)) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ''; and'', and by adding after clause (iii) the following:

''(iv) includes the General Accounting Office and the Library of Congress.''.

(B) ENFORCEMENT.—Section 107 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2617) is amended by adding at the end the following:

''(f) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—In the case of the General Accounting Office and the Library of Congress, the authority of the Secretary of Labor under this title shall be exercised respectively by the Comptroller General of the United States and the Librarian of Congress.''.

(2) CONFORMING AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 6381(1)(A) of title 5, United States Code, is amended by striking ''and'' after ''District of Columbia'' and inserting before the semicolon the following: '', and any employee of the General Accounting Office or the Library of Congress''.

(d) REGULATIONS.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement the rights and protections under this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—Subsection (c) shall be effective 1 year after transmission to the Congress of the study under section 230.

SEC. 203. RIGHTS AND PROTECTIONS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

(a) FAIR LABOR STANDARDS.—

(1) IN GENERAL.—The rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 (a)(1) and (d), 207, 212(c)) shall apply to covered employees.

(2) INTERNS.—For the purposes of this section, the term ''covered employee'' does not include an intern as defined in regulations under subsection (c).

(3) COMPENSATORY TIME.—Except as provided in regulations under subsection (c)(3), covered employees may not receive compensatory time in lieu of overtime compensation.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including liquidated damages, as would be appropriate if awarded under section 16(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(b)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in paragraph (3), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) IRREGULAR WORK SCHEDULES.—The Board shall issue regulations for covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate that shall be comparable to the provisions in the Fair Labor Standards Act of 1938 that apply to employees who have irregular work schedules.

(d) APPLICATION TO THE GOVERNMENT PRINTING OFFICE.—Section 3(e)(2)(A) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)(2)(A)) is amended—

(1) in clause (iii), by striking ''legislative or'',

(2) by striking ''or'' at the end of clause (iv), and

(3) by striking the semicolon at the end of clause (v) and inserting '', or'' and by adding after clause (v) the following:

''(vi) the Government Printing Office;''.

(e) EFFECTIVE DATE.—Subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

SEC. 204. RIGHTS AND PROTECTIONS UNDER THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988.

(a) POLYGRAPH PRACTICES PROHIBITED.—

(1) IN GENERAL.—No employing office, irrespective of whether a covered employee works in that employing office, may require a covered employee to take a lie detector test where such a test would be prohibited if required by an employer under paragraph (1), (2), or (3) of section 3 of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2002 (1), (2), or (3)). In addition, the waiver provisions of section 6(d) of such Act (29 U.S.C. 2005(d)) shall apply to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(3) CAPITOL POLICE.—Nothing in this section shall preclude the Capitol Police from using lie detector tests in accordance with regulations under subsection (c).

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under section 6(c)(1) of the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2005(c)(1)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsections (a) and (b) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 205. RIGHTS AND PROTECTIONS UNDER THE WORKER ADJUSTMENT AND RETRAINING NOTIFICATION ACT.

(a) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION RIGHTS.—

(1) IN GENERAL.—No employing office shall be closed or a mass layoff ordered within the meaning of section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102) until the end of a 60-day period after the employing office serves written notice of such prospective closing or layoff to representatives of covered employees or, if there are no representatives, to covered employees.

(2) DEFINITIONS.—For purposes of this section, the term ''covered employee'' shall include employees of the General Accounting Office and the Library of Congress and the term ''employing office'' shall include the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2), and (4) of section 5(a) of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2104(a)(1), (2), and (4)).

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 206. RIGHTS AND PROTECTIONS RELATING TO VETERANS' EMPLOYMENT AND REEMPLOYMENT.

(a) EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES.—

(1) IN GENERAL.—It shall be unlawful for an employing office to—

(A) discriminate, within the meaning of subsections (a) and (b) of section 4311 of title 38, United States Code, against an eligible employee;

(B) deny to an eligible employee reemployment rights within the meaning of sections 4312 and 4313 of title 38, United States Code; or

(C) deny to an eligible employee benefits within the meaning of sections 4316, 4317, and 4318 of title 38, United States Code.

(2) DEFINITIONS.—For purposes of this section—

(A) the term ''eligible employee'' means a covered employee performing service in the uniformed services, within the meaning of section 4303(13) of title 38, United States Code, whose service has not been terminated upon occurrence of any of the events enumerated in section 4304 of title 38, United States Code,

(B) the term ''covered employee'' includes employees of the General Accounting Office and the Library of Congress, and

(C) the term ''employing office'' includes the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy as would be appropriate if awarded under paragraphs (1), (2)(A), and (3) of section 4323(c) of title 38, United States Code.

(c) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective 1 year after the date of the enactment of this Act.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

SEC. 207. PROHIBITION OF INTIMIDATION OR REPRISAL.

(a) IN GENERAL.—It shall be unlawful for an employing office to intimidate, take reprisal against, or otherwise discriminate against, any covered employee because the covered employee has opposed any practice made unlawful by this Act, or because the covered employee has initiated proceedings, made a charge, or testified, assisted, or participated in any manner in a hearing or other proceeding under this Act.

(b) REMEDY.—The remedy available for a violation of subsection (a) shall be such legal or equitable remedy as may be appropriate to redress a violation of subsection (a).

PART B—PUBLIC SERVICES AND ACCOMMODATIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990

SEC. 210. RIGHTS AND PROTECTIONS UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990 RELATING TO PUBLIC SERVICES AND ACCOMMODATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) ENTITIES SUBJECT TO THIS SECTION.—The requirements of this section shall apply to—

(1) each office of the Senate, including each office of a Senator and each committee;

(2) each office of the House of Representatives, including each office of a Member of the House of Representatives and each committee;

(3) each joint committee of the Congress;

(4) the Capitol Guide Service;

(5) the Capitol Police;

(6) the Congressional Budget Office;

(7) the Office of the Architect of the Capitol (including the Senate Restaurants and the Botanic Garden);

(8) the Office of the Attending Physician;

(9) the Office of Compliance; and

(10) the Office of Technology Assessment.

(b) DISCRIMINATION IN PUBLIC SERVICES AND ACCOMMODATIONS.—

(1) RIGHTS AND PROTECTIONS.—The rights and protections against discrimination in the provision of public services and accommodations established by sections 201 through 230, 302, 303, and 309 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131–12150, 12182, 12183, and 12189) shall apply to the entities listed in subsection (a).

(2) DEFINITIONS.—For purposes of the application of title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) under this section, the term ''public entity'' means any entity listed in subsection (a) that provides public services, programs, or activities.

(c) REMEDY.—The remedy for a violation of subsection (b) shall be such remedy as would be appropriate if awarded under section 203 or 308(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12133, 12188(a)), except that, with respect to any claim of employment discrimination asserted by any covered employee, the exclusive remedy shall be under section 201 of this title.

(d) AVAILABLE PROCEDURES.—

(1) CHARGE FILED WITH GENERAL COUNSEL.—A qualified individual with a disability, as defined in section 201(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(2)), who alleges a violation of subsection (b) by an entity listed in subsection (a), may file a charge against any entity responsible for correcting the violation with the General Counsel within 180 days of the occurrence of the alleged violation. The General Counsel shall investigate the charge.

(2) MEDIATION.—If, upon investigation under paragraph (1), the General Counsel believes that a violation of subsection (b) may have occurred and that mediation may be helpful in resolving the dispute, the General Counsel may request, but not participate in, mediation under subsections (b) through (d) of section 403 between the charging individual and any entity responsible for correcting the alleged violation.

(3) COMPLAINT, HEARING, BOARD REVIEW.—If mediation under paragraph (2) has not succeeded in resolving the dispute, and if the General Counsel believes that a violation of subsection (b) may have occurred, the General Counsel may file with the Office a complaint against any entity responsible for correcting the violation. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405 and any person who has filed a charge under paragraph (1) may intervene as of right, with the full rights of a party. The decision of the hearing officer shall be subject to review by the Board pursuant to section 406.

(4) JUDICIAL REVIEW.—A charging individual who has intervened under paragraph (3) or any respondent to the complaint, if aggrieved by a final decision of the Board under paragraph (3), may file a petition for review in the United States Court of Appeals for the Federal Circuit, pursuant to section 407.

(5) COMPLIANCE DATE.—If new appropriated funds are necessary to comply with an order requiring correction of a violation of subsection (b), compliance shall take place as soon as possible, but no later than the fiscal year following the end of the fiscal year in which the order requiring correction becomes final and not subject to further review.

(e) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Attorney General and the Secretary of Transportation to implement the statutory provisions referred to in subsection (b) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) ENTITY RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for categories of violations of subsection (b), the entity responsible for correction of a particular violation.

(f) PERIODIC INSPECTIONS; REPORT TO CONGRESS; INITIAL STUDY.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel shall inspect the facilities of the entities listed in subsection (a) to ensure compliance with subsection (b).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall, at least once every Congress, prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol, or other entity responsible, for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, describing any steps necessary to correct any violation of this section, assessing any limitations in accessibility to and usability by individuals with disabilities associated with each violation, and the estimated cost and time needed for abatement.

(3) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other entities subject to this section to identify any violations of subsection (b), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other entities listed in subsection (a) by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under paragraph (1) and shall submit the report under paragraph (2) for the 104th Congress.

(4) DETAILED PERSONNEL.—The Attorney General, the Secretary of Transportation, and the Architectural and Transportation Barriers Compliance Board may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(g) APPLICATION OF AMERICANS WITH DISABILITIES ACT OF 1990 TO THE PROVISION OF PUBLIC SERVICES AND ACCOMMODATIONS BY THE GENERAL ACCOUNTING OFFICE, THE GOVERNMENT PRINTING OFFICE, AND THE LIBRARY OF CONGRESS.—Section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209)), as amended by section 201(c) of this Act, is amended by adding the following new paragraph:

''(6) ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.

PART C—OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

SEC. 215. RIGHTS AND PROTECTIONS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) OCCUPATIONAL SAFETY AND HEALTH PROTECTIONS.—

(1) IN GENERAL.—Each employing office and each covered employee shall comply with the provisions of section 5 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654).

(2) DEFINITIONS.—For purposes of the application under this section of the Occupational Safety and Health Act of 1970—

(A) the term ''employer'' as used in such Act means an employing office;

(B) the term ''employee'' as used in such Act means a covered employee;

(C) the term ''employing office'' includes the General Accounting Office, the Library of Congress, and any entity listed in subsection (a) of section 210 that is responsible for correcting a violation of this section, irrespective of whether the entity has an employment relationship with any covered employee in any employing office in which such a violation occurs; and

(D) the term ''employee'' includes employees of the General Accounting Office and the Library of Congress.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be an order to correct the violation, including such order as would be appropriate if issued under section 13(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 662(a)).

(c) PROCEDURES.—

(1) REQUESTS FOR INSPECTIONS.—Upon written request of any employing office or covered employee, the General Counsel shall exercise the authorities granted to the Secretary of Labor by subsections (a), (d), (e), and (f) of section 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657 (a), (d), (e), and (f)) to inspect and investigate places of employment under the jurisdiction of employing offices.

(2) CITATIONS, NOTICES, AND NOTIFICATIONS.—For purposes of this section, the General Counsel shall exercise the authorities granted to the Secretary of Labor in sections 9 and 10 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 658 and 659), to issue—

(A) a citation or notice to any employing office responsible for correcting a violation of subsection (a); or

(B) a notification to any employing office that the General Counsel believes has failed to correct a violation for which a citation has been issued within the period permitted for its correction.

(3) HEARINGS AND REVIEW.—If after issuing a citation or notification, the General Counsel determines that a violation has not been corrected, the General Counsel may file a complaint with the Office against the employing office named in the citation or notification. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(4) VARIANCE PROCEDURES.—An employing office may request from the Board an order granting a variance from a standard made applicable by this section. For the purposes of this section, the Board shall exercise the authorities granted to the Secretary of Labor in sections 6(b)(6) and 6(d) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)(6) and 655(d)) to act on any employing office's request for a variance. The Board shall refer the matter to a hearing officer pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(5) JUDICIAL REVIEW.—The General Counsel or employing office aggrieved by a final decision of the Board under paragraph (3) or (4), may file a petition for review with the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(6) COMPLIANCE DATE.—If new appropriated funds are necessary to correct a violation of subsection (a) for which a citation is issued, or to comply with an order requiring correction of such a violation, correction or compliance shall take place as soon as possible, but not later than the end of the fiscal year following the fiscal year in which the citation is issued or the order requiring correction becomes final and not subject to further review.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—The regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions referred to in subsection (a) except to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section.

(3) EMPLOYING OFFICE RESPONSIBLE FOR CORRECTION.—The regulations issued under paragraph (1) shall include a method of identifying, for purposes of this section and for different categories of violations of subsection (a), the employing office responsible for correction of a particular violation.

(e) PERIODIC INSPECTIONS; REPORT TO CONGRESS.—

(1) PERIODIC INSPECTIONS.—On a regular basis, and at least once each Congress, the General Counsel, exercising the same authorities of the Secretary of Labor as under subsection (c)(1), shall conduct periodic inspections of all facilities of the House of Representatives, the Senate, the Capitol Guide Service, the Capitol Police, the Congressional Budget Office, the Office of the Architect of the Capitol, the Office of the Attending Physician, the Office of Compliance, the Office of Technology Assessment, the Library of Congress, and the General Accounting Office to report on compliance with subsection (a).

(2) REPORT.—On the basis of each periodic inspection, the General Counsel shall prepare and submit a report—

(A) to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Office of the Architect of the Capitol or other employing office responsible for correcting the violation of this section uncovered by such inspection, and

(B) containing the results of the periodic inspection, identifying the employing office responsible for correcting the violation of this section uncovered by such inspection, describing any steps necessary to correct any violation of this section, and assessing any risks to employee health and safety associated with any violation.

(3) ACTION AFTER REPORT.—If a report identifies any violation of this section, the General Counsel shall issue a citation or notice in accordance with subsection (c)(2)(A).

(4) DETAILED PERSONNEL.—The Secretary of Labor may, on request of the Executive Director, detail to the Office such personnel as may be necessary to advise and assist the Office in carrying out its duties under this section.

(f) INITIAL PERIOD FOR STUDY AND CORRECTIVE ACTION.—The period from the date of the enactment of this Act until December 31, 1996, shall be available to the Office of the Architect of the Capitol and other employing offices to identify any violations of subsection (a), to determine the costs of compliance, and to take any necessary corrective action to abate any violations. The Office shall assist the Office of the Architect of the Capitol and other employing offices by arranging for inspections and other technical assistance at their request. Prior to July 1, 1996, the General Counsel shall conduct a thorough inspection under subsection (e)(1) and shall submit the report under subsection (e)(2) for the 104th Congress.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a), (b), (c), and (e)(3) shall be effective on January 1, 1997.

(2) GENERAL ACCOUNTING OFFICE AND LIBRARY OF CONGRESS.—This section shall be effective with respect to the General Accounting Office and the Library of Congress 1 year after transmission to the Congress of the study under section 230.

PART D—LABOR-MANAGEMENT RELATIONS

SEC. 220. APPLICATION OF CHAPTER 71 OF TITLE 5, UNITED STATES CODE, RELATING TO FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS; PROCEDURES FOR REMEDY OF VIOLATIONS.

(a) LABOR-MANAGEMENT RIGHTS.—

(1) IN GENERAL.—The rights, protections, and responsibilities established under sections 7102, 7106, 7111 through 7117, 7119 through 7122, and 7131 of title 5, United States Code, shall apply to employing offices and to covered employees and representatives of those employees.

(2) DEFINITION.—For purposes of the application under this section of the sections referred to in paragraph (1), the term ''agency'' shall be deemed to include an employing office.

(b) REMEDY.—The remedy for a violation of subsection (a) shall be such remedy, including a remedy under section 7118(a)(7) of title 5, United States Code, as would be appropriate if awarded by the Federal Labor Relations Authority to remedy a violation of any provision made applicable by subsection (a).

(c) AUTHORITIES AND PROCEDURES FOR IMPLEMENTATION AND ENFORCEMENT.—

(1) GENERAL AUTHORITIES OF THE BOARD; PETITIONS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Labor Relations Authority under sections 7105, 7111, 7112, 7113, 7115, 7117, 7118, and 7122 of title 5, United States Code, and of the President under section 7103(b) of title 5, United States Code. For purposes of this section, any petition or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the Federal Labor Relations Authority shall, if brought under this section, be submitted to the Board. The Board shall refer any matter under this paragraph to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406. The Board may direct that the General Counsel carry out the Board's investigative authorities under this paragraph.

(2) GENERAL AUTHORITIES OF THE GENERAL COUNSEL; CHARGES OF UNFAIR LABOR PRACTICE.—For purposes of this section and except as otherwise provided in this section, the General Counsel shall exercise the authorities of the General Counsel of the Federal Labor Relations Authority under sections 7104 and 7118 of title 5, United States Code. For purposes of this section, any charge or other submission that, under chapter 71 of title 5, United States Code, would be submitted to the General Counsel of the Federal Labor Relations Authority shall, if brought under this section, be submitted to the General Counsel. If any person charges an employing office or a labor organization with having engaged in or engaging in an unfair labor practice and makes such charge within 180 days of the occurrence of the alleged unfair labor practice, the General Counsel shall investigate the charge and may file a complaint with the Office. The complaint shall be submitted to a hearing officer for decision pursuant to subsections (b) through (h) of section 405, subject to review by the Board pursuant to section 406.

(3) JUDICIAL REVIEW.—Except for matters referred to in paragraphs (1) and (2) of section 7123(a) of title 5, United States Code, the General Counsel or the respondent to the complaint, if aggrieved by a final decision of the Board under paragraphs (1) or (2) of this subsection, may file a petition for judicial review in the United States Court of Appeals for the Federal Circuit pursuant to section 407.

(4) EXERCISE OF IMPASSES PANEL AUTHORITY; REQUESTS.—For purposes of this section and except as otherwise provided in this section, the Board shall exercise the authorities of the Federal Service Impasses Panel under section 7119 of title 5, United States Code. For purposes of this section, any request that, under chapter 71 of title 5, United States Code, would be presented to the Federal Service Impasses Panel shall, if made under this section, be presented to the Board. At the request of the Board, the Executive Director shall appoint a mediator or mediators to perform the functions of the Federal Service Impasses Panel under section 7119 of title 5, United States Code.

(d) REGULATIONS TO IMPLEMENT SECTION.—

(1) IN GENERAL.—The Board shall, pursuant to section 304, issue regulations to implement this section.

(2) AGENCY REGULATIONS.—Except as provided in subsection (e), the regulations issued under paragraph (1) shall be the same as substantive regulations promulgated by the

Federal Labor Relations Authority to implement the statutory provisions referred to in subsection (a) except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; or

(B) as the Board deems necessary to avoid a conflict of interest or appearance of a conflict of interest.

(e) SPECIFIC REGULATIONS REGARDING APPLICATION TO CERTAIN OFFICES OF CONGRESS.—

(1) REGULATIONS REQUIRED.—The Board shall issue regulations pursuant to section 304 on the manner and extent to which the requirements and exemptions of chapter 71 of title 5, United States Code, should apply to covered employees who are employed in the offices listed in paragraph (2). The regulations shall, to the greatest extent practicable, be consistent with the provisions and purposes of chapter 71 of title 5, United States Code and of this Act, and shall be the same as substantive regulations issued by the Federal Labor Relations Authority under such chapter, except—

(A) to the extent that the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this section; and

(B) that the Board shall exclude from coverage under this section any covered employees who are employed in offices listed in paragraph (2) if the Board determines that such exclusion is required because of—

(i) a conflict of interest or appearance of a conflict of interest; or

(ii) Congress' constitutional responsibilities.

(2) OFFICES REFERRED TO.—The offices referred to in paragraph (1) include—

(A) the personal office of any Member of the House of Representatives or of any Senator;

(B) a standing, select, special, permanent, temporary, or other committee of the Senate or House of Representatives, or a joint committee of Congress;

(C) the Office of the Vice President (as President of the Senate), the Office of the President pro tempore of the Senate, the Office of the Majority Leader of the Senate, the Office of the Minority Leader of the Senate, the Office of the Majority Whip of the Senate, the Office of the Minority Whip of the Senate, the Conference of the Majority of the Senate, the Conference of the Minority of the Senate, the Office of the Secretary of the Conference of the Majority of the Senate, the Office of the Secretary of the Conference of the Minority of the Senate, the Office of the Secretary for the Majority of the Senate, the Office of the Secretary for the Minority of the Senate, the Majority Policy Committee of the Senate, the Minority Policy Committee of the Senate, and the following offices within the Office of the Secretary of the Senate: Offices of the Parliamentarian, Bill Clerk, Legislative Clerk, Journal Clerk, Executive Clerk, Enrolling Clerk, Official Reporters of Debate, Daily Digest, Printing Services, Captioning Services, and Senate Chief Counsel for Employment;

(D) the Office of the Speaker of the House of Representatives, the Office of the Majority Leader of the House of Representatives, the Office of the Minority Leader of the House of Representatives, the Offices of the Chief Deputy Majority Whips, the Offices of the Chief Deputy Minority Whips and the following offices within the Office of the Clerk of the House of Representatives: Offices of Legislative Operations, Official Reporters of Debate, Official Reporters to Committees, Printing Services, and Legislative Information;

(E) the Office of the Legislative Counsel of the Senate, the Office of the Senate Legal Counsel, the Office of the Legislative Counsel of the House of Representatives, the Office of the General Counsel of the House of Representatives, the Office of the Parliamentarian of the House of Representatives, and the Office of the Law Revision Counsel;

(F) the offices of any caucus or party organization;

(G) the Congressional Budget Office, the Office of Technology Assessment, and the Office of Compliance; and

(H) such other offices that perform comparable functions which are identified under regulations of the Board.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall be effective on October 1, 1996.

(2) CERTAIN OFFICES.—With respect to the offices listed in subsection (e)(2), to the covered employees of such offices, and to representatives of such employees, subsections (a) and (b) shall be effective on the effective date of regulations under subsection (e).

PART E—GENERAL

SEC. 225. GENERALLY APPLICABLE REMEDIES AND LIMITATIONS.

(a) ATTORNEY'S FEES.—If a covered employee, with respect to any claim under this Act, or a qualified person with a disability, with respect to any claim under section 210, is a prevailing party in any proceeding under section 405, 406, 407, or 408, the hearing officer, Board, or court, as the case may be, may award attorney's fees, expert fees, and any other costs as would be appropriate if awarded under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).

(b) INTEREST.—In any proceeding under section 405, 406, 407, or 408, the same interest to compensate for delay in payment shall be made available as would be appropriate if awarded under section 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16(d)).

(c) CIVIL PENALTIES AND PUNITIVE DAMAGES.—No civil penalty or punitive damages may be awarded with respect to any claim under this Act.

(d) EXCLUSIVE PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may commence an administrative or judicial proceeding to seek a remedy for the rights and protections afforded by this Act except as provided in this Act.

(2) VETERANS.—A covered employee under section 206 may also utilize any provisions of chapter 43 of title 38, United States Code, that are applicable to that employee.

(e) SCOPE OF REMEDY.—Only a covered employee who has undertaken and completed the procedures described in sections 402 and 403 may be granted a remedy under part A of this title.

(f) CONSTRUCTION.—

(1) DEFINITIONS AND EXEMPTIONS.—Except where inconsistent with definitions and exemptions provided in this Act, the definitions and exemptions in the laws made applicable by this Act shall apply under this Act.

(2) SIZE LIMITATIONS.—Notwithstanding paragraph (1), provisions in the laws made applicable under this Act (other than the Worker Adjustment and Retraining Notification Act) determining coverage based on size, whether expressed in terms of numbers of employees, amount of business transacted, or other measure, shall not apply in determining coverage under this Act.

(3) EXECUTIVE BRANCH ENFORCEMENT.—This Act shall not be construed to authorize enforcement by the executive branch of this Act.

PART F—STUDY

SEC. 230. STUDY AND RECOMMENDATIONS REGARDING GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.

(a) IN GENERAL.—The Administrative Conference of the United States shall undertake a study of—

(1) the application of the laws listed in subsection (b) to—

(A) the General Accounting Office;

(B) the Government Printing Office; and

(C) the Library of Congress; and

(2) the regulations and procedures used by the entities referred to in paragraph (1) to apply and enforce such laws to themselves and their employees.

(b) APPLICABLE STATUTES.—The study under this section shall consider the application of the following laws:

(1) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), and related provisions of section 2302 of title 5, United States Code.

(2) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and related provisions of section 2302 of title 5, United States Code.

(3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and related provisions of section 2302 of title 5, United States Code.

(4) The Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), and related provisions of sections 6381 through 6387 of title 5, United States Code.

(5) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), and related provisions of sections 5541 through 5550a of title 5, United States Code.

(6) The Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), and related provisions of section 7902 of title 5, United States Code.

(7) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(8) Chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code.

(9) The General Accounting Office Personnel Act of 1980 (31 U.S.C. 731 et seq.).

(10) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.).

(11) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.).

(12) Chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

(c) CONTENTS OF STUDY AND RECOMMENDATIONS.—The study under this section shall evaluate whether the rights, protections, and procedures, including administrative and judicial relief, applicable to the entities listed in paragraph (1) of subsection (a) and their employees are comprehensive and effective and shall include recommendations for any improvements in regulations or legislation, including proposed regulatory or legislative language.

(d) DEADLINE AND DELIVERY OF STUDY.—Not later than December 31, 1996—

(1) the Administrative Conference of the United States shall prepare and complete the study and recommendations required under this section and shall submit the study and recommendations to the Board; and

(2) the Board shall transmit such study and recommendations (with the Board's comments) to the head of each entity considered in the study, and to the Congress by delivery to the Speaker of the House of Representatives and President pro tempore of the Senate for referral to the appropriate committees of the House of Representatives and of the Senate.

TITLE III—OFFICE OF COMPLIANCE

SEC. 301. ESTABLISHMENT OF OFFICE OF COMPLIANCE.

(a) ESTABLISHMENT.—There is established, as an independent office within the legislative branch of the Federal Government, the Office of Compliance.

(b) BOARD OF DIRECTORS.—The Office shall have a Board of Directors. The Board shall consist of 5 individuals appointed jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate. Appointments of the first 5 members of the Board shall be completed not later than 90 days after the date of the enactment of this Act.

(c) CHAIR.—The Chair shall be appointed from members of the Board jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, and the Minority Leaders of the House of Representatives and the Senate.

(d) BOARD OF DIRECTORS QUALIFICATIONS.—

(1) SPECIFIC QUALIFICATIONS.—Selection and appointment of members of the Board shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. Members of the Board shall have training or experience in the application of the rights, protections, and remedies under one or more of the laws made applicable under section 102.

(2) DISQUALIFICATIONS FOR APPOINTMENTS.—

(A) LOBBYING.—No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Clerk of the House of Representatives or the Secretary of the Senate shall be eligible for appointment to, or service on, the Board.

(B) INCOMPATIBLE OFFICE.—No member of the Board appointed under subsection (b) may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of officer or employee of the House of Representatives, Senate, or instrumentality or other entity of the legislative branch, or may have held such a position (other than the position of an officer or employee of the General Accounting Office Personnel Appeals Board, an officer or employee of the Office of Fair Employment Practices of the House of Representatives, or officer or employee of the Office of Senate Fair Employment Practices) within 4 years of the date of appointment.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) TERM OF OFFICE.—

(1) IN GENERAL.—Except as provided in paragraph (2), membership on the Board shall be for 5 years. A member of the Board who is appointed to a term of office of more than 3 years shall only be eligible for appointment for a single term of office.

(2) FIRST APPOINTMENTS.—Of the members first appointed to the Board—

(A) 1 shall have a term of office of 3 years,

(B) 2 shall have a term of office of 4 years, and

(C) 2 shall have a term of office of 5 years, 1 of whom shall be the Chair,

as designated at the time of appointment by the persons specified in subsection (b).

(f) REMOVAL.—

(1) AUTHORITY.—Any member of the Board may be removed from office by a majority decision of the appointing authorities described in subsection (b), but only for—

(A) disability that substantially prevents the member from carrying out the duties of the member,

(B) incompetence,

(C) neglect of duty,

(D) malfeasance, including a felony or conduct involving moral turpitude, or

(E) holding an office or employment or engaging in an activity that disqualifies the individual from service as a member of the Board under subsection (d)(2).

(2) STATEMENT OF REASONS FOR REMOVAL.—In removing a member of the Board, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the member of the Board being removed the specific reasons for the removal.

(g) COMPENSATION.—

(1) PER DIEM.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board. The rate of pay of a member may be prorated based on the portion of the day during which the member is engaged in the performance of Board duties.

(2) TRAVEL EXPENSES.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(h) DUTIES.—The Office shall—

(1) carry out a program of education for Members of Congress and other employing authorities of the legislative branch of the Federal Government respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the legislative branch of the Federal Government;

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under title IV, and any other information appropriate for distribution, distribute such information to employing offices in a manner suitable for posting, provide such information to new employees of employing offices, distribute such information to the residences of covered employees, and conduct seminars and other activities designed to educate employing offices and covered employees; and

(3) compile and publish statistics on the use of the Office by covered employees, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of covered employees who initiated proceedings with the Office under this Act and the result of such proceedings, and on the number of covered employees who filed a complaint, the basis for the complaint, and the action taken on the complaint.

(i) CONGRESSIONAL OVERSIGHT.—The Board and the Office shall be subject to oversight (except with respect to the disposition of individual cases) by the Committee on Rules and Administration and the Committee on Governmental Affairs of the Senate and the Committee on House Oversight of the House of Representatives.

(j) OPENING OF OFFICE.—The Office shall be open for business, including receipt of requests for counseling under section 402, not later than 1 year after the date of the enactment of this Act.

(k) FINANCIAL DISCLOSURE REPORTS.—Members of the Board and officers and employees of the Office shall file the financial disclosure reports required under title I of the Ethics in Government Act of 1978 with the Clerk of the House of Representatives.

SEC. 302. OFFICERS, STAFF, AND OTHER PERSONNEL.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT AND REMOVAL.—

(A) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove an Executive Director. Selection and appointment of the Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The first Executive Director shall be appointed no later than 90 days after the initial appointment of the Board of Directors.

(B) QUALIFICATIONS.—The Executive Director shall be an individual with training or expertise in the application of laws referred to in section 102(a).

(C) DISQUALIFICATIONS.—The disqualifications in section 301(d)(2) shall apply to the appointment of the Executive Director.

(2) COMPENSATION.—The Chair may fix the compensation of the Executive Director. The rate of pay for the Executive Director may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) TERM.—The term of office of the Executive Director shall be a single term of 5 years, except that the first Executive Director shall have a single term of 7 years.

(4) DUTIES.—The Executive Director shall serve as the chief operating officer of the Office. Except as otherwise specified in this Act, the Executive Director shall carry out all of the responsibilities of the Office under this Act.

(b) DEPUTY EXECUTIVE DIRECTORS.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint and may remove a Deputy Executive Director for the Senate and a Deputy Executive Director for the House of Representatives. Selection and appointment of a Deputy Executive Director shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the office. The disqualifications in section 301(d)(2) shall apply to the appointment of a Deputy Executive Director.

(2) TERM.—The term of office of a Deputy Executive Director shall be a single term of 5 years, except that the first Deputy Executive Directors shall have a single term of 6 years.

(3) COMPENSATION.—The Chair may fix the compensation of the Deputy Executive Directors. The rate of pay for a Deputy Executive Director may not exceed 96 percent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) DUTIES.—The Deputy Executive Director for the Senate shall recommend to the Board regulations under section 304(a)(2)(B)(i), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director. The Deputy Executive Director for the House of Representatives shall recommend to the Board the regulations under section 304(a)(2)(B)(ii), maintain the regulations and all records pertaining to the regulations, and shall assume such other responsibilities as may be delegated by the Executive Director.

(c) GENERAL COUNSEL.—

(1) IN GENERAL.—The Chair, subject to the approval of the Board, shall appoint a General Counsel. Selection and appointment of the General Counsel shall be without regard to political affiliation and solely on the basis of fitness to perform the duties of the Office. The disqualifications in section 301(d)(2) shall apply to the appointment of a General Counsel.

(2) COMPENSATION.—The Chair may fix the compensation of the General Counsel. The rate of pay for the General Counsel may not exceed the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DUTIES.—The General Counsel shall—

(A) exercise the authorities and perform the duties of the General Counsel as specified in this Act; and

(B) otherwise assist the Board and the Executive Director in carrying out their duties and powers, including representing the Office in any judicial proceeding under this Act.

(4) ATTORNEYS IN THE OFFICE OF THE GENERAL COUNSEL.—The General Counsel shall appoint, and fix the compensation of, and may remove, such additional attorneys as may be necessary to enable the General Counsel to perform the General Counsel's duties.

(5) TERM.—The term of office of the General Counsel shall be a single term of 5 years.

(6) REMOVAL.—

(A) AUTHORITY.—The General Counsel may be removed from office by the Chair but only for—

(i) disability that substantially prevents the General Counsel from carrying out the duties of the General Counsel,

(ii) incompetence,

(iii) neglect of duty,

(iv) malfeasance, including a felony or conduct involving moral turpitude, or

(v) holding an office or employment or engaging in an activity that disqualifies the individual from service as the General Counsel under paragraph (1).

(B) STATEMENT OF REASONS FOR REMOVAL.—In removing the General Counsel, the Speaker of the House of Representatives and the President pro tempore of the Senate shall state in writing to the General Counsel the specific reasons for the removal.

(d) OTHER STAFF.—The Executive Director shall appoint, and fix the compensation of, and may remove, such other additional staff, including hearing officers, but not including attorneys employed in the office of the General Counsel, as may be necessary to enable the Office to perform its duties.

(e) DETAILED PERSONNEL.—The Executive Director may, with the prior consent of the department or agency of the Federal Government concerned, use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(f) CONSULTANTS.—In carrying out the functions of the Office, the Executive Director may procure the temporary (not to exceed 1 year) or intermittent services of consultants.

SEC. 303. PROCEDURAL RULES.

(a) IN GENERAL.—The Executive Director shall, subject to the approval of the Board, adopt rules governing the procedures of the Office, including the procedures of hearing officers, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner.

(b) PROCEDURE.—The Executive Director shall adopt rules referred to in subsection (a) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code. The Executive Director shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Executive Director shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Before adopting rules, the Executive Director shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking. Upon adopting rules, the Executive Director shall transmit notice of such action together with a copy of such rules to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Rules shall be considered issued by the Executive Director as of the date on which they are published in the Congressional Record.

SEC. 304. SUBSTANTIVE REGULATIONS.

(a) REGULATIONS.—

(1) IN GENERAL.—The procedures applicable to the regulations of the Board issued for the implementation of this Act, which shall include regulations the Board is required to issue under title II (including regulations on the appropriate application of exemptions under the laws made applicable in title II) are as prescribed in this section.

(2) RULEMAKING PROCEDURE.—Such regulations of the Board—

(A) shall be adopted, approved, and issued in accordance with subsection (b); and

(B) shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—

(i) the Senate and employees of the Senate;

(ii) the House of Representatives and employees of the House of Representatives; and

(iii) all other covered employees and employing offices.

(b) ADOPTION BY THE BOARD.—The Board shall adopt the regulations referred to in subsection (a)(1) in accordance with the principles and procedures set forth in section 553 of title 5, United States Code, and as provided in the following provisions of this subsection:

(1) PROPOSAL.—The Board shall publish a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, but, instead of publication of a general notice of proposed rulemaking in the Federal Register, the Board shall transmit such notice to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal. Such notice shall set forth the recommendations of the Deputy Director for the Senate in regard to regulations under subsection (a)(2)(B)(i), the recommendations of the Deputy Director for the House of Representatives in regard to regulations under subsection (a)(2)(B)(ii), and the recommendations of the Executive Director for regulations under subsection (a)(2)(B)(iii).

(2) COMMENT.—Before adopting regulations, the Board shall provide a comment period of at least 30 days after publication of a general notice of proposed rulemaking.

(3) ADOPTION.—After considering comments, the Board shall adopt regulations and shall transmit notice of such action together with a copy of such regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(4) RECOMMENDATION AS TO METHOD OF APPROVAL.—The Board shall include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution.

(c) APPROVAL OF REGULATIONS.—

(1) IN GENERAL.—Regulations referred to in paragraph (2)(B)(i) of subsection (a) may be approved by the Senate by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(ii) of subsection (a) may be approved by the House of Representatives by resolution or by the Congress by concurrent resolution or by joint resolution. Regulations referred to in paragraph (2)(B)(iii) may be approved by Congress by concurrent resolution or by joint resolution.

(2) REFERRAL.—Upon receipt of a notice of adoption of regulations under subsection (b)(3), the presiding officers of the House of Representatives and the Senate shall refer such notice, together with a copy of such regulations, to the appropriate committee or committees of the House of Representatives and of the Senate. The purpose of the referral shall be to consider whether such regulations should be approved, and, if so, whether such approval should be by resolution of the House of Representatives or of the Senate, by concurrent resolution or by joint resolution.

(3) JOINT REFERRAL AND DISCHARGE IN THE SENATE.—The presiding officer of the Senate may refer the notice of issuance of regulations, or any resolution of approval of regulations, to one committee or jointly to more than one committee. If a committee of the Senate acts to report a jointly referred measure, any other committee of the Senate must act within 30 calendar days of continuous session, or be automatically discharged.

(4) ONE-HOUSE RESOLUTION OR CONCURRENT RESOLUTION.—In the case of a resolution of the House of Representatives or the Senate or a concurrent resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(5) JOINT RESOLUTION.—In the case of a joint resolution referred to in paragraph (1), the matter after the resolving clause shall be the following: ''The following regulations issued by the Office of Compliance on ___ are hereby approved and shall have the force and effect of law:'' (the blank space being appropriately filled in, and the text of the regulations being set forth).

(d) ISSUANCE AND EFFECTIVE DATE.—

(1) PUBLICATION.—After approval of regulations under subsection (c), the Board shall submit the regulations to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal.

(2) DATE OF ISSUANCE.—The date of issuance of regulations shall be the date on which they are published in the Congressional Record under paragraph (1).

(3) EFFECTIVE DATE.—Regulations shall become effective not less than 60 days after the regulations are issued, except that the Board may provide for an earlier effective date for good cause found (within the meaning of section 553(d)(3) of title 5, United States Code) and published with the regulation.

(e) AMENDMENT OF REGULATIONS.—Regulations may be amended in the same manner as is described in this section for the adoption, approval, and issuance of regulations, except that the Board may, in its discretion, dispense with publication of a general notice of proposed rulemaking of minor, technical, or urgent amendments that satisfy the criteria for dispensing with publication of such notice pursuant to section 553(b)(B) of title 5, United States Code.

(f) RIGHT TO PETITION FOR RULEMAKING.—Any interested party may petition to the Board for the issuance, amendment, or repeal of a regulation.

(g) CONSULTATION.—The Executive Director, the Deputy Directors, and the Board—

(1) shall consult, with regard to the development of regulations, with—

(A) the Chair of the Administrative Conference of the United States;

(B) the Secretary of Labor;

(C) the Federal Labor Relations Authority; and

(D) the Director of the Office of Personnel Management; and

(2) may consult with any other persons with whom consultation, in the opinion of the Board, the Executive Director, or Deputy Directors, may be helpful.

SEC. 305. EXPENSES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Beginning in fiscal year 1995, and for each fiscal year thereafter, there are authorized to be appropriated for the expenses of the Office such sums as may be necessary to carry out the functions of the Office. Until sums are first appropriated pursuant to the preceding sentence, but for a period not exceeding 12 months following the date of the enactment of this Act—

(1) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the House of Representatives, and

(2) one-half of the expenses of the Office shall be paid from funds appropriated for allowances and expenses of the Senate,

upon vouchers approved by the Executive Director, except that a voucher shall not be required for the disbursement of salaries of employees who are paid at an annual rate. The Clerk of the House of Representatives and the Secretary of the Senate are authorized to make arrangements for the division of expenses under this subsection, including arrangements for one House of Congress to reimburse the other House of Congress.

(b) FINANCIAL AND ADMINISTRATIVE SERVICES.—The Executive Director may place orders and enter into agreements for goods and services with the head of any agency, or major organizational unit within an agency, in the legislative or executive branch of the United States in the same manner and to the same extent as agencies are authorized under sections 1535 and 1536 of title 31, United States Code, to place orders and enter into agreements.

(c) WITNESS FEES AND ALLOWANCES.—Except for covered employees, witnesses before a hearing officer or the Board in any proceeding under this Act other than rulemaking shall be paid the same fee and mileage allowances as are paid subpoenaed witnesses in the courts of the United States. Covered employees who are summoned, or are assigned by their employer, to testify in their official capacity or to produce official records in any proceeding under this Act shall be entitled to travel expenses under subchapter I and section 5751 of chapter 57 of title 5, United States Code.

TITLE IV—ADMINISTRATIVE AND JUDICIAL DISPUTE-RESOLUTION PROCEDURES

SEC. 401. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

Except as otherwise provided, the procedure for consideration of alleged violations of part A of title II consists of—

(1) counseling as provided in section 402;

(2) mediation as provided in section 403; and

(3) election, as provided in section 404, of either—

(A) a formal complaint and hearing as provided in section 405, subject to Board review as provided in section 406, and judicial review in the United States Court of Appeals for the Federal Circuit as provided in section 407, or

(B) a civil action in a district court of the United States as provided in section 408.

In the case of an employee of the Office of the Architect of the Capitol or of the Capitol Police, the Executive Director, after receiving a request for counseling under section 402, may recommend that the employee use the grievance procedures of the Architect of the Capitol or the Capitol Police for resolution of the employee's grievance for a specific period of time, which shall not count against the time available for counseling or mediation.

SEC. 402. COUNSELING.

(a) IN GENERAL.—To commence a proceeding, a covered employee alleging a violation of a law made applicable under part A of title II shall request counseling by the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the date of the alleged violation.

(b) PERIOD OF COUNSELING.—The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

(c) NOTIFICATION OF END OF COUNSELING PERIOD.—The Office shall notify the employee in writing when the counseling period has ended.

SEC. 403. MEDIATION.

(a) INITIATION.—Not later than 15 days after receipt by the employee of notice of the end of the counseling period under section 402, but prior to and as a condition of making an election under section 404, the covered employee who alleged a violation of a law shall file a request for mediation with the Office.

(b) PROCESS.—Mediation under this section—

(1) may include the Office, the covered employee, the employing office, and one or more individuals appointed by the Executive Director after considering recommendations by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall involve meetings with the parties separately or jointly for the purpose of resolving the dispute between the covered employee and the employing office.

(c) MEDIATION PERIOD.—The mediation period shall be 30 days beginning on the date the request for mediation is received. The mediation period may be extended for additional periods at the joint request of the covered employee and the employing office. The Office shall notify in writing the covered employee and the employing office when the mediation period has ended.

(d) INDEPENDENCE OF MEDIATION PROCESS.—No individual, who is appointed by the Executive Director to mediate, may conduct or aid in a hearing conducted under section 405 with respect to the same matter or shall be subject to subpoena or any other compulsory process with respect to the same matter.

SEC. 404. ELECTION OF PROCEEDING.

Not later than 90 days after a covered employee receives notice of the end of the period of mediation, but no sooner than 30 days after receipt of such notification, such covered employee may either—

(1) file a complaint with the Office in accordance with section 405, or

(2) file a civil action in accordance with section 408 in the United States district court for the district in which the employee is employed or for the District of Columbia.

SEC. 405. COMPLAINT AND HEARING.

(a) IN GENERAL.—A covered employee may, upon the completion of mediation under section 403, file a complaint with the Office. The respondent to the complaint shall be the employing office—

(1) involved in the violation, or

(2) in which the violation is alleged to have occurred,

and about which mediation was conducted.

(b) DISMISSAL.—A hearing officer may dismiss any claim that the hearing officer finds to be frivolous or that fails to state a claim upon which relief may be granted.

(c) HEARING OFFICER.—

(1) APPOINTMENT.—Upon the filing of a complaint, the Executive Director shall appoint an independent hearing officer to consider the complaint and render a decision. No Member of the House of Representatives, Senator, officer of either the House of Representatives or the Senate, head of an employing office, member of the Board, or covered employee may be appointed to be a hearing officer. The Executive Director shall select hearing officers on a rotational or random basis from the lists developed under paragraph (2). Nothing in this section shall prevent the appointment of hearing officers as full-time employees of the Office or the selection of hearing officers on the basis of specialized expertise needed for particular matters.

(2) LISTS.—The Executive Director shall develop master lists, composed of—

(A) members of the bar of a State or the District of Columbia and retired judges of the United States courts who are experienced in adjudicating or arbitrating the kinds of personnel and other matters for which hearings may be held under this Act, and

(B) individuals expert in technical matters relating to accessibility and usability by persons with disabilities or technical matters relating to occupational safety and health.

In developing lists, the Executive Director shall consider candidates recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

(d) HEARING.—Unless a complaint is dismissed before a hearing, a hearing shall be—

(1) conducted in closed session on the record by the hearing officer;

(2) commenced no later than 60 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 30 days the time for commencing a hearing; and

(3) conducted, except as specifically provided in this Act and to the greatest extent practicable, in accordance with the principles and procedures set forth in sections 554 through 557 of title 5, United States Code.

(e) DISCOVERY.—Reasonable prehearing discovery may be permitted at the discretion of the hearing officer.

(f) SUBPOENAS.—

(1) IN GENERAL.—At the request of a party, a hearing officer may issue subpoenas for the attendance of witnesses and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of records may be required from any place within the United States. Subpoenas shall be served in the manner provided under rule 45(b) of the Federal Rules of Civil Procedure.

(2) OBJECTIONS.—If a person refuses, on the basis of relevance, privilege, or other objection, to testify in response to a question or to produce records in connection with a proceeding before a hearing officer, the hearing

officer shall rule on the objection. At the request of the witness or any party, the hearing officer shall (or on the hearing officer's own initiative, the hearing officer may) refer the ruling to the Board for review.

(3) ENFORCEMENT.—

(A) IN GENERAL.—If a person fails to comply with a subpoena, the Board may authorize the General Counsel to apply, in the name of the Office, to an appropriate United States district court for an order requiring that person to appear before the hearing officer to give testimony or produce records. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a civil contempt thereof.

(B) SERVICE OF PROCESS.—Process in an action or contempt proceeding pursuant to subparagraph (A) may be served in any judicial district in which the person refusing or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceedings may run into any other district.

(g) DECISION.—The hearing officer shall issue a written decision as expeditiously as possible, but in no case more than 90 days after the conclusion of the hearing. The written decision shall be transmitted by the Office to the parties. The decision shall state the issues raised in the complaint, describe the evidence in the record, contain findings of fact and conclusions of law, contain a determination of whether a violation has occurred, and order such remedies as are appropriate pursuant to title II. The decision shall be entered in the records of the Office. If a decision is not appealed under section 406 to the Board, the decision shall be considered the final decision of the Office.

(h) PRECEDENTS.—A hearing officer who conducts a hearing under this section shall be guided by judicial decisions under the laws made applicable by section 102 and by Board decisions under this Act.

SEC. 406. APPEAL TO THE BOARD.

(a) IN GENERAL.—Any party aggrieved by the decision of a hearing officer under section 405(g) may file a petition for review by the Board not later than 30 days after entry of the decision in the records of the Office.

(b) PARTIES' OPPORTUNITY TO SUBMIT ARGUMENT.—The parties to the hearing upon which the decision of the hearing officer was made shall have a reasonable opportunity to be heard, through written submission and, in the discretion of the Board, through oral argument.

(c) STANDARD OF REVIEW.—The Board shall set aside a decision of a hearing officer if the Board determines that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(d) RECORD.—In making determinations under subsection (c), the Board shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(e) DECISION.—The Board shall issue a written decision setting forth the reasons for its decision. The decision may affirm, reverse, or remand to the hearing officer for further proceedings. A decision that does not require further proceedings before a hearing officer shall be entered in the records of the Office as a final decision.

SEC. 407. JUDICIAL REVIEW OF BOARD DECISIONS AND ENFORCEMENT.

(a) JURISDICTION.—

(1) JUDICIAL REVIEW.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any proceeding commenced by a petition of—

(A) a party aggrieved by a final decision of the Board under section 406(e) in cases arising under part A of title II,

(B) a charging individual or a respondent before the Board who files a petition under section 210(d)(4),

(C) the General Counsel or a respondent before the Board who files a petition under section 215(c)(5), or

(D) the General Counsel or a respondent before the Board who files a petition under section 220(c)(3).

The court of appeals shall have exclusive jurisdiction to set aside, suspend (in whole or in part), to determine the validity of, or otherwise review the decision of the Board.

(2) ENFORCEMENT.—The United States Court of Appeals for the Federal Circuit shall have jurisdiction over any petition of the General Counsel, filed in the name of the Office and at the direction of the Board, to enforce a final decision under section 405(g) or 406(e) with respect to a violation of part A, B, C, or D of title II.

(b) PROCEDURES.—

(1) RESPONDENTS.—(A) In any proceeding commenced by a petition filed under subsection (a)(1) (A) or (B), or filed by a party other than the General Counsel under subsection (a)(1) (C) or (D), the Office shall be named respondent and any party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(B) In any proceeding commenced by a petition filed by the General Counsel under subsection (a)(1) (C) or (D), the prevailing party in the final decision entered under section 406(e) shall be named respondent, and any other party before the Board may be named respondent by filing a notice of election with the court within 30 days after service of the petition.

(C) In any proceeding commenced by a petition filed under subsection (a)(2), the party under section 405 or 406 that the General Counsel determines has failed to comply with a final decision under section 405(g) or 406(e) shall be named respondent.

(2) INTERVENTION.—Any party that participated in the proceedings before the Board under section 406 and that was not made respondent under paragraph (1) may intervene as of right.

(c) LAW APPLICABLE.—Chapter 158 of title 28, United States Code, shall apply to judicial review under paragraph (1) of subsection (a), except that—

(1) with respect to section 2344 of title 28, United States Code, service of a petition in any proceeding in which the Office is a respondent shall be on the General Counsel rather than on the Attorney General;

(2) the provisions of section 2348 of title 28, United States Code, on the authority of the Attorney General, shall not apply;

(3) the petition for review shall be filed not later than 90 days after the entry in the Office of a final decision under section 406(e); and

(4) the Office shall be an ''agency'' as that term is used in chapter 158 of title 28, United States Code.

(d) STANDARD OF REVIEW.—To the extent necessary for decision in a proceeding commenced under subsection (a)(1) and when presented, the court shall decide all relevant questions of law and interpret constitutional and statutory provisions. The court shall set aside a final decision of the Board if it is determined that the decision was—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(e) RECORD.—In making determinations under subsection (d), the court shall review the whole record, or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

SEC. 408. CIVIL ACTION.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over any civil action commenced under section 404 and this section by a covered employee who has completed counseling under section 402 and mediation under section 403. A civil action may be commenced by a covered employee only to seek redress for a violation for which the employee has completed counseling and mediation.

(b) PARTIES.—The defendant shall be the employing office alleged to have committed the violation, or in which the violation is alleged to have occurred.

(c) JURY TRIAL.—Any party may demand a jury trial where a jury trial would be available in an action against a private defendant under the relevant law made applicable by this Act. In any case in which a violation of section 201 is alleged, the court shall not inform the jury of the maximum amount of compensatory damages available under section 201(b)(1) or 201(b)(3).

SEC. 409. JUDICIAL REVIEW OF REGULATIONS.

In any proceeding brought under section 407 or 408 in which the application of a regulation issued under this Act is at issue, the court may review the validity of the regulation in accordance with the provisions of subparagraphs (A) through (D) of section 706(2) of title 5, United States Code, except that with respect to regulations approved by a joint resolution under section 304(c), only the provisions of section 706(2)(B) of title 5, United States Code, shall apply. If the court determines that the regulation is invalid, the court shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provisions with respect to which the invalid regulation was issued. Except as provided in this section, the validity of regulations issued under this Act is not subject to judicial review.

SEC. 410. OTHER JUDICIAL REVIEW PROHIBITED.

Except as expressly authorized by sections 407, 408, and 409, the compliance or noncompliance with the provisions of this Act and any action taken pursuant to this Act shall not be subject to judicial review.

SEC. 411. EFFECT OF FAILURE TO ISSUE REGULATIONS.

In any proceeding under section 405, 406, 407, or 408, except a proceeding to enforce section 220 with respect to offices listed under section 220(e)(2), if the Board has not issued a regulation on a matter for which this Act requires a regulation to be issued, the hearing officer, Board, or court, as the case may be, shall apply, to the extent necessary and appropriate, the most relevant substantive executive agency regulation promulgated to implement the statutory provision at issue in the proceeding.

SEC. 412. EXPEDITED REVIEW OF CERTAIN APPEALS.

(a) IN GENERAL.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory or final judgment, decree, or order of a court upon the constitutionality of any provision of this Act.

(b) JURISDICTION.—The Supreme Court shall, if it has not previously ruled on the question, accept jurisdiction over the appeal

referred to in subsection (a), advance the appeal on the docket, and expedite the appeal to the greatest extent possible.

SEC. 413. PRIVILEGES AND IMMUNITIES.

The authorization to bring judicial proceedings under sections 405(f)(3), 407, and 408 shall not constitute a waiver of sovereign immunity for any other purpose, or of the privileges of any Senator or Member of the House of Representatives under article I, section 6, clause 1, of the Constitution, or a waiver of any power of either the Senate or the House of Representatives under the Constitution, including under article I, section 5, clause 3, or under the rules of either House relating to records and information within its jurisdiction.

SEC. 414. SETTLEMENT OF COMPLAINTS.

Any settlement entered into by the parties to a process described in section 210, 215, 220, or 401 shall be in writing and not become effective unless it is approved by the Executive Director. Nothing in this Act shall affect the power of the Senate and the House of Representatives, respectively, to establish rules governing the process by which a settlement may be entered into by such House or by any employing office of such House.

SEC. 415. PAYMENTS.

(a) AWARDS AND SETTLEMENTS.—Except as provided in subsection (c), only funds which are appropriated to an account of the Office in the Treasury of the United States for the payment of awards and settlements may be used for the payment of awards and settlements under this Act. There are authorized to be appropriated for such account such sums as may be necessary to pay such awards and settlements. Funds in the account are not available for awards and settlements involving the General Accounting Office, the Government Printing Office, or the Library of Congress.

(b) COMPLIANCE.—Except as provided in subsection (c), there are authorized to be appropriated such sums as may be necessary for administrative, personnel, and similar expenses of employing offices which are needed to comply with this Act.

(c) OSHA, ACCOMMODATION, AND ACCESS REQUIREMENTS.—Funds to correct violations of section 201(a)(3), 210, or 215 of this Act may be paid only from funds appropriated to the employing office or entity responsible for correcting such violations. There are authorized to be appropriated such sums as may be necessary for such funds.

SEC. 416. CONFIDENTIALITY.

(a) COUNSELING.—All counseling shall be strictly confidential, except that the Office and a covered employee may agree to notify the employing office of the allegations.

(b) MEDIATION.—All mediation shall be strictly confidential.

(c) HEARINGS AND DELIBERATIONS.—Except as provided in subsections (d), (e), and (f), all proceedings and deliberations of hearing officers and the Board, including any related records, shall be confidential. This subsection shall not apply to proceedings under section 215, but shall apply to the deliberations of hearing officers and the Board under that section.

(d) RELEASE OF RECORDS FOR JUDICIAL ACTION.—The records of hearing officers and the Board may be made public if required for the purpose of judicial review under section 407.

(e) ACCESS BY COMMITTEES OF CONGRESS.—At the discretion of the Executive Director, the Executive Director may provide to the Committee on Standards of Official Conduct of the House of Representatives and the Select Committee on Ethics of the Senate access to the records of the hearings and decisions of the hearing officers and the Board, including all written and oral testimony in the possession of the Office. The Executive Director shall not provide such access until the Executive Director has consulted with the individual filing the complaint at issue, and until a final decision has been entered under section 405(g) or 406(e).

(f) FINAL DECISIONS.—A final decision entered under section 405(g) or 406(e) shall be made public if it is in favor of the complaining covered employee, or in favor of the charging party under section 210, or if the decision reverses a decision of a hearing officer which had been in favor of the covered employee or charging party. The Board may make public any other decision at its discretion.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. EXERCISE OF RULEMAKING POWERS.

The provisions of sections 102(b)(3) and 304(c) are enacted—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of such House, respectively, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of each House.

SEC. 502. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) IN GENERAL.—It shall not be a violation of any provision of section 201 to consider the—

(1) party affiliation;

(2) domicile; or

(3) political compatibility with the employing office;

of an employee referred to in subsection (b) with respect to employment decisions.

(b) DEFINITION.—For purposes of subsection (a), the term ''employee'' means—

(1) an employee on the staff of the leadership of the House of Representatives or the leadership of the Senate;

(2) an employee on the staff of a committee or subcommittee of—

(A) the House of Representatives;

(B) the Senate; or

(C) a joint committee of the Congress;

(3) an employee on the staff of a Member of the House of Representatives or on the staff of a Senator;

(4) an officer of the House of Representatives or the Senate or a congressional employee who is elected by the House of Representatives or Senate or is appointed by a Member of the House of Representatives or by a Senator (in addition an employee described in paragraph (1), (2), or (3)); or

(5) an applicant for a position that is to be occupied by an individual described in any of paragraphs (1) through (4).

SEC. 503. NONDISCRIMINATION RULES OF THE HOUSE AND SENATE.

The Select Committee on Ethics of the Senate and the Committee on Standards of Official Conduct of the House of Representatives retain full power, in accordance with the authority provided to them by the Senate and the House, with respect to the discipline of Members, officers, and employees for violating rules of the Senate and the House on nondiscrimination in employment.

SEC. 504. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CIVIL RIGHTS REMEDIES.—

(1) Sections 301 and 302 of the Government Employee Rights Act of 1991 (2 U.S.C. 1201 and 1202) are amended to read as follows:

''SEC. 301. GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991.

''(a) SHORT TITLE.—This title may be cited as the 'Government Employee Rights Act of 1991'.

''(b) PURPOSE.—The purpose of this title is to provide procedures to protect the rights of certain government employees, with respect to their public employment, to be free of discrimination on the basis of race, color, religion, sex, national origin, age, or disability.

''(c) DEFINITION.—For purposes of this title, the term 'violation' means a practice that violates section 302(a) of this title.

''SEC. 302. DISCRIMINATORY PRACTICES PROHIBITED.

''(a) PRACTICES.—All personnel actions affecting the Presidential appointees described in section 303 or the State employees described in section 304 shall be made free from any discrimination based on—

''(1) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16);

''(2) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

''(3) disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112–14).

''(b) REMEDIES.—The remedies referred to in sections 303(a)(1) and 304(a)—

''(1) may include, in the case of a determination that a violation of subsection (a)(1) or (a)(3) has occurred, such remedies as would be appropriate if awarded under sections 706(g), 706(k), and 717(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(g), 2000e–5(k), 2000e–16(d)), and such compensatory damages as would be appropriate if awarded under section 1977 or sections 1977A(a) and 1977A(b)(2) of the Revised Statutes (42 U.S.C. 1981 and 1981a(a) and (b)(2));

''(2) may include, in the case of a determination that a violation of subsection (a)(2) has occurred, such remedies as would be appropriate if awarded under section 15(c) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a(c)); and

''(3) may not include punitive damages.''.

(2) Sections 303 through 319, and sections 322, 324, and 325 of the Government Employee Rights Act of 1991 (2 U.S.C. 1203–1218, 1221, 1223, and 1224) are repealed, except as provided in section 506 of this Act.

(3) Sections 320 and 321 of the Government Employee Rights Act of 1991 (2 U.S.C. 1219 and 1220) are redesignated as sections 303 and 304, respectively.

(4) Sections 303 and 304 of the Government Employee Rights Act of 1991, as so redesignated, are each amended by striking ''and 307(h) of this title''.

(5) Section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) is repealed, except as provided in section 506 of this Act.

(b) FAMILY AND MEDICAL LEAVE ACT OF 1993.—Title V of the Family and Medical Leave Act of 1993 (2 U.S.C. 60m et seq.) is repealed, except as provided in section 506 of this Act.

(c) ARCHITECT OF THE CAPITOL.—

(1) REPEAL.—Section 312(e) of the Architect of the Capitol Human Resources Act (Public Law 103–283; 108 Stat. 1444) is repealed, except as provided in section 506 of this Act.

(2) APPLICATION OF GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—The provisions of sections 751, 753, and 755 of title 31, United States Code, amended by section 312(e) of the Architect of the Capitol Human Resources Act, shall be applied and administered as if such section 312(e) (and the

amendments made by such section) had not been enacted.

SEC. 505. JUDICIAL BRANCH COVERAGE STUDY.

The Judicial Conference of the United States shall prepare a report for submission by the Chief Justice of the United States to the Congress on the application to the judicial branch of the Federal Government of—

(1) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(2) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.);

(3) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(4) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(5) the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.);

(6) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(7) chapter 71 (relating to Federal service labor-management relations) of title 5, United States Code;

(8) the Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.);

(9) the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.);

(10) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.); and

(11) chapter 43 (relating to veterans' employment and reemployment) of title 38, United States Code.

The report shall be submitted to Congress not later than December 31, 1996, and shall include any recommendations the Judicial Conference may have for legislation to provide to employees of the judicial branch the rights, protections, and procedures under the listed laws, including administrative and judicial relief, that are comparable to those available to employees of the legislative branch under titles I through IV of this Act.

SEC. 506. SAVINGS PROVISIONS.

(a) TRANSITION PROVISIONS FOR EMPLOYEES OF THE HOUSE OF REPRESENTATIVES AND OF THE SENATE.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Senate or the House of Representatives has or could have requested counseling under section 305 of the Government Employees Rights Act of 1991 (2 U.S.C. 1205) or Rule LI of the House of Representatives, including counseling for alleged violations of family and medical leave rights under title V of the Family and Medical Leave Act of 1993, the employee may complete, or initiate and complete, all procedures under the Government Employees Rights Act of 1991 and Rule LI, and the provisions of that Act and Rule shall remain in effect with respect to, and provide the exclusive procedures for, those claims until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Senate or House of Representatives arises under section 201 or 202 after the effective date of such sections, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the provisions of the Government Employees Rights Act of 1991 (2 U.S.C. 1201 et seq.) and Rule LI of the House of Representatives relating to counseling and mediation shall remain in effect, and the employee may complete under that Act or Rule the requirements for counseling and mediation under sections 402 and 403. If, after counseling and mediation is completed, the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a complaint under section 307 of the Government Employees Rights Act of 1991 (2 U.S.C. 1207) or Rule LI of the House of Representatives, and thereafter proceed exclusively under that Act or Rule, the provisions of which shall remain in effect until the completion of all proceedings in relation to the complaint, or

(B) to commence a civil action under section 408.

(3) SECTION 1205 OF THE SUPPLEMENTAL APPROPRIATIONS ACT OF 1993.—With respect to payments of awards and settlements relating to Senate employees under paragraph (1) of this subsection, section 1205 of the Supplemental Appropriations Act of 1993 (2 U.S.C. 1207a) remains in effect.

(b) TRANSITION PROVISIONS FOR EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—

(1) CLAIMS ARISING BEFORE EFFECTIVE DATE.—If, as of the date on which section 201 takes effect, an employee of the Architect of the Capitol has or could have filed a charge or complaint regarding an alleged violation of section 312(e)(2) of the Architect of the Capitol Human Resources Act (Public Law 103–283), the employee may complete, or initiate and complete, all procedures under section 312(e) of that Act, the provisions of which shall remain in effect with respect to, and provide the exclusive procedures for, that claim until the completion of all such procedures.

(2) CLAIMS ARISING BETWEEN EFFECTIVE DATE AND OPENING OF OFFICE.—If a claim by an employee of the Architect of the Capitol arises under section 201 or 202 after the effective date of those provisions, but before the opening of the Office for receipt of requests for counseling or mediation under sections 402 and 403, the employee may satisfy the requirements for counseling and mediation by exhausting the requirements prescribed by the Architect of the Capitol in accordance with section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283). If, after exhaustion of those requirements the Office has not yet opened for the filing of a timely complaint under section 405, the employee may elect—

(A) to file a charge with the General Accounting Office Personnel Appeals Board pursuant to section 312(e)(3) of the Architect of the Capitol Human Resources Act (Public Law 103–283), and thereafter proceed exclusively under section 312(e) of that Act, the provisions of which shall remain in effect until the completion of all proceedings in relation to the charge, or

(B) to commence a civil action under section 408.

(c) TRANSITION PROVISION RELATING TO MATTERS OTHER THAN EMPLOYMENT UNDER SECTION 509 OF THE AMERICANS WITH DISABILITIES ACT OF 1990.—With respect to matters other than employment under section 509 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209), the rights, protections, remedies, and procedures of section 509 of such Act shall remain in effect until section 210 of this Act takes effect with respect to each of the entities covered by section 509 of such Act.

SEC. 507. USE OF FREQUENT FLYER MILES.

(a) LIMITATION ON THE USE OF TRAVEL AWARDS.—Notwithstanding any other provision of law, or any rule, regulation, or other authority, any travel award that accrues by reason of official travel of a Member, officer, or employee of the Senate shall be considered the property of the office for which the travel was performed and may not be converted to personal use.

(b) REGULATIONS.—The Committee on Rules and Administration of the Senate shall have authority to prescribe regulations to carry out this section.

(c) DEFINITIONS.—As used in this section—

(1) the term ''travel award'' means any frequent flyer, free, or discounted travel, or other travel benefit, whether awarded by coupon, membership, or otherwise; and

(2) the term ''official travel'' means travel engaged in the course of official business of the Senate.

SEC. 508. SENSE OF SENATE REGARDING ADOPTION OF SIMPLIFIED AND STREAMLINED ACQUISITION PROCEDURES FOR SENATE ACQUISITIONS.

It is the sense of the Senate that the Committee on Rules and Administration of the Senate should review the rules applicable to purchases by Senate offices to determine whether they are consistent with the acquisition simplification and streamlining laws enacted in the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355).

SEC. 509. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be invalid, the remainder of this Act and the application of the provisions of the remainder to any person or circumstance shall not be affected thereby.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. THOMAS] will be recognized for 20 minutes and the gentleman from Maryland [Mr. HOYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. GOODLING], chairman of the Committee on Economic and Educational Opportunities, be permitted to control 10 minutes of the 20 minutes which are controlled on this side and to yield that time in such blocks as he may determine.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Pennsylvania [Mr. GOODLING].

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

(Mr. GOODLING asked and was given permission to revise and extend his remarks, and to include extraneous material.)

Mr. GOODLING. Mr. Speaker, I am proud to rise in support of the bill before us because it is truly one of the most important initiatives this Congress will pass this year. Before I go any further, I want to thank the gentleman from Illinois [Mr. FAWELL] for the many hours over the many years, going back to 1990, that he has also spent in trying to help bring this day about, as well as our staff members, Randy Johnson and Gary Vischer. Its enactment, like the unfunded mandate legislation we will be considering later, will create a long-needed institutional brake, a yellow flag, on the passage of requirements this institution has too easily in the past imposed on employers. As importantly, the bill will finally extend the same workplace protections enjoyed by others to our own employees. Indeed, now that we are forced to comply with these laws, we might even learn from experience and better identify with the problems of

compliance endured by our constituents. In fact, I can guarantee it. Proposals for future workplace requirements and reform of existing laws will gather a lot closer attention by every Member of this body after enactment of this legislation. And it's about time. This bill, a product of compromise in negotiations between the House and Senate, is not absolutely perfect, but it is a major step forward.

Indeed, the only shadow cast over today is that it took so long in coming. As I have noted in the past, the hypocrisy of Congress in exempting itself from the laws it imposes on others is so obvious that one wonders how it so long escaped criticism, but I am gratified that those of us who have long fought—particularly in my committee—for strong congressional coverage with enforcement in the courts now have ample company.

But others will also comment on the virtues of this legislation, so let me set out, in the short time I have, a few general principles which I hope will provide guidance for the new Office of Compliance and the courts, to amplify the legislative history developed in the Senate.

First, as questions concerning the constitutionality of the bill have been, and will be, raised, I am submitting for the RECORD an April 10, 1991, analysis prepared by CRS at my request which concluded that legislation allowing congressional employees to bring lawsuits in court would likely be upheld and does not pose a serious constitutional question. Second, where there is any doubt on the matter, the office and the courts should apply the law in question as it is applied to private sector employers. Third, where the case law is divided in interpreting the relevant law, the Board and the courts should apply to the Congress the most rigorous interpretations, not the least rigorous. For example, where ambiguities in existing law have led some courts to interpret a particular damage provision expansively, while others have read that ambiguity in a more restrictive manner, the Board and the courts should apply the former interpretation under this act. The Congress should not be allowed to escape the problems created by its own failure to draft laws properly and, perhaps, through this approach we will be forced to revisit and clarify existing laws which, because of a lack of clarity, are creating confusion and litigation.

Let me make a few, more specific points. Although the bill is not entirely clear on this issue, the Board should be considered empowered to issue regulations under section 201 relating to protections against discrimination, subject, of course, to the general limitations on the Board's regulatory authority. The power of hearing officers to dismiss frivolous cases should be exercised only in the clearest situation where there is absolutely no merit to the claim being brought and assuming all relevant facts in favor of the employee. The counseling required under title IV should be truly employee friendly, informative but not coercive. Last, I expect that the protections for confidentiality will apply only where expressly stated; thus, for example, the report required under section 215 concerning the General Counsel's inspection of congressional facilities for OSHA violations would be made available to the public. We must not wrap proceedings under this law in a vail of secrecy, for to do so would be to lose the trust of the public.

Mr. Speaker, I would have included punitive damages and personal liability to the list of available remedies but will not here press the issue, for the legislation overall marks a giant step forward in disciplining this institution—in forcing us to slow down and more thoroughly consider the effect of the laws we impose on others, for now we will have to live by those same laws. I believe that after all of us are long gone, the positive impact of this initiative will remain.

LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, April 10, 1991.

To: Honorable William F. Goodling, attention: Randy Johnson.

From: American Law Division.

Subject: Constitutionality of authorizing private causes of actions by employees of Members of Congress against their employers.

This memorandum is in response to your inquiry with regard to whether the speech or debate clause of the Constitution, or, perhaps, some other constitutional provision, would be violated should Congress, in providing protections to employees, either those working for individual Members and for congressional committees or those working for the institution, by forbidding discrimination of the basis of race, color, sex, religion, or other prescribed grounds, authorize the employees to sue in federal court for alleged discrimination.

Implicated directly by any such proposal would indeed be the speech or debate clause assurance that Members of Congress ''shall not be questioned in any other Place'' for things said or done in the legislative process. Article I, §6, cl. 1. Additionally, a general separation of powers issue might be raised. As we understand the likely proposal, it would not include any authority for the Equal Employment Opportunity Commission, an executive branch agency, to police the employment relations of the legislative branch, which would in itself raise speech or debate and separation of powers questions.

This issue has occasioned much debate in Congress and out in recent years. It is not possible to make a definitive determination on the basis of the constitutional text and its history, structure, and purposes, and the judicial precedents are not dispositive. However, the text as informed by the interpretive judicial decisions does rather strongly suggest that the courts would sustain the validity of the enactment should Congress choose to take the step.

Although the following discussion is anchored in the judicial precedents, one must begin by acknowledging that it is the responsibility of each branch to make an independent interpretation of the meaning of the Constitution and that, while the decision in any particular instance may be reviewable by the courts, ultimately the Supreme Court, each branch owes to the others a respect for the reading of the Constitution developed in the court of governing. *United States* v. *Nixon*, 418 U.S. 683, 703 (1974). Even, therefore, if the Supreme Court's decisions were more directly declaratory of the law than they in fact are, Congress in acting on any measure may proceed on a different understanding of the metes and bounds of the Constitution.

SPEECH OR DEBATE CLAUSE

The speech or debate clause has a long lineage from the struggles of Parliament with the Crown in England, *United States* v. *Johnson*, 383 U.S. 169, 178 (1966), and in our scheme of things is designed to protect the independence and integrity of the legislature and to reinforce the principle of separation of powers. Ibid.; *United States* v. *Brewster*, 408 U.S. 501, 507 (1972). The protection of the clause is not limited to words spoken in debate. ''Committee reports, resolutions, and the act of voting are equally covered, as are 'things generally done in a session of the House by one of its members in relation to the business before it.''' *Powell* v. *McCormack*, 395 U.S. 486, 502 (1969) (quoting *Kilbourn* v. *Thompson*, 103 U.S. 168, 204 (1881)). Thus, so long as legislators are ''acting in the sphere of legitimate legislative activity,'' they are ''protected not only from the consequence of litigation's results but also from the burden of defending themselves.'' *Tenney* v. *Brandhove*, 341 U.S. 367, 376–377 (1972).

Not only is the Member protected when the clause applies, but his aides receive equal coverage. In *Gravel* v. *United States*, 408 U.S. 606, 616–617 (1972), the Court accepted the contentions urged on it by the Senate: ''that it is literally impossible, in view of the complexities of the modern legislative process, with Congress almost constantly in session and matters of legislative concern constantly proliferating, for Members of Congress to perform their legislative tasks without the help of aides and assistants; that the day-to-day work of such aides is so critical to the Members' performance that they must be treated as the latters' alter ego; and that if they are not so recognized, the central role of the Speech or Debate Clause * * * will inevitably be diminished and frustrated.'' Therefore, the Court held ''that the Speech or Debate Clause applies not only to a Member but also to his aides insofar as the conduct of the latter would be a protected legislative act if performed by the Member himself.'' Id., 618. See also *Doe* v. *McMillan*, 412 U.S. 306 (1973).

But the scope of the meaning of ''legislative activity'' has its limits. ''The heart of the clause is speech or debate in either House, and insofar as the clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House.'' *Gravel*, supra, 408 U.S., 625. Immunity from civil suit, both in law and equity, and from criminal action based on the performance of legislative duties flows from a determination that a challenged act is within the definition of legislative activity. *Gravel*, for example, held that a grand jury could validly inquire into the processes by which a Member obtained classified information and into the arrangements for subsequent private republication of these documents, since neither action involved protected conduct, id., 626, and republication by a Member of allegedly defamatory remarks outside the legislative body, here through newsletters and press releases, was held unprotected, because it was not essential to the

legislative process. *Hutchinson* v. *Proxmire,* 441 U.S. 111 (1979). In *Doe* v. *McMillan,* supra, the Court held that Members and their aides were absolutely immune from liability for conducting an investigation and preparing a report, allegedly libelous, but that the Public Printer and the Superintendent of Documents could be held liable for distributing the report to the public beyond the channels of communication within Congress. Id., 412 U.S., 320–324.

Thus, a Member is immune when he is ''acting in the sphere of legitimate legislative activity.'' *Tenney* v. *Brandhove,* supra, 341 U.S., 376–377. His aides and presumably others acting at his direction are immune when he is. But when he acts outside the legislative sphere, he is not immune and neither are his aides or others directed by him. *Doe* v. *McMillan,* supra, 315–316.

Are Employment Decisions Immunized by the Speech or Debate Clause?

It has been strongly contended that the employment decisions of Members with respect to their aides, at least with respect to those aides who are essential to the performance of those legislative activities that are protected by the clause, fall fully within the protection of the speech or debate clause and ''shall not be questioned in any other Place.'' As we will see, that position has support in the case law, but a recent decision by the Supreme Court suggests the conclusion that a Member's hiring and firing practices are not legislative within the meaning of the clause.

In *Davis* v. *Passman,* 442 U.S. 228 (1979), a divided Court held that a female aide of a Member, discharged because the Member preferred a male for the job, had a cause of action under the due process clause of the Fifth Amendment to sue the Member for monetary damages.[1] Because the lower court had not passed on the contention that the speech or debate clause precluded the suit, the Supreme Court declined to do so at that stage. Id., 235–236 n. 11. The Court did hold that, inasmuch as the clause embodied for Members of Congress the concerns of the separation of powers doctrine for purposes of immunity from suit, it was the only source of immunity, not other principles of separation as well. Ibid. Chief Justice Burger, dissenting along with Justices Powell and Rehnquist, argued that separation of powers in combination with the speech or debate clause, both sharing common roots, did not permit the suit to go forward, id., 249, and Justice Stewart, dissenting, thought the speech or debate clause issued was ''far from frivolous'' and would have remanded so the court of appeals could decide it. Id., 251.[2]

In two decisions, the United States Court of Appeals for the District of Columbia Circuit attempted to formulate a standard to permit determination of applicability or nonapplicability of the clause to congressional employment decisions. The discharge of the manager of the House of Representatives' restaurants was the issue of *Walker* v. *Jones,* 733 F.2d 923 (D.C. Cir.), cert. den., 469 U.S. 1036 (1984). Essentially, the court thought inquiry should focus on whether an employee's duties could be viewed ''as work that significantly informs or influences the shaping of our nation's laws'' or whether an employee's duties were ''peculiar to a Congress member's work qua legislator,'' ''intimately cognate . . . to the legislative process.'' Id., 931. Under that standard, the clause did not apply to the employee. In *Browning* v. *Clerk, U.S. House of Representatives,* 789 F.2d 923 (D.C. Cir.), *cert. den.,* 479 U.S. 996 (1986), the discharge of an Official Reporter for the House of Representatives was challenged. The court held the congressional defendants to be immune under the speech or debate clause. The standard was ''whether the employee's duties were *directly related to the due functioning of the legislative process.*'' Id., 929 (emphasis in original). If the employee's duties are ''such that they are directly assisting members of Congress in the 'discharge of their functions,' personnel decisions affecting them are correspondingly legislative and shielded from judicial scrutiny.'' Ibid.

Requiring reconsideration of this developing case law, however, is *Forrester* v. *White,* 484 U.S. 219 (1988). The case unanimously held that a state court judge did not have judicial immunity in a suit for damages brought by a probation officer whom he had fired. The Court explained that in determining whether immunity attaches to a particular official action it applies a ''functional'' approach. ''Under that approach, we examine the nature of the functions with which a particular official or class of officials has been lawfully entrusted, and we seek to evaluate the effect that exposure to particular forms of liability would likely have on the appropriate exercise of those functions. Officials who seek exemption from personal liability have the burden of showing that such an exemption is justified by overriding considerations of public policy . . .'' Id., 224. Thus, it is ''the nature of the function performed, not the identity of the actor who performed it, that inform[s] our immunity analysis.'' Id., 229.

Judges have absolute immunity from liability for the performance of judicial functions. *Bradley* v. *Fisher,* 13 Wall. (80 U.S.) 335 (1872); *Pierson* v. *Ray,* 386 U.S. 547 (1967); *Stump* v. *Sparkman,* 435 U.S. 349 (1978). But when a judge acts in an administrative or a legislative capacity, he enjoys no judicial immunity. In the Court's view, ''Judge White was acting in an administrative capacity when he demoted and discharged Forrester. Those acts . . . may have been quite important in providing the necessary conditions of a sound adjudicative system. The decisions at issue, however, were not themselves judicial or adjudicative.'' Supra, 484 U.S., 229. Employment decisions, like many others, the Court continued, ''are often crucial to the efficient operation of public institutions,'' ibid., yet they are not entitled to absolute immunity, ''even though they may be essential to the very functioning of the courts * * *.'' Id., 228.

Forrester v. *White* was, of course, not a case governed by the speech or debate clause; it was brought under 42 U.S.C. §1983, which affords persons who have been denied their constitutional rights under color of state law a cause of action against state and local defendants. And, yet, the Court has, when passing on questions of legislative immunity in §1983 actions, looked to speech and debate principles, emphasizing that the clause itself is but a part of the much larger common-law principle of legislative freedom of speech. *Tenney* v. *Brandhove,* supra, 341 U.S., 372–379; *Supreme Court of Virginia* v. *Consumers Union,* 446 U.S. 719, 732 (1980). Indeed, the Court has said that ''we generally have equated the legislative immunity to which state legislators are entitled under §1983 to that accorded Congressmen under the Constitution.'' Id., 733. See also *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 502–503, 505, 506 (1975); *Dombrowski* v. *Eastland,* 387 U.S. 82, 84–85; *United States* v. *Johnson,* supra, 383 U.S., 180. If, therefore, *Forrester* v. *White* bears on the question of congressional immunity for employment decisions, it strongly suggests that for such decisions Members of Congress do not have immunity.

The D.C. Circuit in *Gross* v. *Winter,* 876 F.2d 165 (D.C.Cir. 1989), has read *Forrester* to apply to legislative immunity and has held that a legislator's employment decisions are not entitled to legislative immunity. *Gross,* too, is a §1983 case brought against a member of the City Council of the District of Columbia, but the court took the two previous decisions in the Circuit, *Walker* and *Browning,* to have stated the doctrinal standards, which must be modified in the light of *Forrester.* See also *Rateree* v. *Rockett,* 852 F.2d 946, 950 (7th Cir. 1988)(dictum). The *Gross* court, however, reserved the question ''whether special considerations applicable to members of Congress, such as separation-of-powers concerns, continue to justify the absolute immunity standard for congressional personnel decisions adopted in *Browning.*'' Supra, 876 F.2d, 172.

Ambiguity on this point clouds any analysis of *Forrester.* The Court observes at one point that it follows its ''functional'' approach in all cases, save for those that are governed ''by express constitutional or statutory enactment.'' *Forrester* v. *White,* supra, 484 U.S., 224. Paramount of the express constitutional provisions, it then notes, is the legislative immunity created by the speech or debate clause. ''Even here, however, the Court has been careful not to extend the scope of the protection further than its purposes require.'' Ibid. The Court then refers to *Davis* v. *Passman,* supra, for its holding that except for speech or debate clause immunity, a Member of Congress may be liable for his employment decisions. Ibid., But when, later in the opinion, the Court observed that, no less than a judge's ability to hire and fire employees as bearing on his ability to carry out his judicial functions is the similar ability of executive branch officials to hire and fire, and executive officials have no such immunity as the judge was claiming, the Court made no reference at all to employment decisions by legislators. Id., 229.

Some conflicting lines of precedent thus exist. Staffs of Members are so essential to the functioning of the legislative process that under *Gravel* they are entitled to the same speech or debate immunity that the Members have. This suggests that the clause could very well protect the Members' discretion in choosing to hire or to keep or not keep any person they want on their staffs. At the same time, the *Forrester* decision forecloses this mode of analysis for judges (as well as those executive officers with some measure of immunity). It is simply not relevant that the employee or aide is essential to the execution of the official's function or crucial to the efficient operation of his office. What is relevant is whether the function for which the judge is being questioned is judicial or adjudicative; if it is administrative, or legislative, judicial immunity does not attach.

Legislative immunity could be similarly analyzed. When the Member is engaged in legislative activity, he and his assisting aides are entitled to speech or debate immunity; when the Member, or an aide deputized by him, is engaged in an administrative function, such as hiring or firing staff, neither has speech or debate immunity. The conceptual difficulty is that in being ''careful not to extend the scope of the protection

[1] In *Bivens* v. *Six Unknown Named Agents of the Bureau of Narcotics,* 403 U.S. 388 (1971), the Court held that a person, alleging violation of his Fourth Amendment search and seizure protection, in the absence of a statutory remedial cause of action, could sue the individual officers for damages under an implied cause of action premised directly upon the constitutional provision in question. *Davis* v. *Passman* extended this ruling, by basing the implication of a cause of action upon the Fifth Amendment's due process clause, which contains an equal protection component, when the Federal Government or someone acting under its authority performs an allegedly discriminatory act.

[2] The case was settled after the Supreme Court remanded it for further proceedings, and no speech or debate clause resolution was reached.

[of the speech or debate clause] further than its purposes require,'' *Forrester,* 484 U.S., 224 the Court has construed the application of the clause to depend upon the connection of the acts challenged to the legislative process. In the context of *Gravel,* the ''purposes'' served by the clause required coverage of aides. But hiring and firing an aide is not legislating, anymore than discharging the probation officer was a judicial act of Judge White. A tension exists here, but on the strength of *Forrester,* a persuasive argument can be made that the speech or debate clause does not encompass employment decisions.

In any event, certain employees of the institution, such as the manager of the House of Representatives restaurant involved in *Walker* v. *Jones,* supra, have only a tenuous relationship to the legislative function. Under the precedents preceding *Forrester,* it appears that Congress could have provided a judicial remedy for them. Similarly, not all personal aides of Members assist in the legislative function as explicated by the Court. Some deal with constituent relations; some do casework and other activities with the executive branch and the like. Even if, therefore, employment decisions concerning aides assisting the Member exclusively in the legislative function were immune, the same decisions with respect to other employees would not be. Difficulties of application, it is safe to say, would be great.

Certainly, an express decision made legislatively by Congress that employment decisions of Members can be placed outside coverage of the speech or debate clause would be a determination by the body most familiar with the issue that should be entitled to special deference by the courts when they are called upon to pass on the question of the validity of congressional coverage under an appropriate statute.

May Congress Waive Speech or Debate Immunity From Suit?

Even if it is eventually determined, either by Congress or by the courts, that employment decisions are encompassed by the clause, the validity of judicial cognizance of questions arising from the relationship could still be defended on the basis that Congress may waive the protection of the clause by an express provision of law and give jurisdiction of an issue to the courts. Absent clearly applicable case law, we can, at this point, but speculate about how the Supreme Court might eventually resolve the question.

Twice now, the Court has reserved the issue, in the context of criminal prosecutions of Members. ''[W]ithout intimating any view thereon, we expressly leave open for consideration when the case arises a prosecution which * * * is founded upon a narrowly drawn statute passed by Congress in the exercise of its legislative power to regulate the conduct of its members.'' *Johnson,* supra, 383 U.S., 185. See also *Brewster,* supra, 408 U.S., 529 n. 18. But in the latter case, three dissenters reached the issue and would have ruled that Congress may not authorize the courts to try Members for conduct protected by the speech or debate clause. Id., 529, 540–549 (Justices Brennan and Douglas), 551, 562–563 (Justices White, Brennan, and Douglas). Both *Johnson* and *Brewster* were criminal cases, the paradigmatic kind of executive invasion of legislative privilege with which the parliamentary proponents of legislative integrity and the Framers were concerned. It may be that with respect to civil cases, especially civil cases in which the plaintiff is a private citizen, the concern is of a lesser nature, see *Gross* v. *Winter,* supra, 876 F.2d, 172–173 n. 11, but the clause clearly applies to both criminal and civil suits, and the Court, with one exception not relevant in this context, has indicated no difference of treatment based on the nature of the cause of action. See *Supreme Court of Virginia,* supra, 446 U.S., 733 (noting *United States* v. *Gillock,* 445 U.S. 360 (1980)).

Facially, the clause seems to make jurisdiction over Members for conduct covered by the clause exclusive with the respective House of each Member. That is, ''for any Speech or Debate in either House, they shall not be questioned *in any other Place.*'' That exclusivity is the necessary conclusion from the plain language of the clause is hardly compelling. It merits mention that Congress is given by the Constitution, Article I, §5, cl 2, the power to punish its Members for disorderly behavior and even to expel a Member by a two-thirds vote of the respective House. This power to punish is a complementary authority to speech or debate immunity, inasmuch as the drive of the English Parliament for legislative freedom included the successful assertion of the power to punish members for offenses for which they were immune to executive prosecution. Colonial and state legislatures in this country and the Federal Congress all claimed the same power as part of the same consideration. See *Anderson* v. *Dunn,* 6 Wheat. (19 U.S.) 204 (1821); *Watkins* v. *United States,* 354 U.S. 178, 188–199 (1957); *United States* v. *Brown,* 381 U.S. 437, 441–446 (1965); *Powell* v. *McCormack,* supra, 395 U.S., 522–548. As the Court has observed, Congress' power to punish Members, even to expulsion, is quite broad, extending ''to all cases where the offence is such as in the judgment of the Senate [and, no doubt, the House of Representatives] is inconsistent with the trust and duty of a member.'' *In re Chapman,* 166 U.S. 661, 669–670 (1897). In exercising its powers under this grant of authority, the Senate or the House of Representatives ''acts as a judicial tribunal'' and its powers to adjudge ''is in no wise inferior under like circumstances to that exercised by a court of justice,'' *Barry* v. *United States ex rel. Cunningham,* 279 U.S. 597, 616 (1929).

In *Burton* v. *United States,* 202 U.S. 344 (1906), a Senator convicted for accepting money to influence an executive department, conduct not protected by the speech or debate clause, argued that the statute under which he was charged conflicted with the provision of Article I, §5, cls. 1 & 2, making each House the sole judge of the qualifications of its Members and giving each House the authority to punish its Members for disorderly behavior. Cf. *Kilbourn* v. *Thompson,* supra, 103 U.S., 183 (The Constitution ''is not wholly silent as to the authority of the *separate* branches of Congress to inflict punishment. It authorizes *each* House to punish *its own members.*'') (emphasis added). Rejecting the contention, the Court observed: ''While the framers of the Constitution intended that each Department should keep within its appointed sphere of public action, it was never contemplated that the authority of the Senate to admit to a seat in its body one who had been duly elected as a Senator, or its power to expel him after being admitted, should, in any degree, limit or restrict the authority of Congress to enact such statutes, not forbidden by the Constitution, as the public interests required for carrying into effect the powers granted to it. In order to promote the efficiency of the public service and enforce integrity in the conduct of such public affairs as are committed to the several Departments, Congress, having a choice of means, may prescribe such regulations to those ends as its wisdom may suggest, if they be not forbidden by the fundamental law.'' Id., 202 U.S., 367. That is, Congress, though the Senate had the power to punish the Member itself, could enact legislation providing for his trial in the courts of the United States.

Similarly, though each House has the power, pursuant to the legislative power of inquiry, to punish contempts by witnesses before it or one of its committees, *Anderson* v. *Dunn,* supra; *Marshall* v. *Gordon,* 243 U.S. 521 (1917); *McGrain* v. *Daugherty,* 273 U.S. 135 (1927); *Jurney* v. *MacCracken,* 294 U.S. 125 (1935), it may also provide for trial and punishment before the federal courts. In 1857, because imprisonment could extend no further than the adjournment of the House which ordered it and because contempt trials before the bar of the charging House were time consuming, Congress enacted a statute providing for criminal process in the federal courts with prescribed penalties for contempt of Congress. Act of January 24, 1857, 11 Stat. 155. With only minor modifications, this statute is now 2 U.S.C. §192.

Holding that the purpose of this statute is merely supplementary of the power retained by Congress, the Supreme Court has rejected all constitutional challenges to it. ''We grant that Congress could not divest itself, or either of its Houses, of the essential and inherent power to punish for contempt, in cases to which the power of either House properly extended; but because Congress, by the Act of 1857, sought to aid each of the Houses in the discharge of its constitutional functions, it does not follow that any delegation of the power in each to punish for contempt was involved.'' *In re Chapman,* supra, 166 U.S., 671–672.

The lesson of these cases is that Congress' power under Article I, §8, cl. 18, to enact all laws which are ''necessary and proper'' to execute its powers, includes the power to enact laws which implement and execute the powers of each House to govern itself. Congress regularly, pursuant to its authority to ''determine the Rules of its Proceedings,'' enacts legislation binding both Houses to observance of procedural and substantive matters. The Legislative Reorganization Acts of 1946 and 1970, 60 Stat. 834, 84 Stat. 1175, contained extensive provisions affecting one House or the other as well as both bodies, and the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, 99 Stat. 1037, made similar extensive provisions. Of course, each House retained the power to make unilateral changes, pursuant to the authorization to determine the rules of proceedings, but as to the power to enact legislation for both Houses there was no doubt.

Establishing that there is no necessary exclusivity simply because the Constitution imposes a power or duty on Congress, or on one House thereof, merely addresses one half of the equation, however. The provisions discussed above involved delegations or authorizations to each House, whereas the speech or debate clause appears on its face to be directed to the protection of the *individual* Senator or Representative. It has been observed by the Court that ''[t]he immunities of the Speech or Debate Clause were not written into the Constitution simply for the personal or private benefit of Members of Congress, but to protect the integrity of the legislative process by insuring the independence of individual legislators.'' *United States* v. *Brewster,* supra, 408 U.S., 507. See also *Kilbourn* v. *Thompson,* supra, 103 U.S., 203.

Practice by the House of Representatives considers the response of a Member to a subpoena or other legal process to raise a question related to the dignity of the House and the integrity of its proceedings. ''The rules and precedents of the House require that no Member, official, staff member, or employee of the House may, either voluntarily or in obedience to a subpena, testify regarding official functions, documents, or activities of the House without the consent of the House

being first obtained.'' 3 DESCHLER'S PRECEDENTS of the UNITED STATES HOUSE of REPRESENTATIVES, H. Doc. 94–661 (1979), ch. 11, §14. See *In re Grand Jury Investigation (Eilberg),* 587 F.2d 589, 592–593 (3d Cir. 1978) (House acquiescence to grand jury subpoena). This practice reflects the institutional interest of the House in the protection of the clause and might, without more, support enactment of legislation based on Congress' necessary and proper power.

Personal interest, a purely individual interest divorced from the institutional interest, in the protection of the clause has also been recognized, though. In *Coffin,* v. *Coffin,* 4 Mass. 1, 27 (1808), speaking of the Massachusetts equivalent of the federal clause, Chief Justice Parsons said: ''In considering this article, it appears to me that the privilege secured by it is not so much the privilege of the house as an organized body, as of each individual member composing it, who is entitled to this privilege, even against the declared will of the house. For he does not hold this privilege at the pleasure of the house; but derives it from the will of the people, expressed in the constitution, which is paramount to the will of either or both branches of the legisalture. In this respect the privilege here secured resembles other privileges attached to each member by another part of the constitution, by which he is exempted from arrests on *mesne* (or original) process, during his going to, returning from, or attending the general court. Of these privileges, thus secured to each member, he cannot be deprived, by a resolve of the house, or by an act of the legislature.'' The significance of this particular case is that the Supreme Court has pronounced it to be perhaps ''the most authoritative case in this country on the construction of the provision in regard to freedom of debate in legislative bodies * * *.'' *Kilbourn* v. *Thompson,* supra, 103 U.S., 204. See also *Tenney* v. *Brandhove,* supra, 341 U.S., 373–374; *United States* v. *Brewster,* supra, 408 U.S., 513–517. While the Court has quoted these lines in a case only tangentially, if that, relevant to the question, *Spallone* v. *United States,* 110 S.Ct. 625, 634 (1990), its explanation of the reasons underlining the clause gives weight to the personal protection accorded individual Members as well as to the institutional interest. *Brewster,* supra, 408 U.S. 501; *Tenney* v. *Brandhove,* supra, 341 U.S., 372–373.

To be sure, there were instances in English history in which Parliament contrived to deny the protection of the privilege to Members. For example, John Wilkes was denied his parliamentary privilege and thereafter convicted in court for seditious libel, *Powell* v. *McCormack,* supra, 395 U.S., 527–531, but this case was such a *cause celebre,* here as well in England, that adoption of its particular approach silently into the speech or debate clause is unlikely, to say the least.

It thus must be concluded that the power of Congress to waive the clause by expressly making Members subject to judicial process for covered conduct is unsettled. It is not, however, foreclosed as a possibility, inasmuch as the exclusivity argument has not been accepted in other contexts involving Article I, §§5 and 6. But the function of the clause as a protection of institutional interests through a protection of the individual legislators personal rights does weigh considerably against the possibility of institutional waiver. If Congress should enact a statute, making the determination that it can waive, again the fact that the body for whom the protections of the clause were intended has reasoned that its institutional interests would not be adversely affected by judicial exercise of the power would doubtlessly be given substantial deference by the courts. That the clause protects the individual interests of each Member, even though in the long run the protection is to further the institutional interest of the legislative body, would perhaps require some balancing by the courts. Acceptance of such a statute would appear, however, at this stage, to be problematic.

One should note, however, that when the employment decision is that of either the House of Representatives or the Senate, as an institution, as in the employment of restaurant workers elevator operators, and the like, or even of employees more closely associated with the legislative process, such as the Official Reporter before the court in *Browning,* the ability to waive immunity against the institution might be more easily answered.

SEPARATION OF POWERS

Additionally, a general separation of powers issue may be independently raised. It is true that in *Davis* v. *Passman,* supra, 442 U.S., 228–229 n. 11, the Court stated that unless the speech or debate clause protected Members, they were not protected generally by the separation of powers doctrine. The *Gross* v. *Winter* court did, however, pause to consider whether an absolute immunity for Members making employment decisions might be justified under the doctrine of separation of powers, regardless of the inapplicability of the speech or debate clause. Supra, 876 F.2d, 172.

Briefly, the Court has adopted in its separation of powers decision-making a standard that evaluates whether there is encroachment and aggrandizement. That is, does the action of one branch toward another threaten to ''impermissibly undermine'' the powers of the other or threaten to ''disrupt the proper balance between the coordinate branches [by] prevent[ing] the [branch acted upon] from accomplishing its constitutionally assigned functions.'' *Morrison* v. *Olson,* 487 U.S. 654, 693–696 (1988); *Mistretta* v. *United States,* 488 U.S. 361, 380–384 (1989). See also *United States* v. *Nixon,* 418 U.S. 683, 713 (1974); *Nixon* v. *Administrator of General Services,* 433 U.S. 425, 422–443 (1977). Without intending to treat the issue superficially, we must observe that Congress has given the federal courts cognizance of employment discrimination in the executive branch of the Federal Government, and much litigation has ensued without suggestions that this extension of employment discrimination law has upset the balance of the separation of powers. Therefore, by parity of concern, it would seem evident that if the speech or debate clause is no impediment to judicial causes of action for the employees of congressional Members, the doctrine of separation of powers will present no barrier.

CONGRESSIONAL INSTRUMENTALITIES

Whether a constitutional problem would arise from application of employment discrimination laws, with judicial remedies, to the instrumentalities of Congress[3] is a question that may be quickly disposed of. In the course of its legislative provision of remedies against employment discrimination, beginning in 1972, Congress has extended to the Library of Congress and to those units in the legislative branch which have positions in the competitive service the guarantees and judicial remedies of title VII of the Civil Rights Act of 1964 (as amended in 1972), 42 U.S.C. §2000e-16(b), and the Age Discrimination in Employment Act of 1967 (as amended in 1978), 29 U.S.C. §633a(a). The General Accounting Office, which is a legislative branch agency for some purposes and an executive branch agency for others,[4] is covered by these two Acts and by the Rehabilitation Act of 1973.[5] However, the Americans With Disabilities Act of July 26, 1990, P.L. 101–336, §509(c), 104 Stat. 375, in applying the Act to these instrumentalities, provided for administrative enforcement by the agencies only.[6]

To be sure, some employees of some of these agencies in working with Members and the staffs of Members certainly participate in the legislative process in the sense of the term that the Supreme Court has used in interpreting the speech or debate clause. Employees of the Congressional Research Service of the Library of Congress and of the Congressional Budget Office do so participate, and there is authority that for actions CRS employees, for instance, take in the performance of the legislative function they are immune under the speech or debate clause. See *Webser* v. *Sun Co., Inc.,* 561 F.Supp. 1184 (D.D.C. 1983), *vacated and remanded,* 731 F.2d 1 (D.C.Cir. 1984), *on further appeal,* 790 F.2d F.2d 157 (D.C.Cir. 1986). Other members of the Library of Congress staff perform other functions not related to the legislative process. See, e.g., *Eltra Corp.* v. *Ringer,* 579 F.2d 294, 298–301 (4th Cir. 1978)(position of Register of Copyrights). Similarly, it is questionable that, for instance, employees of the United States Botanic Garden participate in the legislative function as defined by the Supreme Court.

If Congress should adopt the reasoning of an earlier portion of the memorandum to the effect that employment decisions are administrative functions not so inextricably tied to the legislative function as to implicate the speech or debate clause, the issue is easily settled. But even if the personal staffs of Members, or at least the legislative affairs employees of the Members' personal staffs, are determined to be covered by the speech or debate clause that they may not be authorized to seek judicial relief for proscribed practices, it does not follow that the employees of congressional instrumentalities are likewise covered. Those who do not assist Members in the carrying out of their legislative responsibilities would seem clearly to be outside the scope of the clause. Those who do assist Members in the carrying out of their legislative responsibilities may well be immune for their actions while so assisting, but what is the legislative function of the employment decisions of the agencies who hire, fire, and oversee their employment that gives those decisions legislative immunity?

A more compelling reason exists for doubting that the clause would require that employees of these agencies be remitted to purely administrative remedies. The speech or debate clause provides that for their performance of their legislative functions the Members of Congress are not to be questioned in any other place. A challenge to an agency decision respecting the employment rights of an employee would be a suit against the agency. The Library of Congress or the Government Printing Office would be sued, not a Member or Members, not the House of Representatives or the Senate. There is no facile attempt at word play in this distinction.

[3] For purposes of this memorandum, the instrumentalities of Congress include the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden. Americans With Disabilities Act of July 26, 1990, P.L. 101–336, §509(c)(4), 104 Stat. 375.

[4] See *Bowsher* v. *Synar,* 478 U.S. 714 (1986).

[5] These Acts apply to ''executive agencies'' as defined in 5 U.S.C. §105, which specifies that, for purposes of title 5, ''executive agency'' includes an ''independent establishment,'' which in turn is defined by 5 U.S.C. §104(2) to include GAO.

[6] The proposed Civil Rights Act of 1990, S. 2104, §16(c), 101st Congress, would have limited enforcement of the Act and of Title VII to administrative enforcement within each agency.

Thus, in *Kilbourn* v. *Thompson*, supra, although Congress could not be sued for ordering the arrest of Kilbourn, nor could any Member be sued for voting for the resolution, the Sergeant at Arms who carried out the legislative directive to take Kilbourn into custody was suable and liable. In *Doe* v. *McMillan*, supra, neither the Members nor the committee staff who carried out the investigation and the subsequent preparation and publication of the report on the investigation could be sued, but the two officers, the Public Printer and the Superintendent of Documents, who carried out the congressional directive to distribute the report outside Congress were suable. In *Powell* v. *McCormack*, supra, 395 U.S., 503–506, the Court held that it was proper to name several officers and employees of the House of Representatives as defendants in order that the act of the House in excluding the Member-elect could be challenged.

That Members of Congress are immune for the act of voting for a measure that may be unconstitutional does not mean that the enacted measure may not be challenged in court, such as by suing one charged with its enforcement for a declaration of invalidity. Congressional actions may be challenged, even if the congressional actors may not be. See e.g., *Powell* v. *McCormack*, supra. Thus, it would seem to follow that the actions of a legislative agency proceeding under general congressional direction could be challenged without implicating the strictures of the speech or debate clause. At the least, with the existence of an enacted policy against employment discrimination, the employing agency would, at the least, be acting *ultra vires* were it to make decisions on the prohibited grounds.

CONCLUSION

First, application to Congress of the employment protection provisions of federal civil rights laws, at least in the context of authorizing judicial remedies, could raise problems under the speech or debate clause. Under one possible analysis, some employees would be sufficiently removed from the legislative process so that decisions about them may well not implicate the clause at all, whereas other employees are so integral to the legislative process that their employment would be covered. But if the Supreme Court's *Forrester* decision provides the appropriate mode of analysis, an employment decision of a Member with respect to all staff would be an administrative decision not entitled to speech or debate clause protection. Especially if Congress should conclude that *Forrester* is the correct analysis, in the course of extending the laws, it seems likely that the courts may well defer to that determination.

Second, if it is concluded that the speech or debate clause applies to the employment decisions of Members, an argument exists that Congress may expressly waive the protection and subject Members to suit. Little actual authority exists for the proposition, but there is little on the other side either. The matter is largely one of deductions from basic principles and analogies. But the argument from general principles in favor of waiver is significantly weaker than the argument that the clause does not apply in the first place.

Third, it would appear that regardless of the conclusion with respect to the personal staffs of Members, the employees of a number of agencies associated with Congress would be sufficiently removed from the legislative process that the clause would not apply. With respect to other such employees, who are more involved in the legislative process, the fact that the employment decisions are made by the agencies themselves and not by Congress or an individual Member could bring the decisions outside the scope of the clause.

JOHNNY H. KILLIAN,
Senior Specialist,
American Constitutional Law.

□ 1140

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

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

Mr. Speaker, I rise today with mixed feelings. On the one hand, I want to tell the House I am pleased that the House is moving forward on legislation we have been working on for many years only to see it thwarted, frankly, in the Senate by Republican politics. Yet today in a bipartisan fashion we are on the floor in what will hopefully be the final stages in this legislative drama.

However, the legislation before us today is new to the House. Although this bill has been the subject of extensive debate in the Senate, it has not had one hearing in the U.S. House of Representatives. The American public, I am told today in a 1-minute, voted for reform, voted to open up this institution, and voted for democratization in debate and extensive analysis of programs. There was not one hearing in the House of Representatives during the 104th Congress on this bill.

It was first brought up on this floor just 13 days ago in a different form under a completely closed rule. Today a new version is before us, with little if any opportunity for review and no chance for amendment. If this is the new wind blowing through the House of Representatives, then it is a wind that blows little good.

H.R. 1 was the first piece of legislation to move through the new House of Representatives. It did so under a process in which no Member could suggest changes. Today it is back, as I have said, in a new version. It is again brought to the floor of this House under a completely closed process.

This should be, in my opinion, Mr. Speaker, a day of pride for this House. It should be a day of joy, but instead it is a day of sadness for a Congress that started out with such anticipation of a new day. Instead, on day 6 of the 104th Congress we can clearly declare power and muscle are the rule of order of this House, not the rule of democracy.

Having said that, having expressed the concern of this side of the aisle about the process, let me talk about the substance. S. 2, as I said, will finally bring into place a process which many of us fought for for a long time. It will provide protection and anti-discrimination laws to congressional employees and employees of other legislative-branch agencies. My good friend, the gentleman from Connecticut [Mr. SHAYS], a Republican, has been a leader in this effort with Mr. SWETT, a Democrat from New Hampshire. Mr. SHAYS is to be commended for his tenacity, for his courage in the light of stiff opposition from time to time, and for his tireless efforts in bringing this bill before us today. He has performed a service for this House and for this country.

I believe that S. 2 is an improvement, very frankly, over the House bill. S. 2 spells out the rights, protections, remedies, and procedures provided to congressional employees. The bill establishes an independent nonpartisan Office of Compliance to develop the regulations applying the laws to Congress and to resolve complaints. It will be composed of a five-member board of directors whose board is selected on a bipartisan, bicameral basis similar to the old rules for the House administrative officer. Former Members of Congress and current staff are prohibited from serving on the board. No Member of the House or Senate nor any House or Senate employee can serve as hearing officer on a complaint.

Most importantly, any party aggrieved by a board decision can seek judicial review by the U.S. Court of Appeals for the Federal Circuit, and employees can bring suit directly in Federal district court after mediation and counseling if that is allowed under the applicable statute. This is an important new right for congressional employees, and I am pleased that we are finally moving forward on this effort.

□ 1150

This is an important new right for congressional employees. I am pleased that we are finally moving forward on this effort.

As I have said on the floor, Mr. Speaker, many times, of all the talk of reform, of all the speechifying, the one reform that my constituents, and I gainsay every representative's constituents, have always asked for, and the one reform that I have always thought was justified and real, this is it, covering Congress by the same laws we ask others to live under.

Congress should live under the laws it passes, and, my colleagues, in most cases, civil rights, the ADA, fair labor standards, family and medical leave, to name a few, it has, let me repeat that, this House has lived under those statutes. S. 2, however, improves congressional coverage and provides an outside remedy for employees, a critical addition to present protections.

This is a change whose time has not only come but is overdue. I am proud to be on the floor today with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from California [Mr. THOMAS] and others, and the gentleman from Pennsylvania [Mr. GOODLING], Members on our side. I regret that Mr. Sweet is not here because he fought very hard. And through his leadership and that of the gentleman from Connecticut [Mr. SHAYS], this similar legislation passed the House, as I said earlier, and was killed in the Senate.

I would urge today my colleagues to support this legislation in spite of the heavy-handed procedural railroad on

which this bill comes to the floor today.

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

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

The gentleman from Maryland indicates that the bill that we have before us has not had a single hearing on the House side. Yet he commends its content to be superior than the bill that we examined on the House side.

The chairman of the Committee on Economic and Educational Opportunities lamented the fact that it has taken us so long to get here. I think it might be useful for a minute or two to visit the chronology of how we got here today.

Way back on July 28, 1994, the Committee on House Administration voted 19 to 0 to pass essentially what we have in front of us onto the House, with the hope that in July, having moved out of committee, by the end of the second session of the 103d Congress, this would have passed the House and the Senate and moved to the President for his signature.

As Members will recall, very little went through the entire legislative process in the 103d Congress, and this is one of them.

It is true that on August 10, the House voted 427 to 4 to adopt what is essentially in the measure that we have today. There were four Members of the minority, then the majority, who voted against it. Having sent that position over to the Senate and the Senate's failure to consider the position, on October 7, the House decided to take it upon itself to impose the structure of what would have been legislation on the House through the rules process.

At that time the vote was 348 to 3. The three votes in opposition to the measure were clearly not substantive opposition. The Members on our side of the aisle were in fact protesting the failure of the then majority to move any significant reforms in the 103d Congress. Notwithstanding that, we imposed this on ourselves through the House rules.

The only substantive difference in S. 2 from H.R. 1, I believe, is the addition of the Veterans Reemployment Act to the list of bills under which Congress will now operate. In addition to that, we were able to work out the very real concerns of the Senate over a single shared structure so that the Office of Compliance would fit the needs of the House and the Senate with our different size and procedures, history and tradition. That has been resolved in this bill.

So we stand on the brink of living up to what this majority said we were going to do in the contract and on January 4.

I think it is interesting to note that this House voted out of committee, on July 28, 1994, in essence this measure. On August 10, 1994, it was voted out of the House and nothing happened. In this Congress, in the 104th Congress, Republicans and Democrats joining together on the opening day of the session, 429 to 0, passed this measure. And then here today, despite the rhetoric, I think Members will find the votes will once again be overwhelmingly in favor of Congress placing itself under the laws that the rest of the Nation has to live with.

We will do it in a timeframe that is certainly appropriate. The timeframe should have been honored in the 103d. The then majority could not deliver. The timeframe is being honored in the 104th, and the current majority will deliver.

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

Mr. HOYER, Mr. Speaker, just to review history for 1 second, this legislation passed the House in August 1993. It was because of Republican opposition to procedure in the Senate that it failed to go forward.

Mr. Speaker, I yield 3 minutes and 30 seconds to my good friend, the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Speaker, this is an important bill, and I am proud to be a cosponsor of this bill as it passes the House of Representatives today. Although I am happy that the bill is passing, because I think it sets an important precedent, at the same time it sets a very embarrassing and disappointing precedent. Let me explain.

When this bill was considered by the Congress in the 103d Congress, it included not only the language that we have in the bill today, but it also prohibited Members of the House of Representatives from using frequent-flier miles that they have accrued for official use, prohibited them from being used for personal use. This is the type of reform that Americans think is common sense. Of course, no Member of Congress should be able to use the miles that he or she has accrued with taxpayer dollars, be allowed to accrue those miles and use them for personal use.

When it passed the 103d Congress, no one batted an eyelash. No calls of germaneness were made. It was included in the provisions of the bill. But when we got to the floor in the 104th Congress, there was a gag rule in effect. This provision, which was included in the bill last year, was not included this year. It was gagged, and we were not permitted to bring it as an amendment.

The Senate looked at it a little differently. And the Senate decided that it made sense. It made sense for the Senate to prohibit its Members from using frequent-flier miles for personal use. But out of respect for this Chamber, it decided that it would not impose the same law on the House of Representatives.

So the irony we are faced with today is that we have a law based on the premise, a good premise, which I support, which says that any law that applies to members of the general population should also apply to Members of Congress.

That is a step forward, But at the same time, for the first time that I can discover in the history of this country, we are going to pass a law that says that a law that applies to the Members of the U.S. Senate does not apply to the Members of the House of Representatives.

Why are we doing that? Why do we have a higher standard for the Members of the U.S. Senate than we do for the Members of the U.S. House of Representatives?

I would argue that the reason we do is because the new leadership does not want to have a higher standard for the Members of the House of Representatives. In fact, the new Speaker has labeled this reform a Mickey Mouse reform, a Mickey Mouse reform to save taxpayers hundreds of thousands of dollars. Well, I think the Speaker is correct in drawing on Walt Disney for his analogy, but I think a more apt character to draw on would be Goofy, because it is simply goofy to argue that Members of the House of Representatives can use taxpayer-funded travel to accrue frequent-flier miles and use them for personal vacations to Florida, Hawaii, France, anywhere in the world.

□ 1200

The very first piece of legislation that will become law after the Republicans have gained control of the House in 40 years is going to set a lower standard of conduct for the Members of the House of Representatives than the U.S. Senate. I will vote for this bill because I agree with the underlying premise of the main portion of the bill, but it is embarrassing and disappointing with the precedent we are setting today.

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

Mr. Speaker, I would tell the gentleman from Wisconsin [Mr. BARRETT] that we are in the process of reviewing all of the rules and regulations in the House of Representatives, and at the end of the last Congress we committed to review all of them, including these.

Perhaps from a historical point of view the gentleman from Wisconsin also needs to know that rather than this being the first time in the history that the laws applied differently to the House and Senate, he needs to know that there was a period of time in which the actual compensation to Members of the Senate and the House was different under the law.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut [Mr. SHAYS], one Member who was more responsible than anyone in the House today for this being in front of us.

Mr. SHAYS. Mr. Speaker, I want to just say very clearly that this is no one person's bill. I mean that very sincerely, because in fact there are more

fingerprints on this bill from Members of both sides of the aisle.

I would like to take this time first to thank the gentleman from Maryland STENY HOYER, for stepping in and taking the place of Dick Swett, who was not returned to office, who has worked on the Democratic side with me working on the Republican side, on this issue, and to thank him and his staff for doing such an excellent job in helping to draft this legislation and the legislation that passed the House earlier in this session.

Also I would thank both the chairman of the Committee on Government Reform and Oversight and to the new empowerment committee, both the gentleman from California [Mr. THOMAS] and the gentleman from Pennsylvania [Mr. GOODLING], because they have been working on this issue for years and years and years.

Without their work, and particularly, with no disrespect to the Members, but their extraordinary staff, who have weighed in tremendously on this issue, have had an amazing contribution.

I see the gentleman from Massachusetts [Mr. FRANK], as well, who over a year ago said to me that he had a conversation with the former Speaker encouraging him to move forward with congressional accountability, and that, frankly, was the major movement that brought this bill forward. Without the effort of the gentleman from Massachusetts [Mr. FRANK], done behind the scenes, without a lot of credit, this bill also would not move forward, so I think I need to thank the prior Speaker, and thank the present Speaker for working on this issue.

In a summary form, and I would like to then just briefly touch on the concern of the gentleman from Wisconsin [Mr. BARRETT], because it is valid, I would like to just make the point that when we passed our House congressional accountability last year, the strength of the legislation was that we applied all of the laws we imposed on the private sector onto Congress, and that we applied all the instrumentalities that are part of what makes up Congress: the Library of Congress, the GAO, the Architect's Office, and so on. Additionally, very importantly, we gave people full access to the court, with all the rights of going to civil action, de novo review, as well as being able to have judicial review.

That was the strength of what we did. We also set up this Office of Compliance so that we dealt with the separation of powers, but gave this Office of Compliance independence.

The weakness in our bill, if there was a weakness, was that we did it by regulation, in that we asked the Office of Compliance to then get us under all the laws by regulation, rather than by law, even though in the end we saw we are under the law, but the actual process was going to be determined by the Office of Compliance through regulation. So the strength was all the laws, all the instrumentalities, full access to the court, but we did it by regulation.

The Senate last year passed legislation on congressional accountability, admittedly very late, and ultimately it never even had a debate on the floor of the Senate; but what they did was, they did not include all the laws, all the instrumentalities, or give full access to court in their legislation. That was the weakness of their legislation. The strength was they went directly to law.

So after this, the defeat, or actually the failure of the Senate to deal with this issue, Republicans and Democrats in both Chambers got together to say what could we do to get the strength of the Senate bill and the strength of the House bill, and we actually did what I think you have a sense of, what I have spoken to already.

We took all the laws, all the instrumentalities, full access to the court, the House version, took the language of the Senate going fully to law, rather than regulation, and put them together. That is the bill we have before us.

Mr. Speaker, this is a bill that clearly has the support of most Members of Congress. It is one of those odd occasions when the House and Senate get together, and instead of taking the weaknesses of their two bills, took the strengths of their two bills.

But addressing the point made by the gentleman from Wisconsin [Mr. BARRETT] about frequent flyer mileage, I am partly, if not totally, responsible for the fact that it is not part of this legislation, and it is not part of this legislation because frequent flyer is not connected to the issues that were central to the whole concept.

What applies to the private sector should apply to us, and frequent flyer did not match that test. It is an important issue. It is an issue that I think will be dealt with either by the House Oversight Committee, or actually by a law of Congress, and I believe the gentleman will be dealt with because of his tenacity and his conviction that it is important.

This day and age, in this Congress, as we go through this process, the gentleman will find, notwithstanding the opening day, there will be open rule. He will be able to offer this amendment countless times on germaneness, and I believe that it will be passed by this Chamber, if it is not dealt with sooner by one of the committees of Congress.

Frequent flyer should not be used to go on vacations. I totally agree with the gentleman. I have signed onto the gentleman's resolution and told him I agree with him. I understand his point on this legislation, because there appears to be certainly a contrast. The Senate has it in theirs and we do not have it in ours.

Mr. HOYER. Mr. Speaker, I yield 2½ minutes to the gentleman from Ohio [Mr. TRAFICIANT].

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

Mr. TRAFICANT. Mr. Speaker, I want to talk about some headlines we have not read dealing with security of Members of Congress and the Senate and the White House, able services provided by our Capitol Police.

Mr. Speaker, I want to stand in support of this bill, because for the first time we have an opportunity to treat our Capitol Police like every other Federal law enforcement agency, giving them the right to have a collective bargaining opportunity.

The morale in the department is a joke. There has been age discrimination, race discrimination, sex discrimination, and quite frankly, I brought it to the attention, time after time, of the former Democrat leadership, and they did nothing with it.

However, let me say this about this bill, it allows for a 2-year period before the Capitol Police is allowed to in fact bargain in good faith like this under the collective bargaining agreement. I plan to write to the Speaker, and I ask Members to join with me, that that be waived and the Capitol Police be treated like every other Federal law enforcement agency in our country.

This is an indictment on the Congress of the United States of America. I want to say again, think of the headlines we could have read that we have not read. Good men and women, not patronage positions anymore, but well-trained, who put their lives on the line every day and deal with some real security problems, have been treated as second-class citizens.

I am going to support this bill. I am going to write to the Speaker. I am gong to ask Members to join forces with me and sign on to that letter, that that 2-year period holding back that opportunity that is granted in this bill be waived, and there be an immediate implementation of that opportunity for the Capitol Police when this is enacted.

All this talk about the Senate, quite frankly, in the first Constitution the Senate was appointed by State legislators, and actually I thought it was better for the country. We would have had somebody looking out for the States' rights, and we would not have had a 50-percent fast track vote on GATT and NAFTA.

For all those concerned about the Senate, I agree with the gentleman from Connecticut [Mr. SHAYS], that I think we can take care of those inequities. I am sure that is not the intention of the gentleman from Connecticut and others.

I ask that Members support me in helping the Capitol Police. They have earned it. They have deserved it. I ask the gentleman from California [Mr. THOMAS] to give me a hand with that.

Mr. HOYER. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am pleased that we are moving forward with this bill, and I appreciate the generosity of the gentleman from Connecticut [Mr. SHAYS], who has been the major force behind it. I was glad to be able to work with him.

I was pleased that he also graciously mentioned, as I have said before, the former Speaker of this body, who did move it after he was persuaded that it was the right thing to do.

However, I am troubled by some aspects of it. This bill that we passed last year was totally bipartisan. The gentleman from Ohio [Mr. TRAFICANT] who preceded me talked about a problem in the bill.

I do not see any reason why the law enforcement people ought to have to wait 2 years. The problem is that we were not able to address it, because at no point has this bill been subject to amendment on the floor of the House. There is no reason for that.

□ 1210

We are told that we should compare the way the House is going to be run now with the way it was run.

This bill came to the floor in August of last year. As the gentleman from California pointed out, the bill passed the committee in July, it very soon thereafter came to the floor, and 14 amendments were made in order. Indeed, I know of no one who had an amendment who was turned away. Eight of those amendments allowed either exclusively or jointly Republican authors.

We had a bill that allowed 14 amendments and I know of no one who was turned down. This year it has twice come to the floor in a nonamendable fashion and it has flaws. One of those flaws is the frequent-flier mileage.

The gentleman from Connecticut says that it does not fit because this only applies to the private sector. But the private sector is not covered by the Freedom of Information Act. There is language in here that studies how to apply the Freedom of Information Act to Congress. I think we are going to find that it does not work. I am told by the gentleman from Maryland that was dropped. But it was in the bill when it came out of the house.

The fact is that the longer we delay on frequent-flier miles, the more Members of Congress will use frequent-flier miles in a way they should not do them and the taxpayer will be cheated of those frequent-flier miles.

The House voted on this last year. Because we did bring it forward in an open amendatory process, the gentlewoman's offering amendment was adopted.

There is no reason to allow this to continue, the frequent-flier abuse, other than an apparent quirk on the part of the Speaker.

Mr. HOYER. Mr. Speaker, I yield 1½ minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of this legislation. I introduced a bill a number of years ago called ''what's good for the goose is good for the gander'' which had exactly this same attitude toward it.

Let us talk, though, about the principle by which it comes which is of some concern. We are all delighted it is here, we are all going to vote for it.

There has been talk about muscle. I just wish there had been a little less muscle applied to this bill and a little more deliberation—it would have gotten to the same point probably almost as quickly—and a little more muscle last year when this bill passed the House, at least once, I believe twice, went over to the Senate where it died on Republican filibusters. So we could have, I think accommodated those needs.

I also regret, though, that when this bill came up on the House floor just a week ago, it was not made in order to allow an amendment to it or add the accompanying bill which has passed this House at least once, and I believe twice, which is lobby reform, to apply to Members of Congress the lobbying reform that is so important, as applying the rules concerning the private sector with employees.

Why could we have not also passed since it had already passed using the same principle that has been enunciated that if you took it up last year, you ought to be able to take it up without a hearing, ram it through this year, why could we have not taken up the lobbying reform bill in the same capacity? All those questions hang out there.

At any rate, I rise in strong support for this legislation.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Speaker, when the average American learns that Congress does not have to live under all of the laws and regulations that all of our citizens live under, they are appalled. They understand how difficult it is for a Congress to effectively legislate when they live isolated from the effects of the laws and the regulations that those laws produce.

At the first day of the last Congress, I submitted legislation that would apply to Congress all the laws and the regulations that they have applied to all of the rest of us and exempted themselves from. Several others submitted similar legislation. They were all combined in the Shays-Swett bill which passed the last Congress. Unfortunately, that died because of lack of action by the Senate.

So I was very pleased when at about 2 in the morning on the first long legislative day of this Congress that we passed that bill. We are now met today to discuss a bill from the Senate that embodies all of the essential features of the bill that we passed in the last Congress and again on that first long day of this Congress.

I am very pleased to rise in strong support of this bill. This is a great victory for the American people, because what it means is that from henceforth they are going to have a Congress that lives under the laws and the regulations that they passed, that all of the rest of the country has to live under, and the Congress is going to be much more effective in passing laws and in producing regulations through those laws when they have to live under all of the laws and regulations that they produce.

This bill does not do all that we need to do in reforming the Congress and producing congressional reliability but it certainly takes the first long, long step in the right direction.

I am very pleased today to rise in strong support of this legislation.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, one thing that a new Member is clear to do and that is to do her homework. I guess in doing my homework, even though just starting in the 104th Congress, I realize it was the Democratic Congress that raised this issue of congressional accountability for a number of terms, particularly in the last Congress, and I think it is very important to indicate how important this measure is but to indicate as well that the Democrats led out on this issue.

It is important to realize that we too must follow the laws of the land of the United States of America.

Calling the roll, the Fair Labor Standards Act, Title VII, the Americans With Disabilities Act, Age Discrimination, Family and Medical Leave, Occupational Safety and Health Act, Federal Labor Management Relations Act, Employee Polygraph Protection Act, Worker Adjustment and Retraining Notification.

As a local elected official there was no doubt that we had to comply with all those laws. They why not the U.S. Congress? I am certainly rising in support of this, but I ask clearly as we move toward making a determination by way of a vote that we too should be able to comply with the laws on frequent-flier miles.

I ask that we really raise that issue, that we realize that we must be truthful in what we do here in the U.S. Congress, and that we go all the way when we talk about congressional accountability.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I have a special interest in this bill as a former member of the Joint Committee on the Organization of Congress. I want to

commend the gentleman from Connecticut [Mr. SHAYS] for his tenacity on this bipartisan matter and to give the House credit for what it did last term in passing this bill and the Senate, finally, credit for catching up with the House.

Mr. Speaker, this bill, to be sure, affects Members. When I chaired the Equal Employment Opportunity Commission, what really bothered me was that thousands of employees here were also exempted, and that is really what the gravemen of this bill is. It should affect Members, but where the complaints are going to be filed most often are against staff who supervise others.

There is an important difference in this bill from legislation affecting the private sector. The Senate has removed the demographic section. I want Members to know that every private and public employer has to submit demographics on its employees. The House should remove this notion that it is exempt from our knowing whether or not we are in fact hiring fairly in committees.

Mr. HOYER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Speaker, I intend to vote for this bill, but the American people should note that there is nobody who has gotten on the floor today who has not expressed some reservation about the content of this bill. The reason for that is the process by which this bill is here. In that sense, it is business as usual and the American people ought to know that it is business as usual.

We come here without the ability to amend this bill even though as soon as this bill is debated, we will be off for the rest of the day. Last week we were in committee debating a balanced budget amendment and marking it up. At the end of the day, at 6, despite the fact that it was Wednesday afternoon and we were going home, we adjourned for the day. Still we cannot take the time to debate these issues that are important to the American people.

□ 1220

Mr. HOYER. Mr. Speaker, I yield myself my remaining 30 seconds.

Mr. Speaker, clearly we have a concern about the procedure, but more importantly than the procedure is the substance. The gentlewoman from the District of Columbia mentioned we are now extending to all our employees protections that we believe are appropriate for the employees of the American employers.

We believe this legislation is important. That is why under Democratic leadership we passed it last year, with the Shays-Swett bill, and that is why on this bill the overwhelming majority, if not unanimously, we will support this bill this year.

Mr. GOODLING. Mr. Speaker, I yield my remaining time to the gentleman from California [Mr. THOMAS].

The SPEAKER pro tempore (Mr. DREIER). The gentleman from California [Mr. THOMAS] is recognized for 2 minutes.

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

Mr. Speaker, we began this process on January 4 and we moved the legislation to the Senate. We are considering today, on January 17, Senate bill 2, the Senate version of this legislation.

There will be no conference committee. This legislation will move directly to the President. The President has said that he will sign it into law. This process has taken 2 weeks.

For people to fully understand the impact or maybe I should say the weight of today's decision, this is simply the text of the laws, without any annotation or explanation, that are now going to be applied to the Congress that are already applied to the private sector.

I would tell my colleagues that S. 2 passed in the Senate 89 to 1. I believe the House should do the Senate one better. I would ask that the House pass S. 2.

Mr. GOSS. Mr. Speaker, it has long been known that Congress has a bad habit of passing laws without understanding the full impact they have on the American public—then it exempts itself from those same laws. In the 102d and 103d Congresses, I introduced a resolution to eliminate the special treatment that this institution has granted itself. Last Congress, I voted in favor of the Congressional Accountability Act which the House passed—but the Senate failed to approve.

During the final hours before adjournment of the 103d Congress, the House passed a watered-down version of the compliance bill as an amendment to the rules of the House. Although I am a strong advocate of congressional compliance, I felt compelled to vote against that weak-kneed resolution—which, to me, was nothing more than status quo dressed up to look like reform. Today we have an opportunity to move forward with real reform. I support S. 2, the Congressional Accountability Act, and I intend to vote for it. Congress is not, and should not be, above the law. It is time to move this institution into the real world of the laws that we expect the private sector to abide by.

Mr. FAZIO. Mr. Speaker, I am a strong supporter of S. 2, the Congressional Accountability Act. Unfortunately, I will not be present today to vote for this important measure—I am attending to the urgent needs of communities in my district that have been devastated by the recent flooding in northern California. If I were here, I would be proud to vote for the Congressional Accountability Act for the third time. In my absence, I submit this statement of support for the bill for the RECORD.

S. 2 fulfills our responsibility to grant the same protections and workplace standards that all other working Americans enjoy to our own employees in Congress. The Congressional Accountability Act continues the recent trend of Congress living by the rules we ask the rest of America to live by.

In recent years, we have enacted several major employee protection laws—the Americans with Disabilities Act, the Civil Rights Act of 1991 and the Family and Medical Leave Act. In each case, we applied the requirements of these laws to Congress just like they applied to the private sector. In addition, House rules provide House employees with protections afforded under the Fair Labor Standards Act and specify that House personnel actions shall be made ''free from discrimination based on race, color, national origin, religion, sex (including marital or parental status), disability, or age.''

S. 2 continues our efforts to bring Congress into compliance with other significant employee protection statutes. The Congressional Accountability Act will also require Congress to comply with the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Occupational Safety and Health Act, the Federal Labor Management Relations Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Act, and the Rehabilitation Act of 1973.

This legislation establishes an independent, nonpartisan Office of Compliance within the legislative branch to develop the regulations applying laws to Congress, and to resolve complaints. The Office, which would replace the existing House and Senate Offices of Fair Employment Practices, would be composed of a five-member Board of Directors, an Executive Director, a General Counsel, two Deputy Directors, and additional staff as may be required.

This act represents a positive change in how Congress treats its own employees. I strongly support this legislation and urge my colleagues to vote for this landmark congressional reform bill.

Mr. STUMP. Mr. Speaker, I rise in support of S. 2, the Congressional Accountability Act. It is high time that laws applied to the private sector workplace are made applicable to Congress as well. As chairman of the House Veterans' Affairs Committee, I am particularly pleased that S. 2 would provide for the enforcement of recently enacted veterans' employment and reemployment rights under Public Law 103–353 (October 13, 1994).

The Uniformed Services Employment and Reemployment Rights Act [USERRA] only allows aggrieved legislative branch employees the remedy of applying to the Office of Personnel Management [OPM] for a position in the executive branch, with an ensured offer of employment. Executive branch employees under USERRA have extensive enforcement rights including legal representation, Merit Systems Protection Board [MSPB] adjudication, and judicial review.

Now, under title II, section 206 of S. 2, eligible congressional employees could avail themselves of the extensive enforcement and dispute resolution procedures established in the new Office of Compliance, as well as judicial review.

Mr. Speaker, I am also pleased to see that the bill would require a study and recommendations by the Administrative Conference of the application of the workplace laws included in S. 2 to the General Accounting Office [GAO], Government Printing Office [GPO], and the Library of Congress. The study and recommendations would be due to the

Speaker of the House no later than December 31, 1996.

I commend Speaker GINGRICH and Majority Leader ARMEY for keeping their commitment to the American people in making the Accountability Act the first order of business of the House with H.R. 1. The Senate has added provisions in its version, S. 2. I especially wish to state my appreciation to Mr. SHAYS, who has led the House's effort on accountability, as well as to his staff for their openness and accessibility in crafting this legislation. Mr. Speaker, I urge my colleagues to favorably consider S. 2.

Mr. FAWELL. Mr. Speaker, I rise to commend the majority leadership for bringing this bill, S. 2, the Senate version of the Congressional Accountability Act, which the House passed on January 4, to the floor today. Consideration of this legislation can be directly traced to you and the new leadership in Congress who were committed to place this long overdue type of legislation on the front burner.

This bill, however, is far from perfect. And the full specifics as to the exact manner in which the eleven ''place of employment'' labor laws shall be applied to congressional employers do not, in many cases, correspond to the manner in which these laws apply to the private sector. In certain instances this is understandable, as in cases where the constitutional requirement of separation of powers proscribes executive agency enforcement of rules against the legislative branch. But, all in all, the fox—Congress—is still very much in charge of the chicken coop—employer and employee place of employment laws—and clearly Members of Congress are being treated in many instances with kid gloves when one looks at the matter from the perspective of the private sector.

For example, our private sector constituents would jump at the opportunity to live under the requirements contained in the section of the bill applying OSHA to Congress. There are no fines which are levied with a citation, as is the case in the private sector. The general counsel issues a citation and if the counsel determines that a violation has not been corrected, he may file a complaint with the Office of Compliance against the employing office. This, again, is a far cry from the realities with which our businessmen and women must contend. No civil penalties. No criminal penalties. If only Congress could be so understanding of private employers.

With regard to the OSHA section of S. 2, specifically section 215, it is my understanding from the House authors of the legislation, Mr. SHAYS and Mr. GOODLING, that the report required under this section concerning the general counsel's inspection of facilities for OSHA violations will be made available to the public. I strongly agree with this perspective, especially in light of the fact that there is no requirement in the bill that the general counsel file a complaint with the Office of Compliance against an employing office.

Mr. Speaker, there are positive aspects to the legislation. It does move clearly toward the concept that congressional employees should have the right, in instances of violations of place of employment labor laws by Members of Congress, to the same basic employee protections as possessed by employees in the private sector. And, significantly, this includes the right of congressional employees to seek a full de novo jury trial in Federal court, complete with general damages, court costs, and recovery of attorneys fees. It should be noted, however, that apparently no Member of Congress may be personally sued, that is, such a suit would be against an employee's employing office, a term of new art which avoids naming any Member of Congress as the specific responding party to such a law suit.

The bill does not allow, however, for such employees to obtain punitive damages against their congressional employers. In addition, there apparently is no personal liability of Members of Congress as to any damages, legal fees, or court costs awarded to any employee filing a claim against an employing office. This is not too analogous to what is facing the private sector employers who can generally be held personally liable for those types of damages under civil rights law, the Age Discrimination in Employment Act and the Americans With Disabilities Act.

Mr. Speaker, I do recognize, however, that this bill is the result of a compromise with the other body. In the final analysis, although the version of the bill before us today is geared to treat Congress more favorably than the private sector, it is still much better than what we have now, where Congress almost totally escapes the effects of place of employment labor laws which have been nonuniformly and haphazardly applied by Congress upon the private place of employment and quite often with provisions for disproportionate damages. So, it is indeed a step in the right direction, a first step, but a very meaningful step nonetheless.

I will support the legislation today, but more must be done to either: First, have these laws really apply to Congress in the same fashion in which they now apply to the private sector, or second, alleviate the often harsh, haphazard, rigid, and unreasonable fashion in which place of employment laws apply to the private sector. In fact, we might not be dealing with this issue today, if we had, in the first place, simply written our place of employment labor laws for the private sector with as much compassion as we have with this legislation. I stand ready to work with the leadership on both sides of the aisle to achieve either result, which should bring about a more uniform, flexible, understandable, and more understanding employment policy for America in the 21st century.

There is no doubt that as we have to do unto ourselves we learn better how to do unto others.

Ms. DUNN of Washington. Mr. Speaker, for too long, Congress has lived by a double-standard, passing dozens of laws, imposing hundreds of regulations on the private sector while at the same time exempting itself from those same laws and regulations.

How long has Congress enjoyed the double standard? Fifty-seven years later, Congress will finally be held accountable to the Fair Labor Standards Act of 1938, requiring a minimum wage and overtime pay for congressional staff; 31 years later, Congress will at last adhere to title 7 of the 1964 Civil Rights Act, prohibiting employment discrimination based on race, color, religion, sex, or national origin; and 25 years later, Congress will comply with the Occupational Health and Safety Act of 1970, making our U.S. Capitol and the House and Senate Office Buildings safer places to work and visit.

There is a whole host of other laws with which Congress must now comply: the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the Family and Medical Leave Act to name few more.

Mr. Speaker, this is a sensible bill that accomplishes more than just apply all laws to Congress. While Congress still has a long, challenging journey ahead if we are to restore the public's confidence and faith in this institution, passing this congressional compliance legislation is a major step in that direction. Today, as we send this bill to be signed into law by President Clinton, we legislators will prove to the citizens of this Nation that we are committed to turning this place upside down, shaking it by its ankles, and accomplishing this long overdue reform.

Mrs. LINCOLN. Mr. Speaker, today I rise in strong support for S. 2, the Congressional Accountability Act. This piece of legislation will finally submit to Congress to the same laws it imposes on others. How can we expect to understand the implications of legislation we write if we aren't required to follow its rules? That, Mr. Speaker, is a glaring example of Congress being out of touch with middle America.

This initiative represents years of hard work in a bipartisan manner. Not only do I fully endorse this bill this Congress, I was also a cosponsor of similar legislation, H.R. 349, last year and fully supported H.R. 4822 when it passed the House overwhelmingly in August 1994. Unfortunately, efforts to pass legislation in the Senate died at the end of the 103d Congress.

For far too long, Congress has been writing and passing legislation that affects everyone but itself. It is evident that Congress must set the example and live under the rules it imposes on others. No longer will congressional employees be subject to discrimination, bad working environments, or other working related ills that other employees are protected from under our national laws. Our employees will have the avenues to address grievances in the workplace like any other American employee. They will have employee rights that have been denied to them for far too long.

I believe that this is a responsible, bipartisan bill and urge its immediate adoption.

Mr. RADANOVICH. Mr. Speaker, the lesson that what is sauce for the goose also should be for the gander is learned from early childhood. Yet, it seems to have been no more than a fantasy for Congress.

Today, I hope this House by its vote will make a simple declaration, saying that if we think it worthy that American business is required to operate under these several sets of workplace rules, then we on Capitol Hill are willing to be regulated by them as well.

There are two benefits to be derived from securing final passage of S. 2, the Congressional Accountability Act that embodies the spirit and most of the substance of H.R. 1, which we passed on the day we began this 104th Congress.

The first value of this reform in the way we do business is that those men and women we employ here and in our district offices should not be prejudiced with respect to redress of employment wrongs simply because they are on our payrolls.

The second significance of the Shays Act was well related by the Wall Street Journal editorial of January 4 that called H.R. 1 a

"very potent reform" and went on to observe that "forcing Members to live under the laws they pass may also have a useful, modifying effect on what Congress decides to pass."

Mr. Speaker, all of us, I'm sure, have received—and welcome—thousands of constituent communications imploring us to keep faith with provisions of the Contract With America. Even before this Congress began, one of my constituents, Mel Cellini of Madera, CA, shared with me a copy of his letter to Speaker GINGRICH. Noting Mr. Cellini's statement that there must be a change in the fact that "Congress has exempted itself from mandates imposed on the rest of society." I take pleasure in making the text of his letter a part of my statement of support for our passage of the Congressional Accountability Act.

The letter follows:

DECEMBER 4, 1994.

Hon. NEWT GINGRICH,
Speaker of the House of Representatives, Washington, DC.

DEAR SIR: My wife and I are approaching 50 years of age. We have been increasingly disillusioned with the operation of the federal government. The future our two children face is of great concern to the two of us. As long as I can remember the federal government has continued to intrude into our lives via control and taxation. The programs have not only been intrusive, but also quite expensive.

Now one child is in college and the other will soon be going to college. Our dismay with the evaporation of the American dream has been discussed in our family. It is hard to relate to the dream sine all we hear from the media are the issues of why we need to contribute and do more for those that refuse to help themselves.

Congress has exempted itself from mandates imposed on the rest of society. This must change.

I backed our local Republican candidate with the fervor that this was our last chance. Yes, George Radanovich won. I truly believe this is a new dawn. The opportunity for a refocused government is here. Just Make Sure the Government Is Out of Our Lives and Our Pocketbook.

Please, do not back down on the ten point contract that the Republicans agreed to fulfill in the First 100 days.

Finally, ignore the personal attacks the media is doing to you. We are behind you 'all the way.' I can hardly wait for the 1995 congress to begin.

Again, Congratulations, and thank you.

Sincerely,

MEL CELLINI.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. THOMAS] that the House suspend the rules and pass the Senate bill, S. 2.

The question was taken.

Mr. THOMAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to extend their remarks in the RECORD on the subject of the Senate bill, S. 2.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). 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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 5 minutes.

[Mr. GILLMOR 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 New York [Mr. OWENS] is recognized for 5 minutes.

[Mr. OWENS 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 New Jersey [Mr. MARTINI] is recognized for 5 minutes.

[Mr. MARTINI 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 Colorado [Mr. SKAGGS] is recognized for 5 minutes.

[Mr. SKAGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MONETARY CRISIS IN MEXICO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Michigan [Mr. BONIOR] is recognized for 30 minutes as the minority whip.

Mr. BONIOR. Mr. Speaker, the crisis in Mexico today is very serious and has a direct effect on the United States. But if the American people are going to be asked to guarantee billions, up to $40 billion in loans in Mexico, we have a right to demand that Mexico meet certain conditions in return.

The primary question we have got to answer is simply this: How can we address the problem in Mexico in such a way that ensures that working families on both sides of the border are helped and not hurt by this deal? The Mexican system is riddled with deep structural, political, and economic problems. If allowed to continue to go unchecked, these problems will not only continue to hurt Mexican workers, they will also continue to have a direct impact on the jobs and the wages and the living standards of American workers.

The last time Mexico experienced a similar crisis in the early 1980's, they responded by cutting wages in half for Mexican workers. That was their response, even though Mexican manufacturing profits went through the roof.

In effect it created a situation where Mexico had a boom in billionaires. Members heard me right, billionaires, not millionaires. Yet American workers were forced to compete with Mexican workers who were earning 58 cents an hour. We lost over a half million jobs as a result of that policy, 500,000 American jobs. And all indications today are that Mexico is reading from that exact same playbook, even though Mexican wages are already too low. The devaluation of the peso has driven down their purchasing power by another 40 percent. Yet rather than pledging to raise the standard of living, President Zedillo's economic plan calls for a freeze on wages.

At this rate Mexico is never going to be able to afford to buy the products that we make, and of course that has been the great success of America, that we built a middle class with the purchasing power to purchase.

We have got to find a way to export products to Mexico, not just our jobs and our capital. We had a chance to address this problem when we negotiated the NAFTA agreement. We had a chance to tie wages to productivity and give the Mexican workers more power to bargain for better wages, but NAFTA was a missed opportunity to make real reform. I do not think we can afford to miss that opportunity again.

I would suggest that before we ask American taxpayers to send a dime to Mexico, we should insist that Mexico meet five specific conditions. Let me enumerate them for my colleagues this afternoon.

First, we should insist that Mexico agree to tie wages to productivity. Now what do I mean by that?

□ 1230

In the past decade, Mexican workers have not, and I repeat they have not, reaped the rewards of their hard work, and they do work hard. They are very productive workers. Their productivity increased by 64 percent since 1980.

What happened to their wages? Their wages actually dropped by 31 percent. Prior to the devaluation of the peso over the last several weeks, the wage of a Mexican worker was 69 percent—69 percent—of what it was back in 1980. It was not even worth the value of what it was in 1980.

Former President Salinas recognized this problem when he pledged to tie wages to productivity 2 years ago during the negotiations within his own country, and the debate over NAFTA. But that link has not materialized, and we, I think, should insist that it does.

Now, second, we should insist that the Mexican Government extend fundamental rights to the workers that

they do not have now: the right to organize independently—and I emphasize the word ''independently''—the right to bargain collectively, and the right to strike. These basic worker rights help propel a middle class in this country and elsewhere in the Western world, and again, the reason we negotiated a labor side agreement on NAFTA was that there was a recognition that structural problems existed, but the side agreement left out the most fundamental reforms, so nothing will go further toward developing a Mexican middle class that can afford to buy our products that we will make, and we should insist on these reforms.

Now, third, we should insist that Mexico make more of an effort to buy American. Since NAFTA went into effect, Mexico has increasingly looked to Japan and Europe first. While Mexican exports to the United States have gone up, their imports from Europe and Japan have exploded. At the same time our trade surplus with Mexico has decreased by 60 percent in the past 2 years, 60 percent reduction in the surplus that we had with Mexico.

If American taxpayers are going to be asked to guarantee billions in a bailout of Mexico, I think we need to demand that Mexico make more of an effort to buy American products.

Now, fourth, we should insist that Mexico not only continue democratic reform but that it renew its pledge to resolve the uprising in Chiapas in a just and in a peaceful way. The situation in Chiapas today is a proving ground for the Government of Mexico and how they go about resolving the crisis in Chiapas will go a along way toward determining the depth of their commitment to democratic reforms in human rights.

Recently there have been reports that President Zeddillo was under immense pressure to take decisive military actions in Chiapas. I would suggest that cracking heads and sending in tanks is no way to demonstrate a commitment to human rights. The American people do not want their tax dollars backing up a military operation against Mexico's own people. The only way to resolve the situation in Chiapas is to address the underlying structural and economic problems which caused the crisis in the first place, and that is why we must insist upon economic reforms, not military ones.

Fifth, before we pass an aid package to Mexico, we should pass an American workers' aid package to help American families who lose their jobs as the result of the crisis in Mexico. Now, with the devaluation of the peso, the price of American products in Mexico has soared up to 40 percent. In the weeks to come, as exports increase, many Americans will lose their jobs.

We cannot afford to turn our backs on our own working families who are affected by the problems in Mexico. I would suggest there are two things we can do immediately to help.

First, we can pass the lifetime job training program that was proposed by the President in his middle-class bill of rights. This bill will make available up to $3,000 for each person who loses their job and can be used to help them get training, the training that they need to find a new job, so they will have an account, their own account with their own name on it, that they can draw from to pay for training to upgrade their skills so that they can reenter the labor market.

Second, we should immediately pass the $10,000 tax deduction for tuition and other educational expenses. Many of the people who lose their jobs have kids trying to further their education, and there is no reason why children should be denied that chance because of the crisis in Mexico today.

Now, again, if the American people are going to be asked to send billions to Mexico or potentially underwrite billions to Mexico, we have a right to ask certain conditions be met in return. Before we send a dime, we should insist that these five conditions be met.

We missed a very historic, real opportunity last year to address the serious underlying economic and political problems in Mexico today, and we cannot afford to miss that opportunity again. We are not merely sending money to Mexico to prop up a nation with the fastest growing number of billionaires in the world, we are sending money with the hopes that by helping the working people of Mexico we will help build a Mexican middle class that can afford to buy the products that our workers make and that can stop competing against each other.

In the end, I think that is going to help both of us, and after all, I think that is what free trade is supposed to be all about anyway.

I yield to my friend who was here first, the gentleman from West Virginia [Mr. WISE], and then the gentleman from California [Mr. MILLER], and then my friend, the gentleman from Ohio [Mr. BROWN].

Mr. WISE. Mr. Speaker, I will be brief.

Thank you for taking this special order.

It is my understanding that very shortly, perhaps by the end of this week, there will be a package on the floor authorizing and approving perhaps as much as a $40 billion loan guarantee program, yes, I stress the word ''guarantee,'' but it means the taxpayers can be on the hook potentially for that amount.

To my recollection that may be the largest amount taxpayers have been asked to be even potentially liable for since the S&L situation in setting up the Resolution Trust Corporation.

There are several questions that need to be answered on this that I have not been able to get answers to that I have been asking.

How much are we talking about? We started at $9 billion, then we went to 18, the Treasury a couple days ago was saying 25, and today it is $40 to $45 billion.

Second, it is my understanding there is already an existing line of credit. Has any of this been drawn down yet? It is my understanding probably some has already.

Mr. BONIOR. It is my understanding there was $9 billion that has been drawn.

Mr. WISE. There is a guarantee of that. In sum, they have already gone out, because of meeting the default provisions or whatever. These are questions that need to be answered.

We have been expressing concerns over bills that basically we all agree with on the floor, not coming to the floor with a hearing, for instance, unfunded mandates will be on the floor, the Congressional Accountability Act just passed. This is something extremely serious. All taxpayers are going to be living with it for a long time.

Third, I have got trouble, I say to the whip, explaining at home why it is that in a couple of weeks on the floor of the House there will probably be a rescission package. The appropriation bills will try, for instance, to take out the Economic Development Administration which basically does nothing but help create jobs. There will be language to take out highway projects, road projects, bridges, airports, water and sewer.

I was in a town just Saturday, where they are $300,000 short on a $1.4 million project to build a sewer which is mandated in which they can actually create jobs if that sewer line is built. Nobody will give them a loan guarantee.

I wonder if we are going to have to put this legislation out, whether or not it would be possible to join with the loan guarantee program for perhaps American citizens, American workers, as the gentleman suggests, with a lifetime job training act, something that says to the American taxpayer, ''We understand, and we hear you as well.''

I think that there needs to be great questions raised about this before this House willy-nilly embarks on such a large package. Otherwise, I think this is something that is going to be coming home to roost for many, many years.

Mr. BONIOR. I thank my colleague for his comments.

While I recognize his concern with regard to time, I am perplexed by the speed at which we hear that the Republicans want to move on this package. They are talking about bringing this to the floor on Friday, if you can imagine that, without any hearings, without any discussion.

We understand the tenderness and the sensitivity this issue will have with respect to markets and other Latin and so-called second tier nations as well as some developed nations, but it seems to me that if we are going to be asked in a responsible way to come cast our votes on this issue that we really need to know what is in it, the effects it will

have, the probability of success or the possibility of failure, and what is in it for the American worker. I mean, is the American worker going to be affected by all of this if the peso has fallen 40 percent and Mexican imports of American products drop off in large numbers, which I expect will happen? I mean we have already lost 60 percent of our trade surplus with Mexico just over the last 2 years. We can expect more of a drop, it seems to me, as a result of this.

What is going to happen to those workers who are producing those products for Mexico? Why are we not addressing that piece of it as well?

I yield to my friend, the gentleman from California.

□ 1240

I yield to my friend from California.

Mr. MILLER of California. I thank my friend for yielding and taking this time to discuss this issue.

On the point that the gentleman raised on what is going to happen to United States workers with the Mexican economic crisis is a very important question. Just a few short months ago, the administration and others came to the well of the House and to the Senate and told us that the NAFTA Agreement was a win-win situation for American workers and that not only would the jobs that are lost to Mexico be recreated in new industries in this country, but the broad power to open up the country of Mexico to United States exports would create additional jobs in this country so that we would be a net winner. And when those of us raised concerns about the disparity between the wages in Mexico and the United States, we were told that was not a factor, that in fact the peso was strong, that things were going well, and they presented Mexico as a First World country in terms of economics. That has turned out not to be true. Not only has it turned not to be true now, but it turned out to not true quite a while ago. But between the Governments of the United States and Mexico, they kept up the facade that Mexico was strong, Mexico was ready to participate in First World economics, and that was done to get past the Mexican presidential elections and also to get past the vote on NAFTA on the floor of the House of Representatives and in the Senate.

What was then presented as a win-win situation, we are now confronting our constituents, the American workers, with a lose-lose situation. Not only will their wages be now less competitive with manufacturing and other occupations in Mexico, but we see the fact that those wages are going to be discounted by perhaps 30 percent. At the same time, the same Federal Reserve Board that is coming in here and asking us to support the economy of Mexico, to make these concessions and to put taxpayer dollars at risk, is talking about jacking up interest rates for the seventh time, interest rates that have the potential of closing off the economic recovery, of taking the newly hired people and putting them on layoffs, of dampening the appetite of American manufacturing to engage in expansion of new plants and facilities and job creations.

So the American worker is put at a disadvantage because of the Mexican economic crisis and then he is put at a second disadvantage because his or her job is threatened or the potential for a job is threatened because the same Federal Reserve Board is going to hike interest rates in the American economy.

We have already seen the National Association of Manufacturers and others state, ''Don't do this, because it precludes the kind of growth that is necessary in durable goods, in automobiles, home construction,'' those things that drive the fundamental job makeup in this country.

So we have Mexican goods coming in cheaper than ever before, Mexican labor being cheaper than ever before, and the comparative advantage of Mexican workers at a much greater level than ever before.

Then you put on top of that the willingness of the Mexican Government to thwart any attempts by Mexican workers to organize so they can better their standard of living, so that they can participate in a decent standard of living, and a decent workplace so that all of a sudden we do start to get some comparables. Then we have the use of troops to keep unionization from happening, keep workers from organizing, and what you really have now is the same old group of people in Mexico, the very wealthy families, the new billionaires sitting on top of the shoulders of the Mexican workers and telling them if they want a job they are going to have to be unorganized and they are going to have to work at historically low wages so that they can send their cheap goods into the United States and displace American workers.

The gentleman from Michigan [Mr. BONIOR] is asking exactly the right question, and that is what the Republican leadership and others have got to respond to: What does this do for American workers?

You promised us one thing a few months ago and did not deliver on that promise, and the situation is far worse than you ever represented to the American workers it would be, and now you are telling us to trust you again, trust you and the Federal Reserve. They seem to have a real problem with Americans going to work. Every time we get unemployment down to 6 percent, they want to close off the recovery and say, ''That is all the jobs, folks. Everybody will have to wait until the next time around, everybody else will not be able to provide for their family.'' I think this bailout of the Mexican economy to put money into this system—you know, if you were in Las Vegas, they would tell you not to do this because this is called putting good money after bad. As was pointed out already, we already have billions and billions of dollars' worth of pesos sitting in Fort Knox. We have no more gold in Fort Knox, there is only the Mexican peso. We have to think of what the ramifications of that are for the American workers.

I thank the gentleman for raising this issue.

Mr. BONIOR. I thank my friend for his comments on this issue as well and for recapping for us some of the history of this.

You know, we have been told time and time again how this was going to work for the American workers, how it was going to work for this country, how it was going to work for certain industries in this country. I am speaking about the NAFTA deal today. Also, how this was going to be a win-win for both countries.

Well, the fact of the matter is that it is a win-win for nobody. What we have got, if you look at what happened in the tomato industry in Florida, those people are just about busted and out of work while the American automobile industry is doing very well today because of the pent-up demand and the real effort on their part to get their act together, which they have done very, very well.

The fact of the matter is that while we have shipped close to 25,000 cars to Mexico during the first year of NAFTA, they have shipped to the United States over a quarter of a million cars, about 260,000 cars.

So I mean we have got some real problems ahead of us in the future, and we have to be cognizant of the fact that American workers in the future have a real stake at what we do with respect to this loan guarantee.

I yield to my friend from Ohio, who has been such a champion on the issue of worker rights.

Mr. BROWN of Ohio. I thank the gentleman from yielding.

The Republican leadership says this is not a bailout, this $40 billion; they say it is a line of credit. But if history is any indication, that line of credit will fairly quickly turn into a loan and that loan will fairly quickly evolve into a forgiven loan, and that forgiven loan will evolve very quickly, if history is any indication, into a $40 billion aid package.

I have sent a letter to Speaker GINGRICH this morning calling for hearings, that we need to slow down, that if we are going to consider this $40 billion aid package, that we as a Congress need the input of the American people, that we as a Congress need to understand better some of the issues involved in this $40 billion foreign aid package.

I have outlined to Speaker GINGRICH about a dozen questions that I would like to briefly mention, information that I think the American people need and this Congress needs before we can

make a decision on this $40 billion foreign aid bailout for Mexico and Mexican wealthy investors.

First, what is the precise amount of the loan guarantee? I do not think we know that yet. What is the precise amount of the loan guarantee?

What is the risk that Mexico will actually default on the loans? What is the historical record of repayment, as the gentleman from Michigan alluded to earlier, to United States taxpayers on other loan agreements, whether it was Mexico a dozen years ago or other loan agreements over the years that this country has generously offered to other nations that are facing fiscal and economic problems?

What is the collateral for the loans? For instance, will Mexico pledge oil receipts, proceeds from the auction of container terminals or other assets? This is clearly a sensitive issue in Mexico, with Mexican public opinion not so wild about turning over some of their Mexican oil company receipts—a government oil company—to the Americans as collateral.

Next, what conditions should we attach to the loan guarantees? Should one of those conditions, as the gentleman implied or suggested earlier, involve immigration control, immigration controls, rights of Mexican workers, or other social issues?

Sixth or seventh, given the many commentators, including Federal Reserve officials and even members of the Zedillo administration in Mexico, have raised question concerning the handling of the currency crisis, should we demand as a condition of the loans an investigation into the performances, as the gentleman from California mentioned, the performance of the Mexican Government, including the role of the Salinas government, in order to prevent a repeat of the situation?

Also, why are other nations, particularly those in our hemisphere, not contributing, not rushing to come forward in this bailout in the same manner and magnitude as is the United States?

Also, is the Mexican economic crisis relevant to a discussion of the balanced budget amendment in the United States which proposes to cut drastically appropriations for the International Monetary Fund? That begs the question of where are the deficit hawks on this $40 billion, from both sides of the aisle? Those are the people who talked about the balanced budget amendment—I support the balanced budget amendment—how are we going to do that if we are going to provide a $40 billion aid bailout package to the Mexicans?

Also, what provisions are there to insure that the large numbers of billionaires in Mexico do not unduly profit from the bailout? Mexico is fourth in the number of billionaires; the United States first; Japan second; Saudi Arabia third; Mexico fourth. And they are there at the expense of the middle class in Mexico, some very, very wealthy families as talked about a couple of summers ago discussing NAFTA, and lots and lots of very, very poor Mexicans, and a small middle class.

Mr. BONIOR. As the gentleman will recall, what happened in the early 1980's when they hit the same type of situation, the wealthy went in and gobbled everything up and they became extremely wealthy. And, of course, they had the Government help them divvy up the spoils at a further point in the process.

The question is where are they now? What sacrifices are they making? There are rumors to the effect that they have all liquidated their national currency and got their assets in dollars now and really have not had to face this crisis.

That ought to be looked at to see if in fact that is a factor or if it is not.

Mr. BROWN of Ohio. And coupled with that, what about American corporations that have benefited from NAFTA, have built plants in Mexico, have seen economic problems as a result of the peso devaluation? Are we rushing forward, in part, to bail out those investors? Are they going to be part of a plan in this economic liberalization, will they participate financially in the bailout in the same sense that Congressman GEPHARDT suggested they help finance NAFTA, with across-the-border transaction fees? That is something that we need to address.

Last, thinking the unthinkable, what happens, what steps should we be prepared to take in the event the bailout package fails to stop the hemorrhaging of confidence in the Mexican Government and in the Mexican economy?

The issues here, Mr. Speaker, is to slow down, to have extensive hearings, not to delay for 3 to 4 months. We do not need to do that, but there is no reason to rush into this. Investors around the world, the international finance community do not expect the U.S. Congress to address this this week. We need to slow down, we need to have extensive hearings, we need to discuss these questions, explore these answers, and find out what in fact is the situation all around this $40 billion bailout.

I again say I hope, Mr. Speaker, that Speaker GINGRICH makes the decision to slow down, particularly for all the new Members of the new Congress, some 85 new Members that are not really familiar with this issue. We cannot be spending American taxpayer dollars the way we have so profligately in the past, we have to slow down and look at this so that all of us can understand it better.

□ 1250

Mr. BONIOR. Mr. Speaker, I was a new Member of this institution, and I was being asked in the first 30 days of my service to the country as a Member of Congress. I, sure as heck, would want to know the ins and outs of this, especially given the disastrous effect of this country with respect to the savings and loan situation. I would want to know just exactly what we were buying with regards to this package, and second, I would demand to know what effect it will have on the fellow who is working at the car company in my town, or the fellow or woman who might be working in a facility in my district whose job is tied to products that are sent down to Mexico for export purposes. You know, what is going to happen to those folks? I have got people working the automobile industry that will be affected by this, and no doubt in my mind; I mean the automobile industry likes to say that, you know, we are proud that we are shipping more cars down to Mexico now. What they do not say is that we may have shipped 30,000 automobiles to Mexico in the first year of NAFTA. The Mexicans, as I said just a second ago, ship back here about 260,000 cars. So, there is a big difference, but nonetheless they are proud of the increase that they have had in the number of cars that they have shipped to Mexico. That undoubtedly is going to be affected drastically by the peso devaluation.

I say, if you're a middle-income family or working family in Mexico, you can just picture yourself, the value of your dollar being 30 percent less that what it was about a month ago, and that's what they are facing down there. So, everything is 30 percent more to them.

Mr. BROWN of Ohio. I drive a Thunderbird, a car that is made in my district.

Mr. BONIOR. Congratulations. Glad to hear it.

Mr. BROWN of Ohio. Good car, and, if they talk about selling Thunderbirds in Mexico, if it cost $14,000 today in Mexico, 3 weeks ago in Mexico, today it will cost about $4,000 more than that, and people—think about it yourself. I say to my colleague, you are not going to buy a car where the price has gone up $4,000, and the relatively few cars we are selling in Mexico that are made in America, that number is going to shrink. Going the other way it is going to increase with the way prices have shifted because of peso devaluation, and I think, as the gentleman from California says, it's a lose, lose, lose situation where not only are we losing American jobs, not only are we losing jobs before the peso devaluation, it is getting worse with devaluation, and they are asking for taxpayers dollars to bail them out.

We have got to examine this question much more carefully.

Mr. BONIOR. Mr. Speaker, I thank the gentleman from Ohio [Mr. BROWN] for joining me this afternoon.

LINE-ITEM-VETO AUTHORITY

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WELDON] is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, I took out this special order

today after sitting in my office and listening to one of the speakers on the House floor during 1-minute speeches, my good friend and colleague, the gentleman from Maryland [Mr. HOYER], discuss with you and our colleagues in this body today the reasons why he felt that spending increased so dramatically during the Reagan and Bush years, and he emphasized the point that Ronald Reagan and George Bush could have used their veto pen to stop the excessive spending during that time period.

Mr. Speaker, we have to look at the facts, and the facts are quite different than the way my friend and colleague presented them to the American people.

First of all, as all of us in this body—my good friend and colleague is here. Thank goodness. We can have a little dialog here. As my good friend and colleague knows and as all of us in this body know, the President does not spend one dime of money unless it has been first of all appropriated by the Congress, and the House and the Senate meet in their 13 various appropriation bill processes to decide how much money we are going to spend in each of 13 different categories of the Federal budget, and our good friend is a member of that Committee on Appropriations. The process is set up in such a way that the President is given 13 opportunities to veto the amount of spending set by the Congress.

But guess what happened, Mr. Speaker, during the 12 years of Mr. Bush and Mr. Reagan? This body did not pass the 13 appropriation bills, except in one instance, and that happened to be in 1988. In fact, the other side of the aisle, which controlled the Congress, perfected the art of the continuing resolution; in other words, backing the President into a situation where not giving him the chance to veto the spending bills, allowing all spending authority to expire in the fall, and then having us pass a continuing resolution.

My first year in this body, Mr. Speaker, it was 2:30 in the morning, 2 days before Christmas, that we were given a massive document that none of us had seen, and we were told this was going to be the spending blueprint for the country the following year. The document was brought to the House floor. We were given one chance to pass it, which we did, and then the President was given 1 chance, not 13 chances, 1 chance, to veto the spending levels set by this Congress. So, he was backed into a corner, and what did he do?

Like the previous 7 years, or 6 years, Mr. Speaker, he signed that continuing resolution setting the spending authorities and appropriation levels that this body in fact agreed to.

More important than that, not only was the President not given the ability to veto individual spending bills, but the President was not given the line-item-veto authority.

Now, Mr. Speaker, the current President of the United States, Bill Clinton, campaigned on the need to have a legislative line-item veto. In fact, he said during the campaign that, like the other 43 Governors in America who have line-item-veto authority, he wanted to have that as the President. But guess what, Mr. Speaker? The leadership of his party in the Congress would not give him line-item-veto authority legislatively so he could go through the individual spending bills and redline the pork and the garbage.

We are going to give Bill Clinton legislative line-item-veto authority to do what we would like to have had Ronald Reagan and George Bush do during the 12 years that they were in office.

Mr. Speaker, it is unfair to say that the President of the United States controlled how much money we spend. In fact, we say, well, that is a budget, and the budget is what we agree to. During my first 6 years in office almost every spending bill that we passed, the first provision waived the Budget Act, so it did not matter how much was in the budget. We waived the Budget Act and passed whatever amount of spending that we in this body decided was important for that particular issue.

So, the tools are here, and to say that this was all the fault of the President, be it Ronald Reagan or George Bush when we handicapped him with a continuing resolution, when we handicapped him with no line-item veto, when we handicapped them by backing them into a corner at the 11th hour, I think is wrong, and I am glad my good friend and colleague has shown up, and I would yield to him, the gentleman from Maryland [Mr. HOYER].

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

I was in the Cloakroom when I heard him reference my previous 1-minute, which, of course, was in response to a line of new Members on the gentleman's side of the aisle getting up and pounding their chest about the balanced-budget amendment and how irresponsible the previous 40 years of Democratic leadership in the Congress had been. I think it is appropriate, as the gentleman says, that the American people have the facts and have the truth.

First, let me say to my friend—and I mean that sincerely; Mr. WELDON and I are close friends; we work closely together on a number of issues—that I think my portrayal was accurate.

First, I would ask my friend if he knows that the President—forget about continuing resolutions, forget about the actions of the House, forget about the actions of the Senate—if my friend is aware of the fact that in the budgets that Presidents Reagan and Bush transmitted to Congress their administrations wrote, untouched by Democrats, and asked for more spending than the Congress appropriated. Is my friend aware of that?

Mr. WELDON of Pennsylvania. Mr. Speaker, taking back my time—and I will be happy to yield further to my friend—I am well aware of that, and I am also well aware of the fact, as is my friend, that in this body budgets submitted in the past by this body have been ignored year after year after year. So I am aware of that fact.

Will my friend admit on the record that this body has passed numerous spending bills during the Reagan and Bush years that waived the Budget Act that this body passed, largely on the Democrat side? Is my friend aware of that?

Mr. HOYER. Mr. Speaker, I am aware of it. It is a totally esoteric question that I think has no relevance to our colloquy.

Mr. Speaker, may I ask, did my friend ask for 5 minutes?

Mr. WELDON of Pennsylvania. Yes.

Mr. HOYER. That is lamentable.

Mr. WELDON of Pennsylvania. We will continue this at a future date.

Mr. HOYER. Mr. Speaker, I would love to do that.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from Pennsylvania [Mr. WELDON] has expired.

THE FEDERAL MANDATE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentleman from California [Mr. MILLER] for 60 minutes.

Mr. MILLER of California. Mr. Speaker, I would say to the Members of the House that at the end of this week and the beginning of next week the House will consider a proposal dealing with the issue of unfunded mandates. More importantly, what we will be dealing with is a most serious attack led by the Republicans in the Congress on the basic laws in this country that hold this Nation together as a society and deal with our common interests and our common concerns for the purposes of achieving social progress in this country.

This is the body of laws that has moved us from a dangerous and polluted workplace and from a dangerous and polluted society to one where we now take into account those measures to protect our environment and to protect our workplace. These are the laws that protect our workplace. These are the laws that protect the waters of our lakes and our rivers and make those waters safe to drink, along with the ground waters and the basins that run from State to State. These are the laws that protect the air that we breathe, the laws that guarantee that a handicapped child can go to school, and that mandate background checks for childcare workers so that we know that when parents drop their children off in the morning, they will not be victimized by child molesters or others who would seek to take advantage of them.

It is these laws that require those background checks and the fingerprinting that are now in place. It

is these laws that protect our children against the exploitation of child labor and at the same time make sure that when their mothers and fathers go off to work in the morning, they will work in a safe workplace and they will be paid at least a minimum wage. These are the laws the form the basis of a partnership between the basic levels of government, Federal, State, and local, that have provided unparalleled social progress for this country for the experience that we have all had over the last 50 years.

It has not always been a willing partnership because very often local governments are not interested in cleaning up the sewage that they freely pump into the rivers of this Nation. The State governments that surround and have an impact on the Chesapeake Bay or San Francisco Bay or Houston Bay or Santa Monica or the Florida Bay are not always interested in cleaning up their water-treatment facilities or stopping the runoff from their farmlands and the pesticides that flow into those bays that now threaten the very environment and the existence of the Florida Keys, or the Florida Bay, that generate millions and millions of dollars in the tourist economy as Americans and visitors from around the world come to experience the beauty, the assets, and the recreation of the Florida Keys and Florida Bay. And yet if the State of Alabama under this law chose not to meet the clean-water mandates, it would make no difference what the cities and the counties and the State of Florida do in terms of cleaning up Florida Bay.

If the States along the Ohio and the Mississippi Rivers and the municipalities decide that they are not going to clean up their sewage, that they simply are going to do as they have done in the past because it has always been cheaper in the short term to pump the sewage, to let it flow into those rivers, it will make no difference what the States of Louisiana and Mississippi do to protect their fisheries, to protect the economy that relies on the river and on that great delta, because the pollution knows no State boundaries, no municipal boundaries. It does not know a conservative mayor from a liberal mayor. It makes no difference whether a city council votes for the money or does not, the pollution moves out throughout our society.

That is why we have national laws—the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act—in this country, because we know we must have a unified effort, we know we must overcome the local politics where people decide in cahoots with industry or with a certain group in their neighborhoods that they do not want to spend the money to clean that up.

It also happens in the education field, where before the Education to the Handicapped Children Act, children with cerebral palsy, children with Down's syndrome, children with retardation, and children in wheelchairs or on crutches or with the aid of walkers or breathing machines were told that they could not come to school, that they could not participate in our classrooms, but because we have a Federal law that says, ''If you want education money, you're going to have to educate these handicapped children,'' millions of children that were not given an opportunity now not only have gotten an education but they have had an opportunity to get a job and to live independently and to provide for themselves and in many instances for their families. And I have to tell the Members that there is not a Member of Congress that has not had a parent of a handicapped child come to us and say, ''But for that Federal law, my child would have never gotten an education,'' because the school board thought it was too expensive, the school board wanted them to go to a special school, or the school board thought it would be better if they stayed home.

That is not the hallmark of this Nation. The hallmark of this Nation is bringing us together for common purposes and to protect the rights of those who are disadvantaged, whether it is economically, whether it is socially, or whether it is because of handicaps or where they happen to live.

□ 1310

You should know that when you go to any city in America, that you can get safe drinking water. But that is not necessarily true and certainly would not be true if the Federal mandates are removed.

Now, we have a lot of governors beating their breasts and talking about how we tell them to do things that they can't afford to do or they don't want to do and they ought to make the decisions. That is how we got into the situation with the rivers of Ohio that actually caught on fire in the early 1970's. Because they decided they didn't want to do it, they couldn't buck the political pressure of the steel mills and chemical companies and eventually the Cuyahoga River caught on fire. And I think you have to ask yourself if that is what we want to go back to.

Certainly it is expensive to clean up our waters and clean up the air. I can remember as a young man when I could smell San Francisco Bay before we could ever see it as we drove down the road, because the pollution of the cities was being dumped into that bay and the fisheries disappeared. But now because we have the Clean Water Act, the fisheries are back. As I went to the airport yesterday, you could see the trawlers in the south end of the bay, fishing for a commercial crop, employing people, lending to the tourism, lending to the economy of the bay area.

You know what? A lot of cities in San Francisco Bay cleaned up their sewage. But the city of San Francisco didn't want to. The city of San Francisco said we can't afford to. We are not going to do it. We had to go to court to make them do it. Because all of the other cities on the bay that wanted to enjoy the bay and the citizens that want to enjoy it, said no matter what we do, it will make no difference if the largest single polluter doesn't clean up their sewage, their storm water, their pollutants.

Yet those are the laws that this Congress this Friday will be asked to basically overturn by allowing this assault by the governors who simply don't want to comply, by governors who will not take the political heat at the local level or mayors that won't take the heat. They somehow think this is going to make their job easier. Private industry thinks this is going to make their job easier. But when the mayor of Philadelphia finds out that it will make no difference about the air quality in Philadelphia if the other mayors in the States and the region don't cooperate, he will find that his task is far more expensive.

In the early seventies, we had smog warnings more days than not in the Los Angeles Air Basin. Today we don't have that. It was true in Denver, CO. But what did we do? We passed a Clean Air Act and forced industries, we forced automobile manufacturers to manufacture automobiles with less pollutants. We now have reformulated gasoline on the market to try and help with the air pollution problem. Automobile engines are getting more sophisticated because of the Clean Air Act, because the States now have the ability to enforce the Clean Air Act.

Somehow, somehow in a rush to judgment, with no hearings this year, the Republicans in Congress want to tell us that this should all be overturned.

We should understand that these are the laws that brought America into the forefront of social progress. These are the laws that after too many American families experienced the loss of their spouse, or their father, or their uncle, or their brother, in the steel mills, in the coal mines, in the automobile plants, in the chemical plants of this Nation, these are the laws that said workers have a right to a safe workplace.

But under the unfunded mandates legislation being brought to this floor, that is all called into question with the reauthorization of OSHA. That is all called into question if somehow the Federal Government does not pay 100 percent of the bill.

I want to know why the Federal Government should have to pay 100 percent of the bill of cleaning up San Francisco Bay. The benefit doesn't run to the taxpayer in Indiana or in New Jersey or in Alabama. Clearly there is a national benefit because as the economy of the San Francisco region does better and we attract foreign tourists and business people and conventions, we all share that as part of our national economic product. But doesn't San Francisco, don't the cities on that bay, don't the cities in Florida benefit by

putting up their money? That is the partnership that was created. In some cases the Federal Government has put up 75 percent of the money, in some cases we have put up 50 percent of the money, in some cases we have put up 25 percent of the money. But that was all negotiated at the passage of the legislation. But now we are down to the hard part, the implementation. And what we see is this kind of comprehensive assault led upon this body of laws to wipe out environmental laws, workplace safety laws, toxic laws.

Imagine the audacity of the Federal Government saying to local employers and to the private sector that a worker, a worker has a right to know whether he or she is working around toxic substances that can end their life or disable them, and we all know that has happened, whether it was asbestos, whether it was benzene, whether it was all of the chemicals that are in the workplace. That is what the attack is about, is about taking away that right to know.

What about the right of communities? What about communities that say we want to know what you are releasing into the air in our neighborhoods? We want to know what you are putting into the groundwater, to protect our drinking water.

We have whole communities in the United States where water now has to be brought in overland because the groundwaters are contaminated, they are no longer secure, they are no longer there for the benefit of those communities, because somebody thought that was their garbage dump. Somebody thought that is where they could dump their sewage, put their toxics. And it just isn't about the old industries. It is not just about the steel mills in the forties, fifties, and sixties. In silicone valley, entire aquifers are now off limits to the cities and taxpayers and to the property owners in the south of San Francisco because the newest industries in this country polluted the groundwater in violation of law or because the local economy was so hungry for the jobs they didn't want to tell them that they couldn't spoil the environment.

A lot of people criticize the environmental movement. But as we do an audit now on those countries where there wasn't an environmental movement, we are talking about hundreds of thousands of square miles of the Soviet Union where nobody can live, where life has ceased to exist, because of pollution. We all witnessed the horror of Chernobyl, where thousands of people have died, where you can no longer grow agriculture, and people have been moved to entirely new regions of the country; where milk has to be checked all of the time because the pollution spreads across the French countryside, across the German countryside.

We chose a different route in this country. We decided that in fact we would invest in a clean environment, that it would be good economics, it would be good public health, it would be good for our citizens, it would maintain property values in our communities.

But now, with the new Republican majority in this Congress, they have decided one of the first items on their Contract on America is to take away the protections of these laws. That somehow if the Federal Government does not fund 100 percent, then the people in one State or another should be free to choose their own way. It doesn't matter if when they choose their way in Nebraska, they pollute the aquifer that goes all the way to Texas. It doesn't matter if they choose their way in New Jersey, the people in New York have to breathe the air. It doesn't matter if they don't clean up the steel mills or power plants in the Ohio Valley, it kills the trees in Maine.

That is what this clean air law is about. That is what the clean water law is about. That is what OSHA is about. That is what community right to know is about.

Somehow these Republicans have such a terrible trouble. They are all for democracy and openness, but they don't want to tell people in the community what is going on in their communities. They don't want to tell workers the substances they are working around. People should have to experience birth defects, miscarriages, before we get to them? I don't think so. Why should we visit that on a family because they are forced to take a job out of economic necessity, and then we put them in a dangerous situation and they suffer that kind of tragedy in their family. That is the price of a job? It is when you vote for the unfunded mandates bill, because we no longer get to have the common concern and the common interest of this country, about improving the social progress of our children, of our families, of our workers, because that is what this body of law is about.

These are the successes. These are the successes that set America apart from other countries. These are the successes in terms of our economic growth, in terms of our economic activity, and an environment that is unparalleled elsewhere in the world. And if we don't lead the way, let us not believe that China will follow suit. That they will think if we decide that clean air is not important here, how do we tell China that clean air is important there? And yet they have the potential, if they stay on track with their economic growth and the building of their coal-fired power plants, to erase everything we have done in clean air in this country.

□ 1320

That is the volume of pollutions that they will put into the air. But we are now going to take away our ability to have tough laws in this country and yet we are going to lean on China or India or Indonesia to come into the first world in terms of environmental protection, not a chance, not a chance. Where we have not done this, we have lost whole industries. Where we did not do this in the Northwest, we lost a good portion of the logging industry, and we have lost a good portion of the commercial fishing industry and the sports fishing industry.

The coasts of our States now, great areas, great fishing banks off of New England, you cannot make a living because the local people did not have the courage to impose the moratoriums or the limits so we simply strip mined the oceans. We are about to set in motion strip mining of the bays and seas off of Alaska. That is why you have a Federal Government. Because a lot of these Governors and a lot of these mayors cannot take the heat. They do not want to buck the industries. They do not want to tell them the truth. They do not want to tell them ''no''. Well, when it got to such a point that we could not breathe our air, our rivers were catching on fire, you could not swim in the bays and the fisheries were disappearing, we changed the law. We changed it for the good of the Nation.

I would hope that some of these people would stop whining about the kind of social progress that we have made. I would hope that these same Governors who do not like us saying that if you take the public's money, you have to do the public good, what they are really saying is all they want is the public's money. You cannot have it both ways. If you are going to spend the public's money, you have to spend it in the public interest. That is an important component of this.

Surely, there was debate. It took us, I think it took us almost 6 years to reauthorize the Clean Air Act, because we had this debated, because we made the compromises, because we apportioned out, we apportioned out the participation. But if anybody thinks that the question of whether or not Santa Monica Bay is going to get cleaned up depends upon 100 percent Federal funding, then I guess Santa Monica Bay is not going to get cleaned up, if they do not have the local willpower or the local finances to do that. That is true all up and down our region.

This is a union of States, but those States are not entirely contained within their boundaries. Their activities spill over onto others. This is about being a good neighbor.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. I thank the gentleman for taking this special order. It is timely because this week Congress will be voting on this unfunded mandate legislation.

If you read the description of this legislation on its face it seems so simple, so clear, so easy. It is legislation to discourage lawmakers from telling State and local governments what to do without providing them the money to do it. That is so basic who could argue with it? But life is a little more complicated.

As the gentleman from California has just told us, when you start applying it in specific instances, it raises a lot of questions. Some of the more conservative Members of the House and Senate that I have spoken to over the last several days, in positing questions to them, how would it affect environmental laws and the like, they said, well, I never thought of that; there must be an exception in the bill for that.

The fact is there is not. It is a good concept, but the Republicans in the House have taken the concept of unfunded mandates, they have gone too far, they have gone too fast, and they have gone to extremes.

Just consider when the committee sat and met on this bill, just last week, a few days ago, the chairman, the Republican chairman of the committee decided after they, the panel had defeated three Democratic proposals for committee rules changes on party line votes, they ended up saying that they would not have a hearing on this bill. They were just going to mark up the bill. No witnesses came in from the outside to testify. This bill was pushed through as part of the ''100 day breakneck speed, let us get it all done and get out of here'' approach. It is headed to the floor this week.

In their haste to pass unfunded mandates, the Republicans have ignored very real health and safety problems. They would create with this legislation concerns that every American family has to sit up and take notice of. Let me give you an example.

In many ways unfunded mandates legislation proposed by the Republicans puts the health and safety of our families at risk. The gentleman from California has talked about the clean air provisions, the clean water provisions. My district is on the Illinois River and the Mississippi River. And frankly, what is dumped in that river upstream is what we have to live with downstream. This is not a State-by-State concern. This is a national concern. It is one where we want to have consistent standards. If the Republican unfunded mandate approach prevails, future regulations of municipal discharges into that river will frankly be unenforceable. So they can set their own standards. And if some town upstream decides it, just by their own hook or crook, they are going to put in that river what they want to, we live with it downstream. That becomes our water supply. That becomes our channel for commerce in the Middle West. We have to live with what they dump because we are not going to go so far as to say, it is a Federal mandate.

The same thing is true when it comes to radioactive waste disposal. There are States which own nuclear powerplants. We have provisions in Federal law which apply to the privately owned plants as well as the government-owned plants in terms of their operation, safety and disposal of nuclear waste. If the Republican approach passes, future reauthorization of those bills establishing those standards will exempt, exempt the government-owned nuclear powerplants. Does that make any sense at all? Should we not have one consistent standard in America when it comes to safety?

Let me tell you another one. Where I live in central Illinois, because we have a lot of land out there, we have become dumping grounds for landfills taking the waste from all over the eastern seaboard. I have a lot of affection for my colleagues from New York City and particularly Brooklyn, NY, but I go to Taylorville, IL, and look at the landfill and see these boxcars coming in full of waste from Brooklyn, NY, being dumped in my backyard in Taylorville, IL, bad enough. But consider the fact that across the United States, there are 7,000 landfills owned by State and local governments which will now be exempt from future standards and changes in regulations by this Republican unfunded mandate bill. It means that Waste Management and other giants in the industry will be governed by Federal standards; those owned by State and local governments, those landfills will not. Do the families living in those communities around there think that is a better deal? I doubt it.

When they are concerned about the quality of water, the aquifer, the runoff, when they are concerned about the health of their children, serious concerns about cancer and disease, they want a consistent national standard. Who can blame them. That is what I want for my family.

Workplace safety, the gentleman from California spoke to. Let me mention one other: disaster standards. Think of the money this Federal Government spends every year on disasters. And we come in and say, we are going to establish standards so that in Illinois and California, Florida and wherever, if you want to qualify for Federal disaster relief, then for goodness sakes, help us out. Do not let people build on the flood plain. Do things to lessen damage, do not come to us and ignore these standards and hand us the bill.

But guess what? Republican unfunded mandate legislation, when it is all said and done, will say to your Governor, Pete Wilson, Mr. ROHRABACHER, do what you want. Set your own standards. But then come rattling the cup afterwards, when you have a mud slide or earthquake. That is not fair. That is not fair to the Federal taxpayers. But because the Republicans put this bill together so quickly and in such haste to put it on the floor, they never stopped to consider the impact this is going to have.

This bill, the Republican unfunded mandate bill, unless it is changed on this floor, is a deadbeat's dream. Deadbeat fathers who do not pay child support, deadbeat companies that are polluting, deadbeat government units that will not accept their responsibilities, they are going to be doing what they want and we are going to end up holding the bag at the Federal level.

Let me say, I think the concept behind unfunded mandates is correct. I think the review of Government decisions that have an economic impact on local units of government is the right thing to do. But because we tried to do this overnight, in a hurry, slap it together, put it on the books and get moving, we are not stopping to think of the consequences.

I tell you this, we will be living with them. We will be living with the consequences. Because down the line, when it does not work, when thing have fallen apart, guess whose door is going to get knocked on? The same door that your Governor, Pete Wilson, knocks on every time he is in trouble, Uncle Sam's door. Please bail us out.

I do not think that is fair.

□ 1330

That may be your view of new federalism. It is not mine.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield for a question?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, If the Federal Government is mandating the actions and priorities of the States, no wonder the people of California and the State government of California are unable to put themselves into a position of preparing for a crisis and have to come to the Federal Government, when their own moneys are being mandated and how they will spend their own moneys is being mandated by the Federal Government. Shouldn't we leave that decisionmaking, shouldn't we let people in the States be able to make decisions that are most applicable to the States, so if there is an emergency they can then afford to take care of those problems?

Mr. MILLER of California. Reclaiming my time, that is exactly the point. If you leave it in that fashion, and if you take the Mississippi River as the example, if all of the States and all of the cities do not contribute to cleaning up the river, then it makes no sense for anybody to contribute to cleaning up the river. If we look at the Great Lakes, if the cities on the Great Lakes don't clean up their discharge, then it makes no sense for any of them to do it.

Who goes first? When do you do it? That is why you have the unifying effect of Federal laws, because our actions in California—we think most of the pollution in the Grand Canyon is coming out of southern California, so here we have taken one of the great assets of this Nation, and we have destroyed it in terms of its beauty and the ability to enjoy it for visitors all over the world and our own citizens.

However, it is not about what happened in Arizona or New Mexico, it is about what happened in southern California. That is why you cannot let this simply be a local determination. We

had that before and we lived among the worst pollution in the history of this country.

I yield to the gentleman from California.

Mr. ROHRABACHER. Your argument is that what the Republicans are suggesting is a far swing of the pendulum in the wrong direction, but I would hope that you would admit that this is in reaction—I would not admit it is going too far, however, but I hope that you would admit that it is in reaction to a pendulum that has swung so far in the other direction that today, local governments find themselves mandating, whether it is for environmental reasons, which you have gone through earlier on in your talk, or for any number of other areas, they find their budgets are being totally mandated or to a great degree mandated by the Federal Government. Thus, local government and the prerogatives of the local voters are being taken away and coopted by the Federal Government.

Mr. MILLER of California. Reclaiming my time, that is not necessarily so. Very often local governments don't do things, not because the local voters don't want them to do things, but because the local power structure doesn't want them to do something, whether it is the local industry or the largest taxpayer in that city which decides ''If you do that, I'm going to have to spend *x* millions of dollars.''

But they also, those same people, the power structure, the local industry, others may very well have a social obligation to clean up the river and to clean up the air. It is not that that can always be overcome. Let's not pretend that every time the local voters get their way with the local city council or the local mayor or the governor or the county board of supervisors. That simply is not so. That simply is not so.

To suggest that somehow all righteous answers are at the local level is simply not the case. That is why very often we come to the Federal Government to try to pass a law that will unify us in terms of progress in this country, and in terms of the concerns of the people of this country.

The benefits, however, are not 100 percent on behalf of Washington, DC. If Santa Monica Bay is cleaned up, the benefit is also local, so we say we will share that. There are none of these mandates where the Federal Government has not put up hundreds of billions of dollars to help these local communities meet these mandates.

The other issue, have some mandates gone too far, clearly they have. Has the imposition, the regulation, the enforcement of some of these laws gone too far? Clearly it has.

However, this is not about the pendulum swinging, this is about cutting the cord on the pendulum and letting it fly out of control at one of its apexes, and that should not be allowed. Should we review these? Should we have cost assessments? Should we go into it opening our eyes? Yes, we should, and yes, we did.

Let us not pretend, like we debated the clean air law or the clean water law without people—with every economic study on the impacts, the automobile industry, the chemical industry, the refining industry, local governments, transit districts, toll bridges, the whole gamut, that was debated for months, for years on this floor, and we arrived at a series of laws that we think will continue to clean up the air of this Nation. That is what is put at jeopardy here.

Mr. DURBIN. Will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I would like to say that this debate is a much bigger debate, obviously. When you are talking about government mandates, they don't stop at Federal Government and State and local government, they go on to the local units.

I remember as a youngster growing up, one of the most notable tragedies in our area in my lifetime was a fire in Chicago at Our Lady of Angels School which unfortunately claimed the lives of scores of children. As a result of that fire, our State of Illinois established a health safety code and said that every school building in our State has to meet certain basic requirements in terms of fire exits and the like, and every school district or unit that is running a school has to comply with that health safety code.

We didn't pay for all of it by a long shot, but we basically said to the families living in my State, as I'm sure in your State, ''If you should move from one school district to the next, you have got to ask a lot of obvious questions about teachers and courses and all the rest, but you can be certain that every school is going to pass the basic test that your child is physically safe from fire in that building.''

That is a mandate, a government mandate from a higher government to a lower government, but for the peace of mind of the families and kids involved in it, we said, ''That is the appropriate thing to do for the common good.''

Mr. ROHRABACHER. Would you do that at the Federal level, as well?

Mr. DURBIN. No. I think in some areas you have to draw lines where you can go too far. I don't argue that you can.

Let me say to the gentleman, I think many times what the Republican Party misses is that aspect of our Federal Government which talks about the common good. The common good in many instances requires us all to basically give up some of our power and authority so as a nation we are doing the right thing.

I am sure the gentleman would agree that that is something that is very important to our country, and yet it seems the Republicans are so troubled by that that they would push through this unfunded mandate bill so quickly and so extreme that when you sit down and apply it to specific instances, it just doesn't make sense.

Mr. MILLER of California. If the gentleman will yield, I think the gentleman makes an important point. Many of these Governors who are sort of leading the band on this one are engaged in exactly the same process.

Pete Wilson handed the local counties of California a whole series of mandates last year on mental health, on medical care for people in the counties, a whole range of issues. They weren't funded. They weren't funded.

Somehow they want to pretend like they come here with clean hands, that they are opposed to this. We have laws in California called S.P. 90, no unfunded mandates. What the legislature does is every year it says ''In accordance with S.P. 90, this is not an unfunded mandate.'' Tell that to the counties who are having to live with that.

That doesn't make that process right, but let us not pretend that these are somehow unfunded mandate virgins who are coming to the Congress, that they have never done this. It is like Pete Wilson saying ''You balance your budget. I have had to balance mine.'' He didn't balance his budget last year, he went to the banks and borrowed money to make ends meet.

Somehow they think they speak with greater moral authority: ''Do as I say, not as I do.'' that is sort of the lesson of these Governors.

The fact is, they know that for the good of their States, every now and then, whether it is a fire code, whether it is flood protection, or workers' compensation, they must mandate that certain laws be abided by, and they don't say ''Every city make up your mind, every county make up your mind, and get back to me with what you did.'' That is not the nature of our system of government in this country.

Mr. ROHRABACHER. If the gentleman will yield, the gentleman noted or gave as an example the cleanup of the Santa Monica Bay, which is something I know about, coming from Southern California.

Mr. MILLER of California. I assume you spent a lot of time in the Bay.

Mr. ROHRABACHER. As a young man I body-surfed there and spent a lot of time in that water. That is probably the best example of why the decisions, environmental decisions like the cleanup of Santa Monica Bay, should be left to local people.

The question is, at the local level, how pure should we make the Santa Monica Bay, because the people of the local area know that you can have it 90-percent pure and not lose any jobs, but if you push to an environmental extremist position of trying to make it 99-percent pure, hundreds of thousands of people will be thrown out of work.

One of the complaints that we have had about Federal Government regulations is just that.

Mr. MILLER of California. Let me reclaim my time, because that is like orphanages. The laws now require that people that endanger their children should have their children taken away, and provides a mechanism for doing that, so we don't have to talk about orphanages.

We don't have to talk about whether or not we go too far. That is not what this legislation is about. This legislation is about gutting the basic laws. You won't even be able to engage in that debate in Santa Monica over fecal matter in the bay and whether or not the beaches will be closed or not.

Mr. ROHRABACHER. The local people will be doing that.

Mr. MILLER of California. It is also Federal money that is enabling that bay to be cleaned up, in part. That is true of the whole California coast. So that is the partnership that has been arranged.

Mr. ROHRABACHER. To the degree that Federal money is involved, the Republicans have no problem with us setting regulations for the use of that Federal money. It is just that in this whole mandate debate, it is about when we mandate things and do not provide the money.

□ 1340

Mr. MILLER of California. That is not what the legislation says.

Mr. TAYLOR of Mississippi. Mr. Speaker, will the gentleman yield so I can ask the other gentleman from California a question?

Mr. MILLER of California. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. I ask the gentleman from California [Mr. ROHRABACHER], of the estuaries that feed Santa Monica Bay, how many other States are involved in that?

Mr. ROHRABACHER. That is a very good example, because unlike the Mississippi where many States are involved, the Santa Monica Bay is totally within the State of California and thus having the Federal Government mandate the solution would be questionable.

Mr. MILLER of California. Unless you live up or down the coastline from the bay.

Mr. TAYLOR of Mississippi. If the gentleman will continue to yield, I wanted to contrast that with my home State.

Over one-third of the Continental United States drains past my home State. The actions of 80 million Americans, whether clean actions or actions that are not so clean, affect my home State: The tourism in Natchez and Vicksburg, recreational opportunities along the Mississippi River. The most productive fishing grounds in the whole country are at the mouth of the Mississippi River, for shrimping, for oystering, and that directly affects my district during the springtime when the river floods.

Do you think it is fair for the people of Chicago to deprive the oystermen of Pass Christian, MS, the opportunity to make a living? Do you think it is fair, because they want to cut back a little bit on their sewage treatment. For Vicksburg and Natchez to lose their tourism industry because the river is so filthy no one wants to go down to the gaming boats?

I am in total agreement. I was a city councilman and a State senator. We have to get a handle on mandates. But to throw them out the window makes no sense at all. It is just not fair for the people upstream from the Mississippi to ruin our State so they can save a couple of bucks. Because just as it is unfair for the Federal Government to push its problems off on the locals, it is equally unfair for local communities to push their problems off on the Federal Government.

That is precisely what happens in the nature of wastewater. It is just not fair for New York to poison the beaches of New Jersey. It is just not fair for this city, Washington, DC, to poison the water that the people of Alexandria, VA, are going to drink tomorrow, because the water for Alexandria, VA, is within one tidal cycle of what they call the Blue Plains sewage treatment plant here in Washington, DC. So if Mayor Marion Barry decides he is going to save a few bucks, or spend it on things other than wastewater, is it really fair to him to poison the people of Alexandria?

Mr. ROHRABACHER. If I could be given the opportunity to answer.

Mr. TAYLOR of Mississippi. Sure. I am asking the question.

Mr. MILLER of California. I yield to the gentleman from California.

Mr. ROHRABACHER. I think what the gentleman is showing are the complexities, but that does not negate the solution. That is, just as in the Santa Monica Bay, it might be better for the people of California and people of southern California in particular to determine what type of regulation they want for the cleanup of the Santa Monica Bay. In the same way with the Mississippi River, it would not be a good thing to tax everyone in the country in order to basically implement a policy along the Mississippi River when a solution might be made among the States that are on the Mississippi River to facilitate that solution.

Mr. TAYLOR of Mississippi. But, I say to the gentleman from California [Mr. ROHRABACHER], I was a city councilman when they cut back on Federal revenue sharing. I was a city councilman when the biggest issue we had was to upgrade the sewage treatment plant. Had it not been for the Federal mandate, the wastewater from my hometown would still be flowing into St. Louis Bay, still be poisoning the oyster reefs off Pass Christian and Long Beach and Biloxi. That is not right. That is why we are lawmakers. We came here to be lawmakers for the Nation.

The folks on your side of the aisle have made an excellent point. We need to be extremely judicious in the laws we make. We need to be extremely fair in the laws that we make. But we should also remember that we came here to be lawmakers and that we should have some laws that are common throughout the country, and some of those laws have to be that each community does not become a burden on the community downstream from them as far as wastewater, as far as toxic metals, as far as clean air. You will agree with that.

I think what many of us are asking for on this particular bill, since there was not a hearing on the unfunded mandate bill, that there be clear and concise language in that bill that says we are not undoing anything from the past. We are just going to start talking more about what it is going to cost for locals when we pass something. We are going to give it greater thought than we did before, but there has to be, and there is not in the bill as yet, clear and concise language that says we are not undoing present laws. Some of the present laws make a heck of a lot of sense.

Mr. MILLER of California. I yield to the gentleman from Illinois.

Mr. DURBIN. At the outset, I want to thank the gentleman from California [Mr. ROHRABACHER] for joining us. I hope we can encourage more of this type of dialog during the special orders instead of the monologs to an empty Chamber which has characterized them in the past. I thank you for joining us and hope we can do this in the future.

But let me add this, if I might. There has been a larger hearing on unfunded mandates in Capitol Hill in the last 45 minutes than at any time when this legislation has been making its way to the floor. We have heard testimony from the gentleman from Santa Monica, testimony from the gentleman from Mississippi, and testimony from the gentleman from Illinois about the impact of the Republican bill. We have heard more testimony right here in the last 45 minutes than we heard in the committee that reported this bill to the floor of the House of Representatives for a vote this week.

The bottom line is, unless and until we consider the complexity of this bill, the ramifications it has on the States of Mississippi and Illinois and California and Florida and others, we are doing a great disservice to the voters of this country.

The Republican leadership wants to slam-dunk every provision of this contract without a hearing, without deliberation, and frankly without the kind of concern which I think they should have for the impact and ramifications.

We cannot hope that the Senate will save us on this bill. I hope they will. Maybe the President will have to. But somewhere along the line, someone has to step back and say the responsible thing to do is to sort out these mandates where the Federal Government has overstepped and where, in fact, the Federal mandate makes sense for a

Federal policy that affects the whole country.

One last point I will make. One of the provisions in the Republican Contract With America goes after lawyers. Too much litigation. You want to see a lot of litigation? Pass this unfunded mandate bill and watch what happens. You will have every locality, every township, every community, every city, every village, every county, every State with lawyers backed up to the courthouse door saying, ''We are challenging this Federal law because it violates your Federal mandate provision. It imposes a duty and does not pay for it, and we dispute the Federal conclusion that you did pay for it,'' and on and on and on. This is a lawyer's dream. I think frankly the Republican Party which is trying to spare us too much litigation is really stepping in it when they pass this kind of legislation.

Mr. MILLER of California. I thank the gentleman.

Let me just conclude that the notion that somehow the Governors of the cities along the Mississippi River will all arrive at a common decision to keep the Mississippi clean so that the people in the Gulf States are not punished economically or in their quality of life simply defies political logic in the history of this country.

But for these unfunded mandates, I said that many parents have come to me and other Members of Congress and said, ''But for that law of education to handicapped children, my child would have never gotten an education.'' But let me also say, but for these laws, the plan to rescue the Everglades in Florida would have never come about, because the political structure in Florida was unable to deal with the growers, to deal with the landowners, to deal with the water districts and all that that meant in that political equation, try as they might, and this Governor and Lieutenant Governor have pushed the envelope on reaching consensus, but for the Clean Water Act and the Endangered Species Act, the agreement that is now in place to provide to start on the restoration of the Everglades, one of the wonders of the world, one of the major generators of economic activity in Florida, would never have happened.

In my own State of California, we just reached an agreement between local government, the environmental community, the agricultural community and the State for the protection of the Sacramento-San Joaquin Delta for the commercial fisheries, for the landowners, for the industries, for the cities, for the sports fishing, for recreation. That agreement would have never come about but for Clean Water and Endangered Species, because Governor Wilson, like every other Governor in the State of California, because of where they take their political contributions, could have never stepped up to the table, because the growers would never let them. Not Democratic Governors, not Republican Governors.

But all of a sudden they had to step up to the table because the Federal Government made them do it, because we took the political heat in Washington.

This administration took the political heat and turned back the 11th-hour pleas not to do it. What is the result? That the Delta will now have a recovery plan so we can sustain the recreation and the quality of life and the environment. The cities in southern California will get more water. The growers will have to start paying for their water and conserving it and using it in a modern age as opposed to how they used it with high Federal subsidies in the 1950's.

□ 1350

This is the 1990's. But no Governor would have made that deal without the threat of Federal action and going to court.

In the Northwest, no Governor, nobody had the guts to tell those loggers to stop decimating those forests, to stop cutting them faster than they could be regrown, so that they could be sustainable. And for years it happened, and whole mountainsides now are denuded of vegetation. Forget getting trees to grow again.

What brought it about? The Endangered Species Act and the Federal Government saying we had to reach agreement between the environmental community and industry and the local communities and the salmon fishing industry, the commercial industries and recreation, and the people of Oregon and Washington about their quality of life, why people invested in homes.

The local power structure did not want to tell Weyerhaeuser that, they did not want to tell the mill down the street that, they did not want to tell these people with all of their lawyers and all their lobbyists that they had to quit destroying America's forests, that they had to stay out of the ancient forests, that they could not decimate the salmon fisheries. They did not have it. They did not have it.

But it happened because of these laws that those same Governors, those same mayors now seek to decimate, acting like they would all of a sudden have the courage to bring into concert those very parties that they rely on for campaign contributions, that they kowtow to all of the time and that they cannot look in the eye and tell them to start doing the people's business in the public interest. That is why these Federal laws are here.

These Federal laws are not here because of some overwhelming desire of Washington to regulate the world. They came here because people were dying on the job, and they would not clean up the workplaces. People were getting killed in coal mine explosions, in grain elevators that were blowing up around the Midwest and the Mississippi River and killing people. They were working around benzene and finding out they had cancer. They were working around other toxic substances and they found out they had a child with birth defects, because that is what they were told to do that is why these laws are here.

The automobile makers did not want to put air bags in automobiles. They resisted us for 15 years. Now most families would not buy an automobile without an air bag. They did no want seat belts. Now we would not think of an automobile without seat belts. They did not want to put child restraints in. When I was young and had my children, we held them on our lap and we drove around. And we were killing the children in wrecks. Now they are in a seat restraint system and the children are living.

I appreciate that people do not want to do business other then the way they want to do business. But that is what brought about, that is what brought about these Federal laws. It was the irresponsibility of many, many individuals and entities in this country that thought that they could use your rivers as their sewage plant and thought they could put their dirty air high enough into the sky that it would blow into some other State and somebody else would have to breathe it.

That is what is at risk here with this Republican legislation. That is what is at risk here in terms of the unity of this Nation, the social progress of this Nation, and that cannot be given away in short debate without a hearing and in a rush to somehow get it done in 100 days.

We have spent 30 years cleaning up the environment of this Nation, making it a model for the rest of the world to provide a standard of living and security in our food supply, security in our air travel, security in our highway travel, security in our job place, security in our own homes, because other people just chose to make a buck. But the Federal Government thought we ought to make laws in the public interest.

Now what we see is in one piece of legislation with no hearings, where you cut off debate in the committee last, week, we now see an effort to overturn those 30 years of social progress, turning back the forces who seek to exploit the environment, to exploit the worker, to exploit the family, to make a fast buck, to make a big profit and let the chips fall where they may. That is Bhopal, India, that is Chernobyl, that is the Ukraine, that is the Soviet Union where the lands have been destroyed and families broken and people are living in toxic waste. That is not the United States of America, that is not this country, and it is not this country because of these laws.

To simply allow this assault to go on unfettered, to do it all in one piece of legislation, to not pull it apart and say what is the impact on nuclear safety, what is the impact on low-level waste being put in your communities, what happens to radioactive wastes from

hospitals that is being stored around our cities, being stored in our own communities, how do we provide for the safe disposal, what happens to the reactor rods we take out of nuclear reactors, are they going to be in your community or my community, what are the conditions under which they will be disposed of when they are stored, what are the protections to the citizens in those areas; that is the kind of debate we should have, and that is the discussion they should have had in the committee. The Republicans were just not up to it.

On the first day they said their contract required open meetings and the Speaker stood before this House and said let the great debate begin. Apparently it was not as great as we thought. They decided to close the meetings, they decided to rule amendments out of order because they simply did not want any more time, not that the amendments were not germane or did not have an impact or were not worthy of consideration. They decided it was 6 o'clock, time had come to leave.

These were people who said they were going to work every day around the clock, Monday to Friday, 100 days. They could not find time to have hearings on a bill that decimates the laws of this country. I hope we will have better debate on the floor and the Republicans will reconsider their assault, and I hope the American people will turn them back from this assault.

I will urge the President to veto this bill, because in one swoop of his pen he undoes 30 years of social progress in the environment and in the workplace and in the security of American families.

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

THE CONGRESSIONAL ACCOUNTABILITY ACT

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, I wanted to talk a little bit today about my own support, which is strong support, of the Congressional Accountability Act. It was introduced by my colleague and my good friend, the gentleman from Connecticut, CHRIS SHAYS, and I congratulate him for his tenacity and for his determination to see this piece of legislation through.

The Congressional Accountability Act is a commonsense piece of legislation. It simply requires Congress to abide by all of the laws that it passes, so that Congress and Members of Congress are accountable for the laws that they pass, and they apply to Members. It makes perfect sense.

By bringing Congress under labor and workplace laws that have long regulated private industry, we then begin to move government closer to people.

The reforms of this Congressional Accountability Act are long overdue, and once again I reiterate my strong support for it and in fact worked very, very hard for it in the last session of this Congress.

However, in the midst of this wave of reform, in this package one perk was left untouched, and that is the ability of Members of this House to convert frequent-flier miles accrued from taxpayer-funded travel to their own personal use. Ending the frequent-flier perk is essential. It is essential to our ability to restore that bond of trust with the American people which we so need to remake with the American public. Members of this body should not be taking golf junkets or tropical vacations at the taxpayers' expense.

Last August under Democratic leadership, the House overwhelmingly approved the Congressional Accountability Act, and when we did that last August it included a ban on personal use of frequent-flier miles by Members of the House of Representatives. In October, the gentleman from Georgia [Mr. GINGRICH] objected to inclusion of the frequent-flier ban, so it was removed. We cannot reform this institution while the Republican leadership works behind closed doors to protect perks. It is wrong. It is not open government and it is not reform in the way that the American public demanded reform on November 8.

□ 1400

A ban on conversion of frequent-flier miles for personal use should, indeed, have been included in the Congressional Accountability Act today as it was last year.

Quite honestly, what makes the omission more disgraceful is that our colleagues in the Senate have included a frequent-flier ban in this version of the bill, and that means that we will pass a Congressional Accountability Act that will hold the United States Senate to a higher standard than the House of Representatives. That is wrong, and it is shameful.

By requiring that Members of Congress use these tickets only for official use we save the taxpayers money. That is what the debate is about.

Speaker GINGRICH says that hardly any money would be saved by ending this perk and, therefore, this is a ''Mickey Mouse reform.'' And while it is true that most Members of Congress only qualify for a few frequent-flier tickets per year, the dollars in fact do add up. Ask working Americans if they would not like a pair of free airline tickets dropped in their laps every few months to use at their own discretion to take a trip and get some rest and relaxation.

It may not be a lot of money to the Speaker, but it is to most Americans. But by simply attaching a dollar figure to figure the value of reform we miss the point. It is the message, the message that protection of this perk sends to the public that is most destructive.

Today, just today, Mr. GINGRICH reiterated his support for keeping the frequent-flier perk for Members of the House and admits that he used these freebies to fly members of his own family. Mr. GINGRICH says that he is interested in a more family friendly Congress and worries about Members of Congress of modest means who use the free tickets to fly family members to and from Washington.

Modest means? Members of Congress make $126,000 a year. I doubt that most Americans consider this to be modest means.

The American people, indeed, are fed up with public officials who live by a different set of rules. The Congressional Accountability Act begins to address these inequities, and the American public is right, Congress should not live by a different set of rules. But today we had a chance to go a step further and to close that loophole that allows Members of Congress to vacation at the taxpayers' expense.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR] for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentleman from Massachusetts [Mr. FRANK] for 5 minutes.

[Mr. FRANK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

RECESS

The SPEAKER pro tempore. Pursuant to clause XII, rule 1, the Chair declares the House in recess until 5 p.m. today.

Accordingly (at 2 o'clock and 3 minutes p.m.) the House stood in recess until 5 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DREIER] at 5 o'clock p.m.

CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 2.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is one the motion offered by the gentleman from California [Mr.

THOMAS] that the House suspend the rules and pass the Senate bill, S. 2, on which the yeas and nays are ordered.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Consistent with the Chair's announced policy of January 4, 1995, as shown on pages H112 and H18 to H19 of the CONGRESSIONAL RECORD, the Chair will keep to a maximum of 17 minutes the time for a recorded vote on this matter. Members should depart for the Chamber immediately upon the start of the vote by the electronic device.

The vote was taken by electronic device, and there were—yeas 390, nays 0, not voting 44, as follows:

[Roll No. 16]

YEAS—390

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
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 (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Dooley
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Everett
Ewing
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McHale
McHugh
McIntosh
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
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
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
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
Whitfield
Wicker
Williams
Wise
Wolf
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—0

NOT VOTING—44

Barcia
Becerra
Berman
Bryant (TX)
Deutsch
Dixon
Doolittle
Dornan
Evans
Farr
Fazio
Gallegly
Gephardt
Hall (OH)
Hefley
Hinchey
Jefferson
Johnson (SD)
Johnston
Kennedy (RI)
Lantos
Latham
Lincoln
McCollum
McCrery
McDermott
McInnis
McKeon
McNulty
Mfume
Owens
Pelosi
Quillen
Reynolds
Richardson
Rose
Shuster
Slaughter
Thompson
Torres
Waters
Wilson
Woolsey
Yates

□ 1717

So (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LINCOLN. Mr. Speaker, due to medical reasons, I was unavoidably absent during rollcall vote No. 16 on agreeing to S. 2, the Congressional Accountability Act.

Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, due to a scheduling conflict in association with the celebration of the birthday of Dr. Martin Luther King, Jr., I was forced to miss the vote that was taken today, Tuesday, January 17, 1995.

Had I been here, I would have voted "aye" to suspend the rules and pass the bill S. 2, the Congressional Accountability Act 1995.

As my record will show, I have been a strong supporter in both 1994 and 1995 of legislation to require that the Congress comply with the legislation it passes. I am pleased that this year this legislation was approved of by the other body, and like many of my colleagues I look forward to seeing it signed into law in the very near future.

PERSONAL EXPLANATION

Mr. McDERMOTT. Mr. Speaker, during rollcall vote No. 16 on S. 2, I was unavoidably detained. Had I been present I would have voted "yes".

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I was unavoidably detained in California because of the floods, just arrived here on the airplane, and inadvertently missed the last vote on rollcall No. 16.

□ 1720

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. WELDON of Pennsylvania). 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.

ON UNFUNDED MANDATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. GILLMOR] is recognized for 5 minutes.

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

Mr. GILLMOR. Mr. Speaker, this country needs an end to unfunded mandates by the Federal Government on State and local governments. I am delighted to see that this concept is finally receiving broad support from both the public and from this Congress.

I introduced a constitutional amendment a year and a half ago to end those unfunded mandates by constitutional amendment, and what a difference a year and a half makes.

When I first proposed it, most people thought there was almost no chance of ever seeing a constitutional amendment voted on or adopted in this body. But after the November election and after increasing concern shown by Governors and State legislators, we have an excellent chance of getting this issue before both Houses and to a vote.

There is legislation pending to curtail unfunded mandates by statute. I support that. I cosponsored it last

year, and I am cosponsoring it again this year. But the weakness of a statute is that it can be changed by a simple majority vote. And the only real long-term protection is by a constitutional amendment.

During my 22 years in the Ohio Senate, including several terms as Senate President, I witnessed a tremendous increase in the cost and the number of mandates being forced on the States. When the States originally ceded power to the Federal Government, they could not have envisioned a situation where State law would be so lightly overthrown and where State funds would be subject to Federal raids.

Unfunded mandates permit the Federal Government to avoid responsibility for its actions. They give the Federal Government the power to reorder and to distort State and local budget priorities. States have had to curtail services they feel are priorities because of those mandates. States have had to cut schools. They have had to cut police protection, programs for senior citizens. They have had to cut police protection.

And examples of unfunded mandates are both large and small. For example, the mayor of Columbus, OH, our capital city, has estimated the cost of unfunded mandates for his city as $800 per year for every single individual in the city. In 1993, shortly after I introduced the original amendment, I heard from the fire chief of Van Wert, OH, a small city in my district, complaining about Federal regulations that required him to replace the breathing tanks his men use when they enter smoke-filled areas. Not a single one of the tanks were defective or needed to be replaced, but it cost him $9,500 to replace them.

At the same time he was forced to cut his budget for volunteer firemen. For that $9,500, the chief could have had 20 volunteer firemen instead of having his force cut down to 5.

There is an EPA requirement that sets atrazine limits at three parts per billion in drinking water. That sounds good until you consider that it would cost one city $80 million to comply and will not increase public health or safety at all.

How much water does a person have to drink, based on that standard, to have even a remote chance of having any adverse effect on their health? An individual would have to drink 38 bathtubs full of water every day for the rest of his or her life; and for the same amount of money, that city could have hired 3,700 schoolteachers. What has happened is that Congress has been irresponsibly freeloading on the backs of State and local government.

Congress passes a requirement. It takes the credit. But it refuses to pay the burden for the mandates that are created. State and local governments pay the cost. They get the political blame.

Contrary to what some opponents say, this does not prevent Congress from passing anything on health and safety. It just says, pay for your actions like anybody else. There are some in the Federal Government who have been freeloading and have been irresponsible for so long that they think that freeloading and irresponsibility are virtues.

Now is the time to restore a proper balance in Federal relations. This amendment does not in any way endanger public health or safety. It enhances it by helping assure that public resources are effectively spent and not wasted.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Speaker, this morning, as billions of people around the world know, the cities of Kobe and Osaka in southern Japan were struck with a devastating 7.2 magnitude earthquake.

As of noon today, Washington time, nearly 1,600 people were known dead, more than 1,000 were missing, and more than 6,000 were injured.

No words are necessary beyond reading that toll to know that the family lives disrupted by this epic tragedy will never heal completely.

And no words are necessary beyond reading this next tally to know that the tremendous physical damage will not soon be repaired:

More than 4,000 buildings were destroyed this morning. Expressway and rail service has either been severed or disrupted in much of western Japan. Power and telecommunications systems have been cut.

These people are now in crisis, and I know that Americans everywhere share in the sadness caused by this tragedy.

We do so because of the suffering involved. And we do so out of a feeling of a deja vu that hits still closer to home.

The sad irony of this earthquake in Japan is that this day also marks the 1-year anniversary of the Northridge Earthquake—a 6.7-magnitude quake which killed 61 people and caused 20 billion dollars' worth of damage in the Los Angeles area.

The lesson we should be learning is that the forces of nature continue to strike at will.

The lesson we should be learning is that in our increasingly developed world, the costs of responding to natural disasters and repairing the damage keeps going up—and that we do not have a bottomless checkbook.

Unless and until we act as a nation to mitigate the potential for damage,

Unless we make it possible to recover from natural disasters with lives and communities more intact than is possible under present law,

We will pay a higher and higher cost in lives lost, in the cost to rebuild, and in the dislocation to our economy and society while we rebuild.

As chair of the House Public Works and Transportation Committee in the last Congress, I can tell you that the 1994 Northridge Earthquake and the 1993 Midwest flooding became cases in point—as did hurricanes Andrew and Iniki, and the Loma Prieta Earthquake in earlier years.

Today, California also suffers from statewide flooding in addition to the Northridge memories of a year ago.

Since last Wednesday, I have spent several days examining the destruction caused by the floods in my State. I have looked at which systems worked, which did not, and how Government agencies and nonprofit voluntary agencies worked to save lives and help communities recover.

These floods reminded me again that we as a nation are not helpless, but that clearly we are not doing all that we can in advance to stave off the human and financial costs of natural disasters.

In the last Congress, the Public Works and Transportation Committee approved legislation—the first of its kind—to get ahead of this particular curve.

This legislation—the Natural Disaster Protection Partnership Act—would create the first public-private partnership to reduce the cost of natural disasters and to keep disaster insurance available and affordable to homeowners so that less of the cleanup and repair cost would be at taxpayer expense.

We would accomplish these two goals in four ways. First, through better preparedness. Second, through spreading out the financial risks, which would lower the costs to homeowners and ensure that coverage would be available.

Third, through better State and local government enforcement of building standards. And fourth, through Federal coordination and required financial backstops to existing insurance pools.

Just about every group affected—from homeowners associations, to consumer advocates, to insurance companies, to emergency service officials—has agreed that the Natural Disaster Protection Partnership Act has the right combination of ideas to end the fear and create greater security, and to do so by putting greater reliance on the private sector.

This is why I was delighted when a bipartisan House task force endorsed the provisions of my bill last month.

If there is any single piece of legislation that cries out for enactment early in this new Congress, it is this one.

Today's earthquake in Japan was another reminder, and warning.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

[Mrs. COLLINS of Illinois, addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Arkansas [Mrs. LINCOLN] is recognized for 5 minutes.

[Mrs. LINCOLN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

□1730

RECOMMENDING A FAVORABLE REPORT ON HOUSE RESOLUTION 15

The SPEAKER pro tempore (Mr. WELDON). Under a previous order of the House, the gentlewoman from Missouri [Ms. MCCARTHY] is recognized for 5 minutes.

Ms. MCCARTHY. Mr. Speaker, while I voted for the final version of the Congressional Accountability Act that was just before us, I want to register my extreme disappointment that it did into include a provision barring House Members from using frequent flyer awards for personal trips. Under this measure, Senators are prohibited from doing so.

For this reason, I joined today as a cosponsor of House Resolution 15, introduced by my colleague, the gentleman from Wisconsin [Mr. BARRETT], which would require that travel awards that accrue due to official travel by Members of the House be used only for official travel. This resolution has been referred to the new Committee on House Oversight. The Speaker has been quoted in this afternoon's Congress Daily as saying he recommends that the Committee on House Oversight review this matter.

I hope the Committee on House Oversight will do more than just review this matter. The legislation of the gentleman from Wisconsin [Mr. BARRETT] is very important. I hope they will favorably report it to the full House, so we can hold ourselves to the same high standard of ethics as the other governing boards, the other House, and all of the U.S. Government.

Mr. Speaker, I feel very strongly that if we do not do this, we demonstrate an hypocrisy that is not appropriate to the governing of this House.

THE ROLE OF UNITED STATES IN SOLVING MEXICO'S MONETARY CRISIS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the Chair recognizes the gentlewoman from Ohio [Ms. KAPTUR] for 60 minutes.

Ms. KAPTUR. Mr. Speaker, while America was celebrating Martin Luther King Day yesterday and the long weekend, officials over at the White House and here in the Nation's Capitol buildings were running around frantically trying to figure out how to bail out Mexico with your taxpayer dollars, without calling it a bailout. They say ''It won't cost us a penny because Mexico will pay it all back.''

However, Mexico has never pad back its debts. That is why it is in the fix it is today. The powers that be here in Washington, therefore, have devised a multibillion dollar taxpayer bailout plan to prop up Mexico after the recent peso meltdown.

Listen to this. It will conveniently be placed off budget, through some fancy manipulations of lawyer's words that will make it sound like our taxpayer's don't end up holding the bag. First, there was an $18 billion loan package with a $9 billion line of credit from the U.S. Treasury and our Federal Reserve.

You know what the Federal Reserve is. When you put money in your local bank, it then goes up in the chain and the local banks end up owning the district banks which then own the Federal Reserve, so it is your money to begin with.

But that was not enough of our taxpayer's money last week, so now we are being asked to put up an additional, are you ready, $40 billion, that is with a B, dollars in loan guarantees in Mexico. But of course we are being told it is just a safety net and we will probably never really have to pay it, because surely Mexico will not have any problems paying off these new loans.

This is really getting interesting. How ironic that during the very month when Congress is about to consider a balanced budget amendment to put our taxpayers in a vice, we are being asked to close our eyes to this unprecedented back door version of foreign aid that holds the potential to bust any budget that we pass here. Off budget? Off budget means the bill will be on your budget, that taxpayers' budget. Don't you just love it?

Mr. ABERCROMBIE. Will the gentlewoman yield?

Ms. KAPTUR. I yield to my distinguished colleague, the gentleman from Hawaii.

Mr. ABERCROMBIE. Would the gentlewoman characterize the reaction perhaps in her district as I find in my district, that people are under the impression that we may be giving this money to the Mexican Government? And would it be a fair characterization to say we may in fact be doing exactly that, because if they default, won't we in fact be giving it to them by taking it from our own people?

Ms. KAPTUR. We absolutely will. In effect, our people become Mexico's insurance company.

Mr. ABERCROMBIE. Would the gentlewoman kindly explain what that means, if we become their insurance company? What obligation does the taxpayer in America have if there is a default by the Mexican oligarchy?

Ms. KAPTUR. If there is a default—and as I say, Mexico has never paid back its debts. It owes $89 billion it is not paying off right now. It means that we pledge the full faith and credit of the people of the United States to pay the debts of Mexico.

Mr. ABERCROMBIE. Is it a correct assumption that if they have not paid any of the debt that you have mentioned so far and are unable to pay anything on that which we are going to advance them, that they will be combined and the taxpayers in America will have to take up all of that obligation?

Ms. KAPTUR. That is the way it looks to me, my friend.

Mr. ABERCROMBIE. I thank the gentlewoman.

Ms. KAPTUR. I thank the gentleman.

Now the new ''leadership,'' I put leadership in quotes, of this institution is turning cartwheels over one another trying to push this through real fast, real fast. I just love it.

Where is the new Committee on the Budget? Where are the new Members who said that they were going to finally balance the budget of our country? What a joke. Instead of a Contract With America, this Congress is falling over itself to pass a new contract with Mexico. Who is kidding who?

Members like myself understand the power of Wall Street, and megabanks, and multinational corporations. We understand the power of the media to keep this crisis under wraps at their bidding and hope the taxpayers miss this one.

Last week in Washington over a dozen Members of Congress held a major press conference here in the Press Gallery. There had to be over 100 press people. The rooms were overflowing. I asked my friends around the country, ''How much did you read about that in your newspapers?'' Who was it that made the telephone calls from the other end of Pennsylvania Avenue, that suppressed the press releases and the messages that we tried to get out to the people of the United States? I have a hunch who it was.

We understand the power of the White House. We understand the power of the leadership here in this Congress. We do not like it, but we understand it. We know they want to slip this baby through with as little public scrutiny as possible. There is a lot of money at stake for their friends.

After all, it would be embarrassing to them, all those high-flying speculators that gambled with mutual funds in this country, the ones who are always complaining about how they want Uncle Sam off their back, until they need to put their hands into our taxpayers' pockets to get them out of another one of their expensive binds.

To them I say, look out, because once the American people figure out the magnitude of what you are trying to do, they are going to be outraged.

Mr. Speaker, I ask, please do not tell us this will be good to the people of Mexico. That autocratic state will not be one whit more democratic when this is all over. Its citizenry will not have any greater standing in that legal system, nor will our businesses, who do business down there.

All that will happen is that the vise around the necks of Mexico's people will continue to grow tighter. Mexican wages will decrease even more. Life that is already tough for the majority of Mexico's citizens will become even more unbearable. Inflation will be even tougher to manage than it is now.

But get this, Mexico's super-rich families took their money out of that country before the peso meltdown. How convenient.

□ 1740

Why are they not being held accountable? Why should United States taxpayers put their money on the line when Mexico's 3 dozen ruling families have their billions safely tucked away offshore?

If we remember back to 1984 and Mexico owed commercial banks in those

days, Mexican funds by these families in United States banks exceeded the amount that Mexico owed to our banks by somewhere between $40 billion and $60 billion. Very interesting. Not small potatoes.

They got themselves into this mess. Let them bail out their homeland by repatriating and bringing home their own money and let the big business interests in our country in cahoots with them eat their own losses.

That is free enterprise. That is what free enterprise is supposed to be all about, taking a risk and then being willing to meet the piper.

Just last week when most of America was not looking, the House Banking Committee here on this side of Congress renamed itself and passed new rules under its so-called new leadership mandated by what I call the ''Contract on America'' that will permit this bill to subvert normal committee procedures. No hearings will be held in the subcommittee of jurisdiction. Don't have to under the new rules they passed.

This will be a real railroad job. Only the full committee will have some sort of lightning speed session, because if you ask too many questions and the public begins to understand what is going on here, somebody in America might actually object. I bet you a dime to a doughnut when that bill gets to this floor, it will be the fastest ball you ever saw come down the pike.

So, what is so new about this Congress? The idea is to hide the truth from the American people once again. Hold as few hearings as possible, limit floor debate, don't let the public know any of the grimy details. So let me ask again, what is so new about this so-called new Congress, anyway?

And let me say to the real gamblers in all of this—you know who you are: The megabanks, the multinational corporations, and the speculators who pushed through NAFTA, there are a few of us who understand. You put our taxpayers now at the helm for your mistakes and for your greed. We are angry. We resent what you have done.

My own feeling is that when you gamble, you should eat your own losses and not come whining to the American people to foot the bill. You are all big boys. You love this kind of free enterprise gamble. So practice some of it. Don't come running home to Mama in the Government.

Let me just say even gamblers have rules. If you go to Las Vegas and consistently lose money, the casinos won't let you play at their tables anymore. It is a good rule. Mexico has consistently lost money and never paid back the principal on its loans from us. Why should we let them play again?

Remember the Brady bonds? They keep flipping around like fish on a deck. If you go to Las Vegas, there are also table limits. In other words, there is a certain ceiling on how much you can lose. Even gamblers have a code. But with this Mexico deal, there is no limit.

A week ago, the administration first said it needed $6 billion. Then it raised it to $9 billion, then to $18 billion, then to $25 billion. Then by the end of the week, it became $40 billion, and that is on top of the $18 billion line of credit already in place. How's that for 1 week's work?

I have an idea and I thought about this all weekend. Since American taxpayers are being asked to bail the gamblers out on the faulty assumption that Mexico will pay back theses new loans, which would be an historical first, let me humbly suggest to the Secretary of Treasury and Chairman of the Federal Reserve, that what is fair is fair. If the American people have to pay, give them something in return. Let them earn the money off your gambling with their money. How about creating a new short-term bond for American taxpayers backed up by Mexican oil? Call it the oil bond. Its benefits will flow to each family in America bankrolling you, not just to a dozen well-connected bond houses and investment banks on Wall Street. Ask Mexico to pay us back in goods, not promises. Then let those oil barrels start rolling north. Call it cash on the barrelhead, using the current price at delivery.

Since this bailout is putting citizens at a $49 billion risk to start off with, I figure with over 100 million households in America, for each family in our country we are talking about a minimum of one $600 oil bond per family, not counting the interest due them over the life of the debt instrument.

So let me challenge those creative geniuses over at the U.S. Treasury and Federal Reserve who have gotten us into this mess—you know who I am talking about—the ones who as a result of GATT just stopped guaranteeing average Americans a decent return on their U.S. savings bonds. We used to have a 6-percent floor which said you cannot earn less than 6 percent. Then they lowered it to 4 percent for our people. Now they have even taken out the 4-percent floor. I am asking those same folks over at Treasury to go back to the drawing board. If U.S. taxpayers are going to bankroll you and your speculative buddies, let our people share in the wealth.

Imagine, the oil bonds could be sold through every Federal Reserve regional bank. The Federal Reserve could establish an 800 toll-free number that citizens could call, 1–800–O-I-L-B-O-N-D. How simple and straightforward it would be. Each American would immediately be an owner of 40 barrels of Mexican oil. For the first time in our history, it would democratize the gambling done by our Treasury Department and Federal Reserve at the expense of our taxpayers.

The more I think about it, the more I really like it. Citizens with credit cards could call right in. The IRS could mail special envelopes back to each taxpaying family after April 15 of this year containing the family's oil bond. All taxpayers would benefit directly, again with goods, not promises. Is this not one of those ideas, the more you mull it over, the more it really grows on you?

In conclusion, I would just like to say, let's stop this clever taxpaying bailout of Mexico. Let's stop this new budget-buster that will completely abrogate any work we do on a balanced-budget amendment here this month. Let's get rid of the biggest unfunded mandate in the history of our country. Let's put our taxpayers back in the driver's seat and let them earn the money for a change.

Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. KLINK. I thank the gentlewoman from Ohio again for taking the lead on this issue, and I will tell you when we were on the floor last week, the discussion was about an $18 billion line of credit which somehow has more than doubled.

I am very troubled given the history of what has occurred in my own district and I know the gentlewoman's district of Toledo, OH is very similar.

We are being told that all this is going to be done off-budget, that there is some magical way of being able to leverage this money and to get it down there so that they can draw down on it, and that, in fact, $40 billion is more than they will ever need.

□ 1750

What about Ohio and Pennsylvania and Oregon and New York? Can we not do the same thing for those States where our industries have fallen apart? Can we not do the same thing for our own Federal debt that we are very much discouraged over and we have got all kinds of plans about trying to do something about? We are being told that if something does occur, if we do not do this, that there is going to be all sorts of bad ramifications, and I understand what some of those risks are. But one of the things we are being told is that we will discourage investment in Third World countries like Mexico, Chile, Brazil, and Argentina. My question is: Does that encourage investments in firms that are employing people here in our country, because I firmly believe that all of those dollars that have moved offshore, many of them going across the Rio Grande to Mexico, that those are dollars that are not being invested to put Americans to work.

I have seen factory after factory, manufacturer after manufacturer that have moved from my district and districts around me and Volkswagen is one of them. They used to have 5,000 employees in New Stanton, PA. They are now making those same cars just outside of Mexico City.

But as I listened today to some of the explanations from the Fed and from the Treasury Department, a few of their ideas really bother me. No. 1 was

the fact they said the Mexican worker can never truly be competitive.

As I listened to that, I go back to our discussion on NAFTA and I remember discussions with people from Volkswagen and General Motors and Ford and Sony and Zenith. They obviously do not agree with that because they have made hundreds of millions of dollars in investments and they are getting their dollars back because the Mexican workers truly are creative, they are very capable, and they can manufacture. And in fact, I have heard Members of our own Congress talk about companies and firms saying they are getting the same productivity from the workers in Mexico as they are getting from the American workers. So that is a wives tale and it just does not wash.

If ideas like this that we know are false are going into this plan to give a $40 billion line of credit to Mexico, what else is faulty that we do not know about? I think that there probably is a lot of it. If this is such a good deal, if there is not a lot of risk, I think the gentlewoman's idea is correct. Why do we not privatize this debt? Why do we not let those same people who went to Mexico wanting to invest money and making millions of dollars, let us let them invest in that $40 billion debt rather than the American taxpayers who quite frankly have already invested in the debt that we have run up in this country. They have invested in their own consumer debt because their salaries and their wages have not kept up with the cost of living in this Nation. So why should we ask them to make that kind of a bailout? Let us let the big money interests go ahead and make those investments.

Ms. KAPTUR. If the gentleman will yield on that point, I just want to point out that when any person goes into a financial institution in our country, whether it is a credit union, whether it is a savings and loan, whether it is a commercial bank, there is a little sticker in the window and it says insured by the full faith and credit of the Government of the United States. You do not see that when you go into a securities office or an investment bank on Wall Street. There is not any kind of taxpayer backup of the gambling, professional gambling in a sense, that is done through those investment banks.

What I find really reprehensible about this proposal is that those individuals who chose to gamble, they knew what they were doing. Now whether they explained it to the people who used those institutions to place their money in private instruments, that is another question. But we have no obligation by the taxpayers of this country to prop up the investment banks of this country or the world.

Mr. KLINK. If the gentlewoman will yield on that point, I think she makes a very valid point and I would say this to Members of this U.S. Congress, many of whom I hope are watching on TVs from their offices. If we go down this path with this loan, with this line of credit to Mexico, we can never say no again. We are breaking new ground. We are saying that the taxpayers of the United States will stand behind this type of loss and this type of loan and this type of a run on a nation. And once we make this exception, once we start down this road, how do we turn our back the next time and say well, we could do it for Mexico, but we will not do it for Argentina, we will not do it for Brazil or Thailand or for India or France, you name the country, and fill in the blanks. This is precedent setting.

This is not Chrysler Corp. which this United States of America and a lot of our workers have a great amount of investment in. This is not New York City, which is a vital city and an important part of our Nation. This is an investment by the American taxpayers in foreign debt where the big moneygrabbers went in and when the heat got turned up too tough, they turned around and grabbed their money and ran off shore, including those who are big money people in Mexico.

Mr. DEFAZIO. If the gentlewoman will yield, I think the interesting thing for our colleagues to realize for those listening is that what Alan Greenspan, head of the Federal Reserve Board, and Robert Rubin, an ex-managing partner of Goldman, Sachs, now Secretary of the Treasury said to us, representing the people in Congress: ''What are you concerned about? This is only a loan guarantee. There is no risk to the United States. In effect we are only a cosigner.''

Well, wait a minute. When I go to the bank to buy a car, they do not ask me to get a cosigner. When somebody with bad credit goes to the bank asking to buy a car, they want a cosigner. We are cosigners because we know Mexico does not have good credit. There is nothing underlying these massive loan guarantees except the full faith and credit of the U.S. Treasury, which is part and parcel the taxpayers of the United States of America, $40 billion at risk for the taxpayers of America. For what? So we can continue to encourage United States corporations to move manufacturing jobs to Mexico, so we can run a trade deficit with Mexico.

If we assume that Mexico can meet these obligations, we have to assume there will be a massive turnaround in their current accounts deficit. They had a $28 billion current account deficit this year. They say next year they will cut it in half. There is only one place they can get that. They are assuming by saying that they will be running a trade surplus with the United States of America of tens of billions of dollars in coming years, and we all know when you run a trade surplus with someone, you are profiting and your people are working. When you are running a deficit, you are exporting jobs.

We are about to enter into the same category, in fact we did in October, with Mexico as we have with every other one of our trading partners. That is, we are going into deficit, and we cannot keep on piling deficit upon deficit in our balance of international trade any more than we can the Federal Treasury.

It looks like with the balanced-budget amendment we are finally waking up to fiscal reality here in Washington, DC, with the domestic economy. But what about the foreign economy? How can we run a trade deficit and expect to have jobs and accumulate wealth and an increased standard of living? How can we run a trade deficit with Mexico and export our manufacturing jobs and expect to increase wages and better working conditions and have jobs for people here, and we are going to pay $40 billion for this privilege? It is outrageous.

Ms. KAPTUR. If the gentleman will yield, I am reminded of a sad irony in all of this. When you think with the very companies, big companies, we are not talking about little fish now on Main Street, we are talking about big fish that can move their production anywhere in the world to take advantage of cheap labor, those very corporations as well as the big banks, the investment banks, the speculators who supported them got in trouble, and now the very ones who divested investment from the United States and went elsewhere and got their tail caught in the wringer are coming back to the U.S. taxpayers to bail them out. I think it is one of the saddest ironies, and I really feel I almost want to say, you know, if you are going to be a man, be a man, stand up for your investment, at least eat the loss and do not come back to the very people you turned your back on in the first place.

Mr. DEFAZIO. If the gentlewoman will yield, I was in the elevator, kind of in the back, there was a big crowd a little while ago. A number of conservative Members, Republicans, got on the front, and they were talking with some concern saying, you know, what this is about is, you know, we are putting the U.S. taxpayers on the line and really we are going to stick it to the peasants in Mexico because their standard of living is going to go down under their amendment. It is all to bail out the big banks. But the good thing is it is being identified as a Democrat program because it is the President and the Secretary of the Treasury who are so visible on this.

I piped up from the back and said, ''You can't pass it with Democratic votes in the House.'' So it is not something for our Republican colleagues to be listening and saying they are going to be able to pass blame to the White House and to the Secretary of the Treasury because they are out to lunch on this issue. It can only pass in the House and the Senate if the Republicans support it, because they are in

the majority and they run this institution.

□ 1800

So if there is a bailout of Mexico, it is the Republican congressional bailout of Mexico, hand in complicit with the Secretary of the Treasury and the President of the United States who happen to be Democrats on some days.

Mr. KLINK. If this passes, there is enough blame to go along for both parties. I agree with the gentleman.

We are being told there are three things ultimately that led Mexico to be in this position. No. 1 is the fact they have had the civil unrest in Chiapas. We have no guarantee that situation is going to change, in fact, the Mexican Government will not continue the military operation against the rebels in Chiapas and the rebels will not continue their action against the Government.

Also, the assassination of then Presidential candidate Colosio; we have no information, again, the political situation in Mexico has been remedied. Indeed, the same party is in power now as has been in power for some 80 years.

The whole question then is that we are also being told, well, there is an uncertainty having to do with NAFTA. At the risk of saying, ''We told you so,'' we told you so. And the fact of the matter is if you just took a look at the first 6 months under NAFTA, imports from Mexico to our country increased by an unprecedented 21 percent. In the same time period, we had a 32-percent decrease in the same period of time in our overall trade surplus with Mexico.

Now, all of a sudden the peso is devalued. What does that do? American goods in Mexico become more expensive. The Mexicans cannot afford them. Their salary, because they are being paid in pesos, is now 40 percent less than it was. Their goods and services become cheaper to sell here. We are already paying the price.

Yet we have no guarantee the situations which led Mexico to this financial crisis are going to be remedied. We have absolutely no guarantee at all.

Ms. KAPTUR. I am glad the gentleman brought up that point. We just came out of a meeting with the Secretary of the Treasury of our Nation along with the chairman of the Federal Reserve.

One of the questions I asked them, as a democrat with a small ''d,'' I really do believe in democracy, I really believe in every single person being able to develop to their full human potential whether they live in the United States, whether they live in Mexico, whether they live in China, whether they live in Cuba, wherever they live, I believe in people first. That used to be somebody else's motto. I have not heard it talked about a lot.

We ask the question, ''Look, if the United States is going to be giving this big bailout of guarantees to Mexico, what conditions are being put on this money to expand democracy in Mexico?'' I asked the question really in this way: I said, ''Which political parties down there are sitting around a table talking about the stabilization plan?'' And basically we were told the ruling party may be talking to some of the other parties, ''But, of course, we haven't been in any of those meetings,'' so it is business as usual.

That nation will not only suffer those huge wage decreases because of the peso devaluation, but whose productivity has been increasing because they work under very, very difficult conditions, they have been working very hard, and their wages have consistently been cut and cut and cut in 1993 and 1994, and now this cuts it by another 40 percent. Who is the voice for those people?

I believe in democracy so much; I believe the President of our country and the leadership of this Chamber should be a voice for democracy not just in the United States but in all of these other nations that want to talk about trade, because after all, America and this continent should be more than just deals, deal after deal by private companies. It should be about using whatever power we have to build democracy and to treat people fairly, to treat them right, to treat them with respect.

So I am glad that the gentleman brought up that particular point.

Mr. DEFAZIO. On that point, if the gentlewoman, I know she remembers, during our discussions leading up to NAFTA, we were told one reason so many U.S. corporations were avid for the NAFTA agreement was because there were no labor limitations on it. In fact, they were assured by the ruling party they would not allow free labor unions. They would not allow collective bargaining for wages. In fact, they guaranteed that they would cap wages or depress wages, as they have done over the last decade. Now, this is the biggest drop in wages they have managed so far, a 40-percent drop in wages.

Yet somehow, as I recall, I believe his last name is Salin, the largest billionaire in Mexico, somehow he knew the day before the devaluation to change his pesos to dollars. A few of the other billionaires in Mexico somehow, they had really good advice. Of course, they were not getting it under the table from the authorization party which they financed with $500 million in contributions last year. No, of course not. This was the free market at work.

Ms. KAPTUR. What is really very interesting that our people should know about, when we say the smart money left Mexico before the peso devaluation, we are talking basically about the 30 or so ruling families and their friends. So they take the money out of Mexico which helps to contribute to the problem of that banking system in that nation, and if you look back in 1991, there were two billionaires, and that is with a ''b'' in Mexico. Today there are 24 billionaires in Mexico as best as we can calculate after NAFTA locked in, which means some people have been getting very, very, very rich, and the majority have actually had a downward pressure on their wages and their life style has been made much more difficult.

And I think what is interesting, if you look, and the gentleman may want to go into this, if you look at what Mexico has been importing from the United States over the last year, what really surprised me, when you went over those figures, the other day that the third highest import from us was art.

Now, I am a member of the Toledo Museum of Art. I think I can draw pretty well myself. I love artists. I love music. I am not speaking against artists here. It surprised me in a nation where the average family earns under $1,500 a year that art would be the No. 1, in the top three.

Mr. DEFAZIO. The big winner was tobacco. Our tobacco exports went up dramatically. They had the largest percentage increase. Art, collectibles, antiques, and precious jewelry and so forth were No. 3. Now, that may put a few people, you know, who have got expensive boutiques and stores in Manhattan and a few places to work and make them happy, but I do not think it is putting very many Americans to work. I do not think it is helping very many average artists or craftsmen.

Could I just get parochial for a moment? Last year the Pacific Northwest's entire delegation, Republicans and Democrats alike, had a lengthy series of discussions with this administration about refinancing the debt of our regional power authority, the Bonneville Power Administration, because we have had and seen political calls by the Reagan administration, the Bush administration, and now this year the Clinton administration to do a punitive refinancing of our debt.

So we said, ''OK, fine, we will go to the private sector and finance, refinance, this debt,'' and we got the entire delegation, Democrats and Republicans, to agree.

The Office of Management and Budget would not let us do it. They said they could not count it as a plus under the budget rules, so we could not do this.

But somehow Mexico wants $40 billion of loan guarantees, and that is OK; we are not worried about the budget rules here anymore, because this is national security, folks. Those little people up in the Northwest, well, gee, sorry, we could not help you out with your refinancing of EPA, but Mexico, $40 billion, no problem.

Ms. KAPTUR. Reclaiming my time, I come from one of the highest-cost energy areas in the United States of America, and the reason is because in our region we never had federally subsidized power, and we built nuclear power plants. They were built with private money, private-sector investments. They are investor-owned utilities. We have been trying to figure out

a way to help reduce energy costs to our people, and it has been a heck of a problem for us to get our hands around, and we always get the door shut in our face. Well, maybe not shut in our face; people treat us very nicely when we talk to the Department of Energy and even the Vice President's office, but when it comes down to really getting help so we can maintain our manufacturing base and reduce these energy costs as a percent of doing business, we get absolutely no Federal help.

And I am so glad you brought up that point, because I would say that is the chief reason that we are losing jobs from our part of the country, because of power costs, and yet our own Government would not respond to us.

But within 1 week in this Capitol when Mexico needed help, the Chair of the Federal Reserve, who never comes out of the building, has been all over the Congress, has been up at the White House, up at the Treasury, the Secretary of the Treasury running all around here. It has been very interesting to see what it takes to get the attention of the top officials of this Government.

Kind of sad.

Mr. KLINK. If the gentlewoman will yield, it reminds me, and we can go back further; I remember back in the early 1980's, and I mentioned it on this floor many times, of the 150,000-plus manufacturing jobs that were lost in southwestern Pennsylvania in the steel industry and many other industries. But as factories were closing and there were other countries that wanted to come in because of the work force, because of the infrastructure, because of the transportation system, they wanted to keep some of those factories open.

Now, granted, you may have a steel mill that was employing 2,500 people. We may be able only to save 1,000 jobs.

□ 1810

So we are going to have a net loss of 1,500 versus a net loss of 2,500 if that plant shuts down. At that time we were told, ''Well, it really doesn't behoove the company that owns it to sell it because they are better off under our tax laws to just close that plant, scrap it, and take the writeoff.''

Now, we could not react to that. We could not change something to save thousands of jobs, and I know in Midland, PA, that actually did happen. There Colt wanted to come in and buy up a steel mill that was being shut down. Nothing could happen. Yet Federal dollars came in a year later for job training, and the community fell apart—in fact, today those students in Midland, PA, have to go to school in Ohio because their school district shut down because of the dwindling tax base. We could not do anything for our people. Again there is not a problem here with going down to Mexico and getting $40 billion that we found, off-budget. We could do it. This is a question the people of my district and, I hope, across this entire country have about this $40 billion bailout. How can you change the rules? Why all of a sudden are we protecting those who rushed down there to make investment?

I think that is what is really going on. Those of us who oppose NAFTA—and I do not want to speak for all of us—it was not because we were against the idea of a North American Free-Trade Agreement. We were not the isolationists that everybody wants to portray us as. This is just a bad agreement. I think history, in a relatively short period of time, has shown us that it was a bad agreement. But the fact of the matter is that we were told, at that time, we cannot have protections for the workers in Mexico, we cannot have environmental protections, we cannot push for political reforms. It is the wrong thing to do. We could have these side agreements that really do not hold water, that really do not amount to anything, that really were not actually voted on on this floor, in this Chamber. Now we are being told that even though they are coming to us with this $40 billion, ''Well, we can't attach too many protections. We can't really go off-line with this. We want to keep this strictly financial because there are so many different opinions politically throughout the House and the Senate and across this country.''

Why not? If Mexico is in such dire need, if they really need this line of credit, if it is to their national interest as well as our national interest, why not, when you are in a position to bargain, bargain?

We are being told that we cannot muddy the agreement, this has to be a clean deal, it has to be $40 billion, there is no risk. It is not on budget, but the Government has to do it because the private investors will not do it. Why will they not do it? Because it is not such a good deal.

Ms. KAPTUR. Reclaiming my time for just a second, I want say to both gentlemen I think the point that the gentleman from Oregon [Mr. DEFAZIO] raised is an important one, as well. Remember now the Congress is in control of the Republican Party, and if this deal passes, it is on their doorstep.

I often ask myself why is it so difficult for our message to get out? We are using this time on C–SPAN because we know we can reach some of the American people. When we try to get on the evening news or try to get on those Sunday morning talk shows, they do not invite us on. Even when you call in and you want to speak on this, you are not invited.

Why do we not have a right to have our opinion heard in this country? Only those who have one position are being heard.

So I challenge the American public, try this sometime when you are watching the evening news or you are watching those talk shows on Sunday morning, when you are trying to learn about your country and the decisions facing your elected officials, see who the advertisers are.

Do you know that to buy one of those national ads—I know in my district, to buy 30 seconds costs $3,000. When you buy one of those national ads, it must be megabucks.

I was listening over the weekend to the people who say we should do this, people in our Government who were on the news saying this is something America should do. All I did was I sat there during the commercial breaks, and I said, ''OK, which big corporations, multinationals, are sponsoring this show?'' Then I know what opinion would be heard. I never used to be that cynical, but I have become that cynical about what information leaks out of Washington, simply because it has proven to be true. You get only one side of the story which gets told.

I yield to the gentleman.

Mr. KLINK. If the gentlewoman would yield for just one moment, I have spent 24 years in broadcasting. I was the newscaster on the other side of the camera, and I saw something which was very disturbing in my later years in broadcasting, when, all of a sudden—and I began broadcasting back in the 1960's—then there was always a line of demarcation between the sales office at the radio or television station and the newsroom. That line evaporated completely sometime during the early 1980's.

All of a sudden there was communication as to the ramifications of, ''Well, we are all in this together; if the moneys don't roll in, you understand, Ron, we will not be able to pay your contract for the next couple of''—those kinds of things were being said gently. Believe me, I think it has an impact.

I would imagine that in some instances it is not quite that subtle. But the fact of the matter is our story has not gotten out. We have not had access, not only to the broadcast media but to the major newspapers as well. We had a press conference last week, and the gentlewoman was there, one of the key people, along with the gentleman from Oregon [Mr. DEFAZIO]. I challenged the people, ''Now, your tax dollars are going to begin to pay this.'' At that time it was only $18 billion. Now it has more than doubled. Yet their tax dollars are going for it, and yet they still are not getting out, even in counterbalancing the story.

Now, you still want both sides. If we are wrong, at least report our side of the story and say that we were wrong. But we get absolutely no coverage at all.

I think the gentlewoman put her finger on it because I believe the advertising executives and reporters are talking a little—if not the reporters themselves, their editors are talking and having lunch with those advertising executives.

Mr. DEFAZIO. I think it is extraordinary; we did have a lot of press in the room when we made the announcement. Certainly, I guess, they did not

have much else to do because they killed about 40 minutes filming us and photographing us. But it did not run in any of the national media when we were talking about the problems with the bailout, the problems with the NAFTA Agreement that came to pass. But what did run, the lead—and I happened to watch some of the networks—was President Clinton handing the Prime Minister of Japan a basket of apples to say everything is now going to be OK in trade because the Japanese finally are buying United States apples.

I am happy for my fiends in Washington State that their apples are going to Japan. That is great. But at 50 cents an apple, with a $60 billion trade deficit with Japan, all we have to do is sell the Japanese 120 billion apples this year and we will be in trade balance. That is a great deal. Now, that is going to be a lot of apple-eating for the Japanese.

Mr. KLINK. If the gentleman will yield, only if those apples are computers can we make up the difference.

Ms. KAPTUR. I would just say—and this will probably get me in trouble—but one of the big advertisers on this past Sunday morning, I ask the American people to check me out if this is not true, there is a company in Illinois called Archer-Daniels-Midland Co.

The SPEAKER pro tempore (Mr. WELDON of Pennsylvania). Will the gentlewoman suspend? The Chair will remind all Members' remarks should be addressed to the Chair. It is not in order to direct remarks during the proceedings to persons viewing the proceedings in the galleries or on television or even other Members who are not being present in the Chamber who might be viewing the proceedings on television.

The gentlewoman may proceed.

Ms. KAPTUR. I thank the gentleman.

This particular show was one of the major news shows, and I sat there and I listened, and I thought, ''No wonder we cannot get our story on out on why NAFTA had flaws, and who is going to actually end up holding the bag on this peso bailout of Mexico.''

Archer-Daniels-Midland was one of the biggest promoters of NAFTA, without the side agreements that we wanted in there. They are a sponsor of the show. Why would a sponsor want anyone to say anything that did not agree with their own private interests? This is all a matter of news record.

□ 1820

Right after NAFTA was passed, the Prime Minister of Canada, who was one of the biggest proponents of NAFTA, Mr. Mulroney, was appointed to the board of ADM. This is amazing. It would be like the President of our country being appointed to a major corporate board that was supporting this kind of an agreement, and to get a seat on that board you are paid between $37,000 and $100,000 a year. I was really—I thought, in terms of the ethics that I agree with, there should be a cooling-off period. The chair was still warm. The ink on the agreement was not even dry, and I just used that as an example because that happens to be a very powerful corporation in our country with very definite interests, including that you hear the news in a certain way. I really—I never realized how significant it was, but it absolutely does color public opinion.

Last week we sent a—I wanted to mention to the gentleman also in talking about the power interests in the Northwest, ''When I watched our Government get all worked up over the past couple of weeks and, with lightning speed, come up with this loan guarantee to Mexico, I thought about all of the problems in my district.'' The gentleman said he wanted to become parochial.

I cannot get a loan guarantee to clean up the Ottawa River in Toledo, OH. It is a multi-billion-dollar cleanup problem that we have with all the toxic sites along that river, and we are told by our Government, ''Sorry, Congresswoman, we can't take care of your district because frankly we don't have the money.'' They will not give me a loan guarantee so that our mayor, and our local officials and our county officials can clean up that toxic river that flows into Lake Erie.

We are trying to get a radio control tower built out at our airport. We have had some pretty close calls, and we are told we are not high enough up on the priority list, so our pilots and our passengers, our private pilots and so forth, have to keep coming into that airport. I cannot get them a loan guarantee to guarantee the construction of that tower.

We have a railroad station we have been trying to fix up with dribs and drabs of Federal money plus a lot of local support from our port authority back home. We want to build a parking garage, a secure parking garage, next to this railroad station so that people can park their cars there if they go on a 3-day weekend to Chicago, or Toronto, or wherever they go, and feel secure. I cannot get a loan guarantee from Washington to help my people back home.

So, part of the reason I ran for office is I want to help people. I want to help my people, the people who sent me here, and decisions like this do not go down very well when you cannot do as much for your people back home as certain very powerful interests can do in this city for people who do not even live here, for interests in Mexico, for people who have absolutely no interests in my district, and if I were to give Mexico one gift, first it would be the gift of democracy, to use the relationship with this country, be it political, be it business, be it cultural, to help the people there finally gain a voice, because I believe you can only have free trade when you have freedom first, and that politics does matter, and that it has to be a precondition for any kind of economic assistance or trade. We could never get that in the NAFTA accord as it was originally signed.

So, as we stand here tonight, a lot of the people call my office and say, ''Why are you standing down there on the floor talking when legislative business is largely complete for the day?''

I guess the answer is ''Because it's the only way we can really reach the public.''

Mr. KLINK. If the gentlewoman would yield, again I thank her for her leadership on this matter. I say, ''You have helped us—again I speak as a relatively new Member—you have helped to guide me through this process,'' and, ''It's also very nice,'' I say this also to the gentleman from Oregon, ''to know that you're not the only one who thinks this way.''

We have lost the initial battle on NAFTA; we have lost the battle on GATT in a lame-duck session of Congress. The gentlewoman pointed out those Americans out there that have invested in United States savings bonds have no idea what the GATT agreement meant to them, and so I would simply say that we have got to persist, we have got to make sure that those parochial projects, like all you have talked about that affect the lives of taxpaying American citizens, that impact the creation of jobs in the United States of America, the wealth, the security, the lifestyle of American citizens, is in fact the day-to-day business of this House, and we also need to understand, and I do not want to repeat something I said earlier, but once we go down this pathway, the pathway that has been laid out for us to guarantee these loans to Mexico, when could we ever say no again? It is historical, it is setting a precedent, and I hope that the taxpayers will react, and I hope, as Members of Congress, we react.

Mr. Speaker, I just hope that this House will not lend its OK to this inane idea.

Ms. KAPTUR. I wanted to just reclaim my time for a second.

I found it almost laughable today as I sat there and I listened to the Federal Reserve talk about taking our taxpayers' dollars to prop up Mexico in this little mechanism that they have set up when the very same Federal Reserve testified up here in Congress last week and said to every senior citizen across this country, ''One way we can save money here in America and balance the budget is give you $10 less in your Social Security this next year.''

Now I find it amazing that the same words could come out of the same institution's mouth in the same week; in other words say to our people, and believe me I have a lot of seniors in my district. They like to be close to their family. They did not move away. They depend on that Social Security check. Sure, there may be some at the top that earn a lot of money, but the average Social Security recipient in my district receives $400 to $600 a month. It is not a whole lot of money.

So, we have a lot of need among our seniors, and yet the Federal Reserve can so—it just shows me how far away they are from the public that they could actually come up here and say to our seniors, ''We want to take $150 billion from you, but then out of this pocket we're going to put up $40 billion of your dollars for Mexico.'' It was appalling to me.

Mr. KLINK. If the gentlewoman would yield, it was my understanding today from the people from the Fed and Treasury that this has been going on for at least a year in Mexico, the bad monetary policy. Is that the gentlewoman's understanding?

Ms. KAPTUR. That is correct.

Mr. KLINK. Yet in 1 year Mexico did not make any attempt to go through a devaluation of the peso. I think the gentlewoman in past discussions has made some wonderful points about the timing of this devaluation.

Ms. KAPTUR. Well, you know it is very interesting, and I think those in the know in Mexico were very aware of what was going to happen, and that is why they took their money out of the country, because the elections in August—the elections in Mexico were in August. So they did not want any problems in the market before August, so they propped up the peso through August. Then we were considering GATT, the General Agreement on Tariffs and Trade, here, and they did not want any trouble in America. So we delayed that vote until we got back after elections in December, so they kept delaying it, and delaying it, and delaying it.

Then Mr. Salinas left office. The new President was sworn in. GATT was finished, and that is when they devalued the peso. But by then their friends knew, the 30 ruling families down there; they had already taken their money out of the country. They bought art to insulate themselves against any currency fluctuations, and Members of this House, and I will put on the record the gentleman from Buffalo, NY [Mr. LAFALCE] because he worked so hard to get currency provisions in the original NAFTA. Nobody tried harder than he did. He educated all of us. He tried to help to make that agreement a stronger agreement to avoid this kind of catastrophe and was unable to finally get provisions in the final agreement. In my estimation he has some aspects of heroism in what he tried to do there, but there were plenty of people that cashed in, and now our people are left holding the bag.

Mr. DEFAZIO. And they are saying we could not have possibly anticipated this.

Well, it is strange. It is strange that we stood on this floor 14 months ago, backed by credible economists who said, ''Today, as you vote on the NAFTA agreement the Mexican peso is overvalued by 20 to 25 percent to make them look more attractive as a partner for the United States, to make them look as though their currency is stable. But it's inevitable after the passage of NAFTA they will have to devalue the peso by 20 to 25 percent.''

And now we are told by the Secretary of the Treasury, a former partner in one of the major investment firms in this country, that no one could have anticipated this. Well, the economists we talked to, who gave us a very critical analysis of NAFTA, could certainly anticipate it, did, and we are right on the money. In fact, they were a little bit overly optimistic about Mexico because we are talking the free market says the Mexican peso should actually go down 40 to 50 percent, and whatever happened to free-market forces? Where is the free market when we need it? If the market says the Mexican peso should be worth half as much, should the United States Government intervene to artificially prop it up?

Ms. KAPTUR. Will the gentleman yield on that point because last week I sent the Secretary of the Treasury a letter signed by several of our colleagues, including yourselves, and one of the questions we asked him is: ''Because you are artificially propping up the peso because Mexico owes money, to whom does Mexico owe money specifically?'' In other words, it can't make $26 billion worth of debt payments, $10 billion in this first quarter. Those sound like big numbers. We want to know which banks, which corporations, if it is part of the Eurodollar market, to whom is this money owed? If it is investment banks, speculators in the market, which ones are they? This is not just owed in general. This is owed in specific, and there are huge banking profits this year and last year. They have been doing real, real well. Why do they not have the capacity to eat their own losses? What about these big investment banking houses? The speculators? And I appreciate risk-takers. But that is what risk is. Risk is taking the loss if it does not go your way, and you take the gain if it does go your way.

□ 1830

So which investment houses? I want to know specifically, before we vote here on this floor, who is this $26 billion owed to? And there is another $89 billion that Mexico owes payments on for their full public debt. To whom is that owed? You are talking about $40 billion, Congressman KLINK. There is the first $18 billion from the currency swap and the line of credit last week. Then there is this $40 billion. Then there is the $89 billion that they still owe. Now, to whom is that owed? And why should our taxpayers be propping up those corporations, those megabanks, those multinationals that moved jobs out of this country. I mean, what is the sense of it? If they are making profits and if they have cash, why don't they pay it off themselves? That is what you do, you write off losses.

Mr. KLINK. If the gentlewoman would yield, we are being told this not propping up the peso but that we are restructuring short-term loans, 30, 60, 90 days, to 5 and 10 years. Why can't that be negotiated with those same people or institutions the gentlewoman is talking about? Why do the American taxpayers have to become a party to this? If we are just taking short-term debt and transferring it over to 5 to 10 years to make it long-term debt, why can't Mexico just renegotiate that with the people to whom it is owed, because certainly renegotiating on longer terms is better than absorbing the loss.

Ms. KAPTUR. I think the gentleman raises a good point. I cannot tell you, with interest rates going up in this country, I have had builders and title people in this country complaining, gosh, there aren't any real inflationary pressures. Why are interest rates going up? I would posit maybe one of the reasons interest rates are going up is because your money is being taken to prop up the bank of another nation.

We thank the Speaker for this time this evening, and I thank Congressman DEFAZIO and Congressman KLINK, Congressman ABERCROMBIE and all those who have joined us this evening.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EVANS (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Ms. SLAUGHTER (at the request of Mr. GEPHARDT), for today, on account of illness in the family.

Mr. MCNULTY (at the request of Mr. GEPHARDT), for today, on account of airline cancellation.

Mrs. LINCOLN (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

(The following Members (at the request of Mr. THOMAS) to revise and extend their remarks and include extraneous material:)

Mr. MARTINI, for 5 minutes today, and January 18, 19, and 20.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

(The following Members (at the request of Mr. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Mr. MINETA, for 5 minutes, today.

Mrs. COLLINS of Illinois, for 5 minutes, today.

Mrs. LINCOLN, for 5 minutes, today.

Ms. MCCARTHY, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

(The following Member (at the request of Mr. LEWIS of Kentucky) to revise and extend their remarks and include extraneous material:)

Mr. GOSS, for 5 minutes each day on January 18 and 19.

EXTENSION OF REMARKS

By unanimous, consent, permission to revise and extend remarks was granted to:

(Mr. HOKE, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,048.50.)

(The following Members (at the request of Mr. WATT of North Carolina) and to include extraneous matter:)

Mr. BERMAN.

Mr. PALLONE in two instances.

Mr. HALL of Ohio.

Mr. SCHUMER.

Mr. GUTIERREZ.

Mr. OWENS.

Mr. ROEMER.

(The following Members (at the request of Mr. THOMAS) and to include extraneous matter:)

Mr. HOKE.

Mr. FAWELL.

Mr. BEREUTER.

Mr. SHUSTER.

(The following Members (at the request of Mr. WATT) and to include extraneous matter:)

Mr. MCDERMOTT.

Mr. COLEMAN.

Mr. DIXON.

Mr. LEVIN.

Mr. CARDIN.

Mr. MFUME.

Mr. UNDERWOOD.

(The following Members (at the request of Mr. DEFAZIO) and to include extraneous matter:)

Mr. MCKEON.

Mr. GOODLING.

Mr. BAKER of California.

Mr. CUNNINGHAM.

Mr. COMBEST.

Mr. RAHALL.

Mrs. SCHROEDER.

Ms. FURSE.

Mr. CAMP.

Mr. STUMP.

Mrs. SEASTRAND.

ADJOURNMENT

Mr. DEFAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at 6 o'clock and 32 minutes p.m.), the House adjourned until Wednesday, January 18, 1995, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

168. A letter from the Director, the Office of Management and Budget, transmitting the cumulative report on rescissions and deferrals of budget authority as of January 1, 1995, pursuant to 2 U.S.C. 685(e) (H. Doc. No. 104–19) to the Committee on Appropriations and ordered to be printed.

169. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

170. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Indonesia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

171. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a report involving United States exports to Russia, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking and Financial Services.

172. A letter from the Comptroller General, General Accounting Office, transmitting GAO's compliance report, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–588); to the Committee on the Budget.

173. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

174. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a corrected certification pursuant to the Cooperative Threat Reduction Act of 1993; to the Committee on International Relations.

175. A letter from the Secretary, Department of Energy, transmitting the annual update of the comprehensive program management plan and the comprehensive technology application and market development plan for the ocean thermal energy conversion technology, pursuant to 42 U.S.C. 9002(d); to the Committee on Science.

176. A letter from the Comptroller General, General Accounting Office, transmitting a report, entitled "U.S.-Canadian Food Safety: Opportunities for Sharing Information and Coordinating Inspections"; jointly, to the Committees on Agriculture and Government Reform and Oversight.

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. BAKER of California (for himself, Mr. HOKE, Mr. ROHRABACHER, MR. FRANK of Massachusetts, and Mr. PARKER):

H.R. 525. A bill to repeal the must-carry provisions of the title VI of the Communications Act of 1934, relating to cable television; to the Committee on Commerce.

By Mr. BEREUTER (for himself and Mr. LAUGHLIN):

H.R. 526. A bill to amend title 49, United States Code, to relieve farmers and retail farm suppliers from limitations on maximum driving and on-duty time in the transportation of agricultural commodities or farm supplies if such transportation occurs within a 100-air mile radius of the source of the commodities or the distribution point for the farm supplies; to the Committee on Transportation and Infrastructure.

By Mr. BERMAN:

H.R. 527. A bill to amend the Tariff Act of 1930 to permit an extension for filing drawback claims in cases where the President has declared a major disaster; to the Committee on Ways and Means.

By Mr. CARDIN (for himself and Mr. SHAW):

H.R. 528. A bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. CRAPO:

H.R. 529. A bill to authorize the exchange of National Forest System lands in the Targhee National Forest in Idaho for non-Federal lands within the forest in Wyoming; to the Committee on Resources.

By Mr. GOODLING (for himself, Mr. MCKEON, Mr. GUNDERSON, Mr. HOEKSTRA, Mr. BARRETT of Nebraska, Mr. GORDON, Mr. POMEROY, Mr. PETERSON of Florida, and Mr. STENHOLM):

H.R. 530. A bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes; to the Committee on Economic and Educational Opportunities, 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. HANSEN (for himself, Mr. ORTON, and Mrs. WALDHOLTZ):

H.R. 531. A bill to designate the Great Western Scenic Trail as a study trail under the National Trails System Act, and for other purposes; to the Committee on Resources.

By Mr. HERGER:

H.R. 532. A bill to amend the Internal Revenue Code of 1986 to provide an inflation adjustment for the amount of the maximum benefit under the special estate tax valuation rules for certain farm, and so forth, real property; to the Committee on Ways and Means.

By Mr. KNOLLENBERG:

H.R. 533. A bill to amend section 117 of title 17, United States Code, to permit the lawful possessor of a copy of a computer program to authorize another copy to be made under certain circumstances; to the Committee on the Judiciary.

By Mr. KOLBE (for himself, Mr. TORRES, Mr. BLUTE, Mr. TAYLOR of Mississippi, and Ms. LOWEY):

H.R. 534. A bill to provide for the minting and circulation of $1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. LINCOLN:

H.R. 535. A bill to direct the Secretary of the Interior to convey the Corning National Fish Hatchery to the State of Arkansas; to the Committee on Resources.

By Mr. MCDADE:

H.R. 536. A bill to extend indefinitely the authority of the Secretary of the Interior to collect a commercial operation fee in the Delaware Water Gap National Recreation Area, and for other purposes; to the Committee on Resources.

By Mr. MORAN:

H.R. 537. A bill to amend the Internal Revenue Code of 1986 to index the basis of certain assets acquired on or after January 1, 1995, for purposes of determining gain, and

for other purposes; to the Committee on Ways and Means.

By Mr. OWENS:

H.R. 538. A bill to amend the Internal Revenue Code of 1986 to reduce the lowest rate of income tax imposed on taxpayers other than corporations from 15 percent to 12.5 percent, to provide for a carryover basis of property acquired from a decedent, and for other purposes; to the Committee on Ways and Means.

By Mr. PARKER:

H.R. 539. A bill to amend the Internal Revenue Code of 1986 to provide a tax exemption for health risk pools; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 540. A bill to amend the Internal Revenue Code of 1986 to make the exclusion for amounts received under group legal services plans permanent; to the Committee on Ways and Means.

By Mr. SAXTON:

H.R. 541. A bill to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes; to the Committee on Resources.

By Mr. SAXTON (by request):

H.R. 542. A bill to approve a governing international fishery agreement between the United States and the People's Republic of China; to the Committee on Resources.

H.R. 543. A bill to approve a governing international fishery agreement between the United States and the Republic of Estonia; to the Committee on Resources.

By Mr. SCHUMER:

H.R. 544. A bill to protect financial institutions from liability for damages caused by failure to remove asbestos from a residential or commercial building in which the financial institution holds a security interest if an accredited asbestos management planner has recommended in-place management of the asbestos, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 545. A bill to amend the Federal Trade Commission Act to provide for regulation by the Federal Trade Commission of advertisements by air carriers, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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.

H.R. 546. A bill to amend the Petroleum Marketing Practices Act to provide consumers with additional information concerning octane ratings and requirements, and for other purposes; to the Committee on Commerce.

H.R. 547. A bill to amend title 13, United States Code, to require that any data relating to the incidence of poverty produced or published by the Secretary of Commerce for subnational areas be corrected for differences in the cost of living in those areas; to the Committee on Government Reform and Oversight.

By Mr. STEARNS:

H.R. 548 A bill to amend the Public Health Service Act to provide for a program of research and education regarding menopause and related conditions; to the Committee on Commerce.

H.R. 549. A bill to provide a veterans bill of rights; to the Committee on Veterans' Affairs.

By Mr. ZIMMER (for himself, Mr. PORTER, Mr. LANTOS, and Mr. PAYNE of New Jersey):

H.R. 550. A bill to prohibit economic assistance, military assistance, or arms transfers to the Government of Mauritania until appropriate action is taken to eliminate chattel slavery in Mauritania; to the Committee on International Relations.

By Mr. STEARNS:

H. Con. Res. 14. Concurrent resolution expressing the sense of the Congress that the Congress should pass any health care reform initiative that has overwhelming bipartisan support; to the Committee on Commerce.

By Mr. THOMAS:

H. Res. 35. Resolution providing for payment of a lump sum for accrued annual leave to eligible former employees of the House of Representatives; to the Committee on House Oversight.

By Mr. STEARNS:

H. Res. 36. Resolution congratulating the people of India on the occasion of the 48th anniversary of their nation's independence; to the Committee on International Relations.

H. Res. 37. Resolution expressing the sense of the House of Representatives that aviators who meet the qualification standards of the Air Force's Escape and Evasion Society should be granted recognition for meritorious service by the Department of Defense; to the Committee on National Security.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RAMSTAD introduced a bill (H.R. 551) for the relief of Oscar Salas-Velazquez; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Ms. HARMAN, Mr. LARGENT, Mr. TAUZIN, Mr. PARKER, Mr. BARRETT of Nebraska, Mr. BONO, Mr. BURR, Mr. CASTLE, Mr. GALLEGLY, Mr. LAZIO of New York, Mr. LOBIONDO, Mr. MCKEON, Mrs. MYRICK, Mr. ROGERS, Mrs. WALDHOLTZ, Mr. CHAMBLISS, Mr. COBURN, Mr. FOLEY, Mr. WELDON of Pennsylvania, Mr. COX, Mr. CRAPO, Mr. DREIER, Mr. EVERETT, Mr. GOSS, Mr. RAMSTAD, Mr. HAYWORTH, Mr. NORWOOD, Mr. LONGLEY, Mr. FUNDERBURK, and Mr. SENSENBRENNER.

H.R. 8: Mr. COLLINS of Georgia, Mr. SAM JOHNSON, Mr. WALKER, Mr. MOORHEAD, Mrs. SEASTRAND, and Mr. MCKEON.

H.R. 10: Mr. SCHIFF, Mr. MOORHEAD, Mr. CREMEANS, Mr. NORWOOD, Mr. BONILLA, Mr. HUNTER, Mrs. VUCANOVICH, Mr. WALKER, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. SEASTRAND, and Mr. COLLINS of Georgia.

H.R. 24: Mr. MCHUGH.

H.R. 26: Mr. FOX, Mrs. LINCOLN, Mr. WICKER, Mr. SOLOMON, Mr. FRANK of Massachusetts, Mr. KILDEE, Mr. KLINK, and Mr. KNOLLENBERG.

H.R. 27: Mr. BARTLETT of Maryland, Mr. SOUDER, Mr. TATE, and Mr. HAYES.

H.R. 28: Mr. ZIMMER, Mr. DORNAN, Mr. ROHRABACKER, Mr. SKEEN, Mr. TALENT, Mr. SENSENBRENNER, and Mr. PETE GEREN of Texas.

H.R. 40: Mr. MCHUGH, Mr. LIGHTFOOT, Mr. DAVIS, Mr. BLUTE, Mr. BLILEY, Mr. BUNNING of Kentucky, Mr. HERGER, Mr. HANSEN, Ms. DANNER, Mr. NEY, Mr. COBURN, Mr. SKEEN, Mr. NORWOOD, Ms. MOLINARI, Mr. WELDON of Pennsylvania, Mr. ENGLISH of Pennsylvania, Mr. WICKER, Mrs. MYRICK, and Mr. SENSENBRENNER.

H.R. 65: Mr. MICA, Mr. UNDERWOOD, Mr. BLUTE, Mr. HALL of Texas, Mr. ACKERMAN, and Mrs. THURMAN.

H.R. 77: Mr. HERGER, Mrs. MYRICK, Mr. LEVIN, and Mr. HANSEN.

H.R. 78: Mr. NEY and Mr. FORBES.

H.R. 86: Mr. CREMEANS.

H.R. 94: Mr. WOLF, Mr. DORNAN, Mr. MCHUGH, Mr. ROHRABACHER, Mr. CREMEANS, Mr. FOX, Mr. WALSH, Mr. FORBES, Mr. BARTLETT of Maryland, Ms. MOLINARI, and Mr. CANADY.

H.R. 104: Mrs. MYRICK and Mr. FORBES.

H.R. 107: Mr. PASTOR and Mr. GONZALEZ.

H.R. 109: Mr. BOUCHER, Mr. MICA, Mr. HOLDEN, Mr. FOX, Mrs. MEEK of Florida, Mr. UNDERWOOD, Mr. BUNN of Oregon, Mr. NEY, Mr. WYNN, Mr. FORBES, Mr. BLUTE, Mr. TORRES, Mr. PALLONE, Mr. WILSON, Mr. SOLOMON, Mr. COBURN, Mr. ACKERMAN, and Mr. FLANAGAN.

H.R. 125: Mr. BARCIA of Michigan, Mr. BEVILL, Mr. BUNN of Oregon, Mr. BUNNING of Kentucky, Mr. COBURN, Mr. FIELDS of Texas, Mr. HAYWORTH, Mr. KOLBE, Mr. NEY, Mr. ROHRABACHER, Mrs. VUCANOVICH, Mr. WICKER, and Mr. Wilson.

H.R. 142: Mr. FORBES, Mr. COLLINS of Georgia, Mr. BAKER of Louisiana, Mr. CUNNINGHAM, and Mr. DORNAN.

H.R. 218: Mr. FIELDS of Texas.

H.R. 219: Mr. BILBRAY.

H.R. 230: Mr. MCHUGH and Mr. KNOLLENBERG.

H.R. 244: Mr. MENENDEZ, Mr. PALLONE, Mr. DEFAZIO, Mr. SCHUMER, Ms. SLAUGHTER, and Mr. ROHRABACHER.

H.R. 303: Mr. UNDERWOOD, Mr. BLUTE, Mr. HALL of Texas, Mr. ACKERMAN, and Mrs. THURMAN.

H.R. 342: Mr. GEJDENSON.

H.R. 357: Mr. KLUG, Mr. MURTHA, Mr. ZIMMER, and Mr. OLVER.

H.R. 359: Mrs. MEYERS of Kansas, Mr. WATTS of Oklahoma, Mr. LIPINSKI, and Mr. BALLENGER.

H.R. 370: Mr. CUNNINGHAM, Mr. CALVERT, Mr. SENSENBRENNER, Mr. PORTER, Mr. WOLF, Mr. ROHRABACHER, Mr. DORNAN, Mr. NORWOOD, Mr. BASS, Mr. ROYCE, Mr. COBURN, Mr. DREIER, Mr. LINDER, Mr. WICKER, Mr. BARTLETT of Maryland, Mr. BONO, Mr. GOSS, Mr. SCARBOROUGH, and Mr. SCHAEFER.

H.R. 372. Mr. CALVERT, Mr. HUNTER, Mr. JACOBS, Mr. SAXTON, Mr. COBURN, Mr. SHUSTER, and Mr. HALL of Texas.

H.R. 373: Mr. CALVERT, Mr. JACOBS, Mr. SAXTON, Mr. SHUSTER, Mr. HALL of Texas, Mr. TRAFICANT, Mr. HANSEN, Mr. BREWSTER, Mr. BARTON of Texas, and Mr. EMERSON.

H.R. 375: Mr. CALVERT, Mr. HUNTER, Mr. JACOBS, Mr. SAXTON, Mr. COBURN, Mr. SHUSTER, Mr. HALL of Texas, and Mr. ROYCE.

H.R. 386: Mr. UNDERWOOD.

H.R. 431: Mr. HILLIARD.

H.R. 436: Mr. BOEHNER, Mr. HOLDEN, Mr. ROHRABACHER, Mr. WALSH, Mrs. MEYERS of Kansas, Mr. ZIMMER, Mr. COMBEST, Mr. EMERSON, Mr. MANTON, and Mr. LIPINSKI.

H.R. 450: Mr. CLINGER, Mr. DORNAN, Mr. LAHOOD, Mr. BUNNING of Kentucky, Mr. WICKER, and Mr. DREIER.

H.R. 464: Mr. BUNNING of Kentucky, Mr. KOLBE, Mr. ROHRABACHER, Mr. CANADY, Mr. SAM JOHNSON, Mr. SOLOMON, and Mr. SENSENBRENNER.

H.R. 491: Mr. METCALF, Ms. PRYCE, Mr. BUNN of Oregon, Mr. JONES, Mr. FOX, Mr. FORBES, Mr. BARTLETT of Maryland, Mr. NEY, Mr. COBURN, Mr. TRAFICANT, Mr. REGULA, and Mr. KNOLLENBERG.

H.R. 493: Mr. UNDERWOOD.

H.R. 494: Mr. TUCKER.

H.R. 521: Mr. GEJDENSON.

H.J. Res. 1: Mr. ANDREWS, Mr. BAKER of Louisiana, Mr. BLILEY, Mr. BUNN of Oregon, Mr. CALLAHAN, Mr. CHABOT, Mr. DOOLITTLE, Mr. FIELDS of Texas, Mr. FUNDERBURK, Mr.

GRAHAM, Mr. HANSEN, Mr. HAYES, Mr. HEFLEY, Mr. HOEKSTRA, Mr. LIVINGSTON, Mr. LAUGHLIN, Mr. LEWIS of California, Mr. LONGLEY, Mr. MANZULLO, Mr. MCKEON, Mr. METCALF, Mr. NEY, Mr. NORWOOD, Mr. PALLONE, Mr. POSHARD, Mr. RAMSTAD, Mr. ROBERTS, Mr. ROHRABACHER, Mr. SALMON, Mr. SCARBOROUGH, Mrs. SEASTRAND, Mrs. SMITH of Washington, Mr. SOUDER, Mrs. VUCANOVICH, Mr. WALKER, and Mr. WELDON of Florida.

H.J. Res. 4: Mr. METCALF and Mr. MCCRERY.

H. Res. 15: Mrs. SCHROEDER, Mr. NEUMANN, Mr. ANDREWS, Ms. RIVERS, Mr. SHAYS, Mr. COBURN, Mr. OBEY, and Ms. MCCARTHY.

H. Res. 28: Mr. BARTLETT of Maryland, Mr. BUNN of Oregon, Mr. DORNAN, Mr. HANCOCK, Mr. STUMP, Mr. FOX, Mr. TALENT, and Mr. COBURN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 1—: In the proposed section 425(a)(2) of the Congressional Budget Act of 1974, strike the period at the end of subparagraph (C) and insert ''; or'', and add after subparagraph (C) the following:

''(D) the Federal intergovernmental mandate—

''(i) is also a Federal private sector mandate; and

''(ii) imposes a duty described in section 421(5)(A) on an activity that is not a traditional governmental activity, or would reduce or eliminate an amount of authorization of appropriations of assistance as described in section 421(5)(B) for an activity that is not a traditional governmental activity.

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 2—: Insert at the end of section 201 the following:

(d) LEAST BURDENSOME OPTION OR EXPLANATION REQUIRED.—An agency may not issue a rule that contains a Federal mandate if the rulemaking record for the rule indicates that there are 2 or more methods that could be used to accomplish the objective of the rule, unless—

(1) the Federal mandate is the least costly method, or has the least burdensome effect, for—

(A) States, local governments, and tribal governments, in the case of a rule containing a Federal intergovernmental mandate, and

(B) the private sector, in the case of a rule containing a Federal private sector mandate; or

(2) the agency publishes with the final rule an explanation of why the more costly or burdensome method of the Federal mandate was adopted.

H.R. 5

OFFERED BY: MR. MORAN

AMENDMENT NO. 3—: At the end of title II insert the following:

SEC. 206. JUDICIAL REVIEW.

(A) REVIEW OF AGENCY ACTIONS SUBJECT TO REVIEW UNDER OTHER FEDERAL LAW.—If an agency action that is subject to section 201 or 202 is subject to judicial review under any other Federal law (other than chapter 7 of title 5, United States Code)—

(1) any the court of the United States having jurisdiction to review the action under the other law shall have jurisdiction to review the action under sections 201 and 202; and

(2) in any proceeding under paragraph (1), any issue relating exhaustion of remedies, the time and manner for seeking review, venue, or the availability of a stay or preliminary injunctive relief pending review shall be determined under the other law.

(b) LIMITATION ON PRELIMINARY INJUNCTIVE RELIEF.—The second sentence of section 705 of title 5, United States Code (relating to preliminary relief pending review), shall not apply with respect to review under subsection (a)(1) of an agency action, unless process authorized by that sentence is not authorized by the other law under which the action is reviewed.

H.R. 5

OFFERED BY: MR. OWENS

AMENDMENT NO. 4—: In section 301(2), in the matter proposed to be added as a new section 422 to the Congressional Budget Act of 1974, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and inset ''; or'', and at the end add the following new paragraph:

''(8) provides for protection of the health of individuals with disabilities.

H.R. 5

OFFERED BY: MR. OWENS

AMENDMENT NO. 5—: In section 4, strike ''or'' after the semicolon at the end of paragraph (6), strike the period at the end of paragraph (7) and insert ''; or'', and after paragraph (7) add the following:

(8) provides for protection of the health of individuals with disabilities.

H.J. RES. 1

OFFERED BY: MR. COLEMAN

AMENDMENT NO. 2—: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE

''SECTION 1. Total outlays of the operating funds of the United States for any fiscal year shall not exceed total receipts to those funds for that fiscal year plus any operating fund balances carried over from previous fiscal years.

''SECTION 2. Not later than the first Monday in February in each calendar year, the President shall transmit to the Congress a proposed budget for the United States Government for the fiscal year beginning in that calendar year in which total outlays of the operating funds of the United States for that fiscal year shall not exceed total receipts to those funds for that fiscal year.

''SECTION 3. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplemental Medical Insurance Trust Fund shall not be counted as receipts or outlays for purposes of this article.

''SECTION 4. This article shall be implemented and enforced only in accordance with appropriate legislation enacted by Congress, which may rely on estimates of outlays and receipts.

''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 of the Congress, that becomes law. If real economic growth has been or will be negative for two consecutive quarters, Congress may by law waive the article for the current and the next fiscal year.

''SECTION 6. This article shall take effect beginning with fiscal year 2002 or the second fiscal year beginning after its ratification, whichever is later.''.

H.J. RES. 1

OFFERED BY: MR. JACOBS

AMENDMENT NO. 3—: Strike all after the resolving clause and insert the following:

That the following article is hereby 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 two years after its submission to the States for ratification:

''ARTICLE —

''SECTION 1. Beginning in fiscal year 1999, the United States Government shall not borrow money or any other thing of value except for the purpose of rolling over its existing debt balance, and shall not issue additional currency except as it reflects additional United States productivity.

''SECTION 2. Beginning in fiscal year 2000, and for the next 39 succeeding fiscal years thereafter, the national debt shall be retired by an amount equal to 2½ percentum of the national debt at the beginning of fiscal year 2000.

''SECTION 3. The Congress shall have the power to enforce this article by appropriate legislation.''.

H.J. RES. 1

OFFERED BY: MR. OWENS

AMENDMENT NO. 4—: Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE —

''SECTION 1. Prior to each fiscal year, Congress shall, by law, adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may, by law, amend that statement provided revised outlays are not greater than revised receipts. Congress may provide in that statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

''SECTION 2. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

''SECTION 3. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect. The provisions of this Article may be waived for any fiscal year in which the United States faces an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority

of the whole number of each House, which becomes law. The provisions of this Article may be waived for any fiscal year for which the President notifies the Congress that the national unemployment rate is projected to exceed 4 percentum and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

''SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

''SECTION 5. The amount of the debt of the United States held by the public as of the date this Article takes effect shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

''SECTION 6. All votes taken by the House of Representatives or the Senate under this Article shall be rollcall votes.

''SECTION 7. Congress shall enforce and implement this Article by appropriate legislation.

''SECTION 8. This Article shall take effect for the fiscal year 2002 or for the second fiscal year beginning after its ratification, whichever is later.''.

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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

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Senate

(Legislative day of Tuesday, January 10, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by our guest chaplain, Dr. Mark Dever, pastor of the Capitol Hill Baptist Church.

PRAYER

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

Let us pray:

Great, all powerful God, we come to You this morning first in acknowledgment of Your greatness. We know that you have no need of us, that you are in no way dependent on our actions, that Your existence awaits no vote of this Chamber, nor our own personal assent.

We praise You that, being the One whom You are, out of Your love You have made us in Your image, as creatures who, like Yourself, want to know and be known.

Thank You for the way we see that in our personal lives and in our society. Thank You for those who have gone before who have taught us something of what it means to live together as one nation. We pray that You would today help this body in its deliberations. You know, Lord, the pressures of time and public expectation, the good motives, on both sides of the aisle, to help the people of this land.

We ask that in this Chamber of debate, You would help each one who speaks remember the account that she or he will give not only to their colleagues here and the voters, but to their own consciences and most of all, to You, Lord.

We know that the secrets of our hearts are entirely discovered to You, and we praise You that You do not allow us to hide ourselves completely from You.

We ask that You would give a measure of Your wisdom to these gathered here today. Help them to pass laws that ennoble rather than enervate the people. Give them wisdom to speak today with the liberty of knowing that they are about purposes, that are not only great, but that are also good.

For those who are discouraged, finding only emptiness amid all the success which the world tells them they have, show them Yourself.

For those who are swollen with pride, in Your love, break them that You might bind them up; wound them, that You might heal them again.

Thank You for the freedom of speech which we enjoy in this land. Help these Senators today to use that freedom realizing the privilege that it is, for our good and for Your glory.

In Christ's name we ask it. Amen.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The 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 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

REGISTRATION OF MASS MAILINGS

The filing date for 1994 fourth quarter mass mailings is January 25, 1995. If a Senator's office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Public Records office on (202) 224–0322.

1994 YEAR END REPORT

The mailing and filing date of the 1994 year end report required by the Federal Election Campaign Act, as amended, is Tuesday, January 31, 1995. Principal campaign committees supporting Senate candidates file their reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510–7116.

The Public Records office will be open from 8 a.m. to 7 p.m. on the filing date to accept these filings. In general, reports will be available the day after receipt. For further information, please contact the Public Records office on (202) 224–0322.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. GREGG. Mr. President, I will note that at 9:30, after morning business, which the Chair has just noted, we will resume consideration of S. 1, the unfunded mandates bill.

Also, I note that the Senate will recess from the hours of 12:30 p.m. to 2:15 p.m., in order for the weekly party luncheons to occur.

For the information of all Senators, the majority leader has indicated that rollcall votes may occur prior to the 12:30 p.m. recess today.

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

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

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The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

USDA REPORT ON THE PERSONAL RESPONSIBILITY ACT

Mr. LEAHY. Mr. President, today the USDA issued a report analyzing the effects of the House Republican Personal Responsibility Act (H.R. 4), which is part of the Contract With America. All States including Vermont are big losers. I suggest that all Senators read this report which I am inserting into the RECORD.

My home State of Vermont alone will lose $10 million in Federal nutrition aid in 1996 according to the USDA report.

H.R. 4 will increase malnutrition among children and the elderly. This Contract With America bill is antichild, antifamily, and it is false advertising. It promises block grants, but delivers not even a penny.

The report also concludes that this bill could reduce retail food sales by as much as $10 billion, reduce gross farm income by as much as $4 billion, and cost the economy as many as 138,000 jobs.

It could reduce the income of the average dairy farmer in Vermont by as much as $2,000 per year and could also double the cost of the dairy program nationwide.

This is a double whammy—it will force dairy farmers to apply for food assistance just when that assistance is slashed.

Nutrition funding nationwide will be cut by almost $31 billion over the next 5 years.

It eliminates the Meals on Wheels Program which provides food to the homebound elderly.

Seventy-five percent of the school children in Vermont will be thrown off the School Lunch Program. Nutrition standards for healthy school lunches are eliminated. And the cuts in child nutrition in Vermont exceed the total size of our School Breakfast Program and the Summer Food Service Program.

As bad as this is, I am worried that the USDA report issued today greatly understates the harm that will be caused by the Contract With America. The report in many respects assumes that the block grants will be fully funded. I believe that in a couple years, they will be only funded at a fraction of the full amount authorized.

America's Governors will be stunned when they read the fine print and realize they have to come to Washington each year and plead for money.

States will be forced to reduce the number of people served, cut benefits or somehow make up for the loss with State funds.

The effect would be even worse during a recession. Under current law, programs such as school lunch, food stamps, and the Child Care Food Program, automatically give States more money to respond to increased needs during periods of higher unemployment.

This Contract With America bill changes all that and says to the States, ''tough luck, next time don't have a recession.''

According to the USDA report, if that bill had been in effect over the last 5 years, the block grant in 1994 would have been over $12 billion less than the food assistance actually provided—a reduction of about one-third.

They are proposing a massive Federal experiment on America's children. If it works, I admit that Federal costs will be reduced.

If it doesn't, and funding is not provided, millions of children, the elderly, and pregnant women will go hungry. Medical costs will skyrocket as more and more children are born disabled, and more and more children become handicapped in their efforts to learn.

Before we have a wholesale dismantling of every major nutrition program under the guise of welfare reform, we ought to take a look at how this will affect hungry children.

This is not welfare reform. Do not be fooled by this bill. It implies that States will get block grants to fund food assistance programs. But as I said earlier, not one penny is provided to states or communities by the bill—separate legislation would have to pass each year to provide funding.

Let us not forget what happened in early 1981—hasty cuts were made in child nutrition programs. Those programs were cut by 28 percent. The cuts resulted in 3 million fewer children receiving school lunches.

I stand ready to work with responsible Members of both parties to encourage work, to cut costs, to punish abuse, but I will not sacrifice the nutrition of America's children for legislation by bumper sticker.

I ask unanamous consent that the USDA report be printed in the RECORD.

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

[From the U.S. Department of Agriculture, Jan. 17, 1995]

THE NUTRITION, HEALTH, AND ECONOMIC CONSEQUENCES OF BLOCK GRANTS FOR FEDERAL FOOD ASSISTANCE PROGRAMS—EXECUTIVE SUMMARY

The proposed Personal Responsibility Act, a key component of the Contract with America, would make sweeping changes that alter the very character of the existing food assistance programs. Specifically, the Personal Responsibility Act, if enacted, would:

Combine all USDA food and nutrition assistance programs into a single discretionary block grant to States;

Authorize an appropriation of $35.6 billion in fiscal year 1996 for food and nutrition assistance;

Eliminate all uniform national standards;

Give States broad discretion to design food and nutrition assistance programs, provided only that no more than 5 percent of the grant support administration, at least 12 percent support food assistance and nutrition education for women, infants, and young children, and at least 20 percent support school-based and child-care meal programs; and

Eliminate USDA's authority to donate commodities; USDA could only sell bonus commodities to States.

The consequences of these changes on the safety net of food assistance programs, the nutrition and health of low-income Americans, the food and agriculture economies, and the level and distribution of Federal support to States for food assistance are significant.

The Personal Responsibility Act would significantly reduce federal support for food and nutrition assistance.

Federal funding for food and nutrition assistance would fall by more than $5 billion in fiscal year 1996 and nearly $31 billion over 5 years (Table 1).

All food and nutrition assistance would be forced to compete for limited discretionary funds. States' ability to deliver nutrition benefits would be subject to changing annual appropriation priorities.

Programs would be unable to respond to changing economic circumstances. During economic downturns, funding would not keep up with rising poverty and unemployment. The demand for assistance to help the poor would be greatest at precisely the time when state economies are in recession and tax bases are shrinking.

For example, if the Personal Responsibility Act had been in place over the last five years—a period marked by both economic recession and recovery—the block grant in 1994 would have been over $12 billion less than the food assistance actually provided, a reduction of about one-third (Table 2).

States would be forced to reduce the number of people served, the benefits provided, or some combination of both. The bill could lead to the termination of benefits for 6 million food stamp recipients in fiscal year 1996.

The reduced investment in food and nutrition assistance programs and elimination of the authority to establish nutrition standards will adversely affect the nutrition and health of low-income families and individuals.

The scientific link between diet and health is clear. About 300,000 deaths each year are linked to diet and activity patterns.

Low-income households are at greater risk of nutrition-related disorders and chronic disease than the general U.S. population. Since the nationwide expansion of the Food Stamp Program and the introduction of WIC, the gap between the diets of low-income and other families has narrowed.

The incidence of stunting among preschool children has decreased by nearly 65 percent; the incidence of low birthweight has fallen from 8.3 percent to 7.0 percent.

The prevalence of anemia among low-income pre-school children has dropped by 5 percent or more for most age and racial/ethnic groups.

The Personal Responsibility Act would eliminate all federal nutrition standards, including those in place to ensure that America's children have access to healthy meals at school. Even small improvements in average dietary intakes can have great value. The modest reductions in fat, saturated fat, and cholesterol intake due to the recent food labeling changes were valued by the Food and Drug Administration at $4.4 billion to $26.5 billion over 20 years among the U.S. adult population.

The Act would also threaten the key components of WIC—a tightly prescribed combination of a targeted food package, nutrition counseling, and direct links to health care. Rigorous studies have shown that WIC reduces infant deaths, low birthweight, premature births, and other problems. Every dollar spent on WIC results in between $1.77 and $3.13 in Medicaid savings for newborns and their mothers.

By reducing federal support for food assistance and converting all remaining food assistance to a block grant, the Personal Responsibility Act would lower retail food sales, reduce farm income, and increase unemployment.

Under the proposed block grant, States could immediately cash-out any and all food assistance programs in spite of evidence that an in-kind benefit is more effective in stimulating food purchases than a similar benefit provided in cash.

In the short-run, the bill could reduce retail food sales by as much as $10 billion, reduce gross farm income by as much as $4 billion, increase farm program costs, and cost the economy as many as 138,000 jobs.

In the long run, the bill could reduce employment in farm production by more than 15,000 jobs and output by more than $1 billion. The food processing and distribution sectors could lose as many as 83,000 jobs and $9 billion in output.

The economic effects would be felt most heavily in rural America. In both the short- and long-run, rural areas would suffer disproportionate job losses.

Every $1 billion in added food assistance generates about 25,000 jobs, providing an automatic stabilizer in hard times.

The proposed basis for distributing grant funds would result in substantial losses for most States.

If Congress appropriates the full amount authorized, all but 8 States would lose federal funding in fiscal year 1996. California could gain about $650 million; Texas could lose more than $1 billion (Table 3).

Although some States initially gain funding, all States would eventually fare worse than under current law. Over time, the initial gains will erode because the block grant eliminates the automatic funding adjustments built into the existing Food Stamp and Child Nutrition programs.

TABLE 1.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAM COSTS

[In millions of dollars]

	Fiscal year—					Total
	1996	1997	1998	1999	2000	
Current law:						
Food stamps/NAP	$27,777	$29,179	30,463	$31,758	$33,112	$152,290
Child nutrition	8,681	9,269	9,903	10,556	11,283	49,692
WIC	3,924	4,231	4,245	4,379	4,513	21,291
All other	382	351	351	351	351	1,784
Total	40,764	43,029	44,962	47,042	49,260	225,057
Proposed law	35,600	37,138	38,756	40,457	42,214	194,166
Difference	−5,164	−5,891	−6,206	−6,585	−7,046	−30,892
Percent difference	−12.7	−13.8	−13.8	−14.0	−14.3	−13.7

Notes.—Based on current service program level for USDA food assistance programs in Department estimates of September 1994 (excluding projected costs of Food Program Administration but including anticipated mandatory spending for WIC, consistent with the Presidential policy). This table does not include the budgetary effects of food programs operated by the Administration on Aging in the Department of Health and Human Services.

The Food Stamp total includes the cost of the Nutrition Assistance Program in Puerto Rico.

The Child Nutrition total includes all administrative and program costs for the National School Lunch, School Breakfast, Special Milk, Summer Food Service, Nutrition Education and Training, and Child and Adult Care Food Programs, the value of commodities provided to schools, and support for the Food Service Management Institute.

The All Other total includes all administrative and program costs for the Commodity Supplemental Food Program, the Emergency Food Assistance Program, the Food Distribution Program on Indian Reservations, the Nutrition Program for the Elderly, and Food Distribution to Charitable Institutions and Soup Kitchens and Food Banks.

Proposed levels for the block grant in fiscal years 1997 through 2000 are increased from the 1996 amount using the projected increase in total population and the cost of the Thrifty Food Plan for the preceding year. Totals may not equal the sum of columns due to rounding.

This table assumes that Congress appropriates the full amount authorized in each year.

TABLE 2.—HISTORICAL ILLUSTRATION OF FOOD ASSISTANCE BLOCK GRANT

[In millions of dollars]

Year	Actual food assistance	With initial reduction [1]			Without initial reduction		
		Adjusted block grant	Difference		Adjusted block grant	Difference	
			Total	Percent		Total	Percent
1989	$21,697	$18,941	−$2,756	−12.7	$21,697	N/A	N/A
1990	24,778	20,666	−4,112	−16.6	23,672	−$1,106	−4.5
1991	28,849	21,971	−6,878	−23.8	25,167	−3,682	−12.8

TABLE 2.—HISTORICAL ILLUSTRATION OF FOOD ASSISTANCE BLOCK GRANT—Continued

[In millions of dollars]

Year	Actual food assistance	With initial reduction [1]			Without initial reduction		
		Adjusted block grant	Difference		Adjusted block grant	Difference	
			Total	Percent		Total	Percent
1992	33,519	23,232	−10,287	−30.7	26,612	−6,907	−20.6
1993	35,397	23,369	−12,028	−34.0	26,769	−8,628	−24.4
1994	36,928	24,374	−12,554	−34.0	27,920	−9,008	−24.4

[1] The initial 12.7 percent reduction in the first year is equivalent to the estimated percentage reduction in food assistance funding in the first year of the Personal Responsibility Act as shown in Table 1.

Notes.—Actual food assistance includes total federal cost of all USDA food assistance programs, excluding Food Program Administration. The cost of food programs operated by the Administration on Aging in the Department of Health and Human Services are not included.

These figures assume that Congress would have appropriated the full amount authorized in each year. The block grant authorization is adjusted by the change in total U.S. population and the Consumer Price Index for Food at Home in the preceding year (ending on July 1 for population and in May for the CPI).

TABLE 3.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAMS BY STATE IN FISCAL YEAR 1996

[In millions of dollars]

State	Level of food assistance		Difference	
	Current	Proposed	Total	Percent
Alabama	$818	$713	−$105	−13
Alaska	97	84	−13	−13
Arizona	663	554	−109	−16
Arkansas	422	403	−19	−4
California	4,170	4,820	650	16
Colorado	412	417	5	1
Connecticut	297	248	−49	−17
Delaware	92	58	−34	−37
District of Columbia	137	85	−52	−38
Florida	2,194	1,804	−389	−18
Georgia	1,209	934	−275	−23
Hawaii	215	198	−17	−8
Idaho	127	176	49	38
Illinois	1,741	1,483	−258	−15
Indiana	713	691	−22	−3
Iowa	297	266	−31	−11
Kansas	307	270	−37	−12
Kentucky	740	582	−157	−21
Louisiana	1,141	765	−375	−33
Maine	188	167	−21	−11
Maryland	576	404	−172	−30
Massachusetts	608	577	−32	−5
Michigan	1,390	1,109	−281	−20

TABLE 3.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAMS BY STATE IN FISCAL YEAR 1996—Continued

[In millions of dollars]

State	Level of food assistance		Difference	
	Current	Proposed	Total	Percent
Minnesota	508	490	−18	−4
Mississippi	730	603	−127	−17
Missouri	810	754	−56	−7
Montana	111	140	29	26
Nebraska	187	175	−12	−6
New Hampshire	89	94	5	5
New Jersey	836	704	−132	−16
New Mexico	361	321	−40	−11
Nevada	145	150	5	3
New York	3,101	2,661	−440	−14
North Carolina	930	849	−81	−9
North Dakota	86	76	−9	−11
Ohio	1,768	1,287	−481	−27
Oklahoma	528	475	−53	−10
Oregon	410	346	−64	−16
Pennsylvania	1,617	1,465	−152	−9
Rhode Island	128	101	−27	−21
South Carolina	602	546	−56	−9
South Dakota	99	95	−4	−4
Tennessee	983	743	−241	−24
Texas	3,819	2,665	−1,154	−30
Utah	234	277	−43	18
Vermont	76	66	−10	−13
Virginia	783	597	−185	−24

TABLE 3.—EFFECT OF THE PERSONAL RESPONSIBILITY ACT ON USDA FOOD ASSISTANCE PROGRAMS BY STATE IN FISCAL YEAR 1996—Continued

[In millions of dollars]

State	Level of food assistance		Difference	
	Current	Proposed	Total	Percent
Washington	660	444	−216	−33
West Virginia	405	309	−96	−24
Wisconsin	467	442	−25	−5
Wyoming	57	57	([1])	1
Total	40,764	35,600	−5,164	−13

[1] Equals less than $1 million.

Notes.—Individual cells may not sum to totals because of rounding.

Total includes the Commonwealth of Puerto Rico, other territories and outlying areas, and Indian Tribal Organizations.

This table assumes that Congress appropriates the full amount authorized for fiscal year 1996.

HOMICIDES BY GUNSHOT IN NEW YORK CITY

Mr. MOYNIHAN. Mr. President, I rise today to continue my weekly practice of reporting to the Senate on the death

toll by gunshot in New York City. Last week, 6 people lost their lives to bullet wounds in New York City, bringing this year's total to 27.

THE APPOINTMENT OF MARGARET FLEMING TO THE WHITE HOUSE CONFERENCE ON AGING

Mr. BAUCUS. Mr. President, today I rise to inform the Senate that I have chosen Margaret Fleming from Butte, MT, to represent our State at the White House Conference on Aging in May. While Margaret is proud to be a senior citizen, anybody who knows her also knows that she adds meaning to the saying that you will never grow old if you are young at heart. Her energy, her hard work and sense of public service are an inspiration to me and so many other Montanans.

From May 2d through the 5th, several of our Nation's top senior citizens will meet in Washington, DC, to discuss issues that are important to the aging community. This year's theme, ''America Now and Into the 21st Century: Generations Aging Together With Independence, Opportunity, and Dignity,'' focuses not only on the current aging population, but future generations as well. The issues to be discussed impact all Americans. They include comprehensive health care, including long-term care, economic security, housing, and quality of life.

Throughout her career, Margaret Fleming has earned the greatest respect and admiration. But her activities in retired life are just as commendable. She has been president of the Montana chapter of the National Association of Retired Federal Employees, and before was president of Butte's local chapter. Currently, Margaret is president of the Legacy Legislature, a congress of seniors that meets annually in Helena. And as if that isn't enough, she is president of the Lady of the Rockies, a group responsible for youth group tours and the construction of a chapter near the Lady on the Hill in Butte. Last year, the Montana Soroptimist Club honored her with the Women of Distinction Award. Of course, Margaret's toughest job of all is baby-sitting her grandchildren on the weekends.

In a recent letter to me, Margaret remarked:

> The needs of our Nation are so great. I'm sure you know that I believe a health care plan like your Health Montana is so important. However, the problems with poverty, educational opportunities and a myriad of other issues are equally important. I only hope the participants unite, and think of America's future, as well as our immediate needs.

The honor of representing Montana could not go to a more dedicated, deserving, and accomplished person. I congratulate Margaret Fleming and wish her well at the White House conference on Aging.

BUDGET SCOREKEEPING REPORT

Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through January 13, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $2.3 billion in budget authority and $0.4 billion in outlays. Current level is $0.8 billion over the revenue floor in 1995 and below by $8.2 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.7 billion, $2.3 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated January 4, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 17, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through January 13, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated January 4, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 13, 1994

[In billions of dollars]

	Budget resolution (H. Con. Res. 218) [1]	Current level [2]	Current level over/under resolution
ON-BUDGET			
Budget authority	1,238.7	1,236.5	−2.3
Outlays	1,217.6	1,217.2	−0.4
Revenues:			
1995	977.7	978.5	0.8
1995–99 [3]	5,415.2	5,407.0	−8.2
Maximum deficit amount	241.0	238.7	−2.3
Debt subject to limit	4,965.1	4,718.8	−246.3
OFF-BUDGET			
Social Security outlays:			
1995	287.6	287.5	−0.1

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JANUARY 13, 1994—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 218) [1]	Current level [2]	Current level over/under resolution
1995–99	1,562.6	1,562.6	[4] 0
Social Security revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Includes effects, beginning in fiscal year 1996, of the International Antitrust Enforcement Act of 1994 (P.L. 103–438).

[4] Less than $50 million.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JANUARY 13, 1994

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	738,096	757,783	
Offsetting receipts	(250,027)	(250,027)	
Total previously enacted	1,238,376	1,213,992	978,466
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	(1,887)	3,189	
Total current level [1]	1,236,489	1,217,181	978,466
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:.			
Under budget resolution	2,255	424	
Over budget resolution			766

[1] In accordance with the Budget Enforcement Act, the total does not include $1,212 million in budget authority and $6,360 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $1,027 million in budget authority and $1,041 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.

Notes.—Numbers in parentheses are negative. Detail may not add due to rounding.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS SAID ''YES''

Mr. HELMS. Mr. President, the incredibly enormous Federal debt is like the weather—everybody talks about it but up to now hardly anybody has undertaken the responsibility of doing anything about it. The Congress now had better get cracking—time's a-wasting and the debt is mushrooming.

In the past, a lot of politicians talked a good game—when they were back home—about bringing Federal deficits and the Federal debt under control. But many of these same politicians regularly voted in support of bloated spending bills that rolled through the Senate. The American people took note of that on November 8.

As of Friday, January 13, at the close of business, the Federal debt stood—down to the penny—at exactly

$4,808,661,268,393.04. This debt, remember, was run up by the Congress of the United States.

The Founding Fathers decreed that the big-spending bureaucrats in the executive branch of the U.S. Government should never be able to spend even a dime unless and until the spending had been authorized and appropriated by the U.S. Congress.

The U.S. Constitution is quite specific about that, as every schoolboy is supposed to know.

And do not be misled by declarations by politicians that the Federal debt was run up by some previous President or another, depending on party affiliation. Sometimes you hear false claims that Ronald Reagan ran it up; sometimes they play hit and run with George Bush.

These buckpassing declarations are false, as I said earlier, because the Congress of the United States is the culprit. The Senate and the House of Representatives are the big spenders.

Mr. President, most citizens cannot conceive of a billion of anything, let alone a trillion. It may provide a bit of perspective to bear in mind that a billion seconds ago, Mr. President, the Cuban missile crisis was in progress. A billion minutes ago, the crucifixion of Jesus Christ had occurred not long before.

Which sort of puts it in perspective, does it not, that Congress has run up this incredible Federal debt totaling 4,808 of those billions—of dollars. In other words, the Federal debt, as I said earlier, stood this morning at 4 trillion, 808 billion, 661 million, 268 thousand, 393 dollars and 04 cents. It will be even greater at closing time today.

TRIBUTE TO AVIATION PIONEER BEN R. RICH

Mr. DOLE. Mr. President, I would like to take a moment to note with deep sadness, the passing of a legend in the aviation industry. I was just recently informed that Ben R. Rich, former president of the Lockheed Skunk Works passed away after a long illness. Best known as the Father of the F–117 Stealth fighter aircraft, his passing is a sad moment for several Senators and the many staffers that Ben has had contact with in the Senate over the years.

Perhaps his finest hour came during Operation Desert Storm, with the deployment of the F–117 to the gulf. As many will recall, the F–117 destroyed 40 percent of all strategic targets, yet represented only 2 percent of the allied forces tactical aircraft, and it was the only aircraft to attack the heavily defended Baghdad area. This aircraft uniquely reduced the cost of war by enabling strike missions to be accomplished with fewer attack and supporting aircraft, thereby putting fewer combat pilots at risk. Utilizing this aircraft further minimized collateral damage and civilian casualties. Indeed, Ben's vision and genius throughout the design and development of the F–117 have revolutionized air warfare as we know it.

Ben Rich's many achievements have been recognized throughout the aerospace industry. Just last May, Secretary of Defense William J. Perry honored Ben by presenting him with the Distinguished Public Service Award. At the time, some in the media had proclaimed Perry to be the Father of Stealth. However, at the presentation ceremony, Secretary Perry said it was Rich who provided the intellectual and spiritual leadership and that the title of ''Father of Stealth really belongs to Ben Rich.''

Mr. President, this was only one in a long line of accomplishments in Ben's 40 years of distinguished service in the aviation industry. He played a leadership role in the design and development of the F–104, U–2, A–12, and the famous SR–71 Blackbird—the latter still holds the world's flight records for speed and altitude. In addition, he also led the development and production of the YF–22A advanced tactical fighter program until his retirement in January 1991.

For his accomplishments, Ben was a Corecipient of the Collier Trophy presented by the National Aeronautic Association; selected as a Wright Brothers lecturer by the American Institute for the Advancement of Engineering; an elected member of the National Academy of Engineering and a nominee for the 1994 Wright Brothers Memorial Trophy.

To the many who knew him, he will be remembered as a colorful character—for his sparkling wit and enthusiasm. To some, he was a gifted teacher who could explain in the clearest terms some of the more complicated technical aspects of aviation. To others, he was a forceful advocate for innovative ideas and futuristic solutions to problems in aviation design. To all, he was a patriot.

To Ben's wife, Hilda, to his family and his many friends and coworkers, we send our deepest condolences. And from this Nation, a heartfelt debt of gratitude to Ben Rich.

WALTER SHERIDAN

Mr. HATCH. Mr. President, I rise to say a few words about Walter Sheridan, a long-time Senate investigator and friend who passed away last Friday morning.

Walter—he hated for anyone to call him ''Mr.'' Sheridan—first made his mark on the national scene in the mid-1950's. when he went to work on the Senate Permanent Investigations Subcommittee as an investigator for Chief Counsel Robert Kennedy in the subcommittee's probe of organized crime and labor racketeering. As Attorney General, Robert Kennedy took Walter with him to the Justice Department, where Walter headed the unit that successfully prosecuted Teamsters Union President James Hoffa. During those days, Walter attained a well-deserved reputation as a resourceful and tenacious investigator.

I came to know and admire Walter Sheridan later in his career, when he came back to the Hill in the 1970's to work as chief investigator for my friend Senator EDWARD KENNEDY, first on the Judiciary Committee and later on the Labor and Human Resources Committee. In these roles, Walter was the chief staffer on hearings that led to significant improvements in the operation of the Food and Drug Administration, the Mine Health and Safety Agency, and other Federal offices.

When we were on opposite sides of issues, as our philosophies and politics often dictated, I found Walter to be a tough but honorable adversary. When our interests coincided, as they did on a number of oversight issues, I found him to be a strong and dependable ally. He was a man of integrity, foresight, and, always, good humor.

My warmest sympathies go out to Mrs. Sheridan and the family. Walter Sheridan was a man, operating mostly behind the scenes, who made a difference in the performance of Government. His work will be carried on by a whole generation of investigators, on both sides of the aisle, who benefited from their association with Walter Sheridan. His professionalism set a high standard for public service for all of us to follow.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

UNFUNDED MANDATE REFORM ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 having arrived, the Senate will resume consideration of S. 1, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1) to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Committee amendment number 9, beginning on page 15, line 6, to modify language relating to reports on Federal mandates.

Mr. KEMPTHORNE. Mr. President, today the Senate will resume debate on Senate bill No. 1, the Unfunded Mandate Reform Act of 1995. We began debate on this issue last week. I believe

we had thoughtful discussion about this bill. We also made progress on the consideration of several committee amendments and two amendments to those committee amendments.

We have stated continually, and I will do so again, that we will take what time is necessary for us to complete the thoughtful and thorough discussion of Senate bill No. 1 and any amendments that may be offered by any Members of this body. My hope is that we will complete work on this bill this week.

There have been a number of encouraging developments, also, Mr. President, that have occurred since the bill came on the Senate floor. I would like to reference a few letters that I have received. This one I received from the American Farm Bureau Federation, which represents 4.4 million families.

They say:

We believe that Federal mandates to State and local governments must provide complete and continuous funding. It is our hope that information on the costs to the private and public sectors of proposed regulations and legislation will lead Congress to stop imposing burdens it is unwilling to fund.

S. 1, the Unfunded Mandate Reform Act of 1995, will require the Congressional Budget Office to estimate and report the public and private sector cost, and any Federal effort to ameliorate that cost of proposed legislation.

That is from Dean Kleckner, the president of the American Farm Bureau Federation.

He says:

The provision requiring this information is important if lawmakers and the voters they represent are to make judgments regarding the cost and benefits of proposed legislation.

Farm Bureau supports the Unfunded Mandate Reform Act of 1995 and will work to ensure its passage.

I received a letter from the Public Securities Association.

They state:

PSA supports legislation to provide relief from unfunded Federal mandates imposed on State and local governments. PSA is the association of banks and brokerage firms that underwrite, trade and sell municipal securities, U.S. Government and Federal agency securities, mortgage-backed securities and money market instruments. PSA's members account for over 95 percent of municipal securities market activity.

We support S. 1, the Unfunded Mandate Reform Act of 1995, and congratulate the swift action taken by the jurisdictional committees.

That is from John Vogt, vice president, external affairs.

Then I received a letter from the city of El Monte.

The letter states:

On behalf of the El Monte City Council, we wholeheartedly support your aggressive efforts in sponsoring legislation to stop unfunded Federal mandates. This noble effort is especially appreciated by cities in California, who are facing the negative impacts of the recession along with the State's revenue raids on local government.

The City of El Monte has raised new revenues and has cut back on spending for the past 3 years to be reliant on other levels of government. However, with the continuation of Federal mandates on cities, it has become very difficult to fund even the most essential services to our residents and businesses.

That is from Patricia A. Wallach, the mayor of El Monte.

Then there is a letter from the Petroleum Marketers Association of America.

On behalf of the Petroleum Marketers Association of America (PMAA), I would like to express our strong support for the passage of S. 1, legislation which would curtail the passage of legislation implementing unfunded mandates. The PMAA represents over 10,000 marketers of petroleum products nationwide. Collectively, these marketers sell nearly half the gasoline, over 60 percent of the diesel fuel and approximately 85 percent of the home hearing oil consumed in the U.S. annually.

PMAA favors passage of the ''unfunded mandates'' legislation as a necessary step to help stem the increasing cost of federal regulations to state and local government, as well as to provide industry.* * *

The financial burden of federal regulations in reaching critical levels with estimates nearing $581 billion annually.* * *

Please vote in favor of S. 1 and oppose any efforts to weaken the legislation by removing the private sector language. Thank you for your consideration.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

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

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, January 5, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the 4.4 million families represented by the American Farm Bureau Federation, I want to thank you for your leadership in addressing the serious problem of unfunded federal mandates. We believe that federal mandates to state and local governments must provide complete and continuous funding. It is our hope that information on the costs to the private and public sectors of proposed regulations and legislation will lead Congress to stop imposing burdens it is unwilling to fund.

S. 1, The Unfunded Mandate Reform Act of 1995, will require the Congressional Budget Office to estimate and report the public and private and private sector cost, and any federal effort to ameliorate that cost of proposed legislation. It will further require the Congress to vote for a waiver of its rules before passing any legislation that has not been subject to this analysis, or if the cost of implementation of any proposed unfunded obligations exceeds $50 million.

In addition, federal departments will be required to analyze the impact of proposed regulations on the economy, and to report those findings through the normal rulemaking process by publication in the Federal Register.

The provision requiring this information is important if lawmakers and the voters they represent are to make judgments regarding the cost and benefits of proposed legislation. We at the Farm Bureau look forward to building on this legislation to help reform the rulemaking and legislative processes.

Farm Bureau supports the Unfunded Mandate Reform Act of 1995 and will work to ensure its passage.

Sincerely yours,

DEAN R. KLECKNER,
President.

PUBLIC SECURITIES ASSOCIATION,
Washington, DC, January 12, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: We applaud your leadership on the issue of unfunded federal mandates. PSA supports legislation to provide relief from unfunded federal mandates imposed on state and local governments. PSA is the association of banks and brokerage firms that underwrite, trade and sell municipal securities, U.S. government and federal agency securities, mortgage-backed securities and money market instruments. PSA's members account for over 95 percent of municipal securities market activity.

We support S. 1, The Unfunded Mandate Reform Act of 1995, and congratulate the swift action taken by the jurisdictional committees. However, S. 1 is applicable only to prospective laws and regulations. PSA believe that municipal bonds could play a significant role in the battle against existing unfunded mandates by providing leveraged financing for currently mandated requirements and developing creative ways to deal with unfunded mandates in a responsible manner. The federal government provides substantial assistance to state and local governments to support their borrowing in the form of the federal tax-exemption on municipal bond interest. Because interest earned by investors on municipal bonds is exempt from federal taxation, states and localities pay much lower costs of capital than they would otherwise face.

PSA proposes creation of Mandatory Infrastructure Facility (MIF) Bonds to assist state and local governments in financing current federally mandated infrastructure improvements. MIF bonds would be used for the construction, acquisition, rehabilitation or renovation of infrastructure facilities that are mandated by the federal government or required in order to comply with a federal mandate. The MIF bonds would be categorized as public purpose rather than private activity bonds, regardless of the level of private participation in the financed project and would be exempt from some other restrictions on municipal securities. While it would be inappropriate to attempt to add MIFs to S. 1, we hope to pursue this issue in the context of future legislation such as budget reconciliation.

We have enclosed for you review the report of the PSA Economic Advisory Committee and draw to your attention the concerns expressed in the report where it notes that ''economic gains from reducing the federal deficit could prove illusory if federal programs are cut, but replaced by unfunded mandates upon state and local governments.''

We welcome the opportunity to work with you on issues concerning unfunded mandates. Please do not hesitate to call if there is any further information we can provide.

Sincerely,

JOHN R. VOGT,
Vice President, External Affairs.

CITY OF EL MONTE,
El Monte, CA, January 4, 1995.

Re unfunded Federal mandates.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the El Monte City Council, we wholeheartedly support your aggressive efforts in sponsoring legislation to stop unfunded federal mandates. This noble effort is especially appreciated by cities in California, who are facing the negative impacts of the recession

along with the State's revenue raids on local government. Also, your leadership in providing legislation to stop unfunded mandates will have an impact at the State level, whereby State mandates have also created economic problems for cities.

The City of El Monte has raised new revenues and has cut back on spending for the past three years to be less reliant on other levels of government. However, with the continuation of federal mandates on cities, it has become very difficult to fund even the most essential services to our residents and businesses.

We are fortunate to have your support in sponsoring this legislation and our appreciation and gratitude for your fine efforts in understanding the needs of cities.

Sincerely yours,

EL MONTE CITY COUNCIL,
PATRICIA A. WALLACH,
Mayor.

PETROLEUM MARKETERS ASSOCIATION OF AMERICA,
Arlington, VA, January 11, 1995.

Hon. DIRK KEMPTHORNE,
U.S. Senate,
Washington, DC.

DEAR SENATOR KEMPTHORNE: On behalf of the Petroleum Marketers Association of America (PMAA), I would like to express our strong support for the passage of S. 1, legislation which would curtail the passage of legislation implementing unfunded mandates. The PMAA represents over 10,000 marketers of petroleum products nationwide. Collectively, these marketers sell nearly half the gasoline, over 60 percent of the diesel fuel and approximately 85% of the home heating oil consumed in the U.S. annually.

PMAA favors passage of the ''unfunded mandates'' legislation as a necessary step to help stem the increasing cost of federal regulations to state and local government, as well as to private industry.

As you know, S. 1 would require the Congressional Budget Office to conduct a cost impact analysis (or be ruled out of order) whenever Congress wants to impose an unfunded mandate of more than $200 million on the private sector. Federal agencies would have to analyze and report the effects that proposed regulations would have on the nation's economy, productivity and international competitiveness.

Petroleum marketers have been especially hard hit by the financial burdens placed upon them by federal and state regulations. The financial burden of federal regulations is reaching critical levels with estimates nearing $581 billion annually. Providing relief from federal unfunded mandates is crucial to the future livelihood of the business community and the economy in general.

Please vote in favor of S. 1 and oppose any efforts to weaken the legislation by removing the private sector coverage language. Thank you for your consideration.

Sincerely,

PHILLIP R. CHISHOLM,
Executive Vice President.

Mr. KEMPTHORNE. Mr. President, I believe this demonstrates again, whether we are talking to farm families about the act, whether we are talking to local governments such as El Monte City Council, or whether we are talking to the private sector as represented by the Petroleum Marketers Association of America, all of them strongly support this legislation. And this week, again, we hope to be able to move forward on this legislation so that we can enact what our partners in both the public and private sectors have been asking for.

Mr. President, with that being said, and in the spirit of trying to move forward now on the progress of dealing with the issues before us, I ask unanimous consent that the remaining committee amendments be considered en bloc, agreed to en bloc, and the motion to reconsider be laid upon the table, with the following exceptions: The amendment on page 25, the amendment on page 27, and the amendment on page 33; I further ask unanimous consent that all adopted committee amendments be considered as original text for the purpose of further amendments.

The PRESIDING OFFICER (Mr. THOMAS). Is there objection?

Mr. GLENN. Mr. President, reserving the right to object, and I will object, not for myself, but I believe we do have another Senator who wants to come to the floor and speak on this. So I would object until he can be here and express his views on this. I think he wanted to object to the unanimous-consent agreement, so, on his behalf, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KEMPTHORNE. 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. GLENN. 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. GLENN. Mr. President, I ask unanimous consent that it be in order, while we are waiting for the Senator to come to the floor to express his views on this, that I be given permission to speak with regard to the bill until he arrives on the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, the Washington Post this morning has an editorial titled ''More on the Mandates Issue.'' The Washington Post has editorialized on this before, and they very properly, in this lead editorial this morning, point out the difference between the House bill and the Senate bill.

I want to make sure that some of our colleagues who are trying to make up their minds on support for this legislation, that they not get confused between the two bills. This is not a long editorial, but I would like to read it so that everyone will understand exactly what the issue is. The title is ''More on the Mandates Issue.''

House Republicans partly disarmed critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure.

Mr. President, I would add that I entered the President's letter to us into the RECORD last week.

The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach.

Mr. President, I see our distinguished colleague, Senator BYRD, is on the floor. I know he has some comments to make on this.

I ask unanimous consent that the editorial out of the Washington Post be printed in the RECORD in its entirety, and I yield the floor.

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

[From the Washington Post, Jan. 17, 1995]

MORE ON THE MANDATES ISSUE

House Republicans partly disarmed the critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure. The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach. Though there is a genuine problem that needs fixing here, not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in federal aid, always the victims they portray themselves to be in the federal relationship. What would happen is simply that future bills imposing mandates without the funds to carry them out would be subject to a point of order. A member could raise the point of order, another would move to waive it and there would be a vote. That works in the Senate. The problem in the House was that the rules would not have allowed a waiver motion. A single member, raising a point of order that the chair would have been obliged to sustain, would have been enough to kill a bill. The Rules Committee found a way around that rock last week. The bill now provides expressly for the majority

votes that the sponsors say are its main point.

The other problem involves judicial review. The Senate bill would rightly bar appeals to the courts by state and local officials or others on grounds the terms of the bill had been ignored, the theory being that is mainly an internal matter—Congress agreeing to change its own future behavior—and a political accommodation of the sort that courts should have no role in. The House bill contains no similar ban, in part because a section would require the executive branch to do certain studies before issuing regulations and the sponsors, or some of them, want that to be judicially enforceable. But Congress has power enough to enforce these requirements itself; it needn't turn to the courts. The Republicans rightly say in other contexts that there is already too much resort to the courts in this country. They ought to stick to that position. In fact, because the House bill is silent on the matter, it isn't clear whether it would permit resort to the courts or not. The House should say not.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I have an inquiry, and that is, am I correct that the amendment that is currently before us is a committee amendment that is found on page 15, lines 6, 7, 8, and 9?

The PRESIDING OFFICER. The Senator is correct.

Mr. KEMPTHORNE. Mr. President, in light of the objection to the prior unanimous-consent agreement, I would like to ask the Senator from West Virginia if he wishes to debate the committee amendment found on page 15, beginning on line 6. I would like to make that inquiry without losing the floor. And I ask this with all due respect to the Senator from West Virginia, who has been forthright with me in communicating his concerns. So I just wanted to try to establish a process so that we can proceed.

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

Mr. BYRD. Mr. President, I thank the able Senator, who is manager of the bill, for his courtesies extended to me. I want to assure him that it is not my desire to frustrate him. He is trying diligently to move this bill forward, and the bill, of course, will move forward.

I am not in a position at this point to accede to the unanimous-consent request. I do not have any particular amendment in mind, may I say in response to the able Senator's question.

I do not want to accede to the request. For one thing, I do not want to agree to the adoption of committee amendments en bloc and that they be considered as original text for further amendment. Committee amendments that are in place as they are now, as long as they are in place can be amended by second-degree amendments. They are open to an amendment in the second degree. And it may be that some Senators would want to offer second-degree amendments and not have their amendments topped with an amendment.

Once the committee amendments are adopted en bloc, then, of course, they are open to amendments in two degrees. I have no particular amendment in mind at this point. I just feel that there are some areas of the bill that we need to understand. I probably will, in the final analysis, vote for this bill if there are certain amendments adopted thereto. I do not say at the moment that I will do that exactly for sure, but I may very well vote for the bill. But for now, I do not choose to agree to the request. I may agree to it at a later point. I do not have any particular question with respect to a specific amendment. That will be for others on the committee who understand the bill better than I do to more clearly explain.

Mr. KEMPTHORNE. Mr. President, would the Senator yield?

Mr. BYRD. Mr. President, I yield.

Mr. KEMPTHORNE. Mr. President, I appreciate that.

To the Senator from West Virginia I would point out that the amendment that is before the Senate was unanimously agreed to by the Budget Committee, and with this amendment properly being before the Senate now as our item of business, if the Senator from West Virginia does not feel compelled to debate the particular specifics of that amendment then I would seek or ask the Chair to put the question on the committee amendment before the body.

Again, I want to assert, because of my respect for the Senator from West Virginia, if the Senator has a desire to debate that issue; if not, I would like to put that question before the Chair so that we can proceed.

Mr. BYRD. Mr. President, the Senator is certainly within his rights to hope the Chair will put the question, and I can understand that. I fully appreciate his desire to do that. The Chair is not only entitled to put the question but the Chair is required to put the question if no Senator seeks recognition.

Mr. KEMPTHORNE. Based on that, Mr. President, I ask the Chair to put the question on committee amendment No. 9.

The PRESIDING OFFICER. Is there further debate on the amendment? Hearing none, the question is on agreeing to the amendment.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, as I have indicated to my friend, the distinguished Senator from Idaho, I have no particular thoughts with respect to this specific amendment, but I do want to say a few things in regard to the bill and other matters.

Mr. President, first on another matter. There is an adage among computer users that says ''garbage in, garbage out.'' What that means, of course, is that if unreliable or incomplete information is put into a computer, then unreliable or incomplete information will come out of that computer. Although ''garbage in, garbage out'' comes from the world of computers, the basic theory applies to other disciplines as well.

For example, consider the question: ''Do you support or oppose a constitutional amendment to require a balanced Federal budget?'' As of January 4, 1995, 80 percent, we are told, 80 percent of the American people say that they support such an amendment. My source is an article in the Friday, January 6, edition of the Washington Post.

According to a poll taken for the Washington Post and ABC news, that overwhelming percentage buys on to the concept of a balanced budget amendment. Amazing, one would think that on the face of it, this extremely popular idea would have nearly no opponents. On the surface, if one went solely by that overwhelming percentage, one could say that this surely is an idea whose time has come.

What is wrong with this Congress that it has not already passed this fabulous balanced budget amendment? How can anyone question its wisdom? That is the problem with simplistic questions. They usually provoke equally simplistic answers. But there is nothing simple about the constitutional amendment to balance the Federal budget. If one looks a little closer at the same poll, the problem with any balanced budget amendment becomes glaringly apparent. There exists no consensus as to how actually to get to a balance of the budget.

Of those who support a balanced budget amendment in the poll, the further question was asked: ''Would you still support a constitutional amendment to require a balanced Federal budget if it meant cuts in Federal spending on welfare, or public assistance, for the poor?'' Fifty-nine percent said yes, they would. Now, this is not 59 percent of the 100 percent. It is not 59 percent of the total number of persons who are included in the poll. It is 59 percent of those who support a balanced budget amendment.

In other words, it is 59 percent of the 80 percent of those who say they support a balanced budget amendment.

Then the same supporters were asked if they would support the amendment if it meant cutting national defense or the military budget. Fifty-six percent said yes, they would. Again, that is not 56 percent of the total. That is 56 percent of the 80 percent who support a balanced budget amendment.

Then the same supporters were asked if they still would support the amendment if we had to cut Federal funds for education. Only 37 percent said yes, they would. Now, that is not 37 percent of the 100 percent. That is not 37 percent of all those who were polled. That is 37 percent of the 80 percent who support a constitutional amendment. That makes a difference.

Then the same supporters were asked if they were still on board if we had to cut Social Security; only 34 percent said they would. We will say there are 100 apples on the table here and that the 100 apples represent the total number of persons who were polled on the various questions. Eighty percent support, that would mean 80 of the 100 apples taken off the table. They all support the balanced budget amendment.

But if Social Security is increased, of those who support a balanced budget amendment, only 34 percent then would support the amendment. So if Social Security is included, only 34 percent of the 80 apples, or approximately 27 percent of the whole number favor the amendment.

So that would mean less than 34 percent of the 100 percent; in other words, only approximately 27 or 28 percent of the whole number would then support the balanced budget amendment.

I ask the rhetorical question, are we beginning to see a pattern emerge here? There is vast agreement on a goal; in other words, balancing the Federal budget, but virtually no agreement on how to achieve that goal among the general public.

Let us understand one thing, if Congress passed the amendment today and we had to start moving toward that goal, virtually all talk of tax cuts would have to be abandoned. If Congress passed the amendment today and we had to start moving toward that goal, virtually all talk of tax cuts would have to be abandoned.

There is a lot of talk about tax cuts in the air. Both Republicans and Democrats seem—according to what I have read—to be racing toward the finish line to see who can get there first with a tax cut. And there may be a bidding war on that subject in due time.

But this Senator from West Virginia thinks it is absolute folly—folly—to talk about a tax cut at a time when we are talking about passing a constitutional amendment to balance the Federal budget.

We seem to be going in two different directions all at once, and we are going to meet ourselves head on. If we have a tax cut and then if the constitutional amendment on the balanced budget is adopted, we may have to increase taxes to balance that budget. It cannot be ruled out.

So what is going on here? We cut taxes one day and raise them the next. It is going to be much more difficult to raise taxes than it will be to cut them.

I think we ought to stay on the course we are on; that being to attempt to balance the budget. And we have had two good efforts in 1990 and 1993, in both of which years Congress passed legislation that reduced the rates by which the deficits were growing and actually made reductions over a period in the deficits. That is the course we ought to stay on, and that is not an easy course.

But now to forsake that course and say, ''Well, let's have a tax cut,'' that is flying in the face of the strong efforts that have been made in 1990 and 1993 to bring about a reduction in the deficits and to move on a glide path toward a balanced budget. It does not make sense. We ought to be thinking of our children and grandchildren. No, we want to cut taxes now for political purposes, cut taxes now, do something for ourselves, forget about the kids, forget about the children down the road; let us shift this burden over on them, shift it over to them; let us have the tax cut now, though; let our children, and grandchildren and their children worry about it.

That seems to me to be very shortsighted, very shortsighted.

I would rather see the President and the Democratic Party stay on the course we were on of balancing the budget, of reducing the deficits. I think it is not only poor judgment but it is wrong to talk about a tax cut now. It is easy to cut taxes. Nobody likes to vote to increase taxes. I do not like to vote to increase taxes, but I am not going to join in the rush to cut taxes at a time when we have budget deficits in the $200 billion range and a national debt that is $4.5 trillion. Talk about declaration of rights, petition of rights, bills of rights, and all these things, I think we might better focus on a petition of rights, declaration of rights or bill of rights for our children's children and their children. I would not think that a tax cut for those of us in our generation would be wise. It certainly would not be a part of my declaration of rights for posterity.

We should not have a tax cut at this time, in my view, and we certainly should forgo that idea if Congress adopts a balanced budget amendment. Now, if we did that, if we abandoned all thoughts of a tax cut, we would still need to cut spending or raise taxes from projected levels by more than $1 trillion over 7 years, according to the Congressional Budget Office, in order to balance the budget.

We could go ahead and cut welfare. That seems to be popular, but it would not be nearly enough. We could go ahead and slash defense spending. That also seems to have a fair amount of support among balanced budget enthusiasts, but that would not get us to balance without massive tax increases either. How popular does anyone within the sound of my voice think massive tax increases are?

My point is that no one area of cuts would get us anywhere near a balance by the year 2002. The cuts would have to hit most all of the extremely popular Federal programs and those cuts would have to be severe.

It is obvious on its face from the results of the ABC poll that the American people have no real understanding of what passing this amendment means in reality. The conventional wisdom around here is that the balanced budget amendment is a forgone conclusion; that its adoption is foreordained. Mr. President, it may be that a constitutional amendment to balance the budget will be adopted. It may be, but I am not going to concede that yet.

We heard that same thing last year being said. It was said last year that the balanced budget amendment would be adopted, but it was not. The constitutional amendment to balance the budget may or may not be adopted. That is something that will be decided as we go down the road.

I am not going to join in the stampede to adopt a constitutional amendment to balance the budget. I am in favor of balancing the budget from time to time when we can, but I do not think that can be done every year in the normal course of things, for fiscal reasons, cyclical and countercyclical fiscal reasons.

I am not in favor of a constitutional amendment on the balanced budget. That is not news to anyone. But let me just say again that I do not concede at this point that such an amendment is going to be riveted into the Constitution. Perhaps it will be. We shall see.

We in the Congress have not adequately educated our people about what the amendment really means. It means enormous changes in the lifestyles and in the opportunities available to every man, woman, and child in this Nation. Furthermore, if the economy goes into a recession, which simultaneously increases spending on programs such as unemployment compensation and decreases revenues coming into the Treasury because of poorer performance in the private sector, spending cuts will have to be steeper and the tax increases will have to be larger than anticipated. Any first-year economic student knows that raising taxes or cutting spending during a recession is a recipe for plunging the economy into a depression.

It is the height of irresponsibility to avoid speaking very plainly to the American people about what is at stake here. We have to form a consensus about how to continue to reduce the Federal deficit rather than pass a constitutional amendment that would place our Nation's economic policy in a straitjacket. There has to be a national debate about the available options and their consequences. Honesty and integrity demand it.

I have heard it said that we were sent a message with this most recent congressional election. I believe that is a true statement. The message was: Involve the American people. Involve the American people in decisions that affect their lives and their livelihoods. The message was: Do not dictate to us, the people, from on high anymore. That Washington crowd must stop trying to tell us, the American people, what is best for us to do, what is always best. That is one of the reasons why we have this bill on the floor. The American people are tired of being bossed around from Washington, told what to do, when to do it, how much to do.

When I was in the State legislature 49 years ago, my feeling as to my associates in the legislature was—and I think it was a consensus among the West Virginia legislators in the House at that time and also in the West Virginia Senate where I later served—those fellows up in Washington, we do not need them to tell us what to do. We do not even want our Senators, who were Democrats like most of us were in the legislature, we do not want them telling us legislators at the State level what to do. They have enough to do. We will take care of our work here.

Well, that just applied to the members of the legislature. But the American people generally are tired of the heavy hand of Washington. They do not want to be dictated to anymore. They are tired of it. They are fed up to the earlobes with being told from Washington how to plant, when to plant, and how much to plant. And here we are caught in a headlong rush to pass, to adopt, a balanced budget amendment, rivet it into the Constitution.

Now we have a bill before the Senate that deals with unfunded mandates, and it is going to pass the Senate. As I say, my vote may be one of the votes that helps it to pass. But the balanced budget amendment will be the largest unfunded Federal mandate of all time—the largest Federal unfunded mandate of all time. A constitutional amendment to balance the budget would dump huge new responsibilities on the States because of massive and precipitous cuts in Federal dollars. At virtually the same moment in time when we are poised to pass legislation curtailing the Federal Government's ability to enact unfunded Federal mandates on the States, here we are hot and bothered about passing a constitutional amendment to balance the Federal budget without a hint as to how we will actually bring the budget into balance.

''Oh,'' they say, ''well, let's get the amendment into the Constitution and then we will talk about that.'' Well, then it is too late. Once that amendment is in the Constitution, it will take some years—it will not be a matter of days or weeks or months to remove that constitutional amendment, but it will take some years to remove that amendment from the Constitution if it develops, as I think it very well may be develop, that the amendment proves to be unpopular with the American people in the long run.

It is arrogant, Mr. President, it is the acme of arrogance for us as Members of the Senate and the House of Representatives to put forward a constitutional amendment to balance the budget without laying on the table, so that the American people can see what it is, the plan by which we expect to achieve that balanced budget by the year 2002.

It has been said, ''Oh, well, we must not do that. If the American people know the details, we will never get that amendment adopted around here.'' Well, that is the height of arrogance—arrogance. If we let the American people know what is good, what is bad about balancing the budget under a constitutional amendment to balance the budget, we let them know, we will not pass it. We will not have the votes to adopt the amendment. In other words, do not let the American people know. Keep them in the dark as to where the pain will be, keep them in the dark as to where the cuts will have to be made, keep the American people in the dark as to what tax increases will have to be made, because if the American people are told that, the 80 percent of those who answered the polls to which I earlier alluded will dwindle away. We will not have the votes even here in the Senate to adopt that amendment, because the American people will rise up. They will be disturbed. They will become excited. And they will contact their Senators and House Members and tell them to slow down, slow down. So, ''We do not want to tell them that. They are just like children.'' That argument assumes the attitude that the American people are children; they should not be told the truth, if the truth hurts. It takes the attitude that the American people do not have a right to know what the problems will be, what their burdens will be, where the cuts will be applied, where the taxes will be increased if a constitutional amendment to balance the budget passes.

That is superarrogance, on the part of those of us who are not willing to lay out the course which the American people will have to follow in order to balance that budget. That is being superarrogant.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. I would like to just note and acknowledge what the Senator from West Virginia stated, in the fact that he has been a State legislator. I think as State legislators across the United States realize that he has sat in their very circumstances, he has an empathy for what they are trying to do in establishing their priorities, I think they take courage in knowing that we have another champion who has been in their shoes, whom we hope will help champion this unfunded mandate legislation.

I would like to make an inquiry then. Because we are having this discussion—and I point out that there are points the Senator has made which I agree with and I appreciate the Senator has stated them—since we are having this discussion as this amendment is pending, would the Senator be willing to enter into a time agreement so we could have some sense as to how long we would have discussion before we would put this amendment to a vote?

Mr. BYRD. Mr. President, that is a legitimate question. I would not be willing to do so at this point.

May I make it clear to my friend and to all who are listening and viewing what is going on here, I am not out to kill this bill. I may vote for it. And I am in no position to know—I am in no position to say how soon we will pass this bill. It may be today, it may be tomorrow, it may be Friday. I do not know.

Others who are on the committees that were involved, the Governmental Affairs Committee and the Budget Committee, are very much closer to the facts and to the problems that are being addressed than I am. I am not a member of either of those committees.

But, first of all—and I hate to say this again, but sometimes repetition bears being repeated—I was a bit astonished and taken aback when both committees, the Governmental Affairs Committee and the Budget Committee in the Senate, by rollcall votes declined to submit committee reports. I was, in a manner, offended as a Senator, as a Senator who has been here many years, who is accustomed to having committee reports on major bills, as a Senator who has always stood for the rights of the minority. I have always stood for the rights of the minority in this body. I felt that the rights of the minority were being trampled underfoot by the rejection in both committees of minority requests that there be committee reports, and the minorities in both committees were refused. That was not in accordance with my views as to what the minority has a right to expect here. I understand that the votes were party-line votes.

Mr. GLENN. Yes, that is correct.

Mr. BYRD. By denying the minority, the American people were likewise denied. Again, this is arrogance, arrogance, to deny the minority the right to present its individual and minority views in a committee report.

I thought that was what the American people, in part, were sending us a message about. They are tired of this arrogance: ''They know it all, in Washington. They know it all.'' No, there was such a hurry, such a big rush. ''We have a Contract With America. It has to be accepted within 100 days.'' That seems to be the big rush. Up to this point I have been remonstrating and protesting that kind of procedure in the committees. I hope it will not be done again.

I am not saying that the same thing may not have happened in times gone by. I would never be one to defend the trampling of a minority's rights in this respect on a major bill, a bill which may be controversial. I think that my colleagues on this side of the aisle deserve to have some time to study the committee report. We finally received the committee reports and over the weekend I have had an opportunity to read them.

I am not a major player on this bill at all. But I just think we ought to slow down and take a little while to study what this is all about and know what is in the bill. I can best understand the pros and cons by reading the committee reports. That is why we

have committee reports—one reason why we have committee reports. I cannot just read the bill and understand it fully. I need to read the committee reports. I need to see what the minority thinks. I always—always look to see what the minority is saying in a committee report because if there are problems with the bill, with a given bill, the minority is likely to raise those problems, give them visibility. So that, by way of explanation, again, is why I have become involved here. I want to hear what my colleagues on this side of the aisle have to say about this bill. I will probably hear a little of that, or some explanation in the conference that is coming up.

But I do not propose to be rushed. I may be run over by the steamroller, but I do not propose to get out of its way or just jump upon it and ride along with it, necessarily, at least. There may be some parts of the Contract With America that I will support. Mr. President, I do not put it on the level however, with the Federal Constitution. I do not put it on a level with the Declaration of Independence. I do not put that document—I have not read it, as I say. I have never read a Democratic platform. Why should I read this Contract With America? I did not have anything to do with it. I am not a part of it. I do not put it on a level with the Federalist Papers. So it does not have all of that aura of holiness about it or reference that I would accord to some other documents.

I say to my friend from Idaho that he is doing what he thinks is right. I assume that he believes in all particulars of the bill. Or he may not. He may not believe in every particular. And the Senate will have its opportunity to work its will on that bill. I fully recognize the need to do something about unfunded mandates. I recognize that need. We have gone down that path too far in many instances.

I just have a little more to say on this particular subject, and then I will talk a little about the matter before the Senate.

But here we all are hot and bothered about passing a constitutional amendment to balance the Federal budget without a hint as to how we will actually bring the budget into balance. Furthermore, there are those in this body who are completely unwilling, as I have said, to share the details of any plan to balance the budget with the people before we pass the amendment. Now I ask Senators. How does that comport with the so-called ''message'' that we just got in the November election? How is this bringing Government back to the people? How is this putting vital decisions back into the hands of the voters of America?

A member of the other body's leadership was quoted in the newspaper last week as admitting that, if the details of getting to a balanced budget by the year 2002 were public, there would be virtually no possibility—no possibility—of passing the amendment. Is it all that bad? In other words, for Heaven's sake, do not tell the people what we are about to do to them. Do not tell them. Keep them in the dark. They want the amendment. Eighty percent said so in that poll. Keep them in the dark. Let us give it to them. They do not need to know what getting to balance entails. They do not need to know that. They do not need to be bothered with that.

If we exempt further tax increases or cuts in Social Security and defense, then what are we left with? In fiscal year 1995, the current fiscal year, Federal expenditures will total slightly more than $1.53 trillion. Excepting Social Security at $334 billion, defense at $270 billion, and of course, interest on the national debt of $235 billion, any cuts required to balance the budget would have to come out of the remaining $692 billion. It has been estimated, with a fiscal year 1995 budget deficit of $175 billion, those cuts would have to total 25.4 percent across the board on that $692 billion. And in fiscal year 2002, using the same assumptions, those cuts would have to equal 28 percent in order to eliminate a projected deficit of $322 billion.

Not discussing the options with the American people is like a suitor telling his prospective bride, ''Marry me and I will make you happy.'' But when she asks what he has in mind, he simply answers, ''Trust me, baby. You don't need to know the details. Trust me baby, you don't need to know the details.'' Talk about a pig in a poke; that is a hog in a rucksack.

This is big, arrogant Government going completely hog wild. This is us big guys, we big guys in Washington, saying to the American public, ''We refuse to give you any idea of how we are going to enact over $1 trillion of spending cuts and tax increases over the next 7 years.'' Note carefully that the 7-year period puts many of us in this body safely through the next election, by the way. It puts us safely through the next election. If this constitutional amendment is going to be sent out to the people, why do we not amend it; instead of having 7 years, make it 5. Make it 5 years. That is not customary. But there is no reason why it cannot be done. Make it 5 years so that the chickens will come to hatch during the terms of those of us who are here now who were elected in the past election, and they will certainly come to hatch during the terms of those who will be running next year, those who will be reelected or those who will be elected. It does not have to be a 7-year period. Make it a 5-year period. The 7 years puts us all safely through the next election.

Any plan to do that kind of violence to the Federal budget and to the national economy simply must be shared with the American people before we take an action that mandates that the violence be done. Let us not be a party to trying to pull the wool over the eyes of the people who sent us here. We do not allow it in other matters. We do not expect anyone to buy a used car without knowing whether or not that car has defects. We do not expect anyone to buy a house without knowing if the roof leaks. We could not allow anyone to take out a mortgage on that house without requiring the lending agency to fully disclose the terms of the loan. Mr. President, we have truth-in-advertising statutes in this country. We have truth-in-lending requirements. Why, then, should the American people be expected to accept the constitutional balanced budget amendment that would lock this Government into a rigid and unforgiving economic straitjacket without knowing precisely what that means?

Mr. President, in August 1993, the Congress passed a reconciliation bill that accomplished well in excess of $450 billion of deficit reduction, certainly well in excess of $400 billion. Every single dollar of spending cuts and every single dollar of revenue increases were laid out in plain language for Members and the American public to see. Obviously, those cuts were difficult to vote for. The revenue increases were difficult to vote for. But that package is something that needed to be enacted then, and it is something that needs to be enacted now.

Most importantly, Mr. President, that deficit reduction was passed without a balanced budget amendment in the Constitution.

Mr. President, if those who have signed on to the Contract With America are so sure that they have the necessary 67 votes to pass the balanced budget constitutional amendment, then they should lay down a plan that will actually balance the budget. If they have 67 votes to pass the constitutional amendment on a balanced budget in both Houses, they should not have any concern that their budget plan would not pass. After all, a budget resolution requires only 51 votes, only a simple majority—16 votes less than would be required for a constitutional amendment, if all Members were present and voting.

So why not accomplish through a statute a plan which can begin to take effect immediately, instead of waiting for the year 2002? If they can produce 67 votes for a constitutional amendment, they can produce 51 votes to pass the tough legislation required to achieve that balanced budget. Why do they not do it?

Let us not undermine the Constitution of the United States and the people's faith in that Constitution by putting off the bitter medicine that will surely come if a constitutional amendment to balance the budget passes in the House and Senate and is ratified at the State level. There will have to be some tough, tough decisions. Well, why not make those tough decisions now? We do not need a constitutional amendment, if there are 67 votes in this body now. And if two-thirds of the 435 Members of the other body can

produce the votes for a constitutional amendment now, or next week, or the week after, or next month, why go through all these motions and why go to all that extent to fool the American people and to perpetrate on the American people a hoax? If they have the 67 votes, let them bring forward their budget plan now; let us adopt it. Sixty-seven votes can pass any budget plan in this Senate.

If we are going to go down this road, we need to begin to take the first steps now. Waiting will only make the tough decisions tougher for the proponents. I say let them showdown now if they are really serious and they have the votes.

So let us involve the American people. Let us hear their voices. Let us have them weigh in on this most critical of decisions. Let us heed their wisdom, once they fully understand the ramifications of such a massive endeavor. Let us not literally thumb our noses at the very public who just put us into office and who also put us on notice they were tired of our arrogance, with this most arrogant and disingenuous of acts—a constitutional amendment on a balanced budget.

I favor a balanced budget as much as anybody favors it. There are those who say, ''Well, the American families out there have to balance their budgets, why should we not?'' That is a bit disingenuous, also. Not many families, relatively speaking, really balance their budgets. I have been married 57 years, going on 58 years, and it was only yesterday that I came across an old contract that I kept—not the Contract With America but the contract with Kopper Stores. I was a meat cutter. I worked at Kopper Stores. I married on May 29, 1937. And on May 25, 1937, I entered into a contract with the store at which I worked for some bedroom furniture, a bedroom suite—four or five pieces, I believe it was. I will bring up the contract one day and speak of it again briefly. But in that contract I was to pay $5 down on a new bedroom suite, and I was to pay $7.50 every 2 weeks, either in cash or in script; $5 down, $7.50 every 2 weeks. That was to continue until I had paid the entire amount of $189.50 for that bedroom suite.

Now, did I balance my budget? I had to go into debt. I was in debt. I had to go into debt to buy a bedroom suite. Most people in this country have to go into debt to buy a car, to buy a bedroom suite, to buy a living room suite, to buy a house. So, if the American families who are watching via that electronic eye there will stop and think, they will agree with me. We do not really balance our budgets, do we? ''Now, those politicians up there are saying that the American people balance their budgets. Why don't we balance the Federal budget?''

Well, I will go into that more at a later time.

But I have had a hard time at times in my life making ends meet, even with borrowing money.

So we are in debt. The American people have to go into debt. They do not all balance their budgets and end up at the end of the year, scot-free, slate-clean, not owing a penny.

The public trust is low, but it will surely sink lower if we go down to this unworthy path of insisting on a constitutional amendment on a balanced budget without laying out the roadmap, without laying out the plan.

If we have the 67 votes to pass a constitutional amendment, then we have the votes to pass the bitter pills of cutting programs or raising taxes. And we can begin to do that now.

Now, Mr. President, I want to give my attention to the committee report on the budget.

Mr. GLENN. Would the Senator yield for a comment?

OBJECTION TO THE JUDICIARY COMMITTEE MEETING

Mr. BYRD. Mr. President I object to any further committee meetings today. It is 13 minutes after 11 o'clock.

Mr. President, I amend my objection to make it apply only to the Senate Judiciary Committee.

The PRESIDING OFFICER. The RECORD will so note.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, the distinguished Senator from Ohio [Mr. GLENN] has asked me to yield for a question. I would be glad to.

Mr. GLENN. Mr. President, I just want to comment briefly.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield for that purpose and retain my rights to the floor.

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

Mr. GLENN. I thank my distinguished colleague and I thank the Chair.

I just wanted to comment briefly on his comments on the balanced budget amendment before he moves on to his comments on the consideration of S. 1.

I share his concerns in this area about whatever we do with regard to voting on the balanced budget amendment when this comes before us here in the Senate. We have to know what we are voting on and what we are doing, or the forcing action that we are taking and the impact that it is going to have on many, many programs that I think people have not yet really come to grips with.

We talk about this Contract With America as though it is something sacrosanct here. I think each one us here—I have a contract with the people of Ohio and I, in turn, as a U.S. Senator, have a contract with the people of this country myself, a contract with the people of the United States I take very, very seriously.

And I think that we have to know what impact that is going to have on the people out there in our respective States and across the country. We do not know that now.

To just vote, as my distinguished colleague said, on a pig in a poke here without knowing what is going to happen—I would say, as far as the Contract With America, we have been down that track of voting on something without knowing what was going to happen before, and we are $3 trillion additional in debt now to prove that it did not work before. And if we did not know how to make it work before, how are we going to make it work again?

We trusted the Reagan administration. Many of us here voted for that, voted for the tax decrease of 25 percent over a 3-year period, with the idea that if it did not work, if all the new, higher level of economic activity did not occur as was predicted at that time, then we would be able to come back to the Senate floor and we would be able to address that and say, ''OK, so it didn't work the way it was advertised. We are going to correct it.''

The problem is, we have never been able to get the votes to correct it. So here we are some additional $3 trillion in debt right now, not knowing which way to turn.

Let me say this on a little bigger worldwide scale. Prime Minister Thatcher had the same problem. She wanted to reduce the size of their Government at the same time President Reagan wanted to reduce the size here. What happened is, she went about reducing the programs first and then said we will have the tax reduction. It is just the opposite here.

The proposal of President Reagan was, we will reduce the taxes and that will force us into other action which never occurred. So now we are being asked once again to take this on faith and we will be able to work this thing out.

I would say to my constituents in Ohio and indeed all across the country, I think we do have to have the definition of this, as my distinguished colleague from West Virginia says.

Can anybody say that Social Security, Medicare, Medicaid, those big items in the budget—that takes up over half of the Federal budget right there. Then when you add the interest on the national debt and defense, we are up to almost two-thirds or 60 percent. So where are the cuts going to occur?

If we say those things that everybody is concerned about across the country are off limits, then where do the limits apply? What do we take in to consideration then?

Well, is it educational funds to the States? Is it higher education funds that we administer mainly out of the Federal Government but through the States? Are we going to cut the FAA, their consideration of flying safety in this country? Are we going to consider highways for cuts? That is 90 percent of

the Federal funding that goes to highways and only a 10 percent match. Do the people of this country want us to cut health funds for the Centers for Disease Control that is working so hard to try to get a solution to the AIDS problem? Are we going to cut the Food and Drug Administration that is looking at things that might create another thalidomide crisis in this country? All of these things are going to have to be cut if we pass a balanced budget amendment.

I have not positively said that I am going to vote against it here. I am still considering that. So I would say we are just buying a pig in a poke when Social Security is off base, when Medicaid is off base, when Medicare is off base, and when interest on the national debt is off base.

So it just does not work. I would say to the people in Ohio in particular that are on Social Security: Watch out. I think they are going to have to get into that, if we vote a balanced budget amendment, on Medicare. They are going to have to get into limiting Medicare in one way or another, and Medicaid. We cannot say do not pay the interest on the national debt.

And I would say the reason this ties into our debate here on the floor today on unfunded mandates is I think the estimate is we put out about $230 billion per year to the States for various programs. I believe the figure is that about $70 billion of that is in discretionary funding, the remainder in entitlements, mainly in the Medicaid Program.

Now, it seems to me, if we pass a balanced budget amendment without knowing in advance what the plans are for where the cuts are going do come from with this unfunded mandates legislation, of which I am a cosponsor, coauthor of here, I do not see how we avoid getting into those payments to the States right now if we vote ourselves a guillotine balanced budget amendment. And that is that. Then we will have to look to cutting down these entitlements and the $230 billion per year that goes to the States right now. Can we afford to continue that kind of funding if we have a balanced budget amendment and cannot cut Social Security, Medicare, Medicaid, and interest on the national debt and defense? I would submit that it will be very, very difficult to do that.

So I think in fairness, to make sure that some of the other programs are not cut, I think we have to look at the balanced budget amendment very, very carefully.

I think people will start asking their own questions, once they look at these things, as to how it will affect them. If we are going to have to balance the Federal budget at least in part by cutting out what we send to the States right now, then it undercuts what we are trying to do with this unfunded mandates bill. I do not want to do that.

I am trying to treat the States fairly, as is my distinguished colleague from Idaho, who pushed this bill for the last couple of years, brought it out of committee last fall, and could not get it through on the floor. I am a supporter, absolutely and unequivocally, of the unfunded mandates bill. I know there are some questions. We have some amendments to correct some of those. Senator LEVIN wants to address this sometime today. And there are others concerned. The Senator from Nebraska has some concerns. I see him here. I have some concerns.

I have a couple of amendments that I think will take out some of the doubts about how this would be administered. I am very concerned, along with my colleague from West Virginia, about the balanced budget amendment. I think it does tie over into unfunded mandates, because I think once we enact a balanced budget amendment, the States will have to look very carefully at what goes to the States right now. They are being too hard pressed now. I think there is a tie in that direction.

I wanted to make those comments, and I appreciate the Senator from West Virginia yielding to me for that purpose, to raise some of the same questions he has raised. I hope we can get on with S. 1 sometime this afternoon or sometime today so we can deal with the number of amendments we have. I hope we can get done with it this week. That means we will have to move expeditiously or we will not be able to bring up all the amendments this week.

Some of the amendments that are proposed are real busters, I guess I would call them. Some of them are not germane, necessarily, to this bill and deal with other matters that are of very major import. Some on the other side of the aisle and some on our side of the aisle will require considerable debate. Some over there, for instance, go back and say that we have to take up all past mandates, not make it prospective but go back. That would cost trillions of dollars. I do not know whether these amendments are talking amendments, talk a little bit and are not serious, but when you have things like that, it will require some time on this bill.

It all comes back, though, to whether we are dealing fairly with the States. I think this bill, even in its present form without amending, goes a long, long way toward addressing some of the sins of the Federal Government, if we want to put it that way, of the past 50 or 60 years.

There were good reasons why a lot of these provisions or a lot of the social services—a lot of reasons why some of those things moved to the Federal levels. Because the States back in those days, back in the days of the Great Depression, either could not or would not move to address some of the concerns when many of our people were bordering on starvation. Roosevelt came in with a package, the New Deal, that moved a lot of these responsibilities out of the community and away from the States, because communities and localities and States were not able to address those programs at that time. So these things moved to the Federal level.

Well, have some of them grown too far? I am the first to say they certainly have. Are the States now willing to pick up all these responsibilities that 50 or 60 years ago they were not able or could not pick up? We have to be careful with that and monitor what is going on to make certain that, as we move this unfunded mandates legislation through, we do not see a lot of people fall in the cracks, that we are depending on the Federal programs, excessive though they may have been. We just want to make sure that we monitor this very, very carefully.

I am all for the unfunded mandates bill. I hope we can work out all these details that people have concerns about.

Tying that back to the balanced budget amendment, once again, if we pass the balanced budget, it seems to me, there will be big pressure on the Federal Government to reduce what we send to the States now, which is about $230 billion a year.

Mr. President, I appreciate my colleague yielding for those remarks. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Ohio, [Mr. GLENN].

Today's Washington Post has an editorial titled, ''More On the Mandates Issue.'' It reads in part:

> The mandates bill could well be the first major building block of the Republican congressional agenda to pass. . . . The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from Federal mandates is meant to assuage them.
>
> In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. . . . Not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in Federal aid, always the victims they portray themselves to be in the Federal relationship.

Mr. President, I ask unanimous consent that the entire editorial from the Washington Post be printed in the RECORD.

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

MORE ON THE MANDATES ISSUE

House Republicans partly disarmed the critics of their unfunded mandates bill by keeping a promise and quietly fixing one defect last week in committee. They should fix another when the bill comes to the floor, perhaps this week.

The mandates bill could well be the first major building block of the Republican congressional agenda to pass. The Senate's version is on the floor as well, and the president has said while avoiding details that he too favors such a measure. The Republicans look upon it in part as the key to achieving other goals such as a balanced budget amendment to the Constitution and perhaps welfare reform. Governors and other state and local officials are fearful of being stranded by the spending cuts implicit in both of these and conceivably could block them. The promise that at the same time they will get relief from federal mandates is meant to assuage them.

In fact, the legislation doesn't ban unfunded mandates as so much of surrounding rhetoric on both sides would suggest. It would merely create a parliamentary presumption against them and require explicit majority votes in both houses to impose them. That's the right approach. Though there is a genuine problem that needs fixing here, not all unfunded mandates are unjustified, nor are state and local governments, which receive a quarter trillion dollars a year in federal aid, always the victims they portray themselves to be in the federal relationship. What would happen is simply that future bills imposing mandates without the funds to carry them out would be subject to a point of order. A member could raise the point of order, another would move to waive it and there would be a vote. That works in the Senate. The problem in the House was that the rules would not have allowed a waiver motion. A single member, raising a point of order that the chair would have been obliged to sustain, would have been enough to kill a bill. The Rules Committee found a way around that rock last week. The bill now provides expressly for the majority votes that the sponsors say are its main point.

The other problem involves judicial review. The Senate bill would rightly bar appeals to the courts by state and local officials or others on grounds the terms of the bill had been ignored, the theory being that is mainly an internal matter—Congress agreeing to change its own future behavior—and a political accommodation of the sort that courts should have no role in. The House bill contains no similar ban, in part because a section would require the executive branch to do certain studies before issuing regulations and the sponsors, or some of them, want that to be judicially enforceable. But Congress has power enough to enforce these requirements itself; it needn't turn to the courts. The Republicans rightly say in other contexts that there is already too much resort to the courts in this country. They ought to stick to that position. In fact, because the House bill is silent on the matter, it isn't clear whether it would permit resort to the courts or not. The House should say not.

Mr. BYRD. Mr. President, the fact is that States receive massive amounts of Federal funds. In fact, we provide so much money to the States that it takes a separate 373-page report—right here it is, a separate 373-page report—from the Office of Management and Budget to list all the grants, talking about grants which we provide to States.

On page 1 of this report entitled ''Budget Information for States Fiscal Year 1995,'' there is a table that provides a State-by-State listing of the total Federal dollars going out in fiscal year 1995. The total for all States is $208,910,820.

Does anyone really believe that if we try to balance the budget without cutting defense or social security and without raising taxes that these State grants will not be cut? West Virginia, estimated for fiscal year 1995 is shown on the list as receiving 0.85 percent of the total for the United States, $1,765,000. The fiscal year 1993 total to the States was $177,984,295.

So all the States are listed with indications of the States' shares as a percentage of the total. If one excludes interest on the debt, that would be over $200 billion, and if we exclude defense, which is over $270 billion, and if we exclude Social Security, which is $334 billion, where can we find the cuts? We will have to cut State grants dramatically, and this unfunded mandates bill will not stop these massive cuts that will come as we proceed to balance the budget over the next 7 years.

So you Governors out there beyond the beltway, you State legislators out there beyond the beltway, hear this: Friends, Romans, countrymen, if we pass a balanced budget amendment and even if the Congress passes the bill that is now pending before the Senate, which it will pass, do not think you are getting off scot-free out there in the States. You are still going to have to give a pound of flesh. It is still going to come out of your hide. We will have to cut State grants that are not mandates dramatically—dramatically—and this bill will not stop these massive cuts as we proceed to balance the budget over the next 7 years.

Unfunded mandates are not a new thing. Indeed, one might easily argue that unfunded mandates are as old as law itself. When the Lord told Israel that on the seventh day thou shalt not do any work, he was imposing an unfunded mandate on the 12 tribes. The tribes may have perceived a short-run loss in productivity, and that may have been only partly made up for by God's provision of manna and quails, but surely the benefits of keeping the Sabbath far outweigh the mere economic costs of doing so.

That can also be said about a number of other mandates. We can learn a lot by going back to that old book that our fathers and mothers read. We think that our constitutional forebears came up with something new when they and the Members of the first Congress set up the Federal court system. That legislation was initiated in the United States Senate in the very first Congress.

But those Senators and House Members were not coming up with something that was entirely new. One needs only to read the 18th chapter of Exodus to understand that there was a court system established by Moses hundreds and hundreds and hundreds of years ago that was, in many ways, somewhat like our own Federal court system.

Moses was hearing all of the people's cases himself. It is a little like Lucius Tarquinius Superbus, who was the seventh and last king of Rome, who heard capital cases himself. He did not take the advice of the Senate at that time.

But Moses was hearing all of these cases himself, and the people stood in long lines waiting to adjudicate their grievances. Jethro, the father-in-law of Moses, came to see Moses and saw all of what was happening and saw that the people were waiting and Moses was being required to take an inordinate amount of time to deal with these cases.

Jethro suggested to Moses that he should break down this work, divide it, have a division of the work and that he should appoint rulers or judges over tens, rulers over fifties, rulers over hundreds, and rulers over thousands, and let those rulers over the various categories judge the people and that Moses confine himself only to the hard causes—not the minor matters—or to those cases that were appealed up to him.

And Moses took Jethro's advice, and instead of deciding every small matter himself and keeping the people waiting, there would be a division and speeding up of the work. Justice delayed is justice denied. Moses established this plan that Jethro, his father-in-law, had suggested. Moses appointed judges to deal with tens of people, those who would deal with fifties, those who would deal with hundreds, those who would deal with thousands, and he himself, Moses, would take the major matters or those that were appealed.

And so we have somewhat the same system. We have the Federal district courts, and we have the Federal appeals courts. We have the Supreme Court. We also have municipal judges, county judges, district judges, State supreme court judges.

There are Federal district judges in West Virginia. We used to have one in the north and one in the south and we had what they called a roving judge or rotating judge. So you have district judges and then we have the appeals court level and then we have the United States Supreme Court.

We can learn a lot by going back into history and seeing how the Israelites did things.

The Federal Government's wage and hour restrictions on State and local governmental units can trace their lineage to the Lord's admonition to observe a weekly day of rest. But the Federal Government does not compensate Federal, State, and local governments for imposing those rules. We can probably all agree that some unfunded mandates yield more in benefits to society than their simple economic costs would reflect.

Mr. President, over the weekend I looked at the committee reports, studied them carefully. This is what the committee report from the Committee on the Budget has to say with respect to the additional views of Senator JIM EXON. Here is what Senator EXON says. In the first paragraph he speaks of his

support for S. 1, which is before the Senate. But then he says:

Although I am an ardent supporter of this legislation I feel compelled to criticize the procedure under which it was taken up.

The Senate Budget Committee met on January 9th to mark up this legislation. We adopted 8 amendments in the committee. At the end of the markup, I asked Chairman Domenici whether we would be filing a report on this important measure. Senator Domenici answered that the Republican leader had asked that the committee not file a report, so as to expedite the Senate's consideration of the bill by Wednesday morning, January 11th. Several members on our side of the table objected to this procedure.

Senator Domenici then made a motion that the committee report the bill without a report. The committee adopted that motion on a straight party-line vote of 12–9. The following evening, January 10th, the majority asked us whether they could file a report on the following night, on the condition that there be no objection to shortening the normal 3 day period for the submission of minority views. Two Senators objected to that request. They wanted the full 3 days to do their minority views and review the report. The majority then filed a statement in the record in lieu of the report.

''This morning''—this was the morning of January 12th, which would have been Thursday of last week.

This morning, January 12th, the majority extended us the opportunity to review the proposed report and add minority views until January the 17th. [That is today.] Yet, this afternoon [meaning the afternoon of January 12th] on the Senate floor they announced that they intended to file the report immediately. While the majority may have been prepared to file its report, the members of the committee in the minority did not have a straight story on when their views were due.

This is Senator EXON.

The members of the committee in the minority did not have a straight story on when their views were due.

For this reason, I objected to the unanimous consent agreement requested on the Senate floor because I was not sure that all the minority members had the opportunity to submit their views and I was concerned that members might still be working on their minority views. I believe that it is extremely important that anything purporting to be a report on this bill include such minority views.

Unfortunately despite my objects, I have been informed that the report will be filed at 6 PM tonight, January 12th.

This is the ranking minority member of that committee who is speaking and who is writing, Senator EXON of Nebraska.

''I was concerned,'' Senator EXON stated, ''that members might still be working on their minority views. I believe that it is extremely important that anything purporting to be a report on this bill include such minority views.'' Unfortunately, he said he had been informed that the report would be filed at 6 p.m. on the evening—p.m. on January 12. Continuing:

And so we have discovered a means to evade both the Committee's requirement of 3 days for the preparation of minority views and the Senate Rules requirement for a report to be available for 48 hours before proceeding to a bill. You simply say that you are not going to file a report. Then you proceed to the bill, as early as the next day. Then you file a report. This procedure evades both the Committee and Senate rules——

Why all this hurry? Why all the rush? It is the 17th day of January. We have 11 months and 14 days to go yet in this year. Why all this rush?

Senator EXON says, again:

This procedure evades both the Committee and Senate rules, but apparently cannot be enforced in either forum.

Have they gained anything? Has any time been gained by this thumbing of the nose at the committee rules and at the Senate rules? Has anything been gained? Senator EXON continues, ''I find this practice very troubling and am extremely concerned about the precedent that it sets.''

He continues. This time he speaks of the sunset provision.

Last year's version of the Unfunded Mandates Bill, S. 993 contained a sunset date. It was my understanding, and also that of many of the negotiators who hammered out this bi-partisan compromise, that we would have a sunset date. It is unclear why the provision was not included in the bill introduced to the Senate. Despite former assurances that a sunset provision would be included in the legislation or added during markup, a sunset provision was voted down 3 times during the Budget Committee markup in a straight 12–9 party line vote.

I believe a sunset provision is crucial to the success of this bill. A sunset provision will help—not hurt—this important piece of legislation. Sunset provisions are a common sight on the legislative landscape. For example, the revenues used to fund to the superfund program sunset this year. We have sunset provisions in everything from the crime bill to school to work to the 1990 farm bill.

We are dealing with an entirely new concept. It is untried and untested. This bill needs a trial period so that any problems and bugs can be worked out. The Congressional budget office has expressed concern over the analyses that are required in the bill. In testimony before the Senate Committee on Governmental Affairs, Director Reischauer gave a candid assessment of the difficulty in completing these analyses on a timely basis, not to mention, culling reliable information for them.

A sunset provision in 1998 would allow Congress to pause and examine the job that CBO has performed to date. We could then fine tune and if necessary retool the process to make this bill even more effective.

A sunset provision is not going to kill the unfunded mandates program. The bill's time has come and there is no reason to believe that the bill would be scrapped four years from now. Currently the legislation has 57 co-sponsors. If the legislation lives up to its expectations, there should be no problem marshalling the same support in 1998.

Lastly, the unfunded mandates bill does not operate in a vacuum. It must be viewed in the context of the budget act. The caps and other major provisions in the Budget Act—including the supermajority points of order—expire in 1998. Since we will have to revisit the entire Budget Act in 1998, it makes sense to be consistent and provide for a 1998 sunset provision in this piece of legislation as well.

Mr. President, may I without losing my right to the floor inquire of the managers as to whether or not they anticipate an amendment to be offered that will provide a sunset provision and, if so, if they feel that there is a reasonable chance of its being accepted.

Mr. GLENN. Mr. President, I would be glad to respond.

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

Mr. GLENN. I believe Senator LEVIN brought that up in committee and has talked about putting an amendment in to that effect. And I think that is what we addressed.

I favor a sunset because I think this is really landmark legislation. I think it is the first real piece of legislation that readdresses the relationship between the State, local, and Federal governments. As such I think the impact of this is going to be enormous. I do not disagree with making certain that we take another look at this because, if it is working well, we can reauthorize it at that time. If it is not working well, we can either make appropriate changes, or we can do away with it, if it is just fouling things up and having unintended effects. I do not think that is going to be the case.

I have supported Senator LEVIN. I do not want to speak for him. It is my impression that at the appropriate time he will present a 3-year sunset provision.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Does the Senator from Idaho wish me to yield under the same understanding?

Mr. KEMPTHORNE. Yes. I appreciate that.

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

Mr. KEMPTHORNE. With regard to the sunset provision, yes. I think we fully anticipate that there will be an amendment offered. I do not know how many years will be offered. I know that in the Budget Committee an amendment was offered for 3 years, and I believe also for 5 years and also for 7 years. All of those were rejected by majority vote.

I will tell the Senator from West Virginia that I resist a sunset provision. To me this is going back to the fundamentals of what the Founding Fathers intended; that is, that we have this sort of partnership in the federalism program between the States, localities, and the Federal Government.

If there is a problem with Senate bill 1, once it is implemented and it is clearly identified that there is a problem, I would not contend to wait 3 years. There is nothing to preclude us from going in and, if there is need for modification, make any modification as necessary.

But I am reluctant to say that after we have worked so hard, and the Senator from West Virginia has referenced the rush and the 100 days measured that has been put on this. I would just say that this bill in getting to this point has taken 600 days in the making because much of the core of Senate bill 1 comes from Senate bill 993 of the last session.

So again, I resist the idea that we are just going to get it implemented and in 3 years it will sunset. If there are problems with it, I would like to see us modify them. There is nothing to preclude that from happening.

Mr. BYRD. Were there not sunset provisions in the legislation last year?

Mr. KEMPTHORNE. The Senator from West Virginia is correct. I can tell him that is something that—and I will defer to the Senator from Ohio who was chairman of the Governmental Affairs Committee at that time when that provision was included. Again, I was not a strong proponent of it being placed in that. But that was not my decision at the time.

Mr. BYRD. Mr. President, I thank both Senators.

I personally favor a sunset provision in this legislation. We are reading and hearing a great deal about welfare reform. I think that if we had had a sunset provision in the laws regulating and governing welfare in this country we would have had sunset provisions. A great many of the perceived flaws in the legislation would have been corrected.

Mr. CONRAD. Mr. President, will the Senator yield on that point for a question?

Mr. BYRD. Yes, without losing my right to the floor. I do not intend to hold the floor much longer.

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

Mr. CONRAD. Mr. President, I wanted to inquire of the Senator if he had perhaps seen the testimony of the Governor of Michigan in the House of Representatives last week. I saw it replayed this weekend.

As we start out the discussion of the proper relationship between the Federal Government and the States, his testimony in the House is very important. He told the House of Representatives that the role that he saw for the Federal Government was just to send the money. He said, you in the Federal Government, you just send the money back and we will decide how it is spent at the State level. I must say I was very troubled when I saw this notion of what the Federal-State relationship is supposed to be. I was very troubled by the Governor of Michigan, who was on the committee determining the welfare reform policy for the party on the other side of the aisle, suggesting that the role ought to be that the Federal Government levies the taxes, raises the money, and has nothing to say about how the money is spent. Now, if that is not a perverse notion of Federal-State relations, I do not know what is. I told my staff this morning, ''in his dreams,'' as far as this Senator is concerned.

My own notion is that there should never be a separation between the responsibility for raising the money and the responsibility for spending the money. That ought to be a fundamental principle that we adhere to in this Chamber. And I believe that because, if we raise the money and the States decide how to spend it, it is free money for the States. They did not have to go through the political risk of levying the taxes to raise the money. They just eat the dessert. They just spend money. Oh, no. That is not going to be the relationship, at least if this Senator has anything to say about it. I must say that I thought it was arrogant in the extreme for a Governor to say all we ought to do is write the checks. We raise the money, levy the taxes, and then send them the money and they will decide how to spend it.

I was going to ask the distinguished Senator from West Virginia his reaction to this notion that we raise the money, and then have no say in how it is spent. We just send it back to the States and they will decide how to divvy it up. I am very interested in the Senator from West Virginia's reaction to that notion.

Mr. BYRD. I reacted the same way that the distinguished Senator from North Dakota reacted. It is arrogance. It is a new ''Caesarism.'' It is the same arrogance that is displayed by those who beat the drums for a constitutional amendment on the balanced budget without at the same time being willing to lay out the plan to let the American people know what is in the offing, what is the price to be paid for this approach. How would the taxes be cut? What taxes will be cut? How much will they be cut? What cuts will there be in programs? What programs will be exempted? What programs will not be exempted? And it is an arrogance that is being manifested within this institution, the Congress of the United States, when it says you folks up there just pass a constitutional amendment to balance the budget, and do not tell us what it entails; do not tell the people in the legislatures what action we are going to have to take to continue programs from which we are presently receiving grants in our States, and so on. Do not tell us that. We do not want to know that.

So the big folks up there in Washington—us big folk—we know it all. That Governor is saying: You fellows just send the money down to the States with no strings attached. That is the same thing on both subjects. Just pass a constitutional amendment and let the American people find out, in due time, where the pain is.

(Mr. SMITH assumed the chair.)

Mr. CONRAD. Will the Senator yield on that point?

Mr. BYRD. With the same understanding, Mr. President.

Mr. CONRAD. I am asking a question. First of all, with respect to what the Governor from Michigan was saying, I would say to him, look, if the Federal Government raises the money, the Federal Government is going to have something to say about how the money is spent. If the Governors want to make all the decisions on how the money is to be spent, then they raise the money. That is an appropriate State-Federal relationship. It is ridiculous and extreme to say that the Federal Government should levy the taxes and raise the money but the States will decide how it is spent.

I will follow up with a question on the matter of a plan to balance the budget. Last week, I came down to the floor and gave a speech on something I have detected that I call the Republican credibility gap. It is more than a gap now. It is a chasm. In fact, it is approaching Grand Canyon size. This chart shows what would need to be done to balance the budget over the next 7 years. According to the Congressional Budget Office, we would need over $1 trillion in cuts over the next 7 years. That is if we did nothing to make the problem worse before we started.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the Senator briefly—I only want to hold the floor for a few more minutes—without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. CONRAD. I am interested in the Senator's reaction to the credibility gap I have detected. This chart shows we need $1 trillion over the next 7 years if we do not do anything to make the situation worse before we start to solve the problem. But look what happens with our Republican friends' plan. The first thing they do is propose $364 billion of tax cuts, not spending cuts, but $364 billion of tax cuts. This is according to the Treasury Department. So now the $1 trillion problem over the next 7 years is nearly $1.4 trillion.

The next thing they do is say, well, we want to cut spending someplace. We do not want to be too clear on exactly where we are going to cut spending, but before we start cutting spending, we want to increase spending. We want to increase spending on defense by $82 billion. So now the problem that started out as a $1 trillion problem has turned out to be a $1.48 trillion problem. That is the amount that would have to be cut in order to balance the budget over the next 7 years. We start with $1 trillion, and we add their $364 billion in proposed tax cuts, according to the Treasury Department, then we add the $82 billion of increased defense spending, and the problem now is $1.481 trillion. That is a big number. That is not a million; that is not a billion; that is a trillion.

The interesting thing is to look at what they have come up with by way of specific proposals to cut spending. This is where we get to what I call the credibility gap. The credibility gap really is a chasm, because we need to find $1.481 trillion of cuts. But so far the Republican side has identified $277 billion in specific spending cut proposals. It is a paltry amount in comparison to what is needed to get the job done.

So I say to the Senator from West Virginia, it looks to me like they have

a $1.2 trillion credibility gap—the difference between what is necessary to balance the budget over 7 years and what they have outlined to balance the budget over 7 years. I say to my colleague from West Virginia, $1.2 trillion—that is one thousand two hundred billion—is a lot of money. Even in Washington talk that is a lot of money.

I think our friends on the other side owe it to us, and they owe it to the American people, to come forward with a plan to tell us specifically, precisely, how are they going to cut an additional $1.2 trillion. Are they going to take it out of Social Security? They say not. Are they going to take it out of Medicare? They say not. They say they are not going to take it out of defense. They cannot take it out of interest on the debt. That means well over half of all Federal spending is off the table.

I ask the Senator from West Virginia for his reaction to what I see as this enormous credibility gap by our friends from the other side.

Mr. BYRD. I thank the distinguished Senator. The $1.2 trillion, it seems to me, represents $1,200 per minute since Jesus Christ was born. To count $1 trillion—so that we might have a little better sense of the numbers that the Senator is talking about—at the rate of $1 per second would require about 32,000 years. It would take 32,000 years to count $1 trillion at the rate of $1 per second.

So the Senator is talking in terms of big money. There is a gap.

But there is another gap I am thinking about, also. If those from behind this steamroller—this constitutional amendment on a balanced budget—if they can mount 67 votes—and the conventional wisdom around of late is that that amendment is a sure thing and it is going to be adopted. In the discussion, they are already talking about how it will fare at the State level. If the 67 votes are found in this Senate, and two-thirds of the 435 Members of the House are going to vote for that constitutional amendment, why can those who support the amendment not lay out the road plan now? Why do they not bring in their plan now if they have 67 votes in the Senate and two-thirds of the 435 votes in the House that will vote for a constitutional amendment on a balanced budget? Why do they not simply bring in the plan now and start voting on it? It would only take 51 votes in the Senate. It only takes a majority to pass legislation. Why do they not do that? They have all the votes. They have all the votes that are necessary to raise taxes now. Instead they are going in the opposite direction and everybody is talking about cutting taxes—not everybody.

The administration is for cutting taxes, the Republican Party is for cutting taxes. But also the Republican Party wants—the Republican Party on the Hill—a constitutional amendment on a balanced budget. Why not start on it today? Why not start to deal with balancing the budget today, next week, next month? All they need is a majority of the votes to do that. They do not need two-thirds to do that, as they will need for a constitutional amendment. So that is a big gap. I cannot understand why it is easier to get 67 votes than it is to get 51.

Mr. CONRAD. Will the Senator yield further?

Mr. BYRD. I am going to give up the floor shortly. I will yield, if I may, without losing my right to the floor. I just wanted to ask another question.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, the Senator is recognized.

Mr. CONRAD. Mr. President, I just want to go further on this point. It just strikes me there are those of us who very much want a balanced budget. I am in that camp. The Senator from West Virginia knows that I feel strongly that we ought to balance this budget; we ought to do it the right way.

Mr. BYRD. That is why I voted for the 1990 package that was developed at the summit among the Republicans and the Democrats, when Mr. Bush was President. That is why I voted for the 1993 package. Not a Member, not one of our friends on the other side of the aisle, voted for the 1993 package, as I recall. I voted for it. It was tough to do it.

Mr. CONRAD. I think we should say that that 1993 package has, in fact, reduced the deficit. We had a Federal budget deficit in 1992 of $290 billion. In 1993, that was reduced to $255 billion. Last year, it was further reduced to just over $200 billion. This year, the estimate is it will be further reduced to some $176 billion.

The fact is, on that plan that the Senator from West Virginia and I both voted for, we did not get a single vote from the other side of the aisle; not a single vote. And voting for that plan took political courage, because it did cut spending. It cut over 100 programs by over $100 million. It also raised taxes on the wealthiest 1 percent.

People, of course, do not want to pay more taxes. I do not want to pay more taxes. I levied more taxes on myself in that vote; I wound up paying more in taxes. But I did it because I recognized we have a national crisis. We have to get our fiscal house in order. And if we are to do that, it requires a plan.

The point I wanted to make is that our friends on the other side of the aisle say they are for a balanced budget, but they have not come forward with a plan to do it. Talk is cheap. Talk is cheap. It is easy to say, ''I am for it.'' The difficult thing is to put down a plan that actually starts to do it.

I think it is terribly important that the American people know that there is this extraordinary gap between what our friends on the other side have said they are going to do and what they have identified to get the job done—a $1.2 trillion gap.

I said last week that gives a whole new meaning to the phrase, ''don't ask, don't tell,'' because that is what they are asking here. ''Don't ask, don't tell'' the American people. They are saying to the people, ''We are going to pass this balanced budget amendment, but we are not going to tell you how we are going to do it. We are not going to tell you where we are going to make $1.2 trillion in cuts over the next 7 years.''

I think the American people deserve better; I think our colleagues deserve better. I know the Senator from West Virginia believes that they have an obligation to come forward and be specific. I think that ought to be central to any debate we have.

I again thank the Senator from West Virginia for his courtesy and just ask him once again: Does not the other side have an obligation to come forward with a plan? Do not the American people deserve to know where they intend to cut $1.2 trillion over the next 7 years? Do not the people have a right to that plan?

Mr. BYRD. I thank the distinguished Senator, Mr. President.

Of course they are entitled to know what is in the plan. And we have a responsibility, in my judgment, before we rivet this piece of garbage into the Constitution, we have a responsibility to tell them what our plans are, how we expect to achieve this goal.

Mr. President, I thank the distinguished Senator. I hope he will expound further at some point on the subject matter concerning the constitutional amendment on the balanced budget. I hope he will use those charts. I hope he will elaborate on the matter further.

I do not intend to discuss that matter further right now. There will be a time, when we will be talking about the constitutional amendment on the balanced budget, that like Shallow, in ''The Merry Wives of Windsor'', ''I will make a star chamber matter of it.''

Right now I just want to ask one more question of the distinguished managers. In looking over Mrs. BOXER's views, minority views, I have noted—and I will not read her entire views as expressed in the report, but she says, in part:

> I am also disappointed that the bill fails to directly address one of the biggest unfunded Federal mandates faced by California: the costs imposed by illegal immigration. I therefore plan to offer an amendment on the floor to ensure that the costs to States and local governments of illegal immigration be addressed in the bill.

Mr. President, I share her viewpoint on this. I share the view that she has expressed with regard to the costs imposed by illegal immigration. As a matter of fact, the full Appropriations Committee, under my chairmanship last year, conducted some hearings on this matter. The members were very concerned about illegal immigration, about the costs of illegal immigration that are being imposed on States like

California, and the various Governors appeared at that time.

Do the managers feel that it is likely that we will have an opportunity to debate this amendment? Mrs. BOXER says she is going to offer an amendment ''to ensure that the costs to States and local governments from illegal immigration be addressed in the bill.''

What is the likelihood of such an amendment being adopted?

She also expresses concern that the amendments to sunset the bill were rejected by a party-line vote. What can we expect? Can we expect any relief for those States that have such humongous problems at this time with respect to illegal immigration? Can we expect them to get any relief?

Mr. KEMPTHORNE. Will the Senator yield?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. Mr. President, I believe the Senator from California raises a very important issue when she raises this question of immigration. The Senator from Florida, the Senator from Texas, the Senator from Arizona, and many others have raised this issue.

But in listening to the distinguished Senator from West Virginia as he talks about the process and the fact that he believes there is a process where the committee should be involved, this issue of immigration is a monumental issue. I do not know that, by bringing that to the floor, this is the forum for us to finally resolve that.

I have also spoken to the distinguished Senator from Wyoming [Mr. SIMPSON] who has also been providing leadership on this issue. My concern is that I do not believe this is the bill to attach it to.

But, am I empathetic to what those Senators are saying? Absolutely. This Nation needs to deal with that issue of immigration, but I do not believe this is the vehicle to accomplish that.

Mr. BYRD. I do not mean for the Senator to address that particular aspect of it. That was not my point. I do not expect this bill to address that aspect of it.

But Mrs. BOXER and others are obviously very concerned with respect to the unfunded mandate or mandates that are being placed upon the States to deal with this problem. My question goes to that aspect, not to dealing with a solution to the overall problem.

Mr. KEMPTHORNE. Will the Senator yield further?

Mr. BYRD. Yes.

Mr. KEMPTHORNE. I would just read to the Senator about 10 lines from the bill. This is on page 3, under the purpose of the bill. It states:

(A) providing for the development of information about the nature and size of mandates in proposed legislation; and

(B) establishing a mechanism to bring such information to the attention of the Senate and the House of Representatives before the Senate and the House of Representatives vote on proposed legislation;

(4) to promote informed and deliberate decisions by Congress on the appropriateness of Federal mandates in any particular instance.

I believe, I say to the Senator, that if S. 1 were in place right now, this would be the process that would help, for example, the Senator from California in dealing with what may be further Federal mandates where there are costs imposed on the States under that title of immigration.

This is a process before we cast our vote. Because, the Senator is well aware of how many times, when we have a 15-minute rollcall vote, we will go down there and we may confer with one another during those 15 minutes and we will ask, ''Is there a mandate in here?'' That is the extent of the knowledge we have today.

This is going to give us a process so that we will know that there is a mandate or there is not. We will know the cost of it. We will know the impact on both the public and private sector. And we will know that information up front before we cast our vote. So that is why I am so desirous to get on with the implementation of S. 1, because then we can take some of these very important issues that the Senator has raised.

Now we have a process to allow Members to deal with it so that it is informed as opposed to the current process.

Mr. GLENN. Will the Senator yield for an additional reply to his question?

This bill is prospective. It does not try to go back and undo what may have happened or what may have built up in the past.

I see our distinguished colleague from Iowa on the floor, and I am sure he may want to address this because I understand he had a proposed amendment that we go by. But this bill is strictly prospective. It tries to address what has been the major problem with regard to the Federal-State relationship, and that is that we have specifically passed a lot of laws that impose mandates on the States.

Now, we do not propose in this legislation to try to correct the situation where the Federal Government has had a responsibility—for example, immigration control—and that responsibility has been inadequately met to the point where it is developing into a major problem, at a major cost to States. We do not try to address some of those things.

Now, that has to be addressed. I do not think it necessarily needs to be addressed in this legislation, because if it is, then, we are into a real quagmire of considering every situation where States or particular Senators from States have a feeling that because the Federal Government did not meet the States' responsibilities—say, in flood control or in whatever area it might have been—that we then have to come back and assume responsibilities for that later in this legislation.

Now, I think it is very fair and proper that we address the immigration problem, but we made no attempt in this bill, nor do I really feel that we should in this bill, to address something like immigration, which is where the Federal Government, obviously, has not met its responsibility to control immigration for the United States of America. We have not been doing it, particularly in California, Texas, the border States along our southern border, and to some extent in other States, also.

That is where the major problems have occurred, because the Federal Government did not meet its responsibilities. Then I think there should be separate legislation that deals with this. But this bill is not set up to address something that is of that nature and that is already behind us.

I would say this: The major problem for most States—although that is a major problem for California, for instance—but the major problem for most States has not been of that nature where the Federal Government did not meet its responsibilities. The major problem we are trying to address here is where the Federal Government has in many respects gone too far, maybe, in meeting this responsibly and tossing this requirement downhill to the States and local communities and saying, ''You pick it up''—the States—''we are not going to do it.'' That was not done intentionally from the Federal Government with regard to immigration, although we have to address that.

So, what we are trying to do, and the major cost to most States has come from the unfunded mandates where we have passed laws that require clean air, clean water, clean whatever it was, and said, ''OK, States, but you pick up the bill on this.'' We have not tried to address something that has happened where a Federal responsibility is not met and tried to address that in helping States like California, or Texas, or New Mexico—Arizona in particular, pick up the costs that they have, I feel, unfairly, been saddled with. I yield the floor.

Mr. BYRD. Mr. President, I agree with the Senator. I thank both Senators for their responses to my questions.

I have over the weekend, as I say, read the reports. I found some positive things in the reports which have an attraction with respect to this legislation.

At some point I would like to ask some further questions, but I yield the floor at this time. I thank both Senators for their courtesy.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, again, many of the points raised by the Senator from West Virginia I may happen to agree with. In fact, I do agree with many of the points that were made this morning.

The discussion about the balanced budget amendment, now while that is an important issue, this is not the legislation dealing with the balanced budget amendment. That will come sometime in the future. This is about

Senate bill 1. This is about a process so that we can finally start casting votes around here based upon information before the act instead of after the act.

Therefore, Mr. President, with all due respect, I now 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.

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

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

Mr. GLENN. Mr. President, under the previous order, I believe it was agreed that we would go out for our recess for the respective party conferences at 12:30. The hour of 12:30 having arrived, is it the Chair's opinion we should recess?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Chair will recess.

Mr. GLENN. The hour of 12:30 having arrived, are we in recess now then, or does the Chair propose to put us in recess?

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate is prepared to stand in recess, but the Senator from Iowa is seeking recognition.

Mr. GLENN. Is it, Mr. President, under the previous order or is it the desire of the Senator from Iowa to speak?

The PRESIDING OFFICER. The Chair, as a courtesy, will recognize the Senator from Iowa first. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that, irrespective of the previous order, I be granted 7 minutes to speak as in morning business on a subject unrelated to unfunded mandates.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, on the condition that upon the completion of the Senator's statement, the Senate then stand in recess under the order.

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

The Senator from Iowa is recognized for 7 minutes.

AMERICORPS

Mr. GRASSLEY. Mr. President, we have recently heard in the news quite a bit about AmeriCorps, and that is President Clinton's new program on voluntarism.

As many of my colleagues know, I spent several months investigating this whole matter, and I continue to review and will continue to review for a long time into the future the merits of AmeriCorps. There has been bipartisan criticism of this program and this concept of so-called voluntarism.

This administration seems to have learned nothing from its recent efforts to force a top-down solution to programs, for instance, like health care. The American people rejected at the ballot box last November a bureaucratic solution that the administration had for health care reform.

Now the administration believes the answer to voluntarism is to have it driven from the top down. They want to bureaucratize voluntarism. In health care reform, they wanted to make the choice for each citizen's health care. In this program, they want to make the moral choice for each volunteer, and they want to pay him for that.

That subverts the concept of voluntarism, in my view. It turns the notion of voluntarism on its head. Nevertheless, the administration wants to go forward despite the fact that 1.9 million Americans are already volunteering on their own and doing it without pay and they are doing it all over the United States because they are doing it by making their own moral choices within their own communities as they see the needs of those communities.

Mr. President, it is discouraging that the President has completely disregarded the findings of Vice President GORE's National Performance Review when it comes to the question of AmeriCorps or the expansion of the program. A founding principle of reinventing Government is that, according to Vice President GORE, you should not increase funding a program until it is a proven success. This administration has sought dramatic increases for AmeriCorps with little to no support the proposition whether or not it is succeeding.

The problem with AmeriCorps is the same problem that I see in the boondoggles of the Defense Department. As you remember, a decade ago, $500 hammers got a lot of attention, the $500 hammers that the Defense Department was buying.

In AmeriCorps, we recently uncovered that President Clinton's AmeriCorps is paying over $70,000 for one—yes, Mr. President, that is one—volunteer for AmeriCorps. That $70,000 could instead be used to provide dozens of young people Pell grants so that they could attend college. This point was made on this very floor 2 years ago by the then chairman of the Appropriations Committee, the distinguished Senator from West Virginia, and that was when we were considering authorizing AmeriCorps at that particular time.

Instead, we are spending this money on creating one job with the Philadelphia Bar Association. That $70,000 job in Philadelphia is, unfortunately, not an anomaly. AmeriCorps has already provided me with many, many grants where the costs will be over $40,000 per year per job.

I am very pleased to announce to my colleagues today that the General Accounting Office has agreed to my request made in behalf of myself and Senator MIKULSKI to initiate an investigation into the actual costs of AmeriCorps. I am confident that the GAO investigation into AmeriCorps will help us all be better informed about the tremendous costs of this program.

As I read reports on the President's remarks, he intends to draw a line in the sand on this program. He intends to use this program to delineate the two political parties. I welcome this challenge because I believe the American people just repudiated the approach exemplified by the AmeriCorps Program. Just as they did not want to have a top-down bureaucratic solution on health care reform, they cannot fathom the same approach to voluntarism.

The American people do not want Government to make their moral choices for them. They do not want Government telling them for whom they should and should not volunteer, and they certainly can see through the rather thinly veiled attempt to subvert voluntarism by paying for it rather than using moral suasion.

Mr. President, I have received much data already from AmeriCorps pertaining to their grants. That data only further fuels my skepticism. I have also asked the General Accounting Office to independently analyze and evaluate the program. I will await their report this spring until I render a final judgment about the program.

But I must say, the celestial bodies seem to be aligned against the program, and the American people are against the approach embodied here. The administration would do better to more accurately apply the principles of reinventing Government to this concept. Rather than bureaucratizing and rather than drawing a line in the sand, we can be working together to make voluntarism work the way it has—and quite effectively and quite amazingly—since the earliest days of the Republic.

I yield the floor and yield back the remainder of my time.

RECESS

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

Thereupon, at 12:37 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Ms. SNOWE].

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

VOTE

The PRESIDING OFFICER. The pending question is now the motion to lay on the table the committee amendment beginning on page 15, line 6.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 39, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—55

Abraham	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Grams	Nunn
Bingaman	Grassley	Packwood
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Byrd	Heflin	Shelby
Chafee	Helms	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Cohen	Kassebaum	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Dole	Mack	Warner
Domenici	McCain	
Faircloth	McConnell	

NAYS—39

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Boxer	Glenn	Moseley-Braun
Breaux	Graham	Moynihan
Bryan	Harkin	Murray
Bumpers	Hollings	Pell
Campbell	Inouye	Reid
Conrad	Johnston	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Wellstone

NOT VOTING—6

Bradley	Hutchison	Kerrey
Gramm	Kennedy	Pryor

So the motion to lay on the table the committee amendment on page 15, line 6, was agreed to.

Mr. KEMPTHORNE. Madam President, I move to reconsider the vote.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN addressed the Chair.

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

Mr. LEVIN. I thank the Chair.

Madam President, I am wondering if I could engage the managers in some colloquy and dialog as to how this bill will function in the real world. There are some real problems in terms of the process.

This bill is different from last year's bill. First, I want to make sure that our colleagues are aware of the fact that this is not Senate bill No. 993. There is a new point of order which is incorporated in this bill which is going to have some very serious ramifications in the way we function around here.

I am somebody who voted for last year's bill. I would like to vote for this year's bill. I came out of local office. I was in local government for 8 years. I understand the impact of unfunded mandates. I believe we have to do more than what we have done and that last year's bill was about the right balance to accomplish a greater awareness on our part to create a point of order in order to ensure that we would have an estimate before us. But this year's bill goes significantly beyond that. And that point of order in this year's bill is frequently an impossibility.

We are building into the structure here something which, at times, cannot be accomplished. The Congressional Budget Office has told us that. They have written to us that it is impossible, or nearly impossible, to make estimates as to the cost of mandates 5 or 10 years down the road on State and local government. They just simply cannot do it.

This bill says that on every bill and amendment—not just every bill, but every amendment—that comes to the floor, it will not be in order even to offer the amendment, or to offer the bill, unless there is an estimate in that amendment and in that bill which we know, going in, cannot be made at times. We know it. The Congressional Budget Office has told us.

We can all close our eyes around here and pretend that these estimates can be made all the time. We know they can be made some of the time. By the way, it is current law that the Congressional Budget Office make these estimates whenever they can, whenever feasible. They have been making estimates for the last 10 years. They have made hundreds of estimates at the cost of these mandates on local and State government. I do not know how many times folks around here have looked at those estimates. But they have made hundreds of them. It is not new, attempting to make the estimate.

What is new in this bill is that there is so much that hangs on that estimate for the first time. A point of order will be available. It will be out of order to offer an amendment on this floor that does not contain an estimate. What happens if you cannot get the estimate? What happens if you just cannot get the estimate, or the Congressional Budget Office cannot make an estimate? Can they tell us they cannot make an estimate? Oh, no; they cannot tell us they cannot make an estimate.

If it were in the private sector, they can tell us. If this were a mandate that applied to the private sector, the bill says, yes, then they can tell us that they cannot do the estimate. But when it comes to the intergovernmental sector, to the State and local government, if the Congressional Budget Office cannot make the estimate, they are not allowed to tell us.

But the point of order still lies. You cannot offer an amendment unless it contains an estimate, and we know going in—I think each one of us knows—that there will be times when an estimate cannot be made of the cost of something 5 or 10 years down the road on 87,000 local jurisdictions.

We have to spend some time on this mechanism. This is too serious a change. This was not in last year's bill.

This year's bill, in Governmental Affairs, at least, was offered on a Wednesday night. This was filed on a Wednesday night. The hearing was on a Thursday, and the markup was scheduled for Friday. Well, we resisted, some of us, and said, ''There just isn't enough time. Can you at least give us a few more days on the markup?'' We fought for that and got a markup on a Monday.

We asked for a committee report. No, that was denied on a party line vote. We could not get a committee report in Governmental Affairs on the Monday markup. So we did not have a committee report. And then we had to delay consideration here using whatever means were available to us until we could at least get a committee report.

The same process in the Budget Committee. A request for a committee report. No effort to try to defeat this bill. Most of us are cosponsors of this bill. I think this bill has something like 60 or 70 cosponsors. Most of us, maybe 80 of us, would like to vote for this bill. This is not an effort to kill a bill. This is an effort to produce a bill that is workable, that has a decent balance in it that we can live with on the floor.

As I said, I cosponsored the bill last year. But this is a different bill this year, and it has a mechanism in it which is potentially going to create havoc for us, which we are either going to have to ignore, which no one should want to put in place. We do not want a point of order that is constantly ignored around here or it is going to have so much bite it is going to strangle this process. ''I send an amendment to the desk.'' Someone jumps up, ''Point of order. It does not contain the language that says that local and State governments will not have to comply with the mandate.'' ''There is no mandate in this amendment.'' ''Yes, there is.'' ''No, there isn't.''

Is the Parliamentarian going to decide whether there is a mandate? And then who is going to decide how much that mandate costs 5 or 10 years down the road? Is that just going to be decided here at 8 o'clock at night after an

amendment is sent to the desk, how much it will cost 87,000 jurisdictions 5 years from now? Are we seriously legislating when we put into place a point of order like that?

No provision for saying that they cannot make an estimate when we know full well they cannot. What about a range? Can we get a range? Well, some say yes, some say no. Some say this bill will allow for a range; some say it will not. What happens if it does? What happens if the CBO throws up its hands and says, ''You are asking us to figure what this will cost 87,000 local jurisdiction 5 years down the line. We say it will cost somewhere between $1 and $500 million. That is the best we can do.''

Well, now you have to have an estimate in a specific amount and you have to pay for it or you have to waive it as to local government, State government. Or you have to say, in order to avoid the point of order, if the Appropriations Committee 5 or 10 years down the line does not appropriate what you estimate today or what CBO estimates today, then it will be ineffective at that time.

We are building in a nightmare for ourselves. We have to try to solve the problem for State and local governments, and we can, I believe. We can force a greater awareness upon ourselves as to what they go through when we adopt a mandate. But we just cannot simply here, without spending some time on how a point of order would work such as has been constructed in this bill, unlike last year's bill, we cannot simply put ourselves into a potential grinder here where we have to ignore a point of order, routinely ignore it.

Since this is 50-vote point of order, some people say, ''Well, you can just vote down the point of order.'' Well, we do not want to put ourselves, on amendment after amendment after amendment, where a point of order lies because the amendment does not contain those words which are required, either ignoring it routinely or having this thing that has so much force that we are in a straitjacket. We have to be able to legislate.

Should we force ourselves in some way to consider what the costs are? Yes, I would like to do that. I used to have to live with these mandates. For 8 years in local government in Detroit, I had to live with these mandates.

One of the reasons I came to this town was because I was so upset with Federal mandates and the way Federal programs were operating. That was one of the reasons I ran for the Senate. I understand local officials and Governors who have to deal with what we do.

So we have tried in the last few years to put estimates into law and into the committee reports. We have required CBO to come up with estimates. And CBO has tried, with bills, at least, reported out of committee, to come up with estimates. Sometimes they cannot do it. They are unable to tells us. They just cannot do it. But we will not let them do it here on the intergovernmental mandates. We will not let them be honest. We are adding to the bills as they come to the floor a requirement that that same estimate in a specific amount be made by the CBO on every amendment that comes to the floor.

So, Madam President, what I would like to do, and before I go further, let me just commend the managers and the sponsors of this bill. While I have problems with certain aspects of the new bill, I must say they have been steadfast in their determination that we do a lot better to force ourselves to consider the costs of these mandates on State and local and tribal governments.

And while I have some disagreements with the new bill, I must say that they deserve a tremendous amount of credit and thanks of this Senate and of this country for keeping the issue before us. It is an important issue. And no one that I know of is trying to sink this bill. A number of people are trying to make this bill look more like last year's bill in terms of the balance that was struck, and that is going to take some time and I think legitimately should take some time of the Senate.

This bill simply goes too far. Unlike last year's bill, which had a point of order if there was no estimate and if the estimated amount was not authorized. This year's bill, in effect, requires that you either fund it or put language in your authorization bill which will direct the agency to ignore it for State and local governments unless the appropriators downstream put in the amount of money which the estimates indicate will be required for State or local governments.

Now, there is a very basic philosophical issue. What about cases where you have businesses competing with local government? My friend from Kentucky just mentioned the word ''business,'' which raises a very important point that I want to address. And I am not sure it is exactly the same point that crossed his mind, but there is a very significant issue here.

You have two incinerators that are competing for the same business. You have a government-run incinerator and you have a privately run incinerator. Do we want to imply or suggest that there will be a mandate that is either not applied to the government-run incinerator—on clean air for instance, a new clean air requirement—but it will be applied to the private incinerator? Do we want to create a presumption that when you have business competition between a private and public facility such as that, be it an incinerator or a hospital, that we are going to apply a new mandate to the private sector but not to the public sector? Is that the assumption we want to make? Is that the presumption we want to create?

That, I believe, creates a real problem. This is real, folks. We have private and public hospitals all the time. Are we saying that there will be a presumption that a new increase in the minimum wage will apply to the private hospital but not to the public hospital? Is that the message we want to send? Should we consider the impact on the public? Of course. Should we consider the impact on both public and private? I believe we should.

I hope that this bill will succeed in another one of its purposes, which is to get Members to look at the impact on the private sector, as well as on the public sector. That is one of the purposes of this bill.

This bill goes beyond that when it comes to the public sector. On the public sector, it creates this point of order that I just described, a point of order which does not exist relative to the private sector. I think there is a serious problem, philosophically, which is raised when we do that in areas where we have competition, where the greater impact of a mandate is on the private rather than on the public.

It seems to me that we have a serious issue philosophically as to whether we want to create the expectation that this mandate is going to be waived or paid for when it comes to that public incinerator or to the public hospital, but not going to be waived or paid for when it comes to that private incinerator or that private hospital.

What I would like to do, if I could, with my friends from Idaho and Ohio, is to take a hypothetical case and walk through the steps. What I have done is just set forth a hypothetical Senate bill. I believe I have given a copy of this description to each Senator so they can have it in front of them. This hypothetical bill mandates controls on dangerous levels of mercury from incinerator emission after October 1, 2005. That is the bill. It also designates the EPA to determine what constitutes a mercury level dangerous to human health.

I would like to focus on that hypothetical and ask a number of questions of the managers. First of all, what is the effective date of that mandate? Now, the reason that that becomes critical is that that triggers the estimate, the estimate upon which so much hangs—including a point of order—the estimated cost to State and local governments in the first fiscal year after a mandate is effective, and in each of the 4 fiscal years thereafter.

So the first question I would like to ask the Senators from Idaho and Ohio is, what is the effective date of that mandate?

Mr. DOMENICI. Madam President, will the Senator repeat the last part of the precise question?

Mr. LEVIN. Madam President, I am sorry, I did not give a copy of this to my friend from New Mexico. Let me get this to the Senator.

The PRESIDING OFFICER. If there is no objection, Members may engage in a colloquy.

Mr. DOMENICI. Madam President, I yield the floor.

Mr. LEVIN. Madam President, I ask unanimous consent, then, that I be allowed to engage in a colloquy with the managers relative to the way in which this bill would be implemented, without losing my right to the floor.

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

Mr. KEMPTHORNE. Madam President, in response, first a few points.

I appreciate the fact that both the chairman of the Budget Committee and the chairman of the Governmental Affairs Committee are here. I think what is most important, as the Senator from Michigan poses these questions, is that either myself, the ranking member on Governmental Affairs, the Senator from Ohio, or the two chairmen respond to that so we can lay this issue out there.

Also, a couple of other points I will make, because the Senator from Michigan gave a bit of an overview. One of the points that was stated is what if CBO simply cannot estimate this? What if we cannot come to terms with it?

The alternative, then, is that we will continue the process we now have, which is we do not require this information and we do not really make the effort. So we want to have as much information as possible before the vote, instead of after the vote, so that if at some future point we know the impact to local or State government after the fact, then we do the calculation.

Mr. LEVIN. Madam President, I wonder if my friend will yield on that point.

We do require such a calculation now. We have had something like 850 of those calculations, I think, in the last 12 years. There is a law, the Congressional Budget Act, which requires the Director of the Congressional Budget Office, to the extent practicable—very important words, to the extent practicable—to prepare for each bill or resolution an estimate of the cost, which would be everything incurred by State or local governments.

We do currently require these estimates. Now, sometimes, those estimates cannot be made. We have gotten a report from the Congressional Budget Office that they cannot make the estimate at times. They just simply cannot estimate. They say it. When they cannot estimate it, they say they cannot estimate it.

What this bill does, is say, ''You have to estimate.''

Mr. KEMPTHORNE. Madam President, if I may, to continue our discussion; yes, we do ask CBO to make an estimation. The Senator is correct. Since about 1981, CBO has been required to do some estimating. They have begun to build some years of information that will help them, I think, in making future estimates.

Now, in the event that CBO undertakes to accomplish what is required in this bill, to estimate the cost of the mandate, we asked them to make that effort. If they come back and their report says, ''We are unable to do so for these reasons,'' then they have fulfilled their responsibility.

Mr. LEVIN. With an intergovernmental mandate.

Mr. KEMPTHORNE. With an intergovernmental mandate. If they simply cannot—but they must make the effort. That is the point.

Mr. LEVIN. If the Senator will yield, that is not the way I read this bill, because this bill explicitly permits in the private sector that statement. But there is no such explicit permission to make that statement with the intergovernmental sector.

As a matter of fact, I believe the committee report explicitly notes the difference. I think the Budget Committee report explicitly takes note of the fact that in the private sector, we do permit the Director of the CBO to say that he cannot make the estimate.

On page 20, line 24, of the bill, it says:

> If the Director determines that it is not feasible to make a reasonable estimate that would be required, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be made and shall include the reasons for the determination in the statement.

That is referring to ''private sector mandates,'' subsection B. That provision is explicitly part of the private mandates section. When it comes to the intergovernmental mandates, there is no such language which allows the Director to be honest. We have an honesty provision when it comes to the private sector. We say, ''If you cannot do it, you can tell us,'' but when it comes to the intergovernmental sector, there is no such language.

Mr. KEMPTHORNE. Again, Senator, that is correct. We require, on an intergovernmental, that there not be an estimate. But in going through that process, it may be that the conclusion of that estimate is that they just cannot provide the data that we are after.

So, Senator, because of the process, there is a waiver. That may be the rationale, the justification, to come to the floor and to seek a waiver of that point of order.

Mr. LEVIN. Why, then, do we not have the same language on the intergovernmental as we do on the private?

Mr. KEMPTHORNE. If there is no estimate for CBO, the Chair will have no alternative but to rule that the point of order will not lie, because there would be nothing upon which to base a decision.

Mr. LEVIN. But the question is, if we allow for the fact that a director in the private sector is unable to make the estimate, why do we not have the same language relative to the intergovernmental mandates? Why not the same honesty? Why not the same honesty allowance relative to the intergovernmental mandate as we have in the private sector? Why that distinction in the bill?

Mr. DOMENICI. Will the Senator yield for an observation?

Mr. KEMPTHORNE. Sure.

Mr. DOMENICI. Madam President, first of all, I want to say to my good friend, who is managing the bill, I would very much like to be here for the whole dialog. I am not sure I can. I have to leave for a little while, but I will just address this one this way.

Mr. LEVIN. If I could interrupt, I will be happy to try to schedule this to accommodate my friend, the chairman of the Budget Committee, if that would be helpful. Please just let us know and we can try to schedule this.

Mr. DOMENICI. I am one who has been preaching reform measures around here that the Senate floor ought to come first, and here I am telling the Senate that I have something else that, obviously, is more important. But I already had these appointments, and I cannot get out of them.

Let me just answer the precise question and then try to come back here.

I say to both Senators and the managers, if there is something further that I might accomplish later on, I will come down again and I will go back through the RECORD and answer them as I see them.

First of all, let me suggest, on your last question about why in one section and not in the other, with reference to the impossibility of doing it, we have 11 years, my staff tells me, of experience in estimating the cost of public mandates. We do not have any experience in estimating the cost of private sector mandates, to speak of. That means that clearly the Congressional Budget Office, which has to gear up for this entire episode, both public and private—we know it is going to take some additional money, but we also know it is going to take brand-new staff, and we are fully aware, while we are cutting everything, that has to go up a little. We need to give some latitude on the private end because we have not done it, and we follow up and say since we have been doing it on the public we ought to be able to.

Let me proceed and take your specific statute and just give a few observations. Frankly, while I understand we have passed environmental laws in the past that are even harder to estimate than this, because we leave to the EPA or some other department almost full latitude, I am advised that probably the way the Congressional Budget Office would handle this—this is from people who have been there and are experienced. I went and called when the Senator from Michigan started asking questions—they would get in touch with each other and maybe even visit and talk about this mandate. The Environmental Protection Agency would hopefully give every bit of information they have as to the parameters of this mercury level. It is apt to be here or at least give them something to work with. Then they would probably take that, in terms of that level and they would give us the best estimate they could with reference to maybe either of two levels, but we would get something.

If they said it is absolutely impossible, then it appears to me that we cannot ask for anything more, and one of two things will happen: Either what the distinguished manager has said, that the Chair would rule that a point of order cannot be made against it, or the point of order could be made and waived on the basis that we do not know.

But let me suggest that there might be a third thing that could happen. It may very well be that the looseness with which we delegate might be tightened up somewhat. I am not suggesting that a bill with that in it is wrong, but I am suggesting that if this bill is saying to the American people, ''We want to honestly tell you the cost before we pass it to the maximum extent,'' then we may be finding that we have to get more clarity in the legislation that passes so it can be evaluated more properly.

I thank the Senator, and I yield the floor.

Mr. LEVIN. I certainly agree with the third point that the Senator from New Mexico made. Let me go back to the first point, the fact we have had experience with these estimates. This is not new, making estimates on intergovernmental mandates. We have had hundreds of them. We are required by current law. What we have never done is hung a point of order on it the way this bill does when it is impossible, in some cases—and we know it will be—to make the estimate.

This is the experience of the Congressional Budget Office. Based on their experience in intergovernmental mandates, they have told us it is impossible sometimes to make these estimates. That is on a bill where they are being given a bill in advance of consideration of the floor. Multiply that by 100 times when it comes to amendments, because this current bill, S. 1, does not just cover bills that come to the floor, it covers amendments.

I believe if we are going to be straight with ourselves, we have to acknowledge two things: That with this experience that the Congressional Budget Office has in making estimates, they are telling us there are times when they cannot make estimates on intergovernmental mandates. That is based on their experience.

Second, I think if we are being straight with ourselves and with this process, we are going to have to acknowledge that there is no way that when you include all amendments under this point of order process that we are going to be able, with any intellectual accuracy, to get an estimate of the cost of every amendment and its mandate which is offered here so it can be properly considered.

Every amendment is subject to a point of order. The language of the bill is it will not be in order to offer a bill or an amendment unless certain language exists in that amendment, unless there is an estimate of the cost of an intergovernmental mandate in that estimate.

There are a number of questions: Can I even get an estimate as an individual Member of the Senate so I can offer my amendment? There is no provision for an individual Senator to get an estimate. The way I read this, the only estimates that are required by the Congressional Budget Office are estimates after a bill is marked up in committee and is sent to the floor. The chairman and ranking members of committees can also seek estimates, as I read the bill. But there is no provision in this bill which gives me any assurance as an individual Member, or it gives 100 of us an assurance that we can even get the estimate, and if we do not get the estimate, a point of order lies.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. LEVIN. I will be happy to yield. I will just conclude this point.

What this bill requires us to do, unlike last year's bill, is to get an estimate which at times we know is impossible to make from the experience of CBO, even on a bill, and we know it is even more impossible on more amendments to get. There is no provision in the bill that we even have standing as individual Members of the Senate to obtain the estimate, in any event, since the only ones that seem in the bill to be guaranteed that estimate from the CBO would be bills that come to the floor that have been approved by committees and, to the extent practicable, Chairs and ranking members of committees.

I will be happy to yield. I do want to go back, however, to my first question, which is, what is the effective date of the mandate in this hypothetical that I have given? And again, so that we are all working from the same hypothetical, it mandates reductions of dangerous levels of mercury from incinerator emissions after October 1, 2005, and the EPA is designated to determine what constitutes a mercury level dangerous to human health.

My specific question is, What is the effective date of that mandate since that is what triggers the estimate? It is critical that we know the effective date because that is when the 5 fiscal year estimates begin.

Mr. KEMPTHORNE. If the Senator will yield?

Mr. LEVIN. I will be happy to.

Mr. KEMPTHORNE. We are calculating that so we can respond to that specifically.

I also, though, want to respond to the point that we are creating something unusual, we are creating—I do not know what terms were used—but suddenly we are going to make this very difficult for legislation to proceed or for amendments.

If I may, I think this is important. Yes, S. 1 establishes a new point of order under the Budget Act against incineration mandate legislation in the Senate unless the mandate is paid for. I believe strongly in that. So do local and State governments and tribal governments. The point of order—this applies to all legislation including bills, joint resolutions, amendments, motions or conference reports and can be waived by majority vote. It is a process.

This point of order and the Budget Committee's role in its enforcement are modeled after similar provisions in the 1974 Budget Act. The language in S. 1, and I think this is very important, applying the mandate point of order to amendments, is identical—identical to language in the Budget Act. Madam President, 21 separate provisions of the Budget Act provide a point of order in the Senate against consideration of amendments; five of these provisions establish points of order that only apply to amendments.

This is not new ground. This is not something unprecedented. Madam President, 21 separate provisions have a point of order. The Senate, the Senate Parliamentarian's office, the budget committees, have 20 years of experience with these Budget Act points of order and their application to amendments.

In practice, the Senate Budget Committee staff monitors legislation, works with the Parliamentarian's office to determine violations, and works with CBO to provide the Parliamentarian's office with estimates to determine whether legislation would violate the Budget Act. In instances where the press of Senate business does not allow CBO sufficient time to prepare such estimates, the Senate Budget Committee is called on to provide them. Regardless of what estimate is used, the Senate is the final arbiter of its rules, that is the rules of the Senate. Should a Senator disagree with the estimate, he or she could appeal the ruling of the Chair. But as these amendments are brought forward, the burden of proof that they exceed—in case of intergovernmental, a $50 million threshold—that burden of proof lies with the Senator who would make the point of order.

You can bring your amendment to the floor of the Senate without having had it scored by CBO. But, in all reality, it just seems to me and it seems to a lot of other folks that if you have an amendment that is somehow close to this threshold, it makes sense that you would call and get CBO to give you an estimate of the cost, or that you would work with the Budget Committee because soon we would be voting on that amendment.

Are we saying that because we may want to take a few minutes to call and get that estimate that we should not do that because the hour is late? And it is a multimillion-dollar decision that we are going to cast votes on, and the implications that it would have?

Mr. LEVIN. I am saying quite the opposite, if the Senator would yield. Quite the opposite.

It is worth getting an estimate. It is worth getting an honest estimate. And

there is no way that in a few minutes, or in a few hours—indeed in a few days, if you listen to the Congressional Budget Office—that you can get an estimate of the cost of a mandate on 87,000 jurisdictions. Of course we have points of order in the Budget Act. They have to do with levels of Federal spending of the Federal Government. What is new here is that a new point of order is going to be created, unless you have an estimate in a specific dollar amount of the cost. It could be years away—on 87,000 State and local units of government. That is very new.

Is it worth getting? Of course it is worth getting, if you can. But you say you can bring an amendment to the floor even without an estimate. The way I read the bill: ''It shall not be in order in the Senate to consider''—and then the words are ''any bill, joint resolution, amendment, motion, or conference report.''

It is not in order for the Senate to consider those.

Several Senators addressed the Chair.

Mr. KEMPTHORNE. I am sorry. If I could just complete that thought. It is not self-executing.

Mr. LEVIN. Someone could raise a point of order.

Mr. KEMPTHORNE. Someone could raise a point of order but you could allow amendments in a given event without anybody making that point order.

Mr. LEVIN. Is that the intent of the Senator, that a point of order not be raised when an estimate is not present?

Mr. KEMPTHORNE. I think I have made it clear. I think it is a responsible thing. But if you are going to offer a multibillion-dollar amendment, certainly that did not just come to mind that night. Certainly you have talked with either the Budget Committee or CBO.

But, again, it is not self-executing. That would be the basis that a ruling could be made that the point of order lies. Then you could seek the waiver.

Mr. LEVIN. I think we are in a way on the same wavelength because I think it is important that we get honest estimates, too. My question is, If the CBO cannot estimate it—cannot estimate it, it is still out of order.

Let me put it a different way. If the CBO cannot estimate it—it is tough. They have to. Because you do not have the language on the intergovernmental side that you do on the private side that allows them to say they cannot make the estimate. You could still keep your point of order, because there is no estimate that meets your test. But what you do not do in this bill, for the intergovernmental sector, is to allow the CBO to be honest the way you do in the private sector.

We tried this amendment in conference, to simply say if the CBO cannot make the estimate in the—excuse me. We offered an amendment in markup, where we said if the CBO cannot make the estimate—which has been true in many cases before—that they should be allowed to say so on the intergovernmental side, the same as they are allowed to do on the private side, so we can know that.

Mr. GLENN. Will the Senator yield?

Mr. LEVIN. I will be happy to yield. This may be something where we have asked weeks in advance, by the way, not just minutes in advance, weeks or months in advance, assuming we can get answers as individual Senators from the CBO, which we have no right to do in this bill.

But assuming we could get an answer from the CBO, they may tell us they cannot make this estimate. We have been diligent. We have tried for weeks and weeks and weeks and months to get an estimate and cannot get it because they say there is no way they can make this estimate for various reasons. It may be that the EPA is going to determine a level after a public hearing, notice and comment, as to what an unsafe level of mercury is. And they are not willing to say in advance of a public hearing and comment what that unsafe level of mercury is. And the CBO comes back to us and says we cannot make this estimate.

Why not allow them to say that in the intergovernmental side the way we allow them on the private side? The Senator from New Mexico says they have more experience on the intergovernmental side. That works exactly the opposite way because their experience tells them they cannot do it in some cases. Why not let them say it? We offered an amendment in committee to allow them to say it, allow them to be honest on the intergovernmental side the way we do on the private mandate. But that was defeated.

So, I think it is a matter of just honesty, frankly, in legislating, to allow the CBO to say what we all know is true. That there are times that, even with a lot of notice, they cannot estimate the cost of intergovernmental mandate the way they cannot do a private mandate. I will be happy to yield.

Mr. GLENN. Madam President, If the Senator will yield, I think, backing up the Senator from Michigan, I would have to say, in law—whether being misconstrued or not—but to leave any doubt that CBO can say there are things we cannot score, there are things we do not know the answers to, there are things we cannot make estimates on, and they say that—and to say, ''but you have to whether you can or not,'' or something is not going to apply on the floor here, I think is the height of folly. I do not see the point of this, in trying to say if you cannot make an estimate that you have to anyway.

What is the worst thing that happens if we say OK, we recognize the fact that you cannot make an estimate and if the CBO, with all their expertise cannot, I am not going to say that the Budget Committee is going to be any more able to do some of these things? There will be occasions where the Budget Committee also will say CBO could not and we cannot either.

Does that say that a bill cannot come to the floor? No. I will tell you what it says. It says we will not have the waiver and the point of order and the waiver vote on it. But the worst that happens is a bill comes to the floor like it does now. We say, Here is what we think, and debate it, and we pass it or we do not pass it. But to say that a bill that CBO has considered and the Budget Committee has considered and say there is no estimate we can possibly make on this just by the nature of it—we already have a letter from CBO saying that would be the case sometimes—but to say you have to have one no matter what or you cannot bring a bill to the floor sort of seems to me a little bit ludicrous.

Mr. DOMENICI. Will the Senator yield?

Mr. GLENN. Yes.

Mr. DOMENICI. I have just been called by the leader, so I am leaving. But I wanted to make an observation, and then I will come back. If you want to come, you and I, sometime to further clarify, I will be here.

First of all, everybody should know that since the Budget Act has been in existence—how many years?—20 years, this same puzzle has been there. Some things cannot be estimated—very difficult to do it, I should say. Amendments are hard to examine. I give you the best example of just forcing it to work. That is health care. The Senator spoke of how many thousands of jurisdictions? About 87,000 would be affected. We had millions in health care. We never took up an amendment without an estimate. In our debate some things had to wait awhile. Some amendments had to be set aside. CBO had to beef up. They had to ask for lots of help.

I think those of us who are looking at the effect of mandates on the Federal Government versus the States in terms of governance and a lot of other things are saying times must change, we have to find a system. This system is not perfect, but let me suggest that if the Senate desires in the future to offer a bill or an amendment that is so tough to estimate that as hard as we try somebody comes down here and says, ''Senators, that is it,'' what it will permit is for the U.S. Senate to work its will, not this bill. The Senate will then have before it what is probably an onerous mandate. If it is not very onerous on its face, nobody would ever be worried about it. So you probably will have an onerous mandate. It is going to cost a lot of money. And the Senate will be put to the test. Do you want to pass it anyway? That is by a simple majority. Or do you want to say something different for a change, and you probably, in living up to the spirit of this, will do something different for a change. You will probably say we are not going to pass this. I would think that is one alternative. We have to get some better way to define what we are

trying to do. Or you might find another way. You might pass it and put an amendment in that 3 years from now we will come back to the floor because by then we ought to have mandates and it still will not be in effect. Then we will pass on that.

In other words, we will make the kind of senatorial, in the Senate, on-the-floor changes to accommodate. But it will be an accommodation to a very, very different set of precepts—which I believe my friend agrees with—precepts of getting it done if you can, not hanging them out there without anything about them, if you can do other business. I think he agrees with that. I think that is what this process is going to yield. It has been tried a long time.

Sometimes it is very befuddling when we try to use a point of order. But I also say that those who want to amend the 51-vote point of order to 60, there is another example why whoever crafted it crafted it well because a point of order is a majority vote, not a 60-vote point of order. That clearly makes the U.S. Senate work its will on the kind of cases you are describing which are brought up by this amendment.

Mr. LEVIN. If the Senator will yield on that point, it is fine for the Senate to work its will, but it ought to have an estimate in front of it, if it is feasible, which is reasonably accurate when it works its will because a point of order is hanging on this unlike any point of order in the Budget Act. This point of order does not relate to Federal spending and the level thereof. It relates to what it would cost 87,000 jurisdictions. This is a different kind of an animal from anything that we have ever had in the Budget Act, No. 1.

No. 2, I think here my friend would agree with me. If the Senate is expected to work its will on waiving the point of order—and both the Senator from Idaho and the Senator from Ohio are absolutely correct; this is not a no money/no mandate. This says under some circumstances, if there is no money, there will be no mandate.

But what is unique about this is that you are not allowing in this bill the Congressional Budget Office to say that you cannot make the estimate. We do it in the bill for the private sector. We do it in the bill for the private sector, but it does not allow the CBO to be honest. Why not allow the CBO to be honest when it comes to the intergovernmental mandate?

It is true, we still have a 50-vote point of order. If they say they cannot make the mandate, that point of order still lies. But now you have something that you can be aware of. The CBO says it is impossible to estimate the cost of that mandate and why. That may cause some people to vote no. I think my friend from New Mexico is right. A lot of people will vote ''no'' if the CBO says it is impossible to estimate the cost. It may on the other hand cause other people to vote to waive the point of order because there had been an honest effort made to get the estimate and it is simply impossible; it is too far out. It depends upon agency determination to have closed rulemaking.

My question is why not allow honesty on the part of the CBO and, if they cannot make an estimate, to say so in the intergovernmental mandate the way we do in the private mandate? We being the bill. If the bill says, CBO, be honest, if you cannot estimate the cost in the private sector, tell us for whatever impact that has on the Senate floor, that may cause some of us to vote no on the whole bill. That may cause others to vote ''yes.'' We do not know the impact of that information. But we do know that, when it comes to the private sector, we allow the CBO to tell us if they cannot make the estimate, but when it comes to the intergovernmental side, there is no such authority to CBO; you must make an estimate. And I want the Senate to work its will. But I want it to work its will on the basis of information which is solid. If we are going to force the CBO to make an estimate when they cannot make an estimate, we are going to be getting bum information from the CBO. They are going to take wild, out-of-the-blue guesses as to what this thing costs. In order to comply with the law, they must make an estimate.

Is that legislating in the light? Is that legislating knowing the cost of estimates? No; what that is saying is we are going to go through a formalistic process forcing the CBO to do something which they have told us at times they cannot do, and somehow or other we are going to feel better if we therefore now know the estimated cost of a mandate on State and local government. Do we really feel then that we now have information which is usable to us, that we can make a decision based on information because we have forced the CBO to do something that they have told us at times they cannot do? So what happens if they come up with a range? They just throw up their hands. This will cost from $1 million to $500 million. That is their estimate.

By the way, it is unclear that they can even give us a range. But to the extent that they are allowed to give us a range—again it is very unclear in the bill. We get two different answers on that question. But assuming they are allowed to give us a range, is that helpful to us? This will be from $1 million to $500 million. Now, are we really legislating knowing the impact on local government? That does not tell us anything. What level does the appropriations have to reach in order to avoid the requirements of this bill? Is it the $1 million or the $500 million? Is it a range?

So, again, I agree with what this bill is trying to do. I think last year's bill did it. Last year's bill had the support of all the Governors, by the way. This year's bill has even stronger support of the Governors, I am sure. But the Governors association and local governments supported last year's bill where we did not have this point of order that we have in this year's bill. We had the estimates. We had a requirement that they get an estimate. But we did not say that a point of order would lie, unless there is an estimate in a specific amount with certain ramifications.

I know my friend from Delaware is the chairman of the committee, and he has been attempting to get the floor. I certainly do not want to, in any way, control the floor. I am in the middle of a colloquy, with the unanimous consent of the body, with the manager of the bill. I will be happy to either yield further, or whatever it requires, to allow the Senator from Delaware to get a question in here.

Mr. ROTH. Madam President, I say to my distinguished friend and colleague, if he will yield without his losing the floor, it does seem in a very real way to me that you are comparing apples and oranges. The reason I say that is that in the case of a mandate being imposed on the public sector, then it is the rule or the general requirement of this legislation that funds be provided to finance it.

On the other hand, in the case of the private sector, while they are asking that an estimate be made, if there is no estimate, there is no requirement that funds be provided. So there is a very real difference between the public sector and the private sector.

I do not think there is anything being said that says the Congressional——

Mr. LEVIN. If my friend will yield——

Mr. ROTH. If I may finish. What we are saying is that in the case of a mandate on the public sector, it is the general rule that either funds be made available to finance it, or a waiver be obtained. So there is a very real difference in the policy between the two situations.

But I do not think anything is being said that the Congressional Budget Office cannot come back and say: We cannot make an estimate. But if they come back and say they cannot make an estimate, and it is a mandate on the public sector, then I, as author of that legislation or that amendment, either have to clarify the amendment so an estimate can be made, or I have to make sure that funds are provided. Or the third option is, of course, to get a waiver.

So it seems to me we are hanging up on whether or not the CBO, in the one case, can say it cannot make an estimate. If it cannot make an estimate, then we have those three options. Otherwise, we cannot move ahead. In the case of the private sector, we can still move ahead because the legislation does not require funding.

Mr. LEVIN. Madam President, the point the chairman makes, it seems to me, cuts exactly the opposite way. Since an appropriation is hanging on the estimate when it comes to the intergovernmental money, it seems to me that is more of a reason that estimate should be accurate.

We should not force the CBO to make wild guesstimates in order to comply with the requirement. They have told us over and over again that there are times when they cannot make estimates. But this bill says, ''Tough.'' That is what you are basically telling the CBO when it comes to the intergovernmental estimate: Make it anyway.

Mr. ROTH. If the Senator will yield.

Mr. LEVIN. Yes, I yield to the Senator.

Mr. ROTH. What I am saying is, if the Congressional Budget Office—in either situation, whether it involves the private or public sector—can make the statement that it cannot make an accurate estimate——

Mr. LEVIN. I beg to differ with the chairman, because the bill explicitly says——

Mr. ROTH. Where does it forbid CBO, in the case of the public sector, from coming back and advising the author or authorizing committee that it cannot make an estimate? What this legislation——

Mr. LEVIN. Here is where it does it, if I may tell you.

Mr. ROTH. I will make one further statement, and then yield back to the Senator who has the floor.

What we are saying in that situation is that, as a general rule, whoever is authorizing the legislation should clarify it so that an estimate can be made. What we are really trying to provide and really require is a reasonable estimate so that when Congress acts, it knows what it is acting on. That is the whole intent, as I understand this legislation.

Mr. LEVIN. Madam President, it is a very good intent. We have a current law which says exactly the same thing. The Budget Act now requires the Congressional Budget Office to make the estimate, where practicable. The chairman, my friend from Delaware, asks, ''Where does this bill say that they have to make an estimate in the intergovernmental sector?''

The answer is what it does is it has the explicit language relative to the private sector that:

> If the Director determines it is not feasible to make a reasonable estimate that would be required, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be made, and shall include the reasons therefore.

Mr. ROTH. Will the Senator yield for a question?

Mr. LEVIN. If I may read from the committee report of the Governmental Affairs Committee on this point.

It says:

> If the Director determines that it is not feasible for him to make a reasonable estimate that would be required with respect to Federal private-sector mandates, the Director shall not make the estimate but shall report in the statement that the reasonable estimate cannot be reasonably made.

And then the committee report goes on to say this:

> No corresponding section applies for Federal intergovernmental mandates.

That is very clear. We allow them to be honest when it comes to the private sector, yet do not permit them to be honest when it comes to the intergovernmental sector. It says they shall estimate. It does not have the possibility that they cannot make an estimate in the intergovernmental sector the way it does to the private sector.

Mr. ROTH. If the Senator will yield, the point I was trying to make is that nowhere, as far as I am aware, does the legislation forbid expressly the CBO from saying that it cannot make an estimate.

Mr. LEVIN. Why not allow it to do so, to say that?

Mr. ROTH. The important fact is what flows from that determination. The present language permits, in my judgment, CBO to say exactly that.

Mr. LEVIN. May I then ask the chairman why do we not explicitly say that?

Mr. ROTH. One reason is that it is difficult. You cannot fund a mandate for which there is no estimate. So what we are trying to——

Mr. LEVIN. The point of order would lie.

Mr. ROTH. So we are trying to require the authors of the legislation to go back and spell out the legislation in such a manner that an estimate indeed can be made.

Mr. LEVIN. Which is a good goal. But if the author of the legislation attempts to obtain that estimate, and it is impossible for the CBO to make it, even if there is a diligent request, why not allow the Director to be honest? Why force the Director to make an estimate which is absolutely a wild, out-of-the-blue estimate, just so he can comply with the law? Is that helpful to us in terms of our legislative process?

Do we really know more about the cost of intergovernmental mandates when a Director of the CBO, faced with this kind of a requirement that he estimate the specific amount of a mandate, throws up his or her hands and says, ''I cannot do it, and if I have to do it—and that is what the law says when it comes to intergovernmental mandates—I am going to say it is from $1 million to $1 billion; that is the best I can do''; is that really helpful to us in terms of understanding the impact of mandates?

I do not think it is helpful. I think we ought to be honest and acknowledge that there will be occasions when the Director of the CBO cannot estimate. The point of order would still lie if we want to keep the point of order in this area, because there is no estimate. But at least you would have had the statement as to why there is no estimate.

Mr. KEMPTHORNE. If the Senator will yield, I think that may be the crux of this. When it is a public-sector mandate, we are saying that we should pay for that.

Mr. LEVIN. Unless it is waived.

Mr. KEMPTHORNE. Unless it is waived. On the private sector, we say we will not be paying for that, but we ought to know the cost and impact up front.

With the private sector, if the Congressional Budget Office comes back and says, ''We just cannot make an estimate,'' then no point of order can lie. The Chair will not rule. They have no alternative. It does not lie, because the CBO has said there is no estimate, and so there can be no point of order.

That is the difference with the public sector. The CBO may come back and, in their report of estimate, state, ''We have tried this method and we have tried that, and we have consulted with the public entities, our partners, and this is the conclusion: Our estimate is that we cannot come to some conclusive information.''

But then we have a report. We have a report. We have not allowed a loophole that we are not going to deal with the issue of whether or not we should still fund it.

It may cause us to rethink this because if in fact you have the Congressional Budget Office—and I underscore the term ''Budget'' in Congressional Budget Office—and they say, ''We don't know what this will cost; it may well be beyond $50 million,'' if we allow them the same language as in the private sector, then we are not going to deal with it.

Mr. LEVIN. Why?

Mr. KEMPTHORNE. We are just going to vote. There is no point of order because the Chair cannot rule that a point of order lies.

Mr. LEVIN. May I ask my friend from Idaho why not? Why cannot the Chair rule that there is no estimate?

Mr. KEMPTHORNE. Because there will be nothing upon which to base the decision. There would be nothing to base the decision upon.

Mr. LEVIN. There is a failure of the amendment to have an estimate.

Mr. KEMPTHORNE. But I say to the Senator, with the process as prescribed, you will have that report from CBO. You then, as the Chair of that committee, can use that and come down to this floor, and you can get a majority to vote to waive that. Because you now have a report from CBO saying, ''We do not know what it is going to cost. We do not know how to estimate this.''

Mr. LEVIN. What is the amount going to be, then?

Mr. KEMPTHORNE. That is what we are going to decide. The will of the Senate is going to determine that.

Mr. LEVIN. The Senate has no basis. The CBO told us that they cannot make the estimate. You say they can be honest. You ought to say that in the bill, they can be honest. But you do not want to say that in the bill because then the point of order might be in effect.

But then my question is, you say they can be honest and tell us they cannot make the estimate, but you do not want to put that in the bill the way we have for the private sector; then what is the amount of the estimate

upon which the point of order will be based? What are we going to vote on?

Mr. KEMPTHORNE. I say to the Senator, it might cause us to then rethink the mandate.

But the Senator keeps going back, saying, let us be honest; let us be honest. S. 1 gives us this process to be honest. it is going to give us the best information possible.

Mr. LEVIN. With one exception.

Mr. KEMPTHORNE. By allowing the private sector process which is prescribed here, if you were to apply that to the public sector, then we will not come back for that sort of discussion because there is no basis from which to make that decision. The Chair cannot rule that a point of order exists. But, again, I say this with all sincerity, if the Congressional——

Mr. LEVIN. Why would the Chair rule there is no estimate?

Mr. KEMPTHORNE. If the Congressional Budget Office comes back and says, ''We have run the calculations on the estimate and our conclusion is we cannot give you a good number,'' what is wrong with that, to come back here with that information?

Mr. LEVIN. I think that is exactly what they should say, but you do not allow for it. I am the one who says the bill should allow for it.

Let me make sure there is no confusion as to who is saying what. I am the one who says that we ought to allow them to do precisely what the Senator from Idaho said they should be allowed to do.

Mr. KEMPTHORNE. The difference, I say to the Senator, is he is saying the same language used in the private sector. If you do so, then there is no way the point of order can lie.

Mr. LEVIN. Does the Senator from Idaho believe if they cannot make the estimate, that they should be allowed to tell us that?

Mr. KEMPTHORNE. Of course they should.

Mr. LEVIN. Should we so state in the bill?

Mr. KEMPTHORNE. We do not want to provide it so that the CBO can make the determination that we do not come back here and deal with the point of order. That is what I am saying. I mean, there may be some way we can craft this.

Mr. GLENN. Will the Senator yield?

Mr. KEMPTHORNE. I am happy to yield.

Mr. GLENN. It would seem to be going the route my colleague from Idaho wants to go on this, where you cannot say there is no cost, which seems to me preeminently sensible that you are going away from the $50 million threshold, because on every single thing that comes before the Senate, the $50 million threshold would mean nothing. It means there is some expense, even if it is on a postage stamp. If they say they cannot estimate this, but you are going to bring it to the floor on a point of order, the $50 million threshold means nothing.

We are now saying, in effect, that on every single bill, every single thing that comes before the Senate, even though we cannot make an estimate on it, that it is going to have a point of order and it is going to have the same treatment as everything else, and the $50 million threshold, it seems to me, just went down the drain.

I do not see what is wrong with doing exactly, by amendment, what the Senator from Michigan is doing. All he is saying is that where the authority is charged with making these estimates, they can say they cannot make it. And we have a letter here from them that says on occasion it is going to be extremely difficult, if not impossible, to make that kind of a judgment.

If it is impossible, who are we to say you have to do it anyway? ''You do what you say you don't have the staff, don't have the people, don't have the estimates to do on some of these 87,000 communities around the country.''

Why would we tell them to do something that they say they cannot do, or the Budget Committee itself say, ''Well, if CBO cannot do it, we will,'' just to get a figure out there, when it would be an absolutely fictitious, false figure on which nobody could base any vote on the floor.

It seems to me the way to go, which I thought you were about to agree to a moment ago, is with language that would say if the CBO cannot make an estimate, then they just say that. They say we cannot make an estimate and the bill would come to the floor and everybody would know that they cannot make an estimate. They would make their own judgment on the bills, just as we do now when they come to the floor without an estimate.

But the point is, probably 95 or 98 percent of the bills that would come before us would in fact have an estimate hooked up with them, and we would have taken much better cognizance of the cost in advance, which is the purpose of this bill.

I think we are all bogged down here on sort of a technicality. The purpose of this bill was really to say, we are going to force the Senate, where possible—and I underline that; where possible—to take account up front of what the cost of the bills are going to be and what the Federal mandates to the States are going to be, which we have never done before. And that will cover probably 95 or 98 percent of the bills that come before us.

It would seem to me just sensible that when the Budget Committee says it cannot make an estimate, with the people and the expertise and experience they have had for the last 20 years, and they say, ''We can't do that,'' and we are, in effect, telling them, ''You have to do it; we are forcing you to do it, even though you cannot do it,'' what are they going to do?

Well, they come up with some fictitious figure just to comply with what we have told them to do, and that figure will not mean anything because it will not be based on their best judgment. It will be based on what they somehow had to do when they told us they could not.

I think it would be common sense to me to do exactly what the Senator from Michigan is saying: Permit them in law—no fudging around; no alternate message here or no unclear message to them—to say that if you cannot make a judgment, you cannot make a judgment. You tell us that, and then the Senate proceeds to work its will, as we do now when we have bills where we do not have an estimate.

So it seems to me very fair to do that. I do not yet see the logic, with all due respect, of saying we are going to force them to say something that they tell us they cannot say. It just does not make any sense to me.

Mr. KEMPTHORNE. If the Senator will yield, I really believe that—and the good Senator from Michigan keeps referencing the 87,000 jurisdictions—they would be arguing what I am trying to say. Maybe I am not very eloquent in saying it.

It is not in any stretch of the imagination to say that CBO is to come up with some number, no matter how fictitious it is. I am saying there is a process that says they are to do their best effort in coming up with that estimate. That is the report they will receive. But it does not stop there.

Mr. GLENN. What If their estimate is zero?

Mr. KEMPTHORNE. That is the report, I say to the Senator.

Mr. GLENN. But they just say: We cannot say whether it is zero or $50 billion. Then what do we do?

Mr. KEMPTHORNE. Then I think we ought to rethink the mandate itself.

Mr. LEVIN. That is a good argument on the floor.

Mr. KEMPTHORNE. Exactly.

Mr. LEVIN. The question is, should they be able to tell us they cannot make an estimate. The Senator from Idaho keeps saying sure, they ought to. A minute ago, he said a good-faith effort. The words ''good-faith effort'' are not in the bill. The words ''good faith effort'' are not in the bill. It says they shall make an estimate in a specific amount, acknowledging in the private sector it may be impossible. They have told us in the public sector it may be impossible. They told us that over and over again for the last 12 years.

Most of the time they can do it, by the way, and should do it. And 95 or 98 percent of the time they can do it.

The Senator from Idaho keeps saying if they cannot do it, they should tell Members they cannot do it. All I am saying is, great, let Members put that in the bill. If they cannot do it, they should tell Members they cannot do it. And it is up to Members whether we waive a point of order.

Mr. KEMPTHORNE. Madam President, I agree with that but it is up to Members not CBO to certify by note that they cannot do it. So there is no

point of order, there is no basis for the Chair.

I think we may be caught in a bit of a technicality or semantics issue. I would be happy to sit down with the Senator and see if we cannot craft something here. Again, I am simply saying I do not want to see the Senate go with the same procedure as prescribed on the private sector because it will then allow the Senate to no longer deal with whether or not, as the Senator just said, we ought to come to the floor and seek a waiver. We would not be required to do that. I think we should when we are using the taxpayers' money in the million- and billion-dollar categories.

Mr. LEVIN. Madam President, the Senator from Michigan simply said we should allow the CBO to state that they cannot make an estimate in the intergovernmental site, in the same way they are allowing Members to say that on the private sector.

I did not say we should use the same procedure, but I say we allow them to be honest when it comes to the inability to estimate the cost of a private mandate. We should allow them to be honest when it comes to the cost of an intergovernmental mandate. That is all I am saying. It is an honesty amendment.

By the way, it will allow the Senate to legislate a lot better. We will not be gaining useful information if we force someone to make an estimate which is impossible to make. We are not doing ourselves a favor legislatively. Believe me, we are not legislating in a knowledgeable way, which is one of the purposes of this bill, and I have to say I totally agree with, that we know, where feasible, the cost of these estimates to State and local governments. By the way, where it is not feasible to know it, that it is a pretty good argument for not imposing.

There may be circumstances, by the way, where you still want to impose it. It may be the reasoning it is not feasible is it is dependent upon EPA estimates and there is no way, prior to a public hearing, prior to notice, prior to an administrative procedure, that EPA is going to whisper into the ear of the Budget Committee what their level of mercury will be 3 years in advance of their decision. So, there may be good reasons to just simply vote ''no'' on the mandate because we cannot get an estimate.

On the other hand, the majority may say, no, that would be unreasonable in this case to require and we do want to impose that mandate on local and State governments. We want all levels to reduce their level of mercury in incinerators, not just the local.

Mr. FORD. Madam President, as I understand, the Senator from Michigan retains his right to the floor regardless of the colloquy here.

The PRESIDING OFFICER. That is correct, the Senator from Michigan has unanimous consent.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, I am not trying to control the floor here at all. I am trying to have a colloquy which will help to illuminate, hopefully, and I would be happy to ask unanimous consent that I be allowed to yield the floor to the Senator from Kentucky, or if there is objection to this process from any one of the colloquies, I am happy to yield the floor, period.

Mr. GLENN. Madam President, reserving the right to object, the Senator wanted a couple of minutes, and I wanted to make another point on this before we leave this.

Mr. FORD. Madam President, I will be happy to yield to the Senator.

Mr. GLENN. Madam President, go ahead and we will come back.

Mr. FORD. Madam President, the thing that disturbs me here, and I think it is a legitimate disturbance, that those in the Senate that would like to help business, those that would like to see that business gets a fair shake, I think applying the laws to the Senate, that we apply to our constituents, was something that was very significant.

Now in this language we are saying that we can stick it to business out there as hard as we want to because we cannot get an estimate. But to reverse that and say to the intergovernmental agencies, the communities, the counties, and the States that they are going to be exempt. So we are coming down as a business-oriented climate, I hope, and we are saying that we are going to stick it to business, but we will let Government, intergovernmental agencies, cities, counties, States, et cetera, I just think that this is wrong.

If it is fair for Members to say that business—the regulations, et cetera, will be imposed on business, but not imposed upon public operations, then we have a real problem. It is my judgment, if I was business, I would be up here trying to defeat this bill because then I would not be allowed to compete because the regulations and fees, or whatever, to be imposed upon business, would be excluded from the public sector.

Therefore, we are in competition with incinerators, and Lord, do we have problems out there trying to find disposal sites. It would just be horrendous in my opinion.

Hospitals. I see hospitals now trying to make it work where they have a private hospital and a public hospital trying to come together on some sort of HMO and it makes it difficult. So, in that category we would apply rules to the private hospital that we would not apply to the public hospital and, therefore, they would not be able to come together in an ability to cover communities with health care.

Schools. What are we going to do to asbestos and all its removal in private schools? And the cost is over $50 million, so therefore we exclude public schools.

I think it is time that we all sit down and rethink this. When people say we are trying to filibuster this, we are not. I am not. I am for the bill. I am for the bill that says we should not put in unfunded mandates. I introduced a bill 8 years ago, 6 years ago. The Senator from Ohio and I have been on there for a long time. Got two cosponsors first time I introduced this legislation. And $50 million was a threshold then. Still is the threshold.

So I am not against this legislation. But we have just gone so far, so far and attempted to jam it down our throat here, that some have just said, ''No, let's wait a minute.''

I think the public has benefited, particularly business has benefited, by the debate that has developed here. Now this, in my opinion, is what the Senate is all about: The right to debate. Now that we have had the right to debate, even though we are trying to be painted into a different position here, different image, I think this debate has been very successful and very useful, particularly as it applies to the business community.

So I want people who are saying this is a filibuster, it is not. Want to file cloture? Members can file cloture. Thirty-six amendments are floating out there in various and sundry types, on both sides of the aisle.

So we have, I think, played the role that our forefathers expected of the Senate when we are now questioning the aspects of this particular piece of legislation. So, it is not a filibuster. Not a filibuster in any stretch of the imagination. But it sure is, in my opinion, developing into something we better take a second look at because it has become so broad.

So I thank the Chair. I thank my friend from Michigan. I hope there will be a way to accommodate each side here so that the public and private sectors of our economy, both will be treated the same. Right now they are not.

If we are going to help business, we better sit down and try to help it out so business will not be placed at a disadvantage rather than the public being placed at an advantage. I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. LEVIN. Madam President, if I could just briefly, to my friend from Ohio, thank the Senator from Kentucky, my good friend, for focusing on a very important fundamental issue, which is whether or not we want to send a message, create a presumption, however we want to phrase it, that we are going to put the private sector at a competitive disadvantage in those areas where there is a lot of competition. And there are a lot of those areas. In the environmental area, we have gotten letters, by the way, from the environmental disposal community—I think three or four associations—strongly opposing what we are doing

here because it could put them at a competitive disadvantage.

So there is some real concern in the private sector, or at least parts of the private sector that compete with the public sector, about either the assumption or the presumption that we will be funding their competitors while we are not funding them.

And so Senator LIEBERMAN and I, and some others, will be offering some amendments later on in this debate to try to address that very significant point that the Senator from Kentucky has made.

Madam President, I am going to yield the floor in just 1 minute. I would just like to, before I yield the floor—and I have many more questions that I would like to pursue with the managers of the bill as to the way in which this process works, but I understand that they wish to make a unanimous-consent request, and I do not want to totally just dominate here. I want to try to clarify this process because it is very important what we are about to undertake.

My question of the manager of the bill, the Senator from Idaho, is this: The first question I asked had to do with when was that mandate effective. What is the effective date of that mandate in my hypothetical? I am wondering whether or not we can have that answer yet.

Mr. GLENN. Might I respond to that first? I did not get in that discussion before. If I might give my view on that, it seems to me you do this a couple of ways. The committee should have some idea of how long it is going to take for a State or local community to get ready for whatever the mandate is. In other words, if it is a water system, a sewer system or whatever it is that we are dealing with, they would have an idea of how long it is going to take in advance of the requirement date, such as the Senator puts down here, the year 2005.

If there was not a time put in, it would be my opinion that you would make an estimate of how many years it would take them to comply, and our sharing of the cost of that would start at whatever that time is. In other words, if the time limit that the Senator used in his example of the year 2005, if it was going to take 3 years in advance of that, the Federal funding portion of this, or whatever we worked out on that, would take the 3 years or 4 years or whatever the estimate was that would help them comply with that, or it would be worked out with the States. You could not wait until the mandate is to go into effect, in the year 2005 in his example, you could not wait until the year 2004½ and then say, ''OK, we are now going to help a little bit because their expenditures, if they are going to comply with that mandate, have to be made many times years in advance to allow them to comply.''

Mr. LEVIN. That is the reason, if my friend will yield, the reason I requested this information is exactly that. If the law or the bill states that after October 1, 2005, emissions of mercury at an unsafe level will be permitted and delegates the EPA to make the determination of what level is unsafe to human health, my question is: Now you are CBO. Is there any way of knowing what is the first year that any local government will modify its incinerator? Some local governments may start in the year 1998, 2000, 2001. Does it just take a wild stab in the dark as to how many incinerators that are publicly owned will be modified in each of the 5 years up to 2005? How can it possibly make that estimate?

And if—if—the managers of this bill are saying, in that case, the effective date of that mandate is before October 1, 2005, there better be a definition in this bill—there is not now—as to how you arrive at an effective date. It just simply says ''the effective date of the mandate.'' I think anybody reading that mandate that requires reductions of dangerous levels of mercury from incinerator emissions after October 1, 2005, would say the effective date of that is October 1, 2005.

The Senator from Ohio very correctly points out that a lot of the expenditures would have to be made in the years up to then. Absolutely. But we are triggering a point of order. We are triggering a required appropriation in order to avoid a very serious result from occurring.

The Appropriations Committees in each year, up to 2005—if my friend from Ohio is correct, which I think he is—would have to appropriate money to local governments. They have to be told how much to appropriate and they have to be told that 10 years in advance. This estimate of costs to State and local governments must be made in the authorization bill now. Someone has to figure out what is the effective date. This is not just some casual report. This triggers a point of order and a mandatory appropriation downstream in specific amounts, some of which are, again, impossible to estimate. But that is the earlier debate we had, the earlier discussion.

The question here is: If we are going to say the effective date is earlier than October 1, 2005, which is the first date that they must comply with a new mandate, if the effective date is going to be earlier than that, we better define ''effective date'' in this bill, because there is a lot that hangs on this. There is a point of order and there are appropriations downstream in specific amounts which must meet those estimates if certain things are going to follow.

So, again, we are not just talking about reports here. We are talking about points of order and specific appropriations that are going to be dependent on when this mandate is effective.

I thank the managers of the bill and, again, they have requested that I yield so that they can make a unanimous-consent request, and I am happy to yield the floor, but I do hope that at some point after their request, I will be able to again seek or obtain recognition so we can pick up our colloquy at that point.

I thank the Chair, and I yield the floor.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I appreciate the Senator from Michigan. It is very apparent that his background in local government has helped him to understand. I think we were trying to communicate together. I think there may be a way that we can resolve this, and it may be something other than what he is recommending and may be something other than what I was recommending. I think we may be able to resolve this.

Mr. President, I am going to put in a quorum call just for the purpose of notifying a Senator who may have an interest in what will be a unanimous-consent request that I will make. I ask unanimous-consent that during the quorum call, I will have the right to retain the floor so that when we lift the quorum call, I will again have the floor.

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

Mr. KEMPTHORNE. Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. KEMPTHORNE. Mr. President, reserving the right to object.

Ms. MIKULSKI. I am sorry, I cannot see the Senator.

Mr. KEMPTHORNE. I certainly have no reason to not allow the Senator from Maryland to proceed.

But, again based on my earlier unanimous consent, I would again ask that upon completion of her remarks that I would have the floor?

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

The Senator from Maryland?

Ms. MIKULSKI. Mr. President, knowing there is important legislative work to be done on the issue of unfunded mandates, I will not take unduly the time of the U.S. Senate. However, I do wish to speak on two items, one, an unsung hero from Maryland who has just passed away and the other on the issue of national service.

SISTER MARY ADELAIDE SCHMIDT

Ms. MIKULSKI. Mr. President, when we think of the word ''hero,'' we usually think of brave men who have gone

to war, who have served their country, and indeed as in the wonderful men who fought at the Battle of the Bulge and saved western civilization. But I wish to speak about another hero, a hero by the name of Sister Mary Adelaide Schmidt, school Sister of Notre Dame who taught me in Catholic elementary school. Sister passed away in the last few days at age of 97. She was born in 1898, when we did not even have the right to vote, but she certainly knew how to empower women, empower us with the message of the gospel, empower us with the skills that we needed to make it in the world, and to know how to claim our womanly virtue and at the same time make a difference.

Sister Adelaide played a special role in my life. This booming voice that you hear on the Senate floor today was a voice that was shy about speaking up when I was in the sixth grade. The same kind of voice, low pitched, husky, that can be heard throughout the Senate Chamber, could be heard throughout the sixth grade at Sacred Heart of Jesus Elementary School. As a result, I was shy about speaking up because my voice was lower than the other girls' in the classroom, when boys voices were changing.

Sister Adelaide asked me to stay after school, brought this out in her kindly way, to have me share that with her. And then for the next couple of weeks she said, let us make sure you know how you sound and how good it is going to make you feel. She had me read poetry, she had me read passages of the Psalms, she had me read out loud from both the Bible and contemporary works of literature. By the time I finished that stretch of time I knew how to speak up; I was comfortable in doing it. Two years later I ran for class president in the eighth grade and, as Paul Harvey says, ''You know the rest of the story.''

So today I would like to pay tribute to Sister Mary Adelaide and the enormous sacrifice that she made with her life that made a difference in so many others', like my own. And for all of the wonderful men and women who are teachers, and teach in religious day schools: Know that you have made a difference. I believe that they are unsung heroes.

So, Mr. President, I wanted to salute Sister Mary Adelaide.

NATIONAL SERVICE

Ms. MIKULSKI. Mr. President, I wanted to speak on the issue of national service. The new issue of Newsweek quotes the new Speaker of the House as unequivocally opposing national service because it is, in his words, ''coerced voluntarism.''

I believe the new Speaker does not understand national service or the grounding that went on behind it.

As one of the founding godmothers of this initiative, I rise this afternoon to express my dismay at yet another attempt by Republican leaders to distort a bold approach to solving our country's problems.

It appears from these recent comments and others made earlier on the floor today, that some in this Congress will try to lump national service in with every other program headed for the chopping block as part of our institution's budget cutting fever.

Well, I am here today to say that national service is not a Government-run social program. And that is the point that the Speaker and some of national service's critics misunderstand.

It is not a program but a new social invention created to provide access to the American dream of higher education and to help create the ethic of service and civic obligation in today's young people.

Under national service, young Americans receive a reduction in their student debt, or a voucher for higher education, in exchange for full- or part-time community service. Service projects are driven by the choices of local nonprofits organized around one of four broad themes—public health, the environment, public safety, or education.

National service began as a concept with the Democratic Leadership Council and other Democrats like myself in the 1980's. But its purpose was not born of political gamesmanship or partisan advantage. It was designed to address two of the most pressing needs that our country faces. One, how can students pay off their student debt; and how can we create a sense of voluntarism.

The first is the issue of student indebtedness and access to higher education. Most college graduates today face their first mortgage the day they leave college—it is called their student loans. That debt often forces them to make career choices oriented strictly to getting them financially fit for duty.

Worse yet, for many the high cost of higher education simply denies them access to college at all.

By providing a post-service benefit, national service members can ease their student debt, or accrue savings that will help them go to school. It is not an entitlement, and it is not a hand out.

Educational benefits are linked to work service. Participants are eligible only when they have finished their work service commitment.

The second problem national service is designed to address is more idealistic. It is how to instill in young Americans what de Tocqueville called the habits of the heart. To address the sharp drop over the last two decades in the number of Americans who volunteer in their own communities, a fact representative of Americans disinvesting in those social institutions which helped build our country.

Bob Putnam, a Professor at Harvard, has written an article called ''Bowling Alone.'' He says more people bowl today than a decade ago but few belong to bowling leagues. So, Senator MIKULSKI, what does that have to do with national service?

The point is bowling alone is a metaphor for the way Americans have come to view civic involvement and citizenship. There has a been an absolute decline in developing community involvement. People have less time available because many households have two wage earners instead of one. They are more mobile. We have a society that is more influenced by TV. And they are also less committed. There is a serious lack of a sense of civic obligation.

Fewer people attend PTA, groups like Red Cross and the Boy Scouts have fewer volunteers.

My point in saying this is that national service is an idea that promotes exactly the values that the Republican leader wishes to instill. The fact that we should not rely on Government, that there should be a role for nonprofit organizations, that there should be for every opportunity, an obligation; for every right, a responsibility. And that is what national service is about. It is not coercive. Nobody is forced to get into the national service program. But I will tell you what they do. Their lives are significantly changed by it and their communities are significantly changed by it.

Young American men no longer have the shared experience of military service that served for the men of my generation as a rite of passage into adulthood. Where they learned that there was more to being a good citizen than just staying out of trouble. That instead, civic responsibility meant uniting with people of all different walks of life for a common purpose to help people help themselves; to be part of an American effort bigger than themselves.

National service is the latest in a long series of social inventions we have created to help provide access to higher education. We created night schools to teach immigrants English. We created the GI bill for returning veterans, and we invented community colleges to bring higher education close to home at a modest cost.

The argument that national service is coerced voluntarism is a knee-jerk statement that belies the facts. I chaired the Appropriations Subcommittee which has funded national service in the past. In the first 2 years of the Clinton administration, no one coerced anyone to participate. Instead, people were knocking down the doors to join.

Two facts make this point. First of all, there are more people who want to participate than there are opportunities.

In national service's first 2 years, about 1,500 organizations applied for funds. Only 300 were selected because of lack of funds. That is a selection rate of just 20 percent—a lower selection rate than peer-reviewed research grants at either the National Science

Foundation or the National Institutes of Health.

Second, in the current fiscal year, we provided enough funds to get about 23,000 people participating in full- or part-time national service. Yet since the President launched his call for a season of service, the Corporation for National Service has received calls from nearly 200,000 different persons wanting to participating in the program. So just 1 in 10 who have wanted to voluntarily participate have been able to do so.

Now some discount the kind of work undertaken through national service. They say it is trivial, or unnecessary, or even irrelevant. But I can tell you that in my own State of Maryland, national service is making a difference—not with fancy bumper sticker programs or activities that simply touch the surface of what is needed.

For example, 30 national service volunteers in Montgomery County are working with cops as victim assistance advocates for 1,000 senior citizens. They help teach crime prevention techniques and organize neighborhood watch activities. They work every day to make Montgomery County, MD, a safer place to live.

National service is helping senior citizens avoid crime by teaching crime prevention, organizing neighborhood watchdogs and rural, urban. In suburban areas they have service corps related to conservation. They are rehabilitating houses for low-income families. When we were hit by tornadoes, the National Service Corps moved in and helped families help themselves to be able to pull themselves out of the tragedy that affected them. There are many criticisms of national service, and Senator GRASSLEY raised a few related to bureaucracy. I do think we need to make sure that bureaucracy is kept at a minimum.

Mr. President, regardless about how one feels about it as an organization, let us not lose sight of the mission. We need new social inventions in this country to take us into the 21st century just like we need new technological inventions. We have continued creating social inventions that have provided access to the American dream around owning a home and acquiring higher education. In terms of acquiring education, we in the United States of America invented night school so immigrants could be able to learn English, citizenship, and move ahead. No other country in the world had it until we invented it. There is the GI bill that said ''thank you'' to Americans who made sacrifices in World War II, and part of that was to be able to have a VA mortgage and a VA opportunity to seek higher education. We even invented the community college system to make sure that you did not have to go away to be able to learn.

National service is an opportunity. It is an organization right now that is providing volunteer slots of 20,000 people a year to actually work hands on in their own community, primarily working through nonprofits and enabling themselves to pay off their student debt, helping the community. Mr. President, I believe their lives will be changed. I believe that when the voucher part of this program is over they will go on volunteering the rest of their lives.

I think it is an important program. I hope that before we go around attacking some of these programs that we take a look at their mission. If we have to fine tune the administrative aspects of it, so be it. But I believe national service is an important part of our national agenda and should have bipartisan support.

In rural, urban, and suburban places around Maryland, the Maryland service corps—like the Maryland Conservation Corps, Civic Works in Baltimore, and Community Year in Montgomery County—are teaming up to rehabilitate houses for low-income families.

These are but two examples of hundreds of ones that are taking place across America in 49 of the 50 States. They are fighting to make a difference in people's lives, 1 day at a time, one person at a time. Because in today's culture of mass marketing, mass production, and mass advertising, we need to teach every young American that he or she can make a difference. Whether they are from a middle-class suburb, a tough inner-city neighborhood, or a rural county that's economy is driven by the labor of the land.

Earlier today, one of my colleagues alluded to a General Accounting Office study that I initiated when I chaired the VA-HUD Appropriations Subcommittee. It is a routine review of the administrative costs of national service activities designed to help us improve it where possible, and guarantee as much money goes into service activities instead of overhead.

The fact that we began it in the last Congress demonstrates the long-standing desire of those who support the program to make it bipartisan, and focused on results, not rhetoric. It doesn't indicate any evidence that this initiative is off-track or funds wasteful service efforts.

To suggest otherwise is simply to let one's rhetoric get ahead of the facts.

So, I for one, look forward to the GAO's findings and intend to use them to improve national service, not undermine it.

As the new Republican majority takes shape in both Houses of Congress, I hope that they keep an open mind on national service. Rather than criticizing it, national service seems to be the kind of program they should like.

Service choices are selected on the basis of merit, not political muscle. And those choices are made at the State and local level, not by bureaucrats in Washington.

It rewards the kind of values like sweat equity and hard work that are the heart of American family life. It does not identify with victims, but instead calls people to self-responsibility—by helping not just yourself, but others too.

What better way to help a young woman on welfare but to help her understand that she can not only receive help, but provide it to others as well.

Benefits are earned through work, not a Government handout. There is no entitlement.

And national service promotes the kind of social cohesion—rich and poor, black and white—best achieved by people working together, a theme the new Speaker outlines so eloquently in his maiden speech as Speaker.

I worked for many years as a social worker and community organizer in Baltimore. I learned from that experience more than I have ever learned from memos and briefings in Washington. I am a better Senator because of what I learned from the people and the communities I worked with every day. The people who work in national service are also learning and being changed by their experience too.

It was 35 years ago that President Kennedy challenged Americans to ask not what their country could do for them, but what they could do for their country. In that spirit, I will join the President and my colleagues on both sides of the aisle in fighting to preserve national service in the days and months ahead.

I yield the floor under the unanimous-consent agreement that we had agreed to.

UNFUNDED MANDATE REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, thank you very much.

Mr. President, it was going to be my intent to seek unanimous consent that we proceed to a vote of the pending amendment before us, which, as I understand it, is the amendment on page 15, lines 23, 24, 25, and on page 16, line 1. But it is my understanding that there would be objection to that. Therefore, Mr. President, in order to continue to proceed forward, I move to table this 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the committee amendment on page 115, lines 23, 24, and 25, and on page 16, line 1. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas

[Mr. GRAMM], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 21 Leg.]

YEAS—52

Abraham	Gorton	Murkowski
Ashcroft	Grams	Nickles
Bennett	Grassley	Packwood
Bond	Gregg	Pressler
Brown	Hatch	Roth
Burns	Hatfield	Santorum
Byrd	Heflin	Shelby
Chafee	Helms	Simpson
Coats	Inhofe	Smith
Cochran	Jeffords	Snowe
Cohen	Kassebaum	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Dole	Mack	Warner
Domenici	McCain	
Frist	McConnell	

NAYS—42

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Breaux	Harkin	Murray
Bryan	Hollings	Nunn
Bumpers	Inouye	Pell
Campbell	Johnston	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Wellstone

NOT VOTING—6

Bradley	Gramm	Kennedy
Faircloth	Hutchison	Pryor

So, the motion to lay on the table was agreed to.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote by which the motion was agreed to and I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, the motion to table is agreed to.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 25, LINE 11

Mr. KEMPTHORNE. Mr. President, we now have before us the committee amendment which begins on page 25, line 11. It would be our hope that we could now have a meaningful discussion of this amendment which is properly before us, and that at approximately 1 hour from now we could seek a vote on this amendment. In all likelihood, that would be the last vote.

Mr. FORD. Mr. President I make a point of order that the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KEMPTHORNE. Mr. President, as I believe my colleagues in the Senate know, S. 1 was considered and passed by two Senate committees, the Budget Committee and the Governmental Affairs Committee, but there is one issue of disagreement between the two committees. That issue is which committee, if any, should resolve future disputes about whether legislation contains mandates that may be subject to a point of order.

During its markup, the Senate Governmental Affairs Committee added two amendments. The first made the Budget Committee responsible for determining mandate costs and the second amendment gave the Governmental Affairs Committee a role in deciding issues related to the point of order.

As I understand the Senate Governmental Affairs Committee's view, the committee expects that during those instances when the Parliamentarian must rule on a point of order under this section, there may be occasions when there is a need for consultation regarding the applicability of this law.

These two amendments provide that on all such questions that are not within the purview of the House and Senate Budget Committees, it is the Senate Governmental Affairs Committee or the House Government Reform and Oversight Committee that shall make the final determinations.

For example, on the question of whether a particular mandate is properly excluded from coverage of the act or is a bill which enforces constitutional rights of individuals, the Governmental Affairs Committee would be the appropriate committee to consult. On a question regarding the particular cost of such mandate, the Budget Committee would be the appropriate committee to consult.

Now, the Senate Budget Committee took a different view. The Senate Budget Committee struck these two amendments. The Senate Budget Committee's view is that the reference to the Budget Committee's role is unnecessary, for it is similar to language already in the Budget Act. In other words, the Budget Committee already has the responsibility to do the work that the Governmental Affairs Committee gave it.

About the issue of having the Senate Governmental Affairs Committee consulted about points of order, the view of the Senate Budget Committee is that it is not needed. For the past 20 years the Senate Parliamentarian and the Senate Budget Committee have 20 years of experience with these Budget Act points of order. S. 1 follows the exact same process now used in Budget Act estimates.

The Budget Committee does not believe there is a precedent for two committees to resolve Budget Act points of order. That is the issue as simply as I can explain it.

Since the markups, Senators DOMENICI and ROTH, the Budget and Governmental Affairs Committee chairmen, have discussed this issue and both have agreed to support the Budget Committee amendments. I believe that Senators GLENN and EXON, the ranking members of these two committees, have yet to reach agreement.

With that as an overview, Mr. President, I believe that we have the chairmen of the committees, the ranking members and other Senators that would like to address this issue. I yield the floor.

Mr. DOMENICI. Mr. President, could I ask the Senator to correct something? I heard the Senator say Senator EXON has not decided. He supported the amendment that I put forth in the committee, so I believe he is here to speak in favor of the amendment.

Mr. EXON. Mr. President, the Senator from New Mexico is certainly correct.

Mr. KEMPTHORNE. Mr. President, I accept that correction.

Really, my intent there was to point out that Senator EXON and Senator GLENN, as ranking members, have not yet come to an agreement. I think that is fair to say.

Mr. President, I yield the floor.

Mr. GLENN. Mr. President, I rise to oppose the Budget Committee's amendment.

Mr. President, I was elected to the Senate the same year that the Governmental Affairs Committee, then called Government Operations, enacted the Budget Act and the Budget Committee. The Senate rules provide that changes to the Budget Act are the joint responsibility of the Governmental Affairs Committee and the Budget Committee.

We gave the Budget Committee the responsibility to provide estimates on direct spending and created the Congressional Budget Office to help determine the costs of legislation to the Federal Government, and we now require that committee reports contain CBO estimates of such costs.

We have seen for many years that there have been some controversy that has resulted over different opinions as the costs of a particular bill, joint resolution, or regulation. We went through months of stormy debate last year over the costs of health care legislation, as my distinguished colleague, the chairman of the Budget Committee, mentioned earlier on the floor today.

Why did we do that? Because cost estimates in most cases are highly sensitive to underlying assumptions as to how a piece of legislation or regulation will be implemented and enforced. A so-called expert in making cost estimates who uses an underlying assumption that is wrong or highly speculative will provide a cost estimate that is no better than a wild guess by an amateur.

Nonetheless, for the purpose of having an orderly budget process, we have agreed to use CBO figures and in their absence, Budget Committee estimates in dealing with Budget Act estimation requirements. So we created the Budget Committee, gave them the jurisdiction and responsibility to oversee and provide technical cost estimates. And

now here we are some 20 years later, and the claim is made that their experience enables them to do estimation of the costs of Federal mandates on some 87,000 States, localities, tribal governments, as well as the private sector.

We in the minority of the Governmental Affairs Committee did not challenge the decision made without our input to have last year's unfunded mandates' bill rewritten as an amendment to the Budget Act. It was not written as an amendment to the Budget Act last year. Last year the Budget Committee did not seek or claim any jurisdiction over S. 993, a bill that in substance forms the basis for S. 1. I repeat, we did not object when that was proposed that it be rewritten as an amendment to the Budget Act.

Despite this decision, our staff worked with the staffs of Senator KEMPTHORNE and the Budget Committee to produce another bill that we could support. When the minority staff on our committee were confronted with the fait accompli that the bill was now to be an amendment to the Budget Act and the demand that last year's bill had to be strengthened to make it more difficult to avoid a point of order on a bill, the minority staff worked with their Democratic and Republican colleagues on both the Governmental Affairs and Budget Committees to try to produce a bipartisan result that we could all support.

In that spirit, the Governmental Affairs Committee produced a bill that recognized the varied interests of those supporting the principle that we should legislate unfunded mandates only with full realization of the burdens being imposed by such mandates. As we worked through the bill it became clear that the procedures in the bill had the potential for providing significant delays that could be exploited for purposes not of clarifying the effects of legislation, but for purposes of, in effect not lobbying but filibustering for purposes of perhaps stopping the legislation. Accordingly, we in Governmental Affairs felt wherever possible, the bill's procedures should be very clearly spelled out along with who has responsibility for what.

We recognize that making estimates of the cost of mandates is complicated and has the built-in conflict of interest produced by dependence on the States and local governments for most of the cost data. Because of the profound changes in the Senate procedures that the bill would allow in the case of legislation containing mandates, there is a quite legitimate question as to whether the Budget Committee alone, since budget process jurisdiction is shared with the Governmental Affairs Committee, should determine if a threshold has been breached by an amendment of a bill.

Nonetheless, since someone should be responsible for cost data and for overseeing the CBO State and local cost estimating process we agreed in S. 1 to give the Budget Committee explicit responsibility for this, which in my view I think they should have but they do not uniquely have, under the Budget Act.

This responsibility is actually shared with the Governmental Affairs Committee. We felt we had an agreement with Senator ROTH and myself, the chair and ranking member of the Governmental Affairs Committee, and Senators DOMENICI and EXON, chair and ranking member on the Budget Committee, on language in S. 1 that details the responsibilities of each committee in overseeing implementation of S. 1. All four of us cosponsor the bill.

Then, the Budget Committee took this explicit language out of the bill and I thought broke the agreement that we had. They thereby created a situation in which the chair, advised by the Parliamentarian, would be the entity that would determine whether the cost of a mandate exceeds the threshold. In other words, is it a Federal mandate or not?

Now, I have no doubt that the Parliamentarian would probably tend to look to the Budget Committee for guidance on this despite the fact that it is the Budget Committee's experience estimating the cost of Federal intergovernmental mandates is not significantly different than that of the Governmental Affairs Committee which under rule XXVI has had the jurisdiction over intergovernmental relations and federalism for many years going beyond the length of time we have had a Budget Committee in existence. In other words, our committee on Governmental Affairs has the mandate as part of our mandate, written into law and rules of the Senate here, that we deal with intergovernmental matters—Federal, State, and local matters—and that is written into our reason for being.

Should we depend on the uncertainty of the Parliamentairan's approach and our belief as to how he might act based on precedence dealing with things other than the cost of the mandates? I believe the Parliamentarian should be given explicit instructions in the bill to look to a specific committee for guidance on estimates. Since they want to do it, I support the Budget Committee having the responsibility to do the estimates. That is why both committees explicitly agreed to write that responsibility into the bill, not only for the Senate Budget Committee but also for the House Budget Committee in the case of legislation containing Federal mandates that come before the House.

Now, unfortunately, what has happened in this legislation is the Senate Budget Committee has taken out the reference we put in giving them and the House Budget Committee the responsibility for doing estimates but then in a later section they put language back there giving the House Budget Committee explicit responsibility to do the estimates, suggesting that the Budget Act does not need something in it clarifying committee responsibilities in this area.

That raises the question of why the House Budget Committee is treated differently than the Senate Budget Committee in this Senate amendment. I do not believe they should be treated differently. But, frankly, the question before us is not only who should do the estimates that we may agree on, but who determines whether a bill contains a mandate.

This is not a trivial matter, and the Governmental Affairs Committee worked hard, in cooperation with Senator KEMPTHORNE and State and local government organizations, to produce a definition that we think makes sense.

The Governmental Affairs Committee has been in existence since 1920 and, under rule XXVI, has jurisdiction over intergovernmental relations. It has worked on this legislation for the better part of a year and is in the best position to make judgments about whether a bill contains a Federal intergovernmental mandate, meeting the definition in S. 1.

So in S. 1, we gave Governmental Affairs the explicit responsibility to make this determination for the Senate, and we gave our counterpart committee in the House, the Committee on Government Reform and Oversight, the same authority with respect to House bills.

The Senate Budget Committee, in marking up S. 1, now has removed the Senate Governmental Affairs Committee from determining for the Senate whether a mandate exists but has not removed the authority of the House Committee on Government Reform and Oversight from the bill. The result is that the House will have a process whereby the determination of whether a mandate exists will be made by a House Committee on Government Reform and Oversight. But in the Senate, the Parliamentarian, backed up by the entire body, will have to make the decision every time a challenge arises.

How will the Parliamentarian rule and to whom should he turn for consultation before making his ruling? There is no precedent, and there is no process. I think it is illogical and I think it is inefficient. I think it will result in further procedural delays in passing legislation through the Senate and more misunderstanding about what this process is that we are putting into place.

If the House Committee on Government Reform and Oversight is considered the appropriate body to make a final determination for the House on whether a mandate exists in a bill, it makes sense for the Senate to turn to its sister committee, the Governmental Affairs Committee, for that purpose. That is a responsibility, I would add, that we are given under the rules of the Senate as to what that committee is responsible for.

Mr. President, this is more than just a jurisdictional issue, although jurisdiction has been injected into the issue by rewriting last year's bill as an amendment to the Budget Act which, in my view, was unnecessary. The issue here is what is logical and what is efficient.

Many people have concerns that the procedures of this bill may be used to delay or kill legislation opposed on ideological grounds. I have those concerns myself, even though I am a supporter of the thrust of S. 1. Accordingly, I believe it is a disservice to good process to eliminate from this bill the specific responsibility of a Senate committee, the Senate committee assigned to intergovernmental relations, to make determinations of applicability of this legislation and turn that responsibility over to the Parliamentarian with no guidance and no precedent.

So, Mr. President, I urge the defeat of the Budget Committee amendment.

What this boils down to is, is the Senate assignment of responsibilities to the Governmental Affairs Committee, in this regard, one that the Senate wishes to carry out, or do we permit, because the bill was written as a change to the Budget Act, is it now to go to the Parliamentarian, which I think is unjustified?

So I urge the defeat of the Budget Committee amendment for those reasons, as well as the fact that we are treating the House and the Senate differently. The responsibilities do lie over in the House, split between the Budget Committee and the Government Reform and Oversight Committee over there, as it should be here.

I think to make the processes conform and to prevent any further misunderstanding about this bill, I urge defeat of the Budget Committee amendment.

I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in support of the Domenici amendment, which was reported from the Budget Committee. The amendment has the effect of deleting any reference in the legislation to the Senate Committee on Governmental Affairs and the Senate Committee on the Budget in deciding whether a point of order may lie under the proposed section 408 of the Budget Act.

The Domenici amendment, reported from the Budget Committee, is identical with an amendment I filed but did not offer during Governmental Affairs' consideration of S. 1. I did not offer it because of opposition from the minority side of that committee and I wished to expedite reporting the legislation to the floor.

Under the precedents of the Senate, the Chair rules on all points of order except a few that it submits to the body itself and except where a statute may otherwise require. The only example of the latter is the Budget Act, which gives the Budget Committee a special role on certain points of order.

S. 1 as introduced would create a new exception for Governmental Affairs while making clear that the Budget Committee's role on budget issues also carried over to ''the levels of Federal mandates'' for any fiscal year under proposed section 408.

At first look, one might assume that both committees should have distinct and equal roles in deciding points of order—that Governmental Affairs opine on whether a provision is a mandate covered by proposed section 408 and that Budget opine on whether provision contains sufficient funding. But the roles are not parallel at all. For the Budget Committee allows its chairman to act on its behalf because all that the chairman does is present the CBO figures to the presiding officer. The Governmental Affairs Committee would have no similar role in conveying its determination on whether section 408 applies or not to the provision against which a point of order is lodged.

All types of questions might arise as to whether or not a bill or amendment falls under this legislation. S. 1 contains a list of exemptions on matters affecting constitutional or civil rights, emergency relief, other emergencies, national security, and so on. These questions involve a lot more discretion than matching up a CBO estimate of costs with a provision's level of funding.

When an amendment is offered and a point of order is made under S. 1, how is it possible for an entire committee to meet and decide in time for the Chair to rule? It is not possible at all.

Suppose the point of order is made against an amendment that requires States to buy computers and software to create a database that facilitates registering to vote. Does such a provision fall within the exclusion in section 4 of S. 1 for those that ''enforce constitutional rights?'' Does the provision enforce a right to vote or only make it easier to enjoy? Is the exclusion limited to constitutionally required rights or does it cover any extra measures that simply involve constitutional rights?

Equally nettlesome questions may arise in determining whether a provision increases the ''stringency of conditions of assistance'' to States with respect to certain entitlement programs. Every change in such conditions will raise the stringency issue. Suppose some changes increase stringency and some relax stringency. These are not always quantifiable issues and may be difficult to assess.

Since answering such questions is a far cry from delivering a CBO estimate to the presiding officer, I support the Domenici amendment deleting language which I believe is both unworkable and inappropriate.

The crux of the distinction is that S. 1, as introduced, would allow the subjective decision of one committee, or even one Senator, on a qualitative matter to be the final authority. In contrast, the language of S. 1 does not give the Budget Committee's determination on the levels of Federal mandates the status of finality even though its determination is a quantifiable one informed by input from CBO, whose evaluations are thought to be politically unbiased. In view of such considerations, the language in question should be deleted. It is, as I said unworkable and inappropriate.

For that reason, I support the Domenici amendment.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not going to speak long. Senator EXON is here and he wants to speak also. I want to thank Senator ROTH, as chairman of the Governmental Affairs Committee, for supporting the committee amendment that is pending now, which amendment, essentially, would take out all reference to either the Budget Committee or the Governmental Affairs Committee having any new powers to pass judgment on a bill's relevance, on this bill fitting the definition, and on this bill exceeding the amount of money that are the limits in this bill.

It essentially is saying that we do not need to create new authority in a new committee, and certainly not of the type found on page 25, which I really do not believe that the Senate, under any circumstance, would have approved. Because it says that the Government Reform and Oversight Committee in the House and Governmental Affairs Committee in the Senate would make final determinations.

Essentially what we want on points of order is whether a bill or an amendment or resolution fits the definition of a mandate, and then what we need is to find out if it breaks the $50 million mark in terms of cost to local government—we need that decision made by the U.S. Senate, not by a committee.

Essentially what our amendment will do, and Senator ROTH encapsulated it perfectly, is it will put the decision on what is a mandate to be made by the Chair upon advice of the Parliamentarian. And we have, over and over, tried to write language as to what a mandate is in this legislation. We have written language in this legislation as to what exceptions there are. So what Senator ROTH quite properly is saying is that decision as to whether a piece of legislation fits that or not should be made by the Chair upon advice of the Parliamentarian. That is what happens in many instances here. A question of germaneness under the budget. There is language, there is germaneness language, and the question is put to the Chair.

The Parliamentarian advises the Chair and the Chair rules. And if the Senate wants to get involved it then proceeds thereafter to say we do not like the decision, we will overrule it.

The Parliamentarian determines whether a question is divisible. The Parliamentarian also determines questions about extraneous provisions under the Byrd rule. We do not send that to the Budget Committee to make that determination. We do not send it to the Government Ops Committee. We send it to the desk and the Parliamentarian informs the Chair based upon precedent, based upon language. The Chair says that matter is extraneous.

And then who makes the final decision? The final decision is made by the Senate of the United States.

What we are doing by adopting the so-called Domenici amendment is saying: This bill creates no new authority in any committee to determine the relevancy of an amendment or a bill or resolution—that is, is it a mandate or not. It creates no new authority. We rely on the definitions and the exceptions and approach the Chair. If somebody brings something down here and we are wondering whether it is really a mandate, we will just have to say I raise a point of order. I will read it and then read the language that is in here, in the bill itself, and say this seems not to be a mandate.

The Parliamentarian will do what he does on many such occasions and advise the Chair. And then we will proceed as I have described before.

Let me get to the cost issue. Frankly, I think the role of the Budget Committee and the Budget Committee's chairman or chairperson—the role is not quite understood. The reason the chairman of the Budget Committee has a role is because he has the Congressional Budget Office standing behind him. It is not his role, but the role of the Congressional Budget Office, CBO, to furnish the information under the Budget Act that is to do the numerical evaluation. The chairman then delivers that to the Parliamentarian and says here is what CBO says.

The Parliamentarian then says to the Presiding Officer: CBO says this. We are obliged to accept CBO's information, unless the Senate changes it, this is the ruling. And the Chair so rules.

What is the chairman of the Budget Committee going to do when we have stricken the language? He is going to do the same thing with reference to what? With reference to having the CBO standing behind him or her, because they are charged with doing the economic evaluation and coming up with what? With dollar numbers. They are going to say this mandate only will cost local government $42 million. They are going to say that.

The chairman is going to take it up to the Chair. What is the chairman going to tell the Parliamentarian? ''Mr. Parliamentarian, they say 42. The statute says unless it exceeds 50 it is not subject to the point of order.''

And the Parliamentarian will not take my word or the chairman's word. The Parliamentarian will read it and he will turn around and say to the Chair, ''The Congressional Budget Office, whom we are bound to accept numbers from on this, has spoken. And they say 42.'' He will say to the Chair, ''This does not come within the purview.'' Let us not have any more mandates unless we pay for them.

What is the other role? The other role has to do with when the CBO says it is going to cost $250 million. Therefore it is within the purview of the mandate legislation.

What is the chairman of the Budget Committee going to do when the Domenici amendment is adopted that does not give this authority to anyone new—no new committee, no new chairman? The very same thing. He will be backed up by the CBO, who will tell him $250 million. He will carry it to the Chair in the same manner I have described.

The second part of this legislation has to do with regulations on business. Therein, there are no points of order but, again, we have to know what we are doing before we pass the legislation. And to know what we are doing requires that we actually understand the economic impacts.

Where are we to get them? We are not going to get them from a committee. No committee has final determination of that. The Government Ops, Foreign Affairs, Budget—we get them from the Congressional Budget Office. Because that is what this bill says. The chairman will bring that, through the Parliamentarian, to the Chair; and thus from the Chair the Senate will be advised.

So frankly I do not believe we need to change the practices. I believe we have the Congressional Budget Office and the Parliamentarian interpreting the intent of legislation vis-a-vis definitions in this bill or exclusions in this bill and we communicate those in one way or another. And we are suggesting that we have had 20 years of experience in communicating it through the CBO—from the CBO, through the chairman of the Budget Committee, to the Parliamentarian, to the Senate through the Chair, through the Presiding Officer.

So I would think that the issue here has both support of the chairman of Government Operations, the ranking member of the Budget Committee, Senator EXON, whom I will yield to momentarily, the chairman of the Budget Committee—and I hope we will dispose of this amendment without taking a lot of time tonight. But clearly that is not for me to decide. I do not intend to try to use any more time than I absolutely feel is necessary for me. With that I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself such time is needed in support of the amendment offered by myself and Senator DOMENICI.

Mr. President, I rise in support of the distinguished chairman of the Budget Committee and the amendment unanimously recommended by the Budget Committee regarding the role of the Budget and Governmental Affairs Committee in the application of this legislation.

My friend and colleague, the Senator from New Mexico, makes a lot of sense. When we write legislation such as the broad fresh brush of this legislation, we must be vigilant not to set dangerous precedents. Unfortunately in one very troubling area, we have let down our guard. Granting the Government Affairs Committee sole jurisdiction to determine whether or not a piece of legislation is an unfunded mandate is a very dangerous precedent. However, if we strike the Budget Committee amendment we would be vesting in one committee, the Government Affairs Committee, the authority to make final determinations on the applications of a point of order.

I am very uncomfortable with such a radical change. I have always relied on the good wisdom of the Parliamentarian on such matters and that is the time-tested course of action we should take with us on S. 1. Currently, for all other points of order under the Budget Act, the Chair turns to the Parliamentarian for any such determination of law. The Senate Parliamentarian's office is staffed with skilled and able lawyers, learned in the precedents of the Senate. They do an admirable job, often on very short notice. When the Parliamentarian determines that the budget estimates are required, the Parliamentarian turns to the Budget Committee as required by the Budget Act.

I am not a lawyer. But for my colleagues who are lawyers, I am advised that the Parliamentarian decides questions of law much as does a judge in a trial. The role of the Budget Committee is limited by law and precedent to questions of fact, not questions of law. The Budget Committee merely provides the budgetary numbers to the Parliamentarian, who then takes these numbers into account in advising the Chair. This system has worked well for 20 years. Over the years, the Chairs of the Budget Committee have fulfilled this advisory role with objectivity and without regard to partisan advantage. By and large, the Chair of the committee merely passes along a Congressional Budget Office estimate and only rarely does an analyst for the committee have to extrapolate from such estimates.

I have full confidence that Senator DOMENICI will continue to fulfill this role with objectivity and evenhandedness now that he has regained the chair of the committee. He did that previously. I think he will do so again. But let me say parenthetically that I shall be sure to point out most vocally any instance in which he does not.

Let me also say that it is altogether fitting that a single Senator be charged with this estimating responsibility.

The Presiding Officer must be able to turn to someone in the Chamber who can provide these estimates, sometimes long after the Congressional Budget Office has gone home for the night. Giving two committees this authority would almost certainly lead to confused advice to the Parliamentarian. The Chair must know who to turn to, as they have in the past, on such matters.

The amendment proposed by the chairman of the Budget Committee and unanimously approved by that committee would merely continue that practice, indeed. If the language slipped into the draft of S. 1 that this amendment corrects were merely dropped and there were no references to the committees at all, the Parliamentarian would continue his practice of turning to the Budget Committee for budgetary estimates. What is more reasonable than that?

I believe stripping the Domenici amendment from the bill would needlessly complicate the enforcement procedures in S. 1. With the Domenici amendment, we have the right mechanism to enforce violations of S. 1. Why clutter it up with a very cumbersome, clumsy, and untested process? The Budget Committee has for 20 years done this. They have the experience in dealing with language such as that contained in S. 1. We have served as the liaison with the Congressional Budget Office to provide the Parliamentarian with CBO cost estimates for all of that period.

Mr. President, there is no compelling reason to set such a dangerous precedent as that suggested by the underlying governmental affairs language. There is no compelling reason to grant one Senate committee such unprecedented power over matters better left to the Parliamentarian. There is no compelling reason to change what is not broken.

I urge my colleagues to accept the Budget Committee's amendment as unanimously accepted by the Budget Committee and clearly endorsed by Senator ROTH, the chairman of the Governmental Affairs Committee.

S.1 AND BUDGET COMMITTEE'S ROLE

Mr. ROTH. The Budget Committee's amendment strikes the roles of both the Budget Committee and the Governmental Affairs Committee in making determinations regarding the point of order in this bill. The bill would, with the amendment, become silent on how these determinations should be made. I wonder if the distinguished chairman of the Budget Committee would respond as to how the determinations of levels of mandates would be made under this legislation?

Mr. DOMENICI. I would be happy to respond to the distinguished chairman's question. First of all, the Budget Act generally provides that the determinations of budget levels for the purposes of Budget Act points of order are based on estimates made by the Budget Committee. In practice, the Budget Committee works with CBO to provide these estimates to the Presiding Officer for the purposes of determining whether a point of order lies against legislation. In those instances where a CBO estimate is not available, the Presiding Officer turns to the Budget Committee for an estimate.

While this legislation does not explicitly give the Budget Committee this authority. I do not think this authority is necessary. The Budget Act generally assigns this responsibility to the Budget Committee. The committee's intent in this amendment is that the Presiding Officer continue to seek the advice of the Budget Committee for a determination of the budgetary levels in order to determine whether legislation violates this point of order.

Mr. ROTH. I understand that the Budget Committee would retain authority for making estimates for the purposes of determining the levels of mandates, but some may still have a question about the impact of striking the Governmental Affairs Committee's role. By striking the Governmental Affairs Committee's role in the bill, are we now giving the Budget Committee the authority to determine what constitutes a mandate?

Mr. DOMENICI. The determination on what constitutes a mandate would reside with the Presiding Officer. The Budget Committee's role would be limited to providing estimates on mandate levels.

Mr. ROTH. I wonder if the distinguished ranking minority member of the committee, the senior Senator from Nebraska, could respond to these questions?

Mr. EXON. I concur with the remarks made by the Senator from New Mexico. Let me reiterate several points. In this legislation, the authority given to the Budget Committee for the purpose of determining estimates coincides with the authority already granted by the Budget Act. The Budget Committee would continue to work with the Congressional Budget Office to produce the estimates of mandate levels. This bill grants the committee no new authority.

The Presiding Officer would have the final determination as to the applicability of this legislation. The Budget Committee would not be involved in this process. The committee's role would be confined to providing estimates.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I would like to respond to my friend from Nebraska briefly because I think there is some misunderstanding about what the provisions in this bill are, as well as to how the provisions were put into the bill. Nothing was slipped into, as he said, S. 1. Nothing was slipped into S. 1. It was in the bill submitted to the committee. We did not put it in. It was not an amendment in committee. It was placed into the legislation in the original language of the bill.

A little while ago, the statement was made that this particular portion of the language was introduced in the Governmental Affairs Committee. That is just not true. The language was put in as a part of the original legislation that was submitted, the part on page 25.

So any indication that something was slipped into S. 1, as though we were trying to get somebody else's jurisdiction, is just flat not true. There was basically an agreement made by all parties that were working on this bill that the division of responsibilities on this would be that the costs would be gone through and would be monitored by the Budget Committee. I had no objection to that. The mandates part of this, though, was part of the responsibilities the Senate, in our written instructions to the committee, the intergovernmental relations part, should be a responsibility of the Governmental Affairs Committee. There was no taking of somebody else's jurisdiction; quite the opposite.

What is in the bill now is that the amendment would provide for taking responsibility away from the Governmental Affairs Committee, where it logically resides and where Senate instructions would normally be interpreted, where it should reside, and give it to the Parliamentarian to make a judgment on what is a mandate or what is not a mandate.

I did not object to making this an amendment to the Budget Act. I did not expect at that point that making it a part of the Budget Act would mean that the Budget Committee then would insist that the mandates part of this or a judgment on the mandates part would be taken away from the responsibilities of the Governmental Affairs Committee.

If this makes sense, then let me make one other reference to change that was made and is included in the language on page 27 of the bill. It is in heavy print. This was not in the original bill. It specifically gives the responsibility for making cost judgments over in the House to the Budget Committee. And also in the House, on any judgment regarding mandates, it gives that responsibility to the House Committee on Governmental Reform and Oversight.

That was not in the original bill. That is, the Budget Committee here that we are mandating to the House that the Budget Committee over there will take up costs, and that the Committee on Governmental Reform and Oversight will deal with mandates. That was not even in the original bill.

So we are saying: House of Representatives, here is how you have to take up this legislation, and here is the division of responsibilities on making judgments on it.

At the same time, we come to the Senate, and instead of having the comparable committees in the Senate responsible for similar judgments over here, we say what is OK on the Budget Committee over here, we take it away from Governmental Affairs and give it to the Parliamentarian. Over in the House, you specifically made changes to provide specifically where the responsibilities would go and made them different than here in the Senate. I think that is wrong.

I do not see why we specify that over there. If it is so wrong here, why is it so right in the House of Representatives? I just do not see the logic of this at all. So what the Budget Committee did in its markup was to vitiate an agreement that we had made prior to the introduction of the bill. There was no language introduced in the Governmental Affairs Committee at all. This all came out of the changes that the Budget Committee insisted upon. I am sorry that our committee chairman, Senator ROTH, has left the floor because all this language we are talking about here was in the bill over there. Yet, he did not disagree with it in committee. He voted for the bill coming out of committee, supported the bill, moved it to the floor and wanted a vote on it. I was for that. I did not disagree.

We had lost on several amendments we proposed that we thought would have made it stronger over there. Now we come to the floor and suddenly what is good for the House of Representatives, in the wisdom of the Budget Committee in giving it to the oversight committee over there, jurisdiction over mandates and jurisdiction over costs over there, when they come out of CBO; yet when we come to the Senate, we say the Budget Committee would consider costs over here. I do not quarrel with that one bit. I think that is a logical place to be.

Suddenly, for reasons beyond my understanding, the Budget Committee tells the Senate Governmental Affairs Committee, without any action on the Senate floor, your jurisdiction is down the tubes, and it goes to the Parliamentarian. It does not make any sense to me. That is the reason I think we were dealt with very unfairly over here.

I will not ask the Parliamentarian, but I do not know whether the Parliamentarian prefers to have this particular responsibility, as a matter of fact. This puts an enormous responsibility on the Parliamentarian that is supposed to rule on Senate order and rules and not get off into the legislative function of making judgments that no Parliamentarian in the Senate has ever made except on points of order provided under the Budget Act. We are giving House committees specific responsibilities, but we are saying the Senate cannot have those same responsibilities in our comparable committees. So that is the reason I get exercised on this when I think it is a little bit ridiculous. I repeat that this was not something slipped into S. 1, as my colleague referred to. This was in the bill as submitted to the committee.

I yield the floor.

Mr. EXON. Mr. President, it may be a misunderstanding and we may be talking by each other on some of these matters. I simply point out what I think the ranking member of the Governmental Affairs Committee just alluded to, and that is the fact that what we are trying to do is leave the process the way it was. There can be no argument but what if you would follow the position taken by the ranking member of the Governmental Affairs Committee, we would not be making a change. The normal order is for the Parliamentarian to rule. The Governmental Affairs Committee bill would differ with that and change it. We objected to this Governmental Affairs proposal during negotiations. We did not control the process. They said they would take out the language, as we understood it, between meetings of the staff.

Mr. GLENN. Will the Senator yield?

Mr. EXON. I will say this, and then I will be glad to yield. I also simply say that with regard to the House of Representatives, we merely included what we understood our colleagues in the House wanted to do. We do not choose to impose any solution on the House of Representatives. We think we are doing here what our colleagues in the House want to do. Also whether it is unanimously agreed to over there or not, I know not. I simply say that I am not confusing the ranking member of the Governmental Affairs Committee in bad faith. It might be that we are talking past each other.

I simply point out that S. 993 did not include the Governmental Affairs' language that is in S. 1 that we are asked to vote on. So a change, therefore, has been made. Maybe there is some misunderstanding on the part of the Governmental Affairs Committee on this. I simply point out, Mr. President, that not only the total Budget Committee—Members on both sides of the aisle, including myself as the ranking Democratic Member, and Chairman DOMENICI, and our position is supported by Senator ROTH, the chairman of the Governmental Affairs Committee support the amendment. I would like at this time, Mr. President—and then I will yield and be glad to respond to any questions from my friend from Ohio that I might—to refer to part of a colloquy that will be included in the RECORD, which indicates a question Senator ROTH asked me as part of the colloquy, and my response was—I hope this might help clear up the matter—''I concur with the remarks made by the Senator from New Mexico. Let me reiterate several points. In this legislation, the authority given to the Budget Committee for the purpose of determining estimates coincides with the authority already granted in the Budget Act. The Budget Committee would continue to work with the Congressional Budget Office to produce the estimates of mandated levels. The bill grants the committee no new authority. The Presiding Officer would have the final determination as to the applicability of the legislation. The Budget Committee would not be involved in that process. The committee's role would be confined to providing estimates, which is a role the committee has always played, and we hope the Senate, by supporting the amendment offered by the chairman of the Budget Committee, will continue in that traditional role.''

Mr. GLENN. The Senator from Nebraska answered the question I was going to ask. But I do not understand yet why it is right for the Senate to dictate to the House, when it is in the legislation what the jurisdictions of different committees will be.

My friend from Nebraska says, ''We understand they wanted it that way.'' Well, I do not automatically accede to the House having legislation over there that says, well, we think somebody in the Senate wants it, so that is the way we will do it. Yet, we dictate in this thing very specifically. The language is even almost identical from one part to the other in the language that provides for the assignment of responsibilities here in the Senate. It was in the legislation. And that is over in the House. Yet, we very specifically said, by action of the Budget Committee, OK, that is alright over in the House, we agree with that in the House. This is a logical definition of where things should go in the House. In the Senate we have to take the responsibility away from the Governmental Affairs Committee that, by the rules of the Senate, deals with matters of intergovernmental relations up and down the line, and we are going to take that responsibility away, without saying anything about it, and put it in this legislation and give that authority to the Parliamentarian. I just think that is illogical. I cannot accept the explanation by my friend from Nebraska as to exactly why we are doing this when it seems to me so logically in the other direction. If it is logical for assigning this to the House the way we did, then it is logical to assign it to the Senate the way we did.

I yield the floor.

Mr. EXON. Mr. President, as we may be beginning to make progress on this, maybe we can agree to this amendment. I advise my friend from Ohio that this Senator did not negotiate with the House of Representatives on this matter. I understand that the majority side has been negotiating with them. I have been told by the majority side that the House of Representatives endorses and wants us to leave this matter. We are checking on that right now. I hope that I can reach Senator DOMENICI so he can come back on the floor, since I believe it was he or one of the Republican members of the Budget Committee who did the actual negotiations with the House on this and not

this Senator, or as far as I know any Democrat or minority member of the Budget Committee.

Let me emphasize once again that the Budget Committee has always followed the procedure, as has the Senate for 20 years, that when matters with regard to points of order have been raised on the figures supplied to the Budget Committee—which most people would agree is the authority on this, has the staff to follow it, and has the responsibility to work with CBO to get exact numbers—that those matters have traditionally been decided by the Parliamentarian, advising the Chair. We simply want to leave that the way it has always been and not change it.

I hope that we will have a more definitive answer to the legitimate question raised by the Senator from Ohio with regard to what is the pleasure of the House of Representatives on this matter. It was not our intention to be doing anything except to try to parallel the processes that will be necessary to work out, I suggest, some parliamentary questions that are going to be raised and to which points of order might lie. In that instance, the Parliamentarian would be advising the Presiding Officer as to what the situation was.

I emphasize again, as has Senator DOMENICI and as has Senator ROTH, the chairman of the Governmental Affairs Committee, that all we are doing is trying to leave this the way it was.

Now, I happen to think that the Budget Committee should legitimately play a role when budgetary matters are considered, and it is simply the position of the Budget Committee that we should leave well enough alone and not try to fix something that is not broken.

I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I agree completely with what the Senator from Nebraska just said. I do not propose to change the point of order at all. We do not change that. There is nothing about a point of order in this particular section of this thing. It has worked well for 20 years. I agree with that, with the Budget Committee, with the cost estimate and whether points of order lie, and the Parliamentarian makes that judgment.

What we are talking about is what happens when it is not clear as to what is a mandate and what is not. Now, I think this problem would occur only very infrequently. I think most of the legislation put in will appear to be very clear when there is a mandate or when there is not a mandate.

But what happens when there is a question about what is a mandate or what is not a mandate? That is the question.

We do not propose to change the point of order that has worked well for 20 years. I agree with that. The language we are talking about here has nothing to do with points of order. It has to do with who makes the determination on what is a mandate and what is not.

Over in the House, by the wisdom of the Budget Committee here, we give that authority to the Budget Reform and Oversight Committee in the House to make that determination in the few times it may come up. We see no reason why over here that should not be in the committee that has the assigned jurisdiction over intergovernmental matters—Federal, State, and local—assigned by the rules of the Senate, and the committee does its best to carry those out.

So I submit it does not have anything to do with points of order. I support the points of order, the procedure we have had in the Senate for 20 years. I see nothing wrong with that. This is a whole different matter from that.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, with regard to the question of whether the Parliamentarian can do what this bill would ask him to do, let me say that we have given the Parliamentarian even more difficult tasks in the past than this one.

For example, the Byrd rule that we are familiar with, on extraneous matters on reconciliation bills, which are very important, and it is a very complicated statute that requires many decisions of law.

Furthermore, the War Powers Resolution, to cite another example, requires the Parliamentarian to make hard choices.

In the Senate, the Parliamentarian can consult with whatever committee he wishes.

The point that we are making here as members of the Budget Committee, supported by the chairman of the Governmental Affairs Committee, is that the process in place has worked well.

Why do we find ourselves in this debate that has taken the last hour's time of the Senate? Because we are passing an important new piece of legislation called S. 1, which has to do with mandates on governmental agencies. What we are simply saying, Mr. President, is that we are not trying to interfere at all with the responsibility that we in the Budget Committee recognize fully is in the prerogative and responsibilities of the Governmental Affairs Committee with regard to the affairs of different levels of Government.

What we are simply saying, Mr. President, is that we, as a Budget Committee, feel that we should leave well enough alone with regard to points of order that would affect the budget. We think that it has worked very well to leave that authority completely in the hands of the Presiding Officer with the advice and counsel of the Parliamentarian. It has worked well in the past and we want to continue it that way.

I suggest, absolutely, that we think there is a matter of jurisdiction here, but more important than the matter of jurisdiction is keeping a system in place that works well. We still feel that the attempts by the Senator from Ohio, the ranking member of the Governmental Affairs Committee, would complicate a process that we think has worked very well under the jurisdiction of the Budget Committee.

Now, I would certainly emphasize once again that if we have a point of order—and we hope that the Presiding Officer, under the advice of the Parliamentarian, would go back to the Budget Committee for the exact figures and numbers—there is nothing to say that if it is the opinion of the Chair or the Parliamentarian that other committees should also be consulted about this, then that would be something that could be done.

I will simply say that what we are objecting to is the specific inclusion of the provision the Governmental Affairs Committee is trying to get approved in this legislation. That is why we have offered the amendment authored by the Senator from New Mexico, the chairman of the Budget Committee, and supported by Senator ROTH, the chairman of the Governmental Affairs Committee.

I hope with that background, Mr. President, that we could come to a vote quite soon on this. I hope and I urge the Senate to support the recommendations made unanimously by the Budget Committee, by the chairman of the committee, Senator DOMENICI, by myself, the ranking member, and strongly supported also by the chairman of the Governmental Affairs Committee, the distinguished Senator from Delaware.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I want to comment on some of the remarks of my friend from Nebraska by making a parliamentary inquiry.

I make the inquiry of the Chair as to whether the Parliamentarian has previously ruled as to whether or not language in a bill or an amendment has constituted a mandate on State and local governments.

The PRESIDING OFFICER. The Parliamentarian has not so ruled.

Mr. LEVIN. Now, when we say, ''Just keep doing it the way we have done it before,'' let us understand what we are talking about.

We have a Budget Act—and I will get to that in a minute, because the Budget Act makes specific references to the Budget Committee.

I will come to that one in a minute. What we have heard on this issue is just leave it the way it has been done. Let the Parliamentarian rule the way he has ruled for 20 years on these points of order.

The Parliamentarian has never ruled on whether or not there is an intergovernmental mandate. The Parliamentarian has never ruled, and I will make this a parliamentary inquiry of the Chair, Has the Parliamentarian ever ruled whether or not a provision in a bill requires compliance with accounting and auditing procedures with respect to grants or other money or property provided by the U.S. Government? Have we ever had a ruling like that from the Parliamentarian?

The PRESIDING OFFICER. No.

Mr. LEVIN. Mr. President, I can go on and on through these exemptions. I think the point is clear. We are skating out on a new pond.

The Parliamentarian has never ruled on these issues, whether or not language constitutes a mandate; whether or not, because it is an exception to the requirement provision if a bill enforces the constitutional rights of individuals, establishes or enforces a statutory right that prohibits discrimination based on rights. I can go through all of these with the Parliamentarian but I know the answer.

This is a new process that is being undertaken. The Parliamentarian has not ruled on this type of thing before. And we are asking the Parliamentarian to undertake on every bill, resolution, amendment, et cetera, every one, subject to a point of order. This is not just a Byrd rule on reconciliation. This is not just a War Powers Act.

I agree the Parliamentarian has some difficult decisions to make. I fully agree with my good friend from Nebraska on that issue. This is on every bill that comes to this floor, every amendment that comes to this floor, the Parliamentarian will have to rule as to whether or not there is a mandate on that. Because if there is, it is out of order.

When I say he will have to rule, he may have to rule on every bill. He may have to rule, and will have to, if somebody raises a point of order. But if the language which exempts local government from paying for a mandate is not in a bill or resolution, and if it does not have that other language relative to the appropriations, and if it does not have an estimate, it is subject to a point of order. Anybody can raise a point of order on every amendment, every bill, that comes to this floor.

The Parliamentarian, for the first time in history, is going to have to rule as to whether or not language in a bill constitutes an intergovernmental mandate. The Parliamentarian has never ruled on anything like that before. We have just heard from the Parliamentarian through the Chair. I could go on and on and on, by the way, as to other elements of the bill which constitute exceptions to the mandate requirement where the Parliamentarian has never ruled. The argument that, look, this thing has worked for 20 years, why change a good thing, does not work when it comes to the question of what constitutes a mandate or an exception to the mandate requirement. The argument simply is not applicable to that.

Now, should the Parliamentarian on that issue consult with Governmental Affairs? I use the term ''consult'' with Governmental Affairs? I think the answer is ''yes.'' I think we ought to provide language which, in effect, says that. That is the intent of the language which is in the bill which would be struck by the Budget Committee amendment.

While my dear friend from Nebraska is on his feet I am wondering whether or not I might have unanimous consent to ask the Senator from Nebraska a question and not lose my right to the floor?

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

Mr. LEVIN. Mr. President, I listened very carefully to the Chairman of the Budget Committee and to the ranking member, Senator EXON.

Is it my understanding that the way the Senator from Nebraska reads this bill, that the Budget Committee is bound to accept the estimate of the Congressional Budget Office relative to the cost of an intergovernmental mandate, and is simply the transmission belt or the liaison to transmit the data from the Congressional Budget Office?

Mr. EXON. Mr. President, the answer to my very dear friend is that, no, the Budget Committee does not have to accept in toto the dollars and cents on anything submitted by the Congressional Budget Office to the Budget Committee.

But for all practical purposes, we do it that way.

Mr. LEVIN. Mr. President, I thank my friend from Nebraska.

Now, the next question would be, is the Parliamentarian bound under the Budget Act to accept the figures given to it by the Budget Committee?

Mr. EXON. Mr. President, my answer would be that obviously I would think that since the Parliamentarian does not have an estimating organization under his control, I would think the precedent, as the Senator from Michigan fully well knows, that the Parliamentarian would go along with whatever information he had at hand from the reliable source which we think in this instance is the Budget Committee.

Mr. LEVIN. Mr. President, is it the Senator's understanding of the Budget Act that in determining a figure under the Budget Act in ruling on scoring, for instance, that the Parliamentarian must accept the figure given to it by the Budget Committee?

Mr. EXON. Mr. President, I am not an authority on that as the Senator from Michigan knows. I am not a lawyer so I cannot give him a legalistic answer to the question.

I would simply amplify what I said before: in practice, that is the way it has always worked. It has worked very, very well. We do not think it should change.

Mr. LEVIN. Mr. President, let me make a parliamentary question, whether or not under the Budget Act the Parliamentarian is required to accept the scoring figure from the Senate Budget Committee?

The PRESIDING OFFICER. The Budget Act does authorize the Parliamentarian to accept the figures given by that Budget Committee.

Mr. LEVIN. My parliamentary inquiry is, is the Parliamentarian bound to accept the figure from the Senate Budget Committee?

The PRESIDING OFFICER. Where the law authorizes the Budget Committee to make those estimates, the Parliamentarian is then obliged to accept those estimates.

Mr. LEVIN. Mr. President, I thank the Chair.

Now, that becomes a very critical point because the law in many places does not just simply throw the budget number at the Parliamentarian and say, ''here, you figure it up.'' It assigns that responsibility to the Budget Committee.

I was interested in the Senator from New Mexico's comment about leaving this to the Parliamentarian, as though the law assigns certain responsibilities to the Budget Committee. The way I read the law, the four references out of the five in the Budget Committee's report, it is the Budget Committee—not the Parliamentarian, but the Budget Committee—which makes the determination at the budget level when there is a point of order.

Suddenly, it becomes unnecessary to be specific about assigning this function to the Budget Committee. Why are we shy here about assigning the same function to the Budget Committee, which is to try to figure out what a mandate costs, when we have made that same assignment to the Budget Committee—not the Parliamentarian—to the Budget Committee over and over and over and over again, in the Budget Act? I said four ''overs'' because I got four sections of the Budget Act.

For instance, section 311(C) for purposes of this section, and this is a point of order section, ''the levels of new budget authority, budget outlays, new entitlement authority and revenue for fiscal year shall be determined on the basis of estimates made by the committee on the budget of the House of Representatives or of the Senate,'' as the case may be. Why are we shy about doing it in this bill?

Why are we shy about being explicit in this bill the way we have been explicit over and over again in the Budget Act, assigning a responsibility to the Budget Committee, so it is clear?

Do we want to leave ambiguity—there is enough ambiguity in this bill already, I must say. We have a new point of order which is incredibly complex which, in many instances, is going to be made against a bill for not containing an estimate which cannot be made. A point of order is going to lie

against a bill for not containing an estimate when we know now some estimates cannot be made. We have been told by the Budget Office. And yet a point of order is going to lie.

We are creating a point of order for the absence of something which cannot be supplied. That is pretty complicated for being straight with ourselves and with all those local officials and State Governors. It is pretty complicated. We know it cannot be supplied at times, and yet we are telling them that a point of order is going to be made for the failure to supply an estimate which is impossible to be made. You watch those points of order being waived like mad down the road. But that is neither here nor there. The point is we have a complicated bill.

We have a complicated bill with a new point of order which was not in last year's bill. And, by the way, the reason for the language which the Senator from Nebraska objects to in the bill and seeks to strike through the Budget Committee amendment is, there is a new point of order and there was an effort made to clarify who would make a determination.

Do we want to just leave it to the Parliamentarian and kid ourselves? The Parliamentarian is not in a position to determine how much it would cost 87,000 local governments to put in a new scrubber on an incinerator to get rid of mercury. Come on. That is not the job of a Parliamentarian. The Parliamentarian is going to be handed a number by the Budget Committee and they will have been given a number, maybe, if we are lucky, by the CBO. That is the way it is going to happen, just the way the Senator from Nebraska has indicated. The CBO will try to make an estimate. If it cannot, precedent is the Budget Committee is just going to be the liaison, the transmission belt. Even though legally, I think the Senator from Nebraska is correct, it is not obligated to do so, it will as a matter of precedent.

But this is a very, very complicated bill, and we should not leave ambiguity on purpose. We should not leave it on purpose. If it is going to be the Senate Budget Committee which is going to make a determination and hand it to the Parliamentarian, let us say it is the Budget Committee. Let us just say it. We do it in other places in the Budget Act. I read one of them, and I will not read the other. There are many places in the Budget Act. We say that the Budget Committee shall make the estimate.

We know where the Budget Committee gets it. That is where they should get it: the Congressional Budget Office. That is exactly the right place to look. But why be ambiguous.

I was intrigued by the committee report of the Budget Committee, where it says that:

> The committee does not believe that the authority needs to be explicitly stated . . .

Why?

> In the absence of a CBO estimate—

Here they talk about an absence of an estimate, which is news to me because we did not think it was possible. Now there is acknowledgement there may not be one.

> the committee intends that the determinations of levels of mandates be based on estimates provided by the Senate Budget Committee.

The argument here is you do not have to make it explicit because it is implicit that the Senate Budget Committee is going to give to the Parliamentarian the figures, if it has any, from the Congressional Budget Office.

What everybody knows would happen. That is what my friend from Nebraska referred to when he said it has worked for 20 years. Estimates come in from the Congressional Budget Office to the Budget Committee, the Budget Committee hands them over to the Parliamentarian, and the Parliamentarian rules. But we have been explicit about that. We have said that the estimates would be made by the Budget Committee.

One of the sections which is being stricken by the amendment before us makes it clear that it is the Senate Budget Committee which will make the estimate. I do not know why there is any reluctance to do that. It has been done over and over again.

But I think what the Senator from Nebraska is saying is that there is some reluctance to have the Governmental Affairs Committee be involved on the question of whether or not there is a mandate. This is no longer a question of the number of or the cost of something. This is now a question of whether or not there is a mandate at all. The cost issues under the language of the bill are left for the two committees. How much is for Budget; whether it was left to the Governmental Affairs.

I believe that it is proper for Governmental Affairs to be at least consulted—at least consulted—on the question of whether or not an intergovernmental mandate exists when the Parliamentarian has had no experience in doing that, and I think properly should not be put in a position where they are going to have to make decisions of this nature.

So I hope that the committee amendment from the Budget Committee will be defeated and that we can work out some language which would at least require consultation with the Governmental Affairs Committee on the question of whether there is a mandate or whether or not there is an exclusion from the mandate, leaving it to the Budget Committee to, again, determine the amount of the cost, which is the traditional thing that the Budget Committee has determined.

So I thank my friend from Nebraska for responding to my questions, and I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with keen interest to my friend from Michigan and the points he has made.

I will simply reply that in the first interest, several sections vest the Budget Committee with decisions on matters of fact, not matters of law. Under the situations we are talking about, the Parliamentarian is the chief legal advisor to the Presiding Officer. He is the official in whom we should vest this power. I believe from the beginning that is what we intended to do. It is inappropriate to vest that power in another committee.

I will simply say that the Senator from Michigan could have conducted a similar set of inquiries with regard to any new point of order. Of course, the Parliamentarian has not ruled on a point of order that has not yet been adopted or enacted into law. I do not know that there would be a different ruling from a Parliamentarian in the future, but I hope that that Parliamentarian will continue to rule on the precedents of the past.

But neither does the Governmental Affairs Committee have any expertise at all in this matter. And certainly I would simply say to the U.S. Senate that regardless of the twists and turns of this matter, and regardless of this debate, which has carried not so much on the specifics of the amendment offered by the chairman of the Budget Committee, Senator DOMENICI from New Mexico, but has carried over into some concerns that I know the Senator from Michigan has on the whole matter of mandates and how they are going to be enforced.

I simply say that those kinds of considerations and arguments that are going to be made in very articulate fashion, I suggest, by my friend from Michigan, probably refer to—and may be appropriate on—passage of the whole mandate bill. I have talked with the Senator from Michigan. He has done a lot of research on this. I was very much interested and impressed with the information that has been brought to his attention in the form of a letter, after inquiry by the Senator from Michigan, from the Congressional Budget Office that raises a whole set of new questions about whether or not CBO can make these estimates, and they have said in some instances they have no way of making these estimates.

I believe part of the argument that is being made against the amendment offered by the Senator from New Mexico are arguments that will be made along the same lines, but possibly in a little different fashion, by the Senator from Michigan. The Senator from Michigan talks about allowing consultation with the Government Affairs Committee. I have no objection to that. But the language of the bill provides no such compromise. The bill says that the Government Affairs Committee, ''shall have the authority to make the final determination.'' That is what we are trying

to strike in the pending committee amendment.

It is open to a compromise, I suggest, regarding consultation. But to get to the compromise first we have to adopt the Budget Committee amendment to page 25 that strikes the exclusive power—and I emphasize, Mr. President, exclusive power—of the Governmental Affairs Committee that they want to maintain as they wrote S. 1, and is a part that the Budget Committee and chairman of the Governmental Affairs Committee is trying to correct for the reasons that we have outlined.

The basic reason is why change a system that has worked well? Leave well enough alone. That is the heart of the argument. And that is why we hope the Senate will adopt the amendment offered by the Senator from New Mexico.

Mr. President, I had hoped and had agreed earlier, a couple of hours ago, on a time agreement—an hour equally divided. I think the RECORD will clearly show the Senator from Nebraska felt, when we started this debate, we were on controlled time. I find out later that has not been the case.

May I suggest in the interests of moving the Senate along in expeditious fashion, since we have been on this a long time and I suspect not a great deal new is going to be said pro and con on the amendment by the Senator from New Mexico, that we agree to, I suggest, a 20-minute extension of time equally divided from this time forward and then have a vote? Is there any objection to that?

Mr. GLENN. Mr. President, 5 minutes; 3 minutes?

Mr. EXON. How about right now?

Mr. LEVIN. I need about 3 minutes.

Mr. EXON. OK. I still have the floor. Before I lose the floor, let me make one more try.

I ask unanimous consent that there be 10 more minutes of debate, 5 minutes controlled by the Senator from Ohio or his assignee and 5 minutes controlled by the Senator from Nebraska?

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, I agree to a time limit but I want to make a couple of phone calls first before I agree to a specific time limit. I think the Senator from Michigan had a couple of comments to make and I will make the phone calls while he is doing that.

Mr. EXON. Let the RECORD show I tried.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, I just have one additional question of the Senator from Nebraska. That has to do with the House of Representatives. We are in a position here where he, as ranking member of the Budget Committee, has said it is inappropriate to vest power in the Governmental Affairs Committee. Yet that is exactly the power that is being vested in the House Committee on Government Operations in this bill. And this amendment does not touch that.

If it is inappropriate to vest that power in a committee of the Senate, it seems to me it is equally wrong to vest it in a committee of the House.

But in terms of vesting power in committees, the Budget Act vests power in the Budget Committee. I want to just make reference to four sections of the Budget Act where, on points of order, the power is vested in the Budget Committee.

I think I have made reference before to section 311(c), for purposes of this section the levels of new budget authority—et cetera:

> Shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

There is power vested right in the Budget Committee.

In section 313(e), and these are points of order sections: For purposes of this section the levels of new budget authority, budget outlays, et cetera, ''shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.''

Power is vested in the Budget Committee directly, right in the Budget Act. Yet one of the two sections which is being stricken here is exactly that. It puts the power to make the estimate of the cost of any mandate in the Budget Committee, exactly as we have done over and over again. There is nothing unusual about that at all. The Budget Committee has explicit power vested in it over and over again in the Budget Act to make these kinds of determinations of outlay. Yet in the bill as introduced, it wants to put that precise power of the Budget Act here—suddenly we find there is a committee amendment by the Budget Committee striking that clear grant of power.

I think it is useful, just in terms of avoiding ambiguity itself. This thing is going to be complicated enough. We might as well not build in an ambiguity. Make it clear. The budget committee has the power. Relative to Governmental Affairs, there is this power granted in the House which is left in place. The Budget Committee apparently does not want this power to be granted to the Governmental Affairs Committee here. It seems to me what is sauce—fair for the goose is fair for the gander. If it is right for the House, it is right for the Senate. My understanding was the Senator from Ohio had worked out an agreement relative to this kind of reference and if that, in fact, was correct, then it seems to me this would be a move away from what was in the original bill agreed to by the Senator from Ohio.

Finally, I would say, Mr. President, I hope that this amendment would either be defeated or be tabled, because unless you have clarity as to where the responsibility lies to both determine whether there is a mandate or an exception, and to determine the amount of the mandate—unless you have clarity on that, we are making into law ambiguities which are going to bedevil us just about every day we operate around here.

We ought to clarify where the responsibility lies. We have done it before. It was in the original bill. We should leave it the way it was in the original bill and defeat the Budget Committee amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that following my suggestion of the absence of a quorum, that when we come back after the order for the quorum call is rescinded that I retain the right to the floor.

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

Mr. KEMPTHORNE. Mr. President, 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. KEMPTHORNE. 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. KEMPTHORNE. Mr. President, I yield the floor, and I will look to the Senate from Ohio to make a request.

Mr. GLENN. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The 11th reported committee amendment is the pending question.

Mr. GLENN. I move to table the amendment and 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 question is on agreeing to the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. FAIRCLOTH], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], and the Senator from Texas [Mrs. HUTCHISON] are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon [Mr. HATFIELD] would vote ''nay.''

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY] and the Senator from Massachusetts [Mr. KENNEDY] are necessary absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 27, nays 66, as follows:

[Rollcall Vote No. 22 Leg.]

YEAS—27

Akaka	Feingold	Kohl
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Breaux	Glenn	Lieberman
Bryan	Graham	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Reid
Daschle	Johnston	Robb
Dorgan	Kerry	Wellstone

NAYS—66

Abraham	Frist	Moseley-Braun
Ashcroft	Gorton	Moynihan
Bennett	Grams	Murkowski
Bingaman	Grassley	Murray
Bond	Gregg	Nickles
Boxer	Harkin	Packwood
Brown	Hatch	Pressler
Burns	Heflin	Rockefeller
Campbell	Helms	Roth
Chafee	Inhofe	Santorum
Coats	Jeffords	Sarbanes
Cochran	Kassebaum	Shelby
Cohen	Kempthorne	Simon
Conrad	Kerrey	Simpson
Coverdell	Kyl	Smith
Craig	Lautenberg	Snowe
D'Amato	Lott	Specter
DeWine	Lugar	Stevens
Dodd	Mack	Thomas
Dole	McCain	Thompson
Domenici	McConnell	Thurmond
Exon	Mikulski	Warner

NOT VOTING—7

Bradley	Hatfield	Pryor
Faircloth	Hutchison	
Gramm	Kennedy	

So the motion to lay on the table the committee amendment on page 25, lines 11 through 25, was rejected.

Mr. KEMPTHORNE. Mr. President, I move to reconsider the vote.

Mr. GLENN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, will the distinguished Senator from Idaho give me just a moment of his time so I might ask him a question or be involved in a colloquy?

Mr. KEMPTHORNE. Mr. President, I will be happy to.

Mr. FORD. Mr. President two things have happened that bother this Senator considerably.

Last week, I made an effort to stop the House from using frequent flier miles that were paid for by taxpayers for personal use. I was admonished by my friends on the majority side for trying to tell the House what they should do or should not do. The amendment was amended. I lost.

It said to the Senate that under those circumstances, the Senate ought to take care of itself and we ought not to tell the House what to do. Now, as we are, in this amendment and in this bill, setting out a lot of proposals that the House must comply with—change their rules, assign to committees, things of that nature—I keep hearing that this is what the House is asking the Senate to do.

Now, Mr. President, I would like for the distinguished Senator from Idaho to respond to who in the House is telling the Senate what to do, or what the leadership over there is saying, whether they want this in the bill so that it will apply to the House. Can you give the Senate this information tonight? If not, in the morning. I would like to have an answer.

Mr. KEMPTHORNE. Sure, Mr. President. The Members of the House with whom we have been working closely, and I will name them, are the Chairman, BILL CLINGER; Congressman ROBERT PORTMAN, and Congressman GARY CONDIT. Those are the individuals with whom we worked most closely on this companion legislation in the House.

Mr. FORD. So they are saying to put it in the Senate bill to make the House comply with the rules of the bill we passed?

Mr. KEMPTHORNE. Mr. President, to further answer that, that is correct. They have said in the inquiry, Could you put this in the bill?

However, I tell you there has been further clarification that if the Senate were to determine that it just did not feel appropriate for the Senate to put that House language in there, they can deal with it in a different setting.

Mr. FORD. Mr. President, I appreciate the Senator's being candid with me because I think we are making a mistake. One week, we will not apply the rules to the House and the next week we apply the rules to the House. Something has to be consistent. One was not a very important amendment. This one is.

So I hope that in the discussion with the Senators, between now and maybe working out something on this amendment in the morning, I understand, I hope Senators will look at the whole aspect of saying to the House ''You must comply with the rules that we pass.'' I am not sure that that is right.

I might say to the Senator, with all respect, that I think we are going to have to start being consistent, regardless of what bills we are on, and we will have to say that these rules passed on the Senate do not apply to the House unless the House wants to do that.

So, at some point, if there is not an agreement to the imposition of our rules on the House, we will offer an amendment that will take the application of this legislation to the House.

Mr. KEMPTHORNE. Will the Senator yield?

Mr. FORD. I will be glad to. I have no problem.

Mr. KEMPTHORNE. Mr. President, just in response to that—and I appreciate the idea of consistency—in this particular legislation, it was really many, many hours of working together with the House.

I was not privy to what sort of arrangements the Senator had worked out with the House on his amendment last week.

One of the things that I think may help us to be consistent is when we see that it deals with the House of Representatives, probably part of our information that we exchange with one another is to state to what extent this really is coming from the House. This was a strong request.

Mr. FORD. The Senator says he is working with the chairman. That is fine. The House leadership, at some point, is going to have to put it all together. I would not want to take a chairman here and say that his advice to me is above the majority leader's. I would go to the leader and to the Senator's elected leadership, and I would get my direction from them rather than a committee chairman, unless they have acquiesced their authority to them.

I am glad the Senator and I wanted to know that. We keep saying, ''As the House has advised us, as the House has advised us.'' I just wanted to know who was advising the Senator, and I am still concerned about applying our rule to the House or passing legislation saying the House must comply. Oh, it has been done, but I think if we are going to stay out one way, we ought to stay consistent. I will be observing it very closely.

I yield the floor, Mr. President

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, at the heart of the unfunded mandates legislation we continue to debate today is the 10th amendment to the U.S. Constitution.

This is an amendment that many here in Washington seem to have forgotten over the years, as more and more power has been taken away from the States and placed in the hands of Federal bureaucrats.

As I said in my remarks on the first day of this session, if I have one goal for the 104th Congress, it is that we will dust off the 10th amendment and restore it to its rightful place in our Constitution.

As a reminder of that goal, I also promised to insert the 10th amendment into the CONGRESSIONAL RECORD every week that we are in session, and I would like to do so now.

Mr. President, the 10th amendment to the U.S. Constitution reads:

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

Let us always keep those simple yet powerful words in mind, as we continue our work of returning government back to the American people.

CLOTURE MOTION

Mr. DOLE. Mr. President, having said that, I send a cloture motion to the desk.

Let me say before I send it to the desk, it is obvious to me what is happening here is nothing is happening. We had amendment after amendment on congressional coverage, on which we wasted all of last week, and part of last week on unfunded mandates.

We are told there are 40, 50, 60 amendments. I am not certain how many are germane. This is an issue supported by the Governors, supported

by the mayors, supported by the county commissioners, supported by people all across America—Republicans and Democrats—and supported by the President of the United States.

It is pretty obvious we are not going to be able to move it quickly in the Senate because people are using the rules to frustrate efforts. That is the way it works. I do not fault that. I think we may have done that in the past a time or two.

This is something where there is broad bipartisan support. We would like to complete it this week. If we can get cloture, we may be able to complete it this week.

So I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of rule XXII of the Standing Rules of the Senate do hereby move to bring to a close debate on S. 1, the unfunded mandates bill:

Bob Dole, Dirk Kempthorne, Don Nickles, Connie Mack, Trent Lott, Thad Cochran, Alfonse D'Amato, Al Simpson, Strom Thurmond, Pete Domenici, Ted Stevens, Bill Cohen, Christopher S. Bond, Frank Murkowski, Jesse Helms, Spencer Abraham, Bob Smith, Larry E. Craig, Mike DeWine, and Bill Frist.

Mr. BYRD. Mr. President, will the leader yield?

Mr. DOLE. I will be happy to yield.

Mr. BYRD. May I say to my friend, I was not aware until just now, in listening to the distinguished leader's comments, that there was any necessity for a cloture motion to be entered. I did not realize that there was a filibuster occurring.

Mr. DOLE. I began to realize it, if I may say to my friend. I can just see maybe the beginning of one.

Mr. BYRD. I thought progress was being made on the bill. It seems to me that the Senate was working its will.

Mr. DOLE. If the Senator will yield, I might say to my good friend from West Virginia, I have indicated to the Democratic leader that if we can reach some agreement—I do not disagree with the Senator from West Virginia totally. I will withdraw the motion if we can agree on limited amendments so we at least have some finite number of amendments, hopefully germane amendments. But not having that, and looking at the fact that my colleagues on the other side would like to have a retreat on Friday of this week, I would like to be accommodating, but I do not know how we can accommodate that request unless we make some progress on what is a bill that enjoys strong bipartisan support.

Mr. BYRD. Is there a list of amendments? I have not seen any list. I heard there might be a list of amendments, so I suggested that I have three. I may not call up any of them. So I thought we were making progress.

Mr. DOLE. It may be progress, depending on how it is defined. I have not checked Webster's lately. But it would be slow progress if it is progress. But it is my hope we can put a list together, with staff working on each side, and submit a copy of that to the Democratic leader and also the Senator from West Virginia, and others who have an interest, and see if we can reach some agreement on a list of amendments. If it is going to be 40, 50, or 60, probably half are nongermane. I hope in the interest of expediency, we will have support for the vote of cloture, which would eliminate all the nongermane amendments.

Mr. BYRD. Mr. President, this kind of underlines everything I was saying earlier today and last Friday and Thursday. What is all this big hurry? Here we are, this is the 17th of January, and why can we not be legislators and take time to understand what is in a bill? I was seeking to have the committees provide committee reports, and it was mainly for that reason that I took the floor and complained that the minority in both committees had been denied that opportunity to have reports in which they could file views, individual views and minority views. Now that has been accomplished.

I say, therefore, that the distinguished leader has done, what he has every right to do—he is the leader and he has introduced a cloture motion. But it seems to me that the Senate is now beginning to work its will, now that it has had access to the committee reports, and I do not know what all the rush is. What is there that is coming behind this measure?

Mr. DOLE. I think the Senator from West Virginia may have some inkling. There may be—I would not suggest that, but I know, knowing the Senator from West Virginia is a master of the game, and I say that in a complimentary way—he knows that a balanced budget amendment may be somewhere on the horizon. And I assume that the further away the better for the Senator from West Virginia. And one way to keep it at a distance is not to rush through anything else that may be on the Senate floor.

I am not suggesting that might motivate the Senator from West Virginia, but it is something that has occurred to me a few times, and I had the same problem on this side of the aisle.

Mr. BYRD. But it is my understanding that the balanced budget amendment has not yet been reported out of the Judiciary Committee.

Mr. DOLE. But we hope it may be by the time we complete action on this bill. We will be coming in later tomorrow morning to accommodate the Judiciary Committee. And we may adjourn in the afternoon to accommodate the Judiciary Committee.

Mr. BYRD. Well, as I said earlier, I may vote for this unfunded mandates bill. I probably will. I do not know yet. I still want to study it some, and may offer an amendment or so. But I am a little bit surprised that the leader is implying that a filibuster has been going on.

Mr. DOLE. I say to my friend, I do not think there is a filibuster in the real sense. We have not had a real filibuster, as the Senator said the other day, around here for years. I think I would know a real one if one occurred.

It seemed to me, with the broad support we have for this unfunded mandates bill, it is not only filed because of what the leader may consider delay, but also to avoid a lot of nongermane amendments. We went through that turkey shoot last week and the week before.

So it seems to me that one way to talk about unfunded mandates and germane amendments to unfunded mandates is to get cloture and 30 or 40 of those amendments will disappear. We can have the debate the Senator from West Virginia wants. If necessary, I would be willing to see—we can extend the 30 hours by consent. I am not trying to shut anything off, but I would like to eliminate some of these nongermane amendments.

Mr. BYRD. Mr. President, if the majority leader will yield, of course the majority leader knows as well as I do that there is no rule on germaneness in the Senate except with respect, in a small way, to appropriations bills. But this cloture motion just underlines what I said earlier, that there is an effort to ram this bill through, an effort to steamroll it through.

It seems to me that a good legislator would seek to know what is in a bill. I am just trying to play the part of what I think a good legislator ought to do. A good legislator ought to try to understand what is in a bill. And we have been deprived, to a degree, of knowing earlier what was in this bill; having the benefit of a committee report as an explanation of what is in the bill. We were deprived of that, not through my fault, not through anybody's fault on this side of the aisle, but actually against the wishes of certain Senators on this side of the aisle who are on those committees.

A good legislator, it seems to me, would want to know what is in a bill. He would want access to a committee report. I have been in legislative bodies now going on my 49th year and I have found it beneficial to have committee reports. I think the American people want their legislators to know what is in a bill. We owe that to the American people.

So the distinguished majority leader has the right to offer a cloture motion. He is the leader. If he thinks that there is a slowdown here and if he thinks that necessity requires that we have a cloture vote on this bill and then limit it to nongermane amendments, that is his right. Senators from time to time offer cloture motions when there is no filibuster. Their sole objective is to create a situation in which there will not be nongermane amendments.

Our friend Russell Long used to do that from time to time when he was managing a Finance Committee bill on the floor. He would offer a cloture motion, not for the purpose of shutting off debate so much but more so for the purpose of ruling out nongermane amendments. So the distinguished Republican leader has a point there and that may be his goal.

But let me just say, lest the RECORD be left to appear that there is a filibuster going on here, we have been making progress. We will continue to make progress. But it just underscores my concerns that the idea here is to ram things through. Do not take the time to study the bill. Do not take the time to understand what is in the bill. Just get the bill passed.

How poor are they that have not patience!
What wound did ever heal but by degrees?

Mr. President, I will yield the floor. I hope we will have an opportunity before the cloture vote to offer other amendments and I hope the leader will not put us on any other measure until we finish this one, so we will really have 2 days in which to discuss the bill and offer amendments.

I thank the leader for yielding. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for not to exceed 5 minutes each.

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

THOUGHTS AND PRAYERS ARE WITH THE PEOPLE OF JAPAN

Mr. DOLE. Mr. President, the thoughts and prayers of all Americans are with the people of Japan today, as they begin the recovery process from this morning's earthquake.

Ironically, this tragedy hit Japan exactly 1 year after the Northridge earthquake that devastated the Los Angeles area.

And as the people of Japan who were affected by this morning's earthquake begin to rebuild their cities and their lives, they can take great inspiration in the courage and cooperation exhibited over the past year in southern California.

Mayor Richard Riordan wrote in today's Los Angeles Times that ''It has been said that much can be determined about the character of an individual tested by difficult times. The same is true for our city and the emergency response provided by every level of government.''

In the days, weeks, and months following the Northridge quake the people of southern California, humanitarian organizations like the American Red Cross, and local, State, and Federal governments—under the superb leadership of Pete Wilson—passed every test with flying colors.

Again, Mr. President, I know all Members of the Senate join with me in mourning the loss of life in Japan, and in admiring the courage and resourcefulness exhibited over the past year by the people of southern California.

THE 1-YEAR ANNIVERSARY OF THE NORTHRIDGE EARTHQUAKE

Mr. DOLE. Mr. President, a year ago yesterday, an earthquake measuring 6.8 on the Richter scale wreaked havoc on the southern California counties of Los Angeles, Orange, and Ventura. The Northridge temblor brought about the collapse of apartment buildings, hospitals, and schools, and destroyed major portions of that area's transportation infrastructure.

Within hours of the earthquake, our former Senate colleague Gov. Pete Wilson proclaimed a state of emergency in those counties, and set in motion the implementation of what is now widely viewed as an extraordinary recovery from the earthquake's crippling impact on the movement of people and goods in one of the most populous areas of the country.

In addition to executing the necessary recovery measures to protect public safety and ensure for the food and housing of earthquake victims, Governor Wilson signed a series of innovative Executive orders that cut through the redtape of State bureaucracy and either streamlined or eliminated statutes and regulations governing everything from highway contracts to mobile schools.

As a result, California's recovery from the Northridge earthquake has proceeded at a record pace. Among the most impressive of the recovery efforts was the opening of the world's busiest freeway, the Santa Monica Freeway, in less than 3 months, and 74 days ahead of schedule, after it was destroyed by the quake. Governor Wilson heralded this accomplishment by proclaiming it the most stirring symbol yet of California's endurance. I would add that it is also a symbol of what can happen when government gets out of the way and is willing to break old molds and explore new and innovative approaches to challenges.

There is no doubt as to the resiliency of spirit of the people of California. Over the course of the past 4 years, they have endured more than their fair share as a result of natural disasters, but they continue to emerge victorious time and time again from the ashes of destruction wrought by earthquakes, fires, droughts, and floods. I might add that Governor Wilson is already taking similar steps in the face of the current California floods, using emergency authorities to speed rebuilding in flood areas. Moreover, he has asked the President to suspend operation of the Endangered Species Act for the purposes of repairing and replacing flood damaged facilities.

It is with respect for this indomitable California spirit, and with admiration for a State and its Governor who together forged a better, smarter avenue to disaster recovery, that I mark the first year anniversary of the Northridge earthquake. I ask unanimous consent that the materials detailing the Northridge disaster and recovery efforts, which have been prepared by Governor Wilson's staff, be reprinted in the RECORD immediately after my remarks.

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

THE WILSON ADMINISTRATION'S RESPONSE TO THE NORTHRIDGE EARTHQUAKE

On January 17, 1994, at 4:31 a.m. (PST) southern California experienced a major earthquake (6.8 Richter) in the Northridge area of Los Angeles.

Within hours of the earthquake, Governor Pete Wilson issued a Proclamation directing all agencies of state government to utilize available resources in responding to the emergency.

Jim van Loben Sels, Director of the California Department of Transportation (Caltrans), delegated authority and accountability to the Director of Caltrans, District Seven for all restoration and repair work estimated to cost less than $4 million.

Seven Caltrans Director's Orders were approved and subsequent force account contracts were let to remove damaged structures, construct detours and install shoring to insure the safety of existing, standing structures.

Within minutes of the tremblor, Caltrans staff began inspecting the freeway system throughout Los Angeles and Ventura counties. More than 1,000 structures were checked—that day alone.

Tuesday, January 18, Director van Loben Sels called together representatives of the Los Angeles County Metropolitan Transportation Authority (LACMTA), Los Angeles Department of Transportation (LADOT), the Federal Highway Administration (FHWA), and Caltrans to discuss emergency response strategies and to identify earthquake-related damage to local transportation facilities.

January 19, Governor Wilson appointed Dean R. Dunphy, Secretary of the Business, Transportation and Housing Agency, as Chairman of the Emergency Transportation Task Force. This group included the California Highway Patrol, Caltrans, Los Angeles County Metropolitan Transportation Authority (LACMTA), Metrolink, Los Angeles Department of Transportation (LADOT), the Federal Highway Administration (FHWA), and eventually numerous other local transportation agencies. The group originally met daily and became a control point of information about damage, detours, cost estimates, and other emergency transportation control measures.

On January 23, Governor Wilson issued a further Proclamation which suspended the operation of all statutes, rules and regulations which apply to Caltrans contracts that would hinder or delay the restoration of facilities and services as a result of the Northridge earthquake.

The Governor's emergency proclamation modified contracting procedures and enabled

Caltrans to respond more effectively and efficiently to the emergency. Innovative emergency contract procedures allowed the Department to put contractors to work immediately. The informal and streamlined bid process initiated by the Governor's emergency proclamation cut the time for advertising, awarding and approving contracts from a standard time frame of four to five months to as little as three days.

On January 24, Governor Wilson issued an emergency proclamation suspending certain limitations on hours that commercial vehicle operators could drive and work. This allowed greater flexibility for commercial truck traffic that was critical for maintaining the economic stability of the region and delivering rebuilding materials.

On January 24, at the behest of Director van Loben Sels, a draft Memo of Understanding (MOU) was finalized between Caltrans and the Federal Highway Administration (FHWA). This MOU outlined the contractual process and established criteria for issuing emergency contracts.

Pursuant to the Governor's executive order and following FHWA approval on critical projects, Caltrans limited the number of contractors bidding on the five major reconstruction projects to firms that were experienced bridge builders with a record of working in Los Angeles and the ability to meet the ambitious minority and disadvantaged business participation goals. At least three bidders were asked to complete for each project. Companies were restricted to receiving the contract for only one of the emergency jobs. Emergency contracting procedures for repair and construction also included a commitment to obtain a 20%-40% goal of participation by Disadvantaged Business Enterprises (DBEs). Governor Wilson challenged Caltrans to meet the 40% participation goal.

Caltrans suggested and obtained FHWA support to utilize the A+B bid process on selected projects. This process combines the contractor's proposal for construction costs (A) with the cost per day of loss in use multiplied by the number of days bid (B). This process empowers the innovative contractor to use a combination of construction costs and construction days to achieve the lowest possible bid. The benefit to the State is a reduction in total cost and the potential of reopening the facility to the public's use in the shortest amount of time.

For the first time in the history of the Department, Caltrans contractual timelines required contractors to work 24 hours a day, seven days a week, without allowances for bad weather or holidays.

Caltrans also initiated incentives and disincentives on selected projects, with FHWA concurrence, to provide bonuses to contractors who completed construction early and to penalize contractors who could not meet their anticipated deadline. These assigned incentives and disincentives ranged from $8,500 to $200,000 per day and represent the highest ever used nationwide. Providing bonuses and penalties further encourages contractors to complete their projects early and return the facility to the traveling public in the shortest time possible.

Within days of the earthquake, Caltrans engineers hand-delivered bid packages and contract plans to selected contractors at the nearest airport to their home office.

In the initial week following the earthquake, Caltrans worked with the FHWA to develop an accelerated funding procedure that provided the Department with an initial funding allocation of $15 million on January 19, 1994. Two additional requests were approved on January 21, and January 27, for $30 million and $55 million respectively. Within ten days of the earthquake, Caltrans received $100 million in Emergency Relief funds. Once Congress approved the additional funding and the funds were allocated to FHWA, Caltrans requested that FHWA make an additional $250 million available for obligation. This $250 million was based upon Caltrans' estimate for additional funding needed through the end of its current fiscal year.

On January 27, pursuant to Governor Wilson's Emergency Proclamation, Caltrans Director van Loben Sels issued guidelines to suspend usual contracting procedures. These guidelines included provisions to protect the public welfare, for example—ensuring ample competition, compliance with OSHA regulation, licensing, and participation by DBE firms.

Saturday, January 29, the first A+B contract was opened, awarded, executed and approved for Interstate 5. This process was completed in one day instead of the standard five to seven weeks. On January 29, Caltrans also opened a newly paved, four-lane detour for the traffic on Interstate 5. This reopened a vital bypass both to and from Los Angeles.

Sunday, January 30, less than two weeks after the earthquake, construction began on the bridge replacement at Interstate 5.

As of February 17, 1994, 30 days after the earthquake, Caltrans had successfully acted upon the emergency contracting powers that were granted by Governor Wilson's executive orders. With the concurrence of PHWA, Caltrans awarded: 35 Emergency Contracts worth $9.6 million, (these are Force Account contracts for small demolition and debris clean-up); 5 Informal Bid contracts, worth $47.3 million, (for major construction and some demolition); and 2 Architectural and Engineering contracts worth $18.5 million, (for private consultants to assist in design of structural repairs and to manage traffic around the damaged parts of the transportation system).

As of April 7, 1994 Caltrans had approved a total of twenty-two informal Bid contracts worth $113 million, for the restoration and repair of transportation facilities damaged in the Northridge Earthquake.

Construction was completed on the busiest freeway in the Nation, the I–10 Santa Monica Freeway, on Tuesday, April 12. The I–10 is the busiest roadway in the Nation. This vital artery was reconstructed in 66 days, a total of 74 days prior to the anticipated completion date, resulting in a bonus payment of 13.8 million for the contractor, C.C. Meyers of Rancho Cordova. By opening the I–10 Freeway earlier than anticipated, Caltrans saved the Los Angeles economy approximately $1 million a day.

Construction was completed on the I–5 Golden State Freeway at Gavin Canyon on May 17, 1994, 33 days ahead of schedule. By opening the I–5 earlier than anticipated Gavin Canyon, Caltrans saved the Los Angeles economy approximately $400,000 a day.

Construction was completed on the first phase of the I–5/Route 14 Interchange on July 8, 1994, 20 days ahead of schedule. By opening the Interchange earlier than anticipated, Caltrans saved the Los Angeles economy approximately $1.6 million each day.

The Simi Valley Freeway (State Route 118) in Granada Hills was partially restored to original traffic patterns on September 3, 1994. By September 7, total access to the entire 10-lane facility was complete.

Construction was completed on the second phase of the I–5/Route 14 Interchange (the southbound to northbound connector ramps) on November 4, 1994. This opening of this arterial was the last major project in the Northridge Earthquake response effort. The entire response was amazingly completed in less than 10 months.

CONCLUSION

Governor Wilson's proactive leadership to empower Caltrans with the tools necessary to get Los Angeles moving again has brought great success, Los Angeles recovered in record time. While the initial goal for completing the earthquake recovery was the end of 1994, many of the vital structures damaged or destroyed by the quake were returned to service in less than six months.

The Wilson Administration's emergency response to the Northridge Earthquake not only streamlined, but reinvented the contracting process at Caltrans. This enabled the Department to respond to the restoration and reconstruction efforts of Los Angeles in an unprecedented, accelerated fashion.

By cutting red tape, Governor Wilson moved bureaucracy out of the way and empowered Caltrans, in coordination with the private sector, to respond effectively to the Northridge Earthquake. Now it is our challenge to ensure that the lessons learned from this tragic disaster are implemented into every day business at Caltrans.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

A NEW ADMINISTRATION IN PENNSYLVANIA

Mr. SPECTER. Mr. President, earlier today the Commonwealth of Pennsylvania established a new administration with a new Governor, Tom Ridge, and a new Lieutenant Governor, Mark Schweiker, in very ornate and interesting ceremonies at the State capital in Harrisburg, PA. That event is worth a comment for our colleagues for permanency in the Congressional RECORD.

Tom Ridge is a man well known to those of us in the Congress because Congressman Ridge served for 6 terms, 12 years in the House of Representatives, and takes an extraordinarily fine record to the Governor's chair in the Commonwealth of Pennsylvania.

Governor Ridge had served in Vietnam, he had served as a prosecuting attorney in Erie County, PA, and he had served as a distinguished trial lawyer. Today he became the Governor of Pennsylvania.

Pennsylvania is a State which is now in its 314th year, some 100 years-plus more than the United States of America. And Governor Ridge made a very, very profound speech in outlining his aspirations and goals for the Commonwealth of Pennsylvania. He talked about the problems of an expanding economy, talked about the issue of crime, discussed the future of education, talked about environmental control with an appropriate balance for an expanding economy and for job opportunities in what was a profound and distinguished speech.

He said that tomorrow he will call a special session of the legislature of Pennsylvania to deal with the issue of crime. And was eloquent in his determination to hold accountable, as he put it, ''those who prey on the weak,'' and expressed his determination as the new Governor of the Commonwealth that they would be called to account and firm action would be taken. In his

definition he talked about addressing the social and economic causes of crime as well on a very broad approach to the problem. He called for a redefinition of the relationship between State government and the local communities, articulating on the State level the kind of legislation which is now being considered here in the U.S. Senate on trying to redefine the federalism and the relationship between the United States Government and the States.

What Governor Ridge was talking about was leaving more authority in local communities to try to bring government down to the grassroots so that people in the townships and in the ''burbs'' or in the cities who know best what their problems are and can best address them in trying to reach as much revenue as possible, cutting taxes at the Federal level, cutting taxes at the State level, to leave the resources as close to the people as possible so that the problems are addressed by the people who know the most about them.

He said in eloquent terms that, ''Government has gone too far in treating people as the servants rather than as the served,'' an objective which really ought to be the standard for all governments. He said again in eloquent terms, ''What government can do for people is limited. What people can do for themselves is limitless.''

I think in that articulation he is talking about more accountability for the individual, more opportunity for the individual, and really more responsibility for the individual.

Sworn in alongside Governor Ridge today was a distinguished Pennsylvanian, Mark S. Schweiker, who came to that position having served as a commissioner in Bucks County. Mark Schweiker made a very distinguished speech as well in his induction ceremony in the ornate Pennsylvania Senate an hour-and-a-half before Governor Ridge took the oath of office. One of Lieutenant Governor Schweiker's statements, which was very profound, was, ''A government big enough to give you everything you want is a government big enough to take everything you have.''

I think in Pennsylvania today with the legislature, both houses, the State house of representatives and the State senate, under Republican control, and the newly elected Governor being a Republican, mirrors very much what happened in the elections nationwide last November.

If I may say, not in a partisan sense, but in a recognition of what the voters did, returning to what would be called core Republican values as expressed by the people in the historic election of the Republican U.S. House of Representatives and in a change in leadership in the U.S. Senate now controlled by the Republicans and an effort to return to core values of limited Government, less spending, lower taxes, strong crime control, that is the pledge which was made by two very distinguished Pennsylvanians today, Gov. Tom Ridge and Lieutenant Gov. Mark Schweiker.

Mr. President, if anyone else seeks recognition at this point, I would be glad to yield. If not, I would like to proceed to a discussion of another subject.

I ask unanimous consent that I may proceed again in morning business for a period not to exceed 10 minutes.

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

Mr. SPECTER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. SPECTER] is recognized.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Resolution 60 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

THE 50TH ANNIVERSARY OF THE ARREST OF RAOUL WALLENBERG

Mr. MOYNIHAN. Mr. President, there are still many puzzles left unsolved from the cold war. Perhaps one of the most frustrating is the disappearance of Raoul Wallenberg. To this day, a full account of why Raoul Wallenberg was arrested and what has become of him is still not forthcoming from the Russian government. I rise today to commemorate this brave hero of the Holocaust who worked tirelessly and with great courage to save thousands of Jews from Nazi concentration camps in Hungary.

It is 50 years ago today since Mr. Wallenberg was arrested by agents of the Soviet Union at the time of the invasion of Budapest by the Red Army. He disappeared while in Soviet custody and despite the collapse of the Soviet Union, many questions concerning his fate are unresolved.

This is matter which has long held my attention. In the summer of 1979, I met with Nina Lagergren, Raoul Wallenberg's sister. Shortly thereafter, Senators PELL, Church, Boschwitz and I founded the Free Wallenberg Committee. This working group, with the active involvement of my wife Liz, Lena Biorck Kaplan and others, strongly encouraged the administration to pursue the facts of the Wallenberg case with the Soviet Union. Support from then Secretary of State Vance was strong, but the Soviets were not cooperative. In August 1980 I introduced Senate Concurrent Resolution 117, calling upon the President to raise the Wallenberg case at the Madrid Review Conference of the Helsinki accords which took place that year. Ambassador Max Kampelman and the other U.S. officials made several overtures to the Soviets at the Madrid Conference but found them to be as unyielding as ever.

We too are unyielding. I later joined Senator PELL and other members of the Free Wallenberg Committee in sponsoring Senate Joint Resolution 65 to grant Raoul Wallenberg U.S. citizenship. When President Reagan signed that legislation into law, Raoul Wallenberg became only the fourth person ever to be granted honorary U.S. citizenship.

A truly remarkable man, Raoul Wallenberg was undaunted in his efforts to undo or prevent some of the evil done by Nazis. He was a hero of the best and boldest kind, and demonstrated what free men, even when acting alone, can accomplish against those who would crush the freedom of others.

We await answers. Until there is satisfaction that we have the most thorough accounting of his life and whereabouts since being taken into Soviet custody 50 years ago, we will not let this rest. This is not a problem of the Russian Government's making, but of their Soviet predecessor. They should take it upon themselves to undo the nefarious deeds of the Soviet Union. The world deserves to know the fate of this brave Swedish soul.

MESSAGES FROM THE HOUSE

At 5:47 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2. An act to make certain laws applicable to the legislative branch of the Federal Government.

The message also announced that pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 United States Code 2211), and upon the recommendation of the chairman of the Committee on Ways and Means, the Speaker appoints the following members of that committee to be accredited by the President as official advisers to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements on the part of the House during the first session of the 104th Congress: Mr. ARCHER, Mr. CRANE, Mr. THOMAS, Mr. GIBBONS, and Mr. RANGEL.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–92. A communication from the Secretary of the Mississippi River Commission, Corps of Engineers, Department of the Army, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1994; to the Committee on Governmental Affairs.

EC–93. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the annual report under the Government in the Sunshine Act for calendar year 1993; to the Committee on Governmental Affairs.

EC–94. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 1994 through September 30,

1994; to the Committee on Governmental Affairs.

EC–95. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the report of the Office of the Inspector General for the period April 1, 1994 through September 30, 1994; to the Committee on Governmental Affairs.

EC–96. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of reports and testimony for October 1994; to the Committee on Governmental Affairs.

EC–97. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report of the audit of the Congressional Award Foundation's financial statements for the periods ended December 31, 1992 and September 30, 1993; to the Committee on Governmental Affairs.

EC–98. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of health promotion and disease prevention activities; to the Committee on Governmental Affairs.

EC–99. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of surplus real property for fiscal year 1994; to the Committee on Governmental Affairs.

EC–100. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, a report relative to the Office of the Inspector General for the period April 1, 1994 through September 30, 1994; to the Committee on Governmental Affairs.

EC–101. A communication from the President of the United States, transmitting, pursuant to law, the report on the implementation of locality-based comparability payments for General Schedule employees for calendar year 1995; to the Committee on Governmental Affairs.

EC–102. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of the notice and order concerning proposed express mail rulemaking; to the Committee on Governmental Affairs.

EC–103. A communication from the Manager (Benefits Communications), Ninth Farm Credit District Trust Committee, the annual report for the plan year ended December 31, 1993; to the Committee on Governmental Affairs.

EC–104. A communication from the Director of Federal Management Issues, General Accounting Office, transmitting, pursuant to law, the report entitled ''Managing for Results: State Experiences Provide Insights for Federal Management Reform''; to the Committee on Governmental Affairs.

EC–105. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, a report relative to locality-based comparability payments; to the Committee on Governmental Affairs.

EC–106. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the privately-owned vehicle operating cost investigations; to the Committee on Governmental Affairs.

EC–107. A communication from the Human Resources Manager of the National Bank for Cooperatives Trust Fund, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC–108. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of reports and testimony for November 1994; to the Committee on Governmental Affairs.

EC–109. A communication from the Special Assistant to the President and Director of the Office of Administration, transmitting, pursuant to law, the aggregate report on personnel employed in the White House Office; to the Committee on Governmental Affairs.

EC–110. A communication from the Chairman of the Pennsylvania Avenue Development Corporation, transmitting, pursuant to law, the annual report for calendar year 1993; to the Committee on Governmental Affairs.

EC–111. A communication from the Chairman of the Postal Rate Commission, transmitting, pursuant to law, the report of the opinion and recommended decision in the 1994 omnibus rate case; to the Committee on Governmental Affairs.

EC–112. A communication from the Chief Judge of the U.S. Tax Court, transmitting, pursuant to law, the actuarial reports for calendar year 1991; to the Committee on Governmental Affairs.

EC–113. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report on the Foreign Service Retirement and Disability Fund for fiscal year 1993; to the Committee on Governmental Affairs.

EC–114. A communication from the Chairman of the Occupational Safety and Health Review Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–115. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–116. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–117. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–118. A communication from the Chairman of the Federal Labor Relations Authority, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–119. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–120. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–121. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–122. A communication from the Director of Selective Services, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–123. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–124. A communication from the Administrator of the Agency For International Development, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–125. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–126. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–127. A communication from the Director of the Federal Mediation and Conciliation Service, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–128. A communication from the Executive Director of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–129. A communication from the Director of the Trade and Development Agency, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

EC–130. A communication from the Director of the National Science Foundation, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1994; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 54. An original resolution authorizing expenditures by the Judiciary Committee.

By Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation.

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. KYL (for himself and Mr. MCCAIN):

S. 231. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO (for himself, Mr. SARBANES, and Mr. BOND):

S. 232. A bill to provide for the extension of the Farmers Home Administration program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. CAMPBELL, and Mr. EXON):

S.J. Res. 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; to the Committee on the Judiciary.

By Mr. BROWN:

S.J. Res. 19. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HATCH:

S. Res. 54. An original resolution authorizing expenditures by the Judiciary Committee; from the Committee on the Judiciary; to the Committee on Rules and Administration.

By Mr. COHEN (for himself and Mr. PRYOR):

S. Res. 55. A resolution authorizing expenditures by the Special Committee on Aging; to the Committee on Rules and Administration.

By Mr. PRESSLER:

S. Res. 56. An original resolution authorizing expenditures by the Committee on Commerce, Science, and Transportation; from the Committee on Commerce, Science, and Transportation; to the Committee on Rules and Administration.

By Mr. LOTT (for Mr. DOLE):

S. Res. 57. A resolution making majority party appointments to the Small Business and Aging Committees for the 104th Congress; considered and agreed to.

By Mr. LOTT (for Mr. STEVENS):

S. Res. 58. A resolution providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library; considered and agreed to.

S. Res. 59. A resolution to authorize the printing of a collection of the rules of the committees of the Senate; considered and agreed to.

By Mr. SPECTER:

S. Res. 60. A resolution expressing the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality; to the Committee on the Judiciary.

S. Res. 61. A resolution expressing the sense of the Senate that the President currently has authority under the Constitution to veto individual items of appropriation and that the President should exercise that authority without awaiting the enactment of additional authorization; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KYL (for himself and Mr. MCCAIN):

S. 231. A bill to modify the boundaries of Walnut Canyon National Monument in the State of Arizona; to the Committee on Energy and Natural Resources.

THE WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION ACT OF 1995

Mr. KYL. Mr. President, I introduce today with my colleague from Arizona, Senator JOHN MCCAIN, the Walnut Canyon National Monument Boundary Modification Act of 1995. Identical legislation is being introduced in the House of Representatives by Representative J.D. HAYWORTH.

This legislation is based upon consensus reached last year among interested parties, including local officials in Arizona, as well as residents of the Walnut Canyon area, the National Park Service and U.S. Forest Service, with respect to modification of the monument boundaries for the purpose of better protecting important archeological resources.

Walnut Canyon National Monument was originally established by Presidential proclamation in 1915 to preserve and protect numerous Sinaguan cliff dwelling and associated sites. The canyon includes five areas where archeological sites are concentrated around natural promontories extending into the canyon, areas which early archeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the two others are located on adjacent lands administered by the U.S. Forest Service. The legislation I am introducing today would redraw the monument boundaries to include those areas and provided the protection that those resources need and deserve.

About 1,239 acres of forest land would be transferred to Park Service administration. No State or private land would be affected.

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. 231

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 ''Walnut Canyon National Monument Boundary Modification Act of 1995''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as ''forts'', would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Act is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Act referred to as the ''national monument'') to improve management of the national monument and associated resources.

SEC. 3. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled ''Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona'', numbered 360/80,011, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

SEC. 4. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Act) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 3 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as part of the Coconino National Forest.

SEC. 5. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Act and the provisions of law generally applicable to units of the National Park Service, including ''An Act to establish a National Park Service, and for other purposes'' approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

By Mr. D'AMATO (for himself, Mr. SARBANES, and Mr. BOND):

S. 232. A bill to provide for the extension of the Farmers Home Administration program under section 515 of the Housing Act of 1949 and other programs relating to housing and community development; to the Committee on Agriculture, Nutrition, and Forestry.

THE FARMERS HOME ADMINISTRATION SECTION 515 RURAL MULTIFAMILY HOUSING PROGRAM EXTENSION ACT OF 1995

● Mr. D'AMATO. Mr. President, I am today introducing, along with my colleagues Senators SARBANES and BOND, the Farmers Home Administration Section 515 Rural Multifamily Housing Program Extension Act of 1995. The Section 515 Program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is an important rural affordable housing program. It provides long-term, low interest rate direct government loans for nonprofit and for-profit developers to develop multifamily rental housing for low-income families in rural America. Moreover, this program is one of the few sources for low-income rental housing in rural America, with over 440,000 rental units in rural America to its credit.

This simple legislation permanently reauthorizes the Section 515 Program and allows RHCDS to administer $220 million in funding appropriated as part of the HUD/VA fiscal year 1995 appropriations bill. While providing funding

for projects in the section 515 pipeline, it also will help with pressing rehabilitation needs. In addition, this bill enjoys strong bipartisan support and deserves quick action to help ensure the availability of low-income affordable housing in rural America.

This program is of particular importance to my State, New York. Many people may not realize that New York is a very rural State, with a large number of persons below the poverty line living in rural areas. Of the hundreds of thousands of New Yorkers below the poverty line, one-third live in rural communities. This program has been of great assistance to working families and the elderly who live in rural areas. There are currently 473 section 515 developments with 12,281 units in New York. Nearly 7,000 of these units are reserved for elderly citizens and 4,500 units are used by families. There is approximately a 4-year pipeline of projects in New York that are awaiting funding. Reauthorization of this program will help address this backlog in New York, as well as nationwide.

The Section 515 Program has received widespread support. In addition to helping working families and the elderly obtain rental housing in rural areas, the program has provided construction and management employment opportunities. These jobs are desperately needed in States, such as New York, with rural areas that have been hit hard economically.

I know there have been some concerns in recent years about possible program abuses in the Section 515 Program. In response to these concerns, the Housing and Community Development Act of 1992 made a number of reforms to ensure that developers would not be receiving unreasonable or windfall profits. The Department of Agriculture, through Farmers Home and RHCDS, has also been implementing a series of regulatory reforms to combat fraud and abuse in the Section 515 Program. Moreover, I expect that all rural housing programs, including the Section 515 Program, will be included in this Congress' overall reform of Federal housing policy.

Finally, this legislation provides the Department of Housing and Urban Development with authority to renew, for up to 18 months, certain section 8 project-based contracts on terms identical to the current contract. This is a temporary provision. Section 8 contract renewals will be a major part of any housing reform considered by Congress this year.

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

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

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 ''Section 515 Rural Multifamily Housing Program Extension Act of 1995''.

SEC. 2. RURAL HOUSING.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking ''fiscal years 1993 and 1994'' and inserting ''fiscal year 1995''; and

(2) in the second sentence, by striking ''each''.

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b) of the Housing Act of 1949 (42 U.S.C. 1485(b)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(c) RURAL RENTAL HOUSING FUNDS FOR NON-PROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking ''fiscal years 1993 and 1994'' and inserting ''fiscal year 1995''.

SEC. 3. TEMPORARY EXTENSION OF EXPIRING SECTION 8 CONTRACTS.

(a) REQUIREMENT.—Subject only to the availability of budget authority to carry out this section, not later than October 1, 1995, the Secretary of Housing and Urban Development shall make an offer to the owner of each housing project assisted under an expiring contract to extend the term of the expiring contract for not more than 18 months beyond the date of the expiration of the contract.

(b) TERMS OF EXTENSION.—Except for terms or conditions relating to duration, the terms and conditions under an extension provided pursuant to this section of any expiring contract shall be identical to the terms and conditions under the expiring contract.

(c) DEFINITION OF EXPIRING CONTRACT.—For purposes of this section, the term ''expiring contract'' means a contract for assistance pursuant to section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983), including a contract for assistance referred to in section 209(b) of the Housing and Urban-Rural Recovery Act of 1983, having a term that expires before October 1, 1996.

(d) DISPLACEMENT ASSISTANCE.—The Secretary of Housing and Urban Development may make available to tenants residing in units covered by an expiring contract that is not extended pursuant to this section, either—

(1) tenant-based assistance under section 8 of the United States Housing Act of 1937; or

(2) a unit with respect to which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.●

● Mr. SARBANES. Mr. President, I am pleased to join with my colleagues from the Banking Committee as an original cosponsor of this legislation.

The bill we are introducing today would extend the rural rental housing program authorized under section 515 of the Housing Act of 1949. This program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is a valuable and critical source of funding for the development of affordable housing for low-income families who live in rural areas. The legislation is needed because the authorization for the Section 515 Program expired at the beginning of this fiscal year. The Appropriations Act provided $220 million for this program. With this authorization, the RHCDS will be able to address pressing needs for the rehabilitation and preservation of existing housing, as well as provide funding for a large pipeline of worthwhile projects. I am particularly pleased that this bill also extends two important features of the Section 515 Program—a set-aside for nonprofit developers and a set-aside for underserved areas.

The bill we are introducing today will also provide the Secretary of the Department of Housing and Urban Development [HUD] with the authority to extend the section 8 contracts on low-income housing projects whose subsidy contracts will expire before October 1, 1996. Under the current section 8 contracts, owners must provide their tenants with a 12-month notice before the expiration of the subsidy contract. The contracts on a relatively small number of projects nationwide will expire in the next 12 months or the owners of the projects will be required to provide notice in the next 12 months. It is important to note, Mr. President, that this provision is temporary and the extension of the contracts cannot exceed 18 months. The provision's inclusion in this legislation will give the Administration and the Congress time to review the Section 8 Program and examine long-term strategies for dealing with contract expirations, without causing uncertainty for residents or the inadvertent displacement of low-income households who reside in section 8 developments.●

● Mr. BOND. Mr. President, I support the Farmers Home Administration Section 515 Rural Multifamily Housing Program Extension Act of 1995. The Section 515 Program, now administered by the Rural Housing and Community Development Service [RHCDS] at the Department of Agriculture, is an important program that makes multifamily rental housing available for low-income families in rural America. I emphasize the importance of this program. Since the program's inception in 1963, section 515 has financed some 440,000 affordable, low-income rental units in rural America.

This legislation permanently reauthorizes the Section 515 Program and allows RHCDS to administer $220 million in funding appropriated as part of the HUD/VA fiscal year 1995 appropriations bill. I believe the fiscal year 1995 $220 million appropriation provides adequate authority for RHCDS to administer the Section 515 Program. Nevertheless, RHCDS refused to administer this program without a new reauthorization. Therefore, I ask my colleagues for their support of this legislation. I emphasize that this bill enjoys strong bipartisan support and industry support. I ask for quick consideration of this bill to help ensure the continued availability of low-income affordable housing in rural America.

Moreover, I want to rest the concerns of my colleagues about reported problems with the Section 515 Program. In response to past concerns, the Housing

and Community Development Act of 1992 made a number of important reforms to the program, including reforms to safeguard the program from unscrupulous developers. The Department of Agriculture, through Farmers Home and RHCDS, has also recently put in place a number of additional needed regulatory reforms. Finally, I expect all rural housing programs, including the Section 515 Program, to be part of a major housing policy overhaul during this Congress.

This bill also allows the Department of Housing and Urban Development to extend, for up to 18 months, certain expiring section 8 project-based contracts. These contracts can only be renewed on terms identical to the current contracts. This is a stop-gap measure designed to provide some certainty to the section 8 project-based programs as Congress considers major reforms to address the cost and designs of these programs. I urge my colleagues to support this legislation.●

By Mr. HOLLINGS (for himself, Mr. SPECTER, Mrs. KASSEBAUM, Mr. CAMPBELL, and Mr. EXON):

S. J. Res. 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; to the Committee on the Judiciary.

CAMPAIGN REFORM CONSTITUTIONAL AMENDMENT

Mr. HOLLINGS. Mr. President, I rise today to address a problem with which we are all too familiar—the ever-increasing cost of campaign spending. The need for limits on campaign expenditures is more urgent than ever, with the total cost of congressional campaigns skyrocketing from $446 million in 1990 to well over $590 million in 1994. For nearly a quarter of a century, Congress has tried to tackle runaway campaign spending; again and again, Congress has failed.

Let us resolve not to repeat the mistakes of past campaign finance reform efforts, which have bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. During the 103d Congress there was a sign that we could move beyond this partisan bickering, when the Senate in a bipartisan fashion expressed its support for a limit on campaign expenditures. In May 1993, a nonbinding sense-of-the-Senate resolution was agreed to which advocated the adoption of a constitutional amendment empowering Congress and the States to limit campaign expenditures. During the 104th Congress, let us take the next step and adopt such a constitutional amendment—a simple, straightforward, nonpartisan solution.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is ''the most theoretically attractive of the approaches-to-reform since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere.'' Adds Professor Ashdown: ''If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated.''

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign contributions on the grounds that '' * * * the governmental interest in preventing corruption and the appearance of corruption outweighs considerations of free speech.''

I have never been able to fathom why that same test—the governmental interest in preventing corruption and the appearance of corruption—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by the Buckley decision.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech in general.

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics, if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you are talking between $1000 and $2,000 for 30 seconds of primetime advertising. In New York City, it is anywhere from $30,000 to $40,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you are not on TV, you are not truly in the race. Wealthy challengers as well as incumbents flushed with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-consuming pursuit of cash.

The Buckley decision created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of his speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley. By striking down the limit on what a candidate can spend, Justice Marshall said, ''It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start.''

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put on additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up to $4.1 million this past year. To raise that kind of money, the average Senator must raise over $13,200 a week, every week of his or her 6-year term. Overall spending in congressional races increased from $403 million in 1990 to more than $590 million in 1994—almost a 50-percent increase in 4 short years.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting a bid country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. We are out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It is a vicious cycle.

After the election, I held a series of town meetings across the State. Friends asked, ''Why are you doing these down meetings: You just got elected. You've got 6 years.'' To which I answered, ''I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the

campaign. I was too busy chasing bucks.'' I had a similar experience in 1992.

I remember Senator Richard Russell saying: ''They give you a 6-year term in this U.S. Senate 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue.'' Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to politics and demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $800,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of mortality in upper Chamber elections. And as to the alleged invulnerability of incumbents in the House, I would simply note that more than 50 percent of the House membership has been replaced since the 1990 elections.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way: ''While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages.''

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—''sufficient,'' to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small businesspeople, senior citizens, unionists, you name it. They permit people of modest means and limited individual influence to band together with others of mutual interest so their message is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, ''Oh, no, your influence is corrupting, your money is tainted.'' This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. First, it would end the mindless pursuits of ever-fatter campaign war chests. Second, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we would not have to spend 20 percent of our time raising money to keep our seats. Third, it would curb the influence of special interests. And fourth, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is not coincidence that all five of the most recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you are talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through constitutional amendment.

And let us not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since the early 1970's, and we haven't advanced the ball a single yard. It has been a quarter of a century, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1996 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and it is not subject to veto or Supreme Court challenge.

And, by the way, I reject the argument that if we were to pass and ratify this amendment, Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign expenditure limits. A Democratic Congress and Republican President did exactly that in 1974, and we can certainly do it again.

Mr. President, this joint resolution will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In the Buckley decision, it prescribed a bogus if-you-have-the-money-you-can-talk version of free speech. In its place, I urge passage of this joint resolution, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.

By Mr. BROWN:

S.J. Res. 19. A joint resolution proposing an amendment to the Constitution of the United States relative to limiting congressional terms; to the Committee on the Judiciary.

TERM LIMITS CONSTITUTIONAL AMENDMENT

● Mr. BROWN. Mr. President, today I rise to offer a joint resolution calling for the adoption of a constitutional amendment limiting congressional terms.

Congress is considering several measures that will change the way Congress does business. Congressional accountability will apply the laws to Congress. Unfunded mandate reform will reduce burdens on the States. The balanced budget amendment will fundamentally alter our budget process, and the line-item veto will end an era of midnight pork-barrel spending.

My amendment offers change of a different sort. Instead of changing our procedures, term limitations will change the way we think.

Following ratification of term limits, politicians would no longer view Congress as a lifetime career. The era of constant campaigning and the short-sighted policy making that comes with it would come to an end. Incumbent advantages would be limited. Elections would become more competitive. Voters would have a wider electoral choice as more and more people run for office. Instead of making political choices to preserve their seats, Members would be more likely to make the tough choices necessary to preserve our Nation.

When our Founding Fathers wrote the Constitution, they limited Government by disbursing power between the branches of Government. Checks and balances were created to provide oversight amongst the branches, and to ensure that Government remained loyal to the people, all other powers were specifically reserved for the people.

Over 80 percent of Americans favor limiting congressional terms; 22 of 23 initiative States have passed term limits for their Federal delegations and the 23d State should pass term limits this year.

Despite this overwhelming support, this body has voted on term limits only three times this century. Even worse, term limits has never made it to the floor of the House of Representatives. I was responsible for initiating two of the three votes in the Senate. The first time we received 30 votes, the second time 39 voted with us.

It is now time for the whole of Congress to answer the call of the people. The success of grass roots groups is impressive but incomplete. Congress must act to bring term limits to the millions of Americans whose wishes for a citizen legislature have been ignored at the State level.

My amendment would impose term limits on all Members of Congress. Senators would be limited to serving no more than two consecutive 6-year terms and Representatives would be limited to six consecutive 2-year terms.

Only elections following the amendment's ratification would be counted, and appointments and special elections would be excluded from the limits.

Mr. President, it is time we return to the fundamental belief of our Founders—that holding public office is a public service, not a lifetime career.

Term limits will restore the competition, responsiveness, and diversity intended by the Framers of the Constitution and demanded by our constituents.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 15, a bill to provide that professional baseball teams and leagues composed of such teams shall be subject to the antitrust laws.

S. 38

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 38, a bill to amend the Violent Crime Control and Law Enforcement Act of 1994, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

SENATE RESOLUTION 31

At the request of Mrs. BOXER, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 31, a resolution to express the sense of the Senate that the Attorney General should act immediately to protect reproductive health care clinics.

SENATE RESOLUTION 54—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 54

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $4,343,438.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $4,444,627.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 55—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. COHEN (for himself and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $1,046,685.

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $1,070,031.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''.

● Mr. COHEN. Mr. President, today on behalf of myself and Senator PRYOR I am submitting a resolution to authorize funding for the Senate Special Committee on Aging for the period of March 1, 1995, through February 28, 1997.

This resolution makes a technical change in the amounts requested for committee operations from the funding resolution we introduced last week. The amounts contained in this resolution fully comply with the guidance issued by the rules Committee that directed each Senate committee to reduce its committee expenditures by 15 percent below the committee's budget authorization for 1994, plus approved cost of living adjustments.●

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1995, through February 29, 1996, and from March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period from March 1, 1995, through February 29, 1996, under this resolution shall not exceed $3,369,312, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $3,445,845, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 28, 1996, and from March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 57—MAKING MAJORITY PARTY APPOINTMENTS

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 57

Resolved, That the following shall constitute the majority party's membership on the following Senate committees for the 104th Congress, or until their successors are appointed:

Small Business: Mr. Bond (Chairman), Mr. Pressler, Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, Mr. Frist, and Ms. Snowe.

Aging: Mr. Cohen (Chairman), Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, and Mr. Thompson.

SENATE RESOLUTION 58—RELATIVE TO JOINT COMMITTEES

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 58

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Ted Stevens, Mark O. Hatfield, Thad Cochran, Wendell H. Ford, and Daniel K. Inouye.

Joint Committee on the Library of Congress: Mark O. Hatfield, Ted Stevens, Thad Cochran, Claiborne Pell, and Daniel P. Moynihan.

SENATE RESOLUTION 59—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 59

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 60—RELATIVE TO THE LINE-ITEM VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 60

Whereas Federal spending and the Federal budget deficit have reached unreasonable and insupportable levels;

Whereas a line-item veto would enable the President to eliminate wasteful pork-barrel spending from the Federal budget and curb the deficit before considering cuts in important programs;

Whereas evidence may suggest that the Framers of the Constitution intended that the President have the authority to exercise the line-item veto;

Whereas scholars who have studied the matter are not unanimous on the question of whether the President currently has the authority to exercise the line-item veto;

Whereas there has never been a definitive judicial ruling that the President does not have the authority to exercise the line-item veto;

Whereas some scholars who have studied the question agree that a definitive judicial determination on the issue of whether the President currently has the authority to exercise the line-item veto may be warranted: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

Mr. SPECTER. Mr. President, earlier today the Constitutional Law Subcommittee of the Judiciary Committee had hearings scheduled on the line-item veto, and regrettably those hearings were not held because an objection was lodged under the rule which prohibits committee hearings from going forward or subcommittee hearings from going forward if they are in process more than 2 hours after the U.S. Senate commences its business.

I thought it was unfortunate that the hearings were canceled on that ground because a great many witnesses had come, and some from far distances, such as the distinguished Governor of Wisconsin, Gov. Tommy Thompson, to testify about this very important measure.

Mr. President, as the CONGRESSIONAL RECORD will show, this Senator has

long supported the line-item veto. That is a provision which would give the President of the United States the authority to strike a given line of expenditure without vetoing the entire bill.

There was a very dramatic presentation made by President Reagan a few years ago when the Congress submitted to the President a continuing resolution which was all 13 of the appropriations bills. And it was an enormous pile, about 20 or 24 inches in size. President Reagan at his State of the Union speech was expressing his concern that, instead of sending 13 individual appropriations bills which the President might approve or veto one at a time, this continuing resolution had been sent, so that it was not even the line-item veto but it was a circumstance where the President had this massive legislation.

He had the bill precariously positioned on the edge of the podium, and I became somewhat concerned that it was going to fall. Then after 1 minute or 2, I realized that it was President Reagan's method—perhaps you might call it a theatrical method—to underscore the volume and size of the bill. And I think the people watching around the country on national television were concerned that the bill might fall as well.

That was a very dramatic way of depicting the problem the President faces with a continuing resolution with some 13 appropriations bills. But the same principle applies to a single bill. I believe that it is very much in the national interest so that the President would have the authority to strike an individual item one by one without vetoing the entire bill.

It is my view, Mr. President, that the President of the United States possesses constitutional authority under existing law to exercise the line-item veto. That proposition has been supported by very intensive local research which my staff and I have undertaken, and also by very extensive research which has been undertaken by distinguished leading scholars, including Professor McDonald, who has written extensively on this subject.

The constitutional approach that the Constitution currently gives the President the line-item veto arises from the fact that clause 3 of article I, section 7, of the U.S. Constitution is an exact copy of the Massachusetts Constitution. The Massachusetts Constitution was enacted substantially before the U.S. Constitution. It goes back to the Massachusetts fundamental charter of 1733, and was implemented specifically to give the royal governor a check on the unbridled spending of the colonial legislature.

Professor McDonald points out that at the time of the Constitution's ratification process anti-Federalist pamphleteers opposed the U.S. constitutional provision because it ''made too strong a line-item veto in the hands of the President.'' Federalists, on the other hand, saw this clause, clause 3, and the power to veto individual items of appropriations, as an important executive privilege.

James Bowdoin, the Federal Governor of Massachusetts, argued that the veto power conferred upon the President in the Federal Constitution was to be read in light of the Massachusetts experience which did give the U.S. President the line-item veto. In the Federalist Paper No. 69, Alexander Hamilton, a member of the Constitutional Convention, who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto gave power which ''tallies exactly with the revisionary authority of the council of revision'' in New York, which according to Professor McDonald had the power to revise appropriation bills and in effect exercise the line-item veto.

Without going into great detail—and I will put in the RECORD a statement which will amplify this—in the early days of the Republic the President did in effect exercise the line-item veto. President Washington and Treasury Secretary Hamilton acted upon the authority to shift appropriated funds from one account to another.

And Thomas Jefferson as President also embraced that practice and on at least two occasions refused to spend money that the Congress had appropriated. President Andrew Jackson declined to enforce provisions of a constitutional enactment, in effect exercising the line item veto, and similarly in 1842, President John Tyler signed a bill which he refused to execute in full—there again, really exercising the line-item veto. It was not until after the Civil War that the President assumed that he did not have the individual line-item veto when President Grant urged Congress to grant him such authority.

Mr. President, that is an abbreviated statement of the reasoning that there is constitutional authority presently for the President of the United States to exercise the line-item veto. I had occasion to discuss this matter with President Bush when he was in office on a long plane ride, and the President said that his lawyer told him he did not have the power to line-item veto. I suggested, perhaps somewhat cavalierly, that perhaps he should change lawyers. I quickly suggested that President Bush not tell the bar association because I might want to practice law again some day.

In 1993, I had occasion to travel with President Clinton to western Pennsylvania and discussed with him the issue of the line item veto, and upon my saying to President Clinton that he had the authority to exercise the line-item veto, he asked me to send him a memorandum on the subject, which I did.

I think it useful at the conclusion of my presentation to include that memorandum together with the letters I sent to President Clinton and his reply to me on the subject.

I am introducing, Mr. President, two resolutions, so that the Judiciary Committee will have these resolutions before them when they next have deliberation on the line-item veto. We had a Judiciary Committee hearing last year on a resolution which I had introduced, which would propose:

> The Constitution grants to the President the authority to veto individual items of appropriation and the President to exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

When that matter was pending before the constitutional law subcommittee, there was considerable sentiment among other Members that that might have gone a little farther than they wanted to go. But they were prepared to vote out a resolution which would say that there was at least sufficient authority so that the President should exercise the line-item veto. I am introducing the first resolution again which was before the 103d Congress, and then the second resolution which would provide that it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

In my opinion, Mr. President, the line-item veto is very, very important and ought to be exercised now. I think anyone who is President ought to move forward because of the legal authority that the President currently has that authority. But at a very minimum, there is sufficient legal authority for the law to be submitted for a judicial test.

Mr. President, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the huge deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs and earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the Government.

The line-item veto is not a partisan issue. It is a good Government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line-item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media report many instances of congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a general impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less when the public does not feel the moneys are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto bills in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling bills by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills—the veto of which is set forth in clause 2:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

While the clause does not explicitly set out the executive authority to veto individual items of appropriation, the context and practice are evidence that that was its purpose. According to noted historian Prof. Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution of 1780. In his article entitled ''The Framers' Conception of the Veto Power,'' published in the monograph, ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), Professor McDonald explains that this provision dates back to the State's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the Governor's veto power by appropriating money through ''votes'' rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of article I, section 7, precisely because it ''made too strong a line-item veto in the hands of the President.''

Federalists, on the other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratifying convention, James Bowdoin, the Federalist Governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, as I have already noted, the Governor had enjoyed the right to veto or reduce by line-item since 1733.

In the Federalist No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont—soon to be the first new State admitted to the new union—also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the chairman of the Appropriations Committee, has made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the Framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the Framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The Framers knew that the vice of faction, the desire to pursue one's private interest at the expense of the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that by diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, but mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our Government must contend. With so many different factions, or ''interest groups'' as we call them today, it is much easier for one of them to capture a single Member of Congress to advance its cause and to fund it. Each Representative has a much narrower focus than a Senator, each of whom has a much narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one Member who wants a favor for a particular faction trades his or her support for another Member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately, the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their own private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force Members to be more accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished chairman of the Appropriations Committee, contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the Framers of the Constitution intended that the President have the authority to veto individual items of appropriations. Thus, in their concept, the line-item veto does not offend the balance of powers.

The second response is related to the entire structure of the Government. The Constitution places the power of the purse in the hands of Congress. It is a peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structural importance of the veto in the Federalist 73, when he wrote that the veto provides ''an additional security against the enaction of improper laws * * * to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of [the legislative] body'' from time to time. The Framers were acutely aware that it is the legislative branch that is most susceptible to factional influence. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily relies on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly contradicts the Framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the Framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the Framers' conception of the veto power. Indeed, that is not surprising, as the Framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the Framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the Framers of the Constitution. Madison and the others who met in Philadelphia in 1787 were not just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so than the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the Framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the Framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York, where the Governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the Governor the power of ''revision of all bills'' subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the Governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1790 tracked the language of article I, section 7, clause 3 of the new U.S. Constitution.

The chief executives of both the State and new Federal governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to excute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But President Grant's view was anomalous. The Framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriation. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The Framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the Executive the authority to line-item veto. Given President Clinton's use of the line-item veto as Governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

Mr. President, with these documents in the RECORD, there will be a reasonably full explanation of the legal basis for the line-item veto and the two resolutions which I am submitting for consideration of the Senate and which will be on the record when the Judiciary Committee next holds its hearing on this subject.

I thank my colleagues for the time I have taken.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

MEMORANDUM

Re Presidential authority to exercise a line-item veto

The President currently enjoys the authority under the Constitution to exercise a line-

item veto without any additional constitutional or statutory authority. The consistutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto ''bills.'' This is the basis for the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill was not discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling ''bills'' by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virigina proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills:

''Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill [these being set forth in article I, section 7, clause 2].''

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clauses 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper ''The Framers' Conception of the Veto Power,'' published in ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through ''votes'' rather than legislation. Professor McDonald has also noted in an oped article published in the Wall Street Journal, that the agents of the King of England could disapprove or alter colonial legislative enactments ''in any part thereof.''

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut ''thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury.'' No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed only insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 ''made too strong a line-item veto in the hands of the President.'' The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the lint-item veto was exercised by the governor. In ''The Federalist'' No. 69, Alexander Hamilton wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 hundred years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the strictures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, ''votes taking money out of the Treasury.'' In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalists, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on at least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charters to the new Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, ''The Line-Item Veto: An Appraisal,'' the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of State ''an exposition of my reasons for giving [the bill] my sanction.'' Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant Administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article ''An Item Veto for the President?'' 12 Presidential Studies Quarterly 66 (1982), ''[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title.''

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the Congressional Record on February 27, 1942. Chairman Sumners was of the view that the term ''bill'' as used in clause 2 of section 7 of the first article was intended to be applied narrowly to refer to ''items which might have been the subject matter of separate bills.'' This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumners' reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, November 9, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Following up on our conversation on Air Force One enroute to Pittsburgh last week, I am enclosing for you a copy of a statement which I presented on the Senate floor today together with a memorandum of law on your power to exercise the line-item veto without a constitutional amendment or statutory authority.

The essence of the position is that Article I, Section 7, Clause 3 of the U.S. Constitution adopted language from the Massachusetts Constitution which authorized the line-item veto. Pennsylvania, Georgia, Vermont and Kentucky included that phrasing to enable their governors to exercise the line-item veto. Presidents Jefferson, Jackson and Tyler refused to execute portions of congressional appropriations enactments constituting a line-item veto.

Again my thanks for including me in last week's trip to Pennsylvania.

My best.

Sincerely,

ARLEN SPECTER.

THE WHITE HOUSE,
Washington, DC, December 18, 1993.

Hon. ARLEN SPECTER,
U.S. Senate,
Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter discussing the President's power to exercise line-item veto authority. Your remarks on the Senate floor, as well as the memorandum of law enclosed, are thoughtful statements on the issue, deserving of considered attention. I appreciate your sharing them with me.

As you know I have supported granting the President line-item veto authority legislatively. I believe that H.R. 1578 as passed by the House, which provides for a modified line-item veto, represents a good compromise that would go a long way toward achieving the purposes of a line-item veto. I hope that I will continue to have your support in the effort to control spending and eliminate undesirable items of spending.

With best wishes,

Sincerely,

BILL CLINTON.

SENATE RESOLUTION 61—RELATIVE TO THE PRESIDENTIAL VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 61

Whereas article I, section 7, clause 2 of the Constitution authorizes the President to veto bills passed by both Houses of Congress;

Whereas article I, section 7, clause 3 of the Constitution authorizes the President to veto every ''Order, Resolution, or Vote'' passed by both Houses of Congress;

Whereas during the Constitutional Convention, Roger Sherman of Connecticut opined that article I, section 7, clause 3 was ''unnecessary, except as to votes taking money out of the Treasury'';

Whereas the language of article I, section 7, clause 3 was taken directly from the Constitution of the Commonwealth of Massachusetts of 1780;

Whereas the provision of the Massachusetts Constitution of 1780 that was included as article I, section 7, clause 3 of the United States Constitution vested in the Governor of Massachusetts the authority to veto individual items of appropriation contained in omnibus appropriations bills passed by the Massachusetts Legislature;

Whereas the Governor of Massachusetts had enjoyed the authority to veto individual items of appropriation passed by the legislature since 1733;

Whereas in explaining the purpose of the constitutional veto power, Alexander Hamilton wrote in The Federalist No. 69 that it ''tallies exactly with the revisionary authority of the council of revision'' in the State of New York, which had the authority to revise or strike out individual items of appropriation contained in spending bills;

Whereas shortly after the new Federal Constitution was adopted, the States of Georgia, Pennsylvania, Vermont, and Kentucky adopted new Constitutions which included the language of article I, section 7 of the Federal Constitution, and allowed their Governors to veto individual items of appropriation on the basis of these provisions;

Whereas the contemporary practice in the States is probative as to the understanding of the framers of the Constitution as to the meaning of article I, section 7, clause 3;

Whereas President Washington, on a matter of presidential authority, exercised the prerogative to shift appropriated funds from one account to another, effectuating a line-item veto;

Whereas President Jefferson considered appropriations bills to be permissive and refused on at least two occasions to spend funds appropriated by the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Constitution grants to the President the authority to veto individual items of appropriation and

(2) the President should exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, January 17, 1995, at 10 a.m. in open and closed sessions to discuss the worldwide threat to the United States.

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

MAKING MAJORITY PARTY APPOINTMENTS TO COMMITTEES ON SMALL BUSINESS AND AGING

Mr. LOTT. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 57) making majority party appointments to the Small Business and Aging Committees for the 104th Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

So the resolution (S. Res. 57) was agreed to, as follows:

Resolved, That the following shall constitute the majority party's membership on the following Senate committees for the 104th Congress, or until their successors are appointed:

Small Business: Mr. Bond (Chairman), Mr. Pressler, Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, Mr. Frist, and Ms. Snowe.

Aging: Mr. Cohen (Chairman), Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, and Mr. Thompson.

PROVIDING FOR MEMBERS OF JOINT COMMITTEES ON PRINTING AND THE LIBRARY

AUTHORIZING PRINTING OF SENATE RULES

Mr. LOTT. Mr. President, I send to the desk two resolutions regarding Rules Committee routine matters and ask unanimous consent for their immediate consideration, en bloc, that they be agreed to, en bloc, and the motion to reconsider be laid on the table, en bloc.

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

So the resolutions (S. Res. 58 and S. Res. 59) were agreed to, as follows:

S. RES. 58

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Ted Stevens, Mark O. Hatfield, Thad Cochran, Wendell H. Ford, and Daniel K. Inouye.

Joint Committee on the Library of Congress: Mark O. Hatfield, Ted Stevens, Thad Cochran, Claiborne Pell, and Daniel P. Moynihan.

S. RES. 59

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

ORDERS FOR TOMORROW

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. on Wednesday, January 18, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of routine morning business not to go beyond the hour of 12 noon, with Senators permitted to speak for not more than 5 minutes each with the following Senators permitted to speak for the designated times: Senator INHOFE, 10 minutes; Senator THOMAS, 10 minutes, and Senator CAMPBELL for 5 minutes.

I further ask unanimous consent that at the hour of 12:00 p.m. the Senate resume consideration of S. 1, the unfunded mandates bill, and pending at that time will be the committee amendment No. 11 dealing with jurisdiction.

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, I advise the Members that votes are expected throughout the day on Wednesday and late into the night, in order to make progress on the bill. Senators should be on notice that a cloture motion was filed on the bill this evening. Therefore, a cloture vote will occur on Thursday.

Also, Senators should be aware that first-degree amendments should be filed at the desk no later than 1 p.m. tomorrow to be in order to the bill under a postcloture situation.

RECESS UNTIL WEDNESDAY, JANUARY 18, 1995, AT 11:30 A.M.

Mr. LOTT. 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 7:37 p.m., recessed until Wednesday, January 18, 1995, at 11:30 a.m.

EXTENSIONS OF REMARKS

INTRODUCTION OF THE CITIZENS' TAX RELIEF ACT OF 1995

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. OWENS. Mr. Speaker, most Americans seem to agree that a tax cut is desirable, since they have become anxious while watching the Nation's economy plunge deeper into global interdependence. But Congress must be responsible enough to rein in the deficit simultaneously so that Americans do not end up paying higher taxes in the future. My proposal, the Citizens' Tax Relief Act of 1995, would successfully accomplish this delicate balancing act.

The 1990 Budget Enforcement Act—1990 act—requires that any cuts in taxes must be paid for with equal cuts in mandatory spending—entitlement programs such as Medicare and Social Security—or with increases in other taxes, not with cuts in discretionary spending. This pay-as-you-go rule has been invaluable in beginning to get a handle on the Nation's deficit.

Unfortunately, Democrats and Republicans alike appear ready to cast aside this proven tool of fiscal responsibility. Members on both sides of the aisle are toying with the idea of lowering the 5-year budget caps on discretionary spending, thereby forcing the appropriations committees to spend less. But according to the Congressional Budget Office [CBO], lowering the caps in a budget-reconciliation bill to pay for a tax cut is purely speculative. It is no different than what Republicans have been accusing Democrats of for years—spending first while promising to pay later.

Another option being considered is amending the 1990 act to break down the walls between mandatory and discretionary spending. Since this move would buy Members of Congress time in making difficult choices about cuts in entitlement programs, the result would likely be a deficit which continues to balloon.

For the reasons I have outlined, Congress must not take the easy way out. Instead, we must at least match proposed tax cuts with entitlement cuts or increases in other, more targeted taxes. The Citizens' Tax Relief Act of 1995 would do just that.

This bill would lower the first income tax bracket from 15 to 12.5 percent, giving every American a tax cut. To pay for it, a huge tax loophole would be eliminated—the favorable tax treatment of inherited property. To be equitable, the bill also would exempt from taxes the first $250,000 of capital gains on the sale of inherited homes—which is currently available only to individuals over the age of 55 and only for the first $125,000—and provide lower capital gains tax rates on the inherited property of heirs who pay the tax in the first 4 years after enactment of the bill.

Currently, when a person dies and leaves property to a family member, the amount by which that property increased in value during the person's lifetime is never taxed. Such a policy is fundamentally unfair considering that if the same person sells the property before dying, the individual is taxed on the gain. My bill would reverse that policy.

A study conducted by two Cornell University professors showed that more than 10 trillion dollars' worth of property will be inherited over the next 45 years. That means that there will be several trillion dollars of capital gains that should be taxed. If Congress takes advantage of this opportunity, we would have more than enough money to pay for my proposed tax cut, so that the bill actually would increase the revenues of the Federal Government. With the money left over, we could invest in job creation programs.

Mr. Speaker, I urge all of my colleagues to support this bill in order to achieve the three goals of increasing Americans' disposable income, creating jobs for everyone who is willing and able to work, and getting the Nation's fiscal house in order.

TRIBUTE TO FLOYD R. SCOTT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. PALLONE. Mr. Speaker, on Friday, January 6, 1995, Mr. Floyd R. Scott, Jr., of Tinton Falls, NJ, died at the age of 67. I rise today to join with the many friends, colleagues and fellow-community activists who knew Mr. Scott to pay tribute to this fine man.

A registered architect in the States of New Jersey and New York, Mr. Scott was past president of the New Jersey State Board of Architects and a past State chairman of the Committee on Preservation of Historic Buildings in New Jersey. To date, he is the first and only African-American appointee to the New Jersey State Board of Architects.

Mr. Speaker, the list of Floyd Scott's accomplishments is a long and impressive one. Born in Asbury Park, NJ, he attended local schools while growing up in Monmouth County. Mr. Scott was an Air Force World War II veteran, serving as a member of the Tuskegee Airmen, the famous 332nd fighter group, the first all-black pilot group. He earned his bachelor's degree in architecture at Howard University. He is listed in both the Who's Who in the East and the American Encyclopedia. Mr. Scott was a former president of the Neptune Township Board of Education, a member of the Rider College Board of Trustees, and a member of the Brookdale Community College Trustee Selection Committee. He was a past president of the Monmouth Boys Club, the Monmouth Council of Boy Scouts, the Monmouth County Men's Club and the Second Baptist Church of Asbury Park. He is a recipient of the NAACP's Distinguished Service Award.

Mr. Scott is survived by his wife, Ruby Scott, a son, Rudolph, his brother, Ed Royal Scott, and three grandchildren.

Mr. Speaker, Mr. Scott has served his community, his State and his country in an exemplary manner. In extending my deepest sympathy to his beloved wife, the rest of his family and his many friends, I hope we can all gain strength and inspiration from the fine example he set for hard work and distinguished achievement in his profession, love and devotion to his family, and dedication to making his community a better place.

INTRODUCTION OF THE STUDENT LOAN EVALUATION AND STABILIZATION ACT

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. McKEON. Mr. Speaker, I join today with Representative BILL GOODLING, chairman of the Economic and Educational Opportunities Committee, and other members of the committee and with our Democratic colleagues in the introduction of the Student Loan Evaluation and Stabilization Act. This legislation is urgently needed in order to ensure the stability of the Federal student loan program that provide access to higher education opportunities for our Nation's students.

In 1992, when Congress reauthorized the Higher Education Act, extensive consideration was given to the concept of a Government direct lending program. After long and thoughtful deliberation, the House-Senate Conference Committee which was dominated by Democratic Members from both bodies of Congress, agreed to try a direct lending program over a period of several years on a pilot basis consisting of approximately 4 percent of new student loan volume.

One year later, during the budget reconciliation process, the complete phase-out of the Federal Family Education Loan Program was initiated by the administration in favor of a direct Government lending program. The pilot agreed upon during the 1992 reauthorization which allowed for a thorough evaluation of the program was no longer important. A swift move to a direct Government lending program was adopted in order to achieve budget savings. The administration continues to promote its direct lending program on the basis of the $4.3 billion in savings even though the Congressional Budget Office has estimated that approximately one-half of those savings disappear when long term administrative costs are included in the cost determination.

The administration also continues to promote the concept of public/private partnerships while moving forward with plans to eliminate a public/private partnership that has been successful ever since passage of the Higher Education Act in 1965. Over the years, Congress has taken steps to strengthen this partnership by requiring improved service to students while reducing both student and program costs. Before Members of Congress are able

to determine which loan program meets the needs of students, institutions, and taxpayers, we need a thorough evaluation of both programs and the bill we are introducing today allows for such an evaluation.

The bill allows for a much larger pilot than was contemplated under the 1992 amendments to the Higher Education Act, but we believe that a pilot consisting of 40 percent of new loan volume will permit Congress to carefully oversee and evaluate its implementation. At the same time, we will be maintaining a stable Federal Family Education Loan Program for those institutions not wishing to participate in a Government direct lending program. When both programs are fully operational, Congress will be able to fairly evaluate the programs for efficiency and cost effectiveness prior to making decisions to totally replace one program with the other.

Specifically, this bill provides for the continued implementation of the direct loan program at those institutions selected for participation in order to achieve 40 percent of new loan volume. It calls for increased congressional oversight with respect to the expenditure of funds on the part of the Department of Education and a revision to budget scoring rules that will correct the existing bias in favor of direct lending programs described by Rudolph Penner, former Director of the Congressional Budget Office, in his testimony before the Budget Committees of the U.S. House of Representatives and U.S. Senate on January 10, 1995. We have attempted to ease the application process for all students participating in the student aid programs to ensure that all students are treated in the same manner. Most importantly, we have provided stability to the student loan programs which are vital to the continued access to higher education for the students of this country.

In my new role as chairman of the Subcommittee on Postsecondary Education, Training and Life-Long Learning, I look forward to working with Chairman GOODLING and all the members of the subcommittee and full committee as we work to reform and improve the education and workplace policy programs under our jurisdiction.

CLINTON WRONG ON EIGHTIES

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. BAKER of California. Mr. Speaker, it has become fashionable in some quarters, including the White House, to dismiss the 1980's as a time of greed and venality, in which the rich exploited the poor and the Federal Government's deficits went wild due to the economic policies of the Reagan administration.

In today's edition of my hometown paper, the Contra Costa Times we read a lucid, compelling refutation of the President's misguided perspective. As the editorial in the Times notes, the eighties were a time of unprecedented economic growth. New jobs, rising wages and lower inflation followed the Reagan program. Yes, deficits grew—because a Congress without fiscal discipline spent without restraint.

I am including this outstanding editorial in the CONGRESSIONAL RECORD because it is a needed corrective to the relentless stream of misinformation we hear all too often about the Reagan era. I hope that many of my colleagues will take the time to read it.

CLINTON WRONG ON 1980'S—PRESIDENT SHOULD FOCUS ON PROBLEMS OF 1990'S

President Bill Clinton made a major mistake when he claimed that Republicans had disavowed Reaganomics and that Congress made a mistake in 1981 ''to adopt a bidding war in the tax cuts that gave us what became known as ''trickle-down economics' and quadrupled the national debt.''

Republican leaders were quick to point out that they never attacked Reagan's policies and that Clinton was dead wrong about the cause of the deficit.

The president's remarks are hardly a way to begin a bipartisan effort to control federal spending and bring about needed reforms in government programs.

Equally disturbing is the view Clinton and many others in positions of power have of the 1980s.

Reagan's tax policies, which received wide bipartisan support at the time, can hardly be blamed for mounting deficits. Even though tax rates were reduced, government revenues grew dramatically, nearly doubling in the 1980s.

As a percentage of gross domestic product, tax revenues remained nearly constant. What grew during the 1980s was government spending.

Clinton also was wrong in saying that under Reagan the poor got poorer while the rich got richer. That's only half true. Wealthy people indeed gained economically in the 1980s, but so did the poor and middle classes.

According to the Department of Commerce, even the poorest one-fifth of Americans gained income in inflation-adjusted dollars in the 1980s, as did every other major income grouping.

More than 19 million jobs were created in the 1980s, unemployment dropped by one-fourth, inflation dropped by two-thirds, and the country enjoyed a prolonged economic expansion. That's a record Republicans are not about to back away from.

It's time for Clinton to stop campaigning against the 1980s and work together with the GOP to correct the problems of the 1990s.

END CHILDHOOD HUNGER—NOT NUTRITION PROGRAMS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. HALL of Ohio. Mr. Speaker, we all agree that welfare needs to be reformed—but we should not throw the baby out with the bath water. The Personal Responsibility Act contains a proposal to block grant current Federal nutrition programs such as WIC, Food Stamps, and the School Breakfast and Lunch Programs. It would remove their entitlement status. It would reduce their funding levels. This would be a terrible mistake.

Block granting these programs would in all likelihood increase hunger amongst our Nation's children. States will now have to bear the burden of administering the programs with less funding. States will be forced to make extremely difficult choices like reducing funding for WIC or eliminating the School Breakfast Programs because they are short of funds.

I believe it is part of the Federal Government's job to set priorities for our Nation and for me, our children are the priority. We can't, in good conscience, be unmoved when children go to bed hungry at night. We can't just send the issue of childhood hunger to the States and hope the problem goes away.

These food assistance programs serve as an important safety net for children. The Food Stamp Program alone serves 10 percent of the population in America—half of which are children. We know that for every dollar spent on WIC, we save $5 in health care costs later on down the road. We know that every child who participates in the School Breakfast Program is better able to learn in school and thus is more prepared to meet the challenges of the 21st century.

It is time to end childhood hunger, not successful nutrition programs that feed hungry children.

INTRODUCTION OF THE STUDENT LOAN EVALUATION AND STABILIZATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. GOODLING. Mr. Speaker, today I am joining with several of my distinguished colleagues in the introduction of the Student Loan Evaluation and Stabilization Act—legislation that will allow a systematic review and evaluation of the current student loan programs. Specifically, this legislation will allow for the careful evaluation and comparison of the Federal Family Education Loan Program and the Federal Direct Student Loan Program to a true pilot status and allowing both programs to operate with continued stability for several years. Once this is accomplished, an independent evaluation can be made about whether the direct loan program serves students and institutions effectively, and whether the Federal Government can manage—and pay for—the multibillion-dollar student loan program which is so important to assuring access to higher education for millions of Americans.

Through the reconciliation process, the 103d Congress made policy considerations and decisions affecting the student loan programs without the benefit of a true evaluation of the long-term cost and effect. The impetus for the move to establish a direct Government lending program was projected budgetary savings of $4.3 billion over 5 years. When pressed, however, the Congressional Budget Office revealed that when the administrative costs associated with a direct determination, almost one-half of the savings disappear. Rudolph Penner, former Director of the Congressional Budget Office in testimony before the Budget Committees of the U.S. House of Representatives and U.S. Senate on January 10, 1995, identified this particular aspect of scoring a direct Government lending program as one of the arbitrary measures currently found in the Credit Reform Act which creates a strong bias in favor of using direct loans instead of guarantees.

While the Clinton administration was talking about promoting new public/private sector partnerships, they moved forward with their

proposal to dismantle one of the most successful of such partnerships. Participation of the private sector in the student loan program was summarily dismissed as being unnecessary and too costly. Notwithstanding the poor administrative record of the Government in the direct lending business, the belief that direct Government lending would lead to major improvements and lower costs in the student loan program was the overriding theme.

However, with the advent of the new Congress, we have determined that a careful comparison of programs for efficiency and cost effectiveness needs to be undertaken before decisions to totally replace one program with another can be made with any degree of confidence. We believe this to be particularly true when dealing with a loan program projected to be in the magnitude of $30 billion by 1998.

The legislation we are introducing today is designed to stabilize the current student loan programs, limit the loan volume in the Direct Loan Program to those institutions which have elected to participate in the first 2 years, continue the improvements which have already been initiated, and increase and enhance the congressional oversight of these particular programs. We pledge that the Congress will thoroughly evaluate the quality, effectiveness, efficiency and costs associated with these programs so that Members of this body are able to make informed decisions about what works for students, institutions and American taxpayers.

Specifically, this bill will allow for: First, the continued implementation of the Federal Direct Student Loan Program; second, the continued stability of the Federal Family Education Loan Program; third, reduced expenditures on the part of the Department of Education; fourth, improved Congressional oversight of expenditures; fifth, ease in the application process for all students; and sixth, a revision to the Congressional Budget Act which will provide truth in budget scoring when determining costs associated with a guaranteed loan program and a direct Government lending program. I believe these are all important steps that this Congress needs to take in order to compare and evaluate programs while continuing to support our country's students in the pursuit of their education goals.

I want to express my pleasure at having the opportunity to work with BUCK MCKEON, the new chairman of the Subcommittee on Postsecondary Education, Training and Life-Long Learning, as he and the other subcommittee members tackle the important issues facing the 104th Congress in the areas of education and workplace policy.

I also want to express my gratitude to BART GORDON and my other Democratic colleagues who have helped to create this bipartisan effort and who share my concerns about integrity and accountability in the student aid programs. This bipartisan group has steadfastly voiced concerns with respect to this untested, expansive direct Government lending program and its long-term implications.

PRAISE FOR BILL STOUFFER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. SHUSTER. Mr. Speaker, few of us in this body would achieve much success if not for the help of the local officials in the towns and cities of our districts which we represent. These local officials are often the catalysts behind legislation which reaches both the State and Federal levels. Unfortunately, the selfless work of these men and women who serve the public at the local level all too often goes unrecognized. Today, Mr. Speaker, I rise to pay tribute to such a local official from my congressional district, who has dedicated his life to serving the community in which he lives. The man I am speaking of is Mr. Bill Stouffer of Altoona, PA.

Bill Stouffer has devoted the majority of his life toward serving and helping the people around him. He graduated from Altoona High School in 1940 and immediately answered the call of his country as a U.S. Marine Corps combat soldier. He has been noted as one of the first Americans to enter Nagasaki after the bomb was dropped. After the war, Bill worked for the city of Altoona as an electrical foreman for 18 years, earning a reputation amongst his peers as a man of integrity and character. This reputation enabled him to seek and win election to the Altoona City Council. He served as a city councilman from 1964–71 and in doing so distinguished himself as a community leader with a vision for a better tomorrow.

In 1972, Bill Stouffer was elected mayor of the city of Altoona. During his tenure as the city's mayor the area reaped the benefits of his leadership. Examples of this benefit can be seen in projects such as the construction of the 10th Avenue Expressway, the 11th Street tower, the water treatment plant, and the expansion of the Penn State Altoona campus. these projects and others like them helped to both create jobs and improve the quality of life for the people of Altoona.

In 1980, Bill Stouffer moved on to serve as a Blair County commissioner. As commissioner I asked him to chair a local committee to help bring the FAA Flight Service Center to the Altoona-Blair County Airport. It came as no surprise to me when Bill went after this task without hesitation, organizing and mobilizing a group of individuals to help make our case to the FAA. Although the Altoona area faced fierce competition from other cities including Pittsburgh, we were able to obtain the flight service center. This accomplishment would not have been possible if not for Bill's tireless work and undying commitment to the project.

Mr. Speaker, recently my good friend and colleague, Bill Stouffer, announced that he would not seek reelection to another term as county commissioner. While I am sad to see him go, I know that Bill's work within the community is far from finished. Bill will move on to become more deeply involved in his already extensive work with his church and other civic activities such as the Salvation Army, the Altoona Kiwanis, and a women's prison ministry which he himself established. In closing, Mr. Speaker, I would like to take this opportunity to salute Bill Stouffer for his more than 30 years of service to the community which he loves, and wish him the best of luck in his future endeavors.

NEBRASKA CORNHUSKERS ARE FOOTBALL'S NATIONAL CHAMPIONS IN EVERY WAY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. BEREUTER. Mr. Speaker, the Nebraska Cornhuskers' thrilling victory in the Orange Bowl on New Year's Day was an exhilarating success for the entire State. This Member joins all Nebraskans in extending hearty congratulations to Coach Tom Osborne and the Nebraska Cornhuskers on being named college football's national champions.

As important as this victory was for Nebraska, this Member believes it also sends an important message to all Americans. Everyone would do well to study the lessons offered by Coach Tom Osborne and the Huskers throughout the 1994 season. The Huskers' perfect season, the exciting Orange Bowl win, and the resulting national championship tell a compelling story about the importance of perseverance, hard work, and commitment to a goal.

The entire Cornhusker team was intensely motivated from the beginning of the year to complete its unfinished business. This incentive enabled the Big Red to rise above numerous obstacles along the way. Many so-called football experts counted the Huskers out when their star quarterback was unable to play and his backup suffered an injury as well. What wasn't taken into consideration was the absolute dedication of the entire team to turn it up a notch to get the job done. This same determination shone brightly when the team was trailing the University of Miami on their home field, in the Orange Bowl, during the fourth quarter. The Huskers pulled together as a team and found a way to completely stymie the Miami team and win.

The Huskers are clearly a reflection of their outstanding coach, Dr. Tom Osborne. During his 22 years as head coach, Osborne has earned national respect and praise for his coaching expertise, integrity, high academic motivation, and genuine concern for his players. He has set exemplary standards for excellence and character both on and off the field. Nebraska and NCAA football are certainly fortunate to have such an exceptional coach and role model.

Nebraskans have always considered Coach Osborne and the Huskers to be champions. It is certainly gratifying to see that the overwhelming majority of the country agrees. In conclusion, this Member commends to his colleagues the following article from the January 3, 1995, edition of the Lincoln Journal congratulating the Nebraska Cornhuskers on their outstanding success. Go Big Red.

[From the Lincoln Journal, Jan. 3, 1995]

HUSKERS: N CREDIBLE!

In the world of sports, as in the rest of the world, the good guys don't always win. In the 22 years since they won their last national title, a succession of very good Nebraska Cornhusker football teams has learned that, no matter how much they train and try, the other guys are sometimes better.

But not this time. The pollsters have spoken—thunderously. The good guys are the best there is.

This city and this state spent Monday basking in the glow of an undefeated season and an Orange Bowl victory. Tuesday, although a day back at work, is a day to bask in the glow of a national title.

Wednesday Nebraskans can remind themselves that football and all sports are only small parts of what the billboards at the borders advertise as The Good Life. They can get on seriously with 1995.

But not before one more warm embrace with some brand new and sparkling memories—of a coach who demonstrates, even in winning it all, his faithfulness to priorities that go beyond winning, of a team that leaves taunting to opponents foolish enough to waste their energy on it, and of a Big Red army that kept the faith.

In all those bars and bowling alleys and coffee shops across Nebraska, on all those charts where a dozen victories were joyfully recorded, victory No. 13 is now writ large: Nebraska 24, Miami 17.

The 1994 football season ended as it began. It was N credible!

TRIBUTE TO STEPHEN J. CAPESTRO

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. PALLONE. Mr. Speaker, last year, the people of Middlesex County, NJ, lost one of their greatest and most popular public servants with the passing of Mr. Stephen J. Capestro. The death of Mr. Capestro has, for me, meant the loss not only of a top political leader, but of a good friend.

In December 1992. Mr. Capestro retired from elected public office after having served 24 years as a Middlessex County Freeholder. For 13 of these years, he served as the board's director. During those years of distinguished service, Steve Capestro's was a name and a face synonymous with dedication and good government. Shortly after his retirement, on May 27, 1993, Steve was honored with a testimonial dinner in Edison, NJ, which was attended by a wide array of State, county, and local political leaders from both parties, as well as many other community leaders. It was a most fitting tribute to a man who had made such a profound impact on his community, but it is sad that this proved to be one of the last occasions for many of Steve's friends and well-wishers to see him.

A native of Brooklyn, NY, Steve's family relocated to New Jersey where ''Cap,'' as he was known to his classmates, graduated from Toms River High School. Steve was a four-sport athlete, and was active in many other organizations. He attended Franklin and Marshall University in Pennsylvania on a football scholarship, was active in student organizations and maintained honor roll grades. He went on to New Jersey's Rutgers University, where he was on the varsity football team for 3 years and earned the nickname the ''Golden Toe'' for his extra point kicking. He also held down various jobs throughout his college years. In fact, it was while working at the Raritan Arsenal that he met Miss Vivian Testa, whom he would go on to marry. But first, after graduating from Rutgers, Steve went into the Army and served as a paratrooper with the Office of Strategic Services during World War II. He received a medical discharge in 1945.

An active member of his church and community, Steve, along with other parishioners of Holy Rosary Church started one of the first Little Leagues in New Jersey. After years as a self-employed businessman, he was appointed director of health and welfare, parks and recreation of Edison Township. He became a Middlesex County Freeholder in 1968, serving as director of the board from 1979 until his retirement in 1992. From 1978 through 1984, Steve worked for the New Jersey Highway Authority, and was heavily involved in the senior citizen programs, ethnic festivals and other activities at the Garden State Arts Center.

Steve's commitment to his church and his community was well-known. The list of his civic memberships, accomplishments, and awards is a long one, so it's no coincidence that the list of people who volunteered to help organize his testimonial dinner was also quite long. Perhaps the best indicator of the type of official and the type of man that Steve was comes through in his own assessment of his life and career: ''Life has been a lot of fun for Steve Capestro. Working with people is the greatest thrill of all. Working with the public is and always has been a pleasure and an honor.''

For those who knew him personally, and for those who only knew of him through his work, this statement was pure Steve Capestro. Indeed, the public and private sides of Steve were the same person—straight-forward, down to earth, someone who genuinely enjoyed working with people. For his friends, colleagues and the many others who benefited from his years of exemplary pubic service, Steve Capestro will truly be missed. I extend my deepest sympathies to Vivian and hope that the many tributes to Steve will be at least some comfort to her.

Mr. Speaker, to my colleagues, in this House, I would say that the life and the public career of Steve Capestro represents everything that we should strive to be.

IN TRIBUTE TO ED MADIGAN

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. FAWELL. Mr. Speaker, I rise to pay tribute to my former colleague in the House, my dear colleague from the State of Illinois and, moreover, my good friend, Ed Madigan.

I had the honor of serving with Ed Madigan in Congress from 1985 to 1991. Ed was one of the Members of the Illinois delegation, and of the entire Congress, that I most respected and from whom I frequently sought counsel and advice.

For those of my colleagues who did not have the honor of serving with Ed in Congress, he served 10 terms in the House from Illinois' 15th Congressional District. For 8 years he was the ranking member of the House Agriculture Committee, and served on that committee for a total of 18 years. There was no greater authority in Congress on farm issues than Ed Madigan, and I often sought Ed's views on farm issues when they came before the House.

But Ed was not only a leader on agriculture issues. While in the House, he served as chairman of the Republican Research Committee, and was a senior member of the House Committee on Energy and Commerce.

Of course, in 1991, President Bush named Ed the Nation's 24th Secretary of Agriculture. As Secretary, Ed was designated by President Bush to serve as the lead negotiator on the agriculture portion of the trade negotiations under the GATT.

However, Ed Madigan is best remembered by me as simply a very good friend. Although when I first came to Congress, Ed was an eminently successful Member. He was never too busy to give me a listening ear. His success in politics never went to his head. With Ed, what you saw was what you got. There were no pretensions. He was a friend who could put one at ease precisely because he was interested in other people's concerns. I do not believe I ever heard anyone in Congress, or, for that matter, anyone in my presence ever say anything derogatory about Ed Madigan. I know I shall miss him. He leaves a rich legacy for all of us who were privileged to have known him.

BAN ON SATURDAY NIGHT SPECIALS

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. GUTIERREZ. Mr. Speaker, the opening day of the 104th Congress, I reintroduced my bill, H.R. 250, to ban the manufacture and sale of Saturday Night Specials. I did so because I know these guns are used to commit crimes, from armed robbery to murder, every day. As crime in this country has grown so has the prevalence of Saturday Night Specials. I believe that taking these dangerous weapons off of our streets is a key to reducing violent crime and saving the lives of our Nation's citizens.

We have all heard the cliche ''Guns don't kill people; people kill people.'' However, on the streets of our cities and in the schools of our neighborhoods guns kill people, some types of guns kill more often than others. Although we have successfully banned semi-automatic assault type weapons, we have failed to ban Saturday Night Specials, a type of handgun that dominates ATF's list of guns used most often in crime. One model, the Raven P–25, has topped that list since 1991.

Saturday Night Specials are cheap, easily concealed handguns. Many sell for between $70 and $115 while the average handgun costs approximately $400. Often they are made with deficient materials and do not possess any safety features. The guns my legislation addresses have already been banned from import by ATF because of their inherently dangerous characteristics. Five of the ten guns traced most often to crime by ATF in 1994 would be banned under the import criteria. Additionally, of all crimes committed with guns appearing on ATF's top ten list, the percentage committed with Saturday Night Specials increased from 58 percent in 1991 to 73 percent in 1994. ''Made in America'' usually means quality and pride, but not in the production of Saturday Night Specials.

Just recently, Intratec, famous for the TEC–9 semi-automatic, introduced the CAT–9 semi-automatic pistol. This new weapon weighs just 18 ounces and measures 5.74 inches overall, perfect for any criminal. Not only is it relatively cheap and very small, it has the capability to shoot seven rounds of 9 mm ammunition in a short amount of time. Guns and Ammo found that it is ''designed for relative ease of concealment and close range shooting.'' I know of no sporting or defensive purposes that demand such features. This gun, too, would be banned under the import criteria but instead is in full production today.

Crime with guns is increasing. Saturday Night Specials, because of their design, are clearly the favorite weapon of criminals. H.R. 250 uses the same criteria ATF established for imports and does not apply to all handguns. Therefore, it is both easily implemented and easily enforced.

The basic fact is that passage of such legislation is critical to the survival of too many people for us to ignore.

HONORING THE WARSAW HIGH SCHOOL MARCHING PERCUSSION ENSEMBLE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. ROEMER. Mr. Speaker, today I honor a dedicated and committed group of young people from my home district. This talented group of 24 young men and women make up the Warsaw, Indiana High School Marching Percussion Ensemble. Marching with the Tiger Pride Marching Band, the ensemble has earned distinction repeatedly over the years, and continues to strive for, and achieve, the highest standard of quality.

Having garnered numerous honors and titles in their young careers, the ensemble recently capped their success by winning the 1994 Grand National Indoor Percussion Championship at the Bands of America Competition in Indianapolis. Making their achievement all the more impressive is that this is the third consecutive year that the Warsaw ensemble has won the national championship. This is something in which they can and should take tremendous pride. This is also something in which our community can take great pride.

In addition to spending numerous hours in rehearsal, these 24 young people carry full class loads, study hard, belong to clubs, attend church with their families, and enjoy time with their friends. They have worked hard and deserve our recognition, support, and commendation.

Mr. Speaker, I also want to take this opportunity to applaud Band Director Marty Becker and Percussion Director Mickey Ratliff who have given so much of their time, energy, insight and enthusiasm to the young people of the Warsaw community. Clearly, they have used their position as teachers to the great benefit of their students, and I and the community they serve are grateful.

NATIONAL APPRECIATION DAY FOR CATHOLIC SCHOOLS

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. SCHUMER. Mr. Speaker, on February 1, 1995, America will celebrate National Appreciation Day for Catholic Schools. It is certainly appropriate that we acknowledge the institutions that are preparing our young people for fulfilling lives of service, dedication, and achievement.

Over the years, this Nation's Catholic schools have educated thousands of students. They have given each child a high academic, value-added education that inspired him or her to grow and become a person of integrity and service. All students, regardless of race, creed, color, or gender are given the opportunity to learn, succeed and become contributors to the community.

This year's theme is Catholic Schools: Schools You Can Believe In. I am especially proud that a Catholic school in my district, Saint Athanasius in Bensonhurst truly embodies this idea. I would like to take this opportunity to commend them for the exceptional job they have done educating the young people in our community. Saint Athanasius School serves as an example in our community of how to prepare students to believe in themselves.

I know my colleagues in the U.S. House of Representatives will join with me in wishing Saint Athanasius and this Nation's Catholic schools many more years of success. It is clear that the men and women educators of these schools understand the value in investing in this country's most precious resource, our children.

THE ''MUST-CARRY'' REPEAL

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. BAKER of California. Mr. Speaker, I rise today to introduce legislation to repeal the must-carry provision of the Cable Act of 1992 in order to restore consumer choice.

The must-carry provision is a so-called consumer provision of cable regulation. However, it is the consumers who are hurt most by it. Cable television consumers are denied the ability to view many stations simply because the hands of the cable operators are tied by the must-carry rule.

Must-carry states that one-third of each cable operator's channel capacity must be reserved for local commercial broadcast stations. Local is defined as the area of dominant influence, or the closet metropolitan area. In many suburban areas, there is more than one major city nearby. In such cases, all stations from the closest city, regardless of appeal, must be carried, often at the expense of more popular stations from another city.

This legislation is a straightforward repeal of the must-carry rule. It will allow cable operators to listen to the wishes of consumers. The American people are sick and tired of Government telling them what to do. Repealing the must-carry rule is a step in the right direction.

DUTY DRAWBACK DISASTER RELIEF ACT OF 1995

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. BERMAN. Mr. Speaker, as we mark the 1-year anniversary of the devastating Northridge earthquake, some businesses in the Los Angeles area are still struggling to pick up the pieces and get back on their feet.

Despite the commendable efforts of FEMA Director James Lee Witt, former SBA Administrator Erskine Bowles, and HUD Secretary Henry Cisneros, a number of earthquake-damaged companies are at serious risk of falling through the cracks. Some of these face unique and unanticipated circumstances, and have thus been unable to qualify for the standard Federal disaster assistance programs.

To help one small subset of these needy businesses, I am once again introducing legislation that would provide an 18-month extension of the duty drawback filing period for businesses that sustain damage in a Presidentially declared disaster. Under current law, the Commissioner of Customs has no discretion to provide such an extension even if, through no fault of their own, businesses lose their records in a fire, flood, hurricane, tornado, earthquake, or other disaster.

This legislation would have an almost negligible budgetary impact, yet would be of crucial importance to the small number of businesses unable to file drawbacks when disaster strikes. The Customs Service, the Treasury Department, and the Office of the U.S. Trade Representative have all signaled their support for this legislation, and I hope it will be enacted by the Congress in a timely fashion.

H.R. —

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

SECTION 1. SPECIAL RULE FOR EXTENDING TIME FOR FILING DRAWBACK CLAIMS.

Section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)), is amended by adding at the end the following:

''(3)(A) Notwithstanding the limitation set forth in paragraph (1), the Customs Service may extend the time for filing a drawback claim for a period not to exceed 18 months, if—

''(i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994, and

''(ii) the claimant files a request for such extension with the Customs Service within 1 year from the last day of the 3-year period referred to in paragraph (1).

''(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months.

''(C) For purposes of this paragraph the term 'major disaster' has the meaning given such term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).''.

COMMENDING R. JAMES WOOLSEY

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. COMBEST. Mr. Speaker, I would like to call to the Members' attention the following resolution which was recently passed in the House Permanent Select Committee on Intelligence.

TO COMMEND R. JAMES WOOLSEY FOR EXCEPTIONALLY DISTINGUISHED SERVICE TO THE UNITED STATES OF AMERICA

Whereas, R. James Woolsey has served the people of the United States of America in government and as a private citizen for over twenty-five years.

Whereas, R. James Woolsey began his public service with the United States Army in 1968 where he served as an advisor to the U.S. delegation to the Strategic Arms Limitation Talks, in the Office of the Secretary of Defense, and on the National Security Council Staff.

Whereas, R. James Woolsey went on the serve with distinction as a General Counsel to the U.S. Senate Committee on Armed Services, as Under Secretary of the Navy, as Delegate at Large to the U.S.-Soviet Strategic Arms Reduction Talks, and as Ambassador and U.S. Representative to the Negotiation on Convention Armed Forces in Europe, and as a member of several Presidential commissions.

Whereas, R. James Woolsey has served with distinction since February 5, 1993 as the Director of Central Intelligence.

Whereas, R. James Woolsey has worked diligently to lead the intelligence community to meet the demanding requirements of U.S. national security in an uncertain and unpredictable world.

Whereas, under the direction of R. James Woolsey, the intelligence community has provided excellent support to this nation in providing critical insights into the world hot spots—in Iraq, Somalia, Haiti, the former Soviet Union, and elsewhere; and followed and, when possible foiled, the proliferation of weapons of mass destruction, terrorist acts, and other activities inimical to U.S. national interests.

Whereas, R. James Woolsey has continued and further promoted the consideration and redirection of intelligence roles and missions while simultaneously coping with a dramatic reduction in fiscal resources and of personnel at over twice the rate directed by the President for the government at large.

Whereas, R. James Woolsey led the Central Intelligence Agency in the critically sensitive final stages of identifying and apprehending a traitor who had, in previous years, compromised some of its most valuable capabilities.

Whereas, R. James Woolsey judiciously and carefully began a complete revamping of personnel security practices and counterintelligence roles in the intelligence community to limit the possibility of a recurrence of such traitorous activity.

Whereas, R. James Woolsey used his tenure as Director of Central Intelligence to lay the groundwork for intelligence policies designed to support national security needs for the coming century.

Whereas, R. James Woolsey brought to his duties a commitment to improve effective Congressional oversight and to demystify and explain the mission of intelligence to the people of the United States.

Now, therefore, be it resolved by the House Permanent Select Committee on Intelligence that, on the occasion of his departure as Director of Central Intelligence, the Committee expresses its deep appreciation to R. James Woolsey for his distinguished service to the people to R. James Woolsey for this distinguished service to the people of the United States and, particularly, for his leadership of the intelligence community and the Central Intelligence Agency.

TRIBUTE TO SAN DIEGO CHARGERS

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to the new champions of the American Football Conference, the San Diego Chargers. It is no secret that America's finest city now has America's finest football team and we are eagerly anticipating a Chargers' victory over the San Francisco 49ers in the Super Bowl.

To quote from the Associated Press, "What happens when the cork pops on 35 years of football frustration? Come to San Diego to find out. The San Diego Chargers are in the Super Bowl, and that has never happened before." On Sunday, when the triumphant Chargers returned from Pittsburgh, there were 70,000 screaming fans on hand to welcome them home.

For far too long, people have written off the Chargers. The Steelers made that mistake on Sunday. Before the AFC Championship, Pittsburgh was busy rehearsing for a Super Bowl video and their fans were booking trips to Florida. After the Chargers beat the Steelers 17–13, they aren't writing off the Chargers anymore in Pittsburgh.

Mr. Speaker, I want to salute Chargers president Alex Spanos, who has defied the skeptics and produced a world-class team through perseverance, hard work, a little luck and a little stealth.

I want to salute Chargers general manager Bobby Beathard, who has brought to San Diego his proven record of creating winners with his keen eye for talent, and a true commitment to teamwork.

To coach Bobby Ross and his team of coaches who are proven motivators. Their leadership has given this team the focus to never give up and the skills to overcome the obstacles in their way, against even the longest odds.

And finally to the players of the San Diego team, a team who national "experts" picked to finish last. They have proven that commitment, focus, teamwork and heart can win and that America's finest city has America's finest team, the San Diego Chargers.

RETIREMENT OF BRIG. GEN. EDWARD RAMIREZ DUENAS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. UNDERWOOD. Mr. Speaker, I would like to take this occasion to commend a journalist, a military commander, and a fellow legislator. Brig. Gen. Edward R. Duenas is a native son who has unselfishly contributed over three decades of valuable service to his home, the island of Guam.

General Duenas is the son of the late Jesus Camacho Duenas and Juliana Torres Ramirez Duenas. He is the brother of former Senator Jose (Ping) Duenas, retired Army Master Sergeant Jesus R. Duenas and Dr. Vincent A. Duenas. Born on May 11, 1936, in the city of Agana on Guam, he completed his high school studies at Father Duenas Memorial High School in Mangilao, Guam back in 1955. He later acquired a bachelor of science degree in journalism from Marquette University in Milwaukee, WI.

Immediately after graduation, he worked in various capacities from the island's news media. He also took some time out to serve in the Army in 1961 thru 1963. A total of 6 years was dedicated by him in direct service to the people of Guam through his work as a journalist. Between the years 1951 and 1965, he worked for publications and newscasts such as KUAM radio and TV, the Guam Daily News, and the Pacific Journal. He served as sports editor, local news writer, wire editor, and newscaster both in TV and on radio.

His government service began back in 1965. He served initially as public relations officer and later as a staff director for the 8th Guam Legislature. He took care of public relations, prepared news releases, public announcements and was later made responsible for the operations and management of the entire legislative staff.

General Duenas moved to the Governor's office in 1969 after occupying supervisory positions in a couple of government of Guam agencies. As Governor Camacho's press secretary, he handled media relations, prepared speeches, arranged meetings, and compiled information for the Governor's annual report to the Department of the Interior. On three occasions, General Duenas had the chance to bring holiday cheer to Guamanian fighting men in the war zone by accompanying the Governor on Christmas visits to Vietnam in 1969, 1970, and 1971.

A distinguished legislator, General Duenas was elected as a senator in the Guam Legislature back in 1974 and served for nine consecutive terms. As a Guam senator, he introduced over 50 bills and amendments which became law. Among these were laws that created the island's Department of Youth Affairs, Department of Military affairs, Division of Senior Citizens, and the original Commission on Self-Determination. We can also credit his bills for the establishment of a dual-track curriculum for Guam's public high schools, the original Summer Youth Internship Program and, among others, job protection and equivalent pay for Guam National Guard members activated for territorial duty. He also played a pivotal role in the creation of the island's Veterans Affairs Office, the establishment of its clinic, the construction of a veterans memorial building and the completion of the Guam Veterans Memorial Cemetery.

Senator Duenas also chaired a movement that led to the establishment of the Association of Pacific Islands Legislatures [APIL]. He presided over the association in its initial 3 years and he convened the first summit meeting between the APIL and chief executives of its various member nations.

His military background which dates back to 1961 was given a further boost by a direct appointment in March 1982 to the Guam Army National Guard. He received a commission to the rank of major and resumed working on press and public affairs until 1989 when he was picked to be assistant adjutant general for the headquarters of the territorial area command of the Guam National Guard. He later attained the highest possible position in the Guam Guard when he was appointed by former Governor Joseph Ada to office of the adjutant general of the Guam National Guard.

For over 30 years, General Duenas has distinguished himself as one of Guam's premier public servants. The body of work that he has done as a journalist, legislator, and military commander has contributed greatly to the positive direction that the island is currently taking. Therefore, I commend Brig. Gen. Edward Ramirez Duenas for having been the consummate public servant and congratulate him on his well earned retirement.

I also suspect that General Duenas will continue to serve the people of Guam through active participation in civic and political matters. Si Yu'os Ma'ase' Ed.

TRIBUTE TO THE GLADWIN LIONS CLUB

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. CAMP. Mr. Speaker, it is with great pleasure I rise today to recognize an outstanding organization in the State of Michigan. The Gladwin Lions Club in Gladwin, MI, and its many members have demonstrated their commitment and dedication to helping others for the past 25 years. By sponsoring philanthropic events throughout the year, they have illustrated their desire to improve Gladwin, MI, and positively impact their community and its residents.

It is the spirit of giving that makes the Gladwin Lions Club such a special organization. The Lions Club calls on its members to pool their resources in order to facilitate programs that benefit local citizens. It is this selfless donation of time and energy that makes Gladwin a kind and caring city and sets an outstanding example for other communities to follow.

The Gladwin Lions Club and its members have worked tirelessly to improve their city and the surrounding areas and enrich the lives of residents. They established collection centers at local optical stores to allow those purchasing new glasses to donate their old frames to those less fortunate. All have benefited from their service, from the families who need assistance, to residents who enjoy the improved quality of life in the area.

The United States was founded on the good nature of its citizens and excelled under their willingness to assist neighbors and friends. It is this sense of community that motivates the Gladwin Lions Club to accomplish all they can and to promote this caring nature in others. Mr. Speaker, I know you will join my colleagues and I in honoring the Gladwin Lions Club, the rewarding philanthropic events they sponsor and the sense of community their actions foster. I wish them continued success and look forward to another 25 years of giving.

TRIBUTE TO THE LATE MARCELINO SERNA

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. COLEMAN. Mr. Speaker, today I am introducing legislation to posthumously honor Mr. Marcelino Serna of El Paso, TX. My bill would make the late Mr. Serna eligible for the award from the Army of the Congressional Medal of Honor by stipulation that the regulation which says that a nomination for that award must be filed within 2 years of the acts above and beyond the call of duty should be waived in this case. In my judgment, Mr. Serna deserves that medal just a surely as anyone who has ever been so honored.

Marcelino Serna served in the U.S. Army from 1917 to 1919. He was born in Chihuahua City, in the Mexican State of Chihuahua in 1896. He died February 29, 1992 at the age of 95. He had held his U.S. citizenship since 1924. Seventy-one years ago, Mr. Serna was awarded the Army's second highest award for valor in combat, the Distinguished Service Cross. He was decorated with the highest military medals of Italy and France. The descriptions of his exploits on the battlefields of Belgium and France read like casebooks of heroism. In recovering from wounds suffered toward the end of the war, he was personally decorated by General John ''Black Jack'' Pershing.

Some have speculated that Mr. Serna was not awarded the Medal of Honor because he was a buck private for most of the war, because he was not a citizen of this country at the time or because he could not speak English well. I hope that none of these reasons were ever given by anyone in a position of authority in these matters. They are insulting and they have no basis in law.

This bill, once enacted, would begin to right a wrong, and to correct an oversight. I urge the committee of jurisdiction to take up the legislation as rapidly as possible so that the Army may look at the merits of this case.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limitations specified in section 3744(b) of title 10, United States Code, shall not apply with respect to the posthumous award of the Medal of Honor under section 3741 of such title to the late Marcelino Serna of El Paso, Texas, for acts of heroism performed while serving as a private in the United States Army during World War I.

TRAGIC LOSS OF FOUR SEATTLE FIREFIGHTERS

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. McDERMOTT. Mr. Speaker, I would like to enter into the RECORD a few words in memory of the four firefighters who tragically lost their lives while serving the people of Seattle, WA on January 5, 1995.

Although I did not know firefighter James T. Brown, Lt. Walter D. Kilgore, Lt. Gregory Shoemaker, or firefighter Randall R. Terlicker personally, I appreciate their work in service with the Seattle Fire Department. The dangers they daily encountered to protect the residents of the Seventh Congressional District did not deter them, and I share the community's expressions of admiration, gratitude, and sorrow at this time.

All four firefighters exemplified the courageous tradition of their profession. Their implacable bravery and devotion to their work must not go unnoticed in the U.S. House of Representatives.

Mr. Speaker, I hope you join me in extending my condolences to their families, friends, and colleagues in the Seattle Fire Department.

SCHOOL CHOICE

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. HOKE. Mr. Speaker, we all know that a quality education is the greatest investment we can make in our children as well as in our Nation's future. It is often remarked that a Nation's most valuable asset is its youth, and as the father of three young children, I know full well the truth of that observation.

School choice is an innovative and overdue idea. At present, the public schools have a monopoly in education because their consumers, students, and their parents, are forbidden to choose which school to attend unless they can afford private or parochial schools. Not surprisingly, this Government monopoly has failed to provide a quality service to its captive consumers.

School choice would allow parents to take the money they already spend on taxes for education and invest that money in the school they believe will best educate their child. Essentially, the funds go where the child goes. The child would be able to go to a public or private school, including a religious one. By putting power in the hands of parents, schools would be forced to compete for students. Competition, in turn, will force school administrators to make much needed reforms in order to attract even more customers.

Father Anthony Pilla of the Catholic Diocese of Cleveland has undertaken an insightful study of the issue and has written a report which I believe will be of great interest to you, which I will submit to the RECORD.

IT'S GOOD PUBLIC POLICY

(By Bishop Anthony M. Pilla, Catholic Diocese of Cleveland)

In recent years at the local and national level discussion and debate about educational vouchers have become more and more prevalent in many and varied circles of society. As discussions occur and subsequently are covered by the media, misconceptions about nonpublic schools are frequently presented as factual (especially by those opposed to vouchers). Clearly the promulgation of misinformation is a disservice as committed citizens, parents, educators, and civic, church and business leaders seek to consider issues and reach valid, just and informed decisions to benefit all children of the United States.

Through this paper I would like to address the imperative that policy makers understand who would benefit most from public policies which would create and finance a system of education vouchers. This statement speaks to the possible ways in which education reform could truly enhance the lives and future of the children whose parents would like to send them to nonpublic schools. I invite citizens, parents, legislators, and leaders who desire to consider with integrity the issue of vouchers to read and refer to the information provided as future discussions take place.

WHO WILL BENEFIT?

There can be no mistaking the fact that it is truly the poor who will gain from such legislation. To assume that education vouchers will benefit only the wealthy is unfounded, based on little fact and much speculation. The people for whom an education voucher will really mean something are the people for whom these dollars will enable them to make choices about the education of their children. This, of course, is the basic economic principle of marginal economic utility. Therefore, to measure the true value of education vouchers, legislators must not only consider the dollar amount, but the value of those dollars in terms of what they can accomplish and for which people.

The assessment of who will benefit in the case of education vouchers is clear and substantiated by hard evidence. In a report titled ''Public and Private Schools,'' issued a decade ago, James Coleman and others, specifically addressed the issue of the impact of public policy changes which would facilitate nonpublic school enrollment. The researchers developed the hypothetical situation of increasing family income and analyzed the effect of such an increase. The report clearly indicates that few students would shift from the public to the private sector, but of those that would a significant number would be minorities and/or from families with incomes at or below the national average. To be more specific such a policy change would mean the following:

1. Only a small proportion of public school students would shift to nonpublic schools;
2. The greatest shift would be among minorities, particularly Hispanics; and
3. The racial and ethnic composition of the groups that would shift to nonpublic schools includes more minorities that are currently in these schools.

To quote the Coleman study itself, ''Because a tuition tax credit or a school voucher would even more greatly facilitate private school enrollment for students from lower income families relative to students from higher income families, we can expect that either of those policies would increase the proportion of blacks or students from low-income backgrounds in the private sector.''

Nowhere has such a detailed and comprehensive analysis been done to see specifically who would benefit most from public policies such as education vouchers or tuition tax credits. Although exact outcomes are impossible to predict, the analysis contained in the Coleman study should allay the fears that such policies would destroy the public schools by encouraging the wealthiest students to move to the private sector. In effect, both the private and public sector should benefit through the equalization of the numbers of poor and minority students in both sectors.

The results of the Coleman study were confirmed in a survey done in 1982 by the Office of Educational Research and Improvement (OERI) at the U.S. Department of Education. This study, ''Private Elementary and Secondary Education: Congressionally Mandated Study of School Finance,'' estimated that over 50% of public school parents would not even consider leaving the public school system even if all tuition costs were covered. The study also reported that Black and Hispanic families were much more likely than White families to switch their children to a nonpublic school if they were given some financial assistance. For instance, under a $500 tuition tax credit 53.0% of Hispanic and 47.2% of Black parents with children in the public schools said that they were ''likely or somewhat likely'' to switch their children to nonpublic schools, while only 26.8% of White parents with children in public school said they were ''likely or somewhat likely'' to switch their children to nonpublic schools.

More recently, there has been a great deal of research on the impact of public policy changes on nonpublic school enrollment which has even more strongly supported the validity of Coleman's claims. According to the Carnegie Foundation for the Advancement of Teaching only 19% of public school parents would consider sending their children to a nonpublic school. The Carnegie Foundation study also shows that most parents—87 percent—are satisfied with their children's public school. Furthermore, in those places where local governments have experimented with education vouchers, their has not been a mass exodus from the public schools. The full-scale voucher program recently implemented in Puerto Rico demonstrates that such a fear is unwarranted. During the two years of the operation of the Puerto Rican education voucher program, more school children in Puerto Rico chose to leave nonpublic schools to go to public schools than chose to leave public schools for nonpublic schools.

ARE NONPUBLIC SCHOOLS ELITIST?

So the evidence, both theoretical and empirical, is clear: an education voucher system will not leave the public schools empty; and, of those students whose families will use vouchers to choose nonpublic schools a disproportionate number will be minorities or from poor families. But what about these people who would use education vouchers to go to a nonpublic school? Will education vouchers really benefit participating students educationally? There are several misconceptions about the parents who choose to send their children to nonpublic schools and about the quality of nonpublic education. These misconceptions have been used by opponents of education vouchers to argue that nonpublic schools do not serve children from families who need financial assistance in order to continue to afford their school's tuition, and to argue that it is not good public policy to help parents have a choice about what kind of school their children are going to attend.

First, some people picture nonpublic schools as being white, wealthy and highly selective. These generalizations about nonpublic schools are highly inaccurate. Several recent studies published by the U.S. Department of Education demonstrate that nonpublic schools are not predominately attended by the wealthy. The National Center for Education Statistics recently issued a report which estimated that in 1985, 47% of students in church-related schools and 32% of students in nonsectarian schools were from families with incomes of between $15,000 and $35,000, while 42% of the students in public schools were from families within that income range.

According to research produced by the National Catholic Educational Association (NCEA), there are not significant differences between the income levels of public and Catholic school families. NCEA estimates that in 1992, 6% of Catholic high school families had an income level of under $15,000; 17% had an income level of between $15,000 and $25,000; 26% had an income level of between $25,001 and $35,000; 28% had an income level of between $35,001 and $50,000; and 23% had an income level of over $50,000. Using 1990 Census Data, the percentages nationwide for families of four were not significantly different: 17% of families had an income level of under $15,000; 16% had an income level of between $15,000 and $25,000; 18% had an income level of between $25,001 and $35,000; 20% had an income level between $35,001 and $50,000; and 30% had an income level of over $50,000.

To quote NCEA, ''These data provide additional evidence to refute persistent and pernicious stereotypes of Catholic schools as a refuge for the wealthy. Clearly, many families who choose Catholic high schools for their children must strain to find money for tuition within limited budgets.

Research on elementary schools is even more telling in this regard. For the 1992–93 school year, NCEA estimates that 11.6% of Catholic elementary school families had an income of less than $15,000; 21.5% had an income of between $15,001 and $25,000; 25.1% had an income of between $25,001 and $35,000; 23.4% had an income of between $35,001 and $50,000; and, 18.3% had an income of more than $50,000. What may be more significant than this, is the fact that over 92% of all Catholic elementary school families had dual incomes in 1992–93. These statistics demonstrate that many Catholic school parents make significant sacrifices to send their children to a nonpublic school. In light of this evidence it is difficult to understand how anyone could claim that nonpublic school parents are wealthy, and therefore, not deserving of a share of the tax funds to which they contribute in order to assist them in the educational choice they are making for their children.

Inner-city nonpublic schools, in particular, demonstrate a remarkable willingness and ability to serve the needs of urban students from disadvantaged families. Research indicates that these schools draw from the same populations as the local public schools. According to data from the 1990 Census, there are over one million families living in our country's inner-cities—13.4% of all inner-city families with school age children—who send their children to nonpublic schools. These figures indicate that there are many parents in our cities and urban areas who are in desperate need of a public policy which says to them, ''You may educate your children in the schools of your choice as guaranteed by the Constitution. And furthermore, you will be able to do so even though you may be poor or disadvantaged—whether or not you live in the cities or the suburbs or the rural areas of this country.''

Consistent with the results of the Coleman study, the U.S. Department of Education's 1985–86 study on Private Schools demonstrates that the nonpublic school community has indeed been able to achieve a higher degree of integration relative to the racial backgrounds of their students than the public sector. It is also important to note that the percentage of minorities enrolled in all nonpublic schools has significantly increased over the last decade. Catholic schools, in particular, have performed particularly well in this regard. According to the National Catholic Educational Association, the percentage of minorities in Catholic schools has more than doubled since 1970–71. In 1993–94, the percentage of Black, Hispanic and Asian students made up 22.5% of students in Catholic schools. In light of these figures and of the trends indicated in the Coleman report, can anyone reasonably suggest that nonpublic schools do not serve children from a wide range of economic, racial and ethnic backgrounds?

All of this raises a simple point. Any public policy precluding or denying freedom of choice in education on the assumption that nonpublic schools are racist or elitist is public policy based on misconception. If anything, the facts indicate that a statement of public policy in the form of education vouchers would serve to further improve the racial and economic mix in both nonpublic and public schools.

The second general misconception about nonpublic schools concerns the quality of nonpublic schools and, in particular, as it relates to selectivity. Opponents of education vouchers often argue that nonpublic schools do a better job of educating children because they can be more selective in whom they accept and are free to expel the children they don't want. This viewpoint is quite simply not based on the facts.

Once again, let us consider this misconception in the case of the performance and policies of Catholic schools which, of course, educate over 50 percent of all nonpublic school children in the United States. The Catholic League for Religious and Civil Rights conducted a study on inner-city nonpublic schools based on an analysis of randomly selected schools in eight major cities around the country. The data from this study indicates that after giving preference for admission to parishioners, approximately 90 percent of these schools exercise open admission policies and rarely expel students. This data is further supported by research done by Dr. Vitullo-Martin. He states, ''No researcher has found any extensive use of expulsion sufficient to explain the statistical differences in achievement rates between public and Catholic schools.'' This is not to say that nonpublic schools never expel nor dismiss students for various reasons, but that such action is not taken lightly, nor is done very often, as some opponents on nonpublic education would have us believe.

WHAT ABOUT QUALITY?

The misconceptions about the selectivity of nonpublic schools should not prevent the provision of education choice to parents and neither should misconceptions about the quality of nonpublic schools. In fact, the quality of nonpublic schools is at least as good as that found in the public sector and in many instances better. Once again, the Coleman data provides conclusive evidence:

1. Given the same kinds of students, nonpublic schools create more contact for students with academic activities. For example, attendance is higher, students do more homework and they take on average more vigorous subjects;

2. There is greater scholastic achievement in nonpublic schools than in public schools, brought about by a more ordered environment;

3. The growth rates in achievement between the public and nonpublic schools differ, with strong evidence that average achievement among nonpublic school students is ''considerably'' greater than in the public sector; and

4. In discussing Catholic schools, in particular, the Coleman report concludes that Catholic schools most closely resemble the ideal of the ''common school.'' That is, they educate children from different backgrounds and obtain greater homogeneity of student achievement.

These conclusions have been supported by more recent examinations of the relative achievement levels in nonpublic and public schools. In his above mentioned book on Catholic schools, Anthony Bryk reported that in 1988, 64% of Catholic school students in grade 10 compared with 45% of public schools students in grade 10 stated that they had plans to attend college. More importantly, Bryk's research showed conclusively that the distribution of academic achievement is more equalized across class, race and ethnic lines in Catholic schools than in the public schools. In other words, the average level of achievement in mathematics, for example, is not only higher in Catholic high schools, it is less strongly related to social class and racial and ethnic background.

The impact of an education in Catholic school clearly has long term benefits as well. For example, the U.S. Department of Education reported that by the spring of 1986, 36% of White Catholic high school graduates, 25% of Black graduates and 25% of Hispanic graduates went on to receive a BA, BS or MA, while only 19% of White Public Schools graduates, 9% of Black graduates and 9% of Hispanic graduates had received one of those degrees.

I do not point out these things to accentuate the differences between public and nonpublic education. More than two-thirds of Catholic school-age children in this country attend public schools, and I remain committed to and supportive of the public schools in this nation.

For too long the nonpublic schools in this country have been accused of being racist, elitist and of inferior quality. Past attempts to establish a public policy which would truly give parents educational freedom of choice have been defeated using these misconceptions as reasons against granting equity to parents, especially the poor parents of our nation. Hard evidence is now available and it reveals these misconceptions for what they are. The evidence tells us that poor parents will benefit most from a system of education vouchers and that the schools to which they would send their child can no longer be considered a priori to be racist or elitist. The evidence also tells us that the quality of nonpublic school education is certainly not inferior. None of the misconceptions which have been attributed to nonpublic schools in the past should stand in the way of the establishment of an education voucher system as a matter of public policy. There should be no doubt that justice and equity demand such public policy, for to be poor without educational choices is in itself a greater poverty. Policy makers have an opportunity to provide that justice and equity, by providing educational choices to minorities and poor of this country. The time to act on education vouchers is certainly at hand. I urge you to support a system of education vouchers—a policy which will bring educational justice and freedom to the people of this country.

TRIBUTE TO DICK AUSTIN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. LEVIN. Mr. Speaker, Dick Austin's decades of public service deserve more than the typical testimonial accolades.

His career has indeed been unique. In his own quiet but determined fashion, Dick has truly been a pioneer, breaking through a number of barriers in the State of Michigan.

He has represented an important embodiment of the dream of Dr. Martin Luther King, Jr.—that we be judged by the content of our character rather than the color of our skin. He has been an ambassador of good will among us as citizens of Michigan, in every corner, indeed virtually every nook and cranny of our State.

He has done so by bringing high competence and full integrity to a major office affecting the lives of us all. From our physical security or our highways to honesty in the voting booth, Dick Austin has stood up for Michigan's interests.

Twenty-five years ago, I had the privilege of campaigning statewide with Dick Austin. Our earlier friendship deepened with that experience and has increased with each year's passing. May Dick continue in good health, so that we will continue to be blessed with his good cheer, warn friendship, and usual talents.

TRIBUTE TO JOHN FRIERSON

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay tribute to Mr. John Frierson, who is retiring this month after a dedicated career of 26 years to the citizens of Los Angeles. On Friday, January 20, 1995, in Los Angeles, John's many friends and colleagues will gather at a retirement dinner in his honor at the Continental Plaza Hotel. In recognition of his service to the community, I am pleased to highlight just a few of his career and community service accomplishments for my colleagues.

Born in Harlem in New York City, John graduated from George Washington High School, and studied history at the City College of New York. He moved to Los Angeles in 1957, and has completed courses in law enforcement and history at the University of California, Los Angeles.

During his career in the U.S. Navy, John served aboard the U.S.S. *Little Rock.* In 1948, he was assigned as a personal 1st Class Steward to Adm. Richard Glassford, commander of the 3d Atlantic Fleet. A highlight of his assignment was a trip to Odessa, Russia—location of the 1947 summit meeting of President Harry S. Truman, Prime Minister Winston Churchill, and Premier Joseph Stalin.

Following his honorable discharge from the Navy, John embarked on a career in public service that would span nearly three decades. His career in law enforcement includes service as a deputy sheriff for the County of Los Angeles, and as the sergeant in charge of West Los Angeles traffic for the Los Angeles Police Department and the Department of Transportation.

For the past several years, John has served as the senior deputy to 10th district city councilman Nate Holden.

In addition to his public service, John has been actively involved in community affairs. He is a member of the Urban League, NAACP, Service Employees International Union, Local 347, and the Committee to Support Dial 911. He serves on the board of the Oscar Joel Bryant Police Association, and is a charter member of the Harlem Negro Theater. He also served as a member of Los Angeles city attorney James Hahn's Small Business Advisory Committee.

John's commitment to public service and his community is exceeded only by his commitment and enthusiasm for political activism. He is a past president of the New Frontier Democratic Club; former regional director, region 11

of the California State Democratic Party; member of the Democratic County Central Committee; and an executive board member of the California Democratic State Party and the Wilshire Community Police Council.

John is the recipient of numerous awards for his many contributions to the citizens of Los Angeles, including community service awards presented by Assemblywoman Gwen Moore, and Councilman Holden, respectively; the Outstanding Community Service Award, presented by the National Black Police Association, region 5; Member of the Year Award from the New Frontier Democratic Club; and Member of the Year in the 49th and 53d Assembly Districts Awards, presented by the Los Angeles County Democratic Committee.

Mr. Speaker, it has been my sincere pleasure to count John and his lovely wife, Susie, as my friends for many years. And it is especially fitting that a dinner is being held in John's honor to commend him on a fine record of service to the community. I am especially pleased to join in that tribute and to have this opportunity to pay tribute to John on this happy occasion. Please join me in extending to John and Susie best wishes for a retirement that is rich with happiness and full of prosperity.

TRIBUTE TO BRIG. GEN. SEBASTIAN F. COGLITORE, USAF

HON. ANDREA H. SEASTRAND

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mrs. SEASTRAND. Mr. Speaker, a friend of the Congress and a long-time leader in this Nation's space programs is retiring from the U.S. Air Force on February 1 of this year, Brig. Gen. Sebastian Coglitore. His most recent position has been as the director of space programs, Office of the Assistant Secretary of the Air Force for Acquisition, Washington, DC. In this position he has provided leadership and program management direction for development and procurement of all Air Force satellites and launch systems and the related ground infrastructure including communications, navigation, surveillance, weather, radar, and command and control systems.

General Coglitore has had a distinguished career of nearly 30 years of military service. After being commissioned through the New Jersey Institute of Technology Reserve Officer Training Corps Program in August 1965, he started his military career as a deputy missile combat crew commander for the Minuteman Intercontinental Ballistic Missile System at Grand Forks Air Force Base, ND. His last two decades of service have contributed directly to the success of the Department of Defense's space programs in both development and operations. General Coglitore was program manager of the first Department of Defense spacecraft to fly on the space shuttle and later, as the program manager for the United States largest space booster, the Titan IV, he led the Department's efforts to return to space after the *Challenger* disaster. His many tours of duty at the Pentagon included being deputy to the Deputy Assistant Secretary of the Air Force for Space Plans and Policy and being military assistant for space to the Secretary of the Air Force. He also held the position of command director at the NORAD Command Center, Cheyenne Mountain Air Force Base, CO. Before returning to the Pentagon in August 1993 he was the Commander of Space Command's 30th Space Wing and Director of the Western Range, Vandenberg Air Force Base, CA, where he was responsible for all west coast launch operations.

General Coglitore has received numerous awards and decorations, including the Defense Superior Service Medal, the Legion of Merit with two oak leaf clusters, the Meritorious Service Medal with oak leaf cluster, the Air Force Commendation Medal with oak leaf cluster, and most recently the Distinguished Service Medal, the citation of which is reprinted below.

General Coglitore plans to continue his work in space programs in a civilian capacity, but has not yet picked a specific location. On behalf of my colleagues and the congressional staff who have known and worked with General Coglitore we wish him and his wife Reggi the very best in their future endeavors.

DISTINGUISHED SERVICE MEDAL TO SEBASTIAN F. COGLITORE

The President of the United States of America, authorized by Act of Congress July 9, 1918, awards the Distinguished Service Medal to Brigadier General Sebastian F. Coglitore for exceptionally meritorious service in a duty of great responsibility. General Coglitore distinguished himself as Director of Space Programs, Assistant Secretary of the Air Force for Acquisition, the Pentagon, Washington, District of Columbia, from 20 July 1993 to 31 January 1995. In this important assignment, the forceful leadership and dedicated efforts of General Coglitore were significantly displayed in the research, development, and acquisition of space systems that are critical elements of the future operational effectiveness of the United States Air Force. The singularly distinctive accomplishments of General Coglitore culminate a distinguished career in the service of his country and reflect the highest credit upon himself and the United States Air Force.

PUBLIC OPINION ON NUCLEAR WEAPONS ISSUES

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Ms. FURSE. Mr. Speaker, 1995 is a very important year for the issue of nuclear testing. The U.N. Conference on Disarmament will resume negotiations January 30 on a comprehensive test ban treaty [CTB].

Failure to make significant progress toward a CTB before the Non-Proliferation Treaty [NPT] Extension Conference in April could jeopardize the future of the NPT, which is a vital check on the spread of nuclear weapons throughout the world. The new Congress must provide the strong bipartisan political support necessary to expand efforts to halt nuclear proliferation and achieve a CTB.

A new poll shows that almost 80 percent of the American people believe that reducing the danger of nuclear weapons now should be an important priority for the U.S. Government. The overwhelming majority favor more aggressive arms control measures. These results were true for Republican, Independent and Democratic voters alike.

The national poll of 1,011 Americans revealed that: 90 percent favor further cuts in the world's total of nuclear weapons; 82 percent favor a global ban on all nuclear tests; and 82 percent favor eliminating all or most nuclear weapons.

Some 80 percent of Republican voters favor a test ban, as do 85 percent of Democratic voters and 81 percent of Independents. Similarly, 90 percent of all three voter groups favor further cuts in nuclear weapons, with 81 percent of Republicans opting for eliminating all, almost all or a lot of the weapons, compared to 84 percent of the Democrats and 83 percent of the Independents.

Mr. Speaker, I ask permission to insert the poll's findings in the RECORD. We need to listen to our constituents and get on with ridding the world of the scourge of nuclear weapons.

PUBLIC OPINION ON NUCLEAR WEAPONS ISSUES—DECEMBER 30, 1994–JANUARY 3, 1995

WASHINGTON, D.C—A new poll shows that almost 80 percent of the American people believe that reducing the danger of nuclear weapons now should be an important priority for the US government (with 56% saying it was a very important priority). The overwhelming majority favor aggressive arms control measures over the current policies, with lesser majorities supporting building a missile defense system or increasing defense spending. These results were true for republican, independent and democratic voters alike.

The national poll of 1,011 Americans asked about specific policy options:

90 percent favor further cuts in the world's total of nuclear weapons (72% strongly in favor).

82 percent favor a global ban on all nuclear tests (with 56% strongly in favor).

82 percent favor eliminating all or most nuclear weapons.

68 percent favor trying to build a theater anti-missile system for troops (43% strongly favor).

64 percent favor trying to building a global anti-missile system for the US (38% strongly favor).

54 percent favor increasing the US military budget (32% strongly favor).

80% of republican voters favor a test ban, as do 85% of democratic voters and 81 percent of independents. Similarly, 90% of all three voter groups favor further cuts in nuclear weapons, with 81% of republicans opting for eliminating all, almost all or a lot of the weapons, compared to 84% of the democrats and 83% of the independents.

Given a choice, 58 percent favor eliminating all nuclear arms in the world rather than for a few countries, including the United States, having nuclear weapons so no other nation would dare attack or while trying to keep the rest of the world from getting them. Only 40 percent supported the current policy of a few countries in the world having nuclear weapons.

Sixty-three percent say they had read or heard little or nothing about President Clinton's policies on nuclear weapons. Fewer than half (45%) said they were satisfied with the President's actions to reduce the danger of nuclear weapons, with 42 percent saying they were dissatisfied.

The poll was conducted of 1011 Americans over age 18 December 30 through January 3, 1995, by ICR Survey Research Group, which does polling for the Associated Press, The Washington Post, and others. The margin of error is +/− 3.1 percent (at the 95% level of confidence, according to standard polling practice.)

MASTER QUESTIONNAIRE

[Field dates: Dec. 30, 1994–Jan. 3, 1995]

Note: The following precautions were taken to minimize the effect of bias by averaging out small, deliberate biases introduced in question pre-ambles and response choices. This method also serves to prove that small biases do produce comfortingly small changes in the response statistics, so that the resulting averages not only probably produce less bias than the older method of survey design where preambles and response menu choices introduced by the survey designers are not tested at all. The new method also brackets the effect of bias, and often shows how little dependent on wording-bias responses are, and when they do occur what the exceptions to that rule are and how they arise: Questions were read in the order presented to both half samples. Q1 is identical to Q2 except Q1 has a more ''comforting'' introduction and Q2 has a more ''alarming'' introduction. Questions were read to half sample A as presented here. Half sample B had the ''comforting'' and ''alarming'' introductions [the words in brackets, like these] interchanged in Q1 and Q2. Half sample B in Q3 and Q8 were read the response choices in reverse order, and half samples A and B in Q12 tested the support for two strong but different reasons for not aiming toward the elimination of all nuclear weapons.

First a little background—

1. (half sample A). [The nuclear arms race has substantially diminished and many nuclear weapons have been eliminated in the last five years.] Should reducing the danger of nuclear weapons now be an important priority for the U.S. government or NOT an important priority? Is that very or somewhat important/unimportant?

Very important, 46%; Somewhat important, 30%; Somewhat unimportant, 17%; Very unimportant, 4%; and DK/NA, 3%.

Important 76%; Unimportant 21%.

1. (half sample B). Very important, 60%; Somewhat important, 21%; Somewhat unimportant, 10%; Very unimportant, 6%; and DK/NA, 3%.

Important 81%; Unimportant 18%.

2. (half sample A). It is also true that [the U.S. Russia still have many thousands of nuclear weapons. Terrorists could buy or steal nuclear weapons from a nuclear state. And other nations such as Iraq and North Korea may be building nuclear bombs.] Knowing that, I'd like to ask you again: Should reducing the danger of nuclear weapons now be an important priority for the U.S. government or NOT an important priority? Is that very or somewhat important/unimportant?

Very important, 61%; Somewhat important, 18%; Somewhat unimportant; 14%; Very unimportant, 5%; and DK/NA, 2%.

Important 79%; Unimportant 19%.

2. (half sample B). Very important, 58%; Somewhat important, 24%; Somewhat unimportant; 11%; Very unimportant, 5%; and DK/NA, 1%.

Important 82%; Unimportant 16%.

Average of four: Q1 and Q2 responses, A and B samples:

Should reducing the danger of nuclear weapons now be an important priority for the U.S. government or NOT an important priority? Is that very or somewhat important/unimportant?

Very important, 56%; Somewhat important; 23%; Somewhat unimportant, 13%; Very unimportant, 5%; and DK/NA, 2%.

Important 79%; Unimportant 18%.

3. How concerned are you that renegade countries or terrorist groups could get nuclear weapons?

Extremely, 21%; Very, 40%; Somewhat, 28%; Not very, 8%; Not at all, 2%; and DK/NA, 0%.

4. How much have you read or heard about President Clinton's policies on nuclear weapons?

A lot, 7%; Some, 30%; Just a little, 37%; Nothing, 26%; and DK/NA, 0%.

5. Are you satisfied with what President Clinton has done to reduce the danger of nuclear weapons?

Extremely, 3%; Very, 9%; and Somewhat, 33%.

Total satisfied, 45%.

Extremely, 6%; Very, 13%; Somewhat, 23%; and DK/NA, 13%.

Total dissatisfied, 42%.

Now some suggestions for dealing with nuclear weapons—

6. Do you favor or oppose the U.S. negotiating an international agreement to end all nuclear test explosion?

Strongly, 56%; and Somewhat, 26%.

Total favor, 82%.

Strongly, 7%; Somewhat, 8%; and, DK/NA, 3%.

Total oppose, 15%.

7. Do you favor or oppose negotiating an agreement where all nations with nuclear weapons agree to further reduce the world's total stockpile of nuclear weapons?

Strongly, 72%; and Somewhat, 19%.

Total favor, 90%.

Strongly, 4%; Somewhat, 3%; and DK/NA, 3%.

Total oppose, 7%.

8. [Asked of 90.4% who favor in Q7] Reduce the world's nuclear weapons stockpile how much? Of those asked:—

A little, 7%; A lot, 26%; Almost complete, 27%; Completely, 39%; and DK/NA, 2%.

Of total sample:—

Eliminate completely, 35%; Eliminate almost completely, 24%; Reduce a lot, 24%; Reduce a little, 6%; Oppose reduction (from Q7), 7%; and DK/NA (Total of Q7 and Q8), 4%.

Total reduce a lot, complete or almost, 82%.

9. Do you favor or oppose increasing the U.S. military budget?

Strongly, 32%, Somewhat, 21%.

Total favor, 54%.

Strongly, 22%, Somewhat, 21% and, DK/NA, 3%.

Total oppose, 43%.

10. Do you favor or oppose building an anti-missile system to protect the overseas troops of the U.S. and its allies from nuclear missile attack?

Strongly, 43%; and Somewhat, 25%.

Total favor, 68%.

Strongly, 12%, Somewhat, 15%; and, DK/NA, 4%.

Total oppose, 27%.

11. In addition, some say we need a new anti-missile system to protect the U.S. from accidental launches, unauthorized launches and threats of attack from third world nations. Others say that such systems will be expensive, will work poorly—in some circumstances not at all—and would sooner or later violate our ABM treaty obligations. Do you approve or disapprove of trying to build an anti-missile system that will try to shoot down missiles launched at the U.S.?

Strongly approve, 38%; and Somewhat approve, 26%.

Total approve, 64%.

Strongly disapprove, 19%; Somewhat disapprove, 13%; and DK/NA, 4%.

Total disapprove, 32%.

12. (A half sample) As a general goal, which of these two things do you think is more desirable—

1. The elimination of all nuclear arms in the world, 55%; or

2. For a few countries, including the U.S. to have enough nuclear arms so no country would dare attack them, 44%; and

3. DK/NA, 1%.

12. (B half sample). As a general goal, which of these two things do you think is more desirable—

1. The elimination of all nuclear arms in the world, 60%; or

2. For a few countries, including the U.S. to have nuclear arms, while trying to keep the rest of the world from getting them, 36%; and

3. DK/NA, 0%.

A DUAL IN THE DEFICIT WAR

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues the January 15 Rocky Mountain News editorial, ''A Dud in the Deficit War.''

The dud in question is the much-ballyhooed balanced budget amendment. The Rocky counsels that the ''Republicans would better spend their time devising real cuts in real programs and leave the hocus pocus to Barnum and Bailey.''

I'm afraid, however, that the Rocky's call for real cuts in real programs is falling on unreceptive ears. One of our distinguished Republican budget-cutters recently launched an assault on the deficit by proposing the elimination of the Board of Tea Tasters.

A DUD IN THE DEFICIT WAR

The issue: The balanced budget amendment.

Our view: Sounds good, but probably wouldn't work.

The centerpiece of the Republican Party's Contract With America promises a line-item veto and a balanced budget amendment. The veto is a good idea, nearly everyone agrees, but the same cannot be said for the budget amendment, even if the principle behind it attracts the supports of 80% of Americans.

Few would deny that the idea of making the federal government spend no more than it takes in is pleasing to the ear. That, after all, is the economic philosophy private citizens ignore at their peril, at least in the long run. There was a time, in fact, when the idea of running a deficit in peacetime was thought to reflect a sort of moral shortcoming.

Yet there are several problems with the GOP's amendment. While the amendment promises to lock the government into a balanced budget and, in fact, outlaw deficits, a quick look at the not-so-fine type finds king-sized loopholes. By the mere act of securing a three-fifths vote, Congress can bust the budget with joyful abandon. We're not talking about wartime emergencies, which would suspend the amendment in order to allow for rapid increases in defense spending. No, the three-fifths vote looms like a bottle in a ''reformed'' drunk's basement—a strong temptation to backsliding.

Another ploy to get around the amendment's demands would be to use unrealistic budget assumptions and balance the budget merely on paper, a trick any politician who has been in Washington 15 minutes knows how to perform. There is also an element of deception in the fact that the amendment applies only to the formal budget document, not the actual operating budget.

A larger concern comes from state governments, which fear, for no little reason, that Washington's strapped politicians will pass on the cost of programs to them. Clearly enough, it is a great deal easier for Washington to force states to take up the slack than

to order service cuts, job losses and new taxes. Washington pols could easily be tempted to make promises to valued constituencies and send the bill to states and municipalities. The federal budget might not suffer, but the jolt to local taxpayers could be immense.

Just now, the GOP hopes to assure governors and state legislators that another plank in its Contract, which calls for a crackdown on unfunded mandates, will eliminate this option. No doubt many Americans, and perhaps their state legislators, are so fed up and frightened by federal deficits that they are willing to take this leap into the unknown. Assurances that unfunded mandates will no longer be allowed may provide the security necessary to make that leap.

Even opponents of the amendment such as ourselves hardly believe it would be the end of the world. But to truly balance the budget, especially without tax increases, will mean eliminating services, slowing the growth of entitlement benefits and ending tax breaks. This is true even under optimistic scenarios for economic growth, given the ballooning deficits projected for the next century when the baby boomers retire.

Republicans would better spend their time devising real cuts in real programs and leave the hocus procus to Barnum and Bailey.

CHURCH RETIREMENT BENEFITS SIMPLIFICATION ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. CARDIN. Mr. Speaker, today I am introducing the Church Retirement Benefits Simplification Act of 1995. I am pleased to have Representative SHAW of Florida join me as an original cosponsor of this legislation.

The Church Retirement Benefits Simplification Act, which has in past Congresses had nearly 100 cosponsors, will simplify the rules in the Internal Revenue Code which apply to retirement plans sponsored by our country's religious denominations.

The centerpiece of the legislation is a proposed new section 401A of the Tax Code which would bring together in one place and clarify tax rules governing church retirement plans. By providing a separate code section which sets forth these rules as they apply to religious denominations, the bill will remove a great source of confusion and complexity. The relief provided by the bill applies to churches and to church ministry organizations, but not to church-related hospitals and universities.

The bill will extend relief already provided to churches which maintain 403(b) plans to churches and church ministry organizations which offer plans under section 401A. In the Tax Reform Act of 1986, Congress exempted churches with 403(b) plans from coverage and related rules. It is time to provide the same treatment to churches with 401(a) plans and remove the disparity we created then.

The need for this legislation stems from the fundamental differences between churches and the secular business organizations to which the coverage and related rules are primarily designed to apply. Churches and church ministry organizations are tax exempt. They therefore lack the incentive private sector employers have to maximize tax deductible employee benefit payments.

A related point is that the coverage and related rules are designed to limit the amount of income highly compensated employees can be paid on a tax-deferred basis. According to the 1994 Church Pensions Conference, however, ministers' salaries averaged just over $33,000. These modest salary levels leave little cause for concern about the dangers nondiscrimination testing is designed to prevent.

While some provisions of the Tax Code have no meaningful application for church plans, other requirements of the Tax Code are directly at odds with the theology and polity of particular denominations. While some denominations are hierarchical, others include many small, independent churches which have neither the personnel nor the resources to deal with complex compliance requirements.

By exempting churches and church ministry organizations from coverage and related rules, this legislation will permit them to devote their resources to fulfilling their spiritual and community-oriented missions.

A JUST AND LASTING PEACE IN THE MIDDLE EAST: WHAT CONGRESS CAN DO

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, January 17, 1995

Mr. RAHALL. Mr. Speaker, the leadership of the Churches for Middle East Peace have cowritten a letter to all Members of Congress concerning steps Congress can take to help build confidence between Palestinians and Israelis in order to continue making progress toward lasting peace.

The letter articulates two issues with profound implications for negotiations in the months ahead and which are also of urgent concern to the churches: The future of Jerusalem and the protection of human rights.

Mr. Speaker, the group, Churches for Middle East Peace, are made up of a broad range of religions and religious beliefs and practices, and they include: The American Baptist Churches, USA, American Friends Service Committee, Church of the Brethren, Episcopal Church, Evangelical Lutheran Church in America, Maryknoll Fathers and Brothers, Mennonite Central Committee, Presbyterian Church [USA], Roman Catholic Conference of Major Superiors of Men, Unitarian Universalist Association of Congregations, United Church of Christ, and the United Methodist Church.

They encourage us, as Members of Congress, to actively support the Israeli-Palestinian peace process which lies at the core of the broader Arab-Israeli conflict, because they believe the process is presently at risk of breaking down. In support of their belief that the process is, or may become, at risk, they particularly cite the following:

Jerusalem: It is critical that the 104th Congress not hinder these negotiations by urging President Clinton to implement a policy that favors Israel's claims to the portion of the city annexed in 1967. Members of Congress can make an important contribution by encouraging the President to keep the question of Jerusalem open for the parties to negotiate and to respect the rights and aspirations of both parties. The letter goes on to say ". . . it is crucial that the U.S. Government vigorously oppose Israeli building of settlements or the expansion of existing settlements in the territory occupied by Israeli forces in 1967."

Human rights: We are concerned that human rights abuses, perpetrated both by the Israeli authorities and the Palestinian National Authority continue and that the U.S. Government in its role as a cosponsor of the peace process is doing little to promote respect for human rights.

Mr. Speaker, I commend to my colleagues this joint letter, and urge their reading of it in its entirety. The letter is reprinted here with the blessings and hope of the Churches for Middle East Peace for our thorough understanding of the issues, and for all necessary action to further a just and lasting peace in the Middle East.

CHURCHES FOR
MIDDLE EAST PEACE,
Washington, DC, January 3, 1995.

Hon. NICK J. RAHALL,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN RAHALL, The members of Churches for Middle East Peace (CMEP), a coalition of the Washington offices of Protestant, Roman Catholic Episcopal, and historic peace churches, encourage your active support for the Israeli-Palestinian peace process which lies at the core of the broader Arab-Israeli conflict. We are writing to you now because we believe that process is at risk and there are steps the U.S. Congress can take to help build confidence between Palestinians and Israelis in order to continue making progress toward lasting peace.

There are a number of problems that may undermine the peace process. We would like to draw your attention at this time to two issues with profound implications for negotiations in the months ahead and which are also of urgent concern to the churches: the future of Jerusalem and the protection of human rights.

Jerusalem: The Declaration of Principles, signed by Israel and the PLO on September 13, 1993, stipulate that the final status of Jerusalem is to be determined by the Government of Israel and the representatives of the Palestinian people in the context of the ''permanent status negotiations'', now scheduled to begin no later than May, 1996. It is critical that the 104th Congress not hinder these negotiations by urging President Clinton to implement a policy that favors Israel's claims to the portion of the city annexed in 1967. Members of Congress can make an important contribution by encouraging the President to keep the question of Jerusalem open for the parties to negotiate and to respect the rights and aspirations of both parties.

Israelis and Palestinians must be encouraged to avoid unilateral actions that would prejudice the permanent status negotiations on Jerusalem. Most importantly, it is crucial that the U.S. Government vigorously oppose Israeli building of new settlements or the expansion of existing settlements in territory occupied by Israeli forces in 1967. Many observers fear that the settlement activity is an attempt by Israel to preempt the negotiations on Jerusalem by creating overwhelming facts on the ground.

The permanent status of Jerusalem, and the process by which it is determined, holds the potential for either promoting reconciliation between Jews, Christians, and Muslims or fostering conflict between them. We urge the U.S. Government to advance a vision of Jerusalem, ''city of peace,'' as a symbol of reconciliation for the three faiths and for Palestinians and Israelis.

Human rights: The protection of human rights is an essential ingredient in the process of peacemaking. We are concerned that human rights abuses, perpetrated both by the Israeli authorities and the Palestinian National Authority (PNA), continue and that the U.S. Government in its role as a co-sponsor of the peace process is doing little to promote respect for human rights.

In mid-September two of our members, Pastor Mark Brown of the Lutheran Office for Governmental Affairs and human rights attorney Terence Miller of the Maryknoll Justice and Peace Office, met with leaders of Israeli and Palestinian human rights organizations and representatives of international bodies such as the United Nations Secretariat and the International Committee of the Red Cross to assess the human rights situation throughout the occupied territories. The enclosed briefing paper, prepared by Pastor Brown, Mr. Miller and staff of a number of other U.S. religious and human rights organizations, asks that particular attention be focussed on the following four areas:

1. Ensuring the creation of democratically accountable forms of government in the Palestinian partial self-rule areas;

2. Providing for the deployment of international human rights monitors throughout the territories to bolster protection for human rights and the rule of law for all;

3. Preventing the institutionalization of a dual and discriminatory justice system as a consequence of continuing military occupation; and

4. Calling for an end to illegal Israeli settlement activity.

We want you to know that we share the concerns raised in this briefing paper and ask that you will carefully consider the suggestions for U.S. Government action offered in each of the four areas.

We commend Israel and the Palestinian National Authority for their determination to press ahead despite horrendous acts of violence which make the way to peace all the more painful and arduous. We ask that you honor their commitment to the achievement of peace by promoting a U.S. policy which fosters a negotiated solution for Jerusalem and the protection of human rights.

Sincerely,

Robert Z. Alpern, Director, Washington Office, Unitarian Universalist Association; Dale L. Bishop, Middle East Liaison, National Council of Churches of Christ in the USA; Fr. Robert J. Brooks, The Presiding Bishop's Director of Government Relations, The Episcopal Church; Mark B. Brown, Assistant Director, Lutheran Office for Governmental Affairs, Evangelical Lutheran Church in America; J. Daryl Byler, Director, Washington Office, Mennonite Central Committee; Peggy Hutchison, Area Secretary for the Middle East and North Africa, World Division, General Board of Global Ministries, The United Methodist Church; Elenora Giddings Ivory, Director, Washington Office, Presbyterian Church (USA); The Rev. Ted Keating, Director for Peace and Justice, Roman Catholic Conference of Major Superiors of Men's Institutions.

Jay Lintner, Director, Office for Church in Society, United Church of Christ; James Matlack, Director, American Friends Service Committee, Washington Office; Timothy A. McElwee, Director, Church of the Brethren, Washington Office; Terence W. Miller, Director, MaryKnoll Justice & Peace Office; Nancy Nye, Legislative Secretary, Friends Committee on National Legislation; Anna Rhee, Executive Secretary for Public Policy, Women's Division, General Board of Global Ministries, The United Methodist Church; Robin Ringler, Peace with Justice Program Director, General Board of Church and Society, The United Methodist Church; Robert W. Tiller, Director, Office of Governmental Relations, American Baptist Churches USA.

HUMAN RIGHTS AND THE ISRAELI-PALESTINIAN PEACE PROCESS

(A briefing paper prepared by staff of the Human Rights Program of the Carter Center, the Robert F. Kennedy Memorial Center for Human Rights, the Lawyers Committee for Human Rights, the American Friends Service Committee, the Lutheran Office for Governmental Affairs, and the Maryknoll Justice and Peace Office, Oct. 28, 1994)

The implementation of effective human rights safeguards for all people of the Middle East is essential to the success of efforts to create a just and lasting peace in the region. Respect for human rights in Israel and the occupied territories is an objective of the peace process and can contribute much in this interim phase to building the climate of mutual trust necessary for the achievement of peace.

U.S. policy makers have recognized the crucial importance to the peace process of promoting improvements in the quality of life of Israelis and Palestinians. There are broad public expectations among both communities that if peace is to have any meaning it will bring with it a marked decrease in political violence and human rights abuse. These expectations, which go beyond those that are simply economic, have yet to be addressed, and initial hopes for improved human rights protection are giving way to skepticism and disappointment.

Unfortunately, our government is doing little to ensure that consideration for human rights is at the forefront of the peace negotiations. Administration officials assert that human rights issues are ''something to be discussed between the parties.'' This is an abandonment of the U.S. government's duties as a co-sponsor of the peace process. The administration must take a lead in ensuring that human rights are not the unintended casualty of the single-minded pursuit of a political settlement.

Threats to the fundamental human rights of Palestinian residents of the territories come both from the Israeli occupation authorities, and from the newly created Palestinian National Authority. The U.S. government has a role to play in ensuring that both these powers carry out their responsibilities in accordance with relevant standards of international human rights and humanitarian law. Failure to uphold the rule of law will only fuel mistrust, foster extremism, and interfere with the process of peacemaking.

Particular attention should be focused on the following four areas.

(1) Ensuring the creation of democratically accountable forms of government in the Palestinian partial self-rule areas.

The Declaration of Principles, signed on the White House Lawn just over one year ago, provided for the holding of ''direct, free and general'' elections among Palestinians in the West Bank and Gaza Strip to be held within nine months of the signing of the agreement. These elections have not yet been held, and preparations for them are not well advanced. Meanwhile, Chairman Arafat and the appointed Palestinian National Authority (PNA) wield broad discretionary powers over the everyday lives of Palestinians in Gaza and Jericho, including selection of judges and local government leaders. The PNA has already threatened basic rights such as freedom of expression and assembly by banning newspapers, putting constraints on peaceful political gatherings, and other measures that have a chilling effect on democratic discourse.

There is a close correlation between the protection of fundamental human rights and the existence of a representative governing authority. If the habits of democratic governance are to take root in the territories, further delay in the holding of free and fair elections should be minimized.

The United States can help meet the expectations widely expressed by the Palestinian public for democratic and accountable government by actively encouraging both Israel and the PNA to move forward with negotiations preparatory to the holding of elections, and by supporting practical measures conducive to the holding of elections that are free, fair and open to a broad spectrum of political movements. Such measures include protection of fundamental civil and political rights, voter education, support for the independent role of Palestinian human rights groups, and the withdrawal of Israeli troops from Palestinian population centers throughout the occupied territories during the election campaign and voting.

The United States should also promote the creation of an accountable form of government in the Palestinian areas after elections. In this regard, the election of an executive council alone, not counterbalanced by an elected legislature nor by an independent judiciary, does not constitute the basis for a functioning democratic form of government.

(2) Providing for the deployment of international human rights monitors throughout the territories to bolster protection for human rights and the rule of law for all.

The human rights situation in the territories remains highly volatile. There are armed extremist groups on both sides each committed to inflicting violence in the hope of derailing the peace process. The temptation is ever present for the Israeli government, PNA and opposition groups to exploit violent incidents for their own political purposes. The possibility of a cycle of violence taking hold in these circumstances, both inter-communally and intra-communally, should not be discounted.

An unarmed international human rights monitoring presence, under appropriate multilateral auspices, could play a valuable role in defusing disputes, and acting as an impartial witness to events. The ability of such a presence to report publicly on its findings should be established at the outset because it would be likely to deter potential human rights violators.

The groundwork for the deployment of such a presence has already been laid in negotiations between the parties and at the United Nations. The Cairo Agreement provided for the deployment of a Temporary International Presence (TIP) in Gaza and Jericho, although the scope of its duties was left to be defined by Israelis and Palestinians at a later date. Security Council Resolution 904, which followed the Hebron massacre of February 1994, also provided for a ''temporary international or foreign presence . . . to guarantee the safety and protection of Palestinian civilians throughout the occupied territory.''

The U.S. government should intercede with both parties to permit the deployment of an independent multilateral human rights monitoring presence throughout the territories occupied by Israel in 1967. For the human rights protection function of such a presence to be successfully accomplished, clear terms of reference need to be drawn up in advance, and agreed to by all parties, firmly rooting

its activities in applicable standards of international law.

(3) Preventing the institutionalization of a dual and discriminatory justice system as a consequence of continuing Israeli military occupation.

The development of democratic norms of governance within Palestinian areas is also impaired by stark inequalities between Israelis and Palestinians in many areas, including the standard of justice available to members of each community. The Cairo Agreement of May 4, 1994, establishing partial Palestinian self-rule within the Gaza Strip and Jericho, provides for the continuation, in many circumstances, of the Israeli military justice system for offenses against Israelis or Israeli security, committed by Palestinians. Palestinian courts have been given no similar jurisdiction over Israelis who may commit offenses against Palestinians. Israelis who commit offenses in the territories are tried in Israeli civilian courts with a high level of regard for due process protection. In contrast, Palestinians are subject to the summary proceedings of the Israeli military courts.

This inequality before the law is deleterious to the cooperation between the Palestinian Authority and the Israeli government in law and order and security matters specifically called for in the agreements. Events such as the abduction of Israeli soldier Nachshon Waxman, and the bomb attack in central Tel Aviv, underline the absolute need for such cooperation. However, cooperation cannot flourish on a basis of institutionalized discrimination.

The U.S. government should urge the Israeli government and the PNA to eradicate disparities between the rights of Palestinian and Israeli criminal suspects from the territories. Members of Congress could contribute positively to this end by supporting Administration efforts to encourage the parties to ensure that administration of justice for all people in the territories guarantees equal protection, due process and other basic legal safeguards.

(4) Calling for an end to illegal Israeli settlement activity.

The building of Israeli settlements in the occupied territories is a violation of international law, and greatly exacerbates Palestinians' fears that they will be left with little land over which to exercise political autonomy. Previous U.S. presidents have stated that the settlements are illegal and constitute an obstacle to peace. Nevertheless, even as the negotiations between the Palestinian Authority and the Israeli government continue, Israeli settlement activity has not abated. For example, the Israeli government is currently considering adding another 700 housing units to the Alfei Menashe settlement near the West Bank city of Qalqilya.

Expansion of settlements undermines Palestinian confidence in Israeli intentions. It also violates the spirit of interim agreements and creates facts on the ground that may prejudice final status negotiations.

The Congress and the U.S. Administration can avoid inadvertently signaling support for these actions by reiterating the importance of halting further Israeli settlement activity and continuing to require that U.S. aid to Israel not be used for settlements as stipulated by U.S. Public Law 102–391, Title VI. By ensuring that no U.S. foreign assistance is used by Israel to support settlement activities, they will contribute to building Palestinian confidence in the agreements.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S957–S1015

Measures Introduced: Two bills and ten resolutions were introduced, as follows: S. 231 and 232; S.J. Res. 18 and 19; and S. Res. 54–61.

Pages S1003–04

Measures Reported: Reports were made as follows:

S. Res. 54, authorizing expenditures by the Judiciary Committee.

S. Res. 56, authorizing expenditures by the Committee on Commerce, Science, and Transportation.

Page S1003

Measures Passed:

Majority Committee Appointments: Senate agreed to S. Res. 57, making majority party appointments to the Small Business and Aging Committees for the 104th Congress. **Page S1014**

Joint Committee Membership: Senate agreed to S. Res. 58, providing for members on the part of the Senate of the Joint Committee on Printing and the Joint Committee of Congress on the Library.

Page S1014

Printing Authority: Senate agreed to S. Res. 59, to authorize the printing of a collection of the rules of the committees of the Senate. **Page S1014**

Unfunded Mandates: Senate continued consideration of S. 1, to curb the practice of imposing unfunded Federal mandates on States and local governments; to strengthen the partnership between the Federal Government and State, local, and tribal governments; to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate funding, in a manner that may displace other essential governmental priorities; and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations, with certain excepted committee amendments, taking action on amendments proposed thereto, as follows: **Pages S961–85, S987–S1000**

Rejected:

Committee amendment number 9, beginning on page 15, line 6, to modify language relating to reports on Federal mandates. (By 55 yeas to 39 nays (Vote No. 20), Senate tabled the amendment.)

Pages S961–76

Committee amendment number 10, beginning on page 15, line 23, relating to committee report requirements under Federal intergovernmental mandates. (By 52 yeas to 42 nays (Vote No. 21), Senate tabled the amendment.) **Pages S987–88**

Pending:

Committee amendment number 11, beginning on page 25, line 11, pertaining to committee jurisdiction. (By 27 yeas to 66 nays (Vote No. 22), Senate failed to table the amendment.) **Pages S988–98**

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on the cloture motion will occur on Thursday, January 19. **Pages S998–S1000**

Senate will resume consideration of the bill on Wednesday, January 18.

Messages From the House: **Page S1002**

Communications: **Pages S1002–03**

Statements on Introduced Bills: **Pages S1004–08**

Additional Cosponsors: **Page S1008**

Authority for Committees: **Page S1014**

Record Votes: Three record votes were taken today. (Total—22) **Pages S976, S998**

Recess: Senate convened at 9:15 a.m., and recessed at 7:37 p.m., until 11:30 a.m., on Wednesday, January 18, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on pages S1014–15.)

Committee Meetings

(Committees not listed did not meet)

WORLD THREAT TO U.S. ASSESSMENT

Committee on Armed Services: Committee met in open and closed sessions to receive a briefing on current

and projected worldwide threats to United States' security and interests from Adm. William O. Studeman, USN, Acting Director of Central Intelligence; Lt. Gen. James R. Clapper, Jr., USAF, Director, Defense Intelligence Agency; Douglas J. MacEachin, Deputy Director for Intelligence, Central Intelligence Agency; and Christine Williams, Chairman, National Intelligence Council.

Committee recessed subject to call.

BALANCED BUDGET AMENDMENT

Committee on the Judiciary: Committee resumed markup of S.J. Res. 1, proposing an amendment to the Constitution of the United States to require a balanced budget, but did not complete action thereon, and will continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 26 public bills, H.R. 525–550; one private bill, H.R. 551; and four resolutions, H. Con. Res. 14 and H. Res. 35–37, were introduced. **Pages H295–96**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Barrett to act as Speaker pro tempore for today. **Page H245**

Recess: House recessed at 9:47 a.m. and reconvened at 11:00 a.m. **Page H246**

Trade Agreements: The Speaker selected, upon the recommendation of the Chairman of the Committee on Ways and Means, the following members of that committee to be accredited by the President as official advisers to the United States delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the first session of the One Hundred Fourth Congress on the part of the House: Representatives Archer, Crane, Thomas of California, Gibbons, and Rangel. **Page H247**

Accrued Annual Leave: House agreed to H. Res. 35, providing for payment of a lump sum for accrued annual leave to eligible former employees of the House of Representatives. **Pages H250–51**

Agreed to the Thomas of California amendment that changes separation dates for employees eligible for lump-sum payment for accrued annual leave to begin on December 31, 1994, or January 1, 2, or 3, 1995. **Page H251**

Congressional Accountability Act: By a yea-and-nay vote of 390 yeas, Roll No. 16, the House voted to suspend the rules and pass S. 2, to make certain laws applicable to the legislative branch of the Federal Government—clearing the measure for the President. **Pages H252–74, H285–86**

Recess: House recessed at 2:03 p.m. and reconvened at 5:00 p.m. **Page H285**

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H297–98.

Quorum Calls—Votes: One yea-and-nay vote developed during the proceedings of the House today and appears on page H286. There were no quorum calls.

Adjournment: Met at 9:30 a.m. and adjourned at 6:32 p.m.

Committee Meetings

CONTRACT WITH AMERICA

Committee on Ways and Means: Continued hearings on proposals contained in the Contract With America, with emphasis on provisions to strengthen the American family. Testimony was heard from Senator Grams, Representative Hutchinson, and public witnesses.

Hearings continue tomorrow.

COMMITTEE MEETINGS FOR WEDNESDAY, JANUARY 18, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Budget, to hold hearings on proposed legislation granting the President of the United States legislative line-item veto authority, 10 a.m., SD–608.

Committee on the Judiciary, business meeting, to continue markup of S.J. Res. 1, proposing an amendment to the Constitution of the United States to require a balanced budget, 8:30 a.m., SD–226.

Committee on Labor and Human Resources, organizational meeting to consider committee budget resolution, rules of procedure for the 104th Congress, and subcommittee assignments, 9:30 a.m., SD–430.

Full Committee, to hold oversight hearings on the activities of the Job Corps, 10 a.m., SD–430.

Committee on Rules and Administration, to hold hearings on proposed committee resolutions requesting funds for

operating expenses for 1995 and 1996, 9:30 a.m., SR–301.

Select Committee on Intelligence, to hold closed hearings on intelligence matters, 2 p.m., SH–219.

House

Committee on Appropriations, Subcommittee on Energy and Water Development, on Downsizing Government, 2 p.m., 2362B Rayburn.

Subcommittee on Interior and Related Agencies, on Secretary of the Interior, 10 a.m., B–308 Rayburn.

Subcommittee on Labor, HHS, Education and Related Agencies, on Secretary of Education/Downsizing/GAO, 9 a.m., and on Secretary of Labor—Downsizing/GAO, 2 p.m., 2358 Rayburn.

Subcommittee on Treasury, Postal Service, and General Government, on Downsizing Government/Federal Personnel, 10 a.m., H–163 Capitol.

Committee on Economic and Educational Opportunities, hearing on Contract With America: Welfare Reform, 9:30 a.m., 2175 Rayburn.

Committee on National Security, executive, to receive a briefing on current intelligence and operations, 10 a.m., 2118 Rayburn.

Committee on Resources, to consider the following measures: H.R. 101, to transfer a parcel of land to the Taos Indians of New Mexico; H.R. 256, to withdraw and reserve certain public lands and minerals within the State of Colorado for military use; H.R. 400, to provide for the exchange of lands within the Gates of the Arctic National Wildlife Park and Preserve; H.R. 440, to provide for the conveyance of lands to certain individuals in Butte County, CA; and H.J. Res. 50, to designate the visitors center at the Channel Islands National Park, CA, as the ''Robert J. Lagomarsino Visitors Center,'' 11 a.m., 1324 Longworth.

Committee on Rules, to consider H.R. 5, Unfunded Mandate Reform Act of 1995, 11 a.m., H–313 Capitol.

Committee on Small Business, hearing on Tax Policy and Small Business (overview of small business tax proposals as contained in the Contract With America and beyond), 2 p.m., 2359 Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, to hold an organizational meeting, 10:30 a.m., 2167 Rayburn.

Committee on Ways and Means, to continue hearings on proposals contained in the Contract With America, with emphasis on provisions to strengthen the American family, 10 a.m., 1100 Rayburn.

Next Meeting of the SENATE

11:30 a.m., Wednesday, January 18

Senate Chamber

Program for Wednesday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 12 noon), Senate will resume consideration of S. 1, Unfunded Mandates.

Next Meeting of the HOUSE OF REPRESENTATIVES

11 a.m., Wednesday, January 18

House Chamber

Program for Wednesday: No legislative business is scheduled.

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