United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

Vol. 141 WASHINGTON, WEDNESDAY, MARCH 1, 1995 No. 38

House of Representatives

The House met at 10 a.m.

PRAYER

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

Teach us, O gracious God, to be responsive to the prayers and blessings and support that other people share with us. When we truly examine our lives, we see how those about us have favored us with both material and spiritual gifts and we, too, often only accept the gift and never offer our appreciation to the giver. Remind us always, O God, to be grateful for the support and advocacy of other people in our daily lives so we will respond with a true spirit of thanksgiving. 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. Will the gentleman from Missouri [Mr. VOLKMER] come forward and lead the House in the Pledge of Allegiance.

Mr. VOLKMER 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.

APPOINTMENT AS MEMBER OF THE UNITED STATES DELEGATION OF THE MEXICO-UNITED STATES INTERPARLIAMENTARY GROUP

The SPEAKER. Pursuant to the provisions of 22 U.S.C. 276h, the Chair appoints the following Member of the House as a Member of the United States Delegation of the Mexico-United States Interparliamentary Group for the 1st session of the 104th Congress:

Mr. KOLBE of Arizona, chairman.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize Members for 20 1-minute speeches on each side.

The Chair recognizes the gentleman for Ohio [Mr. HOKE].

CONTRACT WITH AMERICA

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

Mr. HOKE. Mr. Speaker, our Contract With America states the following:

On the first day of Congress the Republican House will require Congress to live under the same laws as everyone else, cut committee staffs by one-third, and cut the congressional budget. We have kept our promise.

It continues in this way. That in the first 100 days we will vote on the following items:

A balanced budget amendment; we kept our promise, we passed it.

Unfunded mandates legislation; we kept our promise.

Line-item veto; we kept our promise.

A new crime package to stop violent criminals; we kept our promise.

National security restoration to protect our freedoms; we kept our promise.

Government regulatory reform; we are doing this right now.

Welfare reform to encourage work, not dependence; family reenforcement to crack down on deadbeat dads and to protect our children; tax cuts for middle-class, middle-income families; Senior Citizens Equity Act to allow our seniors to work without Government penalty; common sense legal reform to end frivolous lawsuits; and term limits to make Congress a citizen legislature.

Mr. Speaker, this is our Contract With America.

QUESTIONING THE CREATION OF A FREE TRADE ZONE IN ISRAEL AND THE APPOINTMENT OF THE SPEAKER'S WIFE

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

Mr. VOLKMER. Mr. Speaker, just last week one of our colleagues gave much needed criticism to several former higher ranking Government officials who now represent foreign interests. I rise today to protest the job given to the wife of our Speaker by a group of American investors who want to create a free trade zone in Israel. What does a free trade zone mean? It means companies operating within the zone can import duty free and then export to the United States duty free. In other words, export American jobs to Israel so they can produce products that can come back to the United States to compete with American made products.

The Speaker's wife, Marianne Gingrich, reportedly is paid $30,000 annually plus commissions on each American company she convinces to leave the United States. For instance, a 10-percent commission on a $100 million factory would be $10 million to the Speaker's wife. Why did this job go to the Speaker's wife? Four and a half million

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here, 10 million there. How many millions before an independent counsel is named to investigate the Speaker's shady deals.

INCREASES, NOT CUTS, CLAIMED FOR THE SCHOOL LUNCH PROGRAM

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

Mr. TIAHRT. Mr. Speaker, we have been falsely accused by our opponents and by the media of cutting nutrition programs through the Contract With America. The GOP has developed a plan, and it is a good plan. I have a graphic representation of that here. It talks about proposed spending.

In fiscal year 1995 for the school lunch program we are increasing spending from $4.5 to $4.7 billion. That is a $200 million increase in spending on nutrition programs. Yet we have been accused of trying to starve children.

Under the Women and Children's Nutrition Program we are increasing from $3.47 to $3.68 billion. This is a $200 million increase.

I just want to tell the people in America that the Contract With America is not a contract on America. We have a plan to feed those who are truly in need. We have a plan to cover those who have problems in our society. I think it is a good plan. I intend to support it, and I encourage others to support it.

CHINA POLICY RAISES QUESTIONS ABOUT INTELLIGENT LIFE IN WASHINGTON

(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, everybody knows that China is ripping America off. They now enjoy a $38 billion trade surplus, laughing all the way to a Chinese bank.

To me that is unbelievable, but what is more unbelievable is that China is then rewarded with most-favored-nation trade status.

But what can even be more troubling in all this is that with that $35 billion, China builds Silkworm missiles. Then China takes those Silkworm missiles and sells them to Iran. Then Iran takes those Silkworm missiles and threatens the gulf, and then the Pentagon says to Congress, ''We need more money to protect the gulf from those Silkworm missiles that Iran has that were made in China.''

Beam me up, Mr. Speaker. Now NASA is on an unmanned space mission to the moon. I think NASA should redirect and have an unmanned space mission to Washington, DC, and try to find out if there is any intelligent life left in the Nation's Capital.

A LOVE AFFAIR WITH THE FEDERAL BUREAUCRACY

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

Mr. NORWOOD. Mr. Speaker, why the Democratic love affair with the bureaucracy? What motivates the Democrats to fight so hard to save it?

As part of our welfare reform package, we Republicans have proposed increasing money for school nutrition programs and giving it directly to the States, thereby cutting out the bureaucracy. Yet, the Democrats have lied about the Republican plan to save the bureaucracy. Why?

Well, a good investigator always follows the money. When we do, we find that the eight largest Federal Government employee PAC's in the last five election cycles contributed $17.1 million to Democratic candidates, but only $1.9 million to Republican candidates. That is about a 9-to-1 ratio favoring the Democrats.

Could this be why the Democrats fight so hard and misinform so much? Are they really committed to the children, or to the bureaucracy that fills their electoral coffers?

The Republican plan, Mr. Speaker, will put more money where it is needed most.

WELFARE—A COLOSSAL FAILURE IN THE WAR ON POVERTY

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

Mr. BALLENGER. Mr. Speaker, with all the distortion, deceit, and deception coming from the other side of the aisle on the issue of welfare reform, I think it is time to remind my Democrat colleagues that welfare has been a colossal failure.

Since 1965, we have spent $5 trillion on welfare, an amount greater than our total national debt. An amount greater than the cost of winning World War II—even in constant, inflation-adjusted dollars.

But far from winning the War on Poverty, we have spent $5 trillion and poverty has won, or at least is winning.

Consider the sad facts. Since the end of World War II, poverty in America had been declining at a rapid and steady rate. But as welfare spending increased in the late 1960's and early 1970's, the poverty rate leveled off and began climbing, reversing a decades long trend in the other direction.

So why do the Democrats fight so hard to preserve a system that has been such a failure? Why do they want to perpetuate a system that has trapped so many in a cycle of dependency? Why are they so wedded to the old order?

SCHOOL LUNCHES

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

Ms. ESHOO. Mr. Speaker, it is said in every war the first casualty is the truth and this is certainly the case in the Republican revolution.

While the GOP claims that its budget cuts will not hurt American children, the truth is that children are the ones in the direct line of fire.

Mr. Speaker, 43 percent of the children in my district—18,625 children—will be impacted by the Republicans' cuts in the School Lunch Program.

A lunch may be something my colleagues on the other side of the aisle take for granted, but for some of these children it is their only meal of the day.

This meal provides the nourishment they need to learn and perform better so they can become productive citizens.

The mantra of the day is block grants. Well this one needs to be closely examined. The truth is there will be less money in the block grants and the Governors don't have to use this money for school lunches.

To make matters worse, the Republicans have eliminated national nutritional standards which prevented ketchup from being counted as a vegetable.

Mr. Speaker, the mean-spirited attacks on our children must stop. I urge my colleagues to oppose these devastating cuts—for our children and for the future of our country.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

NUTRITION PROGRAMS FEED CHILDREN, NOT BUREAUCRATS

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

Ms. PRYCE. Mr. Speaker, to listen to the Democrats speak, one would think the Republicans are ogres, taking food out of the mouths of babes. They have called us cruel; they have called us despicable.

Mr. Speaker, what is despicable is their tactics. They are deceiving the American people, and they know it. There are absolutely no cuts in the School Lunch Program under the Republican welfare plan. Let me say that again. Thee will be no cuts in the School Lunch Program.

As a matter of fact, the funding for the program will actually increase by $203 million, an increase of 4.5 percent. Furthermore, the Republican plan guarantees that 80 percent of the funds will actually go to feed hungry children, while 2 percent can be spent on administrative costs.

Our proposal will make sure that the money will go where it is needed, into

food for children, not pay checks for bureaucrats. Democrats seem more concerned about feeding bureaucrats than feeding children.

Mr. Speaker, the debate should not involve using scare tactics to defend the status quo. Our children are more important than that.

□ 1015

COLOR-BLIND JUSTICE

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

Mr. FLAKE. Mr. Speaker, I am overjoyed at all of the discussions that we are having about a color-blind society. A color-blind society starts with color-blind justice.

Yesterday, the U.S. Commission on Sentences released a study. That study said that crack sentences put more blacks in prison. It must be understood that the disparity in the law that allows for a person with 5 grams of crack cocaine to serve a term of 5 years versus a person who serves 5 years who has 10,000 grams of powder cocaine is an injustice. It is unfair.

I would call on my Republican colleagues and others in the Democratic Party to join with me. Let us work toward a color-blind society, but let us start with the reality that color-blind justice must be a part of what makes this process workable.

When we get to that point, I think we can all agree that we are moving toward the kind of society that was intended from the beginning. This American democracy is an inclusive one.

FEDERAL SCHOOL LUNCH PROGRAM

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

Mr. JONES. Mr. Speaker, finally, the truth has prevailed. For the past week, House Republicans have been accused of not caring for children and for future American generations. Opponents believe that we are going to dismantle the Federal School Lunch Program. That is simply not true.

We realize that children are better able to learn when fed a nutritious meal on a regular basis. Under our proposal, the program will grow by 4.5 percent, and in the current budget year we will spend $4.7 billion, yet another increase for children.

Since January, we have been busy passing a balanced budget amendment, a line-item veto, and even a new and improved crime package for the benefit of our children. In the coming weeks, we will work on a welfare reform package, a commonsense legal reform measure, and finish streamlining the Federal regulatory maze.

We will continue to create a brighter future for our country's most important resource—our children.

NO FREE LUNCH

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

Mr. GUTIERREZ. Mr. Speaker, the Republicans have said ''no more free lunches.'' But, to whom have they said this? To themselves or to the Washington special interests? No. To well-paid lobbyists or well-connected contractors? No.

Instead, they have said ''no more free lunch''—no lunch at all—to the millions of children who depend on the Federal Government's School Lunch Program. Mr. Speaker, we need congressional reform, like a gift ban, because we can only represent our constituents if we share the experiences that they go through everyday. And this latest cruel cut shows that we have very little in common with our youngest, most vulnerable constituents.

Yes, it is business as usual in Washington, even though outside the beltway, belts will be worn a little tighter than usual.

Members of Congress and lobbyists can keep their three-martini lunches, while our poorest children can't even get three square meals.

So, I say to the Republicans, you defend your elegant lunches with lobbyists who make millions, and we Democrats are going to defend the modest lunches that feed millions of children.

THE EFFECT OF THE DEFICIT ON OUR CHILDREN

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

Mr. MCINNIS. Mr. Speaker, after hearing some of the comments earlier this morning, let me tell Members that the children that are in the direct line of fire are in the direct line of fire because they have got something called the Federal deficit which is about to explode in their lap.

If we want to help the children of the future, we better do something about this deficit and we better be prepared to address the bureaucracy on the food School Lunch Program.

Do not let the Democrats on the fringe left parade around and say we are taking food out of the children of this country. We are not doing that.

We are just saying we have got to change the status quo. We need to introduce something called business management 101 to operate that program.

That program is going to be run much efficiently under Republican control and a lot more kids are going to get fed under Republican control than the Democrats ever dreamed.

In addition to all that, we are going to get that next generation out of the Federal deficit like the Democrats want to end it.

WELFARE ISN'T A LUXURY

(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, I am appalled at the mean spirit of my Republican colleagues. I rise today to call on them to get over their stereotypes of welfare. They should listen to experts like Joe Livingston from southwest Portland:

> As a medical student at Oregon Health Sciences University, I see poverty all of the time, and it reminds me of my own experiences growing up. I was the child of a teenage parent. There were times in our lives when my mother could not make ends meet and we went on welfare.
>
> I find it terrifying that many in Congress feel it is good for the country to decide that if young women have children outside of marriage they should be abandoned. Teenage mothers do not need our government to punish them; they need help. Their young children do not need Congress to judge them as bastards; they need food and shelter.

THE TRUTH ABOUT REPUBLICANS AND CHILDREN

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

Mrs. CUBIN. Mr. Speaker, I am standing here today, and I am going to come back and I am going to stand here every day until we get this bill passed or until they start telling the truth.

The truth is, if Members wanted to know who cares about feeding children in America, the Republicans care.

I am a mother. I have served school lunches myself. I have cooked the food. I have taken the food there to serve it. There is no one in Washington who wants to take care of the school children in Wyoming and across the country more than I do and more than my colleagues do.

The truth of the matter is, my colleagues, that we are spending more money for school lunches. We are allowing the people who really care about the people who knows what their needs are in the States to make the decisions that affect those children.

We are allowing families to take over feeding their children again. The School Lunch Program does not just feed poor children. It feeds people's children who do not need money in order to supplement the cost. That is wrong.

We need to take care of the people who need it, and that is best decided at the States.

THE EFFECT OF REPUBLICAN CUTS ON THE STATE OF CALIFORNIA

(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, the gentlewoman in the well

just preceding me got it all wrong, because the truth is, according to the Los Angeles Times, that California loses a billion dollars in school lunch money that would go to directly buy means for young children in our schools who need it or they risk being hungry every day—a billion dollars.

The Republicans want to talk about how they are cutting the bureaucracy in Washington. The School Lunch Program is run in the States. It is run by local people, local school districts, and the billion dollars comes out of the lunches of children.

The article goes on to say that the billion dollars comes out of the pocket of working parents who have their children in family day care, because those children will now lose the $3 a day so we are talking about 30,000 day care centers in California that will lose this money, and that means that they will simply have to drop out and parents will not be able to afford day care.

We are talking an additional $60 a month for day care. That is where the billion dollars is. That is the loss of California. That is the truth outside the beltway.

REFORMING WELFARE

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

Mr. CHABOT. Mr. Speaker, we have been hearing a lot of griping from the other side of the aisle over Republican efforts to overhaul the current welfare system. It seems that every time Republicans suggest a positive idea for change, the Democrats immediately start yelling no. What I find interesting is that the Democrats have not introduced any legislation of their own. They have no bill. All they are doing is defending with all their might the status quo and the liberal welfare state that they built up over the last 40 years.

Mr. Speaker, I believe the American people want change. They are sick and tired of paying for a system that has produced failure, crime and decay.

We have heard the voters, the mandate that they gave for smaller government, a less costly government, a more efficient government. By reforming welfare, we are giving the American people what they demand.

SCHOOL LUNCH CUTS

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

Mr. WISE. Mr. Speaker, at Berkeley Heights Elementary School this week they do not think of the School Lunch Program as welfare. They think of simple nutrition and simple common sense. Those who say that there is no cut, apparently they have not spoken to those in their States as I have who know that, who have read their legislation and know that the Republicans are proposing cuts, real cuts that will mean the folding of School Lunch Programs across the country.

Reputable groups say it could be as much as $7 billion, because what is done is you put the programs, the nutritional programs like school lunch, school breakfast, emergency food supplements, Women, Infants and Children all into one block grant. Then what you do is you make people fight to compete over those. You also remove the standards that have been so important. Remember the days of ketchup and relish being a vegetable. You do not have to worry about that anymore because you just take the whole lunch tray so you do not have to worry what is on it anymore.

I also have great concerns about making this a block grant. Because when you put Women, Infants and Children and all the others together, you make the pregnant mother compete with her children in school for supplement and you make the day care toddler compete with his brothers and sisters in elementary school for lunch.

DEMOCRATS AND BUREAUCRATS

(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, how many times have we heard that money is the root of all evil? I do not know if it is the root of all evil, but it does appear to be the root of the disinformation campaign being waged by the Democrats to, get this, defend the current welfare system.

A quick perusal of campaign finance records shows that the eight largest Federal employee unions gave a whopping nine times more to Democratic candidates than Republican candidates over the last five elction cycles.

Once we know that fact, it is easier to understand the Democrats' attack on the Republican plan to increase spending on the school lunches while decreasing the Federal bureaucracy.

Once we know that fact, it is no surprise that the Democrats have decided to cast their lot with the bureaucrats instead of the recipients of the School Lunch program, namely the children at schools like R.B. Wright school in my hometown where my wife has taught for 20 years.

Once we know that fact, it is easy to understand why the American people chose Republicans on November 8 to conduct welfare reform.

SUPPORT FOR WIC

(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, I wish some of my Republican friends would just spend a few minutes visiting a WIC clinic, just a few minutes, to see the real faces of women and their children who come to those clinics each day and with the help of a system that is very successful raise healthy children who really are tomorrow's future.

For the Republicans it is just statistics. It is just welfare. But for the rest of America, it is the real life that we lead.

There was an amendment before the committee which suggested we should continue to have competition and bidding for infant formula under that program. The competition and bidding that Democrats push save American taxpayers over $1 billion a year. And yet the Republicans, on a partisan vote, rejected that. The Wall Street Journal reported yesterday why, because the four largest infant formula companies in this country stand to gain $1 billion more in profits because the Republicans walked away from this cost efficiency which Democrats have pushed.

Forty percent of the infants in America today are in the WIC Program. We cannot have a strong America if we do not have strong children. Let us stick with the programs that work.

END CONDEMNATION WITHOUT COMPENSATION

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

Mr. SMITH of Texas. Mr. Speaker, tomorrow the 104th Congress will have the opportunity to right a fundamental wrong occurring every day across America. It is called condemnation without compensation.

If the Government wants to put a highway in your front yard, it has to pay you compensation for using your property. That is only fair.

If the Government wants to impose a regulation converting private land into a wildlife sanctuary or a wetlands preserve, it should also have to pay you fair compensation. In both cases, the private property owner is being asked to sacrifice his land for the public good. It would not be fair to force the unfortunate landowner to shoulder the entire burden.

Too often today, that is just what happens—American families, farmers, and businessowners are stripped of private property by Government regulations. But, unlike with condemnation, these forgotten Americans are never compensated.

The Private Property Protection Act of 1995 would put an end to condemnation without compensation. I urge my colleagues to stand up for these forgotten Americans and support this legislation.

□ 1030

THE SPEAKER GIVES SCHOOLCHILDREN CHECKS FOR LEARNING WHILE TAKING AWAY SCHOOL LUNCH PROGRAM FUNDING

(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, over and over again on the floor of this House we have heard from the Members of the majority party. We have heard them talk about their concern for America's children. They claim that it is our children that they are fighting for.

However, when it comes to one of our most crucial and direct commitments to children, the School Lunch Program, the Republicans were eager and willing to sacrifice our children on the alter of their capital gains tax cut. Today the hypocrisy grows even greater.

The Speaker of this House will be visiting a school in Anacostia, the Moten Elementary School, to give out checks as a part of his Earning for Learning Program. Children get $2 for every book that they have read.

However, while he doles out the cash payments, the fact is that these children will be suffering a devastating loss at the hands of the Speaker; 397 of the 422 children in this school take part in the School Lunch Program. Since the funds will be slashed, these kids will not have the money that they need to have that program, and many of them in fact will go hungry.

We know what that does to learning. In the words of Richard Nixon, who strongly supported this program, ''a child, ill fed, is dulled in curiosity, lower in stamina, distracted from learning.''

Please, we must have the School Lunch Program. The Speaker is talking out of both sides of his mouth.

REPUBLICAN PROGRAMS ARE PUBLIC-SPIRITED, NOT MEAN-SPIRITED

(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, the old, tired party-line from the liberal Democrats is that Republicans want to take food from the mouths of children. Mr. Speaker, it is typical of the liberals. It is pathetic, but predictable.

Mr. Speaker, these liberal Democrats really have no choice but to come out here and distort the truth. They know as well as anybody that the liberal message and these old, tired attempts at solving the problems from the liberal side of the aisle have been rejected.

The American people have seen the consequences of these policies. They know that the only people who have benefited from 40 years of one-party control by my friends on the other side have been bureaucrats, trial lawyers, and Federal regulators.

For the liberals to come here and suggest that the new majority wants to steal food from babies is lower than a gross distortion, it is absolutely and patently false. Mr. Speaker, with a generous increase in allowances for food lunch programs, Republicans are not taking food from kids. We are, however, taking power from the Federal Government and returning it to the front lines in this war on these problems.

If my friends on the other side want to come to this well and distort the facts, and tell us something else about the numbers, other than what is factual, that is their choice. However, we are not going away. This new majority is not mean-spirited, it is public-spirited.

REPUBLICAN PROGRAMS TAKE MONEY FROM CHILDREN'S PROGRAMS AND GIVE IT TO THE FAT CATS

(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, the mean-spirited Republicans continue right on. They are trying to become information-proof, as this goes along. All sorts of newspapers, all sorts of people involved in the program, people administering the program, everybody, not just Democrats, are saying they are making very serious cuts in the School Lunch Program in their new war on kids.

Why are they cutting these children? They are cutting these children because they need money to pay the fat cats. They are not sending it to the front lines, they want to return money to the fact cats. Let us be perfectly honest. That is not in America's tradition. Cutting kids, the poorest in the Nation, to pay the wealthiest in the Nation is absolutely wrong.

If people disagree with me, and they write here and disagree with me, I ask them to please send their picture. I want to see what those kinds of Americans look like that say they thing this is right.

I think it is time we started looking at the facts, stop trying to be information-proof, and protecting a policy that they are just upset we found out about and are exposing.

URGING REPUBLICANS AND DEMOCRATS TO WORK TOGETHER TO CHANGE FAILED SOCIAL PROGRAMS AND TRULY PROTECT AMERICA'S CHILDREN

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

Mrs. WALDHOLTZ. Mr. Speaker, according to the Census Bureau, the poverty rate in 1966 was 14.7 percent. Since then, the American people have witnessed one of the greatest expansions of the Federal Government in American history, mostly social programs, aimed at eliminating poverty.

However, it is time to admit the experiments of the 1960's, however well-intentioned, have failed; not just a little failure, but a great, big failure. The biggest failure is not in the money that we have lost, it is in the lost and broken lives.

Again, Mr. Speaker, according to the Census Bureau, the poverty rate in 1966 was 14.7 percent. In 1992, it was 14.5 percent. Mr. Speaker, virtually everyone in this body knows that the current welfare system is not really helping people in need. We are going to feed hungry schoolchildren. We are going to ensure proper nutrition for mothers and children in need. We are also going to help people in need by changing a welfare that is not working.

Mr. Speaker, let us work together in a deliberate, responsible, honest debate to truly protect our children.

EXTREME RIGHT-WING RADICAL REPUBLICAN PROPOSES PROHIBITING THE RIGHT TO ABORTION FOR AMERICA'S MOST VULNERABLE, VICTIMS OF RAPE AND INCEST

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

Mrs. LOWEY. Mr. Speaker, we see the actions of the extreme, mean-spirited Republican majority every day cut school lunch, cut student loans, cut drug-free schools, and tomorrow the extreme Republican majority will introduce an amendment to prohibit the most vulnerable in our society, victims of rape and incest, from terminating an abortion; it is hard to believe, the most vulnerable, victims of rape and incest.

In fact, the majority of the American people think that that should be legal.

Mr. Speaker, I want to congratulate the gentleman from Georgia, NEWT GINGRICH, in saying that he would speak out against the Istook amendment and vote against the Istook amendment. I do hope he can contain the extreme right wing radical part of his Republican majority.

ELIMINATING THE SOCIAL DRUG

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

Mr. BURR. Mr. Speaker, no one can dispute the fact that our current welfare system is in shambles. Many years ago, the Federal Government took responsibility for the disadvantaged away from communities and, after spending billions of dollars every year for 30 years, made the situation worse.

Now, by opposing the block grant concept, my Democrat colleagues and the Clinton administration are trying to convince the American people that big brother Government knows what's better for a community than the people who live there. They call this proposal mean spirited and callous. In reality, the only mean spirited thing in this whole debate is the current state of our welfare system.

Finally, Mr. Speaker, I think I understand why my colleagues oppose these reforms. They are simply afraid to admit the Great Society failed. But, now is the time for us to move on and begin transforming our welfare system from a social drug promoting dependence to a program that enables the participants to become productive members of society.

HOW MANY TIMES DO WE HAVE TO PAY?

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

Mr. SKAGGS. Mr. Speaker, before we take up the takings bill, I ask everybody to look at the story of Colorado's Summitville Mine. This was an active gold mine, using a cyanide leaching technique to extract ore. But a couple of years ago the mine's poorly designed holding ponds broke, overflowed, and a very, very toxic flow went down Alamoosa Creek in southern Colorado.

About a year and a half later, the foreign company which owned the mine declared bankruptcy and left. At the request of the State, EPA took over the cleanup.

Here is the kicker. The companies that now own the site are claiming that EPA's effort to clean up is a taking of their property, for which they deserve compensation.

Under the Constitution, this claim would be laughed out of court. But if we pass this takings legislation, it is exactly the kind of claim that American taxpayers would be forced to pay.

The public has already paid twice for Summitville: First, the environmental disaster, and now the EPA cleanup. Let us not have to pay a third time. They have got to be kidding.

More on the Summitville disaster on special orders tonight.

URGING BIPARTISAN SUPPORT FOR A GOOD JOBS MEASURE, THE TRAVEL AND TOURISM RELIEF ACT

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

Mr. ROTH. Mr. Speaker, I have a proposal I think can bring our liberal and conservative friends together, because if we want to do something for working people in America, if we want to create jobs, jobs, jobs, I have a bill for us to sign onto. I am introducing the Travel and Tourism Relief Act.

The travel and tourism business is the second largest employer in America. More than 11 million people in this country are employed directly or indirectly by the tourism, and travel and tourism industry amounts to nearly 15 percent of America's gross domestic product, generating more than $800 billion a year in expenditures.

Travel and tourism is the Nation's single largest export. More than 50 million visitors come to the United States each year, generating about $71 billion in revenues. With taxes at their current level, tourism also generates approximately $50 billion for the State and local governments.

Under my bill, Mr. Speaker, the travel and tourism industry will grow and it will help our local communities. I urge my colleagues on both sides of the aisle to support our working people and small business owners by backing the Travel and Tourism Relief Act. Together we can secure a prosperous future for communities across America.

Mr. Speaker, this bill helps kids. This bill helps moms and dads. Rather than a government handout, this bill creates jobs for the American people. I ask Members to sign on.

REPUBLICAN PROPOSALS TOUGH ON CHILDREN, TOUGH ON VETERANS, AND TOUGH ON SENIOR CITIZENS, IN ORDER TO PAY FOR TAX BREAKS FOR THE WEALTHY

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

Mr. STUPAK. Mr. Speaker, this morning we have heard a lot about the Republican plan to cut $17.3 billion from the budget, the rescission package. Where are they going to cut? The Women, Infant and Children Program, school lunches, the Day Care Lunch Program. They are tough on kids.

Who else are the Republicans tough on? They are going to be tough on the veterans, because they want to cut $50 million out of veterans' facilities. Those veterans who need medical help are going to lose $50 million.

They are going to be tough on our senior citizens. Two million senior citizens will lose the LIHEAP Program to help them heat their homes. In my district tonight in northern Michigan it is predicted to be 20 below zero, but we are going to be tough on those people. How about housing for seniors? One million seniors will lose housing under the $17.3 billion rescission package they propose.

Tough on seniors, tough on veterans, tough on kids. Where is the money going to go? Is it going to go to deficit reduction? No. Is it going to reduce the debt? No. It is going to go for the Contract With America, to pay forthe tax breaks for the wealthy, those who make more than $180,000. That is where the money is going.

CHANGES INSTITUTED BY NEW REPUBLICAN PROPOSALS WILL RESTORE THE REAL AMERICAN DREAM

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

Mr. GANSKE. Mr. Speaker, this session of Congress deserves to be called historic for many reasons: For its hard work, for keeping its promises, for making real changes that America wants. Many of these votes have been passed by widely bipartisan measures.

In just a few more days Congress is going to do something that the American people have wanted for decades. We are going to fix the failed welfare system. Welfare is not going to be a way of life. It is no longer going to trap one generation after another generation after another generation.

A new generation of Americans is going to find out that the American Dream is more than a welfare check. The American Dream starts with children being children, not having children; with staying in school, not dropping out; with finishing high school, not getting high; with work, not welfare.

The changes we will offer for the welfare system will embrace the American Dream. Our changes will reaffirm faith in ourselves by reaffirming one of the basic tenets of the American way of life—individual responsibility. So hold on for a few more days, America. Help is on the way.

THE REPUBLICANS PERMIT FREE LUNCHES FOR THEMSELVES, BUT NOT FOR AMERICA'S CHILDREN

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

Mr. BRYANT of Texas. Mr. Speaker, what is most appalling about the efforts of Speaker GINGRICH and his lockstep Republican chorus to deprive 13 million American children of their School Lunch Program is that the Republicans refuse to give up the freebie lobby lunch program which they themselves are able to enjoy under the current rules of the House.

While the lockstep Republicans gladly jeopardize the nutrition and education of children in America, they have repeatedly refused to even allow a vote in this House to outlaw the free lunches, free gifts, free football and theater tickets, and free golf vacations that they are able to accept from the special interest lobbyists seeking to influence their decision.

Mr. Speaker, the bottom line is that if the Republicans have their way, there will be no free lunch for kids who cannot afford one, but there will be

sumptuous free lunches for Congressmen at the finest restaurants in Washington, paid for by special interest lobbyists.

While lobby freebies may win tax breaks for special interests, eliminating the School Lunch Program will in the long run increase the burden on every American taxpayer. It is clear where Republican priorities are. They will let the lobby moochers keep their free lunches and eliminate the School Lunch Program for America's kids.

□ 1045

SUPPORT RESOLUTION OF INQUIRY REGARDING MEXICAN BAILOUT

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

Mr. STOCKMAN. Mr. Speaker, I come before the House today a little bit surprised to see that we are giving away billions of dollars to a country in which the president has been implicated in the murder of another presidential candidate. We are talking about real tax dollars and real money, and I am proud to say that I am going to reach across the aisle and support the Kaptur amendment today to ask some serious questions from our President.

We are planning to give away $53 billion without any oversight from Congress. It is the people's money and the people need to speak and say where we stand. I stand here saying that Congress needs to know what Clinton is doing with the money from an organization which has no oversight by Congress. I plan to support the Kaptur amendment.

SUPPORT HOUSE RESOLUTION 80, INQUIRY REGARDING MEXICAN BAILOUT

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

Ms. KAPTUR. First let me thank the gentleman from Texas for the bipartisan nature of an important resolution on which we will vote this afternoon. I wish to draw my colleagues' attention to it.

Mr. Speaker, today the American people are going to win the first vote being allowed in this Congress on the misguided taxpayer-backed bailout of the Government of Mexico.

As a result of a procedure we employed to force the leadership of this House to let us vote on the first step in getting to the bottom of this, the House this afternoon will vote on House Resolution 80, a bipartisan resolution of inquiry which requires the administration to answer key questions regarding its $52 billion bailout of Mexico.

I ask my colleagues to vote ''yes'' on the previous question and ''yes'' on House Resolution 80. Get answers to questions for your constituents such as who are the private creditors who will benefit from this rescue package? How solid is Mexico's pledge of oil collateral? Demand answers for your constituents.

This will be the first vote in many to follow, I hope, so we can get to the bottom of who our taxpayers are being asked to bail out.

CALL FOR APPOINTMENT OF AGRICULTURE SECRETARY

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

Mr. KINGSTON. Mr. Speaker, today is the first day of March. Today is the first day of Lent. Today is the first day of the third month that we do not have a U.S. Secretary of Agriculture.

Is having a Secretary of Agriculture important? Apparently not to this administration. Or maybe it is agriculture issues that are not important to this administration.

And what are agriculture issues? Food stamps, nutrition, School Lunch Programs, to name a few. Yes, that is right. For all the bureaucratic belly-aching over School Lunch Programs, neither the President nor the Senate Democrats have pushed for the confirmation of a new Secretary of Agriculture.

Could there be a slight disconnect here, Mr. Speaker? And what else besides the School Lunch Program is in jeopardy or up for grabs? The 1995 farm bill, the Delaney clause, the Market Promotion Program, minor use pesticides. But forget these. How about every item on your table, everything you buy at the grocery store?

Is it not important enough to the American consumers for the President and the U.S. Senate to confirm a new Secretary of Agriculture?

CONTRACT WITH AMERICA CALLED HIT ON SCHOOLCHILDREN

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

Mr. TUCKER. Mr. Speaker, in the parlance of lexicography, a contract is something that is a promise to be upheld or fulfilled. But in the common vernacular, a contract is also something that we understand is a hit that is put out on someone.

Mr. Speaker, we have heard a lot about the contract on America and it is exactly that. It is a hit on America. But today we understand who that hit is really on. When we read an article in the L.A. Times today that the Agriculture Department tells us that there is going to be a $1 billion hit on schoolchildren in terms of the School Lunch Program elimination, we understand what the contract on American really is.

Yesterday, Mr. Speaker, on Capitol Hill there were more people walking the halls than you could ever imagine, and that is just the beginning.

Yes, the first day of March is the first day of the beginning of the end of the Republican contract on America, because the chickens have come home to roost and we finally understand who the hit is on and it is on the 13 million American children of this country.

BLOCK-GRANT PROPOSAL LOSER FOR MISSOURI

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

Ms. MCCARTHY. Mr. Speaker, I am for the balanced budget and I am for welfare reform. Last weekend in my district, I met with concerned child care advocates at a place called Cradles and Crayons which takes care of the medically fragile children in my community. The room was packed with school nutritionists, child care providers, administrators, parents, and concerned citizens. I listened and I learned. They are unanimous in their concern regarding how we balance the budget and reform our welfare system, and their particular concern was with this proposal for block grants for children's programs, particularly the Children's Nutrition Program.

Their historical experience has been that when the Federal Government block grants, that usually means less money. Their outrage was around a program such as school lunches and that a program that had worked for over 40 years would be in jeopardy as a result of this block-grant concept. In the Independence district alone, Harry Truman's home district, they were going to lose $500,000 under the block-grant proposal put forward by the Republicans. The story was the same in Grandview, in Raytown, all over my district. The State of Missouri would lose lunches for 150,000 children.

Mr. Speaker, the message was clear: ''If it ain't broke, don't fix it.'' Congress needs to balance its budget but not on the bellies of our children.

FEDERAL FOOD ASSISTANCE

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

Mrs. CLAYTON. Mr. Speaker, WIC works.

It is a program that services low-income and at-risk women, infants and children.

Pregnant women, infants 12 months and younger and children from 1 to 5 years old, are the beneficiaries of the WIC Program.

For every dollar this Nation spends on WIC prenatal care, we save up to $4.21.

The budget cutting efforts we are experiencing are aimed at reducing the deficit.

The deficit is being driven by rising health care costs.

When we put money into WIC, we save money in Medicaid.

The equation is simple.

Those who have a genuine interest in deficit reduction can help achieve that goal by investing in WIC.

The WIC Program embraces the unborn; provides nurturing and care; is devoted to maternal health; helps ensure life at birth; and promotes the growth and development of millions of our children.

And, it saves us money.

WIC works. Let us keep it working.

INTRODUCTION OF THE CHECK CASHING ACT

(Mr. FIELDS of Louisiana asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. FIELDS of Louisiana. Mr. Speaker, today, I rise with great concern for our consumers. Today, I rise to introduce the Check Cashing Act of 1995.

The check cashing industry is growing by leaps and bounds, charging excessive rates in some instances, with no one to watch out for consumers. Mr. Speaker, this industry has more than doubled to a multibillion-dollar business in the past 8 years. In 1993 it was estimated that more than 150 million checks were cashed by check cashing outlets with a face value totaling more than $45 billion.

My bill only asks that States develop a system to license or register check cashing outlets and that financial institutions cash Government checks. Today, too many of our constituents are paying up to 20 percent of the face value of a check to get their money. This is absurd and uncalled for.

Mr. Speaker, we must work to give our communities every opportunity to improve themselves. With many banks denying consumers check cashing capability and check cashing outlets preying on them our Nation's financial services opportunities are bleak for many low- to moderate-income Americans.

Mr. Speaker, today a head of a household that earns a $300 pay check is subject to spending up to 20 percent, $60 of that check, just to gain access to the hard earned dollars. This $60 is taking away from food for children, rent for a roof over a families head, and transportation to and from work. This is unacceptable and must be stopped.

I hope my colleagues will join me in supporting this legislation and my efforts to provide equal opportunities to all communities.

ANNUAL REPORT OF DEPARTMENT OF ENERGY FOR 1992 AND 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BURTON of Indiana} laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce.

To the Congress of the United States:

In accordance with the requirements of section 657 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7267), I transmit herewith the 13th Annual Report of the Department of Energy, which covers the years 1992 and 1993.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 1, 1995.*

REPORT ON NATIONAL SECURITY STRATEGY OF THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on National Security.

To the Congress of the United States:

As required by section 603 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986, I am transmitting a report on the National Security Strategy of the United States.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 28, 1995.*

ANNUAL REPORT OF DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1993—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Transportation and Infrastructure.

To the Congress of the United States:

In accordance with section 308 of Public Law 97–449 (49 U.S.C. 308(a)), I transmit herewith the Twenty-seventh Annual Report of the Department of Transportation, which covers fiscal year 1993.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 1, 1995.*

REGULATORY REFORM AND RELIEF ACT

The SPEAKER pro tempore. Pursuant to House Resolution 100 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 926.

□ 1055

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 926) to promote regulatory flexibility and enhance public participation in Federal agency rulemaking, and for other purposes, with Mr. BARRETT of Nebraska in the chair.

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

Under the rule, the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 30 minutes, the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes, the gentlewoman from Kansas [Mrs. MEYERS] will be recognized for 15 minutes, and the gentleman from New York [Mr. LAFALCE] will be recognized for 15 minutes.

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

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

Mr. Chairman, we have good news for our country here today, because we are going to be considering a bill that will go a long way when enacted to bring about job creation and wage enhancement.

Mr. Chairman, for too long, burdensome and complex rules coming out of Washington have strangled small business, have been a drag on free enterprise, have been a drag on job creation, have been a drag on wage creation, have been a drag on the economy. Today what we are about here today is a first step to slay that dragon, to bring about sanity in the rulemaking process of the national bureaucracy, of the Federal bureaucracy.

How do we go about accomplishing that? Well, a bold attempt was made in 1980 during the administration of President Jimmy Carter when there was passed a Regulatory Flexibility Act. That did bring about at least a sense of more involvement by the small business community in the rulemaking process that so adversely had affected it previously.

We are here to say today that even that bold attempt that started in 1980 has not fulfilled the promise that it was expected by the small business community to lift the burden of regulations from their shoulders so that they can venture out into new enterprises and create more jobs. Rather, the reverse took place. There was even more of a vivid flurry of regulations and burdens that came down on their shoulders.

Mr. Chairman, we here today in title I of this particular bill will deal directly with small business. We are targeting small business. We are going to be embracing small business to give them more input into what transpires in the rulemaking process. That in itself would be worth the whole effort of what we do here today, but we go farther. We do something that is so exquisite for the small businessperson, that we have a great, good feeling about it.

We are for the first time providing by law, if this bill is enacted, judicial review. That means that where the previous act, the one I just alluded to from the Jimmy Carter era, prohibited judicial review, we go the other way and overtly provide for judicial review.

What does this mean? It means that for the first time in a whole host of rulemaking processes across the Federal bureaucracy, when a rule is promulgated and it disaffects or adversely impacts against a small business entity or groups of entities, then there will be the possibility of challenging that rule and what it does to the small business community in court.

That is a major step. It is just an afterthought on the part of this Member? No. It is just a whim on the part of the small business community? No. It is an absolute necessity. It has been confirmed and reconfirmed in people who are advocating some kind of reform in this arena for a long period of time. Even Vice President GORE has come out in his interpretation of the reforms that are necessary for judicial review. That by itself again would justify passage of this bill and enactment of it into the law of the land.

□ 1100

But we go further. We also provide in title I, this is extremely important for the small business community, that the Small Business Administration advocate and chief counsel must receive notice of a proposed rule. What does that do? That allows him or her acting for the small business community, within this Small Business Administration, which is the key administrative bureau of small business, to have advanced notice of a rule and then bring into play all of the concerns and the worries that the small business community might have in the face of such a rule. That is an excellent advance that we are making by what is included in title I.

Then we go to title II. Title II would require for the first time for all business, not just small business, but for all business, a regulatory impact analysis that would accompany these very strident rules that have for too long been plaguing the business community.

What am I talking about here? Well, a rule has an impact, and when what we want to call a major rule has an adverse impact on the economy worth more than $50 million, then on that basis our bill calls for the issuance of a regulatory impact analysis to give advance notice to the business community, the very people who are going to have to be guided by this rule or are adversely impacted by this rule, an opportunity to come back and be able to challenge the findings of this analysis and thus have a full participation in the deliberations that take place in the promulgation of a rule, rather than to sit back and just take what is coming to them and then be helpless, possibly, in combating the rule that will have so blatantly impacted them adversely. So title II will afford the business community this extra forum that would be required.

But how did we accomplish this? What we did was not dream up criteria by which we ought to be defining this analysis that the rulemaking agency must apply, but rather we incorporated by new language, but nevertheless incorporated into our bill, in title II, seven strong criteria that have to be included in this analysis drawn from the Executive order that President Reagan during his time issued on this very same subject. So we are combining the history of the Jimmy Carter administration and regulatory flexibility with the Executive order of Ronald Reagan in the regulatory impact analysis area, and combining them to make a strong bill that would bring back a sense of accomplishment on the part of the small business community as they seek to open new markets and to expand their ability to create jobs and to lift wages as they become more successful.

These criteria will be discussed, I know, in different ways as we proceed with the debate, but I can safely tell my colleagues that it will be a great stride forward when we complete the business of the day.

Title III, which the gentleman from Rhode Island [Mr. REED], the ranking member on the minority, and I jointly responded to the concerns that were expressed during the hearings, that has taken on a different configuration from that which we first felt was necessary, but I am sure at the end of the day that the Members of the House will be satisfied with how we have approached title III and the segments of Executive responsibility that are contained therein.

In short, it is a good day for small business here today. Let us get on with helping them avoid the burden of undue and cumbersome regulations.

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

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

Mr. Chairman, I would like to begin by commending both the subcommittee chairman, the gentleman from Pennsylvania [Mr. GEKAS] and the ranking member, the gentleman from Rhode Island [Mr REED], for their diligence in improving legislation that started off in a pretty sorry state and has now reached the nearly acceptable level but still needs a little bit more work, and I would like to explain this for just a few minutes in beginning the general debate.

The language in the bill providing for a so-called regulatory Bill of Rights could have had a devastating impact on the Federal Government's ability to enforce the laws fairly and efficiently, and now we have revised language that I praise my colleagues on the Judiciary Committee for improving, which is included in title III, seeking employee guidelines which are more responsive to the needs of private parties, and represents a vast improvement. So I am here to praise them as well as to point out some areas in which we hope there will be improvements.

Similarly, I recognize that the gentleman from Pennsylvania has worked with us in a bipartisan fashion to improve and narrow the scope of title I of the bill relating to regulatory flexibility analysis, and I am not surprised at his cooperative spirit. We have worked for many many years together on the Judiciary and other committees. Unfortunately, title II of the legislation requiring agencies to complete complex new regulatory impact analyses continues to be problematic. We have got trouble in this area in title II, and I am hoping that it may be repaired on the floor here today.

As a result of a number of recent changes made by statute and Executive order, agency rulemakers must now consider nine separate analyses when issuing rules. That is a few too many, and while each of these additional required analyses is well intentioned and in isolation may be beneficial, collectively they have contributed to making the rulemaking process far more lengthy and complex.

In an effort to make the regulatory system responsive to the needs of businesses, title II of the bill would impose even further and more complex requirements on the regulatory process. And that is not what we are here to do. That is not the great day that all America and small business in particular have been waiting for.

I am concerned about title II's defining a major rule as a rule likely to result in an annual effect on the economy of $50 million or more. Every President since Gerald Ford has used the $100 million level for defining major rules, thereby preventing costly and needless analysis for rules such as the Interior Department's opening of hunting season or the Department of Veterans Affairs recognizing the gulf war syndrome.

I also believe that the judicial review under title II should be limited to challenges of a final rule or the agency's failure to perform the required analysis. The unrestricted judicial review in title II would result in endless litigation, as every element of an impact analysis could be challenged by literally countless numbers of people.

And finally, I believe that the legislation is deficient in failing to provide for greater sunshine in the regulatory process.

Later today I will offer an amendment which would require that communications between an agency and OMB and Government officials and private parties be recorded and made available to the public. This change would help provide for greater accountability and avoid the perception of secret, behind-the-scene dealings, which has plagued us in earlier years.

I am hopeful that the bill's language can continue to be refined along these lines in a cooperative fashion. If amendments along these lines are approved, we will make for a much better bill in H.R. 926 while making the regulatory process more responsive and more streamlined.

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

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. BARTLETT].

Mr. BARTLETT of Maryland. Mr. Chairman, I rise in strong support of this legislation and the poster here is just one reason for that. These are the taxes and regulations that our restaurant people have to live with. Whenever we see a tragedy we frequently ask for a moment of silence. I think when Members see the tragedy of what this does to our small business people we need a long, long moment of silence.

This speaks for itself. I will not go over any of the details of this. Let me just note one instance of the inanity that occurs here. One of our restaurant people told us that OSHA came in and threatened them with fines because their workers were not using a protective glove when slicing carrots. The health people came in and threatened them with a fine if the workers did use the protective glove for slicing carrots because the protective glove could not be adequately sanitized in their view.

Clearly when we look at this long, long list of taxes and regulations, this represents a burden on our restaurant people that they just cannot bear.

I strongly support this bill. It starts us in the although modest application, it really halts our march in the wrong direction and starts us back in the right direction.

I advise, recommend, strong, strong support of this bill for this and many many other reasons.

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

Mr. Chairman, I want to first thank the gentleman from Pennsylvania, Chairman GEKAS. We were able to work together in a cooperative and bipartisan process and although we have some principal disagreements, I believe the legislation has been made better because we were able to work together constructively and cooperatively, and at the end of today regardless of the outcome I think we can be very proud of this bipartisan process.

Both of us agree that steps need to be taken to make the regulatory process more sensitive to the needs of small businesses. Small businesses lack the staff and resources to track the daily comings and goings of the Federal Register. They are less likely to have their interest represented by trade associations and lobbyists and may have a more difficult time meeting the costs imposed by regulators. Costs that seem minuscule to General Motors are insurmountable to some small businesses throughout the United States.

Title I addresses this concern by strengthening the Regulatory Flexibility Act which direct agencies to consider the impact of their regulations on small entities and, where possible, make special considerations for small businesses.

I want to thank my colleagues, the gentleman from Missouri, IKE SKELTON, and the gentleman from Illinois, TOM EWING, for working so hard on this issue and for sharing their expertise with us when they testified before the subcommittee.

The core of title I is based on their bill, H.R. 830 from the last Congress.

Mr. SKELTON, as chairman of the Small Business Subcommittee on Exports Tourism and Special Problems, found that those agencies that complied with the Regulatory Impact Act had done so successfully. They established procedures that saved time, money, and litigation headaches.

Unfortunately, other agencies have been able to escape compliance and they have been able to do that because regulatory flexibility analysis did not include judicial review.

We are remedying that situation today and I join the gentleman from Missouri [Mr. SKELTON] and the gentleman from Illinois [Mr. EWING] in support of this section of the bill.

The regulatory flexibility analysis in an important weapon in our efforts to reduce the regulatory burden on small businesses and we need to ensure that it is implemented governmentwide.

I also support title III of the bill. This title would create a code of conduct for regulators in their dealings with the American people and it emanated from a proposal made originally by the gentleman from Texas [Mr. DELAY]. It has been thoroughly reviewed and we have reached I think a very sensible position in the bill in title III's provisions which I support with enthusiasm.

However, I do have serious concerns about title II, especially now that we have completed action on H.R. 1022. Initially, both H.R. 1022 and H.R. 926 were part of the same contract bill, H.R. 9. Unfortunately, their provisions overlap and conflict. I think it is a mistake to pass both bills in the hopes that the Senate will sort out these conflicts and inconsistencies, a step that undermines the ability of Members of this House to act on these issues sensibly with some type of overall cohesive purpose.

□ 1115

The rulemaking process has been criticized as overly prescriptive, expensive and overburdened with useless paperwork. Title II exacerbates these problems by creating a costly, time consuming process that does nothing to streamline Government or roll back redtape. The New York Times just published a diagram of the rulemaking steps required by this bill, entitled ''A Rule Making Maze.'' It resembled a Rube Goldberg contraption in its inticracy and complexity.

My colleague from Florida, JOHN MICA, just sent around a ''Dear Colleague'' containing an excerpt from Philip Howard's book, ''The Death of Common Sense.'' I wanted to quote from it, because I think it makes my point:

> Important, often urgent projects get held up by procedural concerns. Potentially important breakthroughs in medicine wait for years at the Food and Drug Administration. Even obviously necessary safety projects can't break through the thick wall of process. (Here he cites New York's difficulty in extending a runway at La Guardia airport that is too short for safe landings) . . . The irony he points out of our obsession with process is that it has not prevented sharp operators from exploiting the governments contracting system, as the weapons procurement scandals of the 1980's showed us. Its dense procedural thicket is a perfect hiding place for those who want to cheat * * *''.

Title II is exactly what he is talking about. It extends the time line for regulations by about 2 years by establishing a series of procedural hurdles, sweeps administrative rules, such as the regulations that open duck hunting season, into costly regulatory impact analysis, and enables sharp business owners to stall regulatory changes that benefit themselves by letter writing campaigns and filing multiple lawsuits. All of these procedures will apply to deregulation, as well as regulation. They will apply to new regulations that aim to help small business become more competitive. I do not believe that 2 years from now Members will want to read in their local paper that we forced the Department of the Interior to spend several hundred thousand dollars to perform a regulatory impact analysis, followed by the costs of defending lawsuits by animal rights activists, when they are simply trying to open duck hunting season, or to replay this scenario when we try to prevent fisheries from being overfished, or to compensate veterans for gulf war syndrome.

We will have amendments today that address some of the flaws in title II, and I hope Members from both sides of the aisle will listen to the arguments and vote to improve this legislation.

I think we can make progress to create, I hope, a bill that we can all support. But we have principal disagreements which we will debate vigorously on the floor today.

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

Mr. GEKAS. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, my thanks to Chairman GEKAS for the time he has given us and my thanks to the chairman and to Chairman JAN MEYERS of the Small Business Committee for all of the support and help they have given us in developing this legislation, to Congressman IKE SKELTON and Congressman REED on the other side of the aisle for their support.

I think probably most of us understand what the problem is, but I think these figures are very meaningful. Federal statutes and rules now run to 100 million words. If we were to read all of these it would take 8 years. Of course, no one is going to do that.

Regulatory costs in our economy are now at $600 billion and climbing; that is $6,000 per household.

Small business and small units of government have been at the mercy of

the Federal regulators for many years. And probably the most often voiced complaint that I receive when I talk to my constituents is about this overregulation.

In 1980 this Congress passed a bill, the Regulatory Flexibility Act, in an effort to rein in the bureaucracy and the regulations. But it had no teeth in it. It specifically prevented judicial review. There has been strong and persistent bureaucratic opposition to meaningful reform of the Regulatory Flexibility Act. Yet three Presidents of both parties have ordered the bureaucracy to follow the Regulatory Flexibility Act but to no avail.

Last Congress, in the 103d Congress, the gentleman from Missouri [Mr. SKELTON] and I put together a coalition of small business groups that support legislation to improve the Regulatory Flexibility Act, to add judicial review. This was backed by 254 Members of that Congress on both sides of the aisle. But unfortunately the leadership of that Congress, not the Members, refused to call that bill, and it became, because it died at the end of that Congress, a part of our Contract With America. I believe that turning a deaf ear to the demands of responsible, reasonable citizens in this country to revise our overly bureaucratic, overblown, excessive, intrusive, and destructive regulatory system was a major factor not only in the result of the November 8 election but to the dissatisfaction which the American people have expressed with their Federal Government.

I strongly support the legislation before us, and particularly title I which does contain the improvements in the Regulatory Flexibility Act to grant judicial review. In addition, agencies must circulate proposed rules to the chief counsel for the advocacy of Small Business Administration, giving that agency 30 days to comment on how these would affect small entities.

And finally, the bill includes a sense of Congress that the chief counsel for advocacy of SBA should be able to file amicus briefs in actions in the Federal court.

Mr. Chairman, I strongly support this legislation and am glad to have the opportunity to speak in its favor today.

Mr. REED. Mr. Chairman, I yield 5½ minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. I thank the gentleman from Rhode Island [Mr. REED] for yielding time to me.

I want to start by congratulating the gentleman from Rhode Island [Mr. REED] for taking what was a terrible bill and working with the other side to improve it into what is now a bad bill, and I would be the first to concede that it is an improved bill, but it is still bad.

Let me express a series of concerns that I have about this bill. First of all, yesterday we passed a bill which requires a cost-benefit assessment of any new regulations that the Federal Government puts in place. So I am wondering what is the purpose of this new process that we are putting here, first of all?

Second, this bill goes several steps beyond that by giving small businesses an implied veto over rules and regulations and standing in court to contest such regulations if the small business is adversely affected, whatever that means.

Third, this bill gives the Small Business Administration Chief Counsel for Advocacy, that is probably somebody the American people have never heard of, the obligation to review and comment and get involved in litigation with respect to rules and regulations. It takes nobody out of the process. Understand, now, we have the department, the agency of government, we have the CBO, we have the Justice Department, now we have the SBA involved in the process. We keep adding on to the bureaucracy, and nobody is taken out of the process.

Now, let me talk to you about the problems that I have with the bill. No. 1, it assumes that all rules that are promulgated by government are bad. You start with that assumption. Take this retaurant example that the previous speaker talked about. When I go into a restaurant and I look up and I see an A grade rating, my friends, that gives me a great deal of comfort as a member of the public. Under this rule, if we require some A grade rating, B grade rating, whatever it is, although I think that is done at the State level, if under this bill we did it at the Federal level, we would then adversely affect some restaurants. They would then end up in litigation in the courts, tying up the court system.

No. 2, this bill gives small businesses unprecedented standing. The people in this country have had standing in the court. Now are are giving small businesses some kind of standing out here where they can come in, create more litigation, and I submit to the American people that that sends a terrible message that business now has some standing that even ordinary people cannot even get to. This is another step away from empowerment of the people and creates another bureaucracy which is, in effect, welfare for businesses, do away with welfare for the people, give welfare to the businesses.

Third, this bill creates an entirely new level of bureaucracy in the process.

Fourth, this bill will result in protracted and extended and unprecdented litigation. At the same time we are moving toward tort reform which takes away rights from the people to have access to the courts, we are moving in this direction all of a sudden to give more access to the courts, more standing to businesses.

Fifth, this bill will not allow us to get to who is actually having influence in the process. We offered an amendment, the gentleman from Michigan [Mr. CONYERS] did, in the committee which would have required agencies to tell who is commenting on these regulations, who is actually getting involved, who is exerting influence on the regulators to draw these regulations. You would think that my colleagues, if they are concerned about protracted regulation, would have been anxious to know who is involved in the process, but no such luck.

Let me just say that the final concern I have about this bill is that nobody knows what it is going to cost. We passed a bill yesterday to deal with regulations that was estimated to cost $250 million. Who has any idea what this monstrosity is going to cost the American people? And here we are, my colleagues, saying we are trying to cut back on government, and we are cutting back on government by increasing, not reducing, bureaucracy and costs.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. FRANKS].

Mr. FRANKS of New Jersey. Mr. Chairman, I first want to congratulate Chairman GEKAS for doing an extraordinary job with this bill. What he is going to be doing is providing meaningful and long overdue relief, particularly to small businesses throughout America who are being crushed by the weight of regulation.

We are suffocating job growth. We are diminishing economic opportunity oftentimes through well-meaning but badly constructed rules and regulations.

Mr. Chairman, a lot of the suggestions embodied in title II of this bill do not come from any think tank in Washington, DC, or any so-called experts. They came as a result of the efforts of the manufacturing task force of this House formed under the auspices of the Northeast-Midwest Congressional Coalition 2 years ago and cochaired by the gentleman from Massachusetts [Mr. MEEHAN] and myself. We met with literally scores of small manufacturers throughout our 18-State region and they made recommendations to us in terms of specific items that they wanted regulators to consider before finally issuing their regulation.

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Mr. Chairman, because of his extraordinary efforts on behalf of this bill, I would like to yield the remainder of my time to the cochairman of the congressional manufacturing task force, the gentleman from Massachusetts [Mr. MEEHAN].

Mr. MEEHAN. I thank the gentleman for yielding. Mr. Chairman, I rise today in support of the regulatory impact analysis provisions in H.R. 926. In 1993, Representative BOB FRANKS and I established the first ever congressional manufacturing task force. We traveled around the country to hold hearings

and spoke to small and mid-sized companies to find out what they needed to maintain competitiveness.

Each time we held a hearing, each time we met with small businesses, we heard the same thing. Overlapping, burdensome regulations are killing manufacturers ability to stay competitive and have created the perception of Government hostile to business.

Last year, the Federal Register issued over 69,000 pages of new regulations—the third highest total ever. Congress must act to change this. By requiring regulators to assess the impact of new regulations, we will streamline—not eliminate—regulations so they are more effective. The goal is to cause regulators and regulated parties to have full knowledge of the likely impact of a regulatory action before it is made final.

Mr. REED. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. I thank the gentleman for yielding this time to me.

You know, as a member of the committee, I enjoyed going through this bill, and I think many of the goals are worthy ones.

One concern I have, however, is that I believe we have failed to account for the immutable law of unintended consequences. I believe it is our job to make sure that, when we act legislatively, we know what the outcome will be and we do not get blind-sided by an outcome that we did not intend or expect.

One of the issues I intend to raise by way of an amendment later today has to do with allowing for emergency action and defining what that might be.

This was an amendment offered in the committee, withdrawn with the pledge that we would work through and try to deal with the issue. Unfortunately, given the press of time and our agenda, that has not yet occurred.

I am concerned we do not want to preclude, for example, the release of useful drugs, a cure for cancer, because of the regulatory scheme provided in this bill.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from South Carolina [Mr. INGLIS], a member of the subcommittee.

Mr. INGLIS of South Carolina. I thank the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. GEKAS], for yielding this time to me.

Mr. Chairman, I rise in strong support of this bill. I believe what this is all about is making it more difficult for Washington to regulate the activities out there in America. And that is a good thing, because what has built up in this country is a mindset based on taxation, regulation, and litigation. We are going to deal with the litigation portion next week, with legal reform items; we are going to deal with the taxation part of that trilogy a little after that. This week we are dealing with the regulatory part of that terrible trilogy so weighing down this country.

I believe this is a good step toward reining in some of those regulators, to making them have some justification for their additional regulations. That certainly will make sense out there in America where businesses, particularly small businesses, are collapsing under the weight of this tremendous pressure from the regulators. So I am very excited to support this bill. I commend the chairman of our subcommittee for doing an excellent job in bringing the bill to us.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FLANAGAN], a member of the subcommittee, who has played an active part in the development of this legislation.

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

Mr. Chairman, I rise in strong support of H.R. 926, the Regulatory Reform and Relief Act, sponsored by the gentleman from Pennsylvania [Mr. GEKAS].

H.R. 926, which is the product of hard work and consensus by Mr. GEKAS and members of the Judiciary Committee, is in my opinion one of the most important features of the Republicans' Contract With America. It tackles head-on many of the problems that have been caused by the Congress and the Federal bureaucracy during the past 30–40 years, and I urge all my colleagues to vote in favor of this legislation.

Mr. Chairman, American taxpayers, small business owners, farmers, ranchers, and regional government officials are suffering under the weight of high taxes and excessive and intrusive government regulations. H.R. 926 is a step towards reversing this trend by rolling back the tide of ill-conceived regulations, and making bureaucrats more accountable for the burdens they impose on both the wage payer and the wage earner.

Under H.R. 926, Federal agencies will be required to perform regulatory impact analyses whenever a major rule—that is, a rule which has an effect on the economy of $50 million or more—is promulgated. This language will go far in reducing the burdens placed on all entrepreneurs, especially small business owners whose companies employ two-thirds of the American work force and fuel the Nation's economy. Furthermore, with the enactment of this bill, business people and their employees will be a step closer in having a Government that acts more like their friend, and not as their worst enemy.

Mr. Chairman, before I yield back my time, I would like to take a moment to express my sincere appreciation to Mr. GEKAS and his staff. Since the start of the 104th Congress, Mr. GEKAS has bent over backward to accommodate those Members who have had reasonable suggestions for perfecting this bill. Whether Republican or Democrat, committee chairman or lowly freshman Member, Mr. GEKAS and his staff worked in a congenial and bipartisan fashion unequal to anything else I have seen so far in this body.

Again, Mr. Chairman, I urge all my colleagues to vote in favor of H.R. 926.

Mr. REED. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. I thank the gentleman from Rhode Island for yielding this time to me.

Mr. Chairman, I would like to elaborate a little bit on some of the things that the gentleman from North Carolina [Mr. WATT] has alluded to in his remarks.

You know, when we take the bill that we just passed last night and add to it to the bill that we have today, we have a total cost to the taxpayers of $400 million. This means, to me, according to CBO estimates, that you are going to have to add that many more work hours in the Federal bureaucracy in order to do the risk assessment, the regulatory impact analysis, plus the other few things that are thrown in.

Where do all these bureaucrats come from? They do not come from the sky, they do not grow on trees, they are hard-working American taxpayers, folks. They work hard just like everybody else out there, whether you are a truck driver, a lawyer, a doctor, or anybody else. They are trying to do their job.

But what is really going to happen? Do you really believe, is there anybody in this House, anyone from the Speaker on down, from the gentleman from Pennsylvania [Mr. GEKAS] or the gentleman from Illinois [Mr. FLANAGAN], or anybody, who can tell me that this Congress is going to appropriate the additional funds necessary to the Small Business Administration, to EPA, to the other of our Federal agencies, the Food and Drug Administration and all the rest of them, in order to perform the tasks they are going to be required to fulfill under this bill and the bill we passed just yesterday? No. It is not going to happen.

The money is not going to be there. The additional bureaucrats are not going to be added. As a result, they are not going to be able to do the work that is imposed on them. Then what will the other party say? The other party will say they are not doing their job, ''We passed the legislation, and they are not doing their job.''

Well, folks, they cannot do their job, they cannot do it unless you give them the money. And you are not going to give them the money because you are already taking away from the kids, the veterans, the elderly. All those programs are being cut in a rescission bill in order to give it to the wealthy in income tax cuts. That is where you are giving the money. You are not going to help them be able to fulfill this legislation.

You tell me in what bill when you are going to appropriate the additional money that is required under the CBO

estimate in this bill. You are not going to do it.

I would like to have the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, come up here and tell us they are going to provide the additional funds, because I do not think it is going to be done.

Mr. REED. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I thank the gentleman from Rhode Island for yielding this time to me.

Mr. Chairman, this is the culmination of a great deal of effort that I have been personally working on for more than a decade.

At the outset, let me thank and compliment my colleague, the gentleman from Illinois, Mr. EWING, for his efforts, for together we have cosponsored legislation regarding the original Regulatory Flexibility Act for some time. I also thank the gentleman from Pennsylvania, Mr. GEKAS, the ranking subcommittee member, the gentleman from Rhode Island, Mr. REED, the gentlewoman from Kansas, Chairman MEYERS, and the ranking member, the gentleman from New York, Mr. LAFALCE.

I applaud their efforts and again thank TOM EWING for the opportunity of getting this hearing.

The Regulatory Reform and Relief Act, which had my support and on which I worked, was signed into law back in 1980.

Later I was chairman of the House Small Business Subcommittee, and I held hearings on this in the mid-1980's concerning how the Regulatory Flexibility Act was working. We got mixed reviews. As chairman of that, I found that most agencies were making an honest, diligent effort to comply with the law. Others came before us and testified and said, ''It does not apply to us,'' or they were giving it, as we say back home, a lick and a promise.

We put out a report that found that those complying with the law found that they were actually writing better regulations when they considered the impact on small businesses.

Also, they found and concluded that it saves these agencies time, saves them money when good regulations are written from the beginning rather than waiting to have them questioned by small businesses.

We need to make adjustments in the law, to improve it, to give it teeth. That is why the portion that Mr. EWING and I have been working on throughout the last few years deals with judicial review and primarily states that the agencies should understand that they can actually be challenged if they write regulations that are more than cursory—take more than cursory consideration of the impact on small businesses.

It is unlikely that many cases would ever come to court because the threat, the sword of Damocles that would be hanging over them. I think it would be a very, very important step, and that is why I fully support the efforts for judicial review and a change in the law as set forth in this proposal.

Mr. GEKAS. Mr. Chairman, before I recognize our next speaker, I want to personally commend the gentleman from Missouri [Mr. SKELTON] for his decade of interest in this vital issue and to point out to the Members that his testimony and his involvement has played an important role in bringing this matter to the full House today.

Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BARR] who has also played a significant role in the development of the issues that have now been brought to the floor.

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

I thank the gentleman from Pennsylvania [Mr. GEKAS] for the fine work that he has provided, not only to those who have the honor of serving on his subcommittee and addressing the issues of regulatory reform but also to the people of this country who labor in our small businesses all across this great land who have been crying out for this relief for so long but who for so long have been denied the relief they need to manage their businesses in a way that meets the needs of their consumers, responsibly meets the needs of their consumers, meets the needs of their shareholders, meets the needs of citizens all across this land who benefit from the products and services that our businesses provide.

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Those consumers and those citizens have for too long labored and have seen higher prices for products, products not being able to get on the market, and higher prices for the provision of necessary Government services, all of which can be directly traced to burdensome, many times unnecessary, and frequently ill-thought-out Federal regulations.

Under the leadership of the chairman of the Subcommittee on Commercial and Administrative Law, the gentleman from Pennsylvania [Mr. GEKAS], we have taken one step, only one step, but an important step, toward regulatory reform and regulatory flexibility.

It has been a very responsible first step, Mr. Chairman. We listened very carefully to the evidence and the testimony that was presented to us in subcommittee hearings. In some instances we took the material that was received and incorporated that into amendments to the bill that we now have before us. In other instances, based on information presented by some folks from the administration, we have deferred action, recommended deferring action in some important areas.

But I think this administration and the American people and those on the other side of the aisle who continue to defend the status quo must know that even as important as H.R. 926 is that we will be considering today, there is further work that must be done to ensure that our Federal regulators respect the rights of citizens and businesses, and that they extend them relief, and that they be stopped from running roughshod over our businesses and our citizens.

Mr. REED. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Chairman, I am one Democrat who believes regulations have gone too far. They kill American jobs. It has gotten to the point that it is so bad that if a dog urinates on a side lot, it may be declared a wetlands.

I recommended for years that Congress should ship the EPA to Japan, Taiwan, Korea, and China, and then we would not have a trade problem because the EPA would screw them up too.

But in any event, I think the Democrats should have done this in the past. I am going to support the bill. I have two amendments, and people are saying they may not necessarily apply to in fact the Administrative Procedures Act. But in my research I have found that there are no safeguards in the event that situation should develop.

My two amendments would do two things, and I would like the majority party here to pay attention to this.

This bill would exempt certain emergencies, certain deadlines imposed by statute, and certain monetary activities that are listed in the bill. The Traficant amendment just say two things: For any future action or any ambiguous action for a trade program in America that is less than aggressive, who might at some point creatively try to find a loophole to continue not to in fact enforce and provide sanctions where necessary, the Traficant amendment would first say that no rule or regulation that is in existence that can be used for trade sanctions to combat illegal trade, that we would exempt that and put it in the exemption part of the bill. The other one deals with the possibility in the future of the collection of taxes from foreign subsidiaries, people who take our money out of or country and run, and there could be absolutely no possibility by any stretch of the imagination where creative minds could be used to apply this bill at some point down the line. And it would exempt from that the IRS collection actions on these foreign subsidiaries who many times come and take our jobs, take the profits, and run away with them.

Let me say this, Mr. Chairman: These are safeguard amendments. They are the types of amendments we should be doing. We should be preventing the opportunity for abuse, and that is one of the reasons why we are in fact eliminating regulations.

I recommend this to the handlers of this bill. This makes the bill a better bill, and I ask for the support of Members on these amendments.

Let me say one other thing: The trade representative's office which is concerned about this does agree that sanctions are not the result of rulemaking. But one thing we can be sure of, there is no reason the Congress of the United States should allow any loophole where illegal trade sanctions can at some point have their backs turned by our trade people. We have seen too much of that.

With that, Mr. Chairman, I thank the gentleman for the time, and I would appreciate having my amendments be approved and accepted without prejudice.

I would be glad to talk to the majority staff further about these issues.

Mr. GEKAS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. CHABOT], who is a member of the subcommittee and who participated in the hearings and the entire development of this legislation.

Mr. CHABOT. Mr. Chairman, I rise in strong support of this bill.

I find it incredible that some on the other side of the aisle are so adamant in defending and preserving the massive Federal bureaucracy that has grown over the years. Maybe it is understandable that they defend this huge bureaucracy since they created it. The challenge now is to reduce and simplify a government that has grown completely out of control.

H.R. 926 aims to curb the ruinous practices of Federal agencies that unduly restrain the creative energies of small business. Small business is the backbone of America's economy. America's small businesses have had enough. They desperately need, in fact they are demanding immediately, that we relieve the overbearing regulatory agencies that have grown up.

Opponents of H.R. 926 incorrectly assume that hardworking Americans and small businesses should bear the destructive brunt of the cost of this regulatory process. Nobody I know of in Cincinnati, especially small business owners, shares that opinion.

If we want the regulatory process to be a burden, let us not make it a burden on small business; let us make it a burden on the Federal Government. Let us strengthen regulatory flexibility by giving aggrieved small businesses the ability to seek judicial review. Let us enlarge the public's role in the rulemaking process. Let us force regulatory agencies to conduct regulatory impact analyses. Let us protect Americans who report abusive practices of regulatory agencies from catastrophic reprisals.

What does all this mean to the average American citizen? It means that when they go to the store, products will not be so expensive; they will be more in the reach of average Americans. It means jobs for American citizens, because so many of the jobs that are created in this country are created by small business. And most importantly, it means a better standard of living for the American people.

Mr. REED. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN. The gentleman from Rhode Island [Mr. REED] has 3½ minutes remaining.

Mr. REED. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I thank my colleague for yielding this time to me.

Mr. Chairman, I rise in support of this legislation and would like to briefly address title I of the bill that deals with the Regulatory Flexibility Act. I and a number of other Members on both sides of the aisle were troubled with the original language in the Contract With America with respect to the Regulatory Flexibility Act.

That original language would have applied the provisions of the Regulatory Flexibility Act to big business as well as the country's small businesses. We felt that the Regulatory Flexibility Act was supposed to respond to the kinds of problems the majority has been talking about. A lot of our small businesses do go through bureaucratic water torture when they run up against some of these regulations, and the Regulatory Flexibility Act is supposed to be a fast-track process for adjusting regulation to the needs of small entrepreneurs. But the Contract With America would have changed all that. We want what amounts to an HOV lane for entrepreneurs so that the Federal Government responds to their concerns.

So fortunately, on a bipartisan basis, working with the chairman of the committee, the gentlewoman from Kansas [Mrs. MEYERS], the gentleman from New York [Mr. LAFALCE], the gentleman from Virginia [Mr. SISISKY], the gentleman from Missouri [Mr. SKELTON], and the gentleman from Illinois [Mr. POSHARD], there has now been a bipartisan agreement worked out with all the relevant committees that regulatory flexibility provisions will apply just to small business. In my view, this is the way to ensure that the Federal bureaucracy is sensitive to America's entrepreneurs. That is what is in the public interest.

Mr. GEKAS. Mr. Chairman, may I ask again, at the risk of boring the Chair, how much time we have left?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GEKAS] has 6 minutes remaining.

Mr. GEKAS. Mr. Chairman, that gives me ample time to bring to the floor the giant legislator, the gentleman from Illinois [Mr. HYDE]. I yield 5 minutes to the gentleman from Illinois, who is the chairman of the full committee and the leader of the effort to bring this legislation to the floor.

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

Mr. HYDE. Mr. Chairman, the fundamental goal of the Regulatory Reform and Relief Act (H.R. 926) is to reduce the inevitable growth of costly regulations imposed upon our society. The bill achieves this by ensuring enforcement of current law to protect small business, the Regulatory Flexibility Act—and by encouraging greater public participation in our rulemaking process through the imposition of impact analysis on agency rulemaking. It is our hope that through the achievement of this goal, a less inhibited atmosphere will exist, which will allow U.S. commerce to thrive.

The amendments before us to the Regulatory Flexibility Act are important because they would provide small businesses with a means to effectively enforce the goals/purposes of that law.

The Regulatory Flexibility Act was first enacted in 1980. Under its terms, Federal agencies are directed to consider the special needs and concerns of small entities—small businesses, small local governments, farmers, et cetera—whenever they engage in a rulemaking subject to the Administrative Procedure Act.

Under the law, each time an agency publishes a proposed rule in the Federal Register, it must prepare and publish a regulatory flexibility analysis of the impact of the proposed rule on small entities, unless the head of the agency certifies that the proposed rule will not ''have a significant economic impact on a substantial number of small entities.''

From the beginning, the problem with this statute has been the lack of availability of judicial review as a mechanism to enforce the purposes of the law.

Right now, if agencies do not do a regulatory flexibility analysis or fail to follow the other procedures set down in the act, there is no sanction.

For years, small business groups have sought judicial review in the Regulatory Flexibility Act as a means of ''keeping the regulatory agencies honest.'' Our colleague and friend from Illinois, TOM EWING, has been a leader in this effort.

H.R. 926 would amend the Regulatory Flexibility Act, specifically providing for judicial review. In instances where an agency should have undertaken a regulatory flexibility analysis and did not, or where the agency needs to take corrective action with respect to a flexibility analysis that was prepared, small entities are authorized to seek judicial review within 180 days after promulgation. A court can then give an agency 90 days to take corrective action. If the agency fails to take the necessary corrective action within 90 days, the court is given the authority to stay the rule and grant such other relief as it deems appropriate.

H.R. 926 is aimed at humanizing the Federal regulatory process. This is an

important aspect of the Contract With America—to provide affected parties—such as small businesses, small local governments, farmers and others—with a mechanism to ensure that the impersonal Washington bureaucracy takes into consideration the impact that a new rule or regulation can have on their businesses and their everyday lives.

Title Z of H.R. 926 deals with regulatory impact analyses. This language would require Federal agencies to complete a regulatory impact analysis when drafting a major rule.

Major rule is defined under the legislation as a rule likely to result in an annual effect on the economy of $50 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse impacts on competition, employment, investment, productivity, or the ability of U.S.-based enterprises to compete domestically or internationally.

The bill lists a number of specific criteria which Federal agencies have to consider as a part of their regulatory impact analysis. These include a requirement that the agency describe the necessity and legal authority for the rule; a description of the potential costs of the rule; an analysis of alternative approaches, that could substantially achieve the same regulatory goal; a statement that the rule does not conflict with any other rule or regulation; a statement as to whether or not the rule would require onsight inspections—or whether or not the rule would require the maintenance of any records subject to inspection—and an estimate of the costs to the agency for the implementation and enforcement of the rule.

The bill encourages public hearings on important regulations.

The bill makes it clear that the Director of the Office of Management and Budget will oversee the Federal regulatory process in an effort to ensure consistency and broad based fairness.

It is important to note that the provisions of this section would not apply to major rules if it would conflict in any way with deadlines imposed by statute or by court order.

The bill also requires that the Director of OMB submit a report to Congress no later than 24 months after the date of enactment of this act containing an analysis of Federal rulemaking procedures and an analysis of the impact of the regulatory process on the American public.

Mr. Chairman, regulatory flexibility was a good idea when it was enacted in 1980. Unfortunately, we haven't seen its potential because our courts could not enforce it. Regulatory impact analysis by Federal agencies was a good idea in 1981 when President Reagan required it through Executive order. Unfortunately, Executive orders are not permanent and those impact analyses are no longer enforced. This legislation will ensure enforcement of both of these tools. This legislation is long overdue.

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Mr. REED. Mr. Chairman, I yield myself the balance of my time.

This has been the process of working together cooperatively over the last several weeks to develop legislation that will meet the needs of small businesses throughout the United States and meet the needs of taxpayers throughout the United States, to develop a regulatory system which is streamlined, efficient and provides for the protection of the public good. And we have reached, I think, major accommodations in terms of language.

Today I hope we can reach additional accommodations in terms of providing a system that will protect the public good and save money.

I am encouraged by the process. I hope in the next few hours we can make changes that will make this legislation even better for the benefit of all of our citizens.

Again, I thank and commend the gentleman from Pennsylvania for his help and effort during this process.

Mr. GEKAS. Mr. Chairman, I yield myself the balance of my time.

I thank the gentleman from Rhode Island for all his cooperative efforts in the past. I just wanted to end our portion of general debate by pointing out to the Members on the other side that as they consider their amendments and as they consider their opposition to certain portions of the bill as it now is drafted, to think of the people in their district, the working people.

They, by most chances, work for a small business. They are the people who are going to be helped most by this piece of legislation. We are not against rules. We are not against regulation. We simply want to make sure that the small business which does the hiring of your constituents, which keeps wage earners on the payroll, that those small businesses will not have to go out of business or fire people or lay off people because of the burdensome regulations that sweep down on them from Washington.

That is the purpose of this bill. Think of your working people, your constituents, and then you will think twice about trying to defend against this bill or offering amendments which will weaken it.

We want to make our working people work for a small business that will have the greatest opportunity to expand, to hire more people, to enhance wages, to increase prosperity for the community in which they operate. That is the purpose of this bill.

When you start attacking business, you are attacking the opportunity for your working people, your constituents to keep on trucking with their jobs.

The CHAIRMAN. All time for the Committee on the Judiciary has expired.

The gentlewoman from Kansas [Mrs. MEYERS], the chairman of the Committee on Small Business, is recognized for 15 minutes.

Mrs. MEYERS of Kansas. Mr. Chairman, I rise today in support of H.R. 926.

Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, when President Jimmy Carter signed the original Regulatory Flexibility Act back in 1980, it was applauded as a new, strategic weapon in the war against excessive regulation.

American businesses soon discovered that Reg Flex was less a strategic weapon and more a water pistol. Sure, you could aim it at excessive regulations and pull the trigger, but nothing much happened.

Reg Flex lacked the striking power to challenge the bureaucrats. It failed even to drown out their laughter as they ignored the law.

As a weapon for curbing regulatory abuses, Reg Flex was a dud.

Today, we are giving punch to Reg Flex. By allowing America's businesses to challenge abusive regulations in the courts, we are finally forcing Federal bureaucrats to comply with the law. If they want to issue a new major rule, they first have to account for its impact on American business.

Mr. Chairman, the Regulatory Reform and Relief Act is a major step forward in the battle for control of America's businesses. It's the strategic weapon we've been promising America's busineses all along, and I look forward to its passage.

The CHAIRMAN. The gentleman from New York [Mr. LAFALCE] is recognized for 15 minutes.

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

Mr. Chairman, the legislation before us, H.R. 926, the Regulatory Reform and Relief Act, includes in title I amendments to the Regulatory Flexibility Act, legislation of longstanding and great importance to the small business community, and an issue which has had broad bipartisan support in this and previous Congresses.

Since 1980, when it was signed into law, the Reg Flex Act, as it is know, has been a key tool in reducing the regulatory burden on small businesses. The Reg Flex Act requires that Federal agencies perform a good faith analysis of the compliance requirements new regulations may impose on small enterprise and to minimize the impact. The theory behind the Reg Flex Act is that the burden of Federal regulatory requirements fall disproportionately heavy on small entities, which have less opportunity to spread the costs of regulatory compliance.

As the former chairman of the Committee on Small Business and now its ranking minority member, I know that some of the changes to the Reg Flex Act that we will be voting on have been sought by small business advocates, both in and out of Congress, for some

time. Indeed, Committee on Small Business chairman, the gentlewoman from Kansas, JAN MEYERS, and I were leading supporters and cosponsors of legislative efforts in the last Congress to strengthen the original act.

The most frequently cited Reg Flex revision sought by small businesses is before us today in H.R. 926; namely to allow small business owners to pursue a course of judicial review to force Federal agencies to comply with the Regulatory Flexibility Act and, thereby, put real enforcement teeth into the act.

H.R. 926 also contains two other provisions amending the Reg Flex Act, both involving the chief counsel for advocacy of the Small Business Administration, the individual charged with monitoring compliance with the act and reporting his or her findings to the president and the Congress annually.

The first provision requires that proposed rules be sent to the chief counsel for advocacy at least 30 days before the publication of a general notice of proposed rulemaking in order to give the chief counsel time to advice the rule-writing agency on the effect of the proposed rule on small agencies.

I caution that given the limited resources of the chief's counsel's office, this admirable provision will prove quite difficult to implement both intelligently and effectively.

The other section concerning the chief counsel for advocacy is language noting that it is the sense of the Congress that the chief counsel should be permitted to as amicus curiae in any action or case brought in court for the purpose of reviewing a rule. This is a restatement of the Congress' intent that the chief counsel has and should feel free to exercise the right to intervene in those instances where it might be deemed appropriate in the rulemaking process in behalf of small businesses.

I am agreeable to the Reg Flex provisions in H.R. 926. Generally, they are balanced and constructive and should make for a stronger and more effective act.

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

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of H.R. 926, the Regulatory Reform and Relief Act and would like to focus my remarks on title I which provides and clarifies procedures for judicial review of agency compliance with the Reg Flex Act.

The Regulatory Flexibility Act became law in 1980. It was the result of efforts of many small businesses throughout this country. I might say, Mr. Chairman, that this has been a really bipartisan effort throughout. In fact, when this issue was before the House last year, it passed by 380 to 36. It had been amended in the Senate and it was before the House on a motion to instruct, and it passed by an enormous count.

The issues of regulatory relief and regulatory flexibility for small entities were a dominant theme in many hearings before the House Committee on Small Business and other committees in the late 1970's. However, moreover, the issue of more flexible regulations for small business was a top priority at the 1980 White House Conference on Small Business and at the State conferences which led up to that national conference.

Enactment of the original Reg Flex Act was soundly based on two premises: That Federal agencies often do not recognize the impact that their rules have on small businesses and, the second one, that small businesses are disproportionately disadvantaged by Federal regulations.

This is because they do not have the economy of scale and because large businesses may have an office manager or an accountant of an attorney right on their staff, whereas the work of understanding the regulations and filling out the paperwork are done by the small businessman or woman himself or herself.

The Reg Flex Act was enacted to obtain Federal agency recognition of these effects and consequently to reduce them.

The intention of the act was to have agencies approach the entities they regulate with an eye to their size and take this into account in drafting rules, rather than approaching rulemaking with a one size fits all attitude.

When the Reg Flex Act is properly complied with, the primary goals of the Administrative Procedures Act should also be satisfied, because the use of regulatory flexibility should cause agencies to write better rules. Unfortunately, that is the problem. Many agencies have failed to comply with the letter and the spirit of the Reg Flex Act.

At numerous hearings before the House Committee on Small Business, the issue of lackluster compliance with the Reg Flex Act by many agencies has been brought up time and again because there was no enforcement mechanism. Because the original Regulatory Flexibility Act contained a built-in prohibition against judicial review of agency compliance with the act, many agencies viewed compliance as strictly voluntary. This situation of agency compliance needs to be addressed and is correctly addressed by the amendments to the Reg Flex Act contained in title I of H.R. 926.

In addition to providing for judicial review, title I provides Federal agencies to work more closely with the Office of Advocacy of the Small Business Administration during the drafting of new rules.

Finally, the bill contains a sense of Congress provision that the SBA chief counsel for advocacy be allowed to appear as amicus curiae for the purpose of reviewing a Federal rule. The right of the SBA chief counsel for advocacy to file amicus briefs was contained in the original Reg Flex Act. However, the Department of Justice has historically resisted the implementation of this right.

The sense of Congress provision contained in this bill reiterates the intention of Congress on this important issue.

□ 1215

After over 14 years of mediocre compliance with this important small business provision, it is time to stand up and be counted in favor of making needed improvements to the Regulatory Flexibility Act, and I urge my colleagues to vote ''yes'' on H.R. 926.

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

Mr. LAFALCE. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BENTSEN].

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

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

Mr. Chairman, I rise in support of the bill and the provisions making changes to the Regulatory Flexibility Act. I believe that a primary means to accomplish mandatory compliance of reg flex would be to provide small business owners the opportunity to challenge Federal agencies' rulings in court. This bill adds this provision to reg flex. This step will assure that agencies will consider and adequately address the impact of their regulations on smaller entities.

I am also encouraged with the bill's provision to strengthen the SBA counsel of advocacy. This bill requires that agencies provide the SBA chief counsel with an advance copy of the rule 30 days before publishing a general notice of proposed rulemaking in the Federal Register. The bill further strengthens the SBA Office of Advocacy by giving the SBA chief counsel the authority to file amicus briefs in litigation involving Federal rules. This will give the chief counsel the opportunity to express his office's views with respect to the effect of rules on small businesses.

As a member of the Small Business Committee, I was delighted to see the involvement of small businesses in efforts to improve and strengthen the Regulatory Flexibility Act. It was clearly apparent that the small business community's diligent efforts in working with chairwoman MEYERS and Congressman LAFALCE was instrumental in addressing and eliminating the shortfalls contained in title VI of House Resolution 9, and thus creating the bill we have before us.

Interaction between the Small Business Committee an small business owners is imperative. It should be continued so that Congress does not enact future laws that negatively affect our Nation's small businesses.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

Mr. MANZULLO. Mr. Chairman, I rise in strong support of the provisions contained in title I of H.R. 926 dealing with the Regulatory Flexibility Act.

The title I provisions would put real teeth into the Regulatory Flexibility Act by allowing judicial review of regulations. This will permit small businesses to challenge agencies when they propose regulations that will stymie economic growth. I strongly support this legislation and would like to recognize my friend, the gentleman from Illinois, TOM EWING, for all the hard work he has done on this issue.

The goal of blocking unnecessary Federal regulation of the economy is a worthy one. Many in Congress naively believe that no matter what costs they impose on business, these companies can merely absorb them. I do not share their view.

I understand that each new mandate or regulation means higher costs, more failed enterprises, and fewer jobs for ordinary Americans.

The bipartisan support of this measure speaks volumes about its merit. Both the SBA and Vice President AL GORE support its passage and legislation introduced in the last Congress dealing with this issue garnered 255 cosponsors.

Mr. Chairman, I strongly urge my colleagues to support this measure and inject some measure of fairness into the regulatory process.

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

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. WAMP].

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

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

Mr. Chairman, I would like to offer my strong support for provisions in H.R. 926 to add judicial review to the Regulatory Flexibility Act.

Enacted in 1980 with strong bipartisan support, the Regulatory Flexibility Act was intended to force agencies to consider the impact of regulations on the Nation's small businesses, and consequently reduce them. The problem with the original bill, Mr. Chairman, is it has never been enforced. Agencies are essentially allowed to ignore the intent of the Reg Flex Act.

Small businesses are the backbone of this country, employing more than 53 percent of the work force, and contributing to much of our country's economic growth. Between 1989 and 1993, small business job growth more than offset net job loss in big businesses.

The Government should be doing everything in its power to promote small business growth. Instead, it imposes the same regulations on the smaller entities that it does on big businesses. This is yet another example of the Government's one-size-fits-all approach that does not work.

To reinforce the bipartisan nature of this provision, I would like to point out that Vice President GORE's first recommendation for reinventing the role of Government in small business is to establish judicial review for the Regulatory Flexibility Act. I could not agree more with the Vice President on this issue.

We held a number of hearings and a markup of this legislation in the Small Business Committee, and I am proud to be a part of this bill as reported.

Mr. Chairman, as a third generation small businessperson, I appeal to this body to do the right thing for the working people in America and give small business people a fighting chance.

It is my hope, Mr. Chairman, that by allowing judicial review, the threat of enforcement along will force agencies to not only consider the impact of their regulations on small businesses, but to significantly reduce them.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. PORTMAN].

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

Mr. PORTMAN. Mr. Chairman, I thank the gentlewoman from Kansas [Mrs. MEYERS] for yielding time to me. I also thank the chairman of the committee for all her good work on this legislation, and particularly on the Regulatory Flexibility Act.

Mr. Chairman, I rise in strong support of H.R. 926, the underlying legislation, especially title I, because I think it significantly improves the Regulatory Flexibility Act. At town meetings and letters, meetings in the district, telephone calls, and so on, and during my work last year with the gentlewoman from Kansas [Mrs. MEYERS] in the Committee on Small Business, I have heard again and again from small business constituents about them being overburdened with Federal paperwork, regulations, and compliance procedures.

The Reg Flex Act was enacted in 1980 to get at this problem, but there is ample evidence that it has not worked. The bill before us today makes necessary changes in the act, so it will work as intended. Let me be specific. I think none of these changes is more important than judicial review.

Currently there is a blanket prohibition, as I think has been discussed previously on the floor, for any kind of judicial review of agency compliance with the requirements of the law. This is an exception, it is a very rare exception, that is made in this legislation. As a result, frankly, agencies are not forced to follow the procedures in the act. Compliance has become essentially voluntary.

As a result, during this 15-year period that the act has been in effect, its requirements have all too often been ignored. H.R. 926 corrects this serious flaw by allowing judicial review. It gives teeth to the legislation. The result of noncompliance with the Reg Flex Act has cost our small businesses in my State and yours billions of dollars over the last 15 years.

At the same time, let me make it very clear that by adding judicial review, it will not be the lawyers' haven that many on this floor will say. I have looked at the case law, and it clearly shows that courts are deferential to agencies. The courts do not, the courts do not get behind the agency analysis. Once the analysis has been done as required, the courts do not go behind that analysis to determine whether it is correct or not.

Mr. Chairman, furthermore, judicial review is unlikely to slow down the regulating process, since judicial stays and injunctions are very rare. Judicial review will not stop all regulations, will not tie up the system. What it will do is it will send agencies a very strong signal, that they are, yes, to meet the reasonable requirements that Congress has said are relevant in the rulemaking process. I urge my colleagues to support 926.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. EWING], who has done such good work on this judicial review.

Mr. EWING. Mr. Chairman, I would say to the gentlewoman from Kansas [Mrs. MEYERS], the chairman of the Committee on Small Business, without her strong support and that of her ranking member, the gentleman from New York [Mr. LAFALCE], we would not be here today.

I certainly appreciate that, and want that to be clearly stated, that the gentlewoman has been one of the strongest supporters of the improvement to the Regulatory Flexibility Act. I certainly appreciate it. I am pleased to be here today and take part in the gentlewoman's part of this debate.

Mr. Chairman, it has been mentioned earlier that the Vice President had as the No. 1 item on his reinventing government putting judicial review in the Regulatory Flexibility Act. Mr. Chairman, I do believe, and while this is my opinion, that the Vice President came out with that recommendation in all good faith, it appeared to have less emphasis as the bureaucrats expressed their opinion and began to try and stifle this movement.

I cannot emphasize too strongly that it is time for this Congress to take control of this issue and not leave it to the bureaucrats, who certainly do not want judicial review, or to be required to meet the provisions of the Regulatory Flexibility Act.

Mr. Chairman, on the issue of excessive litigation coming out of judicial review, first of all, small business does not have the money to consistently go to court and to cause the major Government agencies any great problem. They can only do it when it really matters.

In fact, Mr. Chairman, the Vice President's own report on this matter said:

Judicial review is not expected to lead to a large number of lawsuits. No basis for suits would exist if agencies conducted an appropriate regulatory review. As a practical matter, most regulations to which small entities have significant objections are already in litigation.

Mrs. MEYERS of Kansas. Mr. Chairman, may I inquire how much time remains on our side?

The CHAIRMAN. The gentlewoman from Kansas [Mrs. MEYERS] has 2 minutes remaining.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. TALENT].

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

Mr. Chairman, I would just like to join the other Members who have expressed support for this improvement of the Regulatory Flexibility Act, really making it effective. This is an act Congress passed in 1980, again with the intention of saying to the bureaucracy, ''Look, if you feel you have some overriding goal in terms of the environment or worker safety that you need to accomplish, look and see the impact on small business which produces the jobs and the flow of goods and services the country depends on, and do it in a way that has the least negative impact on costs and on job growth in the country.''

It is a very commonsense bill. It did not work because we did not place a check in the system that was effective in making them do it. I just want to make one broader observation here. When people build the businesses, the small businesses of the United States, they are building part of the backbone of the private society of this country. They are exercising, really, an unalienable right.

It is one thing if we feel that some overriding policy requires that we intrude on what they are trying to do for themselves and their employees in America. It is another thing when we let agencies act arbitrarily and capriciously, in a manner that unnecessarily undermines the efforts they are engaged in.

This bill is an attempt to stop that. I support it. I thank the gentlewoman for yielding time to me.

Mr. LAFALCE. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

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

Mr. SISISKY. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, today we have a chance to strike another blow for small business in America. Today we have a chance to put aside partisan politics and really change the way Government does business.

The rest of our statement is going to be repetitive, what everybody says, so I am going to be kind to the House today and simply say I rise in support of H.R. 926.

Mr. Chairman, today we have a chance to strike another blow for small business in America.

Today we have a chance to put aside partisan politics and really change the way Government does business.

And in the process, we will help small business do what they do best—create more new jobs.

If we really want to reinvent Government, we have to constantly think of ways for Government to perform its necessary functions without imposing a crushing burden on small businesses.

If you ask small businesses what they think about reinventing Government, I Think most would say that easing the burden of Government regulations and paperwork is a good place to start.

We have already made some headway in this direction. Last week, this House passed H.R. 830, the paperwork reduction bill, by unanimous vote.

The bill before us today, H.R. 926, deserves the same kind of overwhelming bipartisan support.

The original Regulatory Flexibility Act recognized that the burden of Federal regulations is heaviest for small business. That's why the Reg Flex Act forced Federal agencies to analyze the impact of proposed regulations on small business. Under reg flex, the agencies then have to find ways to lessen that impact as much as possible.

Unfortunately, Reg Flex Act has not been the tool for small business that some of us hoped it would be. Agencies have too often paid lip service to these requirements or ignored them completely. The attitude of too many agencies have been that compliance with reg flex is voluntary.

It is no mystery why reg flex has not been as successful as it should be. It has no enforcement mechanism.

And the solution is no mystery either. Small businesses need to be able to sue and make noncomplying agencies take these requirements seriously. H.R. 926 put teeth into the Reg Flex Act by providing for judicial review, and it states that Office of Small Business Advocacy should be allowed to submit legal briefs in any court challenges to final agency rules.

Since small businesses are responsible for creating most of the new jobs in today's economy, it only makes sense to do what we can to promote small business job creation. Minimizing the burden of Government regulations on small businesses does just that. It is a reform that both Democrats and Republicans can enthusiastically support.

We can be proud that this reg flex bill, along with the Paperwork Reduction Act reauthorization, have been genuinely bipartisan efforts. Congressman EWING's bill in the last Congress boasted a bipartisan roster of 260 cosponsors.

I strongly urge my Democratic and Republican colleagues to give their wholehearted support to H.R. 926.

□ 1230

Mr. Chairman, 85 percent of all new jobs in America are created by small businesses. The economic impact of regulation in our country ranges as high as $500 billion. With these facts in mind, it is crucial that we not overregulate small businesses. Reg flex makes this a law, and title I of H.R. 926 ensures that this law is observed. I urge my colleagues to vote ''yes'' on H.R. 926.

Mr. LAFALCE. Mr. Chairman, I yield the balance of my time to the gentlewoman from Kansas [Mrs. MEYERS] so that she might close debate.

Mrs. MEYERS of Kansas. Mr. Chairman, I would just like to say in closing that this is a bill of tremendous importance to small business. I would like to thank the gentleman from Illinois [Mr. EWING] for his work on judicial review and thank everyone for the bipartisan spirit that has carried this bill this far. The gentleman from Missouri [Mr. SKELTON] the gentleman from Virginia [Mr. SISISKY] and the gentleman from New York [Mr. LAFALCE] on the minority side have worked for many years on judicial review, and I strongly support it and urge my colleagues to vote for H.R. 926.

Mr. RICHARDSON. Mr. Chairman, small business owners in New Mexico have made it clear to me that redtape and regulatory burdens are cumbersome. Whether or not we should provide help for these businesses, the driving force in today's economy, is not the question.

The question before us today is how to best enforce the laws that we have enacted in the past.

Before I read this legislation, I envisioned a battle of ideas that would propel government into the 21st century: lower bureaucracy, greater efficiency.

Instead we get legislation that creates more jobs for lawyers in Washington. Busy work for bureaucrats: the height of cynicism, establishing new rules to prevent the implementation of new rules.

Forget partisan gain and the Contract With America, this legislation is a copout. A missed opportunity to work with the executive branch.

The Clinton administration, and the Vice President's National Performance Review in particular, has made significant strides in downsizing and streamlining the way government operates.

Already the re-inventing Government initiative has yielded practical benefits and fiscal discipline which benefits all Americans.

Furthermore, the President has already ordered each Federal agency to examine their respective rules and regulations and subject them to scrutinization.

Consider that this legislation exempts the Federal Reserve in an effort to protect monetary stability. Are we to assume that the Federal role in banking conduct is without fault and free from perfecting legislation?

We all understand that rules and regulations, by their very nature, constrain free-market business ventures. But congress has a responsibility to lead and craft policy that promotes the long-term interests of the Nation.

Can we honestly say that this is the best way to enforce policy?

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute printed in the bill shall be considered by titles as an original bill for the purpose of amendment, and each title is considered having been read.

During consideration of the bill for amendment, the Chairman of the Committee of The Whole may accord priority in recognition to a member who has caused an amendment to be printed in the designated place in the Congressional RECORD. Those amendments will be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is 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 ''Regulatory Reform and Relief Act''.

The CHAIRMAN. Are there any amendments to section 1?

The clerk will designate title I.

The text of title I is as follows:

TITLE I—STRENGTHENING REGULATORY FLEXIBILITY

SEC. 101. JUDICIAL REVIEW.

(a) AMENDMENT.—Section 611 of title 5, United States Code, is amended to read as follows:

''§ 611. Judicial review

''(a)(1) Except as provided in paragraph (2), not later than 180 days after the effective date of a final rule with respect to which an agency—

''(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

''(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with the terms of this subsection. A court having jurisdiction to review such rule for compliance with the provisions of section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis.

''(2)(A) Except as provided in subparagraph (B), in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 180 day period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

''(B) In the case where an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than—

''(i) 180 days; or

''(ii) in the case where a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 180-day period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

''(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

''(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

''(5)(A) In the case where the agency certified that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

''(B) In the case where the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with the requirements of section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without observance of procedure required by section 604.

''(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

''(A) to prepare the analysis required by section 604; or

''(B) to take corrective action consistent with the requirements of section 604,

the court may stay the rule or grant such other relief as it deems appropriate.

''(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

''(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

''(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only to final agency rules issued after the date of enactment of this Act.

SEC. 102. RULES COMMENTED ON BY SBA CHIEF COUNSEL FOR ADVOCACY.

(a) IN GENERAL.—Section 612 of title 5, United States Code, is amended by adding at the end the following new subsection:

''(d) ACTION BY THE SBA CHIEF COUNSEL FOR ADVOCACY.—

''(1) TRANSMITTAL OF PROPOSED RULES AND INITIAL REGULATORY FLEXIBILITY ANALYSIS TO SBA CHIEF COUNSEL FOR ADVOCACY.—On or before the 30th day preceding the date of publication by an agency of general notice of proposed rulemaking for a rule, the agency shall transmit to the Chief Counsel for Advocacy of the Small Business Administration—

''(A) a copy of the proposed rule; and

''(B)(i) a copy of the initial regulatory flexibility analysis for the rule if required under section 603; or

''(ii) a determination by the agency that an initial regulatory flexibility analysis is not required for the proposed rule under section 603 and an explanation for the determination.

''(2) STATEMENT OF EFFECT.—On or before the 15th day following receipt of a proposed rule and initial regulatory flexibility analysis from an agency under paragraph (1), the Chief Counsel for Advocacy may transmit to the agency a written statement of the effect of the proposed rule on small entities.

''(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of effect on a proposed rule in accordance with paragraph (2), the agency shall publish the statement, together with the response of the agency to the statement, in the Federal Register at the time of publication of general notice of proposed rulemaking for the rule.

''(4) SPECIAL RULE.—Any proposed rules issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds shall not be subject to the requirements of this subsection.''.

''(b) CONFORMING AMENDMENT.—Section 603(a) of title 5, United States Code, is amended by inserting ''in accordance with section 612(d)'' before the period at the end of the last sentence.

SEC. 103. SENSE OF CONGRESS REGARDING SBA CHIEF COUNSEL FOR ADVOCACY.

It is the sense of Congress that the Chief Counsel for Advocacy of the Small Business Administration should be permitted to appear as amicus curiae in any action or case brought in a court of the United States for the purpose of reviewing a rule.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. EWING

Mr. EWING. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. EWING: Page 2, line 11, strike ''180 days'' and insert ''one year notwithstanding any other provision of law'', in line 24, strike ''(2)(A)'' and all that follows through ''(B)'' in line 4 on page 3, and beginning in line 7 strike the dash and all that follows through line 13 and insert ''one year notwithstanding any other provision of law''.

Mr. EWING. Mr. Chairman, the amendment which I offer would very simply amend the bill to change the statute of limitations for filing an action under the Regulatory Flexibility Act from 6 months to 1 year. H.R. 926 has only a 6-month statute of limitations. Because many small businesses are not aware that they have a problem with the regulation in that short a period of time, I believe it is very important that we extend this for a 1-year period.

The Senate version of this reform legislation also has the 1-year limitation in it. My amendment also guarantees that the 1-year statute of limitations will be there notwithstanding any other legislative provisions which might govern.

Small business needs to have this type of protection. They do not have a number of lawyers, accountants, and staff people to be reviewing all of the regulatory mandates and regulatory provisions that are put out by the bureaucracy. Business needs to know and needs to have the time to review these regulations, and this amendment will allow for the proper time. A 1-year statute of limitations is very reasonable. The NFIB feels this is a very important vote and they have keyed this vote. It is supported by most small business groups in the country.

I ask for the approval of this amendment.

Mr. VOLKMER. Mr. Chairman, I rise basically in opposition to the amendment because I do not understand the reasoning why and I do not think the

gentleman from Illinois has fully explained other than NFIB is for it and some small businesses are for it and, therefore, that is the way we should do it.

I would like to question basically this whole provision under judicial review, where it puts an agency. Let's look at it for a minute from the other side instead of just looking at it from one side. Let's try looking at it from both sides.

I have an agency here that has just finalized a regulation and has promulgated it in the Federal Register. It is sitting out there and some businesses are going ahead and they are following it and they are going to abide by it because they think the agency has done the right thing. Then they are proceeding on that line, they have made these changes, whatever changes are required in their business operations, et cetera.

Then under this amendment, and the way I read the rest of the bill all the way down, section 611 under judicial review, and I do not know if the gentleman from Illinois or the gentlewoman from Kansas has entertained this thought, that during this time, while all these other businesses are doing what they should be, I have got about 10 or 11 of them out there that, ''No, this isn't quite right. I don't like it. They didn't do it right as far as I'm concerned.''

So I decide, and the rest of them decide that they are going to request——

Mr. EWING. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Let me finish up what is going to happen as I see what is happening from both sides. That there is going to be a judicial review, and the judicial review is going to occur where?

Well, let us say it is an agency that the law says that judicial review under a regulation shall occur in any court of appeals. Well, I happen to live in Missouri and my court of appeals is in the fifth circuit, and I file mine in St. Louis. We have another business in the State of California, or the State of Oregon that wants to have a review because they do not like it, so they file in San Francisco. We have another one that does not like it in Florida and they file for judicial review in Miami, and on and on it goes.

I have got about 7, 8, 10 cases pending at the same time on the same regulation, and it is all over whether or not the certification or analysis was done in accordance with the terms of this subsection. It has nothing to do with the basic substance of the regulation itself.

What happens when the court of appeals in Missouri says, ''We're going to stay that, and we're going to have a full hearing on it.'' All these other businesses that have already complied and abide, they do not know what is going to happen now because all of a sudden the regulation is put in abeyance. All the changes that they have made in their operations are no longer or may be necessary for the future.

Then the court of appeals in California, they decide they are going to make a decision on this first and they find that everything was proper and the certification was proper, the analysis called for in the bill was fully done by the agency and everything was proper. But 2 days later, the court of appeals in Chicago, or wherever, says, ''No, it wasn't done properly.'' Then the one in Miami says, ''Yes, it was.'' Then the one in San Francisco again says, ''No, it wasn't.'' Maybe the one in New York will say, ''Yes, it was,'' or maybe they will say, ''No, it wasn't.''

You tell me where small business is right now when all this is going on.

Mr. EWING. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. EWING. I thank the gentleman for yielding. I know how effectively you do represent small businesses in your district as most Members of this body do.

Let me say two things: What you have described is the legal system in America. But this law does not require a court to order a stay on the implementation of the rule.

Mr. VOLKMER. I did not say it did. It permits.

Mr. EWING. It permits.

Mr. VOLKMER. It permits.

Mr. EWING. And so does the law permits that in most cases. But the courts do not do it unless there is considerable evidence of the reasonableness of having that stay.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 5 additional minutes.)

Mr. EWING. If the gentleman will continue to yield, let me say that the important part of having the longer statute of limitations is that many of the small businesses you represent so well will never know there is a problem until the regulator shows up on their doorstep with a fine or a citation. They will not know that they needed to make an appeal of this ruling. That is why we give them time, because they do not have a battery of lawyers and accountants and executives to be watching this all the time. We are talking about little businesses.

Mr. VOLKMER. I thought NFIB represented those people. They have a good work force right here in Washington, DC. You mean they cannot follow what is going on and let their members know? They let them know everything else that is going on.

Mr. EWING. I am sure that they will let them know.

Mr. VOLKMER. They do everything they can to influence the Members up here how to vote on every piece of legislation that they can think about that may affect small business and how it will. Sometimes they do not think through, of course, and maybe they will not think through this example.

Mr. EWING. If the gentleman will yield again, I will respond to that, because not every small business belongs to the National Federation of Independent Business.

Mr. VOLKMER. Correct.

Mr. EWING. I am as interested in them certainly as I am those that belong to the organization. Yes, there is no requirement that businesses have to join any organization.

We need to be concerned in this country about the really little people who are out there doing their work, creating jobs, helping keep our economy going, and they have no idea about this Federal bureaucracy. They do not have anybody looking after it for them. We need to do that. You do it and I do it. We need to have a law that is friendly to them.

Mr. VOLKMER. You really believe that by giving them a year, that for sure every small businessperson out here is going to be visited by a person from that regulatory agency to talk about this regulation within the year?

Mr. EWING. If the gentleman will yield further, no, I do not believe that. I think it is a reasonable time, though. Maybe 2 years would have been more reasonable.

Mr. VOLKMER. Why not make it 5 years?

Mr. EWING. I would not oppose that. But, you see, we are trying to be reasonable here with something that is acceptable, to all parties. I do not think a year is an excessive length of time. That regulator probably is not going to come out there with helpful hints. They are going to come out there with a fine or they are going to come out there with a citation.

Mr. VOLKMER. As long as we are discussing this, what is the gentleman going to do about the small businesses that did know about it, that do keep up with regulations, and they have gone ahead and implemented the changes that are required in it, in their operations, what are you going to do about them?

Mr. EWING. Well, that is the way our system works. You may do things, if you are in business, as I have in my business and found out later that the law was changed or even that it was overturned in some court action.

Mr. VOLKMER. I mean, would you not get a little upset, though, if you for 6 months had done something that you thought the law required you to do and in good faith you had made those changes and then you found out that later on a court of appeals somewhere that you did not know ever had anything to do with it said, ''No, you don't have to follow that regulation anymore''?

Mr. EWING. If the gentleman would yield further, if I know what my rights are and I have the right to have judicial review of that regulation and I choose not to do it, I have made that

decision as an independent businessman.

□ 1245

If a fellow independent business person chooses to use judicial review, then I would say, ''God bless you.''

Mr. VOLKMER. What is the gentleman's answer to having more than one judicial reviewing going on simultaneously?

Mr. EWING. I think that the courts have the ability to consolidate those. I really do not believe that we are going to see judicial review. The gentleman was all over the country in his comment. I really do not see we are going to see judicial review filed in every appellate court around the Nation. Small business does not have the money.

Mr. VOLKMER. Now wait a minute. How big is a small business? What is the top you can have and be a small business? I mean we are not talking about little bitty people. I know little bitty people belong to small business, but we also have small businesses that are not so little. They have their own staff of lawyers. Oh yes, they are small business.

Mr. EWING. But there are many small businesses that do not have a staff.

Mr. VOLKMER. And that.

Mr. EWING. But are you not interested in those people? I know you are.

Mr. VOLKMER. I am interested in all of them, all of them, not just little ones.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. VOLKMER. Mr. Chairman, the gentleman just said that the small business out here is not going to be familiar with the regulations. And I daresay that that same small business is not going to know a court suit has been filed, whether it is in Miami or San Francisco or wherever, if it is in Chicago, and therefore they are going to file their own, are they not? They are not just going to wait around and look around all over the country to see if anybody else files a lawsuit.

Mr. EWING. I think the gentleman probably understands how the system works, and as a lawyer I know if I had had a client like that, one of the first things I would check is whether any other suits had been filed anywhere in the country. And that information is certainly available in our current computer age.

Mr. VOLKMER. So now the gentleman is going to say that the attorney is going to do it, and he is not going to say, ''Well those judges out in the Court of Appeals out in the circuit, they are too dang liberal. I do not want them; I want mine, I have more conservative judges,'' et cetera? Come now, the gentleman has been in law practice, I have been in law practice. Now the people shop around for the best deal they can get. The gentleman is telling me I am wrong?

Mr. GEKAS. Mr. Chairman, will the gentleman yield a moment?

Mr. VOLKMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I do not see any difference on the gentleman's argument on what is being proposed by the Ewing amendment than what actually is prevailing under current law. Under the current law there is granted 60 days, for instance under one statute for judicial review, which has to by that statute itself take place in Washington, DC, in the circuit court of this area, or in Oregon, or wherever.

Now, just following the gentleman's argument, should we not change that law as it is now to accommodate this inability to be uniform around the country that the gentleman is saying that this amendment will create?

Mr. VOLKMER. It is not just this amendment, it is how it affects everything else in the bill. This amendment does not actually affect where the venue is, but the venue is everywhere. This amendment affects judicial review. Judicial review of what? Would the gentleman from Pennsylvania tell me what under this provision under 611 is going to be reviewed?

Mr. GEKAS. Whether or not the regulatory agency complied with the mechanism for the review of the regulations and its flexibility. The regulatory flexibility analysis.

Mr. VOLKMER. Not the substance of the rule.

Mr. GEKAS. And the substance.

Mr. VOLKMER. No, no.

Mr. GEKAS. The substance does not change.

Mr. VOLKMER. Wait a minute, is the gentleman telling me the way he reads this bill, if I ask for judicial review that I have to have a judicial review of both?

Mr. GEKAS. No.

Mr. VOLKMER. No, no.

Mr. GEKAS. No.

Mr. VOLKMER. No.

Mr. GEKAS. I said that.

Mr. VOLKMER. So we have a little bitty thing here, we can ask for judicial review? No substance? Procedure, procedure.

Mr. EWING. Mr. Chairman will the gentleman yield?

Mr. VOLKMER. Yes, I yield to the gentleman from Illinois.

Mr. EWING. The judicial review we are talking about here is for the requirements on the regulating agencies contained in the Regulatory Flexibility Act. That is not upon the merits of the regulation, it is whether they followed the provisions of this act.

I believe that the courts of this country are wise enough if there are two appeals, to combine them. The courts are not trying to proliferate these types of cases. And they are not going to look with any great favor on somebody who comes in on a substantive issue and then comes back 6 months later and tries to raise it in the same court on a procedural issue under the Regulatory Flexibility Act.

Mr. VOLKMER. They can.

Mr. EWING. They can, but the courts were not born yesterday. They are pretty bright people.

Mr. VOLKMER. You are not, you do not tell the courts they have a right to refuse to review the matter on appeal because the plaintiffs have before appealed on a substantive matter. The gentleman does not say anything about that. So someone could do just what the gentleman is saying.

Mr. EWING. The courts have discretion. One of the problems I think we face around here sometimes is we try and take all discretion away from the courts. We appoint bright men and women to be our Federal judges. They can make these decisions, and they can see when someone is taking advantage of the situation.

Mr. VOLKMER. I have one other question before I yield back the balance of my time. I asked it during general debate and I have not received an answer to this date from anybody. Now I will ask the gentlewoman from Kansas, chairman of the Small Business Committee, and I am afraid the gentleman from Illinois who is chairman of Judiciary is not here.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has again expired.

(By unanimous consent, the gentleman from Missouri, Mr. VOLKMER, was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. There is a statement in the CBO estimate, CBO estimates that enactment of this bill would add at least $150 million annually to the cost of issuing regulations? Can the gentleman tell me whether or not the majority plans to appropriate the amount of money, additional money to each individual agency required in order to implement the provisions of this bill for this year?

Mrs. MEYERS of Kansas. Mr. Chairman, if the gentleman will yield, I think that is title II of the bill. Our hearing was on title I. I will defer to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, if the gentleman will yield.

Mr. VOLKMER. Yes, I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I simply want to state to the gentleman we are going to debate, thankfully, and we are going to have a full exposition on costs or noncosts of implementing this legislation, but as the gentlewoman says, this is in title II that the gentleman is really visiting. Right now we are on the Ewing amendment.

Mr. VOLKMER. I am on title II. I am into the total cost of the bill. Does the gentleman mean to tell me that if there are appeals out there by small business on every agency rule under this bill that it is not going to cost agencies any more money? They are going to defend those without any costs, without any lawyers?

Mr. GEKAS. We believe that the cost is negligible. We are able to demonstrate that and will in good time. We are not asking the bureaucracy to do any more than they are supposed to do now. We are asking them to help the small businessmen by doing their job in providing analysis for these rules that are choking our small businessmen. That is all we are doing.

We think that the manpower is there, the expertise is there, if only they are willing to do so. And the gentleman and I have been struggling for a long time for small business people to make the agencies do their job. The cost will be negligible, their duty will be enhanced and they will be able to do a better job in the present circumstances.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 1 additional minute.)

Mr. VOLKMER. Mr. Chairman, what I just heard is the gentleman disagrees with the CBO estimate.

Mr. GEKAS. No.

Mr. VOLKMER. The gentleman does not disagree with it?

Mr. GEKAS. Not necessarily.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman yielding. The estimate done by the CBO was collected from the agencies, agencies that do not want this legislation, agencies that probably have overinflated the costs as they estimate them to be.

I will answer the gentleman's question; yes, the majority will appropriate the right amount of moneys to the agencies to do their job, which as we will show the gentleman tomorrow, in our ability to take fiscal responsibility we will make the agencies live within their budgets and probably small budgets.

Mr. VOLKMER. Basically what the gentleman is telling me is that he is going to impose on the agencies additional work of yesterday's bill, the risk analysis, OK, and this bill, and yet not give them any manpower to do it with.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just finish that conversation a little bit. Yes, we are trying to impose on the agencies to do their job, as the Congress outlines it to be done and try to not impose these kinds of costs on small business people in America. That is what this regulatory reform is all about, is to take the burden off of the small businesses, off the American families, and put it on these regulatory agencies, and make them do their jobs and do them with a little common sense and with good science.

Mr. Chairman, the Regulatory Flexibility Act is law. It was passed in 1980, so that the Federal agencies would review the potential impact of new regulations on small businesses and consider that impact as regulations are promulgated. The problem is that the Regulatory Flexibility Act has no teeth in it, has not been used, and there is no way to enforce compliance with the Regulatory Flexibility Act.

H.R. 926 puts teeth into the act by allowing judicial review of agency compliance with it. Unfortunately, this bill only gives small businesses this 6 months to file these suits under the RFA.

I am a small businessman, although I just sold my company a couple of months ago. I am intimately familiar with the regulatory burdens that are placed on our Nation's entrepreneurs. From the very day I opened up my business, and even before that day, I had to deal with regulators knocking on my door and piling on the paperwork. By experience as a small business owner I also know that 6 months is not long enough to adequately judge the impact of a regulation on a small business.

Let me describe a small business to Members, as some of the lawyers on the other side of the aisle cannot seem to understand what a small business is. I will describe my small business to Members. As owner of that business when I was actively involved in that business, I was the janitor, the accountant, the lawyer, the person that practices before regulatory bodies. I was the counselor, I was the health care expert, I was the service technician, I was the trouble shooter and yes, I was a member of the NFIB, by the way, I was a member of the NFIB. But because I was having to work 12 to 18 hours a day, 6 to 7 days a week to build a business, create jobs and realize my American dream, I did not get to read the NFIB bulletins every time they came into my office.

What did get my attention was when the regulators came into my office, or when I read something in the paper of what new regulation the Federal Government is piling on top of me; then I would have loved to have had the opportunity to cause that agency to review the potential impact of a new regulation on me and my business. But I can guarantee Members it takes longer than 6 months, it takes longer than a year sometimes for small businesses to realize that these regulations are going to have an impact on them.

But I think a year is a reasonable time, because maybe I only have a convention of the pest control industry once a year; maybe when this regulation is promulgated and I only have 6 months to go, I have not been to my convention and go to a seminar to tell me that there was this regulation imposed upon me, but within a year, I will have the opportunity or I should take the responsibility to read the NFIB bulletins, to go to the seminars held by my industry, to go to the conventions held by my industry, or maybe go to the local Pest Control Association's dinner that is held monthly and find out that this regulation is happening to me.

Therefore, within that year I will have an opportunity to take advantage of this bill.

In fact, many small businesses do not even know that a new regulation exists 6 months after it is in effect, much less know how it impacts their business. For the Regulatory Flexibility Act to function as it was intended back in 1980, I believe small businesses should have 1 year to challenge regulation flexibility analysis, notwithstanding shorter deadlines currently under other laws. Only with an adequate time period to determine the effect of the new regulation and how it compares to an agency's review under the Regulatory Flexibility act will the purpose of the act be achieved: much needed flexibility and considerations for the impact regulations have on struggling small businesses.

□ 1300

Do not render meaningless the Reg Flex Act. Vote ''yes'' on the Ewing amendment.

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has expired.

(At the request of Mr. WATT of North Carolina and by unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I wanted to go back to the issue of the cost of what we are doing here, and I understand the gentleman, as the majority whip, is familiar with the pay-as-you-go rules and the budgetary rules under which we operate here.

There is a provision, language, on page 21 of the analysis of the CBO which says, ''Enactment of title I,'' and we are talking about title I now, not title II, ''of H.R. 926 could result in additional lawsuits against the Federal Government requesting judicial review of Federal agency compliance with the requirements of the Regulatory Flexibility Act. To the extent the additional lawsuits were successful and the plaintiffs were awarded attorneys' fees, enactment of H.R. 926 could result in additional direct spending because these fees are paid from the claims, judgment, and relief acts account.''

Now, the question I want to pose to you, I heard the gentleman say that we get into the cost considerations of this bill under title II. It seems to me that that puts us into the cost considerations, and the pay-as-you-go rules, as I understand them, not under title II, but under title I.

Has that issue been addressed? Was there a waiver of the rules to bring that issue, this bill, to the floor in light of that provision?

The CHAIRMAN. The time of the gentleman from Texas [Mr. DELAY] has again expired.

(At the request of Mr. WATT of North Carolina and by unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. I appreciate it, and I will yield to the chairman.

I just want to know, I know the gentleman wants to protect the Federal Government from being sued by American citizens.

Mr. WATT of North Carolina. I mean, this is not disingenuous.

Mr. DELAY. Mr. Chairman, I will respond to the gentleman's statement.

I know the gentleman wants to protect the Federal Government from being sued by small businesses and American citizens. I do not. I want the American citizens to have the opportunity to sue the Federal Government when they are imposing regulations.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I want to complete the statement that the gentleman from North Carolina began by reading the remainder of the paragraph which he omitted: ''CBO cannot estimate either the likelihood or the magnitude of the direct spending, because there is no basis for predicting either the outcome of possible litigation or the amount of potential compensation,'' meaning that when I said that the bulk of the argument that we are yet to engage will be in title II with respect to cost, this as to title I is a negligible item.

Further, we are not certain as we stand here that even what they claim, that is, that the attorneys' fees would be payable, may not be payable at all when one sues the Federal Government. What statutes provide for the payment of attorneys' fees is not made clear here and does not cover all of the situations, and it still ends with saying there is no way to estimate it.

But here is the real thing, this is what the gentleman from Texas said, if they do their job in the first place and they comply with the requirements of our analysis and they do the things that are necessary, the lawsuits will start to shrink. They will shrink from the number that exist today, because we will have predictability in the marketplace. The small businessman will know ahead of time if they do their job right, the agencies, what they may or may not do. So in time even these initial costs will be minimized.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

I was planning to wait for a while to get into this debate, but the question has come up how do we know whether there is going to be litigation, how do we know there is going to be fees, because there are statutory provisions in our laws that say that Equal Access to Justice Act provides for that. We cannot sidestep that issue simply by saying we do not know whether there is going to be any litigation, and we do not know whether there is going to be any award of attorney's fees.

In response to the majority whip, let me make it clear that my purpose is not in cutting off litigation against the Federal Government. My purpose is the same one that everybody else here has avowedly said they believe in which is getting to a balanced budget, and if we have pay-as-you-go rules and if we continuously bring bills to the floor which violate those pay-as-you-go rules and continue to mount additional responsibilities and burdens on the Government, then we are going to either get further and further away from a balanced budget or we are going to find some other ingenious way such as taking away school lunches or some other program to fund the balancing of the budget.

I talked about the budget implications of this. It is clear to me that my Republican colleagues have no interest in complying with the pay-as-you-go rules, nor in balancing the budget, and so that is an issue that I am putting behind me. I want to go back to the amendment itself.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Missouri.

Mr. VOLKMER. On the budget issue now, especially with the words that the gentleman from Texas has said before, I know that the gentleman from North Carolina, I know him well, I know he represents his constituents better than anybody else in this House, of representing their constituents, you are one of the top ones representing your constituents, your small business people. There is no question about that.

You have no trepidation at all about your citizens or any citizen of the United States filing suit against the Federal Government, do you?

Mr. WATT of North Carolina. That is right.

Mr. VOLKMER. None whatsoever? In fact, if they have been wronged, they should file suit against the Federal Government? Correct?

Mr. WATT of North Carolina. That is correct.

Mr. VOLKMER. The only thing you are concerned about, and let me follow this up if I may before the gentleman interrupts again, I would appreciate it if the gentleman would let me finish this train of thought, when they do file suit and they win, they get their attorney's fees in most instances?

Mr. WATT of North Carolina. I certainly hope so.

Mr. VOLKMER. Those attorney's fees come out of the Federal budget? Correct?

Mr. WATT of North Carolina. That is correct.

Mr. VOLKMER. All you are saying to everybody in this House is we should not really legislate in a vacuum, because that is what is going on? They are legislating like this bill is the only thing that is before us and ignoring the implications of this bill on all other laws of the United States and how it works with those other laws?

Mr. WATT of North Carolina. Reclaiming my time, because we spent a lot of time talking about the budgetary impact of this. That is really not what is on the floor at this point. I got dragged into this budget debate kind of from the back side.

Let me go back to the underlying amendment and debate the underlying amendment which is to extend the time from 180 days to 1 year for this litigation to take place which I would submit to the House relates in part to the litigation issue and the cost issue, because the longer people have to file lawsuits, the more likely they are likely to file lawsuits, and the more costly it can be.

But that is not the point I want to make. The point I want to make is that I thought the purpose of this bill was to get our agencies to make more humane regulations and rules and to be more sensitive about what they are doing.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 2 additional minutes.)

Mr. WATT of North Carolina. I would submit to you that where we are going with this is that you are making it impossible for agencies to promulgate any rules by extending this period of time that can have any degree of finality to them, and the objective that we are trying to get to is to get to a point where if a rule is promulgated, it can be determined what impact it has on a small business quickly. If the rule has an adverse impact on the small business, the small business ought to raise it quickly, and the Government ought to try to correct it quickly.

If we stretch this process out for an entire year and allow businesses to wait 364½ days before they raise the issue, then we will never be able to get to any final rules that make sense or even in the context of the bill that you are talking about.

So I think this expansion of the 180 days to 365 days, as opposed to contracting it to a shorter period of time, really points out to me the clear purpose that the underlying bill has, which is to do away with any kind of regulations and feeds this assumption that I started off making in the general debate that the assumption seems to be by the other side that every rule that a Federal agency makes is bad.

I would remind my colleagues that every rule that a Federal Government agency makes is pursuant to a bill that the Congress of the United States has passed.

Mr. LAHOOD. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. LAHOOD. Mr. Chairman, I rise in strong support of the Ewing amendment to H.R. 926.

For too long, more than 15 years, regulations have been thumbing their noses at small business when it comes to issuing regulations. Many agencies have ignored the Regulatory Flexibility Act, because they knew they could not be challenged in court for not considering small business and not complying with the act.

The original intent of the Reg Flex Act was to help ease the regressive one-size-fits-all regulatory process. Regulators are supposed to analyze the impact of the regulations they produce on small business and take steps to modify these regulations by taking into account small business' limited resources. But, as I have stated, the regulators find a loophole, and regulations go out, regardless of the impact they may have on small business.

The bill, H.R. 926, will do away with this never-mind attitude of Federal regulators by allowing judicial review and judicial enforcement. More importantly, the Ewing amendment will strengthen the judicial review component and recognize small business' special needs in addressing regulations.

Furthermore, the Ewing amendment will give small business 1 year, notwithstanding any other law, to appeal a regulation if the Reg Flex Act was ignored. Some current rules and regulations, like OSHA and clean air, have as little as 30 to 60 days for appeal. To me, these time periods totally disregard small business' limited resources.

I can't imagine any small business in my district being able to identify how a regulation impacts them in 30 days. In fact, I believe many small businesses would be hard pressed to know that a regulation has been put into effect in 30 to 60 days, let alone to even read the Federal Register.

Mr. Chairman, past Congresses have totally ignored small business concerns with regulations. But this new Congress will stand up and listen to the job generators of this country.

In my district, and many other districts across this Nation, small businesses are the consistent job creators.

Simply put, small business is not equipped to deal with excessive regulations. Walk into any small business on main street and look for the accounting department or the legal department or the human resources division. You will not find them. Hence, the need for regulatory flexibility.

This is why I support the Ewing amendment. It upholds the original intent of the Reg Flex Act—allowing small business flexibility in confronting regulations.

I urge my colleagues to vote ''yes'' on the Ewing amendment.

□ 1315

I also want to make note of the fact that there are letters from the chief of staff of the White House, Leon Panetta, dated October 7, 1994, upholding the kind of legislation that we are trying to pass, a letter dated October 8, 1994, from the President of the United States upholding the type of legislation we are trying to pass here; a letter from the administrator-designee dated October 8, 1994, upholding the type of legislation we are trying to pass, and a letter to Congressman EWING from the Vice President of the United States which suggests strongly that he believes we are headed in the right direction in this legislation.

EXPRESSING APPRECIATION TO THE MAJORITY AND MINORITY LEADERSHIP

(By unanimous consent, Mr. FOGLIETTA was allowed to proceed out of order for 1 minute.)

Mr. FOGLIETTA. Mr. Chairman, I rise to thank the leadership, specifically the Speaker and the majority leader, for adhering to a request I made on behalf of those of us who attend Mass at noon on today, Ash Wednesday, for suggesting to the Chair and debaters that no votes be called between 12 and 1 o'clock. I was able to get to Mass without missing the vote.

I thank the chairman, the leadership, and the people who are involved in this debate.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman.

Mr. VOLKMER. I would like to tell the gentleman that I appreciate his being able to attend Mass and get his ashes. I was here and was unable to perform that function which I would like to have performed.

Mr. FOGLIETTA. I will tell the gentleman that there is another Mass at 6:30 p.m., this evening.

Mr. VOLKMER. 6:30? I think we might still be here. That is the problem. We will have to wait and see. I appreciate the gentleman informing me of that.

Mr. LAHOOD. Mr. Chairman, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I would like to ask the gentleman from Illinois [Mr. LAHOOD] in the letters that the gentleman read, is there any one of those that said that there should be 1 year in which to exercise judicial review of these functions, the certification and performing the regulatory flexibility requirements?

Mr. LAHOOD. I would be happy to read the letters for the gentleman.

Mr. VOLKMER. Do those letters say that one thing?

Mr. LAHOOD. Reclaiming my time, the first letter, from the Chief of Staff of the White House, Mr. Panetta, in a paragraph, he says that, ''The nominee for Administrator of the Small Business Administration has been a principal champion of judicial review of 'reg flex'.''

Now, I have not read the entire letter, obviously. That is the letter from the Chief of Staff of the White House.

From the President we have a letter dated October 8, 1994.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. LAHOOD] has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. LAHOOD was allowed to proceed for 5 additional minutes.)

Mr. LAHOOD. This letter I referred to is obviously last year's: ''Toward that end, my Administration will continue to work with Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to challenge agencies and receive meaningful redress when agencies ignore the protections afforded by this statute.'' That is from the President of the United States, addressed to Senator Wallop, by the way.

This is a letter, as I indicated, from the administrator-designee with similar language, which I would be happy to share.

Another important letter is from the Vice President of the United States to Congressman EWING in which he says, ''We remain committed to securing this important reform during the next Congress and will work with Congress for the enactment of strong judicial review for small businesses.''

I have to assume by these letters that they know the Congress has good sense, with good legislators, and will adopt good amendments that, like that which Mr. EWING has put forth here today, that will provide enough time for small business people of our districts to review these and have an opportunity to challenge them.

I know we all appreciate the support from the administration and their designees.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. LAHOOD. I yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman.

Mr. Chairman, I too agree with the thrust or the purpose of the legislation, just like those letters do. But I have a serious doubt as to whether or not you should extend the review period for this one purpose to 1 year and what effect that will have on small businesses as a result of that.

The gentleman in his statement talked about the small businesses getting this impact on them by certain regulation, whatever that regulation may be, and then wanting to be able to review it. Well, gentlemen, most regulation, substantive regulation, is reviewable for most of them for a period of 90 days, that is all.

Mr. LAHOOD. Reclaiming my time, as I said in my statement, there are some agencies that are as little as 30, and sometimes 60, days. The gentleman from Missouri knows as well as I do because we represent similar districts.

The small business people are basically people who employ 5, 10, 15 people. They work hard. They work long hours. They provide the jobs. They do not have time or the legal expertise to go through and figure out what kind of mandates or imprimaturs, or however you want to characterize the laws that we are passing on them. They need time.

I am sure the gentleman from Missouri, having represented the same kind of district as the gentleman from Illinois [Mr. EWING] and myself, across Illinois and across Missouri, knows these small business people simply do not have the time. They are providing the jobs, they are working hard, they are working long hours to make a living.

Mr. VOLKMER. The gentleman is correct.

Mr. LAHOOD. We heap all of these regulations on them, and they need the time. That is why the Ewing amendment is so important to them, to give them the time to do it.

Mr. VOLKMER. I would like to point out to the gentleman and somehow I cannot seem to get across to the gentleman, and maybe not to anybody on the other side, that all you are giving to that small business on this extra time is a review of the provisions of this bill. That is all, not the substantive regulation.

Mr. LAHOOD. That is all, that is right. That is right. That is why the gentleman should be voting for it.

Mr. VOLKMER. No, no. You are fooling the small business people.

Mr. LAHOOD. I submit, all of the people of our districts, the small business people, would love for you to give them additional time to review these lousy regulations.

Mr. VOLKMER. The gentleman is not doing that. That is my point to you. You are not giving them additional time to review the substance of the regulation. You stand there and act like it does.

Mr. LAHOOD. I guess what it comes down to, then, I say to the gentleman from Missouri [Mr. VOLKMER], when it comes to the vote, he and I disagree on this, but the small business people, if we pass it, which I think we will, I believe that we will pass it, will then have the additional time they need.

The letters referred to follow:

THE WHITE HOUSE,
Washington, October 7, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: Your particular question about the Administration's position on judicial review of actions taken under the Regulatory Flexibility Act has come to my attention.

As you have discussed with Senator Bumpers, the Administration supports such judicial review of ''Reg Flex.''

The Administration supports a strong judicial review provision that will permit small businesses to challenge agencies and receive meaningful redress when they choose to ignore the protections afforded by this important statute.

In fact, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Ironically, Phil Lader, our nominee for Administrator of the Small Business Administration (whose nomination was voted favorably today by a 22–0 vote of the Senate Small Business Committee) has been a principal champion of judicial review of ''Reg Flex.'' In his capacity as Chairman of the Policy Committee on the National Performance Review, Phil vigorously advocated this position. I know that, if confirmed, as SBA Administrator, he would join us in continued efforts to win Congressional support for such judicial review.

Sincerely,

LEON E. PANETTA,
Chief of Staff.

THE WHITE HOUSE,
Washington, October 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: My Administration strongly supports judicial review of agency determinations under the Regulatory Flexibility Act, and I appreciate your leadership over the past years in fighting for this reform on behalf of small business owners.

Although legislation establishing such review was not enacted during the 103rd Congress, my Administration remains committed to securing this very important reform. Toward that end, my Administration will continue to work with the Congress and the small business community next year for enactment of a strong judicial review that will permit small businesses to challenge agencies and receive meaningful redress when agencies ignore the protections afforded by this statute.

As you know, the National Performance Review endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small business, states, and other entities are reduced.

Again, thank you for your continued leadership in this area.

Sincerely,

BILL CLINTON.

OCTOBER 8, 1994.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: The Administration supports strong judicial review of agency determinations under the Regulatory Flexibility Act that will permit small businesses to challenge agencies and receive strong remedies when agencies do not comply with the protections afforded by this important statute.

In fact, the National Performance Review publicly endorsed this policy to ensure that the Act's intent is achieved and the regulatory and paperwork burdens on small businesses, states, and other entities are reduced.

As Chairman of the Policy Committee of the National Performance Review, under Vice President Gore's leadership I vigorously advocated this position. I have continued to champion this policy within the Administration.

If confirmed as Administrator of the U.S. Small Business Administration, I will join the Congress and the small business community in continued efforts to pass legislation for such judicial review.

Thank you for your leadership on this important issue to small business.

Sincerely,

PHILIP LADER,
Administrator-Designate,
U.S. Small Business Administration.

THE VICE PRESIDENT,
Washington, November 1, 1994.

Hon. THOMAS W. EWING,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE EWING: Thank you for contacting me regarding the Regulatory Flexibility Act.

As the President and I have made clear, we strongly support judicial review of agency determinations rendered under the Regulatory Flexibility Act. We remain committed to securing this important reform during the next Congress and will work with Congress for the enactment of strong judicial review for small businesses.

We also understand that it will be important to continue our work with small businesses to ensure that such an amendment provides a sensible, reasonable, and rational approach to judicial review, as recommended by the National Performance Review. As you know, the National Performance Review recommended that which was (and continues to be) sought by the small business community—i.e., an amendment that furthers the intent of the Act and reduces the paperwork burdens on small businesses.

The President and I look forward to working with Congress on this matter and appreciate your leadership in this area.

Sincerely,

AL GORE.

Mr. REED. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, all of us on both sides, at least the vast majority, believes judicial review is very, very important. That is a concept that has been embraced by both the majority and the minority and that forms the core of title I.

But I think it is important to understand specifically what title I does and why this amendment, I do not think, aids in adequate judicial review. In fact, it might create a situation where the system can be exploited to get 1, 2, 3, bites of the apple rather than an efficient system which allows everyone—small business people, ordinary American citizens—to go ahead and make sure regulations are sensible.

Judicial review is part of title I. It is triggered by a claim that procedurally the agency did not effectively institute a regulatory flexibility analysis. An agency director, when trying to promulgate regulations, must consider the impact on small business under the regulatory flexibility analysis or decide there is no significant impact and certify such a fact.

At that point, when that decision is made under the present statute, an affected entity has 180 days to appeal. The remedy is a determination by the court whether or not the agency performed its procedural duty, i.e., it did confront the regulatory flexibility analysis or no such analysis was required.

The problem with extending this time period for one year is the problem that was alluded to by my colleague

from Missouri [Mr. VOLKMER] that the substantive challenge to regulations, the actual regulations, those rules and regulations that the small business owners object to, when someone comes into their shop or business facility, those substantive regulations have to be challenged in a much shorter time period. Specific statutes allow 30, 60, 90 days.

What this amendment would do is create the anomalous situation where a substantive challenge has already been made, it may have failed, yet still there is a procedural challenge simply on whether or not the agency performed the regulatory flexibility analysis.

I would also like to point out to my colleagues that the specific language of the bill includes consideration of this regulatory flexibility analysis when regulations are challenged substantively in a court of law.

On page 5, and I will quote, ''In an action for the judicial review of a rule,'' i.e., this rule is bad, it does not meet the substance, it fails the substance, it imposes undue costs on small business, we can do it a better way. In such a review on the merits, any regulatory flexibility analysis in such rule, including an analysis, pursuant to subsection A(5), ''shall constitute part of the whole record of agency action in connection with such review.''

Therefore, a judge considering an appeal of a regulation, not just the procedure but, ''Are these regulations good or bad,'' as my colleague from Illinois pointed out, that is what small business people are alarmed with. They do not care about the procedure. They are listening to this debate and they are saying, ''What are we debating about? If regulation hurts me, I don't just want to go back and do a flexibility analysis and say let us do something along the way. I want to fix the regulation.''

Well, this legislation, as it stands today, not only allows but makes part of the record of review the record of the flexibility analysis.

So what I would suggest is that the 180-day limit here provides an adequate time to review that one procedural preliminary step. Failing that, there is ample opportunity throughout the process to decide whether or not the agency has conducted an adequate review and it published, more importantly, a rule.

I just hasten to add, the bottom-line test for our constituents is not that we followed scrupulously and minutely all these turns in the regulatory process, the bottom line is do these regulations make sense in the context of the business?

The point the gentleman from Missouri [Mr. VOLKMER] tried to make is if they do not make sense, simply having this option out there for a year is not going to provide a remedy.

The other point I would like to make about this process is that there is a real value to finality, there is a real value to having small business, medium business, large business, individuals, say at a date certain these are the regulations that are in effect.

I am not going to invest in a $200,000 septic system or water purification system and find out 30 or 60 days later that the regulations have been challenged and clouded because they failed to take a reg-flex step a month ago.

The CHAIRMAN. The time of the gentleman from Rhode Island [Mr. REED] has expired.

(By unanimous consent, Mr. REED was allowed to proceed for 2 additional minutes.)

Mr. REED. I yield to the gentleman from Illinois [Mr. EWING].

Mr. EWING. I thank the gentleman for yielding.

I would say to the gentleman that he has made an excellent point. He has laid out the argument beautifully, I think, and I appreciate his strong support for the bill even though we may disagree on the amendment.

The point is that the statute of limitations in different statutes vary all over the place. So the 180 days does not match most of any of those. So you are still going to have the dual period.

So the gentleman's argument there really does not hold water unless we are going to take it back and reduce the statute to whatever the underlying statute is.

Mr. REED. Reclaiming my time, as the statute is drafted, as it exists today, it is 180 days or the lesser period allowed under substantive review statute. What we tried to do is to combine these judicial protests, reviews, appeals, into one or two at the moment, and not have an endless string of procedural delays.

The other thing I would suggest also, and I think this is very important, is that we are very conscious of, and I know I think I speak for myself and the majority, we are conscious of the different time limits with respect to the statute. That is why we specifically include at page 5 making the regulator flexibility part of the record on final review.

□ 1330

Therefore, when someone comes in and challenges that rule, and the gentleman from Texas [Mr. DELAY] has indicated he wants the Americans to be able to challenge rules, so do we, but we want to be able to do it efficiently in one forum so we can go ahead and get all the bang for the buck.

So I think we have addressed the variable lengths of review in this language. I am every comfortable with it as written. I applaud the gentleman for trying to push it further. But as I indicated in my remarks, I think that will simply cost more money and be really an opportunity for exploiting the system, slowing things down, and I know the duty of what we have been sent here to do, get good regulations for people.

The CHAIRMAN. The time of the gentleman from Rhode Island [Mr. REED] has expired.

(By unanimous consent, Mr. REED was allowed to proceed for 1 additional minute.)

Mr. REED. Mr. Chairman, I yield to the gentleman from Illinois [Mr. EWING].

Mr. EWING. Mr. Chairman, I think my response to those two points, and they are good points, is that we are still concerned about the small business who does not have notice. In the 90 days, the 180 days, the 60 days, it is too short a notice. I would make it all 1 year. I would move it out so that we are friendly to our constituents and our taxpayers and our small business people. That is really where we ought to be headed, not drawing it back.

What we have had is years of everything on the side of the regulator. Now it is time that the regulated have rights, and that is what we are trying to do here.

Mr. REED. Reclaiming my time, I appreciate the sentiments of the gentleman. I believe the 180 days is a very reasonable, responsible balance between the view the gentleman proposed, whether is it multiple appeals for substantive challenges to the legislation or the procedural rule. And I believe if we stick to that we will be in good shape.

AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT OFFERED BY MR. EWING

Mr. VOLKMER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER to the amendment of Mr. EWING: Strike the words ''one year'' wherever they appear in the amendment and insert in lieu thereof ''90 days''.

Mr. VOLKMER. Mr. Chairman, the purpose of this amendment is to continue the dialog and try to point out to the members of the committee that what we are trying to do here is not take anything away from small business people, but to try to provide some total consistency in our whole legislation, in the laws that we have on the books.

Now, it will not do completely that, because some of the substantive regulations must be appealed within less than 90 days. But this would mean that for those that provide substantive appeal within 90 days, you would have appeal on this question of procedure within the same 90 days. That is basically what it is meaning to do.

Now, I have heard here, it is almost like we are legislating this bill, and this bill does not have any impact on any of the law that we have on the books, nor do any of the laws that we have on the books have any impact on this bill if it becomes law.

We cannot legislate in a vacuum. As a result, we must look to see what the other laws are that also apply to the process.

The gentleman from Rhode Island [Mr. REED] has done a lot better that I

have. It was interesting to listen to the gentleman from Illinois in the well, the gentleman from Peoria, talk about the small businessman. He wants to get these regulators off his back because they are passing these regulations that are putting him out of business.

The appeal provided in this bill does not do that. It does not have anything to do with that, not one solitary thing. And I do not understand people up here thinking that if you put a No. 1 on a blackboard, that really that is a No. 10. No. 1 is a No. 1. It is not a No. 10.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I am just wondering what effect the gentleman's amendment would have on the current law that under the Sawtooth National Recreational Area statute, there are 180 days to appeal to the district court of Idaho. Just think about that for a minute. Then Panama Canal tolls, six years apply.

Mr. VOLKMER. What does your 1 year do to the 6 years?

Mr. GEKAS. We have to work on that. But immediately on the question of the small businessman, because there are very few businessmen that are involved in the Panama Canal tolls I am told, at any rate, the other one that we have here has 120 days, for instance. The 180 days that we have in the bill are commensurate with this, and the Ewing amendment has none of the ones that are already part of the law. Yours does. In shrinking to 90 days the Sawtooth capacity to appeal a rate flex, you are giving them only 90 days, where they now have 180 days on the substantive part.

So you did not think it through.

Mr. VOLKMER. Sawtooth Recreational Area, where is that? Sawtooth in Idaho. I feel sorry, but I will talk to the gentlewoman from Idaho and the gentleman from Idaho and maybe we can make a exclusion for them.

Mr. GEKAS. I will tell them to vote against your amendment. The point is we want to oppose your amendment because it is mixing it up and confuses the issue more, even more than when you consider the Ewing one, which expands and allows the small businessman to have ample time to appeal something that impacts it.

Are you for judicial review? You are?

Mr. VOLKMER. Sure.

Mr. GEKAS. We are all for judicial review. No matter what time we set, there is going to be this elongated period, even the gentleman will have to agree, to elongate the period within which the small businessman who is disaffected can seek redress. That is all we are trying to do.

Mr. VOLKMER. Sure.

Mr. GEKAS. We are all for judicial review. No matter what time we set, there is going to be this elongated period, even the gentleman will have to agree, to elongate the period within which the small businessman who is disaffected can seek redress. That is all we are trying to do.

Mr. VOLKMER. What redress though?

Mr. GEKAS. On a reflex portion of the procedural part. But why do you trivialize that? That annoys me, that you trivialize it.

Mr. VOLKMER. I am not trivializing it.

Mr. GEKAS. In my judgment you do, and that is what the debate is all about.

Mr. VOLKMER. Reclaiming my time, the gentleman acts like I am trivializing it. I am not, because what I keep repeating is because I have heard it here during the debate, I have heard it here during the debate on this amendment, and I keep hearing that what we are going to do is we are going to stop these regulators by this bill of passing substantive regulation that impacts on small businesses.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I would just like to ask the gentleman under my reservation, how much more time do you guys anticipate spending on this amendment?

Mr. VOLKMER. I really do not know. I mean, it is just not up to me. I am only one person. I would like to take the rest of my time. I may not take the full 5 minutes. I just asked for 5 minutes so I do not get cut off. I would like to make my speech.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. The gentleman from Missouri is recognized for 5 minutes.

Mr. VOLKMER. Mr. Chairman, what I started to say is I continuously hear that with this legislation the small business people are not going to have to worry about regulators regulating their business any more, because they are going to have a year in which to appeal those regulations. That is a lot of hogwash. It is not true. Everybody admits it is not true. So why do we keep saying it?

Well, sometimes we keep saying things to make small business people think they are going to get more than they are going to get out of this bill. They do not get any substantive review out of this bill. Let us admit it.

Mr. EWING. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. EWING. I do not think you have heard one person get up and say that this affected substantive review. You are the one that is saying it. You are the one that is confusing the issue, sir, not us. You are the one. This only deals with appeal of the Regulatory Flexibility Act and its provisions, and no one on this side has said that it has anything to do with substantive.

Mr. VOLKMER. Mr. Chairman, recognizing that, it will go back to the other things that I talked about before, about substantive review, and most of that is within the 90 days, and that is the purpose of this amendment, to try and get some uniformity, rather than have the courts having cases. And I have said it before when we first discussed the gentleman from Illinois' amendment, that under this bill, and I am sure the Committee on Small Business never even considered, never even considered, any of these provisions. I have been told that the Committee on the Judiciary did not even talk about venue at all when they were discussing this legislation. It was not even discussed.

Yet it now appears that you could have a multiplicity of lawsuits over just this one item, not over substantive review, and it can take place, if the gentleman from Illinois' amendment is passed, it can take place up to a year after the regulation has gone into effect.

Now, stop and think about that for a minute. Does the gentleman, as the gentleman from Rhode Island has pointed out, you have had a case, XYZ company has appealed the regulation from EPA. It has been reviewed by XYZ company on the seventh circuit, fifth circuit, any circuit. It has been reviewed.

They review this provision. They find that the regulators followed all procedures not only under this act, but under the law for which the regulation was proposed. That has been done. That takes place and the court of appeals handles that and hands down its decision within 9 months.

But that is not the end. That is no finality. Under the gentleman from Illinois' amendment, another private business, or 10 private businesses throughout this country, in different circuit courts, can file suit under this to say that it did not happen, that they did not follow this act, the Regulatory Flexibility Act, and they could get a stay. Under this bill they can get a stay of the total regulation, even though another circuit court had said that everything was fine.

That is what you have, the total under the bill. You cannot legislate in a vacuum, and that is what is occurring here.

We are also, like I said before, as far as the budgetary matters, I have not heard anyone yet say how you are going to pay for all this, but I have heard that maybe we are going to make sure that the regulators live within the money we are going to give them, which basically means that you are going to do the job whether we give you the money or not. And that is not the way it works, folks. I think you

better stop and realize if you are going to impose a whole bunch of additional duties and responsibilities on people, you have to expect to give them a little bit to help them out.

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

Mr. MCINTOSH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first let me commend the Committee on the Judiciary for the work on this bill. It is a very important and vital piece of legislation. I also want to commend the gentleman from Illinois [Mr. EWING] for bringing this amendment to the floor.

I have some personal experience with the Regulatory Flexibility Act and how it operates in the agencies from the time I worked with Vice President Quayle at the Competitiveness Council. Often times the impact statements were a pro forma matter. The agency would use boiler plate and never really consider the impact on the small businessmen.

In fact, regulations almost always have a disproportionate burden for small businesses because they do not have the capital, the resources in terms of personnel, to be able to comply with all of the different requirements of those regulations. So this act is very important to protect them, and we cannot allow the agencies to ignore its provisions, which they have for years now.

I also think it is vitally important that small businesses be given adequate time to seek their remedies in court, because unlike large corporations, they do not have large in-house corporate counsel staff who can monitor these regulations.

□ 1345

They have to wait until they are finally enacted and promulgated and start to apply to them. They may get lucky if someone brings it to their attention that there is a problem with one of these regulations during the time of the year when they are trying very hard to keep their small business operating, employing new individuals and producing a product without the benefit of a huge corporate legal staff.

I think it is very important that we have this amendment. The National Federation of Independent Businesses has keynoted this amendment and believes it is critical for small businesses everywhere. I commend the gentleman from Illinois [Mr. EWING], for offering it. I would urge that it be kept at the full year in order to give small businesses adequate time to be able to respond to these situations.

Mr. REED. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to withdraw my amendment to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. TALENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the indulgence of the House. I will try not to speak very long. The distinguished gentlewoman who chairs the Committee on Small Business is not here, and I cannot say I speak for her or I speak for the committee, but I would just like to make a couple of comments that I think might summarize the views of the committee which, again, unanimously supported this legislation.

First of all, we have been talking here about procedure and substance. And I guess when you get into a bill like this which lawyers have worked on, you talk about things like that. Of course, the bill is procedural in the sense that it is part of administrative procedure. But it has a very important substantive, real impact on real small business people in the real world. Let us not argue over whether it is substantive or procedural. The point is, this change in the Regulatory Flexibility Act is of very great importance in helping real small business people produce goods and services and produce the jobs on which the economy depends.

What it basically says is it represents the verdict of the Congress in the last 14 years in which we have recognized that what we tried to do in 1980 has not worked because the agencies have basically ignored it. What we said in 1980 was, look, when you are passing a regulation, do it in the way that is the least burdensome and the least intrusive on small business. And they have not done that, Mr. Chairman.

They have not done that because there has been no procedure in the review. What the bill does is say, basically say, courts may review the agency decision as to whether it needed a regulatory flexibility analysis and, second, if it issued one, whether the agency was what the lawyers call arbitrary and capricious in deciding that its regulation could not have been done in a way that was less burden on small business. That is a real standard of review.

It has real teeth. It means that agencies out there are going to be doing things in ways that cost fewer jobs, that create more opportunity for more small business people and, therefore, for more Americans.

The point I want to make is whether it is procedural or substantive, and I respect the gentleman here for arguing that point from the standpoint of this amendment, it is very important to people. I wanted to reaffirm that.

As to the amendment of the gentleman from Illinois, I read what he is saying as basically saying this. If for some reason or other a small business person, either because they inadvertently or they sleep on their rights or they, for good reason or bad reason, they do not challenge the rule in a way that other statutes allow them to challenge the rule within 180 days, they still have another 180 days to raise these appeals under the Regulatory Flexibility Act. It gives them a little extra leeway under this particular provision.

I think the gentleman is doing it because this probably alone among all the protections in the Administrative Procedures Act applies only to small business people. Small business people maybe are less able than larger businesses to recognize when their rights may be at stake and to file suit. I think is a reasonable change.

Personally, I am going to support it. The point I wanted to make is whether you call this bill procedural or substantive, it is an important bill that creates real extra opportunity in jobs, in growth for real people out there and harmonizes our regulatory statutes to some degree with the spirit of enterprise and the spirit of America.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the Ewing amendment. I think for years we have been in the face of small business. I think it is time that we lighten up a little bit. I think it makes good common sense, and we should support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. EWING].

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

RECORDED VOTE

Mr. EWING. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Does the gentleman withdraw his point of order?

Does the gentleman withdraw his request for a recorded vote?

Mr. EWING. I do, Mr. Chairman.

The CHAIRMAN. The request for a recorded vote is withdrawn.

Mr. EWING. Mr. Chairman, it was my understanding that the Chair questioned whether I had withdrawn my point of order on a quorum call. No, unless the Chair is going to grant me a vote. I demand a recorded vote.

The CHAIRMAN. The Chair asked if the gentleman wanted to withdraw his request.

Mr. EWING. I though the Chair was going to grant the vote on the amendment, the recorded vote.

The CHAIRMAN. The gentleman is renewing his request for a recorded vote.

Mr. EWING. I am, Mr. Chairman.

The CHAIRMAN. Does the gentleman withdraw his point of no quorum?

Mr. EWING. Yes, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 420, noes 5, not voting 9, as follows:

[Roll No. 184]

AYES—420

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—5

Andrews
Ford
McKinney
Nadler
Watt (NC)

NOT VOTING—9

Brown (CA)
Burton
Collins (IL)
Gonzalez
Hunter
Johnston
Moakley
Rush
Waters

□ 1410

Messrs. LUCAS, CLEMENT, and OWENS changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to title I?

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 2, line 23, after the word ''analysis.'' insert the following: ''The United States District Court for the District of Columbia shall have exclusive jurisdiction over any such action.''

Mr. WATT of North Carolina. Mr. Chairman, first of all, I want to thank the gentleman from Illinois [Mr. EWING] and the gentleman from Missouri [Mr. VOLKMER] for laying the factual backdrop for this debate on this amendment.

I believe the result of the earlier debate on the amendment that was just voted on will substantially shorten the period that will be necessary for people to understand this amendment.

Mr. Chairman, in that earlier debate, it was very obvious that there are two kinds of court litigations that can take place dealing with rules and regulations that have been promulgated by a Federal agency. One has to do with the substance of the regulation itself, in which case that litigation can take place in whatever timeframe it needs to take place, and can deal with whether a regulation is a good regulation or a bad regulation, or has some substantive impact on the small business.

□ 1415

The second kind of litigation would be the kind of litigation that is contemplated under this bill, and that is, in effect, a procedural kind of litigation.

Under title I of the bill, and you have got to listen and review the words carefully, the agency is required to certify that any rule that it promulgates would not have a significant economic impact on a substantial number of small entities or that they have prepared a final regulatory flexibility analysis pursuant to section 604 of the law.

If the agency so certifies, or if they do not prepare this final regulatory flexibility analysis, then a small business is given the right to go into court and ask the court to force them to do one of those two things.

This has nothing to do with the substance of the regulation. What it has to do with is whether the agency has certified that the rule that they have promulgated would not have a significant economic impact on a substantial number of small entities, or whether the agency has prepared a final regulatory flexibility analysis.

The effect of my amendment would be to make that determination on the procedural issue, whether the agency has complied with those two requirements, a question that would be determined in the U.S. District Court in the District of Columbia.

This is not—I repeat, this is not, please listen, Members—this is not on the substance of regulations. This is on the procedural question of whether the agency has made a certification that is contemplated under this bill.

Why do I offer this amendment? If we do not have this amendment, what we could conceivably have is litigation throughout the United States, in the District courts of North Carolina, California, New York, Idaho, Hawaii, Puerto Rico. All over our Nation we could have this single question being litigated by different businesspeople.

One court in North Carolina might say, ''Oh, yes, the agency has complied with this procedural requirement.''

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 3 additional minutes.)

Mr. WATT of North Carolina. The court in California might issue a different ruling that says, ''Oh, no, the agency has not complied.'' We might have 50 different, 100 different, 1,000 different pieces of litigation going on on

the same issue, the agency required to defend in all of these different locations, use its resources to defend litigation all over the country on the same single issue, and the court system will not even have a way to determine whether they are entering inconsistent determinations.

On the question of the procedure itself, not on the substance of whether it is a good or bad regulation, that issue ought to be litigated in one particular court. It will do away with the proliferation of litigation. It will provide for a consistent determination on this one issue by one court, and then the agency can either move on, go back and revise or do what it is supposed to do under this bill, and there will not be this proliferation of litigation.

I think this amendment makes patently good sense. I will not browbeat this issue to death. But I would ask my colleagues to agree.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Rhode Island.

Mr. REED. The gentleman from North Carolina has raised a very excellent point and I think it goes to making the system more efficient, more predictable, and more comprehensible. If there are opportunities to challenge regulations, and we are just talking about the procedure for doing a regulatory flexibility analysis throughout the country, you would have various conclusions and also, frankly, you would be requiring to send agency lawyers from Washington all around the country, which the taxpayers are paying, when in fact they could simply take their own vehicle or a cab or a subway to the district court here in Washington and litigate this issue.

Again, we have to recognize what we are talking about here is not the substance of any of these rules. We are talking about a determination of whether the agency acted arbitrarily or capriciously in not doing a regulatory flexibility analysis or in doing one that was so insufficient that it demonstrated such arbitrary and capricious behavior. I think this amendment is a wise one. I would hope that the gentleman from Pennsylvania might accept it.

Mr. WATT of North Carolina. Mr. Chairman, I would just say, it will not be only the agency's attorneys that will be all over the country. The Justice Department will get involved in this under section 102. The SBA's counsel will be involved in it, is entitled to be involved in it.

We could be creating a substantial nightmare all across the country on a single simple procedural issue. I hope they will agree.

Mr. GEKAS. Mr. Chairman, not only will I not agree to the amendment, I, as forcefully as I can, urge the Members to oppose this amendment.

What I have heard last to come out of the arguments both from the gentleman from Rhode Island [Mr. REED] and the gentleman from North Carolina [Mr. WATT] is we have got to convenience the Justice Department and agency lawyers so they can walk to the District Court to defend these suits while at the same time the corollary being that the small hardware store owner from Boise, ID, has to come to D.C. to make his rights heard. Or the restaurant owner from Sacramento has to come to Washington, DC, to seek justice and access to the court, or his lawyers would have to.

Again, we see a pattern here, and this is very important, of again looking at the rights of the agencies on whom we are imposing these duties while at the same time not conveniencing or looking to the rights of the small businessman who is affected.

As to the substance of Mr. WATT's referral to the different results or different postures that these cases might take in different parts of the national scene, well, that is the law now in so many different respects. Some of the underlying statutes in which judicial review is accorded substantively simply states that the place for, just to give an example, the place for appeal for bank holding company act regulations is the court of appeals. Another one to the district court.

If under the gentleman's proposal we were consistent, as he wants us to be, on how we are going to do these kinds of appeals, we would have everything in D.C., and all the agencies would have to do is walk across the street, and there would be nothing for the district courts anyplace or the circuit courts or the courts of appeals to do anyplace else. It is a bad idea.

In my judgment, the gentleman from North Carolina [Mr. WATT] either affirmatively or by inadvertence is committing legicide; he is killing the bill, because what happens is that the small businessman will become even more remote from his day in court. The small businessman under this will have nothing to do with the possibility of carrying his complaint to the seat of Government in Washington while esconced in triple redtape in New Mexico, or in Oregon.

I really urge the Members to reject this amendment out of hand. Let's get a vote.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. The gentleman makes a point, a suggestion that our interest is to protect in some way the bureaucrats. That is not the point at all. I think the gentleman realizes that those small businesspeople out in Iowa and throughout this country pay the taxes that support this Government and that will be called upon to send these individuals around the country to argue these disputes.

The other point I would raise, because the gentleman brought up the Bank Holding Company Act, there is an example where a small businessman, perhaps, might want to challenge a regulation, any type of regulation, and yet he would have to go, or she would have to go to the location of the Federal court of appeals, which we only have seven circuits. They are not in every community.

What the gentleman from North Carolina [Mr. WATT] is suggesting to do, I think, is a cost-efficient, sensible approach to make sure that we can save taxpayers' dollars; we can get one resolution.

Again, I remind all of the Members that we are talking about now a check on whether this flexibility analysis is done. I thank the gentleman for yielding.

Mrs. CLAYTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would say that this particular overall bill comes out of the Committee on Small Business and as a Member of the Committee on Small Business, I see an advantage to this, particularly as we were looking at providing judicial review.

It seems like what the gentleman from North Carolina [Mr. WATT] has proposed is to perfect the bill. A careful reading of your bill would suggest that without his amendment, you would not achieve the very thing you want to achieve. That is, efficiency for small business.

Usually small businesses are not all the time represented by the individual entity themselves but represented by associations of that. There is an economy of savings, if people knew for certain where they were to make the procedure that not only imparts for the Government but also those who bring it, the plaintiff, who are charging the administrative rule.

I would like the gentleman from North Carolina [Mr. WATT] just to explain what his intent of savings was for those who are bringing the complaint in the first place.

Mr. WATT of North Carolina. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I appreciate the gentlewoman yielding.

Let me just respond to the implication that this is somehow designed to disadvantage small businesses.

I cannot think of anything that would disadvantage small businesses more than for 1,000 individual small businesses to be around the United States litigating the same procedural issue that could be decided in one location in 1 day. I mean, either the agency has done what it is supposed to do under this bill, which is certify it, make the certification, or prepared the regulatory flexibility statement, or it has not.

We do not need 1,000 different small businesses using their resources in different courts throughout the United States to make that kind of determination.

The suggestion that I am trying to disadvantage small businesses just does

not compute with me. Either the gentleman does not understand the impact of my amendment or he does not understand the impact of his own bill.

The bill has nothing to do with the underlying regulation itself. It has to do with whether an agency has certified two things, and that is what the litigation would be about.

I want to make sure that the gentleman understands and that we put this in perspective. What would the gentleman suggest that we do, that an agency do if one court in California said, ''You have not done what you are supposed to do under this statute'' and another court in New York says, ''You have done what you're supposed to do under the statute''? Then what would the agency do under those circumstances?

Mr. GEKAS. Would the gentlewoman yield so I can respond to that question?

Mrs. CLAYTON. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentlewoman for yielding.

It would occur just as it now occurs under the law of the courts, in which in many circumstances when four district courts simultaneously are handling an issue, sometimes the one who gets it first and is acting on it first will act as an estoppel for the rest until that decision is made.

□ 1430

That is one recourse that is now available.

Second, it is possible in certain different kinds of issues with the same being involved in different areas of the country that they can join the case. That happens day after day and the gentleman knows it. There is no different aspect to this.

Mr. WATT of North Carolina. If the gentlewoman would yield, why would we want to put small businesses to that expense when one small business could litigate the issue of whether this kind of certification has been made or whether final regulatory flexibility analysis has been issued by the agency, why would we want to put 2,000 small businesses to that expense of trying to consolidate cases, and pull this together when one determination by a court would be adequate?

Mr. GEKAS. Mr. Chairman, will the gentlewoman yield?

Mrs. CLAYTON. Yes, I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I repeat, a cluster of small businessmen in Idaho or all over the country under our bill have to go to the court that is mentioned in the underlying judicial review statute on substantive issues, even for reflection accord, and they would have the same.

The CHAIRMAN. The time of the gentlewoman from North Carolina [Mrs. CLAYTON] has expired.

(At the request of Mr. WATT of North Carolina and by unanimous consent, Mrs. CLAYTON was allowed to proceed for 3 additional minutes.)

Mrs. CLAYTON. Mr. Chairman, I thank the gentleman and I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, they would have the same aspect of jointure of the appeals or the estoppel that would apply if one court wanted to wrangle with the issues first and then the other courts would follow suit. All those things fall into place. And to force this group of Idaho businessmen to come to Washington is not in the best interests of the courts, which then makes D.C. courts swamped. Here is a D.C. court then that if we walk across the street we cannot get in the door, it is so crowded.

Mr. WATT of North Carolina. If the gentlewoman will yield, I do not know how one lawsuit in the District of Columbia is going to swamp the District of Columbia District Court, because once one lawsuit is filed in the District of Columbia, this determination can be made in that lawsuit for the whole Nation. We are not going to need all of these different groups coming in here to make that determination.

Let me just say I have no intention of requesting a recorded vote on this. I hope the American business people and the American people are listening, because what you are doing makes absolutely no sense. On a procedural issue, we are going to tax and use the resources of business people all across America simply because my colleagues here will not even read their own bill and understand what their own bill provides for, and what this simple, straightforward amendment would do in terms of cost savings.

Now we talk about how the American people are disgusted with what we are doing here. If the American people are looking at this, they ought to be disgusted, and in the bill we come out with, the American people are going to get exactly what they deserve. I have no intention of asking for a recorded vote on this. You all can vote it down, if you do not want your bill to improve; let us leave it disgusting and costly to the American taxpayers, and to small businesses, and you go out there and tell them why you wrote such a shoddy piece of legislation.

Mr. GEKAS. I will, thank you.

Mrs. CLAYTON. Let me just conclude to say that this is I think an opportunity to perfect a bill and we should take the opportunity to do that. Sometimes we are so anxious to say that our original drafting is perfect, we do not even consider things. I think this is an opportunity to perfect the bill, to achieve the very goals you want to.

Again I say I come from the Small Business Committee and voted for this and hope to vote for the final version. This is an opportunity to make sure that cost efficiency works both for small business as well as for the Government. It consolidates our efforts in doing this and I urge Members to support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The amendment was rejected.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Strike from page 6, line 24 through page 7, line 11 and insert in lieu thereof the following language:

''(4) SPECIAL RULE.—No proposed rules issued by an appropriate federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, shall be subject to the requirements of this subsection.''

Mr. WATT of North Carolina. Mr. Chairman, again, I will not belabor this. It is quite obvious that my colleagues here have no interest in improving this bill. They are just marching right straight down the line, and I will make the point in this amendment that what we are trying to do is exempt Federal banking agencies from the provisions of this bill. They exempt them for monetary policy issues.

I submit to my colleagues that there are issues that banking regulators, Federal banking agencies deal with that are equally as important to small businesses as monetary policy issues. There are issues that have to do with assuring that banks are investing and lending without discrimination. There are issues having to do with the Community Reinvestment Act. There are a number, a range of issues that have an equal footing, and I submit that these issues should be exempted from the effect of this bill on the same basis that the monetary policy issues are exempted.

Mr. GEKAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask the Members to vote no to reject the thrust of this amendment and to vote no in final consideration of this amendment.

We have made it abundantly clear from the very beginning, and I say this advisedly to the gentleman from North Carolina, if I could have his attention in the preliminary remarks I want to make here, the gentleman from North Carolina seems to express rather forcefully and implies very strongly that somehow we are bound to go straight down the line, as he says, as if we are commanded to do certain things. He overlooks or denigrates then the sense of cooperation that the gentleman from Rhode Island and I have tried to put into this, recognizing Democrat amendments, working to put things together. I want him to know that, that his accusation, if that is what it is, or whatever implication he wants to have people derive from it, that somehow we are going to do the orders of somebody without regard to the Democrats or the minority is dead wrong, and I want him to know that, No. 1.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield on that issue?

Mr. GEKAS. Yes; I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. If I denigrated the hard work of the gentlemen, minority or majority on this bill, I had no intention of doing that. But you cannot stop in the middle of the process and say we have got a product that is perfect in the legislative process, and quit trying to work on it and put your blindfolds on and keep marching down the road without improving the bill.

Mr. GEKAS. Reclaiming my time, there has been nothing perfect on this floor since I have been here except when they extended congratulations to me on one of my birthdays; that is about the only thing.

Mr. TALENT. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Missouri.

Mr. TALENT. Mr. Chairman, very briefly I would like to make a point in keeping with the point the gentleman made that this particular provision which the gentleman from North Carolina seeks to amend was added in the Small Business Committee and carefully worked out by Members on both sides of the aisle and adopted by consensus. So I just want to emphasize the point the gentleman made, this was the result of a bipartisan agreement in the Small Business Committee.

Mr. GEKAS. I just want to point out for the record and so the Members would recognize where we are on this, that we acceded to the banking exception and we did on the strength largely of the assertions by the chairman of the Committee on Banking and Financial Services, the gentleman from Iowa [Mr. LEACH], who was very much concerned that the safety and soundness portions of fiscal policy would be affected adversely if they would have to comply with the text of our bill. So we narrowly exempted those kinds of rules and regulations that would be couched in that soundness of the fiscal policy out of the Committee on Banking and Financial Services. But the gentleman who is the chairman of the Committee on Banking and Financial Services agrees with us, that all other regulations, banks, and financial institutions should be subject to the thrust of our main bill for the protection of the small businessman and the consumer and the taxpayer, and the workers who work for small business who are affected adversely by the impact of some of these regulations.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield on that point?

Mr. GEKAS. Yes; I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I just want to make it clear that I would submit to the gentleman that working out a deal on this with the chairman of the Committee on Banking and Financial Services or even with the bank regulators themselves does not get the people who are adversely affected by this. They are the poor people who did not have a representative in that room.

Mr. GEKAS. Reclaiming my time, two members of the Committee on Banking and Financial Services from the gentleman's side who are members of the Committee on the Judiciary concurred in what we are trying to do here, so they who have historically—and I will discuss this with the gentleman afterwards—have always taken into account these concerns the gentleman has expressed here, also agreed that these would be proper exemptions to the exemption.

Mr. WATT of North Carolina. If the gentleman will yield, I offered this amendment in the Committee on the Judiciary and, as I recall, everybody on our side voted in favor of this amendment in the committee.

Mr. GEKAS. The majority prevailed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The amendment was rejected.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 2, line 7, insert ''(1)'' after ''(a)'' and insert ''(b)'' after ''611''.

Page 2, strike line 9.

Page 2, line 2, strike ''(a)'' and insert ''(b)''.

Page 4, line 24, insert close quotation marks after the period and a period following and insert after line 24 the following:

(2) Section 611(c) of title 5, United States Code, is amended to read as follows:

Page 5, line 1, strike ''(b)'' and insert ''(c)''.

Page 5, line 5, insert close quotation marks and a period following and after line 5 insert the following:

(3) At the end of section 611(c) of title 5, United States Code, insert the following:

Page 5, line 6, strike ''(c)'' and insert ''(d)''.

Mr. WATT of North Carolina (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. WATT of North Carolina. Mr. Chairman, this amendment has a very simple purpose.

It is designed to ensure that we do not inadvertently create a right of judicial review for issues and entities other than those set out with great particularity in title I.

The right to judicial review in title I is intended to protect the right of small entities to have their interests considered during the development of a rule.

If an agency improperly certifies that a rule would not have a significant economic impact on a substantial number of small entities or fails to prepare a final regulatory flexibility analysis that is required under section 604 of title 5, an effected small entity would have the right to seek judicial relief within the framework established by title I.

I know that the committee did not intend to create a right of relief that goes beyond the text of the bill, but I fear that may be the unintended consequence if we pass this legislation, as drafted.

This problem is the result of the drafters' decision to replace current section 611(a) of title 5, which states that a determination by an agency concerning the applicability of any of the provisions of this chapter to any action of the agency shall not be subject to judicial review, except as otherwise provided later in the section.

If we retain that provision and style the remainder of the text of title I as an exception to the rule against judicial review, we will make absolutely clear that the right to judicial review and the remedies described in title I are the limits of what Congress intends to provide in the way of judicial review.

This is not an academic point.

Under the Regulatory Flexibility Act, an agency's duties are not limited to those activities for which a right of judicial review is explicitly described in title I.

For example, section 602(a) of title 5, which is part of the act, requires each agency to publish a ''regulatory flexibility agenda'' during the months of October and April of each year.

[The semi-annual Reg/Flex ''Agenda'' is to contain a brief description of the subject of any rule under consideration which is likely to require a regulatory flexibility analysis; the objectives and legal basis for the rule; and an approximate schedule for completing action on any rule for which the agency has issued a general notice of rulemaking. However, an agency is neither required, nor precluded from considering or acting on any matter either listed or not listed on the Agency's agenda.]

Also part of the Regulatory Flexibility Act of 1980 is section 610 of title 5, United States Code, which requires the agencies to conduct periodic reviews of its rules.

While I am quite sure that the committee did not intend to provide judicial review of agency decisions under these sections, the way the legislation is drafted, a court would have no way of knowing that was the case.

Indeed, because this legislation drops the general restriction on judicial review, we could wind up with the courts declaring that the right of judicial review of matters not specifically dealt with in title I is even more expansive than the approach established by title I.

There is absolutely no reason for the House to pass this legislation without having resolved this ambiguity.

My amendment would retain the current text of section 661(a) and make the judicial review provisions of title I an exception to the general rule against judicial review.

□ 1445

I have no anticipation that anybody is going to worry about this, and we are going to go ahead and pass this bill like it is. I have no intention of requesting a recorded vote. If you want to leave this like it is, leave it ambiguous, then vote against the amendment.

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment.

We oppose the amendment, and we ask all the Members to oppose it, to vote ''no.''

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. WATT].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—REGULATORY IMPACT ANALYSES

SEC. 201. DEFINITIONS.

Section 551 of title 5, United States Code, is amended by striking ''and'' at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a semicolon, and by adding at the end the following:

''(15) 'major rule' means any rule subject to section 553(c) that is likely to result in—

''(A) an annual effect on the economy of $50,000,000 or more;

''(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or

''(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; and

''(16) 'Director' means the Director of the Office of Management and Budget.''.

SEC. 202. RULEMAKING NOTICES FOR MAJOR RULES.

Section 553 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Each agency shall for a proposed major rule publish in the Federal Register, at least 90 days before the date of publication of the general notice required under subsection (b), a notice of intent to engage in rulemaking.

''(2) A notice under paragraph (1) for a proposed major rule shall include, to the extent possible, the information required to be included in a regulatory impact analysis for the rule under subsection (i)(4) (B) and (D).

''(3) For a major rule proposed by an agency, the head of the agency shall include in a general notice under subsection (b), a preliminary regulatory impact analysis for the rule prepared in accordance with subsection (i).

''(4) For a final major rule, the agency shall include with the statement of basis and purpose—

''(A) a final regulatory impact analysis of the rule in accordance with subsection (i); and

''(B) a clear delineation of all changes in the information included in the final regulatory impact analysis under subsection (i) from any such information that was included in the notice for the rule under subsection (b).''.

SEC. 203. HEARING REQUIREMENT FOR PROPOSED RULES; AND EXTENSION OF COMMENT PERIOD.

(a) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, as amended by section 202, is further amended by adding after subsection (f) the following:

''(g) If more than 100 interested persons acting individually submit request for a hearing to an agency regarding any rule proposed by the agency, the agency shall hold such a hearing on the proposed rule.''.

(b) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code, as amended by subsection (a), is further amended by adding after subsection (g) the following:

''(h) If during the 90-day period beginning on the date of publication of a notice under subsection (f) for a proposed major rule, or if during the period beginning on the date of publication or service of notice required by subsection (b) for a proposed rule, more than 100 persons individually contact the agency to request an extension of the period for making submissions under subsection (c) pursuant to the notice, the agency—

''(1) shall provide an additional 30-day period for making those submissions; and

''(2) may not adopt the rule until after the additional period.''.

(c) RESPONSE TO COMMENTS.—Section 553(c) of title 5, United States Code, is amended—

(1) by inserting ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) Each agency shall publish in the Federal Register, with each rule published under section 552(a)(1)(D), responses to the substance of the comments received by the agency regarding the rule.''.

SEC. 204. REGULATORY IMPACT ANALYSIS.

Section 553 of title 5, United States Code, as amended by section 203, is amended by adding after subsection (h) the following:

''(i)(1) Each agency shall, in connection with every major rule, prepare, and, to the extent permitted by law, consider, a regulatory impact analysis. Such analysis may be combined with any regulatory flexibility analysis performed under sections 603 and 604.

''(2) Each agency shall initially determine whether a rule it intends to propose or issue is a major rule. The Director shall have authority to order a rule to be treated as a major rule and to require any set of related rules to be considered together as a major rule.

''(3) Except as provided in subsection (j), agencies shall prepare—

''(A) a preliminary regulatory impact analysis, which shall be transmitted, along with a notice of proposed rulemaking, to the Director at least 60 days prior to the publication of notice of proposed rulemaking, and

''(B) a final regulatory impact analysis, which shall be transmitted along with the final rule at least 30 days prior to the publication of a major rule.

''(4) Each preliminary and final regulatory impact analysis shall contain the following information:

''(A) A description of the potential benefits of the rule, including any beneficial effects that cannot be quantified in monetary terms and the identification of those likely to receive the benefits.

''(B) An explanation of the necessity, legal authority, and reasonableness of the rule and a description of the condition that the rule is to address.

''(C) A description of the potential costs of the rule, including any adverse effects that cannot be quantified in monetary terms, and the identification of those likely to bear the costs.

''(D) An analysis of alternative approaches, including market based mechanisms, that could substantially achieve the same regulatory goal at a lower cost and an explanation of the reasons why such alternative approaches were not adopted, together with a demonstration that the rule provides for the last costly approach.

''(E) A statement that the rule does not conflict with, or duplicate, any other rule or a statement of the reasons why such a conflict or duplication exists.

''(F) A statement of whether the rule will require on-site inspections or whether persons will be required by the rule to maintain any records which will be subject to inspection.

''(G) An estimate of the costs to the agency for implementation and enforcement of the rule and of whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

''(5)(A) the Director is authorized to review and prepare comments on any preliminary or final regulatory impact analysis, notice of proposed rulemaking, or final rule based on the requirements of this subsection.

''(B) Upon the request of the Director, an agency shall consult with the Director concerning the review of a preliminary impact analysis or notice of proposed rulemaking and shall refrain from publishing its preliminary regulatory impact analysis or notice of proposed rulemaking until such review is concluded. The Director's review may not take longer than 90 days after the date of the request of the Director.

''(6)(A) An agency may not adopt a major rule unless the final regulatory impact analysis for the rule is approved or commented upon in writing by the Director or by an individual designated by the Director for that purpose.

''(B) Upon receiving notice that the Director intends to comment in writing with respect to any final regulatory impact analysis or final rule, the agency shall refrain from publishing its final regulatory impact analysis or final rule until the agency has responded to the Director's comments and incorporated those comments in the agency's response in the rulemaking file. If the Director fails to make such comments in writing with respect to any final regulatory impact analysis or final rule within 90 days of the date the Director gives such notice, the agency may publish such final regulatory impact analysis or final rule.

''(7) Notwithstanding section 551(16), for purposes of this subsection with regard to any rule proposed or issued by an appropriate Federal banking agency (as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the National Credit Union Administration, or the Office of Federal Housing Enterprise Oversight, the term 'Director' means the head of such agency, Administration, or Office.''.

SEC. 205. STANDARD OF CLARITY.

Section 553 of title 5, United States Code, as amended in section 204, is amended by adding after subsection (i) the following:

''(j) To the extent practicable, the head of an agency shall seek to ensure that any proposed major rule or regulatory impact analysis of such a rule is written in a reasonably simple and understandable manner and provides adequate notice of the content of the rule to affected persons.''.

SEC. 206. EXEMPTIONS.

Section 553 of title 5, United States Code, as amended by section 205, is further amended by adding after subsection (j) the following:

''(k)(1) The provisions of this section regarding major rules shall not apply to—

''(A) any regulation that responds to an emergency situation if such regulation is reported to the Director as soon as is practicable;

''(B) any regulation for which consideration under the procedures of this section would conflict with deadlines imposed by statute or by judicial order; and

''(C) any regulation proposed or issued in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such institution, credit unions, or government sponsored housing enterprises regulated by the Office of Federal Housing Enterprise Oversight.

A regulation described in subparagraph (B) shall be reported to the Director with a brief explanation of the conflict and the agency, in consultation with the Director, shall, to the extent permitted by statutory or judicial deadlines, adhere to the process of this section.

''(2) The Director may in accordance with the purposes of this section exempt any class or category of regulations from any or all requirements of this section.''.

SEC. 207. REPORT.

The Director of the Office of Management and Budget shall submit a report to the Congress no later than 24 months after the date of the enactment of this Act containing an analysis of rulemaking procedures of Federal agencies and an analysis of the impact of those rulemaking procedures on the regulated public and regulatory process.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 16, after line 18, insert the following:

SEC. 208.

EFFECTIVE DATE.—The amendment made by this title shall apply only to final agency rules issued after rulemaking begun after the date of enactment of this Act.

Page 9, line 15, insert ''a summary of'' before ''a final''.

Page 9, line 21, strike the close quotation marks and the period following and add after that line the following.

The agency shall provide the complete text of a final regulatory impact analysis upon request.

Page 9, line 21, strike the close quotation marks and the period following and insert after that line the following:

''(5) The issuance of a notice of intent to engage in rulemaking under paragraph (1) and the issuance of a preliminary regulatory impact analysis under paragraph (3) shall not be considered final agency action for purposes of section 704.''.

Page 10, line 8, strike out ''any rule'' and insert ''any major rule'' and in line 18, strike out ''proposed rule'' and insert ''proposed major rule''.

Page 14, line 16, strike ''publish'' and insert ''adopt''.

Page 15, line 22, strike ''and'', page 16, line 3, strike the period and insert ''; and'', and insert after line 3 on page 16 the following:

''(D) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Chairman, at an appropriate time, I want to yield to the gentleman from Rhode Island to further concur in what we are attempting to do here. This is a bipartisan en bloc amendment, and the product of the ongoing negotiations between the minority and the majority in the whole series of questions that we jointly raised.

One of the important parts here is that to cover the IRS situation, which we will get to in a little bit of time, but by and large, these are technical amendments, but all intended to reduce the friction that could arise if we did not agree on them.

Let me start off by just saying some of the contents of this bill, as I say, are rather technical. For instance, the changes that we intend to make to the Administrative Procedures Act will apply only to informal rulemakings which begin after the date of enactment of this legislation. You would think that that is generally understood, but this makes it clear, but it is still a technical amendment.

Another one is that we would allow an agency to provide a summary of the final impact analysis to be included in the statement of basis and purpose for final major rule, and this would be in the economy of what printing materials would require and the Federal Register printing, et cetera.

Another one is that in no way should we consider that a preliminary regulatory impact analysis, as required by this legislation, shall be considered final agency action for purposes of judicial review. We make that clear. That is a technical amendment. I would have thought that that could be accomplished simply because of the language that we have or the reporting language, but this clears it up. It is another technical amendment.

Finally, the en bloc amendment to which other reference has been made by other Members includes an exemption provision of the bill's provision to exempt the IRS from the impact analysis requirements.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Chairman, I concur with the gentleman. We have worked with these issues which are very important, but technical, together with the majority and minority staffs. I think we have reached a good balance between the need to make this a streamlined, effective procedure, and this amendment is a good one, and I would urge passage, and I believe that the gentleman would also recognize my colleague, the gentleman from Ohio.

I would also urge that his proposal be supported.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT OFFERED BY MR. GEKAS

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment offered by Mr. GEKAS: At the end of the Gekas amendment, strike the period and insert: '', including any regulation proposed or issued in connection with ensuring the collection of taxes from a subsidiary of a foreign company doing business in the United States.''

Mr. TRAFICANT. Mr. Chairman, more than likely this bill may extend, and probably does, to cover that provision, but sometimes when we deal with these international matters there seems to be some roadblock somewhere in some procedure somewhere that just seems to reduce the impact of our efforts to try and resolve some of these differences we have.

Now, very simply, this additional safeguard language ensures that companies who use the superior productivity of the American worker and earn millions of dollars out of our economy, then take much of that money back home, at least pay some of their taxes here. We do not tie the IRS, and we let the IRS know the Congress of the United States wants them to address these matters with the subsidiaries.

I ask the gentleman accept the amendment. It is common sense. It specifies it.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding.

We, too, believe, as the gentleman from Ohio has asserted in his opening remarks, that we have already covered the situation which he intends to implement here, but we see it, at worst, as being surplusage, at best as being more explicit in the coverage that we intend.

The gentleman from Rhode Island and I have both concurred in that result.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Rhode Island.

Mr. REED. Similarly, we concur and accept your perfecting amendment, I say to the gentleman from Ohio [Mr. TRAFICANT].

Mr. GEKAS. If the gentleman will yield further, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS], as amended.

The amendment, as amended, was agreed to.

PARLIAMENTARY INQUIRY

Mr. GEKAS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GEKAS. Mr. Chairman, are we now in title II? Are we all agreed that title I has been disposed of?

The CHAIRMAN. Title II continues to remain open for amendment.

AMENDMENT OFFERED BY MS. LOFGREN

Ms. LOFGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. LOFGREN: Page 16, line 11, strike the close quotation marks and the period following and insert after line 11 the following:

''(3) For purposes of paragraph (1), the term 'emergency situation' means a situation that is—

''(A) immediately impending and extraordinary in nature, or

''(B) demanding attention due to a condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans or substantial

endangerment to private property or the environment if no action is taken.''.

Ms. LOFGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. LOFGREN. Mr. Chairman, this morning I mentioned my intention to offer an amendment to define emergencies. I did offer an amendment in committee, and the gentleman from Pennsylvania [Mr. GEKAS] and I agreed that we would work together to come up with a resolution and, in fact, in all fairness to the gentleman from Pennsylvania [Mr. GEKAS], I had language, and the language before us now certainly bears his imprint more than mine. I think it is acceptable.

I would note that in the committee report, emergency is now defined in a circular manner, specifically exempts an impact analysis requirement of this legislation any regulation that responds to an emergency situation, defining an emergency as an emergency, and this language gives us further guidance.

I would like to just make clear, since demanding attention in section B is, if not vague, at least not precise, that it would be the intention of this body that in the following circumstance or hypothetical, for example, if a cure for cancer was found, in order for that drug to be released by the FDA to cure cancer victims, there needs to be a regulatory action. The cure for cancer would certainly have an impact on small business entities around the country. No one wants to stop the cure for cancer from being released.

This would allow those procedures to move forward under the definition, if I am hearing the minority counsel correctly, and I would offer this amendment, and I hope, I believe, that it is acceptable.

Mr. GEKAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentlewoman's amendment is perfectly acceptable to us, and as she said, it is itself a product of the communication that has existed between her office and mine and fills a need we think that was evident in yesterday's debate on another bill in which the same kind of constriction was implemented in the final version of that bill.

So we are prepared even further in the report language that will accompany the conference report which is yet down the line to incorporate even further the sentiments that have been expressed by the gentlewoman.

We accept the amendment, and ask for a vote.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. LOFGREN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 15, line 22, strike ''and'', in line 3 on page 16 strike the period and insert ''; and'', and add after line 3 the following:

''(D) any regulation proposed or issued pursuant to section 553 of title 5 of the United States Code in connection with imposing trade sanctions against any country that engages in illegal trade activities against the United States that are injurious to American technology, jobs, pensions, or general economic well-being.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, in our discussion with the U.S. Trade Representative, my amendment basically would exempt any regulation proposed or issued pursuant to section 553 of title V of the code, which is the Administrative Procedures Act in connection with imposing trade sanctions against any country that engages in illegal trade activities against America that are injurious to our technology, jobs, pensions, or general economic well-being.

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The effect of this amendment, although the Trade Representative said that general rulemaking is, in fact—that sanctions are not the result of rulemaking action, they could not be definitive to define any and all areas.

My amendment would serve to say that under the Administrative Procedures Act there shall be no trade rulemaking, and if by any chance there is, that would fall into that loophole, then the safeguard provision would say that they are not going to have their hands tied in responding, when necessary, to such activity. But it clarifies the Administrative Procedures Act and the aspect within that law.

Let me just say this to the Members, one of the things that we found in dealing at times with the trade aspect through the executive branch—and this is not, in fact, a slap at the Clinton administration, from my experience both Democrat and Republican administrations at times have been a little soft in some of these areas—this will clarify that, in fact, it ensures that sanctions are not covered by the Administrative Procedures Act of 1946, but in the event there are some areas that fall between the cracks, which they could not answer, this amendment would be a further safeguard.

Mr. GEKAS. Mr. Chairman, would the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Pennsylvania [Mr. GEKAS], chairman of the subcommittee.

Mr. GEKAS. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman has made it clear to us what he intends and we have made it clear to him that we believe that we had covered this situation. But so long as the gentleman continues to agree that his amendment will cover those issues that are pursuant to 553 of the Administrative Procedures Act, as he says, we are in accord, and I accept the amendment.

Mr. TRAFICANT. I appreciate that. It does clarify those positions.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FRANKS OF NEW JERSEY

The CHAIRMAN. Are there further amendments to title II?

Mr. FRANKS of New Jersey. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANKS of New Jersey: Page 13, line 10, before the period insert the following: '', and a statement of whether the rule will require persons to obtain licenses, permits, or other certifications including specification of any associated fees or fines''.

Mr. FRANKS of New Jersey. Mr. Chairman, this amendment makes a small but important change to the regulatory impact analysis, found in title II of the bill.

Under this particular amendment, regulators proposing a major new rule would have to state up front whether that rule will require anyone to obtain licenses, permits, or other certifications.

Furthermore, agencies would be compelled to report whether they plan to impose fines or fees as part of their rule.

This amendment, as well as the entire regulatory impact analysis, is designed to cause regulators and regulated parties to have full knowledge at the outset of the intended effect of a proposed rule.

Not only will adoption of this amendment cause regulated parties, especially small businesses, to know a rule's potential impact, but it will provide for a better understanding of regulatory changes at the earliest stages of the process and, thereby—and I think this is most important—thereby reduce the incidence of fines, litigation, and noncompliance.

Mr. Chairman, I urge its favorable consideration.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. FRANKS of New Jersey. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. I thank the gentleman for yielding to me.

Mr. Chairman, I am delighted to say that I accept the thrust of the amendment that the gentleman offers, and it is in perfect keeping with what we

learned in the testimony from the various businessmen who appeared before us on the various, sometimes anecdotes but nevertheless strong indications of how they were hurt in the process in the past.

We like the amendment, and we urge favorable consideration.

Mr. REED. Mr. Chairman, I move to strike the last word and say that we have looked at the amendment. It simply requires a further specification in the regulatory impact analysis of certain provisions for the proposed regulation, including whether the individual would have to obtain licenses, permits, or other certification and a discussion of the question of fees or fines.

It strikes me that most of these provisions would be outlined in the basic law governing the particular activity. I do not see any particular harm by specifying the regulatory impact analysis. It tends, I would think, to simply do what is done elsewhere. But I at this point, subject to further review and perhaps if we have comments, working with the gentleman from New Jersey as we move through the process, would be prepared, I think, to accept the amendment unless someone else has a more persuasive argument at the moment.

I believe at this time we are prepared to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. FRANKS].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. REED

Mr. REED. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REED: Page 13, beginning in line 2, strike ''the least costly approach'' and insert ''the most cost-effective approach''.

Mr. REED (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. REED. Mr. Chairman, this amendment goes to a very important issue, the issue of the standard by which the regulator will choose a particular process of regulation, a particular path to implement the law that that individual has been entrusted with by the Congress.

The present language of the bill requires that the regulator adopt the least costly approach. It has a rather superficial appeal. We all want things to be done at the lowest cost. But I think the problem is that this particular expression, ''least costly'' approach, fails in any way to require a consideration of the benefits.

What I think we have learned over the last several decades in terms of regulatory reform is that regulations, laws, should balance cost and benefits. Preoccupation with just benefits leads, in many cases, to excessively expensive regulations. On the other hand, a preoccupation with just the lowest cost could lead to a situation where we do not get the most for our dollar.

A very simple example would be that there could be two different approaches to achieve a regulatory goal. One might be costs, say, that require, for example, $3 to achieve. That would be in contrast to something that cost $3.20. Yet the $3.20 approach yields, 7, 8, 9 times the benefit. I think we all can understand that language. That is why cost-benefit analysis, not just cost analysis, is so critical.

The problem I have with the legislation is it does not make sensible, reasonable people make a judgment about regulations to consider the benefits, to take not the least costly approach but the most cost-effective approach, one that for the dollar gets the biggest benefit.

I honestly believe that is what the American people want us to pursue. You know, the old saying, ''penny-wise and pound-foolish.'' I believe that is exactly what the present language in the bill would require all of our administrators to be, penny-wise and pound-foolish, get the cheapest approach even if it gives marginal benefits, but ignore, in fact, legislatively be unable to adopt, an approach that may be marginally more costly but significantly more beneficial to the whole country.

So I would very much urge that we consider this provision. I would be very generally interested in the comments of the chairman as to whether we could at this point, or going forward, really, work on getting in the bill not this least costly analysis, but a true cost-benefit analysis.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly oppose the amendment, not because there is any strong visceral reaction to it, but we have the least language in it. I think we are playing with words here.

But if we look at it as non-lawyers for a moment the general populace, the people most affected by this legislation, the small business men, the employers of our working constituents, when they look at this, least costly is exactly what is most understandable.

We all want it to be cost-effective, but while we are doing that, we want it to be least costly. I do not know how to argue this except to say that it is so minute that I ask the gentleman to withdraw the amendment and to then convince me separately later on how we can join in conference to better implement his thoughts on it.

This is not worth fighting about, but if the gentleman wants to fight, I am going to protect my language out of ego, if nothing else.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when amendments of this kind are rejected by the other side, it forces me to raise the question again: What is the purpose that we are trying to achieve here? Is the purpose to make our Government and the regulations and rules that we adopt more reasonable, or is the purpose to do away with rulemaking and regulations?

I hate to keep questioning the purpose of this bill. I had thought that the underlying purpose of the bill was to try to encourage Federal Government agencies to approach rulemaking and regulation-making in a reasonable way, to try to reduce the burden that these agencies are imposing on the American people, but not to do away with the value and the purposes that sound rulemaking accomplishes in the public interest.

So when I see a simple cost-benefit approach, which is what this amendment contemplates, being rejected by my colleagues out of hand, then I start to question what are we trying to do here?

If we are trying to do away with every rule and regulation that the Federal Government has that my colleagues in this body do not like because many of them serve a public interest, a public purpose that they do not support even though they are in the interest of our Nation, then at least my colleagues ought to be honest enough to stand up and say that to the American people.

Do not try to do with subterfuge what you cannot and will not be honest with the public on and do directly. If you want to do away with regulations or some law that you do not like, bring it into the body here and let us debate the merits or lack of merits of that particular law. Do not come in through the back door and try to undercut the law by undercutting rules and regulations that are promulgated pursuant to that law.

I submit that it is just gutless for us to come into this body and say to the American people that we have got a regulatory process that is out of control and we will not bring that regulatory process back into control by cutting back on the laws themselves that are generating the regulations.

I do not know of any Federal Government agency—I want to repeat it again—that is out there just making up some rules and regulations and promulgating them pursuant to something other than a congressionally approved law.

If we did our job and specified in some reasonable way what the law says instead of delegating our responsibility to the government agencies, then they would not have to guess and write a bunch of regulations that we should have written into the law.

□ 1515

And if they step beyond the ambit of a law that we have passed in promulgating regulations, then we ought to have the guts to snatch them back within the law, but not undercut what

they are doing by undercutting their regulation, but by revoking the law. This makes no sense, and I encourage my colleagues to support this amendment.

Mr. BARR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the whole purpose of this title is to streamline and make less costly the whole process of regulations in this country, less costly to the people to whom government is supposed to serve, less costly to the businesses in which we all have an interest in ensuring that they operate very properly with due regard for the safety of the public.

What we have done and what this committee has come up with here in the language ''least costly'' is about as straightforward as anybody, save the gentleman from North Carolina, could hope to come up with. There is no subterfuge here. As a matter of fact, if one were looking for words that provided a lot more wiggle room a lot more word smithing, then one might want to use the words ''most cost effective'' because those are words that are fraught in the context of this title with what it intends to do, whose words are fraught with a lot more ambiguity than the words ''less costly.''

So I am somewhat surprised by the gentleman from North Carolina [Mr. WATT] arguing that the words ''least costly'' are not clear, are somehow designed to allow some sort of subterfuge or back-door approach here. This could not be more straightforward, and they are certainly in keeping, Mr. Chairman, with the overall intent of this title.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was going to ask the gentleman from Georgia [Mr. BARR] a question. Maybe the gentleman from Pennsylvania [Mr. GEKAS] will be glad to answer the question in regard to this very provision.

Mr. Chairman, I say to the gentleman, Assuming that you had a regulation being proposed to meet a certain goal to do a certain thing, OK, whether it's in the area of safety, area of health, automobile emissions, whatever you want to call it, and there are several ways that this can be done, methodologies in which through rule making you can achieve that goal or near that goal. But the least costly to, let's say, automobiles, to the automobile industry or to the consumers, would be a methodology that doesn't achieve that goal but is the least costly to the automobile industry. Let's say you wanted to reduce emissions that are polluting our air and are causing people to be sick and die, and everything else, by 10 percent, and let's say the Congress required you to do that. Now does that mean that the 10 percent requirement, if the Congress requires it, is the end and it's the least costly to get to 10 percent, or is it least costly to do an emissions reduction?

Does the gentleman understand my problem?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I say to my colleague, Well, I think you are overlooking the language of the paragraph that precedes the use of the words ''least costly approach'' because by that time we've gone through a whole series of things like including market based mechanisms that can substantially achieve the same regulatory goal at a lower cost and explanation of the reasons why such alternative approaches were not adopted. Then, after we do all that, which implies that all the reasonable approaches were taken to try to make this work, then, when you put that into its proper perspective, we then follow up with a demonstration that, putting all of this together, we're going to use the least costly approach together with——

Mr. VOLKMER. Together with the demonstration——

Mr. GEKAS. To say the least costly cost effective approach, where there are several cost effective ways to do it, we would still want to put in ''least costly, cost effective'' if the gentleman knows what I mean.

Mr. VOLKMER. Right, least costly approach to remedying the goal; is that correct?

Mr. GEKAS. Correct.

Mr. VOLKMER. So, in other words, if the least costly idea to achieve near the goal is not sufficient, if the purpose is to regulate as far to achieve a certain goal——

Mr. GEKAS. If the gentleman would continue to yield, the statute calls for the agencies to do X, Y, and Z. Once we apply these little formulas and try to get a marketplace approach to all of this, and we have choices ahead of us, we want to make the least costly approach choice. That is what this is all about.

I say to the gentleman, it's nothing to worry about, HAROLD.

Mr. VOLKMER. Well, I have a little bit to worry about because I am afraid if it does not do exactly what the gentleman says it does, I have got to worry about the——

Mr. GEKAS. I have already asserted to the gentleman from Rhode Island that following—before we get to conference he and I are going to be discussing this language.

Mr. VOLKMER. Fine.

Mr. REED. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be briefer than 5 minutes. I appreciate the chairman's offer to work with us on this issue. This is an important issue. We have worked to date to try to narrow the language and make it more effective. I think what has been said before by my colleagues though indicates that this is a very important issue, and let me just respond very briefly to the tenor of some of their remarks.

First, there needs to be some discussion, I think, and obviously a discussion about small business and how they are oppressed, et cetera, but I would like to make the point that small business people do not run their companies simply to minimize costs. In fact, there are a lot of businesses out of business today because that is all they did. What they tried to do is maximize profit, and that is taking into consideration not only the cost, but how well they are doing, how well they are serving their customers, et cetera, so to have a single factor analysis at least cost is, I think—I am skeptical of this, and skepticism has prompted this amendment and prompted a continuing dialogue with the gentleman from Pennsylvania, and we can discuss these things in very theoretical terms, but it helps, I think, to focus on very practical, pragmatic terms.

For example, the FAA requires de-icing of aircraft. There is probably least costly ways to de-ice an aircraft than having the truck go two or three times with the fluid and having all these procedures which I just observed flying down here 3 days ago, and thank goodness. I say to my colleague, you could probably prove to the FAA that somebody with a squeegee brush on the wing might be cheaper than the truck, and the capital investment, et cetera. The point though is that the FAA is not constrained just on least cost. They want to have a cost that justifies the benefits of some approach that is cost effective, so I think this is a very valuable discussion. I think it is a discussion that makes a great deal of sense and in the spirit which the gentleman from Pennsylvania has offered to continue this dialogue to seek language that might not be most cost effective might be another way to phrase it. But to get to the point where, and I think this is the fear of some of my colleagues, that an agency would feel that they have a very good solution like de-icing airplanes today, but they cannot use it because they have to use something that is just cheap, but not good.

Mr. Chairman, I would in this spirit ask unanimous consent to withdraw the amendment and continue to work with the gentleman from Pennsylvania [Mr. GEKAS].

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CHAPMAN: PAGE 12, LINE 5, STRIKE ''AND'', IN LINE 8 STRIKE THE PERIOD AND INSERT '', AND'', AND INSERT AFTER LINE 8 THE FOLLOWING:

''(C) a renewal regulatory impact analysis, which shall be prepared and transmitted to the Director within 7 years after the publication of the final rule and every 7 years thereafter.

Page 12, line 9, strike ''and final'' and insert '', final, and renewal''.

Page 13, insert after line 15 the following:

''(H) In addition, in the case of an analysis under paragraph (3)(3), the agency shall consider the benefits and costs, if any, associated with each of the following:

''(i) The extent to which the rule impedes domestic competition or international competitiveness.

''(ii) The extent to which capital investments already expended in complying with the rule have been reviewed.

''(iii) The extent to which information requirements under the rule can be reduced, particularly for small business.

''(iv) Whether the rule is clear and certain regarding who is required to comply with the rule.

''(v) Whether the rule is crafted to minimize needless litigation.

''(vi) Whether the rule is fashioned to maximize net benefits to society, particularly whether the rule evaluated risk and cost benefits on an industry-by-industry and sector-by-sector basis.

''(vii) Whether the total effect of the regulation across Federal agencies has been examined.

Page 13, line 17, strike ''or final'' and insert '', final, and renewal''.

Page 15, redesignate sections 205 through 207 as sections 206 through 208 and insert before line 1 on that page the following:

SEC. 205. RENEWAL REVIEW REQUIRED.

Section 55 of title 5, United States Code, as amended in section 204, is amended by inserting after subsection (i) the following:

''(j) The head of each agency shall conduct a renewal regulatory impact analysis of each major rule of the agency issued after the date of the enactment of the Regulatory Reform and Relief Act in accordance with subsection (i)(3)(C) and shall issue a report on the findings of such analysis with recommendations for termination or extension of the effectiveness of such major rule, any appropriate modification to such major rule to be extended, or any appropriate consolidation of such major rule. Such report shall be submitted to Congress not later than 60 days before the termination date for such major rule as determined under this subsection. Such major rule shall terminate 7 years after it was initially published as a final rule or after it was last reviewed under subsection (i)(3)(C) unless the head of the agency in its report under this subsection recommends that such major rule be extended.''.

Page 15, line 5, strike ''(j)'' and insert ''(k)''.

Page 15, line 14, strike ''(k)'' and insert ''(l)''.

Mr. CHAPMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CHAPMAN. Mr. Chairman, I will only take a minute to explain both the amendment and the history that leads up to my offering the amendment today, and I do so recognizing that I have worked on this amendment with my colleague, the gentleman from Florida [Mr. MICA], who joins us today on the House floor to discuss what I know we believe to be a very, very important missing link, if my colleagues will, in the reform of our regulatory scheme that the House is considering this week.

We had intended yesterday to offer an amendment to the bill under consideration at that time that would provide for the periodic review of all existing regulation and prospectively the review of new regulations on a 7-year rotating basis. It is my belief that not only should we apply the criteria in this legislation and criteria that are contained in our amendment to regulations that are promulgated and adopted in the future, but that we ought to apply those same common sense criteria to the regulations that currently exist on the books of the Federal agencies today.

I believe that one of the things that will help enforce and have a good application of those criteria would be a provision that would sunset Federal regulations unless they are so reviewed, not only prospectively, but also currently, on the books. So yesterday our amendment would have provided for a review of all existing regulations and a review on a 7-year basis of new regulations with the threat to the agency of that regulation sunsetting unless that review were performed under a very common sense criteria.

We ran out of time, Mr. Chairman, yesterday before we could get our amendment offered, but I believe that amendment does, and in fact I know it does, enjoy strong bipartisan support.

So today on this legislation this amendment is not as broad in scope as that we had hoped to be able to offer, but it still contains the basic components of that approach to regulatory review in that it would require, it would require the agencies, to conduct a review under the criteria that the gentleman's bill provides a very—my common sense criteria that tracks almost directly the criteria that were contained in the amendment we were to offer yesterday, but it also continues to provide that the agencies that currently have regulations between now and 7 years from now review every single regulation currently on the books applying the gentleman's same criteria outlined in this bill and again with a provision that, if that review does not occur, then the regulations not reviewed would sunset.

This is the best way I know, and I believe that we can force Federal agencies to stay up to date, to look at times change as conditions change, as governments' functions change and as industry and technology changes to make sure, to make sure that we are applying up-to-date, common sense regulatory solutions to the problems that the agencies have in administering the laws that we pass.

So I believe it is a very common sense amendment because it does simply two things. It requires that all existing regulation undergo the same scrutiny that the gentleman's bill would provide for new regulations, and it also provides that regulations would terminate, would sunset, if that review does not occur on a 7-year basis.

So, I offer that amendment. I believe it is an improvement to the bill.

Mr. Chairman, I reserve the balance of my time, but I know the gentleman from Florida [Mr. MICA] would have some comments on this.

Mr. MICA. Mr. Chairman, I move to strike the last word.

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

□ 1530

Mr. MICA. Mr. Chairman, I am really pleased to join one of the leaders in regulatory reform, the gentleman from Texas [Mr. CHAPMAN], to offer this amendment today. I think what we need to do is stop and look and see where we have been and what we have done over the past couple of days.

Actually it is quite monumental in the area of regulatory reform. Only a matter of months ago, a year ago, it was almost impossible to discuss some of the issues, let alone vote and pass some of the measures we have passed in the past few days here on the floor of the House.

But we have passed here a moratorium, a temporary moratorium on regulations until we get other measures in place.

We passed risk assessment regulation, which is long overdue, setting some general guidelines and parameters, which will provide a tool for assessing risk and then using cost and benefit to see how we can do a better job in the regulatory process.

Then today we have been discussing regulatory flexibility and regulatory impact analysis. Some of that gets a little bit heavy, but all we have been trying to do is make some common sense out of the regulatory process.

The amendment my colleague is offering and I am offering with him today says let us have a periodic review of regulations. None of the measures that we have looked at in the past few days dealing with regulatory reform have really addressed that issue. We think it is critical that we look forward and periodically review all of the mass of regulations that are pending.

For example, right now there are over 4,300 regulations pending or being considered by the various Federal agencies. I do not want to get back into the look-back, which I think we need to address, but do you know in the last 20 years we have adopted 1,055,000 in the Federal Register of regulations? That is what we need to do, is go back and look at what we have done. What we are offering today is prospective, but even the President of the United States has recognized the need, and I hope we prompted his action.

Let me quote from the February 22 Washington Post: ''Clinton said he was ordering Federal regulators to examine each rule they administer to see what has become obsolete and to produce by June 1st rules that can be discarded.''

What we are saying here is we would like to do that for the future. Of

course, we would like to do that for the past and we think it needs to be done, and we should really have a hearing, have an opportunity to do just that.

But again, what we are asking for here in this amendment is a return of common sense, a periodic review of outdated regulations, a periodic review of regulations that should be terminated, and a periodic review of regulations that make us less competitive, that put people out of business, that send jobs overseas.

So that is the basis for our request today. It is my understanding, too, that my colleague and I have agreed that we will agree in a few moments here to withdraw our amendment, but I do want to compliment, first of all, the chairman for his agreeing with us today to conduct full hearings on this issue and that we can go back and look at what needs to be done retroactively, and we need to look at what goes forward as far as review of these regulations.

Mr. Chairman, I thank the gentleman for his leadership, I thank the gentleman from Pennsylvania [Mr. WALKER], the gentleman from Virginia [Mr. BLILEY], the gentleman from Texas [Mr. DELAY], the gentleman from Louisiana [Mr. TAUZIN], the gentleman from California [Mr. CONDIT], the gentleman from Louisiana [Mr. HAYES], and again the gentleman from Pennsylvania [Mr. GEKAS], and our Speaker, the gentleman from Georgia [Mr. GINGRICH], for their leadership on these regulatory reform issues, and on what we have accomplished and hope to accomplish by offering this amendment, and also withdrawing this amendment today, but with the opportunity to address this as the next stop in the regulatory reform process.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I must say, and I felt this from the first moment that we had preliminary discussions with the gentleman from Texas [Mr. CHAPMAN], this is a very attractive amendment, one that if it had been the subject of our hearings and had the gentleman presented it in a fashion that it would have blended in with our legislation, and I would have been happy to consider it in the final implementation of this legislation. I still feel that way. It is going to occur. I am positive of that.

But in the interests of a proper approach to the entire process here, I am most appreciative of your willingness to withdraw the amendment on the basis that we will revisit the subject matter, we will accommodate hearings or whatever it takes to bring it back to the House in a proper form.

Mr. CHAPMAN. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Texas.

Mr. CHAPMAN. Mr. Chairman, if I may, with the assurances of the chairman, and let me say with very much thanks to the chairman for his commitment to give us an opportunity to make a factual case for this amendment before his committee, we will withdraw our amendment and look forward to that hearing process, because we believe that not only will our amendment appear attractive, we believe there is sound legal and factual basis for this kind of addition to the commonsense regulatory reform measures the House has been considering.

Mr. Chairman, with the gentleman's leadership in that kind of hearings, I believe we can revisit this issue here in this Chamber. I believe this is something that the House would likely look very favorably upon, and I am anxious to hasten the time when we would do so. I thank the gentleman for his pledge of cooperation.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. REED

Mr. REED. Mr. Chairman, I offer an amendment, the amendment at the desk, which is designated amendment B.

The Clerk read as follows:

Amendment offered by Mr. REED: Page 8, line 11, strike out ''50,000,000 or more;'' and insert ''100,000,000 or more; and'' and strike lines 12 through 20.

Mr. REED (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. REED. Mr. Chairman, this is a critical amendment if we want to have a reasonable, cost-effective regulatory reform bill. I must from the outset say that we have made great progress already discussing this issue, and the issue essentially is what is the threshold for a major rule in the context of title II.

That is a very important issue, because once a rule has been declared a major rule, then an agency must do a rather elaborate and potentially expensive regulatory impact analysis. To the extent that all rules are major rules, then regulatory agencies will be spending lots of money thinking up alternative approaches and all sorts of paperwork and doing very little in terms of serving the American people directly by carrying out the duties of their agency.

This is a very, very important principle that we must I think establish. Initially the legislation proposed a very, very low threshold, a million dollar effect on an individual in the United States. It has been raised to $50 million, but frankly that $50 million still in my view and that of many Members does not constitute a truly major rule. Let me tell you why.

Years ago when President Ford first by Executive order instituted the regulatory impact analysis approach, he chose as the benchmark for a major rule $100 million. Today, in 1995, that $100 million would be somewhere between $300 and $400 million in today's dollars. So you can see not only has the major rule threshold shifted and slipped down, but in fact this legislation would bring it down from the current $100 million to $50 million. Every succeeding President, President Ford, President Carter, President Reagan, all chose a very simple, clearly understood threshold, $100 million, because they knew and they understood that valuable resources in terms of doing studies cannot be dissipated for every rule that the Federal Government does.

In fact, if that is the process, if that is what takes place, we will actually trivialize all we are doing today. Indeed, in testimony before the committee, C. Boyden Gray, who was the counsel to President Ford and chairman of Citizens for a Sound Economy, recommended that the threshold remain at $100 million. That is simply the purpose of my amendment, to move the threshold from $50 to $100 million and make it a clear, simple, bright line test, $100 million.

The current language of the bill, although an improvement, still contains some vague terms about impacts that would make the rule major. All I think this will do is require judges and courts to make endless determinations of whether or not a particular rule has an impact on employment that is major or significant, an impact on competitiveness, et cetera.

What I think we are about today is trying to develop a system that is simple, cost effective, makes sense, and is reasonable. The best way to do this is pick an objective, sensible, reasonable target, $100 million. If it was good enough for President Bush and President Reagan, and currently President Clinton's Executive order, I think it should be good enough today. We are not trying to advance the ball. We are not trying to raise the threshold to $500 million, which as I pointed out before would be the equivalent of the same measure used by President Ford when he started this process.

The consequences could be very real if we continue this $50 million threshold. Rules which most Americans would consider to be innocuous, routine, would require expensive analysis. Rules, for example, on raising and lowering drawbridges over naval waters, things that are done every year by the regulatory authorities, could require each year a $1 million or several hundred thousand dollar analysis. That does not make sense.

One final point: We have in the language of the bill given the Director of OMB the authority to declare any rule, regardless of its impact, its financial impact, a major rule. I think that is a sufficient escape clause to confront those situations in which it might be $99.9 million, or might even be $9 million in impact, but it is an important

rule to a major part of this country and major sector.

So I urge all my colleagues to save money, to make sure that this works, to make sure that this process does not result in the trivialization of the regulatory impact analysis, that we support this amendment, raise the level to $100 million, and continue the sensible policies of President Ford, President Reagan, President Carter, and now President Clinton.

Mr. GEKAS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Rhode Island [Mr. REED].

Mr. Chairman, as the gentleman has said, this is an important amendment only because it is one that is devastating to the entire purpose of the bill in the first place. If indeed the gentleman's complaint is that, why change it from $100 million where it found its way into the Clinton Executive order, to the Reagan Executive order, and before that to the Ford Executive order, why the gentleman asks, if it was good enough for them should it not be good enough for us, the answer is implicit in the question.

The hue and cry of the business community, the bombast that we have received as Members of Congress, the complaints that have been issued from every corner of the Nation on these issues, has come about because the $100 million many times was never reached and no consideration was given to a rule for analysis, because it never reached that kind of majority, major emphasis that the major rule required.

That is why people are saying my gosh, if it has to be $100 million, it is a useless rule, because we never get to a point where we can have the benefit of an analysis on which we can act or react.

So that is implicit in the rationale of why we fashioned a threshold that is lower than $100 million, so that we can include more rules in the process, so that we can include, by including more rules, more individuals who are disaffected by the adverse rule.

That is the gravamen of this bill. The other thing we have to keep in consideration, this is important to us, and I think the gentleman from Rhode Island acknowledges it as well, that we started out with $1 million as the threshold, and I, who am admittedly an advocate for small business, found that very attractive. But when title II is considered to apply to all business, small, medium, large, gigantic, all these businesses have one thought in mind: They want to increase competitiveness.

□ 1545

They want to have rules that make sense. They want analysis that will help them respond and, indeed, not just help them respond to a rule but to help the agency fashion a better rule, to impact upon the rulemaking process itself. This is a long way toward expanding the economy and exploding the initiatives that the free enterprise system accords our businessmen and our entrepreneurs. And the working people, the people who benefit most by a small business expansion, are the ones who are absolutely the trickle-down beneficiaries of what we attempt to do here.

I love that term ''trickle down'' when it obtains to the benefit of the working people who, when they see their employer expand the business and hire two more people and raise wages because they are loosened up from the exasperating rules and regulations. That is the thrust of this bill. To raise it back to $100 million would be to make a top-only type of rule possible for the jointure of the businessman's will and determination in the formation of that rule. I oppose the amendment.

Mr. GENE GREEN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Reed amendment. Let me, before I get into my remarks, respond that the, I never heard trickle down, Mr. Chairman, referred to in a positive way, particularly from this side of the aisle. But the chairman's opposition to the amendment talks about that it did not work under President Ford, Carter, Reagan or Bush or President Clinton. But the OMB has the authority to, under any rule, to designate as a major rule that would truly have significant regulations and so we would not have it fall through the crack based on $50 or $100 million.

So we would hope that the OMB would be able, whether they are under President Clinton or under President Ford or Carter and the other President, they could have made that designation and decision instead of being stuck by an arbitrary dollar figure.

My support for the amendment talks about the dollar figure and recognizing what the sponsor of the amendment, my colleague from Rhode Island, talked about, that if we used $100 million in 1975, it is different than 1995 and reflects that the need for it. But even more so, I have some concern about the amendment. It also addresses a provision in the bill on page 8 where the language that says, not only the $50 million that we would change to $100 million but striking out lines 12 through 20, some of the language in that bill.

I am concerned on this bill but for a number of bills. Let me say that I supported the bill yesterday. I voted for the bill yesterday that in title II had $100 million in it. I know there was other thresholds in the bill yesterday, but the risk assessment bill yesterday also had $100 million even in title II. But the provisions in this bill that we are striking out have some language, I think, that it will be hard for a court to decide, particularly in section C where it says, ''significant adverse effects on competition, employment, investment, productivity.'' We are writing a statute here. That needs to not be so subjective.

I think, where are we going to define ''significant adverse effects''? The oil crisis of 1980's in Texas had very significant adverse effects on Texas economy, but oftentimes we could not get the response that we needed out of the various agencies to loosen up on some of the regs that would have us be able to compete better.

The provisions of the amendment not only are good because it raises from 50 to 100 and reflects more 1995 dollars, but it also strikes out lines 12 through 20 that gives other criteria that, frankly, the OMB can make that decision already without putting in there language that is not defined in the bill as far as I can see and very difficult to define anyway.

Major increases in costs or prices for consumers, we can define that many times. Again, major increases sometimes affect certain geographic areas of the country where it may not others. That is why I rise to support the amendment and think that it is a good amendment and makes this bill much easier to support, Mr. Chairman.

Mr. FRANKS of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that if a rule or regulation coming from an agency in Washington has a severe impact in a given region of the country or has the net effect of increasing cost for local governments, perhaps a class of small local governments across the country, then it seems to me that this Congress would want to trigger a regulatory impact analysis so we can learn more about the consequences of the regulatory action that is being contemplated. Yet under the amendment of the gentleman from Rhode Island, that criteria would be stricken. The fact that it would have a disproportionate impact on a particular region or on local governments would not trigger the imposition of the requirement of a regulatory impact analysis.

Another example, Mr. Chairman, that really troubles me is if a rule or regulation has a potential unintended consequence of killing off jobs by having an impact on a new industry that is growing in this country. And inadvertently a regulatory action might have an impact on that industry in such a way as to reduce employment. Then, again, under this amendment, that adverse impact on employment would be insufficient per se to trigger the regulatory impact analysis.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. FRANKS of New Jersey. I yield to the gentleman from New York.

Mr. NADLER. Would not the gentleman say that if it was unintended and unanticipated, this impact on some new industry, by definition ''unanticipated'' means no one foresaw it. The escape valve is not the language that the gentleman's amendment repeals. The escape valve is the ability to go to OMB and say, hey, we have got this problem. How about calling this a major rule because we did not, you did

not, nobody anticipated this problem, but here it is now?

Mr. FRANKS of New Jersey. Reclaiming my time, Mr. Chairman, I would merely seek to say that these adverse impacts should be reviewed by the rulemaking agency and we ought not to merely surrender to the director of the OMB, as if he is going to be some kind of regulatory czar who is the gatekeeper of whether or not we are going to be requiring this regulatory impact analysis.

I think what this system needs is uniformity across the board from every rulemaking agency and not the ability of a particular class of rule makers in an agency to say, the OMB director did not trigger the regulatory impact analysis, therefore, I felt there was no need to engage in one.

We ought to put this responsibility squarely on the shoulders of those who seek to change the regulatory status quo by issuing a new regulation.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. FRANKS of New Jersey. I yield to the gentleman from Rhode Island.

Mr. REED. The legislation itself and perhaps for good or bad makes the OMB director a regulatory czar. At page 143, an agency may not adopt a major rule unless the final regulatory impact analysis for the rule is approved or commented upon by the director of OMB. So I mean, specifically, the OMB director is involved in this process. The gentleman from New York is making a very good point.

That is, I think, the appropriate way to respond to some of your concerns. Indeed, some of your concerns demonstrate some of my fears, which is a very able, articulate and thoughtful attorney can find in every rule some of the consequences you made. And my concern ultimately is if every rule is a major rule, then in a sense there are no major rules. We have taken the process and we have to do analysis for everything. We do not have the resources to do that. I think, again, as I know we disagree, we disagree in principle that a bright line $100 million represents an efficient practical way to do what we want to do, which is make sure the big rules that impact on people at sectors and regions get addressed and the other rules can go to routinely.

Mr. FRANKS of New Jersey. Reclaiming my time, Mr. Chairman, I would merely say that the requirement of the regulatory impact analysis is designed to give protection to those parties that would be regulated and also knowledge to the rule makers that their activities are going to have a social and financial impact on the regulated community. It is in the public's interest that we know as much about that social impact and that financial impact as we possibly can before the rule is finally adopted.

I think it is best to have this regulatory impact analysis apply within reason to the broadest possible category of potential rules.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the problem that is sought to be addressed by this amendment is very simple. This bill could have one of two purposes. Either it is an honest attempt to elicit more information about the effects of a rule, of a major rule before that rule is effective, analogous to the environmental impact statement in environmental law, or it is a disingenuous attempt to thwart all Federal rulemaking because of a desire to let corporations not have to worry about new Federal rules because of a feeling that there are enough or too many Federal rules.

We do not want to see anymore, so let us bog down all the new Federal rules, the proposed ones, in litigation, let us bog them down in impact analysis. Let us make every rule have to have an impact analysis and then tie it up in litigation. It is one or the other.

I submit, Mr. Chairman, that the gentleman's amendment would make it clear that it is the former and not the latter. Because then you would have a clear guideline, a very modest guideline, one quarter. The chairman said that the reason we had to get away from the $100 million of President Ford and President Reagan is because the hue and cry of the business community was that that was too high or too low, that too many, that too much escaped it. That you did not have enough analysis.

But that is now $300 to $400 million. What the gentleman's amendment is proposing is a rule of $100 million which is a quarter of what it was under President Ford, because President Ford's $100 million is today worth $300 to $400 million. So we are reducing it by 75 percent. That seems adequate.

But second of all, let us look at the other key to the definition. A major rule would be defined as something that seems likely to result in a major increase in cost or prices for consumers, individual industries, Federal, State, local governments or geographic regions.

What does that mean? What is a geographic region? The South Bronx? The entire State of New York? New York City? If a rule has a particular impact only on the South Bronx, do you need an impact analysis that is going to cost $1½ million or $2 million for the entire country? What does that mean?

I will tell you what it means, about 5 years of lawsuits on that question.

What does a major increase in cost or prices mean? Does that mean a 15-percent price increase? Does it mean a 5-cent increase in a $1 item, a 5-cent increase in a 15-cent item. I tell you what it means. It means 5 years of high-priced litigation on that question.

You then say, it is a major rule if it seems likely to result in significant adverse effects on competition, employment, et cetera, et cetera. What does significant adverse affects mean? I will tell you what it means. Five years of high-priced litigation is what it means.

Mr. Chairman, if we are seeking to bog down any Federal agency and rulemaking, if we are seeking to enable companies to litigate everything and to tie it up in litigation forever, then this is a fine provision. But if this is an honest bill, if we want major rules that have real impacts to be subject to impact analysis, then the gentleman's amendment solves the problem, a $100 million clear rule, a heck of a lot less than President Reagan's and President Ford's threshold, because in their day it is $300 to $400 million in today's dollars, and the ability of the OMB director when something is unanticipated to reach down and say, that is a major rule even though it is only $25 million or some other figure under $100 million.

□ 1600

That is enough. To do anything more is to greatly increase the risk of tremendous litigation on every question, to almost beg for it. Open-ended phrases once gone into practice to be interpreted by the courts would sweep an enormous number of regulations that do not warrant and could not conceivably profit from a full-blown cost-benefit analysis into this bill, and it would lead to endless litigation.

Again, Mr. Chairman, this amendment will answer, and how the majority, frankly, determines, this amendment will answer one question: what is the intent of this bill. Is it an honest attempt to deal with major rules and give it a regulatory analysis, in which case we will see a yes vote on this amendment, or is it a disingenuous attempt?

The CHAIRMAN. The time of the gentleman from New York [Mr. NADLER] has expired.

(By unanimous consent, Mr. NADLER was allowed to proceed for 30 additional seconds.)

Mr. NADLER. On the other hand, Mr. Chairman, is it a disingenuous attempt to block most Federal rulemaking and to give major corporations subject to Federal rulemaking the ability to tie anything they do not like up in litigation for years by putting into the language of the bill such vague, indeterminate language as to invite litigation?

Mr. Chairman, I submit the answer, if we see the majority vote against this amendment, we will know the answer to that question.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

There was no objection.

Mr. GEKAS. Mr. Chairman, I am constrained to try to point out something to the gentleman from New York [Mr. NADLER] and the gentleman from Rhode Island [Mr. REED], if I could have his attention. This is something that means a lot to me.

When we conducted the hearings, if the gentleman will recall, we paid attention to every single word that was uttered by the witnesses. As a result of the hearing and as a result of the testimony, for instance, on title III by the Justice Department, we sat back and looked at that legislation again that we had proposed, and we felt that we had to change it radically.

The point is that I paid strict attention to what the witnesses said, and felt constrained to do something to alter our original purpose in it. By the same token, I gave tremendous credibility to the business people witnesses that we had sitting to tell us about the threshold, which is the issue we are discussing here right now.

One of them, a witness, just like the Justice Department witness on title III, this witness was talking about, and his name was Cornelius Hubner, from American Felt and Filter Co., who speaks for thousands of people just like him, he said ''In fact, even more stringent requirement could be written in the legislation to reduce the threshold of affected persons from 100 to 50 or 25, and reduce the threshold of expenditure from $1 million to $100,000;'' not the 50 that I want, he wants $100,000.

The point is, I would not deign to try to make it $100,000, but I want to give credibility to this man. I want to honor the hue and cry of the business community, the job creators, the hirers of the people the gentlemen represent, the people in their districts, and to base the final language of this bill on the testimony or the range of testimony that was given to us by the business people who are most affected by this.

Give me credit for trying to do the job that we were asked to do by giving vent to what the testimony was, and try to do the best to reflect the best, and to reject the worst, of what the testimony was that was presented.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Chairman, I give the gentleman from Pennsylvania [Mr. GEKAS] great credit to this process of witnessing to the witnesses, and trying to adjust the form of the legislation.

I believe Mr. Hubner was the only business person who spoke specifically about the threshold, and in fact, the witness that I heard with most sort of persuasive force was C. Boyden Gray, who is a representative of the business community, the president of Citizens for a Sound Economy, which is one of the groups that represents the business community.

In Mr. Gray's written testimony, and also in his verbal testimony, he said ''$100 million is a central threshold.''

Mr. GEKAS. Reclaiming my time on that point, Mr. Chairman, I knew the gentleman was going to say that. He did not exactly say that. He said ''One could move it up to $100 million,'' something like that, but all of these figures are arbitrary. We have to choose an arbitrary figure.

Again, Mr. Chairman, we take the $100,000 that one wants and the $100 million that the gentleman from Rhode Island wants, and we have to strike a figure. The $100,000 person does not want the $100 million, and you do not want the $100,000, of course. It is not unreasonable to strike a well-balanced compromise at $50 million. That is what I am saying.

Mr. REED. If the gentleman will continue to yield, I appreciate the gentleman's attempt to balance this. I think it is not only in good faith, but he is talking about the range of voices that we heard in the hearing, but I am persuaded by Mr. Gray, and I believe he was much more definitive in his selection of $100 million.

In response to my question to Mr. Miller, the former director of OMB, candidate for the Senate in the State of Virginia, recently, and someone else who is involved in the business community, he sort of said ''Sure, $100 million that is fine. We cannot have every regulation,'' and I am paraphrasing, but clearly there was no objection to the $100 million threshold.

The other point I would say again, reiterating, is that this is a threshold that has been on the books for 20 years, that has been part and parcel of both Republican and Democratic administrations.

I do not think also that dropping this $50 million threshold will give relief to the small business people that the gentleman is very sincerely trying to protect. Frankly, Mr. Chairman, there are rules that well be picked up that apply only to multimillion-dollar enterprises.

Mr. GEKAS. Seizing back my time, Mr. Chairman, the gentleman will acknowledge that reducing to $50 million will bring an additional body of rules in that then, just by the very force and nature of their existence, would occupy the space of more business people.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I want to say as a member of the Committee on the Judiciary, I want to compliment both the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] because I am not on their subcommittee, but my overall view was the two of them had the most thoughtful markup, and did make a very, very good faith effort on this bill.

I think we should really thank them, because so much of what has gone through, it has been hard to even see the ink dry before it is out of the committee.

Mr. Chairman, I think part of what the gentleman from Rhode Island is saying is that all the Members very thoughtfully in title I struck the indirect issue, and that he is afraid that if we do not adopt his amendment, we will be doing, indirectly, what they did directly in Title I by striking the indirect area.

That sounds roundabout, but I think that is exactly what he is leaning on. If we leave it the way it is, there will be so many things that will require both this risk assessment, or the regulatory impact analysis, that it could be a real job generator in those areas, but it will be a real cost generator, and it will be a thing that will slow down regulations that a lot of people think should be more pro forma, or they may be for safety or whatever.

Coming from an area that just opened its airport, let me say, one of the things might be something that would establish air traffic lanes for airplanes. I would certainly hate to think we would have to sit around and wait for some kind of risk assessment analysis or whatever.

We could think of all sorts of other things that come along, such as change for education funding programs. We could miss a cycle because of that. There are any number of regulations that come out of the Federal Government.

I think this subcommittee tried very hard to reach a reasonable compromise, and I really want to thank the gentleman from Rhode Island, because I think what he is saying is that when he saw $100 million being used as the cutoff by President Ford and President Reagan and President Bush and President Clinton, and by C. Boyden Gray recommending that in his role as chairman of the Citizens for a Sound Economy, that sounds reasonable, and that sounds like a reasonable cutoff.

If we do not do this, everybody will want to claim that their rule is a major rule, or it has that kind of impact, and we will just be all tied in knots, spending all sorts of money, and losing all sorts of time.

Mr. Chairman, I also think we have to realize that as we are downsizing government, when we do things like this, we are going counter to what we are trying to do in downsizing, because we are putting a lot of burdens on agencies that we are trying to get down to bare bones. To add this is another burden which only adds frustration, adds cost, and adds delay.

As we try to find a way to make government more user-friendly, and that is the bottom line here, how do we make it more user-friendly, and yet make sure that what we do does not harm our intended goal, this seems to be a very appropriate follow-on to what the subcommittee did in title I.

I would just hope, Mr. Chairman, we could adopt this amendment by voice. I think it makes a lot of sense, and again, I say, and I mean it very sincerely, I think this subcommittee tried harder than any other to really get to the bottom of this and understand what the different words meant, and what the different impacts would be.

I congratulate the gentleman from Rhode Island and the gentleman from Pennsylvania, and I just hope somehow

we can get a consensus here, move forward, because I think this $100 million cutoff threshold impact makes a tremendous amount of sense.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to add my applause and congratulations to the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from Rhode Island [Mr. REED] for what I think has been a very conciliatory and very strong effort at something that we have been talking about in the Committee on the Judiciary, as a member of that committee, a bipartisan bill.

I would simply say to the gentleman from Pennsylvania, I would like to focus on a narrow part of the discussion, and I rise to support the amendment offered by the gentleman from Rhode Island [Mr. REED] in terms of the threshold being moved to $100 million.

I would like to emphasize, Mr. Chairman, in particular that these words should be really directed towards the small business community, which all of us have in our community or in our particular districts and throughout the Nation. We know that the business of America is business. We can certainly applaud the efforts that small businesses have made in contributing to the economy, and certainly, to the job market in this Nation.

However, if we would look at what we are trying to do here, it is to make their lives easier. We are talking about some 21 million small businesses in this Nation, some 8 million of them being those who are self-employed. The $100 million threshold we are talking about is an aggregate figure. We should not be looking that one single business, small or medium, or one single self-employed that has to prove $100 million. It is an aggregate figure that allows us to be more reasonable and more fiscally responsible in how these regulations and this particular legislation will be applied.

In particular, the regulatory impact analysis and risk assessment analysis can cost up to $1.6 million, so, for example, if there was an inquiry and a petition being made, which I certainly do agree with, if the threshold was not moved, we are talking about spending $1.6 million on every one of those particular inquiries. That would mean that we would have the occasion to read in our newspaper of agencies spending $100,000 every time they wanted to issue a rule.

Let me give the Members an example. If they wanted to do it—we voted for the ducks the other day. Suppose they wanted the rule on opening hunting season, or if they wanted to do it on preventing fisheries from being overfished or compensating veterans who are suffering from the gulf war syndrome, or changing the formula for education funding programs, or raising and lowering drawbridges on inland waterways, or establishing traffic lanes for airplanes, and certainly, in the community that I come from where we are near a very strong port, we have some difficulties sometimes with raising and lowering bridges, and also some difficulties with some major incidence that cause a slow-up on our very busy port.

The question then becomes, let us narrow it to what it is. It is an aggregate figure that applies to all of the impact. It does not burden one individual business, that they would have to prove that that was the overall impact on their single business. It would be an aggregate impact on all of the businesses.

Then, Mr. Chairman, if I might, as it relates to the provisions that relate to the other language to the provisions that relate to the other language of sections B and C, one thing about the Administrative Procedures Act that we learned in first- or second-year law classes is the need to be as precise as we possibly could, and to avoid vagueness.

I certainly appreciate the direction in which this legislation is going, but some of these words and phrases are extremely broad and might cause a great deal of difficulty in refining and detailing, so we would never bring closure to this process of regulation.

We certainly want to stop the burden on our small businesses, but we also want to bring closure to this process so we can go on with the business of governing and they can go on with the business of their business, which is making money, I hope, and employing citizens around this Nation.

I would simply argue, Mr. Chairman, that the threshold is one that is reasonable, because it is not a threshold that someone has to prove singly, it is the aggregate impact, and I would think that out of 21 million businesses, you could prove an aggregate of a $100 million impact.

The last sections, B and C, I would find great difficulty in bringing what we would want to have happen, the process to close because of the vagueness.

□ 1615

Mr. SCHUMER. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. SCHUMER. Mr. Chairman, let me say as we go through them that many of these bills in the contract deal with the relationship between Government and business. Like many on my side of the aisle, and I suppose a good number on the other side of the aisle, I find myself on these particular ones in a quandary.

There is a germ of an idea in many parts of the contract. There have been instances where Government regulations went too far, became too removed, became too immutable. There have been many instances where for a small amount of good, a lot of bad was done.

The trouble I find time and time and time again with the bills that are before us is they do not seek a balance, they do not seek to redress the balance and move the pendulum back to the middle, but they seek to go all the way over. In fact, some of them seem to have been written by the very businesses they regulate, and I am sure most of my colleagues would agree that would be a bad practice if it had ever happened.

This bill is one that is far more moderate. This bill is one that I think does try to seek a balanced ground. It did not start out that way but through the good efforts of the gentleman from Rhode Island and the gentleman from Pennsylvania and some just facts in the hearing process when we learned that parts of the bill, other parts of H.R. 9 might exempt Keating from being prosecuted because he would be informed that he might be and he would have his lawyer sitting in everywhere, and we did amendments to correct that.

I would say that the bill strikes a pretty good balance. It realizes the excesses of the past and yet does not react overboard.

I would say in all due respect to my good friend the gentleman from Pennsylvania, he is seeking to push things too far again. The $100 million level makes a good deal of sense in this area. This is a middle ground. One hundred million dollars was used by President Ford. In today's dollars, that would be $300 to $400 million.

It was used by President Reagan in his Executive order, H.R. 9. That would be $170 or $180 million today. In testimony before the subcommittee chaired by the gentleman from Pennsylvania, C. Boyden Gray, the former White House counsel and chairman of Citizens for a Sound Economy, recommended the threshold remain at $100 million. Mr. Gray is not a crazy wild-eyed environmentalist or an anti-business crusader. He is a very staid, rational, essentially conservative gentleman, He, too, recommended the $100 million.

So I say to my colleagues, why push things down further? There are as the gentlewoman from Texas and the gentlewoman from Colorado documented hundreds and hundreds of regulations that have rather minor impact and yet would be affected. Metaphorically but actually as well, why should we spend the millions of dollars it takes to do one of these reviews every time we open up the duck hunting season? These are the kinds of things that we are talking about.

So I would say to my colleagues, yes, this is a good bill. This is a bill that makes a great deal of sense. But by moving to $100 million, we keep that sort of moderate, centrist approach which is in my opinion what the American people have wanted. By moving to 50, we bring the bill too far over, and,

therefore, I would urge that we keep the $100 million level.

I thank the gentleman from Rhode Island for his leadership on this issue.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to be brief and make four very quick points and then yield to the gentleman from Rhode Island.

First of all, I would hope that one of the objectives that we are trying to achieve by this legislation is to save the taxpayers money. It seems to me that it makes sense for us not to be doing major studies, paperwork, and so forth anytime any minor rule is promulgated. It ought to be restricted to major rules and rules which have major impact, and I would think that the $100 million figures has a lot more sense in that regard than his $50 million figure does which is in the bill.

Second, I do not think anybody could argue that President Reagan or President Bush or President Ford were wild-eyed liberal people. The $100 million figure was sufficient for them, and I always thought of them as being rather conservative myself, and I do not know why we are trying to cut back on the conservative-liberal scale, so to speak.

It is like the gentleman from New York [Mr. SCHUMER] said, we are trying to swing the pendulum all the way to the opposite end and in a way we are overreacting here.

The third point I would make quickly is that since President Reagan and President Ford were there, the cost of living has gone up substantially. So that what would have been a $100 million figure in their administration actually should now probably be $130 million or $150 million, quite conceivably. It would have gone up, certainly not gone down.

Then finally as the chairman of the committee has indicated, this is an arbitrary figure. There is nothing scientific about this. What we ought to be striving toward is a figure that makes the most sense and the criteria in determining whether it makes the most sense, one of those criteria at least, the primary criteria ought to be were we saving the taxpayers money?

I yield to my colleague, the gentleman from Rhode Island [Mr. REED].

Mr. REED. I thank the gentleman from North Carolina for yielding. I echo his sentiments. I think he has expressed very eloquently the major points we have been talking about this afternoon.

I would just like to briefly say that again we are trying to create a responsive, streamlined process that saves the American people money and aggravation, particularly businesspeople.

What I would regret very much is that 6 months, a year from now, if this legislation becomes law, if we saw articles about a Federal agency spending $1.6 million proposing a regulation and doing a regulatory impact analysis for a regulatory matter that was, say, much less than that. You can pick out an abundant amount of examples, raising, lowering bridges, setting time zones. All these things potentially could have a $50 million impact triggering this procedure, but I think the American people would say why are we spending money doing something we have done year in and year out which has very little effect at all on small business or most Americans or if it does have an effect it is not at all deleterious or harmful.

I think again we have to be very, very careful. If we stick with what seems to be working, which is the $100 million threshold, I believe we will have a bill that is better than the present model and one that we can support strongly.

Again, I would urge everyone to support the amendment to raise the threshold to $100 million.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words in order to engage in a colloquy with the gentleman from Rhode Island.

The CHAIRMAN. Without objection, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

There was no objection.

Mr. GEKAS. Mr. Chairman, I want to inform the Members here and in their offices and wherever they may be working at the moment that we are nearing the end of the legislation at hand.

As I understand it—and this is where I ask the gentleman from Rhode Island [Mr. REED] to correct me—after this vote is taken, whether by voice vote or by recorded vote, whatever, then we are at a point where we can move to final passage; is that correct?

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Rhode Island.

Mr. REED. I thank the gentleman from Pennsylvania [Mr. GEKAS] for yielding.

Mr. Chairman, I believe that when we complete this vote, and I would at this point request a recorded vote when it is in order to do so, we are very close to final passage. I believe the gentleman might have colloquy with another Member.

Mr. GEKAS. That is correct.

Mr. REED. There very well might be an issue that I would raise but not with the anticipation of calling for a vote or actually formally presenting an amendment, but I would like to reserve that right, if I may.

I am also told that the ranking member, the gentleman from Michigan [Mr. CONYERS] has an amendment and he is not here yet, but I am sure he will be here. I cannot speak for the ranking member.

Mr. GEKAS. The gentleman threw cold water in my face now. I thought that we were going to be in good-faith compliance with the wishes of Members to wind this down.

At any rate, we have an idea that we are winding down. I am ready, then, to call for the Members to vote ''no'' on this amendment and to proceed to final passage.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island [Mr. REED].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. REED. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 159, noes 266, not voting 9, as follows:

[Roll No. 185]

AYES—159

Ackerman	Gibbons	Nadler
Andrews	Gordon	Neal
Baldacci	Green	Oberstar
Barcia	Gutierrez	Obey
Barrett (WI)	Hall (OH)	Olver
Becerra	Hamilton	Ortiz
Beilenson	Hastings (FL)	Owens
Bentsen	Hefner	Pallone
Berman	Hilliard	Pastor
Bishop	Hinchey	Payne (NJ)
Bonior	Holden	Pelosi
Borski	Hoyer	Pomeroy
Boucher	Jackson-Lee	Rahall
Brown (FL)	Jefferson	Rangel
Brown (OH)	Johnson (SD)	Reed
Bryant (TX)	Johnson, E. B.	Reynolds
Clay	Johnston	Richardson
Clayton	Kanjorski	Rivers
Clement	Kaptur	Roemer
Clyburn	Kennedy (MA)	Rose
Coleman	Kennedy (RI)	Roybal-Allard
Collins (IL)	Kennelly	Sabo
Collins (MI)	Kildee	Sanders
Conyers	Klink	Sawyer
Costello	LaFalce	Schroeder
Coyne	Lantos	Schumer
de la Garza	Levin	Scott
DeFazio	Lewis (GA)	Serrano
DeLauro	Lipinski	Shays
Dellums	Lofgren	Skaggs
Deutsch	Lowey	Slaughter
Dicks	Luther	Spratt
Dingell	Maloney	Stark
Dixon	Manton	Stokes
Doggett	Markey	Studds
Doyle	Martinez	Stupak
Durbin	Mascara	Thompson
Engel	Matsui	Torres
Eshoo	McCarthy	Torricelli
Evans	McDermott	Towns
Farr	McHale	Traficant
Fattah	McKinney	Tucker
Fazio	Meehan	Vento
Fields (LA)	Meek	Visclosky
Filner	Menendez	Ward
Flake	Mfume	Waters
Foglietta	Miller (CA)	Watt (NC)
Ford	Mineta	Waxman
Frank (MA)	Minge	Williams
Frost	Mink	Woolsey
Furse	Moran	Wyden
Gejdenson	Morella	Wynn
Gephardt	Murtha	Yates

NOES—266

Abercrombie	Bilbray	Callahan
Allard	Bilirakis	Calvert
Archer	Bliley	Camp
Armey	Blute	Canady
Bachus	Boehlert	Cardin
Baesler	Boehner	Castle
Baker (CA)	Bonilla	Chabot
Baker (LA)	Bono	Chambliss
Ballenger	Brewster	Chapman
Barr	Browder	Chenoweth
Barrett (NE)	Brownback	Christensen
Bartlett	Bryant (TN)	Chrysler
Barton	Bunn	Clinger
Bass	Bunning	Coble
Bateman	Burr	Coburn
Bereuter	Burton	Collins (GA)
Bevill	Buyer	Combest

Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

Brown (CA)
Gonzalez
Hunter
Istook
Kleczka
Moakley
Rush
Thornton
Velázquez

□ 1644

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Istook against.

Ms. DANNER and Mr. WISE changed their vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title II?

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 9, line 21, strike the close quotation marks and the period following and insert after line 21 the following:

''(5) In a rulemaking involving a major rule, the agency conducting the rulemaking shall make a written record describing the subject of all contacts the agency made with persons outside the agency relating to such rulemaking. If the contact was made with a non-governmental person, the written record of such contact shall be made available, upon request to the public.''.

Mr. CONYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Chairman, I rise in support of the sunshine amendment that would require that there be a written record of any contacts between agency persons and persons outside of an agency during the rulemaking process. The necessity for this rule has come from long experience for those of us who have served on the Committee on Government Operations or the Committee on the Judiciary.

Mr. Chairman and Members, in connection with this sunshine amendment, Justice Brandeis once said there is no better antiseptic than sunshine in order to prevent the misdeeds of government, and that is exactly what this amendment is about.

While we are trying to seek accountability in the regulatory process, we should ensure that what often goes on behind the scenes and off the record is accountable also. That is all that this is about. Regulations are public law and should not be conducted in secrecy.

Now, in truth we have an Executive order that covers this, and what we are doing is putting it into the law, nothing more, nothing less. The amendment would ensure that the regulatory process is open and accountable and that there are records of those who seek to influence regulations from behind the scenes.

This is not an abstract matter. It is the real world. It comes out of many years in which special interests were able to shape regulations regardless of whatever new procedures were put in place without any record or trace of their involvement, and what we are trying to do is make sure that we know everybody that had a hand, a meeting, a phone call involved in the shaping of these all-important rules.

Ladies and gentlemen, the Government is already living in this sunshine. As I have already indicated, President Clinton's Executive Order 12866 has already put in place many of the sunshine requirements that we are proposing here today.

The amendment before the House would do two things. First, it would require that all communications between an agency and the Office of Management and Budget during the consideration of this rule be recorded. During past administrations there were countless examples of the OMB informally rewriting agency rules before they were submitted to them for review, only there was no way for congressional committees to conduct oversight of this process because no records were kept of this highly influential and highly secret process. We want sunshine.

Second, my amendment would require that all communications, including oral ones between Government officials involved in a particular regulation and private parties, be recorded and that such a record be publicly available. This is to prevent what we have seen in the past as backdoor channels whereby favorite special interests were able to profoundly influence regulations behind the scenes without any public record.

Is there anybody here that would not want this kind of openness to be a part of the law that we are passing here today?

It is a terrible abuse of the principles of openness that the Administrative Procedures Act symbolizes.

We on this side of the aisle continue to be concerned about the possibility of perverting the requirement for openness and accountability in the regulatory process by allowing ex parte or third-party contacts to be off the record at critical stages of the regulation process.

Congressional investigations over the years have repeatedly documented the profound impact that such secret contacts have had on important regulations affecting public health and welfare. Remember the Clean Air Act where we had all kinds of problems in terms of behind-the-scenes activity in which we found out that the Clean Air Act, the rules on it, were being negotiated secretly? The Nutrition Labeling Act with the Food and Drug Administration had the same problem. We had the biodiversity accord scuttled during the summit in Rio because of outside, behind-the-scenes undermining of the U.S. support. We had the guidelines on disabled access to public housing weakened as a result of backdoor intervention that was not recorded and not very well known. I have a long list that goes on and on.

We believe that it is consistent with the spirit of the Administrative Procedures Act that should be kept when Government officials involved in writing regulations meet with private parties, attempting to influence the outcome of those regulations, and it might not always be illegal or subversive. It could be a good-faith meeting.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

(At the request of Mr. DOGGETT and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. What I am saying now is that every meeting or call between the private sector and the OMB

or the White House may not be subversive or ill-motivated. It may be a perfectly legitimate attempt to get a position or something on the record. What we want to know before the rule comes out is what happened, and that is what this does.

Mr. DOGGETT. If the gentleman will yield, if I understand, all you are really trying to do is take an Executive order that is in place now and put it into the statute, so we will be assured that any future administration would follow this principle of sunshine.

Mr. CONYERS. Precisely, that and no more, and we continue the rule in the Administrative Procedures Act which does not cover these kinds of activities once it leaves the agency and goes to OMB and to the White House and elsewhere in the executive branch.

Mr. DOGGETT. I have some other questions for you, but the most obvious question is why would anybody be against this? Surely this is an acceptable amendment, and it will not be necessary for us to talk further if it is acceptable to the sponsors of the legislation. Surely they do not have any argument against this.

Mr. CONYERS. Surely. We debated it in the full committee with not the complete success that got it or that would have gotten it included in the bill.

I would just like to make a couple of concluding remarks.

Because even the Reagan administration, what I have not quoted recently, in the so-called Graham memorandum governing regulatory review procedures by OMB, recognized the need to address the problem of secret off-the-record contacts.

Mr. GEKAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Michigan characterizes his amendment as a sunshine amendment. It is more like a sunstroke amendment. It paralyzes everybody with whom it comes into contact.

Having said that, in my characteristic way, even though I believe that this is trying to kill a fly with a sledge hammer, I find no great reason to oppose it. It simply will pile the agency up with more memos and more graphs that it has to contain in the file.

I am not saying to the gentleman that, as this bill moves farther, that I will not be consulting with him with an idea of how we can make the amendment better. I have some ideas. But for now, I will accept the amendment with no promise to him that I am going to stay in concert with him on this issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield to me?

Mr. GEKAS. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. I thank you for your unwavering, steadfast, and totally committed support that you bring from the other side to this amendment. And I assure the gentleman that we on the Judiciary Committee will work to keep the kinds of recording activities that this suggests to a minimum. We are talking about recording a phone contact or a meeting, not a complete recall of the entire transaction.

Mr. GEKAS. Reclaiming my time, by that statement, the gentleman acknowledges that this may be overinclusive. We will work to see what exactly the gentleman thinks might have to be required to be kept in the agency file.

Ms. JACKSON-LEE. Mr. Chairman, if the gentleman will yield, Mr. Chairman, let me just thank you very much for adding to, I think, what was offered as a conciliatory amendment, not to burden small businesses or to burden any other process under this legislation but simply it is a two-way street. I want to add my support to this amendment. It is to list not only those who are in the private sector but I think you will find it constructive that you would also list contacts from those from other government agencies or the executive branch or the White House, because that, too, has on occasion the opportunity to influence what goes on.

□ 1700

So, consider it a sunshine, not to burden the private sector or small businesses but as well as the gentleman has gleaned from it by his willingness to accept it, as well as a protection of the private sector from government intrusion.

So they too have knowledge of who is weighing in on various regulations. I think it is an excellent amendment. I appreciate the gentleman from Pennsylvania [Mr. GEKAS] in his receptiveness for what I think will add to the process by providing that sunshine on the issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. Seizing back my time, I yield further to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman for yielding further.

Mr. Chairman, having worked with the gentleman from Pennsylvania [Mr. GEKAS] on a variety of committees in the Committee on the Judiciary over a dozen years or more, I say it is true that his record as committee chairman in this new role—where I have not witnessed him before—on judiciary, it is true that his record as being a committee chairman in this leadership position that he is discharging it in a very excellent way and he deserves the accolades on that subject.

Mr. GEKAS. Mr. Chairman, I thank the gentleman from Michigan for his kind remarks.

Mr. Chairman, I would say to the Members we should vote in acceptance of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken, and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 23, not voting 5, as follows:

[Roll No 186]

AYES—406

Abercrombie
Ackerman
Allard
Andrews
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Mollohan
Montgomery
Moorhead
Moran

Morella	Rohrabacher	Taylor (MS)
Murtha	Ros-Lehtinen	Taylor (NC)
Myrick	Rose	Tejeda
Nadler	Roth	Thomas
Neal	Roukema	Thompson
Neumann	Roybal-Allard	Thornberry
Ney	Royce	Thornton
Norwood	Sabo	Thurman
Nussle	Salmon	Tiahrt
Oberstar	Sanders	Torkildsen
Obey	Sanford	Torres
Olver	Sawyer	Torricelli
Ortiz	Saxton	Towns
Orton	Scarborough	Traficant
Owens	Schaefer	Tucker
Oxley	Schiff	Upton
Packard	Schroeder	Velazquez
Pallone	Schumer	Vento
Parker	Scott	Visclosky
Pastor	Seastrand	Volkmer
Paxon	Sensenbrenner	Vucanovich
Payne (NJ)	Serrano	Waldholtz
Payne (VA)	Shadegg	Walker
Pelosi	Shaw	Walsh
Peterson (FL)	Shays	Wamp
Peterson (MN)	Shuster	Ward
Petri	Sisisky	Waters
Pickett	Skaggs	Watt (NC)
Pombo	Skeen	Watts (OK)
Pomeroy	Skelton	Waxman
Porter	Slaughter	Weldon (FL)
Portman	Smith (MI)	Weldon (PA)
Poshard	Smith (NJ)	Weller
Pryce	Smith (TX)	White
Quillen	Smith (WA)	Whitfield
Quinn	Solomon	Williams
Radanovich	Spence	Wilson
Rahall	Spratt	Wise
Ramstad	Stark	Wolf
Rangel	Stearns	Woolsey
Reed	Stenholm	Wyden
Regula	Stockman	Wynn
Reynolds	Stokes	Yates
Richardson	Studds	Young (AK)
Riggs	Stupak	Young (FL)
Rivers	Talent	Zeliff
Roberts	Tanner	Zimmer
Roemer	Tate	
Rogers	Tauzin	

NOES—23

Archer	DeLay	Linder
Armey	Doolittle	McIntosh
Baker (CA)	Ehlers	Molinari
Bereuter	Forbes	Myers
Bonilla	Hancock	Nethercutt
Coburn	Hayworth	Stump
Combest	Johnson, Sam	Wicker
Cooley	King	

NOT VOTING—5

Gonzalez	Moakley	Souder
Hunter	Rush	

□ 1719

Messrs. BAKER of California, LINDER, COBURN, COOLEY and HAYWORTH changed their vote from ''aye'' to ''no.''

Mrs. MYRICK and Messrs. NEUMANN, MANZULLO, BARR, and ROYCE changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 8, line 12, strike ''major'' and insert ''five percent''.

Mr. VOLKMER. Mr. Chairman, before I get into the amendment, I wish to commend the gentleman from Pennsylvania, the gentleman from Rhode Island and others, including members of the Committee on Small Business, who have worked very diligently on this legislation, however I guess one of my biggest problems is that I happen to have a bad habit, I guess, up here when I read the bills, and, as I read this bill, I find that there is something in here that I do not quite understand, and I am talking to the gentleman from Rhode Island and other Members that are on this side of judiciary. I find that the matter was not even discussed in committee because of limited time in markup, and I have come to the conclusion that the use of the word ''major'' where it is used is purely subjective, and it may mean something to the gentleman from Pennsylvania, and a completely different something to me, and a completely different something to the gentleman from Rhode Island or anybody else in this Chamber, and, as far as the regulatory bodies, it would mean different things to different people, and what it means to me is that, being so ambiguous, that we end up possibly with a bunch of lawsuits over it, and I do not think that is what the gentleman really wants and I do not want. Nobody wants that in here.

So, this is an attempt, and I will agree that it may not be the right figure, that 5 percent may not be a right figure, but it is an attempt to bring to the gentleman from Pennsylvania another what I consider a major problem. The bill says a major rule means any rule subject to section 553c or Administrative Procedures Act is likely to result in an annual effect on an economy of 50 million or more. I have no objection to that, none whatsoever. That makes sense. That is pretty easily readily identifiable, but then it goes on to say a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions.

Now what is a major increase in costs or price?

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, as the gentleman may recall, part of the drafting of our final bill here was as a result of lifting from the executive order issued by president Reagan and during his administration covering this same subject matter. Now since that time, right up until the time that we are having this colloquy, the agencies have built up a body of experience and files that have from time to time interpreted ''major.'' Now right or wrong, Mr. Chairman, there is a definition lurking out there among the agencies which they have applied or refused to apply because they determined it was not major. Now we are drawing on that body of experience in incorporating that phraseology into this language.

Further, Mr. Chairman, I would say that what the gentleman complains of, that it is ambiguous and so forth, occurs in every bill we have ever offered here, and the final arbiter, as in this legislation and what we specifically project for this legislation, those final arbiters result in judicial review. That is what we want. So where the individual small business person or an agency, executive director, conflict on what is major, the courts will finally decide that. So it is a reasonable effort here to give an alternative to the agencies to determine what is or what is not a major increase as we——

Mr. VOLKMER. That is again, I think, one problem, and I will not deny that has happened to other legislation that has passed through this body, that this body and the other body does not really want to address the issue. It is passed on to the regulators, and then we leave it up to them to decide, and then, if they do not decide right as far as some individuals who are being affected by the regulations are concerned, they file suit, and we end up in a court, and we let the court decide.

Well, Mr. Chairman, I ask, why can't we decide? Why can't we write it so we know what it means, and they know what it means, and everybody else knows what it means?

Mr. GEKAS. Mr. Chairman, if the gentleman would yield?

Mr. VOLKMER. Yes.

Mr. GEKAS. The gentleman has spoken eloquently in defense of the $50 million which is a stated amendment, and so we agree with him; no one can dispute that line. But the major increase or even a major rule or other phraseologies that we imply in this bill are always subject to court review, and any bill that my colleague has ever sponsored, any paragraph within that, is subject to judicial review. That is why we have it.

Mr. VOLKMER. Well, Mr. Chairman, what I have proposed in my amendment is less subject to a substantive determination than what we have here.

Mr. GEKAS. Mr. Chairman, will the gentleman yield on that?

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. VOLKMER. But the gentleman has admitted that the agencies—and I will not deny that they themselves have now over the period of years said what they think major means. Now I do not know that every agency agrees with each other as to what major means, and I do not say that the 5 percent increase that I put in cost of prices is the right amount, but it is much—it is like the 50 million. Whatever figure goes in, whether it is 5 percent, 10 percent, 20 percent, 15 percent, 12 percent or whatever it is that we want to do, that is really easily ascertainable. That is very easily ascertainable.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, the gentleman states as a fact that it would be easily ascertainable, but I think that

that could be as much subject to judicial review as the word ''major.'' In ''major'' we have a body of experience and files for a dozen years which can help the courts interpret 5 percent. Does that mean the overall cost? Does that mean profit cost? Does that mean 5 percent of the total package, 5 percent of a shipment? Does it mean 5 percent of the geographic region's products? So 5 percent itself is subject to judicial review and interpretation. When the consumer on the one hand says one thing, and the agency head says something else, and the small businessman says something different than what the 5 percent is that they are applying, and, as a matter of fact, our version has more precedent upon which the final decision can be made by the judge.

So, Mr. Chairman, I ask the gentleman to withdraw the amendment or I am going to ask the Members to soundly defeat this just to keep a kind of balance in what is already a part of the Executive order that we have transplanted from the Reagan Executive order to our bill.

□ 1730

Mr. VOLKMER. Mr. Chairman, I disagree with the gentleman. All I am attempting to do is make a little more sense out of a matter that the gentleman agrees it is left to the bureaucrat to make determination, and readily agrees with this language bureaucrats will continue to make the determination, not Members of Congress, and that if they do not make it the way some people agree to do, you have nothing but the Federal courts, so the judges make the decision. They may even disagree, depending on the rulemaking.

Mr. Chairman, at this time I think the House should decide whether they want a definitive matter in here or subjective. The gentleman says that the 5 percent is just subjective. I do not believe so. I think if I look at a price in a store or anyplace else and I can say that it is a 5-percent increase or a 3-percent increase or a 10-percent increase, I can figure it out better than if I see it is a major or minor increase.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes, but I do want to say that while I do not agree with the 5-percent figure in the gentleman's amendment, it does raise a significant issue. The gentleman thinks the figure ought to be 5 percent. I would probably think it ought to be 25 percent, and I think that really points up the issue that the gentleman is making here and bringing to us.

The problem is there is no definition of what that means in this bill, and the very sponsors of the bill who are saying we are trying to cut down on the authority of regulators and agencies to promulgate regulations come right around the corner and now say we are going to leave the definition of what is major up to the very regulators which we distrust.

So here we are again delegating responsibility, abdicating, I might say, responsibility that we ought to take as a body to define what we mean in a law to agencies, and then next month, next year, we will be right back here second-guessing the way they have exercised that authority that we have delegated to them. And this is a vicious circle we are engaged in.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AMENDMENT OFFERED BY MR. REED

Mr. REED. Mr. Chairman, I offer an amendment designated amendment A.

The Clerk read as follows:

Amendment offered by Mr. REED: On page 16, line 11, insert the following:

''SEC. 207. JUDICIAL REVIEW

Section 553 of Title 5, United States Code, as amended by section 206 is further amended by adding after subsection (k) the following:

(l)(1) When an action for judicial review is instituted—

(A) any regulatory impact analysis for such rule shall constitute part of the whole record of agency action in connection with the review; and

(B) the reviewing court may order an agency to prepare a final regulatory impact analysis for any final rule that the agency or the Director determined was a major rule (other than a rule described in subsection (k)) and for which the agency failed to prepare such analysis.

(2) Except as provided in (1), a regulatory impact analysis prepared for a major rule pursuant to subsection (i) and the compliance or noncompliance of an agency or the Director with the provisions of subsections (i) through (k) shall not be subject to judicial review.''

Page 16, line 12, strike ''207'' and insert ''208''.

Mr. REED (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. REED. Mr. Chairman, first let me say it is my intention to discuss briefly this amendment, because it is important, and then ask unanimous consent to withdraw it.

This amendment focuses on the issue of judicial review in title II of this legislation. It is an important issue because I think we are all concerned about having an economical judicial review process. The language now is not specific enough, and I would in this amendment make it more specific by making it clear that the review process would only be commenced upon final regulation of a rule and not somewhere or anywhere within the process itself.

I think that leads to a more efficient adjudication of the rules, it allows for a more coherent review by the judicial authorities, and it saves money for the American taxpayers.

In addition, this amendment would limit the review with respect to the regulatory impact analysis to the procedural aspects. Was it performed, did the agency act arbitrarily and capriciously in performing that analysis. It would not invite, encourage, require a battery of experts to battle over every detail, whether the tests should have been done on cats, dogs, are applicable to large people or small people, et cetera.

This is important legislation, and I would ask the gentleman from Pennsylvania [Mr. GEKAS] that as we consider this bill in the future that we would once again return to this issue of judicial review and ask with your good offices if we could once again study it.

Mr. GEKAS. Mr. Chairman, will the gentleman yield?

Mr. REED. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Chairman, I feel very strongly about the element of judicial review and have some trepidations about agreeing with the gentleman on any part of what you have just said. I am willing and want to discuss further the ramifications of what the gentleman is discussing here for some future debate with you.

I must tell the gentleman, judicial review in my judgment is the heart and soul of this legislation, and I will not be a party to shrinking it. But to improve the language, I would be glad to meet with the gentleman.

Mr. REED. Reclaiming my time, I am very sensitive to shrinking anything. So I do not want to shrink judicial review. I am a supporter of judicial review. I just want to make sure the review is efficient, cost effective, and reaches the merits on a final point and not several points in the process.

I believe with the gentleman's proffer of working together, we can work out these details. I hope I can persuade the gentleman this language or some version will be an improvement and not a detriment.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—PROTECTIONS

SEC. 301. PRESIDENTIAL ACTION.

Pursuant to the authority of section 7301 of title 5, United States Code, the President shall, within 180 days of the date of the enactment of this title, prescribe regulations for employees of the executive branch to ensure that Federal laws and regulations shall be administered consistent with the principle that any person shall, in connection with the enforcement of such laws and regulations—

(1) be protected from abuse, reprisal, or retaliation, and

(2) be treated fairly, equitably, and with due regard for such person's rights under the Constitution.

The CHAIRMAN. Are there any amendments to title III?

If not, are there any other amendments?

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to say we are winding down on this legislation. I want to again thank the gentleman from Rhode Island [Mr. REED] for his superb cooperation, and the minority members of the subcommittee. I would like to thank my staff, Ray Smietanka, Roger Fleming, and Charlie Kern, and even the gentleman from Alaska, who is watching these proceedings. I thank everybody in sight.

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

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. HASTERT) having assumed the chair, Mr. BARRETT of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 926) to promote regulatory flexibility and enhance public participation in Federal agency rulemaking, and for other purposes, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 415, nays 15, not voting 4, as follows:

[Roll No 187]

YEAS—415

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—15

Becerra
Bonior
Collins (IL)
Collins (MI)
Conyers
Dellums
Hastings (FL)
Hinchey
Johnston
McKinney
Nadler
Rangel
Waters
Watt (NC)
Waxman

NOT VOTING—4

Gonzalez
Hunter
Moakley
Rush

☐ 1758

Mr. HASTINGS of Florida and Mrs. COLLINS of Illinois changed their vote from ''yea'' to ''nay.''

Mr. MARKEY changed his vote from ''nay'' to yea.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

☐ 1800

ANNOUNCEMENT BY THE CHAIRMAN OF THE COMMITTEE ON RULES

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

Mr. SOLOMON. Mr. Speaker, the Rules Committee will be meeting on Friday, March 3, to grant rules for the consideration of H.R. 988, The Attorney Accountability Act, and H.R. 1058, The Securities Litigation Reform Act. H.R. 1058 was initially reported by the Commerce Committee as title II of H.R. 10 (Report 104–50, Part 1).

Each rule may include 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.

The amendments must still be consistent with House rules and are given no special protection by being printed.

If Members are interested in priority recognition they may wish to print their amendment to H.R. 988 in the RECORD prior to Monday, March 6 and their amendment to H.R. 1058 prior to Tuesday, March 7, when these bills are tentatively scheduled for consideration. It is not necessary to submit amendments to the Rules Committee or to testify.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted to the bill as reported from the committees of jurisdiction. Amendments should be titled, ''Submitted for printing under clause 6 of rule XXIII'' and submitted at the Speaker's table.

REQUESTING INFORMATION FROM THE PRESIDENT CONCERNING ACTIONS TAKEN TO STRENGTHEN THE MEXICAN PESO AND STABILIZE THE ECONOMY OF MEXICO

Mr. LEACH. Mr. Speaker, by direction of the Committee on Banking and Financial Services, and pursuant to the order of the House, I call up House Resolution 80 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 80

Resolved, That the President is hereby requested to provide to the House of Representatives, not later than 14 days after the adoption of this resolution, the following documents:

(1) Any document concerning the assured source of repayment to the United States for any short-, intermediate-, or long-term credit facility made available to Mexico after December 31, 1994.

(2) Any document concerning the net worth of Pemex, the historical annual revenues of Pemex, the projected annual revenues during the 5-year period beginning on the date of the adoption of this resolution, and the extent to which the proceeds from the sale of Mexican oil to customers within Mexico or outside of Mexico—

(A) are required to be paid to the Government of Mexico as taxes or as payments in lieu of taxes; or

(B) have been pledged as collateral for the repayment of any loans or other extensions of credit to the Government of Mexico or to Pemex other than any credit facility described in paragraph (1).

(3) Any document concerning the value of any oil the proceeds from the sale of which are pledged to assure the repayment of any financial assistance provided by the United States to Mexico, the documentation received by the United States in connection with such pledge, and the manner in which the United States may exercise any rights under such pledge to obtain the proceeds as repayment for losses incurred.

(4) Any document concerning any assurances given by the Government of Mexico to the United States Government with respect to changes in past economic policies or the adoption of a new economic plan.

(5) Any document concerning the decision by the President to use the assets of the exchange stabilization fund established under section 5302 of title 31, United States Code, in connection with any short-, intermediate-, or long-term credit facility made available to Mexico after December 31, 1994.

(6) Any document concerning the criteria used by the President or the Secretary of the Treasury in making any decision to use the assets of the exchange stabilization fund to respond to any economic, balance of payments, or exchange crisis in any country and the facts on which such determinations were made with respect to Poland, in 1989, and to Mexico in December of 1994 and early 1995.

(7) Any document concerning how the use of the assets of the exchange stabilization fund as a source of credit to Mexico compares with all prior uses of the assets of the fund since 1945 for all other countries under section 5302 of title 31, United States Code, with regard to—

(A) the dollar amount of each transaction;

(B) the type of the transaction, such as loan, loan guarantee, or swap agreement (as defined in section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act);

(C) the purpose of the transaction, such as whether it was to support the United States dollar, to support a foreign currency, or any other purpose;

(D) the duration, in years, of the transaction during which any credit was or is permitted to remain outstanding;

(E) any security or collateral pledged to assure repayment with respect to each such transaction; and

(F) the existence of any agreement involving the International Monetary Fund or the Board of Governors of the Federal Reserve System in connection with each such transaction and the terms of each agreement by such Fund or Board.

(8) Any document concerning debts owed by the Government of Mexico and any entity owned or controlled by the Government of Mexico to United States public or private creditors which are outstanding as of the date of the adoption of this resolution, the status of each such debt (including whether such debt has been refinanced), and the collateral or security pledged to assure repayment of such debt.

(9) Any document concerning an accounting of all the fund flows through the exchange stabilization fund established under section 5302 of title 31, United States Code, during the 24-month period ending on the date of the adoption of this resolution, including the identification of the amount of and purpose for each transaction involving such fund during such period.

(10) Any document concerning the balance of available assets in the exchange stabilization fund as of the date of the adoption of this resolution.

(11) Any document concerning the amount by which the total principal amount of loans, loan guarantees, and other extensions of credit which the President has announced will be made available to Mexico exceeds the total amount of available assets in the exchange stabilization fund established under section 5302 of title 31, United States Code, and the means for covering the shortfall, if any.

(12) Any document concerning the departure of the International Monetary Fund from the Fund's customary guidelines for country assistance, including any recommendation made by the President or any other officer or employee in the executive branch to the Fund regarding the amount of financial assistance the Fund was preparing to make available to Mexico, and any reciprocal agreement made by the executive branch to the Fund for making such assistance available in any amount greatly in excess of the customary guidelines.

(13) Any document concerning the factual circumstances pursuant to which the Bank for International Settlements has become a lender to individual countries beyond the Bank's customary role as a clearinghouse for central banks.

(14) Any document concerning the financial obligations of the Board of Governors of the Federal Reserve System to the Bank for International Settlements.

(15) Any document concerning the relationship among the Board of Governors of the Federal Reserve System, the Bank for International Settlements, and the central banks of other countries which are affiliated with such Bank in any manner with regard to assigning or apportioning the ultimate liability for any loss incurred in connection with the extension of credit by such Bank to the Government of Mexico.

(16) Any document, including minutes, concerning any meeting between the President and any Members of Congress concerning the proposed actions of the President, as announced on January 31, 1995, to strengthen the Mexican peso and support economic stability in Mexico.

(17) Any document concerning any discrepancy between the amount the President announced is available in the exchange stabilization fund established under section 5302 of title 31, United States Code, and the amount shown as being available in such Fund in the monthly statement of the public debt of the United States on December 31, 1994.

Mr. LEACH (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

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

There was no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore (Mr. GOODLATTE). The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute: Strike out all after the resolving clause and insert in lieu thereof the following:

That the President is hereby requested to provide to the House of Representatives (consistent with the rules of such House), not later than 14 days after the adoption of this resolution, the following documents in the possession of the executive branch, if not inconsistent with the public interest:

(1) Any document concerning—

(A) the condition of the Mexican economy; and

(B) any consultations between the Government of Mexico and the Secretary of the Treasury (or any designee of the Secretary), the International Monetary Fund, or the Bank for International Settlements.

(2) Any document containing—

(A) a description of the activities of the central bank of Mexico, including the reserve positions of such central bank and data relating to the functioning of Mexican monetary policy;

(B) information regarding the implementation and the extent of wage, price, and credit controls in the Mexican economy;

(C) a complete documentation of Mexican tax policy and any proposed changes to such policy;

(D) a description of all financial transactions, both inside and outside of Mexico, directly involving funds disbursed from the exchange stabilization fund and the International Monetary Fund, including transactions with—

(i) individuals;

(ii) partnerships;

(iii) joint ventures; and

(iv) corporations;

(E) a list of planned or pending regulations of the Government of Mexico affecting the private sector of the Mexican economy; and

(F) any efforts to privatize public sector entities in Mexico.

(3) Any document concerning any legal analysis with regard to the authority of the President or the Secretary of the Treasury under section 5302 of title 31, United States Code, the Bretton Woods Agreements Act, the Special Drawing Rights Act, the Gold Reserve Act of 1934, or any other law or legal authority to use the stabilization fund to implement the President's proposed Mexican support package.

(4) Any document concerning any legal opinion regarding the applicability or nonapplicability of the provisions of the Federal Credit Reform Act of 1990 to the exchange stabilization fund.

(5) Any document concerning any agreement between the United States and the Government of Mexico (or any other appropriate Mexican entity) to provide assured sources of repayment for all payments by the United States in connection with any short-, intermediate-, or long-term credit facility made available to Mexico after December 31, 1994.

(6) Any document concerning the implementation by the President and the Secretary of the Treasury (or any designee of the Secretary) of the authority under section 5302 of title 31, United States Code, with respect to any credit facility described in paragraph (5).

(7) Any document concerning efforts by the international community to stabilize the economy of Mexico and the current status of negotiations with other countries to improve the capacity of international institutions to handle similar crises.

(8) Any document concerning the extent to which Mexico is complying with the terms and conditions agreed to in connection with the exercise of the authority under section 5302 of title 31, United States Code, with respect to any credit facility described in paragraph (5), including any document concerning the extent to which—

(A) the Government of Mexico has agreed to use the proceeds of any loan which has been made, or any security for which any guarantee has been issued, through any such facility to help strengthen the Mexican peso and help stabilize financial and exchange markets by facilitating the refinancing or redemption of short-term debt instruments issued by the Government of Mexico;

(B) the Government of Mexico has agreed to provide—

(i) a comprehensive financial plan which includes a description of the intended use of any such loan or security; and

(ii) ongoing reports on the implementation of the financial plan while any such loan or security is outstanding;

(C) the Government of Mexico is respecting the autonomy of the central bank of Mexico and the mandate of such bank to seek stability with respect to the purchasing power of the Mexican peso;

(D) the central bank of Mexico is pursuing a noninflationary monetary and credit policy that controls credit expansion and the growth of the Mexican money supply in order to maintain the Mexican peso as a strong currency;

(E) the central bank of Mexico is providing on a periodic basis to the Board of Governors of the Federal Reserve System and other appropriate governmental entities information necessary to make an assessment with respect to the policy described in subparagraph (D), including central bank money supply and monetary policy data;

(F) the Government of Mexico is implementing the privatization policy established by such Government to transfer enterprises currently owned or controlled by the Government to private ownership;

(G) the Government of Mexico continues to permit entry of foreign direct investment into Mexico and the repatriation of investments from Mexico by United States nationals; and

(H) the Government of Mexico is pursuing market-oriented measures to stem the flow of domestically owned capital from Mexico.

(9) Any document concerning any analysis of the resources which the International Monetary Fund has agreed to make available in response to the Mexican financial crisis.

(10) Any document concerning—

(A) the percentage of the resources which the International Monetary Fund has agreed to make available in response to the Mexican financial crisis which are attributable to capital contributions to such Fund by the United States; and

(B) the extent to which the participation of the International Monetary Fund in international efforts to strengthen the Mexican peso and stabilize the economy of Mexico is likely to require additional contributions to such Fund by the member states of the Fund, including the United States.

(11) Any document concerning any agreement between the United States and the Government of Mexico detailing the fee structure and the terms and conditions under which loans, loan guarantees, and other financial support may be made available to Mexico through the stabilization fund established under section 5302 of title 31, United States Code, including—

(A) any document concerning background materials on the assessment of the Mexican economy and any United States Government rationalization for pressing the central bank of Mexico to increase interest rates from 40 percent to 50 percent;

(B) any document concerning the framework agreement entered into on or about February 21, 1995, which serves as the umbrella accord for the provision of any such loan, loan guarantee, or other financial support;

(C) any document concerning the medium-term exchange stabilization agreement entered into on or about February 21, 1995, which specifies the terms and conditions for medium-term swap transactions between the United States and Mexico;

(D) any document concerning the guarantee agreement entered into on or about February 21, 1995, which specifies the terms and conditions for the issuance of guarantees by the United States of debt securities issued by Mexico; and

(E) any document concerning the oil proceeds facility agreement entered into on or about February 21, 1995, which establishes a mechanism to provide an assured source of repayment of United States resources.

(12) Any document concerning the assured source of repayment to the United States for any short-, intermediate-, or long-term credit facility made available to Mexico after December 31, 1994.

(13) Any document concerning the net worth of Pemex, the historical annual revenues of Pemex, the projected annual revenues during the 5-year period beginning on the date of the adoption of this resolution, and the extent to which the proceeds from the sale of Mexican oil to customers within Mexico or outside of Mexico—

(A) are required to be paid to the Government of Mexico as taxes or as payments in lieu of taxes; or

(B) have been pledged as collateral for the repayment of any loans or other extensions of credit to the Government of Mexico or to Pemex other than any credit facility described in paragraph (12).

(14) Any document concerning the value of any oil the proceeds from the sale of which are pledged to assure the repayment of any financial assistance provided by the United States to Mexico, the documentation received by the United States in connection with such pledge, and the manner in which the United States may exercise any rights under such pledge to obtain the proceeds as repayment for losses incurred.

(15) Any document concerning any assurances given by the Government of Mexico to the United States Government with respect to changes in past economic policies or the adoption of a new economic plan.

(16) Any document concerning the decision by the President to use the assets of the exchange stabilization fund established under section 5302 of title 31, United States Code, in connection with any short-, intermediate-, or long-term credit facility made available to Mexico after December 31, 1994.

(17) Any document concerning the criteria used by the President or the Secretary of the Treasury (or any designee of the Secretary) in making any decision to use the assets of the exchange stabilization fund to respond to any economic, balance of payments, or exchange crisis in any country and the facts on which such determinations were made with respect to Poland, in 1989, and to Mexico in December of 1994 and early 1995.

(18) Any document concerning how the use of the assets of the exchange stabilization fund as a source of credit to Mexico compares with all prior uses of the assets of the fund since 1945 for all other countries under section 5302 of title 31, United States Code, with regard to—

(A) the dollar amount of each transaction;

(B) the type of the transaction, such as loan, loan guarantee, or swap agreement (as defined in section 11(e)(8)(D)(vi) of the Federal Deposit Insurance Act);

(C) the purpose of the transaction, such as whether it was to support the United States dollar, to support a foreign currency, or any other purpose;

(D) the duration, in years, of the transaction during which any credit was or is permitted to remain outstanding;

(E) any security or collateral pledged to assure repayment with respect to each such transaction; and

(F) the existence of any agreement involving the International Monetary Fund or the Board of Governors of the Federal Reserve System in connection with each such transaction and the terms of each agreement by such Fund or Board.

(19) Any document concerning debts owed by the Government of Mexico and any entity owned or controlled by the Government of Mexico to United States public or private creditors which are outstanding as of the date of the adoption of this resolution, the status of each such debt (including whether such debt has been refinanced), and the collateral or security pledged to assure repayment of such debt.

(20) Any document concerning an accounting of all the fund flows through the exchange stabilization fund established under section 5302 of title 31, United States Code, during the 24-month period ending on the date of the adoption of this resolution, including the identification of the amount of and purpose for each transaction involving such fund during such period.

(21) Any document concerning the balance of available assets in the exchange stabilization fund as of the date of the adoption of this resolution.

(22) Any document concerning the amount by which the total principal amount of loans, loan guarantees, and other extensions of credit which the President has announced will be made available to Mexico exceeds the total amount of available assets in the exchange stabilization fund established under section 5302 of title 31, United States Code, and the means for covering the shortfall, if any.

(23) Any document concerning the departure of the International Monetary Fund from the Fund's customary guidelines for country assistance, including any recommendation made by the President or any other officer or employee in the executive branch to the Fund regarding the amount of financial assistance the Fund was preparing to make available to Mexico, and any reciprocal agreement made by the executive branch to the Fund for making such assistance available in an amount greatly in excess of the customary guidelines.

(24) Any document concerning the factual circumstances pursuant to which the Bank for International Settlements has become a lender to individual countries beyond the Bank's customary role as a clearinghouse for central banks.

(25) Any document concerning the financial obligations of the Board of Governors of the Federal Reserve System to the Bank for International Settlements.

(26) Any document concerning the relationship among the Board of Governors of the Federal Reserve System, the Bank for International Settlements, and the central banks of other countries which are affiliated with such Bank in any manner with regard to assigning or apportioning the ultimate liability for any loss incurred in connection with the extension of credit by such Bank to the Government of Mexico.

(27) Any document concerning any discrepancy between the amount the President announced is available in the exchange stabilization fund established under section 5302 of title 31, United States Code, and the amount shown as being available in such Fund in the monthly statement of the public debt of the United States on December 31, 1994.

(28) Any document concerning conditions which were put on the credit facilities made available to Mexico through the exchange stabilization fund or the Board of Governors of the Federal Reserve System that were requested by members of the investment community.

Mr. LEACH (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Iowa [Mr. LEACH] is recognized for one hour.

Mr. LEACH. Mr. Speaker, under the Rules and the rule of the House, I have been granted as chairman of the committee of jurisdiction 60 minutes for purposes of debate only. It is my intention to divide the time equally with my distinguished colleague, the gentleman from New York [Mr. FLAKE].

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

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

Mr. LEACH. Mr. Speaker, the House of Representatives has before it House Resolution 80, a privileged resolution of inquiry introduced by the gentlewoman from Ohio, Ms. KAPTUR, and modified by the committee of jurisdiction, particularly under the leadership of Mr. KING, who introduced a resolution of similar intent.

House Resolution 80 requests the President to provide the House with documents relating to the administration's use of the Exchange Stabilization Fund [ESF] and the administration's proposal to stabilize the Mexican peso.

The documents are to be provided no later than 14 days after the adoption of the resolution by the House.

According to rule 22, clause 5, of the Rules of the House of Representatives, House Resolution 80 is considered to be a resolution of inquiry, which requires the committee of jurisdiction to act on the resolution within 14 legislative days after its introduction. House Resolution 80 was introduced and referred to the Committee on Banking and Financial Services on February 10, 1995, with action taken on February 23, 1995.

Under the rules and precedents of the House, a resolution of inquiry is the means by which the House requests information from the President of the United States or the head of one of the executive departments.

According to ''Deschler's Procedure'' it is a ''simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch.''

The effectiveness of a resolution of inquiry derives from the comity extended by one branch of government to another, and not from any legal obligation.

Under Rule 22, the practice of the House gives a resolution of inquiry a privileged status. To enjoy the privilege a resolution should call for facts rather than opinions, should not require investigations, and should not present a preamble.

Turning from procedure to substance and the implicit policy question at issue in the resolution—the President's decision to utilize up to $20 billion in resources from the ESF to help stabilize the Mexican currency and financial system—it is my view that the U.S. government has sufficient legal authority to enter into the framework agreements signed with the Government of Mexico on February 21. Nevertheless, Members on both sides of the aisle have reflected differing views on this sensitive issue of judgment.

Whatever one's perspective on the legal basis of Administration decision-making, the scale of the proposed ESF swap and guarantee arrangements with Mexico are of such an unprecedented magnitude that unprecedented accountability is in order. It is therefore the obligation of Congress and the Committee of jurisdiction in particular to review how Mexico got into this dilemma and what obligations the U.S. Government has undertaken to resolve the crisis. It is also the obligation of this Congress to assess why and how Mexico lost its way and whether the U.S. government failed to recommend or insist that Mexican officials follow a less bumpy road.

In this regard, let me stress this resolution of inquiry is of a fact-finding nature. It looks to the basis of policy without having the effect of changing administration commitments. Nothing, in other words, in this approach jeopardizes the stabilization package itself. But there should be no doubt that many citizens of the United States as well as of Mexico wonder if their governments let them down and question whether, in a new interrelated financial world, elitist decisions beyond effective citizen control hold consequences for their families' standards of living.

There also should be no doubt that if the U.S. Government had failed to act, an international economic crisis could have been precipitated which would have had extraordinary job loss consequences in America and around the world.

Hence the rationale for this resolution, as well as language in the Committee report suggesting bipartisan Member interest in ongoing, detailed reporting by the Executive Branch on implementation of the United States and international financial package for Mexico.

Here it is the view of this Member that in Mexico a government of thoughtful economists made thoughtless economic mistakes. While Mexican policymakers were thoroughly correct in pursuing fiscal and macroeconomic reforms designed to foster an open market economy, the government of Mexico also chose to ignore economic reality throughout most of 1994 in order to put off tough economic decisions which might have included a higher interest rate or more restrained money supply environment or, lack thereof, devaluation of the peso prior to a presidential election.

In this context, one of the lessons of the Mexican financial crisis would appear to be that putting off resolution of economic problems of a potentially systemic nature generally increases economic costs, in this case dramatically. Mexico's attempt to protect the value of what the markets determined to be an overvalued peso cost their treasury approximately $25 billion, and substituting (dollar-indexed) tesebonos for (peso-denominated) cetes cost Mexico a comparable sum. Using public monies to protect the pride and ambitions of Mexican politicans thus cost the Mexican people almost $50 billion, and precipitated a run on the peso that has unfortunate consequences for real personal purchasing power and broader economic growth.

Here in Washington, post mortem assessments of the Mexican crisis have featured a clash of two divergent economic perspectives.

One group of eminent economists has argued that Mexico's decision to devalue the peso was inappropriate and should have been avoided at all costs.

While most Americans as well as Mexicans favor a strong Mexican currency, the trouble is the government of Mexico squandered some $25 billion in foreign reserves and incurred another $25 billion liability defending the peso against market forces. The U.S. government might well have incurred similar liabilities in December 1994 if it had also attempted a desperate defense of a fixed peso valuation of 3.5 to the dollar, in the aftermath of the Mexican government's decision to increase, to the extent that it did, the money supply in 1994.

The establishmentarian economic view, on the other hand, is far more congenial to a floating or flexible exchange rate policy. But here too there is a problem for policymakers, in that officials in Mexico City refused to allow greater exchange rate flexibility on a timely basis, presumably out of concern for electoral backlash. Washington, it would appear, capitulated to

the Mexican government's perspective: perhaps out of a desire to subtly influence the Mexican election; perhaps out of a desire to avoid destabilizing shocks in the context of consideration of NAFTA, ratification of the Uruguay Round, and the December 1994 summit of the Americas in Miami; or perhaps because Washington simply didn't know that the Mexican central bank had increased the peso supply in 1984 at a far greater clip than the Federal Reserve had allowed the money supply in the United States to grow.

Whatever the reason and whatever economic camp one is in, Washington clearly erred in turning a blind eye or flinching before Mexican decision-making. Any defense of the Mexico City-Washington policy in 1994 with respect to the peso is rooted in a catch-22: a policy of fixed exchange rates failed, while a policy of flexible exchange rates was implemented in such an untimely and confidence-shattering manner as to precipitate a financial crisis.

The reason this discourse matters and the reason this resolution of inquiry is in order is to make clear that abstract macroeconomic decision-making holds real consequences for real people, in this case the American taxpayer as well as the Mexican public. When the American taxpayer is made liable, especially by decisions made outside the normal legislative process, it is incumbent that disclosure of all relevant facts and perspectives be full and complete. Accordingly, I urge passage of the King-Kaptur resolution.

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

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

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

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

Mr. Speaker, I commend the Chairman of the Banking Committee, as well as the many Members on both sides of the Committee and in the House who tirelessly worked on the issue of the Mexico loan guarantee.

House Resolution 80, the Mexico loan guarantee inquiry, was reported out of the Banking Committee last week and has been agreed to by the leadership on both sides of the aisle and both sides of the Capitol.

I must say that some members of the Banking Committee felt that the resolution was not necessary in light of the current monthly reporting requirements to the Committee. For instance, the Committee is provided with a monthly activity report on the Economic Stabilization Fund which any Member may access.

However, on the whole, I believe that the Committee was able to reach an agreement that may be acceptable to most Members. Therefore, as the ranking member of the Subcommittee on Domestic and International Monetary Policy, I support the resolution.

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

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

(Mrs. ROUKEMA asked and was given permission to revise and extend here remarks.)

Mrs. ROUKEMA. Mr. Speaker, the Clinton administration's use of the Economic Stabilization Fund to aid the Mexican economy is unprecedented and demands oversight and accountability, especially in light of recent revelations about the political and economic corruption permeating the country of Mexico. Sailing into these unchartered waters with guarantees of $20 billion in loans is a rather daunting responsibility. However, Congress held numerous hearings on how the United States Government should handle the economic crisis in Mexico and could not reach any consensus on how to resolve the situation. I firmly believe that the executive branch had very little choice but to use the Economic Stabilization Fund to ease growing tensions in the global financial markets and to restore confidence in the Mexican economy and other emerging economies.

Although the administration's use of the ESF to aid Mexico is unusual, I believe that there is sufficient legal authority for it to do so and I am pleased that this is an issue that the resolution addresses by specifically requiring a legal opinion from the Treasury Department. The resolution also seeks a range of documentary materials, from the President including those that concern the status of the Mexican economy, contacts between the Mexican Government and the Treasury Secretary or international lending organizations, disbursements from the Exchange Stabilization Fund, and the oil revenue guarantees offered by the Mexican Government.

Given the large amount of money that is being committed by our Government to aid Mexico, it is not unreasonable to ask the executive branch to account for how the funds are being disbursed to calm any suspicions that the American public has over the administration's package.

I support House Resolution 80 because it gives Congress the tools to ensure the accountability of the executive branch as it implements its plan to stabilize the Mexican economy. Finally, I believe that it is critical to the more than 700,000 United States citizens that rely on jobs related to exports to Mexico.

Mr. FLAKE. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Ohio [Ms. KAPTUR] a former member of the Committee on Banking and Financial Services, who is the underlying sponsor of this resolution.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from New York for yielding time to me, Mr. Speaker, I also thank the gentleman from Iowa [Mr. LEACH] and I rise in strong support of House Resolution 80, our resolution of inquiry to investigate the $52 billion Mexican rescue package.

Members of Congress should not have had to fight this hard nor wait this long to achieve this first vote on a matter of such profound economic and political consequence to our people and to our continent.

Having gotten this far, Mr. Speaker, despite fierce opposition from the leadership of this House and the administration is a clear initial victory for the American people and our tax-paying public over powerful, monied interests who would wish to muzzle our voices.

I will be entering in the RECORD an article that appeared in the Washington Post today on page C–1, in confirmation of what I am saying.

Today's vote will be a victory for every working family that obeys the laws, pays the taxes, and fights the wars. Today's vote should signal a political change to those powerful special interests that have for too long written the rules of banking and trade, who have given away our jobs, and then had to call on our U.S. Treasury to bail out their mistakes.

Let me remind my colleagues, this is a first vote. We must continue our efforts and pass other bills strictly proscribing the authority of the executive branch over the Exchange Stabilization Fund, so that it can no longer be used as an unauthorized form of back door foreign aid.

I am proud that this House and this Committee on Banking and Financial Services will go on record today as the first branch to begin doing its job. The recent action by the U.S. Treasury is absolutely unprecedented in both magnitude and duration. It is 20 times larger than the largest prior use of this particular fund.

Never has it been the will of Congress to provide the Executive Branch with unlimited authority of this sort. In the past, we have used the fund for intervention in exchange markets and for very short-term loans, usually bridged to a guaranteed repayment in hard currency.

No amount of United States taxpayer money will solve Mexico's problems, which are rooted in deep-seated political corruption, as today's papers remind us, the lack of rule of law, and mismanaged economic programs for decades.

□ 1815

Thus Congress through this resolution must demand answers for our people to questions like, what is the full extend of United States taxpayers' exposure to the deepening crisis in Mexico?

Since Mexico owes nearly $200 billion, how deep can the United States promise extend?

Which United States creditors will benefit from the rescue package with which Mexico still holds outstanding debts?

How solid is Mexico's oil pledge as collateral and how solvent is Pemex?

Will there be new U.S. appropriations required to the IMF and the Bank for International Settlements?

The American people have a right to know how their money is being risked and spent. Nothing is more important than the integrity of our Constitution, the prerogatives of this House which protect the interests of all Americans rather than the rich and powerful few.

Let me say there, four men do not make a House of Representatives.

If this rescue package is as necessary as we are being told it is, then we deserve to have our questions answered.

As economist Jeff Faux reminds us, there have been other moments in our history when Washington's best and brightest led the Nation step by step into a disaster. Remember the Vietnam war, when we were assured at each stage of the escalation that the new expansion would solve the problem?

With Mexico first came the Brady debt buyout plan, then came NAFTA, now comes the bailout.

As with Vietnam, we have a domino theory. If the peso is not propped up, investor confidence will collapse throughout the world, throughout Latin America.

As in Vietnam, commonsense questions go unanswered. If the loan is so secure, why are private banks not willing to put up the money?

As in Vietnam, the mistakes of elites are being paid for by the ordinary people of both countries, lost jobs, lost incomes, lost hopes, lost business.

And as with Vietnam, we have had to fight a war in this Chamber to even get this vote.

I urge my colleagues to vote ''yes'' on this resolution requesting the executive branch to provide the House not later than 14 days after the adoption of this resolution the information we are seeking.

We must work the will of the people here today. Vote ''yes'' on House Resolution 80.

Mr. Speaker, I include the following for the RECORD:

[From the Washington Post, March 1, 1995]

FUND USED FOR PESO FACES SCRUTINY

(By Clay Chandler)

When Treasury Secretary Robert E. Rubin and Federal Reserve Board Chairman Alan Greenspan went to Congress in January asking approval for a $40 billion, U.S.-led bailout for Mexico, several Republican lawmakers offered what they thought was a better idea: Rather than risk a messy political brawl, why not tap the Exchange Stabilization Fund, a little-known Treasury Department reserve over which Rubin had almost sole control?

At a late-afternoon meeting in the office of House Speaker Newt Gingrich (R-Ga), Rubin, Greenspan, and Treasury Undersecretary Lawrence H. Summers dismissed the suggestion as impossible, participants recall.

But three weeks later, with its bailout proposal mired on Capitol Hill and the Mexican government hurtling toward bankruptcy, the administration abruptly changed its view.

On Jan. 31, President Clinton announced he was extending the Mexican government an unprecedented $20 billion in loans and loan guarantees—some of them for as long as 10 years—by drawing on the very Exchange Stabilization Fund (ESF) Rubin had said could not be used.

Now lawmakers are calling for hearings over whether the administration's use of the obscure Treasury fund violates the law. The Exchange Stabilization Fund ''is not the president's personal piggy bank,'' Senate Banking Committee Chairman Alfonse M. D'Amato (R-N.Y.) thundered in a Senate speech last week.

On that January afternoon and in subsequent discussions, Rubin, Greenspan and Summers argued that using the fund would stretch the limits of the law and precedent, participants recall. The fund's primary purpose, they said, was for short-term currency transactions to bolster the dollar—not to rescue cash-strapped foreign governments. In any case, they calculated the $25 billion fund was too small to address Mexico's problem by itself.

But as events unfolded, administration officials reconsidered. A last-minute $18 billion offer from the International Monetary Fund, along with the money in the ESF, provided the credit administration officials deemed necessary to stabilize the peso.

''They needed a way out . . .'' a House Republican involved in the discussions said of the change: ''They obviously looked at the ESF at the outset and said, 'There's no way.' But when pressed, they went back and said, 'We haven't been sufficiently creative in our interpretation of the law.' ''

The night before Clinton announced the new rescue plan, Gingrich, House Banking Committee Chairman Jim Leach (R-Iowa), Senate Majority Whip Trent Lott (R-Miss.) and Sen. Robert F. Bennett (R-Utah) met and agreed that the administration's bailout plan was in deep trouble. One of the lawmakers telephoned Rubin and raised use of the fund again, according to Treasury and congressional sources.

Rubin said Greenspan and others had advised him it would be politically unwise to tap the fund without congressional approval. ''What if I told you that no one in Congress is going to complain?'' the lawmaker asked.

''That would change things entirely,'' Rubin replied, the sources said.

But now, members of Congress are complaining. D'Amato has vowed to make the fund's legal status a focus of hearings later this month.

Last night, a Treasury Department official lamented that ''many members of Congress are now criticizing us for what [other] members asked us to do'' earlier.

Most of the past fund loans to foreign governments have been for less than $1 billion. The 1934 law establishing the fund restricts loans to foreign governments to six months unless the president ''gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than six months.''

Clinton has deemed the Mexican case an emergency, arguing the Latin nation has broad commercial and social links to the United States and a Mexican default might have triggered a global financial meltdown.

Many legal experts doubt opponents could overturn the administration's decision to lend ESF money to Mexico on strictly legal grounds. The fund is ''under the exclusive control of the secretary,'' the statute states, adding, ''decisions of the secretary are final and may not be reviewed by another officer or employee of the government.''

That is not likely to silence congressional critics. D'Amato is likely to use hearings to question whether the funds for Mexico are really foreign aid—a use expressly prohibited by law.

In a 14-page brief to D'Amato's committee, Treasury Department General Counsel Edward S. Knight said, ''Treasury has taken steps to assure that there is a source of repayment'' of the Mexican loans. But the lending agreement Rubin signed with Mexico's government last week describes the Mexican oil proceeds that secure the U.S. loans as ''assured sources of repayment'' rather than collateral—an artful turn of phrase opponents say reflects the shakiness of U.S. claims on Mexico should the country fail to repay its debts.

Last week, Senate Majority Leader Robert J. Dole (R-Kan.), who initially endorsed the use of the ESF, expressed concern about using the fund to prop up the Mexican banking system. ''The Treasury Department needs to be very careful in the use of funds from the Exchange Stabilization Fund,'' Dole said in a statement. ''I am not convinced that thrusting the United States into the middle of a Mexican banking crisis is prudent or necessary.''

Mr. LEACH. I yield 1½ minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. I thank the gentleman for yielding me the time.

Let me say this. This is one small step in the right direction, one very small step. I think it is important for us to get the information from the administration. This is a $20 billion bailout. The Republicans made a Contract With America and Clinton made a contract with Mexico. But I guess what really bothers me is that this is going to be tough on the American taxpayer and the people of Mexico. It is a win-win for the billionaires. There are more billionaires per capita in Mexico than any other country in the world and they are coming out in great shape. They took $3 billion out of Mexico before the devaluation. We also find out that Templeton, the day before the collapse, took their money out of Mexico. All the smart money left Mexico. But Clinton put American taxpayers' dollars into Mexico. That is what bothers me. I think it is important to point out that this is working Americans' taxpayer dollars.

Mr. Speaker, all the smart money got out of Mexico. Then our Government went into Mexico. It is like rowing out to the *Titanic* and getting onto the ship and wondering why everybody else is going the other way. This is not smart policy. We are never going to see this $20 billion. This is a stabilization fund. What happens if our dollar gets into trouble? We could have used these billions of dollars to shore up our dollar. What happens when our dollar goes down as it has gone down in the past? What are we going to do to shore up the dollar? This is going to have far-reaching implications.

Mr. FLAKE. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman from New York [Mr. FLAKE] for yielding me the time. I rise in support of House Resolution 80 introduced by our colleague, the gentlewoman from Ohio.

Mr. Speaker, earlier in this session we had the opportunity to in fact uphold the Speaker's ruling that this measure and debate, should be considered by the committee, should be worked on and deliberated on by the committee, and I think the committee product has improved the measure and reviewed the contents of it.

The plain intent of this particular inquiry resolution is to deliver information to the House of Representatives and to the American people. I think that is appropriate.

I think in the past when Members have asked questions in committee, I have found that there often is a rather careless attitude with regard to the response of those questions from the members of the committee and specifically even when asked at open hearings, that the answers come back frankly in a fashion that does not provide timely information to the Members.

Mr. Speaker, I support the actions of the administration in terms of attempting to deal with the solution or find a solution to the problem with regards to the Mexican economy. I was no fan of NAFTA. I was no fan of some of the interventionist activities. But I think what this intervention points out is the dynamic nature and the related nature of the global economy. Certainly one that is south of our border in Mexico, with significant ramifications on the United States economy that demands our attention.

Whether this is the best way to go, through the Exchange Stabilization Fund, Mr. Speaker, or through some other international facility, I think that really needs to be explored. It is clear to me that this was not the first solution proposed. In fact, they tried, and that is to say, the administration and the other economic entities, the Federal Reserve Board at the Federal level, tried a number of solutions to solve this serious problem.

One solution would have been a loan guarantee proposal acted upon by the Congress, and Congress would have had a debate upon that measure. But the necessity of acting, the urgency of acting, and the importance to the American people eclipsed this proposal. Literally hundreds of thousands of jobs depend upon the economic success of Mexico in the United States, work in the United States depends upon the viability of the Mexican economy.

I am well aware, and I would agree with my colleagues that point out the political instability and the social problems in Mexico. In fact, it was the very nature of those concerns that we would like to have seen structured in any type of loan guarantee and agreement. But I am hopeful that these issues will be taken into consideration.

This is not only about monetary policy and the peso. It is about people in Mexico. It is about human rights. It is about labor. It is about the myriad of other issues that affect the Mexican country. We all want to see Mexico be successful and to play a positive role.

The problem with Mexico is not that it is unable or does not have a sound economy. It has serious, serious problems as a growing and developing nation. It is a sound economy. Mexico has a liquidity problem in terms of short-term debt that has caused this crisis, and I am confident based on the type of agreement that has been reached that we will get our dollars back and these will be legitimate loans.

I think Congress is entitled to the information requested in this resolution of inquiry. We ought to have such data. I commend the gentleman, the chairman LEACH and the ranking member FLAKE for their work on this matter and urge support for the resolution.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, from one end of this deal to the other, it does not pass the smell test. It just does not fit, it does not work, the pieces do not fit, and what we have heard from this administration is just a lot of double talk.

This resolution, if it passes, will force this administration to answer the questions about this deal from the very beginning. Does it even have basis in fact? Does it even have basis in law? And at the other end, Mr. Speaker, where are the guarantees, where is the road map that leads us to recover these moneys when and if this deal goes bad?

Mr. Speaker, this is an essential first step in forcing this administration to come clean on the Mexican bailout. Now, not tomorrow, not mañana, but now. They have to come clean and let this Government and this American people know what they are doing, why they have done it, why and on what basis they are proceeding.

Mr. FLAKE. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont [Mr. SANDERS], a distinguished member of the Committee on Banking and Financial Services.

Mr. SANDERS. Mr. Speaker, as cosponsor of the original Kaptur resolution and as somebody who offered I think a very important amendment as a part of the Committee on Banking and Financial Services markup for this bill, I strongly support this resolution.

There are three basic points that I would like to make:

No. 1, at a time when Members of Congress are proposing cutbacks in School Lunch Programs, in Breakfast Programs, in programs which hurt the most vulnerable people in our society, because the claim is we do not have enough money to provide those programs, it seems to me to be absolutely irresponsible to put one penny at risk in attempting to bail out the unstable Mexican economy and the unstable Mexican Government. We have more than enough problems here at home. Let us pay attention to those problems.

Second of all, not only is the concept of the bailout wrong, it is an absolute outrage that the President and the Republican leadership would suggest that they can make the bailout going through the Exchange Stabilization Fund and not come to the U.S. Congress for a debate and a vote. It is no secret why they did not come to Congress for a vote, and the reason is, they would have lost that vote.

The third point that I would want to make is, as important as this resolution of inquiry is, it is only, and must be understood to be only a first step. We have got a long way to go.

My sincere hope is that the gentleman from Iowa [Mr. LEACH] will allow my legislation, H.R. 867, to be considered by the Committee on Banking and Financial Services and come to a vote on the floor. What that bill would require is that this bailout package and other uses of the Exchange Stabilization Fund must be approved by the U.S. Congress and the people before one penny could be spent.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE] who as always has exerted enormous leadership on every issue that affects the state of Mexico.

Mr. KOLBE. I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support and thank the gentleman the chairman of the Committee on Banking and Financial Services for the outstanding work that he has done on this. I rise in support of this resolution of inquiry. We should know the facts, we should get the information. We can make policy only when we have good information in front of us and this should be a necessary step.

But there has been a lot of I think loose facts thrown around on this floor, a lot of misinformation in the last few days on this subject, and I would like to just concentrate my remarks on one area tonight rather than talking specifically about the loan guarantees or the package that has been negotiated, the suggestions of the connection between what we are doing here or what has happened in Mexico and that of free trade itself or the North American Free-Trade Agreement.

The peso crisis in Mexico was caused by bad monetary policy in that country, not by free trade, not by NAFTA. Mexico has been running a trade deficit for a number of years. Trade deficits do not cause a currency to fall in value. Mexico could finance a trade deficit just as we have been financing a trade deficit for 20 years now, because foreign investment continues to flow into the country in order to finance it.

Unfortunately, what happened in 1994 was a series of three political crises, boom, boom, boom, which hit Mexico, and caused the problem, combined with the rise of interest rates in this country which caused investment to stop flowing into Mexico, to start flowing out.

There obviously was a solution to it. The correct but the difficult choice for the Mexican Central Bank would have been to contract the Mexican money supply to reflect the fall in investment. However, that would have caused a recession, a big recession during an election year. I am sure it is not unknown to Members of this body that we, or the administration, have jawboned the Fed from time to time to try to hold down interest rates in an election year.

There is more independence perhaps for our Fed than there is for the Central Bank in Mexico though it now has constitutional guarantees of independence, but in any event for political reasons, they did not bring down the interest rates. They should have. The answer to the problem in Mexico is that they should depoliticize the monetary policy as they have their trade policy.

□ 1830

Mr. FLAKE. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from North Carolina [Mr. WATT], a member of the Committee on Banking and Financial Services.

Mr. WATT of North Carolina. Mr. Speaker, I voted against NAFTA and might therefore be expected to be upset about the United States being in this predicament and about the administration bailing out Mexico. I am upset. I do think the administration ought to give Congress the facts about this bailout, but I think this resolution goes too far.

There is a delicate balance between the branches of Government. The executive branch is required to give us facts but the precedents do not give us the right to demand opinions. This resolution does that in several respects.

While it is important for us to get the facts, it is also important for someone to stand up for our Constitution and to remind us that the separation of powers is an important part of our form of government.

As usual, I will stand for our Constitution, even though I agree with the spirit of this resolution. This resolution simply goes too far.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Maryland [Mr. BARTLETT].

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I rise in strong support of House Resolution 80.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. STEARNS].

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

Mr. STEARNS. Mr. Speaker, does an economy exist to serve a society or vice versa? Argentina's Minister for Finance put it well when he said that each unit of currency is an explicit contract between the government and the ordinary holder of currency. It is supposed to remain stable through a specified period of time.

Following that logic, a purposeful devaluation breaks that contract. If that is so, Mexico has breached this contract and I submit some questions should be answered. And I compliment the chairman of the Committee on Banking and Financial Services for his resolution.

The Mexican Government should not get any more money, not one cent because they have broken their contract with their people. Please take a look at my chart and see how the rate of the peso to dollar has dropped every month since 1994, including a significant plunge from 3.45 to 4.0 in December alone. In January it dropped 5.58 and on February 21, after the announced signing of the President's loan package of $20 billion. The Mexican markets tumbled still lower, and frankly, my friends, I have a little ribbon at the bottom there because I think the market is going to go even further.

Officials in Mexico concede now there has been no indication of a turnaround in investor confidence since last week's signing of the United States $20 billion loan guarantee package. The Government of Mexico must be charged with addressing the irregularities in its own contract before asking the United States, American citizens to support any further bailout.

The President of Mexico might find it convenient to blame the devaluation on the rebels, investor pullout, political instability or some other factor, but it has become evident that there were clear signs of deficits indicated early in 1994. The administration should have known that. For whatever reason, be it political gain for whatever reason or the financial gain of Wall Street, now the average working American and the average working Mexican now must pay for this devaluation.

So I support the resolution, and I am glad it finally came to the House floor.

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

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

No relationship to NAFTA? I heard it early on the floor. The United States has entered into an agreement to ship $20 billion to Mexico. We are propping them up through the Bank for International Stabilization, the International Monetary Fund.

How much taxpayer money is at risk? No relationship to NAFTA? This is all about the failed NAFTA, and a bunch of people trying to cover their derrieres because the things we predicted would come about if we entered into this agreement have come about.

What authority was used to enter into this agreement? Never before in the history of the Economic Stabilization Fund, 60 years, has this kind of credit been extended to a foreign power. In fact, when it was first suggested by the Republican leadership to the administration that they use the Economic Stabilization Fund they said it was impossible. It was only later that the administration switched its position.

What terms? Twenty billion dollars. How much of the BIS money is our money? How much of the IMF money is our money? How much are the U.S. taxpayers on the line in this backdoor bailout?

What security? The oil security, the oil funds that are already totally pledged by the company that has no money even to make capital investments because they are so oversubscribed to meet other obligations in Mexico? That is security?

Who benefits? We need the names of each and every business and individual who receives a disbursement that is related to these bailout funds. The American taxpayers have that right.

We will begin to answer some of those questions, only begin with this resolution of inquiry. We must go further. We need to restrict the use of this fund in the future to supporting the U.S. currency and the interests of the United States of America, not foreign authoritarian regimes that are creating billionaires and disasters south of our border.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York [Mr. KING], who has probably contributed as much to this resolution as anybody, along with the gentlewoman from Ohio [Ms. KAPTUR].

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

At the very outset I want to commend Chairman LEACH for his leadership in this and the gentlewoman from Ohio, Ms. KAPTUR, for the leadership she has shown, indeed, the bipartisan spirit of the Committee on Banking and Financial Services which brought this resolution to the floor.

Mr. Speaker, this is a critical time in America's history and if you are on one side of NAFTA or the other the fact is this resolution is imperative, because this will allow the American people to see exactly what went on, to see exactly what American policy has been toward Mexico, what Mexican policy has been, what the role of the IMF has been, what the role of the Treasury Department has been, and also exactly what authority the President had to use the funds. These are very real, serious questions.

I think the President should have shown more leadership. If he thought this was in the national interest then the President of the United States had the obligation to go to the American people and make sure they understood where he was coming from. The fact was he did make an arrangement which the American people see to be behind closed doors, so it is absolutely imperative this resolution be adopted so all documents and all data are made available to the American people.

I urge adoption of the resolution.

Mr. FLAKE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I urge adoption of House Resolution 80.

As an original cosponsor of the Kaptur resolution of inquiry, I am very concerned about maintaining the balance of power between the executive and legislative branches of government. I am also very concerned about safeguarding this institution's prerogative of the purse.

Today's vote is our first real opportunity to protect America's wallets and reclaim our constitutional authority regarding the Mexican bailout. Given the magnitude of the Mexican bailout and the exposure of the American taxpayers I believe that congressional approval should have been sought originally. Sure, it would have been a tough sell. But coming in after something goes wrong will be impossible.

Barring that, the disclosure called for in this resolution of inquiry is eminently reasonable.

I urge passage of the resolution so that we can find out what the Mexican bailout really means for the American taxpayers.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. FOX].

Mr. FOX. Mr. Speaker, this resolution is certainly vital to all of the interests of individuals in every single State. The fact is that we saw an action by the President without any kind of congressional involvement regarding the problems dealing with Mexico and with the drug trafficking and with the immigration problems. This resolution will give us for the first time the information behind the President's request for the funds, behind the President's $20 billion guarantee of funds for Mexico.

Frankly, it is appropriate. We need to know on what basis the President has made these assertions, why he has used the money, and what is really happening with it and in fact what is happening with Mexico and what is going forward.

Congress deserves to have the answers, and by moving forward with the resolution, the American people will have those answers to go about our business.

Mr. FLAKE. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Speaker, the Treasury was there, the Federal Reserve was there, the International Monetary Fund was there, the Bank of International Settlement was there, the Exchange Stabilization Fund was there. The banks of Mexico and their representatives were there. Basically, Wall Street and their representatives were there. Everyone was there at that table except the American people, because the Congress of the United States keeps turning the other cheek and the White House just keeps servicing all of the cheeks they can in Congress.

Beware, Congress, a new autocracy is emerging in what was once a democracy in America. Think about it.

A President declared war in Vietnam, a President enacted two major trade agreements, NAFTA and GATT, without a two-thirds vote of the Senate, and now a President is bailing out another sovereign country, and I do not blame the President. I blame Congress, from Johnson through Clinton, for taking the power of the people and the Constitution and handing it to the White House, giving it to the White House, and then complaining for what they do.

Thomas Jefferson is rolling over in his grave. We are not Members of Congress. We are nothing more than trustees. Now we are going to give him a line-item veto. He makes book with 34 Senators, he does not even call Mr. FLAKE, he does not call Mr. LEACH. He does not need to anymore.

We have gone too far, Congress, and I do not blame the President. I blame Congress, and this should not have happened without the people's representatives, duly elected, being there to approve it. And that President was going to ask, but our congressional leaders, both Republican and Democrat, gave him the wink, gave him the nod, and said go ahead on it because it is too hot for us.

Well, let me tell you what is so hot, folks. We are just turning over the Constitution and shredding it about as good as they did in Iran-Contra.

I am just one voice here but I will not have any congressional leaders giving a wink and a nod with my vote, and I am not going to surrender my voting card to anybody around here.

This new autocracy within our democracy is real. I think it is time that we get down to business. I want to commend the gentlewoman from Ohio who has done a great job, and the gentleman from Iowa [Mr. LEACH], who has been very fair. I am going to support this resolution, but it is not enough. In the future, ladies and gentlemen, the President should be scared not to confer with the Congress of the United States and get its blessing through a duly recorded vote. If we learned anything about Vietnam that is the lesson we should have learned.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. BURTON], chairman of the Latin American Subcommittee of the Committee on International Relations.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time. Let me just say I concur with much of what my colleague from Ohio just said. The fact of the matter is none of this should have happened in the first place. It should have been brought before the Congress for an up or down vote right from the get-go, but unfortunately the President found that he did not have the votes to pass it. Eighty percent of the American people did not want this to take place. And so what did they do? They did an end run around the Congress of the United States and they used the Exchange Stabilization Fund, I believe illegally, to bail out Mexico. As has been said here before, the peso continues to drop.

Let me just tell Members something. I believe, and I think I have heard today, that $7 billion has already been sent to Mexico, and while this resolution today, this resolution of inquiry is absolutely essential so we can get the facts for the American people, it certainly is not enough and we need to act very expeditiously in this Chamber to cut off additional funds from going down there.

What I am afraid is going to happen is this resolution of inquiry is going to go on for weeks and months before we get all of the facts, and more and more and more of American taxpayer dollars are going to go down there during the interim.

We need to bring legislation to this floor immediately, cutting off any more money going to Mexico until we get the answers to these questions. We have got it backward. We should stop the money from going down there first, then get the answers to the questions before we send one more dime down there.

□ 1845

I fear the $7 billion that has already been sent is down a rat hole, and we are talking about another $45 billion on top of it, not $45 million, folks, 45 thousand-million-American dollars. The taxpayers of this country do not want it.

That country is in real economic turmoil, and we simply cannot afford to use taxpayers' dollars to bail them out, especially when we do not have all the facts.

Mr. FLAKE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Missouri [Ms. DANNER].

Ms. DANNER. Mr. Speaker, this agreement to provide $20 billion dollars of taxpayer money for loans and loan guarantees to Mexico is simply an end-run around the wishes of the American people. In fact, if the United States' share of the total $50 billion package is included, the amount of our financial exposure is substantially higher than $20 billion.

Unless there is a fundamental change in the stability of Mexico, this package will, at best, delay the final day of reckoning. Each time the United States comes to Mexico's rescue, it encourages the Mexican Government to continue to make irresponsible economic decisions.

Just as some see welfare as encouraging reckless behavior, so too does this $20 billion welfare check given to Mexico. Unlike welfare, however, this

money will ultimately go to the Wall Street and international investors who, until this crisis erupted, were receiving handsome returns on their investments. These individuals did not share their profits with the American taxpayers, but they wish to shift any losses!

The American people know when their pocket is being picked and they resent it, as do many of us in the Congress.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Speaker, I rise in strong support of House Resolution 80 and I urge the House to quickly get to the bottom of the deal between Wall Street and the PRI regime in Mexico City.

Mr. Speaker, on November 8, the American people voted for less taxes and smaller more efficient government. They expect no less in our conduct of foreign policy. The people of my district instinctively recognize that the proposed bailout of Mexico is a massive subsidy for the disastrous economic decisions made by Wall Street and dishonest Mexican politicians.

Mr. Speaker, this is not the first time we have ''rescued'' Mexico. Each time we have ''saved'' the Mexican economy, the Mexican government refused to reform itself. Remember, the same party has ruled Mexico for 80 years. The government is rife with corruption, just yesterday the brother of the last President of Mexico was arrested for masterminding the assassination of a reform presidential candidate. What there is of a modern economy is dominated by state owned monopolies. The latest Mexican administration promised it would never turn its back on its investors. But what did it do. One week into office, the Mexican Government pulled the plug on the peso, sending its value plummeting by 30 percent and leaving Wall Street holding the bag. Rather than pay for their mistakes, the financiers now demand that the taxpayers bail out Mexico to pay off their own bad investments.

Mr. Speaker something is seriously wrong here. What sort of message is sent when Washington insists that holders of high risk securities are bailed out by the taxpayers? When the Secretary of the Treasury worked for Goldman Sachs, his firm didn't share with the people the massive profits it earned when it was making a fortune speculating in Mexico in the 1980's. The same system which rewarded his old firm should also work to penalize his former colleagues who gambled and lost—once again—on the Mexican government. And I ask Mr. Speaker, why was a man whose former company is the largest underwriter of Mexican stocks allowed the keys to the people's treasury.

Mr. Speaker, if Mexican corruption was not enough, what does this administration have to say about the PRI's ties to Cuba. According to the Wall Street Journal, Mexico's state run communications, textile, and oil monopolies have invested billions in Castro's economy. The Mexican government is rushing to buy into everything Castro has to sell. Mexico's investments in Cuba appear to be all that is keeping Castro afloat and yet there are many in this town who see nothing wrong with letting Mexico City off the hook while it conducts business as usual with Havana.

Mr. Speaker, we have had enough of broken Mexican promises on trade, monetary, and free market reforms. I have heard from the people in my district. They are angry. I say this respectfully but, they tell me that if the new Republican majority quietly goes along with the Clinton bailout, it should be prepared to suffer a backlash from the voters. As I have noted on this floor, Main Street Dunn, North Carolina has had enough of picking up the cost for other peoples' rashness. It is finally time to end the folly of taxpayer funded giveaways to regimes which do nothing but thumb their noses at the American people.

There must be a vote in this Chamber on the White House unilateral action to fund the bailout, but today, Mr. Speaker, let us support the King-Kaptur resolution as the first step in the process of getting to the bottom of the bailout.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. FOLEY].

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

Mr. FOLEY. Mr. Speaker, in 1920 Will Rogers said, ''Let Wall Street have a nightmare, and the whole country has to help them get back in bed again.'' Well, Wall Street had a nightmare in December. The nightmare started as poor monetary policy in Mexico. The peso plunged, bond prices dropped. Wall Street speculators were left holding bad investments, and now, just like Will Rogers said 75 years ago, we are going to help get them back in bed.

We are bailing out Mexican bankers and Wall Street millionaires. But what are we doing for the people in America?

In Washington, the symbolic center of our country, we tell our Mayor, Marion Barry, to go up to New York and borrow money for himself; Orange County, CA, we tell them, ''Sorry, folks, the administration is too busy helping things south of the border.'' Never mind Orange County faces a $3 billion loss, or a thousand county-funded jobs at risk, jobs and services for American citizens. Our own people struggle while we plead special interests and bail out Mexico.

What has Mexico become? The 51st State? What conditions have been made a part of this agreement?

Let me tell you one of them. We are requiring Mexico to have a surplus by 1995. The same administration failed to do that and criticizes a balanced budget in this country.

Mr. FLAKE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. KLINK].

Mr. KLINK. Mr. Speaker, I thank the gentleman for yielding me this time and for his kindness in this matter.

As an original cosponsor of this resolution, I rise today in strong support of House Resolution 80. I join my dear friend, the gentleman from the State of Ohio [Mr. TRAFICANT], in stating it is high time Congress step forward and do what duty demands of Congress. It is high time that we on the floor of this House debate the Mexican bailout.

It is not up to the President of the United States to have the ability to commit billions upon billions of dollars as he has done in this instance without congressional approval. This, ladies and gentlemen, is a reverse Robin Hood action. This is stealing from the poor to give to the rich. This is taking from poor taxpayers, giving to rich Wall Street investors, who went down to Mexico after NAFTA was approved, and when the peso was devalued, they lost some of their investment. Now we are being asked to go down there and bail them out.

But at the same time, as the gentleman from Vermont [Mr. SANDERS] pointed out a little bit earlier, we are saying we have to cut back on educational funds, we have to cut down on school lunches, and we have to cut down on veterans' benefits, but we have got all kinds of billions of dollars to take down to Mexico.

I ask, where was all this money, where was this concern from Washington, DC, when the steel industry collapsed in this Nation? When was there as American bailout when the glass industry, the electronics industry, and many other industries across this country went down? When was there an American bailout? When did we bail our the American people of this country?

Yet we are being told this is for the benefit of the American taxpayers.

We are now willing to provide all of this money to a country that is rife with human-rights abuses. It has a banking industry that appears to be heavily involved in international drug trade, and may well be on the brink of civil war and whose national leaders, according to the front page of today's paper, are going around plotting each other's assassination.

This resolution today is the first step in answering some very important questions. Will Mexico be able to make good on their end of the deal? What will Mexico do to prevent another crisis? Who is really benefiting from this bailout?

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, I rise to oppose President Clinton's Mexican bailout schemes and to support this factfinding resolution.

It is time the White House came clean. What did the Clinton administration know about Mexico, and when did they know it? Who are the private speculators who benefit from this deal?

The American taxpayers have a substantial interest in this bailout, and they deserve some honest answers from this administration.

As a member of the Committee on International Relations, I frankly was appalled when high administration officials ducked our hearings on this scandal, but apparently they wanted to keep the public in the dark. The administration's handling of this matter smacks of a backroom deal. In fact, it stinks.

President Clinton has tried to go behind our backs. So it is time to go over his head right to the American people. This House represents the taxpayers. We are responsible for spending decisions, or at least that is what the Constitution says.

Let us win one for the American people. Pass this resolution.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Mr. Speaker, I support this resolution.

But let us not kid ourselves. We do not need more information., We need to stop this bailout. We have the power in Congress to stop it, and we are not. Instead, we are asking for information.

The American people see what we are trying to do here in the last few weeks. We have been trying to balance the budget. Here we are, we are struggling. We are struggling to cut spending here and cut spending there, trying not to hurt our own people, trying to cut down on some programs, knowing that our people have come to depend upon them, but realizing that a balanced budget is so important both to our own people but to their children. It is important for us to balance our budget, yet we are cutting programs on which our people and their children depend.

It is a betrayal of the interest of our own people, the American people, for us to cut spending here in the Congress of the United States while sending other funds in the tens of billions of dollars to Mexico or to give it to Wall Street speculators. The American people have a right to expect more from us.

If we are not watching out for their interests, who is watching out for their interest?

Spending tens of billions of dollars without so much as a vote of Congress is a violation of everything that this democratic government is supposed to be about, and it is a violation and betrayal of the trust that has been put in us by the American people. Our people have borne the burden for other people in this world for far too long. Now we insult them after the cold war is over, after they bore the burden of the cold war, after they bore the burden of stopping Nazism and Japanese fascism, and now we insult them by asking for information instead of asking for a direct vote in stopping this bailout and the use of tens of billions of dollars that should be going to the benefit of our people, but instead are going to Wall Street speculators and foreigners.

It is a disgrace.

Mr. FLAKE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Speaker, I would ask the gentleman from California [Mr. ROHRABACHER] if he would be kind enough to take a microphone. I would like to enter into a colloquy with him, and perhaps the gentleman from Texas [Mr. STOCKMAN].

I think it is maybe perhaps important for us to explain to the membership and to the listening public that the only way we could get any vote on this matter was to enter a privileged resolution 2 weeks ago asking the Committee on Banking and Financial Services to discharge this bill to the floor. They had 14 days in which to do that, and we thank the chairman, the gentleman from Iowa [Mr. LEACH], and the ranking member, the gentleman from New York [Mr. FLAKE], for doing that.

Our wish would be to have a straight vote on disallowing the use of the Exchange Stabilization Fund for this purpose and to stop appropriated moneys and those funds from outflowing without a vote of Congress. We want a vote.

The fact is our own leadership on both sides of the aisle have not agreed to give us that vote. So I think it is important for the membership to understand this is a base hit. It is not a home run, but at least we are at first base.

Mr. ROHRABACHER. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. ROHRABACHER. I agree with you. There is an elite in the United States of America who think that they own this country, and they do not own this body.

We may be spending tens of billions of dollars right now, but the people will be heard. This is the first step toward making sure that the people's voice holds sway in Washington, DC, and the Nation's Capital.

Those Americans who are listening to us right now should make sure that they contact their Representative and write the White House and make sure that the leaders here in Congress and in the executive branch get the message that we have got to stop shoveling money south of the border, stop paying off Wall Street speculators.

They want a balanced budget. The American people want a balanced budget. And we are betraying everything that they want.

The SPEAKER pro tempore. The Members are advised to address the Chair, not the listening audience.

Mr. ROHRABACHER. Just to finish this, they should be contacting their representative in the White House. We can get a vote on this, and we can turn it around.

□ 1900

Ms. KAPTUR. I yield the remaining time to the gentleman from Texas [Mr. STOCKMAN].

However, prior to that, I mention on page C–1 of the Washington Post today House Speaker NEWT GINGRICH, Treasury Secretary Rubin, Alan Greenspan, Undersecretary Lawrence Summers were heavily involved in this agreement. We need to know what their involvement was, as well.

Mr. STOCKMAN. Mr. Speaker, I just want to tell the gentlewoman from Ohio [Ms. KAPTUR] how grateful we are to her to get this ball rolling. I think for many Members of Congress it has been a real frustration, and the gentlewoman has taken the lead in that effort.

Mr. LEACH. I yield such time as he may consume to the distinguished gentleman from Florida [Mr. GOSS].

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

Mr. GOSS. I thank the gentleman from Iowa for yielding time to me.

Mr. Speaker, I rise in support of the resolution of inquiry on the President's aid package to Mexico, and I urge support for the resolution of the gentleman from Iowa.

Mr. Speaker, I rise in support of the resolution of inquiry into the President's aid package to Mexico. Immediately following the announcement of the first $40 billion proposal, I notified Secretary of the Treasury Robert Rubin of some specific concerns I have with regard to the implementation of NAFTA, the bailout proposal, and United States relations with Mexico. These included the question of having adequate guarantees to protect United States taxpayers and interests, the question of why a $40 billion aid package for Mexico and Mexicans took a higher priority than NAFTA casualties in the United States, and the concern that Americans were being asked to bail out Mexico so that Mexico can continue to bail out Fidel Castro's brutal regime in Cuba. While Secretary Rubin has responded to my letter, his response failed to directly address the specific points I raised. In fact, there are a lot of unanswered questions about this deal and many Americans, myself included, remain deeply troubled by the fact that the administration did not make its case for the bailout to the Congress. While the executive branch has the authority to make the bailout deal with Mexico, I support Chairman LEACH's resolution because there is a clear need for congressional oversight of the process. Mr. Speaker, it is time for some real answers from the Clinton administration.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Committee on International Relations, the gentleman from New York [Mr. GILMAN].

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

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

Mr. Speaker, I rise in support House Resolution 80 requesting the President to submit information to the House concerning the actions of this administration to support the Mexican peso.

Its adoption will ensure that we will have the documents we need to evaluate the condition of the Mexican economy and the use of the funds from the Treasury Department's Exchange Stabilization Fund.

With this information, the Congress and the American people can be the judge of whether this unprecedented financial support package is warranted in light of our close relations with Mexico.

Opponents and proponents alike of the $20 billion economic support package for Mexico agree that this measure is needed to determine what other institutions, such as the International Monetary Fund, and the Bank for International Settlements are doing to assist the United States in bringing Mexico back to financial health.

Next week, the International Relations Committee will hold its third round of hearings on the Mexican economic crisis with high-level officials from the Treasury and the State Department with the goal of requiring this administration to put on the record the results of its intensive discussions with the Mexican Government in such areas immigration, democratic reform, law enforcement, drug interdiction and the extent of Mexico's commercial relations with Cuba.

Our efforts in this hearing will further the same goals advanced by the authors of this legislation. They will both lead to a broad public inquiry into the proposed economic package to Mexico. I urge the adoption of this resolution.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from South Carolina [Mr. SANFORD].

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

Mr. Speaker, I rise in support of this resolution because I think it is an appropriate first step in our beginning to correct this misallocation of U.S. taxpayer funds.

I think at the core, what we are dealing with is a constitutional issue because, in the past, Congress has made other loans, whether to Lockheed, Chrysler or New York City or Israel, but in every instance we came on down to the floor of this House and argued that point.

Now, for the first time, we are talking about having the President go out and appropriating funds. If you look at the Exchange Stabilization Fund, what you find is that in the past it has been used for about 2½ months. Now a longer period, 40 times longer, of 10 years.

Now, in the past we have seen loan amounts of about $250 million. In this case, it is something like 80 times greater than that, with a loan of $20 billion.

It does not pass the commonsense test, and I think this resolution moves us in the right direction.

Mr. LEACH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. STOCKMAN].

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

Mr. Speaker, I am very happy that this bill is here today, but I think it was so eloquently stated that this is only the first base. This Congress is responsible to the American people, and we have been left out of the process.

When people call us and tell us how they feel and we turn our backs, they know the institution is broken. Yet time and time again we are called upon to do the right thing, and we run and hide. We have been working very hard to get this vote, an up or down vote, to cut off funding, and yet they are not allowing us to vote. That is wrong.

We need to do the right thing here and the right thing for America and allow us to speak the will of the people. I think the will of the people will say no money for a country in which its president's brother was willing to participate in an assassination. The government is corrupt, the system is corrupt, and we do not need to subsidize it with American dollars.

Mr. FLAKE. Mr. Speaker, I yield 2 minutes to myself for the purpose of yielding to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. I thank the gentleman for yielding to me.

Mr. Speaker, I had spoken earlier, and I again reiterate my support for this resolution of inquiry. I think it is important that this House of Representatives, with this new majority on this day, is standing up for the prerogatives of the House of Representatives and for the Congress in general.

I think many of us have been concerned that the actions, while maybe well-intentioned, have tended to, in fact, question or limit or shed the powers of Congress which are so necessary as such powers come from the people we represent and provide us the opportunity to exercise the responsibilities that we have sworn to uphold.

I think the issue here, Mr. Speaker, is one of great concern with regard to the Exchange Stabilization Fund. This fund, as Members know, the dollars there have been appropriated in years past, and those dollars obligated at the prerogative of the administration and other executive officers who in fact, expend and use these funds. The United States/Mexican agreement is a use of the E.S.F. fund that is unprecedented. However, going back some 20 years, Congress has granted this utilization to deal with exchange and other types of economic problems that are occurring in global markets around the world.

These issues, what happens south of the border, are very important to our economy. Upholding the U.S. economy in this manner is a legitimate and significant concern to the administration and the American people. The administration, in this particular case, had sought to have a less far reaching initiative to deal with Mexican peso crisis. In one instance, the President did submit a request for guaranteed loan for the Government of Mexico and for this particular problem.

I think it should be pointed out that none of these dollars, many of these dollars will not, in fact, be outstanding, that they are loans, they are safeguarded with Mexican assets. We are hopeful. According to the agreement signed, or the intention signed, by President Clinton, Senate Majority Leader DOLE, Speaker GINGRICH, Leader GEPHARDT, and by Leader DASCHLE, these issues will, in fact— and they do agree that the provisions of this agreement—will be workable.

I would hope many of my colleagues are going to be satisfied with the information and answers from the questions they pose.

Mr. FLAKE. Mr. Speaker, I yield 1½ minutes to the distinguished committee chairman for the purpose of yielding to the gentleman from Tennessee [Mr. DUNCAN].

Mr. LEACH. Mr. Speaker, I yield to the distinguished gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I thank both gentlemen for yielding.

Mr. Speaker, I rise in strong opposition to the President's bailout of Mexico and in strong support of this resolution. I am proud to be an original cosponsor.

I especially want to commend the work of the gentlewoman from Ohio [Ms. KAPTUR] on this resolution.

Mr. Speaker, our first obligation should be to the American taxpayers, not to the taxpayers of Mexico.

Mr. Speaker, Lawrence Kudlow, the economics editor for National Review, wrote recently:

> Voters who want smaller and more frugal government at home, with a new emphasis on personal responsibility, expect no less in our policy dealings abroad. Broken Mexican promises on trade, money, and free market reforms should not be rewarded with a big government bailout. Sound money and sound fiscal policies are the only lasting answers.

Mr. Speaker, A.M. Rosenthal, the New York Times columnist, who would, I am sure, classify himself as a political liberal, said:

> Could it be that the Administration had so enthusiastically promoted Mexico that it would have been terribly embarrassing—an election coming up and all—to disclose that Mexico suddenly could not go on backing up its pesos and bonds unless the United States offered heavy loans to bail out investors?
>
> This mess was created by the cowardice of bureaucrats and the mistakes of investors, theirs and ours. Americans would be foolish—I am being exquisitely polite today—if they agreed to any loan before they found out which American and Mexican investors would be the big beneficiaries.

I say let us stand up for the taxpayers of this country and not bail out the billionaires on Wall Street and in Mexico.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Kentucky [Mr. BUNNING].

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

Mr. BUNNING of Kentucky. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in very reluctant support of this resolution.

Mr. Speaker, I rise today in very reluctant support of this resolution which amounts to after-the-fact oversight of Mr. Clinton's end run around the Congress. I only wish that Members of Congress had an opportunity to vote on a bill to force Mr. Clinton to cancel his dictator-style use of the taxpayers' money.

Unfortunately, we are forced to settle for this too little, too late resolution that is even less than a slap on the wrist for an unprecedented power grab by the President. It sickens me that this body is going along quietly with it.

For anyone who was not watching, the President could not get enough support in Congress to go along with his scheme to put the American taxpayer on the line to bail out the Mexican Government. So, he went ahead on his own and raided the exchange stabilization fund to the tune of $20 billion to subsidize the bad decisions of the Mexican Government and big Wall Street investment firms.

Now, after the dirty deed has been done, we offer up a resolution to request a few documents from the White House and the Treasury. We will go through the motions of reviewing what Mr. Clinton and Treasury Secretary Rubin have done and in the meantime the American taxpayer is left holding the IOU.

I am certain that Secretary Rubin had no concern for the financial interests of his old partners at Goldman, Sachs & Co., one of the big Wall Street investment firms, when this deal was brokered. I am sure that his only motive was to serve his country.

Mr. Speaker, I will be interested to see the President's explanation of how he has the authority to obligate billions of dollars without congressional approval. His actions seem to fly directly in the face of the Constitution and they undoubtedly are not what the Congress and the American people wanted.

In fact, the President would seem to have many questions to answer. How can he justify raiding the exchange stabilization fund which was designed to protect the dollar? What does he intend to do if, after taking $20 billion of the $27 billion in the fund, the dollar gets into trouble in the foreign exchange markets? How does he intend to replenish the fund? What actions will he take to make sure that Mexico changes its economic practices to insure that there is no repeat of the peso disaster? The list could go on ad nauseam.

As representatives of the American people we are entitled to answers to these questions. The President may well have broken the law in obligating the funds from the exchange stabilization fund and Congress is obliged to raise the issue and thoroughly investigate.

I applaud my good friend from Alabama, SPENCER BACHUS, the chairman of the Banking Oversight and Investigations Subcommittee, for calling for hearings into this matter. This little half-hearted resolution should not be the end of the inquiry. It is barely the beginning.

Good intentions are not the same as good results no matter how much Mr. Clinton and his followers wish that it was so. His supposedly good intentions appear to this Kentuckian to be a bold-faced grab at congressional power. We cannot and must not let that challenge to congressional control of the purse go unanswered.

I will vote for this feeble resolution but only in anticipation that it is the first step toward resolving this constitutional conflict, not the last.

Mr. LEACH. Mr. Speaker, I thank the gentleman, and I yield 30 seconds to the distinguished gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. I thank the gentleman from Iowa for yielding this time to me.

Mr. Speaker, I just came onto the floor. I have heard none of the debate, but I say to you that many people have blamed this chaos on NAFTA. NAFTA has nothing to do with it. This involves sloppy fiscal mismanagement in Mexico and should be cleaned up there.

I have referred to this episode as Pesogate. And I think the time has come to open wide Pesogate to allow us to closely examine every minute detail surrounding it.

I thank the gentleman from Iowa for yielding, and I thank the gentlewoman from Ohio for her work in this effort.

Mr. FLAKE. Mr. Speaker, recognizing the majority's right to close, I would like to yield the remaining time to myself for closing debate.

Mr. Speaker, today I realize why so many people have risen and made, in spite of their support for this particular resolution, have also stated correctly that there are many problems in America that need to be resolved. It is my hope that, as we have been able to come together and put together a bipartisan bill for purposes of moving ourselves to the point of the right position for those of us who are Members of Congress, we might also do the same thing as we look at the many problems which are endemic to the communities here in America.

I think, as we talk about loan guarantees in particular and we look at ways by which we might be able to solve and resolve many of the crises existing in our urban communities, which is America's Third World country, and some of them even in our rural communities, there is a necessity for us to also have the same kind of aggressiveness and same kind of vigilance as we try to solve the problems here at home.

I think most Americans would be more than willing to support any enterprise that we develop that would assist our neighbors. But I think good charity indeed begins at home, and because of that many of our citizens would be more comfortable in supporting even an endeavor like this if they were not losing jobs, if they did not see their communities deteriorating, if they did not see their children starving, if they did not see educational systems that are in a state of shambles, if they did not see all around the criminal element which has been allowed to run rampant in our streets.

If we make the best uses of our resources, it seems that we ought to start at home, which means providing a level of stability for every citizen so they understand that the responsibility of government is to try to bring them the quality of life that is consistent with our talking about our being a democracy.

More importantly, even as we export that democracy to other countries abroad, we ought to do all in our power to make sure that it is the essence of a quintessential nation which understands the process by which all citizens are included.

If we can do that, I believe we can move forward better supporting other nations. I would support this resolution along with others, Mr. Speaker, and I would hope that the day will come when we take the same attitude as it relates to our own country.

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

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. BLUTE].

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

Mr. BLUTE. I thank the gentleman for yielding, and I rise in support of the resolution.

Mr. LEACH. I yield such time as he may consume to the gentleman from South Carolina [Mr. GRAHAM].

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

Mr. GRAHAM. I thank the gentleman for yielding.

[Mr. GRAHAM addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. LEACH. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. ISTOOK].

Mr. ISTOOK. I thank the gentleman for yielding so that I may engage in a colloquy with the gentleman from Iowa.

Mr. Chairman, I would like to confirm the intent of some disclosure requirements under this legislation. Currently, monthly reports by the Treasury Department do not detail ''all transactions,'' as stated in Federal law, but limit the reporting to balance sheet information.

My question is: Does the gentleman concur that paragraph 20 of this legislation is intended to secure for all Members of this House the details of all Exchange Stabilization Fund transactions during the past 24 months?

□ 1915

Mr. LEACH. I would respond, yes, that is the clear intent of paragraph 20.

Mr. ISTOOK. And further inquiry, Mr. Speaker, different official reports show a $4.5 billion discrepancy between the assets and liabilities reported of the exchange stabilizing fund as of the

close of the last fiscal year on September 30, 1994. My question is, do you concur that resolving any discrepancy as of the end of the calendar year 1994, as stated in paragraph 27, will necessarily require that the Treasury Department also provide us with documents that we hope will explain and resolve the $4.5 billion discrepancy as of September 30, 1994?

Mr. LEACH. I would fully concur with the gentleman's assessment.

Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Idaho [Mrs. CHENOWETH].

(Mrs. CHENOWETH asked and was given permission to revise and extend her remarks.)

Mrs. CHENOWETH. While the Clinton administration attempts to placate congressional and befuddlement through oil collateral and independent banks and other financial mismanagement and financial considerations, no talk is heard about breaking monopolies. There are many unanswered questions that we have about this package, and while this resolution is a resolution that I not only support, but I was honored to cosponsor and will vote for it, we also need to forge ahead and pass H.R. 807, the gentleman from Texas [Mr. STOCKMAN] resolution, which would put a halt to this subversion of the Constitution and prevent any more money going south to Mexico. An economy should serve the people, not bound it. The United States ought not to be supporting this debacle, and funds should be stopped immediately.

Mr. LEACH. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA].

(Mr. DE LA GARZA asked and was given permission to revise and extend his remarks.)

[Mr. DE LA GARZA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. LEACH. Mr. Speaker, in conclusion let me state that an original cosponsor of this resolution, the gentleman from California [Mr. HUNTER] had hoped to be here today, but he is, unfortunately, in San Diego tending to an illness of his wife.

Mr. Speaker, let me just conclude by saying this resolution represents a desire for greater accountability related to one of the first crises of the new economic order. In the background of this debate is macroeconomic decisionmaking as it relates to the intertwining of global economies. In the background also is the refusal of this Congress in a timely fashion to respond to the administration request to act on a bipartisan basis to this particular crisis.

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of House Resolution 80 and urge my colleagues to do the same.

This legislation is quite straightforward. It simply requests the President to provide to Congress, within 14 days of the adoption of this resolution, documentation comprehensively detailing the facts behind the $20 billion United States bailout of the Mexican economy. Is it really too much to ask that the American people be fully informed of how their hard-earned dollars are about to be used and what methods have been employed to secure this deal? It think not.

This body was never allowed to debate the Mexican-aid package, never allowed to fully consider the supposed need for this aid or the ramifications of relief actions on the part of the United States, never allowed to bring this issue to a vote. In short, Mr. Speaker, the Congress and the American people were never given the ability to decide what really is in the best interests of our Nation in this matter.

At a time when some members of this institution are drastically slashing discretionary spending and placing Social Security, Medicare, and Medicaid and vital safety-net programs on the chopping block, the United States is providing a security blanket abroad. When the GOP alleges that we supposedly cannot afford to provide a hot lunch for our grade school youngsters, when loans for our own children to attend college or resources for our blighted urban areas to be revitalized are in jeopardy, this country is nonetheless floating a check to Mexico without revealing what safeguards and conditions are in place, if any. How about investing these billions in targeted funds to our cities, our children, our unemployed, sick, and elderly? I seriously question the priorities outlined by this deal, Mr. Speaker.

I strongly suggest that my colleagues vote for accountability, vote for openness, vote for the right of this body to exercise its full constitutional authority on behalf of the American people we represent—vote for House Resolution 80.

We need to let the sun shine on the Mexico bailout once and for all, Mr. Speaker. The American people demand and deserve it.

Mr. COSTELLO. Mr. Speaker, I rise today to support the resolution before the House which would ask the President to provide, within 14 days, a broad range of documents relating to the financial rescue package the President is extending to Mexico.

I have opposed the Mexico loan bailout since the day it was proposed by President Clinton and endorsed by Speaker GINGRICH and Senate majority leader DOLE. I still believe there is significant evidence Mexican officials improperly inflated the peso to ensure positive economic results from our passage of the North American Free-Trade Agreement. This was just one of the reasons I opposed NAFTA. Unfortunately, it could now mean that U.S. taxpayers' dollars are at risk.

This resolution will enable the appropriate committees to examine the documents the Clinton administration and Mexican officials recently signed through the Treasury Department's exchange stabilization fund. It is important that Congress, in its oversight role, have an opportunity to closely examine the documents involved in the $20-billion assistance package.

Mr. POSHARD. Mr. Speaker, I rise in support of this resolution to ascertain the facts with respect to the bailout of the Mexican Government after the devaluation of the peso.

Only when we have the appropriate facts will we be able to determine whether this was in the best interest of our own country. This country, through the NAFTA, has inextricably bound itself to the well-being of the Mexican economy.

We are now so heavily invested in Mexico with American taxpayer pension and retirement funds that we can not afford to let the Mexican economy fail.

We should never have allowed ourself to get into this position. Only through a complete reevaluation of the facts can we be able to determine an appropriate course for the future.

Mr. RICHARDSON. Mr. Speaker, let me discuss this Kaptur resolution and why I think it is unwise. It is not necessary because it embarasses the President and the executive branch unnecessarily.

The United States took the lead in developing a support package for Mexico in order to protect United States jobs, exports, immigration concerns, and security interests that would be threatened if Mexico collapsed.

Mexico is our third largest export market.

More than 700,000 United States jobs depend on sales to Mexico.

A Mexican collapse would probably send illegal immigration up sharply—that's what happened when Mexico experienced economic troubles in 1982, and apprehensions along the border rose by 30 percent.

A Mexican collapse could spill over to harm emerging financial markets. These are the fastest growing markets for our exports—we don't want them to pull back on the economic reforms they've gone through over the past decade. America's hopes for increased demand in these markets for U.S. products and the good jobs this would bring would be disappointed.

THE AGREEMENTS

The United States negotiated good, viable agreements based on strong Mexican commitments to pursue economic reforms, solid safeguards to ensure we are fully repaid, and controls to make sure our support does what it's supposed to do—restore Mexican financial stability to protect United States jobs, exports, immigration concerns and security interests threatened by a Mexican collapse.

Some claim that the agreements put U.S. money at risk. But, in fact, the United States is only offering support in a way that is financially prudent, to make sure we get our money back.

First, United States support is contingent on Mexico's own commitment to pursuing the rigorous economic policies needed for Mexico to regain financial stability.

Mexico is now committed to a stringent program, based on a tight monetary policy with negative real money growth, budget cuts that will move them into surplus, and further privatization and reform to set the stage for strength.

Our agreements with Mexico build upon and add to those commitments, by spelling out many of the steps they will take—assuring the independence of their central bank, and using monetary policy to stabilize their currency, so that they regain their access to market finance quickly.

Second, the United States will not disburse resources without careful controls on how our support would be used, and without a system for assuring repayment of all Mexican obligations to the United States.

The United States will be disbursing support in stages, and will not disburse any tranche of

support unless we agree with how the Mexicans plan to use it, and are confident that Mexico is meeting all its obligations.

Mexico must live up to important transparency and reporting requirements. The United States Government will have all the information necessary to know how Mexico's economy is doing and whether our support is in jeopardy.

Other controls have been built into the agreements. In some cases, Mexico's obligations can be accelerated if we determine that they are not complying with key terms and conditions.

Most important, no United States support will go out unless it is backed by proceeds of Mexican crude oil and oil products exports.

Finally, Mexico will pay fees that should provide more than enough cover for risk. In fact, fees and interest rates charged to Mexico will rise the more support we disburse, to encourage them to turn to market sources of finance first.

It is in our best interest to make sure that these agreements work. That means that Congress must have the information it needs to be confident that Mexico is meeting its obligations and fulfilling its commitments.

At the same time, we must be careful not to pursue access to information so zealously that we jeopardize the success of these agreements, limit the ability of the United States to conduct important international financial transactions or impose onerous reporting requirements.

THE KAPTUR RESOLUTION

The administration is clearly committed to keeping Congress informed about the status of the agreements with Mexico, Mexico's record of compliance to these agreements, and information on the use of the Exchange Stabilization Fund.

Treasury has already proposed that it provide us, on a regular basis, documents that meet those objectives. These include augmented monthly financial statements of the ESF and detailed quarterly reports on the implementation of the Mexican program. Administration officials are also willing to provide briefings upon request to any member of Congress.

Treasury has already provided Members with copies of the four agreements signed on February 21 and an opinion of Treasury's General Counsel concerning the authority of the Secretary of the Treasury to use the ESF for the Mexican support package.

We should continue to work with the administration toward a reasonable and realistic policy of disclosure because the proposed resolution is neither.

First, the Kaptur resolution is directed to the President rather than the Secretary of the Treasury. Questions of principle are much more likely to arise if the resolution is directed to the President.

The Treasury Department has been the center of activity within the United States Government for the Mexican program. Thus, the resolution would be more likely to result in more documents being produced if it were directed to the Secretary of the Treasury rather than the President.

Second, is not at all clear that the extensive document request contained in the resolution is consistent with the ESF statute.

This statute vests exclusive control of the ESF in the Secretary of the Treasury subject to the approval of the President.

And, it provides that decisions of the Secretary are final and may not be reviewed by another officer or employee of the Government.

Third, the breadth and scope of the current request is extremely burdensome and would demand considerable resources at taxpayer expense, without improving our oversight.

It is not realistic to expect that such a vast array of documents be assembled in a 14-day timeframe.

In particular, what appears to be a request for all documents related to the use of the Exchange Stabilization Fund since 1945 seems extremely onerous and smacks of a fishing-expedition mentality rather than a reasonable request for useful information.

Finally, the Kaptur resolution would limit the ability of the United States to engage in transactions vital to the orderly movements on international exchange operations in the future because this depends on protecting the confidential nature of information provided by foreign financial officials.

The resolution does not contain any assurances that the confidentiality of documents provided to the House will be maintained.

Congress has affirmed the need for a confidential component to the ESF on a number of occasions.

In order to use ESF resources effectively, the Secretary of the Treasury must be able to obtain confidential and highly sensitive financial information from foreign government officials.

If the Secretary loses access to confidential information, efforts to address instability could be undermined.

This inability to address exchange market problems could subsequently put the U.S. economy at risk and threaten U.S. jobs.

Since the creation of the ESF in 1934, Congress has considered on a number of occasions, even as recently as 1990, whether to curtail the Secretary of the Treasury's discretion with respect to the ESF. On each such occasion, the Congress decided not to take action.

Mr. GONZALEZ. Mr. Speaker, there is no doubt that the House could obtain all the information requested in this resolution, through the normal processes employed by our committees. However, there are some who apparently feel the need to stress their opposition to the efforts to stabilize Mexico's economy, through means of this resolution. In other words, the real agenda here is not a request for information, but a protest by some against actions that had to be taken, in our own national interest, despite the kind of opposition that such leadership always seems to inspire.

What comes to mind is the immense opposition that President Roosevelt faced when he recognized the reality that the United States would have to help its allies in their fight against Nazi Germany. It was a case of necessity, and his proposals to provide aid, modest as they were, gave rise to the most militant, the most blind, and the most zealously hateful opposition that can be imagined. But he was right, and he prevailed. America had no choice but to accept its responsibility.

That is the case today. We are not, thank God, fighting a war. But what we are fighting against is international economic instability. What we are fighting against is a needless loss of jobs in our own country, a needless deterioration of our own living standards, and a needless surge in illegal immigration. That is what we are fighting against, through the President's actions to stabilize and strengthen the economy of Mexico.

I do not expect the know-nothings and Clinton haters to heed this, any more than the Roosevelt haters heeded his patient calls to wake up to the dangers all around. But this is the truth: The lower the peso falls, the more jobs we lose. The more the peso falls, the less we can sell to Mexico, so we lose jobs. And the more the peso falls, the less Mexico can do for its own people, whose living standards will in turn tumble. And in desperation, those people will flee across our borders, no matter what we do to try and stop it. Moreover, the greater the desperation is within Mexico, the more likely it is that open conflicts will break out there—again, causing people to flee to this country, as we have seen so many times before, whether it was Hitler's programs, the Irish potato famine, or the civil war in El Salvador, or any one of the conflicts that have driven people to these shores. And finally, the lower the peso falls, the harder it is for American goods to compete against Mexican exports—and so we lose jobs again.

Stabilizing Mexico helps that country—but it also helps us. And this help is a low risk proposition that is more likely than not to return a profit to the Treasury. It is a policy that helps us, and it is a policy that we had better hope works—for ourselves, for our own standard of living and for our own markets.

I understand the strong feelings that the opponents of this program have. But I deplore the personal attacks that some have lodged against the Secretary of the Treasury, and I am saddened by the short-sightedness of those who do not comprehend what the stakes are in this matter, nor the vital importance that the success of this stabilization effort has for us and our people. I feel certain the administration will provide all the information it can, in response to the resolution. Let us go ahead and pass this, but let us also understand that it reflects the inability of some people to understand the situation, and the unwillingness of others to support a policy that they know is right, even though they have said it is right. History remembers the little minds who railed against Roosevelt's international leadership; it will also remember the little minds that rail against a policy that is necessary, makes sense, and in the long run, very much in our national interest.

Mr. BARTLETT of Maryland. Mr. Speaker, I rise today in strong support of House Resolution 80, the inquiry into the President's aid package to Mexico.

It is regrettable that President Clinton decided to bypass Congress after Members of Congress refused to act quickly on the loan guarantees for Mexico. You see, Mr. Speaker, the President may know this but let me remind him. As Members of Congress, we are directly accountable to our constituents. Admittedly, the 104th Congress has moved quickly since receiving its November 1994 mandate, but I assure you that neither Congress nor the President received a mandate from the American people to express mail a $20 billion check to Mexico with no return address.

What is most frustrating about the President's action is that he made another defective foreign policy decision without addressing the very questions that were first raised. House Resolution 80 is the first step to answering questions about the bailout, including who will actually benefit from these loans, what collateral Mexico can use to secure their payments, what economic reforms Mexico will institute to ensure that this does not happen again, and how a Mexican bailout will affect American taxpayers.

I support this important resolution because I will continue to oppose this donation to Mexico, let us call it what it is, until we have appropriate guarantees from their country and until we know everything that the White House knew before the collapse regarding Mexico's economic situation. I take pride in representing my constituents, who are adamantly opposed to this bailout and I resent that the President preempted my opportunity to vote accordingly.

Mr. Speaker, the President supplied so few details when he first asked Congress to bailout Mexico it was as if he wanted the American public to blame Congress for the conception of this poor foreign policy decision. Even after he told the Mexicans that the check was in the mail, President Clinton made little attempt to give Members of Congress the information addressing our concerns and those of our constituents. Well, after today Mr. Speaker when constituents question the bailout, I no longer have to respond to them like schoolboy trying to convince the teacher that my dog really did eat my homework. If President Clinton will not volunteer these answers, then we will force him to provide us with the cheatsheet, because the American people deserve answers.

I urge Members of Congress to support House Resolution 80.

Mr. LEACH. Mr. Speaker, in this context I move the previous question on the committee amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GOODLATTE). The question is on the committee amendment in the nature of a substitute.

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

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

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

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 407, noes 21, not voting 6, as follows:

[Roll No. 188]

AYES—407

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
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)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Reynolds
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
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
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—21

Becerra
Beilenson
Berman
Conyers
de la Garza
Dixon
Ford
Frank (MA)
Gephardt
Johnson, E. B.
Matsui
Moran
Pastor
Rangel
Richardson
Roybal-Allard
Serrano
Torres
Waters
Watt (NC)
Yates

NOT VOTING—6

Dooley
Gonzalez
Hunter
Moakley
Peterson (MN)
Rush

□ 1944

Mr. RANGEL, Mr. RICHARDSON, Ms. ROYBAL-ALLARD, Mr. BEILENSON, and Mr. MATSUI changed their vote from ''aye'' to ''no.''

Mr. FAZIO changed his vote from ''no'' to ''aye.''

So the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR CERTAIN COMMITTEES TO SIT TOMORROW, THURSDAY, MARCH 2, 1995, DURING 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The Committee on Banking and Financial Services; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on International Relations; the Committee on National Security; the Committee on Resources; the Committee on Science; the Committee on Small Business; and the Committee on Transportation and Infrastructure.

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

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

There was no objection.

PROCEEDING WITH GENERAL DEBATE PENDING A VOTE ON HOUSE RESOLUTION 101

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the House may proceed to general debate in the Committee of the Whole as though under House Resolution 101 during any postponement of proceedings on that resolution pursuant to clause 5 of rule I.

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

Mr. BONIOR. Mr. Speaker, reserving the right to object, I will not object, but I ask the gentleman from Texas if this means that this will be the last recorded vote for this evening?

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

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman did get the attention of the body. Yes, without objection to this unanimous consent, we will have had our last vote for the evening. However, that would mean that those Members interested in the debate on the rule and on the general debate for the bill, H.R. 925, private property, should be advised that we would be holding those two debates yet this evening. Any Member not participating in either of those two debates would be free to go home for the evening. We would begin them tomorrow, as soon as the 1-minutes are over, with the vote on the rule, which is House Resolution 101.

Let me say, again, it is an unusual request. It is an unusual procedure, not something that we would expect to be a habit in the future. But certainly it is something that by the minority's agreement, we were able to do so folks can get home tonight. We will then begin with a vote on the rule tomorrow, and I would remind Members who want to participate either on the debate on the rule or H.R. 925, the private property bill, that those debates will take place tonight.

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

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2

Mr. ROYCE. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of the joint resolution, House Joint Resolution 2.

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

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 2

Mr. MCINTOSH. Mr. Speaker, as the language of joint resolution, House Joint Resolution 2 has been substantially altered in markup, I ask unanimous consent to have my name removed as a cosponsor of the legislation.

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

There was no objection.

PRIVATE PROPERTY PROTECTION ACT OF 1995

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 101 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 101

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f), 308(a), 311(a), or 401(b) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and the amendment recommended by the Committee on the Judiciary and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed twelve hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XVI, clause 5(a) of rule XXI, or section 302(f), 311(a), or 401(b) of the Congressional Budget Act of 1974 are waived. No amendment to the committee amendment in the nature of a substitute shall be in order unless printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII before the beginning of consideration of the bill for amendment. Amendments so printed shall be considered as read. Points of order against the amendment specified in the report of the Committee on Rules accompanying this resolution to be offered by Representative Canady of Florida or a designee for failure to comply with clause 5(a) of rule XXI are waived. Pending the consideration of that amendment and before the consideration of any other amendment, it shall be in order to consider the amendment thereto specified in the report of the Committee on Rules to be offered by Representative Tauzin of Louisiana or a designee. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. After passage of H.R. 925, it shall be in order to consider in the House the bill (H.R. 9) to create jobs, enhance wages, strengthen property rights, maintain certain economic liberties, decentralize and reduce the power of the Federal Government with respect to the States, localities, and citizens of the United States, and to increase the accountability of Federal officials. All points of order against the bill and against its consideration are waived. It shall be in order to move to strike all after section 1 of the bill and insert a text composed of four divisions as follows: (1) division A, consisting of the text of H.R. 830, as passed by the House; (2) division B, consisting of the text of H.R. 925, as passed by the House; (3) division C, consisting of the text of H.R. 926, as passed by the House; and (4) division D, consisting of the text of H.R. 1022, as passed by the House. All points of order against that motion are waived. The previous question shall be considered as ordered on the motion to amend and on the bill to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from Utah [Mrs. WALDHOLTZ] is recognized for 1 hour.

Mrs. WALDHOLTZ. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

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

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio [Ms. PRYCE].

(Ms. PRYCE asked and was given permission to revise and extend her remarks.)

Ms. PRYCE. Mr. Speaker, I rise in strong support of the rule.

Mr. Speaker, as my distinguished colleague from Utah ably explained in her opening remarks, this rule provides for the fair and orderly consideration of one of the most significant regulatory reform proposals to be debated on the House floor in recent memory, and that is the fundamental idea of compensating private property owners when the use of their property is limited by over-reaching Federal regulations.

This is a very complex issue, Mr. Speaker, and the legislation before us has understandably prompted legitimate concerns about the future of Federal rulemaking. To afford Members amply opportunity to discuss changes in the bill, this rule provides for 1 hour of general debate, followed by up to 12 hours of amendment under the 5-minute rule.

While I know the minority would prefer to have unlimited debate on this legislation, I am confident that the rule provides the minority with an ample block of time to manage as they see fit in order to organize and prioritize amendments they would bring to the House floor.

The rule also enables the House to consider two very important amendments. First, in the

continuing effort to be more fiscally responsible, the rule makes in order a substitute to be offered by the gentleman from Florida [Mr. CANADY]. This substitute, which requires only a single waiver of House rules, pursues essentially the same goals as the bill reported by the Judiciary Committee, but it links compensation for property owners to the availability of appropriations.

The rule also allows the gentleman from Louisiana [Mr. TAUZIN] to amend the Canady substitute by narrowing the scope of the legislation to apply only to the Endangered Species Act, wetlands regulations, water rights, and parts of the 1981 Food Security Act.

These amendments reflect bipartisan efforts to reach a compromise, and I urge my colleagues to consider them very carefully.

The notion of protecting private property rights is not a new concept. It has its roots in our Nation's most sacred document, our Constitution. But those rights have steadily been eroded by excessive regulations which force farmers, ranchers, and other property owners to bear the full burden of the law, which the public receives the benefits and pays none of the costs.

If the fifth amendment is going to be worth more than the paper it is written on, then private property protection must be strengthened.

A strong system of property rights in America is an essential means of protecting individual liberty, and the bill before us provides the appropriate balance between the power of government, the rights of individuals, and the betterment of our society.

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

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

□ 2000

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

Mr. Speaker, for too long the Federal Government has trampled on the rights of private property owners. Federal agencies have made rules and taken actions that have severely impacted private citizens, drastically reducing the value of their homes and property. Yet because of restrictive interpretations by the Courts of the ''takings'' clause of the Constitution, these citizens have had no means of redress to be compensated for their losses.

This bill will change that and protect the interests of private citizens where the government restricts the use of their property. H.R. 925 requires that the Federal Government compensate a property owner when a limitation placed on the use of their property by a federal agency action causes the fair market value to be reduced by 10 percent or more. If a Federal agency refuses to compensate a property owner for their losses, the bill allows the owner to seek compensation through the courts. Further, the bill recognizes the need to protect public health and safety by exempting actions taken by an agency that would prevent identifiable hazards to the public.

Under amendments to be offered under this rule, the compensation to the private citizen will not come out of a new fund to be established, or through more deficit financing, but directly from the budget of the agency that harmed the property. In other words, this bill is based on the radical idea that people harmed by the Government's actions deserve to be compensated and that the agency that caused the harm should pay for it out of their existing budget.

This idea is so radical that our current budget rules do not even allow us to consider this legislation without waiving certain budget rules. So, we've got to waive certain budgetary procedures just to be able to bring this bill to the floor for debate. The budget waivers will simply clarify a disagreement over the technical interpretation of the rules necessary to bring the bill to the floor for debate. Accordingly, we have crafted a rule that is admittedly somewhat technical in nature, as it waives certain budget rules against both the committee bill and the committee substitute.

The Canady substitute, which is made in order under this rule, clarifies our intent to pay for losses to property by simply reallocating current agency spending rather than create new entitlement authority. Accordingly, neither that amendment nor the Tauzin amendment, which will be considered as an amendment to the Canady amendment, require budget waivers. As a result, Mr. Speaker, the intent of our budget rules is preserved by the structure of this rule, despite technical waivers necessary to consider this important legislation.

The rule makes in order the committee substitute from the Judiciary Committee and provides for 1 hour of general debate followed by up to 12 hours of amendment under the 5-minute rule. The rule makes it in order to first consider the Tauzin amendment to the Canady amendment and requires that all amendments to the committee substitute be preprinted in the CONGRESSIONAL RECORD. The rule also provides for one motion to recommit with or without instructions.

Section 2 of the rule provides that after passage of H.R. 925, it will be in order to consider H.R. 9, and then combine the text composed of four regulatory reform bills as passed by the House. Those bills are H.R. 925, H.R. 830, the Paperwork Reduction Act, H.R. 926, the Regulatory Reform and Relief Act, and H.R. 1022, the Risk Assessment and Cost-Benefit Act. This allows us to send one bill to the Senate for consideration, as was done last year with the crime bill.

This modified-open rule provides for fair and open debate. This rule will allow for a total of 14 hours of floor debate on this bill—1 hour for the rule, 1 hour for general debate, and 12 hours for amendments. Fourteen hours is more than adequate to discuss the merits of this legislation.

I am sure some Members on the other side of the aisle will question the time limit. We discussed it in the Committee on Rules and I am sure we will discuss it more here. But I am confident that the 12-hour time limit will give the minority adequate time for consideration of amendments. Of course, it will require a prudent management of time to ensure that the most important amendments receive priority consideration, but Mr. Speaker, managing our time wisely is one of the responsibilities we all must shoulder in order to accomplish the people's business.

I know some concern may be expressed about the preprinting requirement. However, Members have not been shut out from offering amendments to the bill. While the pre-printing requirement applies to the committee substitute because of the critical nature of clarifying the budget impact of the means of payment, Members had sufficient notice of this requirement. Further, that requirement does not apply to amendments to the Canady and Tauzin amendments, which it is anticipated will shortly become the base text of this legislation. Members of this body will have ample opportunity to offer their amendments on the floor.

Mr. Speaker, since there is a good chance that the Canady substitute may be adopted, Members are encouraged to re-draft their amendments to be offered to the Canady substitute rather than the base bill. In that way the time of the House will be saved and Members will be protected against having their amendments nullified by the adoption of Canady.

Mr. Speaker, the Private Property Protection Act is a very important bill and this is a fair rule for its consideration. I urge my colleagues to support both the rule and the bill.

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

Mr. Speaker, we are opposed to this rule, and to the bill it makes in order, the so-called Private Property Protection Act of 1995.

Mr. Speaker, this rule contains the same kind of time restriction on the amendment process that has been used for the consideration of five other bills the House has considered recently.

Although we do appreciate the fact that the majority proposed lengthening the time for the amendment process from the usual 10 hours to 12 hours, we are still concerned that Members who want to offer amendments to this bill may be denied that opportunity.

In fact, we were advised that 15 hours would be needed just to accommodate the minority members of the Judiciary Committee who wanted to offer amendments. The 12-hour limit—which is actually a 9- or 10-hour limit on debating amendments themselves, because it includes time spent on recorded votes—will most certainly deny some Members the opportunity to offer the amendments they wish to present.

Mr. Speaker, we understand the desire of the majority to have H.R. 925 considered in a timely manner. And, as

our Republican colleagues have frequently pointed out, rules issued by the Rules Committee when Democrats were in the majority often did place time limits on amendments. What we take issue with is not whether the time caps exist, but whether they are fair.

When we issued rules with time limits, in earlier Congresses they did not preclude any Member from offering an amendment. We have two charts which show the contrast between what happened under rules with time limitations during the 103d Congress, and what has happened during this Congress.

Mr. Speaker, I include for the RECORD information regarding floor procedures in the 104th Congress and the amount of time spent on voting under the restrictive time cap procedure in the 104th Congress.

The material referred to is as follows:

FLOOR PROCEDURE IN THE 104TH CONGRESS

Bill No.	Title	Resolution	Process used for floor consideration	Amendments in order
H.R. 1	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.

Note: 71% restrictive; 29% open. These figures use Republican scoring methods from the 103rd Congress. Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

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

Bill No.	Bill title	Roll calls	Time spent	Time on amends
H.R. 667	Violent Criminal Incarceration Act	8	2 hrs. 40 min.	7 hrs. 20 min.
H.R. 728	Block grants	7	2 hrs. 20 min.	7 hrs. 40 min.
H.R. 7	National security revitalization	11	3 hrs. 40 min.	6 hrs. 20 min.
H.R. 450	Regulatory moratorium	13	3 hrs. 30 min.	6 hrs. 30 min.
H.R. 1022	Risk assessment	6	2 hrs.	8 hrs.

MEMBERS SHUT OUT BY A TIME CAP 104TH CONGRESS

This is list of Members who were not allowed to offer amendments to major legislation because the 10 hour time cap on amendments had expired. These amendments were also pre-printed in the CONGRESSIONAL RECORD. This list is not an exhaustive one. It contains only Members who had pre-printed their amendments, others may have wished to offer amendments but would have been prevented from doing so because the time for amendment had expired.

H.R. 728—Law Enforcement Block Grants—10 Members; Mr. Bereuter, Mr. Kasich, Ms. Jackson-Lee, Mr. Stupak, Mr. Serrano, Mr. Watt, Ms. Waters, Mr. Wise, Ms. Furse, Mr. Fields.

H.R. 7—National Security Revitalization Act—8 Members; Ms. Lofgren, Mr. Bereuter, Mr. Bonior, Mr. Meehan, Mr. Sanders(2), Mr. Schiff, Ms. Schroeder, Ms. Waters.

H.R. 450—Regulatory Moratorium—15 Members; Mr. Towns, Bentsen, Volkmer, Markey, Moran, Fields, Abercrombie, Richardson, Traffcicant, Mfume, Collins, Cooley, Hansen, Radanovich, Schiff.

H.R. 1022—Risk assessment—3 Members (at least three other Members had amendments prepared but were not allowed to offer them Mr. Doggett, Mr. Mica, Mr. Markey); Mr. Cooley(2), Mr. Fields, Mr. Vento.

The Republican stall: The ayes were called and amendments were passed by voice vote on the following votes during consideration of the Regulatory Moratorium bill. However, recorded votes were aksed for.

Mr. Clinger asked for a vote on the Norton Amendment as amended by McIntosh which passed on a vote of 405–0.

Mr. Clinger asked for a vote on Hayes amendment which passed on a vote of 383–34.

Mr. Tate asked for a vote on his amendment which passed on a vote of 370–45.

TIMECAPS IN THE 103D CONGRESS

I. Time caps specifically excluded voting time in the 103rd in 4 out of 5 cases

In the 103rd Congress, there were 5 bills considered under rules with time caps on the amendment process; four in 1994 and one in 1993. All four of the time caps from last year specifically excluded voting time. The single exception in the 103rd, from 1993, was H.R. 1036, ERISA Amendments Act. The Rules Committee asked for amendment in advance and received only 2 (Reps. Fawell and Berman). On the floor, Mr. Fawell offered his; it was defeated. Mr. Berman did not offer. No other amendments were offered and the total consumed by the amendment process (including votes) was about one hour and 15 minutes.

II. The test of whether a time cap is restrictive is not the amount of time allotted but whether Members are excluded from offering germane amendments.

In the 103rd Congress, no bills considered under a time cap consumed the entire amount of time.

Bill	Rule	Time cap	Floor time consumed
H.R. 1036	H. Res. 299	4 hour	75 min.
H.R. 2108	H. Res. 428	3 hour	2 hrs 25 min.
H.R. 3433	H. Res. 516	3 hour	80 min.
H.R. 4799	H. Res. 551	4 hour	70 min.
H.R. 5044	H. Res. 562	4 hour	3 hrs 20 min.

III. Bottom line: look at Committee of the Whole rising.

In the 103rd Congress, there was not a single case in which the full time allotted was consumed. That means no one in the 103rd Congress was shut out by a time cap. No Member with a germane amendment to a bill considered under a time cap was denied the opportunity to offer because the time has expired.

Before the Committee rose, on each of the time-cap rules in the 103rd Congress, the Chair asked, ''Are there any additional amendments?'' and then said, ''If there are no further amendments, under the rule the Committee rises.''

In the 104th, on each and every time-cap rule so far, the Chair has been forced to state that all time for consideration of amendment has expired. In each and every case, there were identifiable Members with preprinted amendments that were shut out—3 on risk assessment, 15 on regulatory moratorium; 8 (with 9 amendments) on defense revitalization; 10 on law enforcement block grants. Who knows how many others who did not print their amendments in advance were shut out?

Mr. BEILENSON. Mr. Speaker, as these charts show, last Congress, no Members were precluded from offering amendments under rules with time limits on amendments; this Congress, at least 36 Members have been denied the opportunity to offer amendments to five bills which have been considered recently, even though their amendments were preprinted in the CONGRESSIONAL RECORD.

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

We also offered an amendment to exclude time spent on recorded votes from the ten-hour limit that was originally proposed. Instead of accepting that change, the rule was amended to provide for twelve hours for the amendment process.

While we appreciated getting 2 more hours, the inclusion of the time it takes to hold recorded votes is still a problem for us. If voting time is not excluded, sponsors of amendments are put in the uncomfortable position of having to choose between seeking a recorded vote, or foregoing a recorded vote in order to increase the likelihood that other Members will get a change to offer their amendments. It is simply not fair to put Members in that position.

The argument that was made against excluding voting time from the time limit was that such a change would encourage dilatory tactics—that opponents of the bill would call for recorded votes on every amendment. But, in fact, by not excluding voting time, a parliamentary tactic of another sort can be employed by the bill's proponents—and, in fact, has been.

Three times during consideration of amendments to the Regulatory Transition Act, Members who agreed with the outcome of the amendments on voice vote nonetheless called for recorded votes in order to consume time allotted for considering amendments.

Mr. Speaker, we have other objections to the rule besides the time limit.

First, we have very serious concerns about the Budget Act waivers that are included in this rule. This rule contains four waivers of the Budget Act against consideration of the bill and three against consideration of the committee substitute. In both cases, two of the waivers represent violations of the most important safeguards that our Budget Act provides against increasing federal budget deficits.

One of those safeguards is Section 302(f), which prohibits consideration of measures that would cause the appropriate subcommittee or program-level ceiling to be breached. This is the provision which keeps committees from reporting bills that spend more money than they are allocated to spend under our budget resolution.

The other important safeguard is Section 311(a), which prohibits consideration of legislation that would cause the new budget authority or outlay ceilings to be breached. This is the provision that keeps the House from considering legislation that exceeds total spending allowed under the budget resolution.

This bill requires these waivers because in its current form, as Mrs. WALDHOLTZ correctly pointed out, it creates a new entitlement—a new expenditure of an unknown amount to compensate property owners who are able to claim that their property has been subjected to a regulatory taking.

Although the Canady substitute would eliminate the need to waive the Budget Act, I think it is important for Members to understand that the legislation made in order by this rule seriously violates the rules we have established to prevent us from spending more money than we have agreed to spend under our existing budget resolution.

Moreover, the Canady substitute, while technically eliminating the entitlement to compensation, will not change the fact that this legislation could be extremely expensive. The Statement of Administration Policy on this bill states that ''preliminary estimates indicate that the effect of this bill would be to increase the deficit by at least several billion dollars during fiscal years 1995–1998.''

We also object to the procedure for amending this bill that will result from making the Judiciary Committee substitute in order as original text, rather than the Canady substitute. In effect, the rule cuts off one degree of amendment, which limits the opportunities to change the Canady substitute.

Members need to be ready to offer amendments both to the Canady substitute, and to the Judiciary Committee substitute, which is the original text. This is a parliamentary situation that could cause a great deal of confusion—and cost some precious time—as we work through the amendment process.

Finally, Mr. Speaker, we have grave reservations about the bill itself that this rule makes in order.

As we will hear in the ensuing debate, the Private Property Protection Act would severely limit the government's ability to respond to the public's demand for laws ensuring health and safety, and we believe it will have severe and unintended policy and fiscal consequences.

Mr. Speaker, I urge a ''no'' vote on this rule.

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

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.J. RES. 2.

(By unanimous consent, Mr. HILLEARY was given permission to speak out of order.)

Mr. HILLEARY. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Joint Resolution 2.

The Speaker pro tempore (Mr. GOODLATTE). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

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

Mr. Speaker, before I yield to the chairman of the Committee on Rules, I would like to correct something that is perhaps a misstatement by my colleague on the Committee on Rules, the gentleman from California [Mr. BEILENSON].

That is that I did not believe that the base bill created an entitlement, but there was a question as to interpretation of the language. That is the reason that we are bringing forward a rule that requests budget waivers, so that in the case it was determined through a reading of the bill with which a number of us disagree that entitlement was created by this bill, that we can consider the bill and move to an amendment that will clarify that no entitlement is being created.

I wanted to clarify that before we move forward.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

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

Mr. Speaker, I will not take time to explain the rule, because it has been more than adequately explained by the gentlewoman from Utah. I would like, however, to speak later about the merits of the bill this rule makes in order, but first I would like to speak to the fairness issue.

Mr. Speaker, this modified open rule for the Property Protection Act is the 19th rule issued by the Rules Committee on legislation in this 104th Congress.

Of those 19 rules, 16 or 84 percent have been open or modified open rules and only 3 have been modified closed.

Compare this, if you will, to the 103d Congress in which only 44 percent of the rules were open or modified open and 56 percent were closed or modified closed.

And yet the Democrat minority this year, the same people who foisted all those restrictive rules on us, are now complaining about modified open rules that only place an overall timecap on the amendment process.

Mr. Speaker, I have gone back and looked at the first 17 rules issued by the Rules Committee in this Congress and the last Congress to find-out how different the amendment process has been on this House floor.

What I found is truly an eye-opening contrast between the way the Democrats ran things and the way we Republicans are running things.

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

Mr. SOLOMON. I am glad to yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I would just like to ask the chairman to reiterate one very important figure. Would my colleague share again the number of open and modified open rules that we have had in the 104th Congress, juxtaposed to what happened in the 103d Congress?

Mr. SOLOMON. Mr. Speaker, again, with the amendments that we have offered under the rules we brought to this floor, truly 84 percent of them were open, 84 percent have been open, compared to 70 percent that we closed down last term.

Mr. DREIER. In the 103d Congress. I thank my friend for yielding. It is a very important point that needs to be reiterated.

Mr. SOLOMON. Mr. Speaker, let me just dramatize that a little bit, without taking up too much time.

In the Democrat-controlled 103d Congress, again, let me just say that if we look at those first 17 rules in the last Congress, we will find that there were just 4 that were open and the other 13 were closed or modified.

In the Democrat-controlled Congress, of those 13 rules on which the Committee on Rules made amendments in order, listen to this, only 52 amendments were allowed, while 219 amendments filed with the committee were denied. That means that 219 Members of this Congress were literally gagged, and many of them from Members on the Democrat side of the aisle, conservative Democrats.

While my minority colleagues like to lament about how many amendments could not be offered due to the time caps, I suspect it is nowhere near the 219 shut out by the Committee on Rules in the last Congress on the first 17 rules.

Moreover, if you take a very close look at the amendments offered in this Congress, I think you will see that the Democrats are doing quite well, especially the conservative Democrats who are smiling like Cheshire cats, I see one sitting over here right now, look at that smile on his face, because they are no longer gagged by their own Democrat leadership.

Of the 180 amendments offered, 49 were by Republicans and 181 by Democrats. Of those 180 amendments, 94, or roughly half, were adopted, and listen to this, including 50 by Democrats. In other words, 53 percent of the amendments adopted in this Congress have been offered by Democrats and just 47 percent by Republicans, so I do not really understand all this whinning and complaining from the other side about how they are somehow being unfairly treated in this amendment process, when they have offered 73 percent of the total amendments considered and can take credit for 53 percent of the amendments adopted.

Mr. Speaker, let me just conclude by saying to those who complain that the glass is only one-fifth empty. I want them to cheer up and consider just how full that glass really is. We are all benefiting from a legislative process that is both fuller and more open then it has ever been in some two decades. Think about that.

I am very proud of our leadership and of our Committee on Rules for allowing such an open and deliberative process in this new House.

Mr. Speaker, I include for the RECORD the following extraneous material:

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

Bill and subject	Rule and type	Amendments offered	Adopted	Rejected
H.R. 5—Unfunded Mandates	H. Res. 38—Open	53 (R:7;D:46)	17 (R:7;D:10)	36 (R:0;D:36)
H.J. Res. 1—Balanced Budget	H. Res. 44—Mod Closed	6 (R:2;D:4)	2 (R:2;D:0)	4 (R:0;D:4)
H.R. 101—Land Transfer	H. Res. 51—Open	0	0	0
H.R. 400—Land Exchange	H. Res. 52—Open	0	0	0
H.R. 440—Land Conveyance	H. Res. 53—Open	0	0	0
H.R. 2—Line Item Veto	H. Res. 55—Open	17 (R:3;D:14)	6 (R:2;D:4)	11 (R:1;D:10)
H.R. 665—Victim Restitution	H. Res. 60—Open	1 (R:0;D:1)	1 (R:0;D:1)	0
H.R. 666—Exclusionary Rule	H. Res. 61—Open	6 (R:0;D:6)	5 (R:0;D:5)	1 (R:0;D:1)
H.R. 667—Prisons	H. Res. 63—Mod. Open	23 (R:11;D:12)	14 (R:11;D:3)	9 (R:0;D:9)
H.R. 668—Alien Deportation	H. Res. 69—Open	5 (R:4;D:1)	5 (R:4;D:1)	0
H.R. 728—Law Block Grants	H. Res. 79—Mod. Open	19 (R:7;D:12)	13 (R:6;D:7)	6 (R:1;D:5)
H.R. 7—National Security Act	H. Res. 83—Mod. Open	17 (R:5;D:12)	11 (R:4;D:7)	6 (R:1;D:5)
H.R. 831—Health Deduction	H. Res. 88—Mod. Closed	1 (R:0;D:1)	0	1 (R:0;D:1)
H.R. 830—Paperwork Reduction	H. Res. 91—Open	5 (R:2;D:3)	3 (R:2;D:1)	2 (R:0;D:2)
H.R. 889—Defense Supplemental	H. Res. 92—Mod Closed	1 (R:0;D:1)	0	0
H.R. 450—Regulatory Transition	H. Res. 93—Mod. Open	15 (R:2;D:13)	11 (R:2;D:9)	4 (R:0;D:4)
H.R. 1022—Risk Assessment	H. Res. 96—Mod. Open	11 (R:6;D:5)	6 (R:4;D:2)	5 (R:2;D:3)
H.R. 926—RegFlex	H. Res. 100—Open			
H.R. 925—Property Protection	H. Res. 101—Mod. Open			
Totals		180 (R:49;D:131)	94 (R:44;D:50)	86 (R:5;D:81)

Source: Congressional Record, Daily Digest.

Mr. SOLOMON. Mr. Speaker, I yield to the gentleman from California.

Mr. DREIER. I thank my friend for yielding.

Mr. Speaker, I would simply like to compliment him on an excellent statement; the fact that within the past 56 days we have seen the kind of openness when it comes to amendments, debate, the opportunity to participate in the process that has not existed for years and years and years, not just the 103d, Congress, but for, unfortunately, several Congresses before that.

Mr. Speaker, I think Members on both sides of the aisle have been able to benefit from that degree of openness. I think it is very unfortunate that some in the minority today are trying to claim that we have been more restrictive than they have been, and I think that the very important figures that the chairman of our committee has provided clearly show that the openness has existed under the 104th Congress, and I know under his leadership it is going to continue.

Mr. SOLOMON. The gentleman can count on it.

Mr. Speaker, let me rush to the bill itself because it is so very important.

On this particular rule today we begin consideration of one of the most important elements of the Contract With America, and that is, the Private Property Protection Act, more commonly known as the takings bill.

Mr. Speaker, the fifth amendment to the United States Constitution includes the following language: ''nor shall private property be taken for public use without just compensation.'' The problem is that the courts have interpreted that language so narrowly that it does not adequately protect private property owners from loss in value due to some burdensome Federal regulations.

The bill before us today is designed to establish as policy of the Federal Government the proposition that no law and no agency action should limit the use of privately owned property so as to diminish its value, and this is the key, ''Without fair compensation for that lost value.''

□ 2045

Mr. BEILENSON. Mr. Speaker, for the purposes of debate only, I yield 4 minutes to the distinguished gentleman from Minnesota [Mr. SABO].

Mr. SABO. Mr. Speaker, I rise in strong opposition to this rule because of the long list of Budget Act waivers it contains.

These Budget Act waivers are needed because H.R. 925 creates a massive new entitlement program.

Under the bill, property owners who successfully claim that the value of their property has been diminished by a government regulatory action would be entitled to compensation. The new right to payments would be enforceable through binding arbitration or in court. Payments would be required even for regulatory actions that the government is absolutely required to take under other existing laws.

The cost of this new entitlement program is difficult—if not impossible—to calculate with precision, but the cost could be extremely large. Under the bill, landowners would have an incentive to apply for all sorts of Federal

permits—even for actions they never previously planned to take. If any of the permits were denied, the landowner would be entitled to a check.

Compensation would be due even when the Government was simply denying permission for an activity that the landowner knew would not be allowed when he acquired the land.

The Office of Management and Budget states that ''preliminary estimates indicate that the effect of the bill would be to increase the deficit by at least several billion dollars during fiscal year 1995 through 1998.''

The Congressional Budget Office cost estimate says that CBO has not yet completed its analysis of the costs of this legislation, but that those costs could be significant.

The report of the Rules Committee acknowledges that H.R. 925 creates a new entitlement, and that this entitlement requires numerous Budget Act waivers. In fact, the rule is waiving almost every major provision of the Congressional Budget Act.

It waives section 302(f)—the point of order against bills that breach the allocations of spending authority to committees. It waives section 311(a)—the point of order against bills that breach the ceiling on total spending set by the budget resolution. It waives section 308—the rule that requires committee reports on new entitlement bills to disclose and justify the new entitlement.

And finally it waives section 401(b)—the point of order against new entitlements effective before the start of the new fiscal year.

This rule marks at least the fifth time this year that our Republican colleagues have asked us to waive or circumvent the Budget Act.

Ironically, many of the same Republicans who denounced Budget Act waivers in previous Congresses are now supporting waivers in this Congress.

We should not be repeatedly waiving our basic budget controls—and especially not for bills like H.R. 925 that have the potential to be huge budget busters. I therefore urge defeat of this rule.

Mrs. WALDHOLTZ. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida [Mr. GOSS], my colleague on the Committee on Rules.

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

Mr. GOSS. Mr. Speaker, I thank the gentlewoman from Salt Lake City, UT, for yielding me this time.

Mr. Speaker, the conflict between private property and ''public well-being'' is as old as government itself. The takings issue is a complicated subject that cannot be resolved with one bill; in fact, it's fanciful to believe that the legislative branch of the Federal Government alone can solve all our private property rights problems.

Land use and zoning cases by their nature are unique, and are best considered on a case-by-case basis at the local level, sometimes with the assistance of the courts, not through some one-size-fits-all Federal formula. Mr. Speaker, the rule we are considering is itself unique—and probably not one we can expect to see on this floor very often. But after we get past the technicalities, it is clear that this rule is well crafted to allow a fair debate on the takings issue—as we promised in the Contract With America. I am pleased that this rule allows us to immediately consider two improvements to H.R. 925: the Canady substitute and the Tauzin amendment.

The substitute offered by my friend from Florida fixes several of the potential budget conflicts in the bill, including an important clarification that H.R. 925 would not, repeat not, create a new entitlement whatever ambiguity there may have been. The Tauzin amendment will limit the scope of the bill to just four specific areas: endangered species, wetlands, water draining and food safety.

In addition, the Rules Committee voted to extend the open amendment process to 12 hours, a full dozen, and I hope that colleagues will take advantage of that time to make further improvements to this bill. For instance, I am very concerned about the practicality and affordability of the 10-affected-property threshold in this bill; I intend to offer an amendment to raise this threshold to 30 percent of total parcel market value.

I also look forward to debating the Gilchrest/Wyden proposal, which focuses on the negative impact that questionable development can have on individuals' private property rights—questionable development that could be allowed, if not encouraged, under H.R. 925.

Messrs. PORTER/EHLERS/FARR may offer a measure that would replace the potentially costly and unwieldy compensation formula in H.R. 925 with comprehensive Federal agency reporting requirements.

Mr. Speaker, I have much front-line experience with the takings issue—from zoning board, planning commissions city council, county commission, State planning boards, court cases, and Federal agency hearings, ad infinitum. I confidently predict that this will not be the last takings debate we have in this body. As the coming debate will show, there are very unhappy people on both sides of this issue. H.R. 925 is not a magical fix because there is no magical fix—trying to strike a balance is as close as we will come to a real solution. I urge support of the rule so that we can move forward with this important debate.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Oregon [Mr.WYDEN].

Mr. WYDEN. Mr. Speaker, I thank the gentleman from California for yielding me this time. I want to commend the gentleman from Florida, the previous speaker, for his balanced statement. It seems to me, Mr. Speaker, when most Americans look at the title of the bill, they see this sweeping name, ''the Private Property Protection Act,'' and they walk away and believe that this bill protects all of our citizens. The fact of the matter is that this legislation protects only a limited group of private property owners, those property owners whose use or development of their property is regulated by the Federal Government.

The typical homeowners in our country, and there are 65 million of them, want to continue to enjoy the use of their property even when the Federal Government is not involved in regulating it. I believe that the typical homeowner is not fairly represented in this legislation, and on a bipartisan basis, the gentleman from Maryland [Mr. GILCHREST] and I will try to correct this legislation to make sure that the voice of that typical homeowner is heard.

One way that we could go about doing that, and making sure that the typical homeowners got a fair shake would be to expand the exceptions when compensation is not paid. Right now the legislation provides two exceptions when agencies do not have to pay compensation for agencies' actions that diminish the value of private property. The first is when the agency action prevents a public health or safety hazard, the second is when it prevents damage to specific property.

It would also be helpful to make sure that these 65 million typical homeowners in our country get a fair shake to create a third exception when agencies do not have to pay compensation, and this would apply when the agency's action would prevent or restrict any activity likely to diminish the fair market value of private homes.

This amendment would enable agencies to avoid having to make a Hobson's choice of either restricting development and incurring liability to the developer or allowing the development to proceed and have those homeowners in our country suffer the devaluation of their property.

When agencies take action to protect the value of private homes they would not incur liability to developers whose ability to develop their property is limited by the agency's action.

In contrast to H.R. 925, this approach also provides protection for homeowners in situations where there has been no physical damage to homeowners' property but the market value is likely to be diminished by development activity adjoining the home. This would be the kind of situation where we would have the filling of a wetland that would increase the risk of flooding the homes, but there has not yet been any damage.

What it comes down to, I would offer to may colleagues, is that the gentleman from Maryland [Mr. GILCHREST] and I hope that this legislation can have a bit more balance.

I would like to stipulate, and my seatmate from Louisiana on the Committee on Commerce has made this case over the year, that there are takings and there are takings that warrant compensation. But let us before we finish this bill make sure that the 65 million typical homeowners who use their property in a fashion that is not regulated by the Federal Government get the same voice in this legislation as those developers and others who also deserve a fair treatment and likely to get it under this bill.

Mr. Speaker, I look forward to working with my colleagues to ensure that this legislation has a bit more balance, and that the voice of the typical homeowner is heard.

Mrs. WALDHOLTZ. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Florida [Mr. CANADY], the author of the amendment that will show this is not a new entitlement, that this is not a budget buster that requires agencies to pay out of existing funds for the harm that they cause.

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise today in support of the rule on H.R. 925.

Regulatory restrictions on private property have increased dramatically in the 20th century, but the question of who pays for the public benefit that ensues from the regulations has not been adequately addressed. H.R. 925 is the answer to the question of who should pay for benefits to the general public.

The act provides for the Federal Government to pay compensation to those individual property owners who are singled out to bear the cost of intrusive regulation that benefits the public at large.

I believe the rule allows a generous amount of time for amendments and encourages a productive floor debate on amendments to this important legislation.

Under the rule we will first take up a substitute amendment which I will offer, and then we will consider Mr. TAUZIN's amendment to my substitute. Together, these amendments form a bipartisan compromise on the Private Property Protection Act.

The compromise sets the threshold diminution in property value required for compensation at 10 percent of the portion of property affected and allows a property owner to force the Federal Government to buy the portion of property affected outright if that portion's value is diminished by 50 percent or more.

The compromise also narrows the scope of the legislation to cover only agency actions taken under the Endangered Species Act, wetlands regulations, and specific statutes relating to water rights.

Members on both sides of the aisle who value property rights support this compromise legislation.

I urge my colleagues to support this open rule so that we can move forward with consideration of this important issue.

□ 2030

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. CONYERS], the ranking minority member on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I rise to oppose this rule.

At a time when the Senate is considering passage of the balanced budget amendment, here comes the new majority proposing a massive new spending program. The only way it can do that is to waive nearly every budget rule.

This rule waives budget rules restricting new entitlements. The rules say that a committee cannot enact new entitlement authority beyond that allocated by the budget resolution. This rule waives that budget discipline requirement in the Budget Act.

Current rules requires legislative reports accompanying legislative reports on bills creating new authority to fully explain the entitlement implications. This rule waives that requirement.

Budget Rules require that any new entitlement spending conform with total outlays or make the proper adjustments. This rule waives that.

Budget rules prevent new entitlements too late in a fiscal year to make other needed budgetary offsets. This rule waives that.

Want some more? Let us try the appropriations side.

House rules prevent appropriations authority in legislative bills. This rule waives that.

House rules require germaneness of amendments and substitutes. Republican members have argued the need for strict adherence on germaneness for decades. This rule waives germaneness requirements.

Mr. Speaker, the only people being ''taken'' by this taking bill are the American people. This bill will be a massive raid on the Treasury. Its costs are so incalculable, that even CBO said that its costs, while unscorable because of the speculative nature of future agency actions, could be enormous. The bill will allow for potentially tens of thousands of claims against the Government, legitimate and illegitimate, and for endless attempts to raid the U.S. Treasury just when Congress has promised to bring it into balance.

The bill would also require a vast new bureaucracy. Someone is going to have sift through the thousands of claims against the Government. Administrative proceedings will have to be held to adjudicate claims. New bureaucracy will spring up everywhere. At a time when the Clinton administration has reduced the Federal bureaucracy beyond that accomplished by any Republican presidency, this bill will create a massive new bureaucracy to process what could easily become hundreds of thousands of claims that would ensure any such act.

Better this bill be entitled the ''Bureaucrats and Lawyers Relief Acts?'' Just for the price of a 32-cent stamp, anyone who believes that any governmental action reduced his property value by more than 10 percent could trigger a vast bureaucracy into motion to determine how much compensation should be paid. Imagine all the new jobs for assessors, evaluators, arbitrators and—of course—lots and lots of lawyers. There will be mounds of new paperwork and swirls of new red tape: all leading clearly to more government, not less.

And what bothers me most is the likelihood that many of these claims could be fraudulent ones. This bill sets up the possibility that greedy land speculators could make false claims on the United States saying that actions deprived them for use of property that they never intended to use in the stated fashion.

Mr. Speaker, if you want to waive every budget rule imposing discipline, if you want to raid the Treasury, increase bureaucracy, set up a situation for swindlers scheming against the U.S. Government, then this rule is for you.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I support the rule because I think it offers an opportunity for us to debate this most controversial bill and this most controversial topic. I will say a couple of things before we get lost in the debate as to the importance of some of the issues that will be raised, I am sure, tonight and tomorrow. All of us understand that the fifth amendment protects property rights. I say, ''If your property is taken away for the public good, you should be compensated. There is no question about that. The question, I guess, arises, if your property is regulated to prevent public harm, should you be compensated? My judgment on this, based on the fifth amendment, is that you should not be compensated.''

Now there is something else that may get lost in this debate, and that is the importance because we are going to focus in a little while on wetlands and endangered species. Let us not throw the baby out with the bath water. Wetlands provide an invaluable service to us in this country for a number of reasons: filtration into waterways. It offers habitat for a variety of species. It is, at last in my district, very important economically.

Also there is the fact of biodiversity and how useful that is to maintain the quality of our lives in many areas, one of which is medicine. Biodiversity offers us a whole series of opportunities to cure diseases like cancer, dreaded problems of depression, glaucoma, heart disease. All of these come from the natural environment. So, when we

are talking about the endangered species, when we are talking about the takings bill tomorrow, it is vitally important for us to understand the nature of our existence on this planet, and let us not give away the thing that we need to hold on to, the quality of our life, and that is biodiversity on the planet.

Tomorrow the gentleman from Oregon [Mr. WYDEN] and I will be offering an amendment which seeks to provide home owners. If we are going to be to the point where we are going to compensate people through this legislation, we also need to make sure that we provide home owners with a means to obtain compensation from polluters whose action adversely affects their property. In cases where federally permitted polluting action has direct impact on a person's home, that person should be able to be compensated by the polluter who reduced the value of their property. If we are going to provide compensation to people whose property values are compromised by Federal requirements that they not pollute, then the least we can do is to provide compensation to those whose property values are hurt by the resulting pollution.

Mr. Speaker, I cannot imagine a bill which fails to protect the property rights of the Nation's 65 million home owners can seriously be called a property rights bill. Our constituents have the right to be secure in the knowledge that the Federal Government will protect their property from the polluting effect of others.

I say to my colleagues, ''When we deal with this issue, let's deal with it in a very comprehensive way. Let's understand that the Endangered Species Act protects biodiversity, which is the quality of our lives, yet there are many good positive functions for wetlands, and there are many more home owners out there who don't seek Federal permits that should be protected by our actions.''

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from California [Mr. FARR].

Mr. FARR. Mr. Speaker, I rise in strong apposition to the rule.

We are here tonight to debate the rule. I think in the opening we heard how complex this rule has been. What was not explained is that this rule really violates the law.

The bill is a very serious issue. It opens a major debate and changes existing law. The existing law deals with takings, this bill deals with givings, and in that it is a budget buster. It is the biggest waiver in the history of the Budget Act. It is a violation of the Budget Act. If we are serious about the issue, then we have got to be honest about the consequences.

The Committee on Rules knew this bill was so controversial that they just waived all of the provisions. The bill, as reported by the committee, creates an entitlement because it creates a right to payment regardless of whether appropriations are available on the budget. The basic rule of the Budget Act is that new entitlements have to be provided for in the budget resolution or they have to be paid for. This bill does neither.

Accordingly, Mr. Speaker, it violates, the rule, section 302(f), the basic rule that any new spending bills have to be within the committee spending allocation. The Committee on the Judiciary has zero allocation for entitlement authority.

Section 311(a) is the rule against bills that breach the total ceiling on spending set by the budget resolution. We have no cost estimates.

It violates section 308, the reporting requirement. Every bill must have a spending report. I say, ''When you have a bill, committee report, it should compare the spending, disclose and justify new spending, but the Committee on the Judiciary report on the Canady bill does really none of these things. The explanation in the report is that the CBO report was not complete, but duty lies with the committee, not with the CBO.''

It violates section 401(b) which prohibits new entitlements before October 1.

OMB cost estimates are that several billion dollars during the fiscal years 1995–98 will occur. In fact, Mr. Speaker, let me read the Executive Office of the President, the Office of Management and Budget, and their statement on here is that the administration strongly supports property rights and is continuing to implement regulatory reforms that will provide relief to property owners. However H.R. 925, as reported by the Committee on the Judiciary, would impose, without regard for the Government's important role in protecting the general welfare, an arbitrary compensation requirement for reductions in property values attributable to regulatory or other actions by Federal agencies. This is unacceptable and an extreme requirement.

First, it seriously undermines the Federal Government's ability to protect the general welfare. Second, it imposes an almost unlimited fiscal burden upon the American taxpayer. Third, it creates a potentially costly new direct spending program as well as a new and costly Federal bureaucracy to evaluate compensation claims. Fourth, it supplements 200 years of constitutional jurisprudence under the fifth amendment.

For these reasons the administration strongly opposes H.R. 925. The administration is prepared to work with Congress to provide relief and does not impose new burdens on the American taxpayer which would create new bureaucracy, or costly spending programs, or threaten the public welfare.

Pay-as-you-go scoring: H.R. 925 would affect direct spending. Therefore it would be subject to pay-as-you-go requirements of the Omnibus Reconciliation Act of 1990. Preliminary estimates indicate that the effect of the bill would be to increase the deficit, increase the deficit by at least several billion dollars in the fiscal year 1995 through 1998.

The bill does not contain provisions to offset the increased deficit spending. Therefore, if the bill were enacted, its deficit effect would contribute to a sequester of the mandatory programs. Such a sequester would force automatic reductions in Medicare, veterans readjustment benefits, various programs providing grants to States, child support administration, farmer income and price support payments, agricultural export promotion, student loan assistance, foster care and adoption assistance, and vocational rehabilitation.

This estimate is based upon a preliminary analysis and is likely to increase as agencies analyze the bill's full effect. Thus final scoring of this legislation may deviate from this estimate.

In closing I urge defeat of the rule.

□ 2045

Mrs. WALDHOLTZ. Mr. Speaker, I am pleased to yield three minutes to my colleague the gentleman from Farmington, UT [Mr. HANSEN].

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

Mr. HANSEN. Mr. Speaker, most of us who have come to this place have come out of the city councils, the county commissions, the state legislative bodies. In those particular bodies we had the right to practice eminent domain. If we needed some place for a water system or a road or whatever it my be, we would have that ground in a matter of minutes and we would take that ground over. But it may take months and years before we paid the property owner. We would haggle it in court, but eventually we would have to pay the person because we took his land.

Today we are now looking at things where people have thought of a way around that. We have the 1973 Endangered Species Act; we have the Wetlands Act. And now we take a person wherever he may be in this United States and we walk in and say we just found the desert tortoise on your ground, or there is a wetland there.

In my little state of Utah there is a grape farmer, a fourth generation farmer in a little place called Clearfield, poor old Joe Jenson. Joe made the mistake of letting his irrigation system break, and in two years there were wetlands around.

For four generations they farmed that area, but in swaggered the Corps of Engineers with the swagger stick and said ''Mr. Jenson, if you farm this, we are going to charge you $17,000 thousand a year.'' Mr. Jenson said ''I have been doing this for years. My father and grandfather did it. What are you talking about?'' But Mr. Jenson is no longer farming his property.

All up and down this great country, in the Mississippi Delta and other areas, you hear more horror stories on the takings for wetlands or endangered species than you do on food stamps. Every day there is a new one in my office.

Let us not be deceived by saying this is a raid on the budget. This is a raid on people who own ground, and they have a right to use it. Little by little the extremists have taken this over, and no longer can we use it the way we wanted to.

Government trying to take property for their use without paying, this is not new. The first recorded attempt at a taking occurs in the Bible, in I Kings, Chapter 21. King Ahab wanted Naboth's farm, but he would not sell it to the king. So Queen Jezebel by official decree ordered him stoned to death, and Ahab had his farm.

Well, now, the only difference in this story I want my colleagues to see is they first wanted to buy it. They first wanted to pay for it. But, no, they would not take it, so they took it away from him.

In walks the Secretary of Interior in my little place in Cedar City, Utah, and says, ''Sure, we will buy it from you.'' And the man said, ''I paid 30 thousand dollars an acre for it 10 years ago, and I intend to develop it.'' They say, ''It is not worth that anymore because we found the slimy slug,'' or whatever it is on it, I can't remember the species, ''but we found that on the property, so therefore we will give you $600 for it.''

You people say that is a raid on the budget? You are taking the man's farm. You are taking the man's property. My goodness gracious, is not this Constitution supposed to take care of people, the private property owner?

Mr. Speaker, I rise in support of this great rule we have got here and also of the bill. Let us take care of these people that we have pushed around and not given them just compensation.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the rule under which we are finally going to take up the issue of private property rights in this body in an affirmative way that I hope will lead to a victory for the private property owners of America against the uncompensated takings by the Federal Government.

The opponents of this rule have complained that the rule waives the rules on entitlements, budgets and appropriations. Let me tell you why. It is the Fifth Amendment of the Constitution which creates the entitlement here. It says ''Nor shall private property be taken for public purposes without just compensation.''

Property owners in America are entitled to that compensation when their property is taken by virtue of the civil right guaranteed in the fifth amendment of the Bill of Rights of the U.S. Constitution.

To my friend from Maryland who says he does not think they deserve compensation, he happens to disagree with the Supreme Court in the case of Lucas, which said that the right of compensation for wetlands taken is guaranteed under that fifth amendment. He disagrees with the case of Dolan versus the City of Tigert, a Supreme Court decision of just last year, which said in effect that the right to receive compensation for government takings by regulation is a right as sacred as the rights guaranteed of free speech, free religion, free press, assembly, and all the sacred civil rights contained in our Bill of Rights; no less sacred than any one of the others. In fact, the Court said it is not a distant cousin. It is entitled to the same respect and dignity as any one of those other rights. So maybe my friend has not read the Supreme Court decision.

When we debate this bill tomorrow, I will be offering an amendment, an amendment to limit this bill to the central acts that we have been debating for the last several Congresses when my friend the gentleman from Texas, JACK FIELDS, and I, have led the effort to get this body one day to consider the obligation of this government to compensate private property owners for government regulatory takings.

We will offer an amendment to limit the scope of this bill to the issues we have debated for several Congresses now in an effort to get it before this floor. The bills involved the Endangered Species Act and the wetlands controls under the 404 section of the Corps of Engineers Clean Water Act, and the sodbusters provision of the Food Security Act. And we will also provide in our amendment protection for water rights out West, which to westerners are as sacred as land rights are to easterners.

Let me tell my friend from Oregon who spoke earlier, this bill protects every property owner in America, particularly the small property owners who cannot afford a trip to the Supreme Court, as some have had to do, at $500,000 of court costs and legal fees. Every property owner ought to have a chance at home to get the remedies and the rights he is due or she is due under our Constitution and the Fifth Amendment. That is why we will debate tomorrow. I hope this rule passes and we get that chance.

Mr. BEILENSON. Mr. Speaker, I yield the balance of my time to the gentleman from Minnesota [Mr. VENTO].

(Mr. VENTO asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. VENTO. Mr. Speaker, I rise in opposition to the rule and to the bill. This rule I think makes a mockery of the deliberate consideration of matters before this House. This is an issue of significant importance, but yet the Committee on Rules and the committees of this House have chosen to in fact have a deliberate consideration of the various issues that are inherent in this. It touches the most important and fundamental rights of citizens and people of this country.

The problem is, as has been stated, not only is it inconsistent with the Budget Act that we have that was passed in 1974, and subsequently amended, to try and provide and steer the policy path of prudence and protection of the taxpayers' pocketbook in that property right, but it also of course violates the appropriation measures and the idea of appropriating directly on the House floor here, as well as the germaneness rules of this House.

It baffles I think the mind, boggles the mind, that the committees of the House could not sit down and write this up. I mean, we are patching together here two or three amendments made in order which are not germane in terms of trying to understand what the policy direction and some degree of clarity of what is intended here.

The fact is what is going on, of course, is we have split up and subdivided many of the topics and trying to put them back together this way regards to some political contract that is being wrapped in the virtue of property rights. Quite candidly, I think it is a rather transparent veil that hangs over it in terms of what the impact and what the goals are here that is going on.

What is happening is these issues on their merits to be dealt with should be forthrightly dealt with. If you are concerned about the Wetlands Act, I would suggest that the measure, the new majority has the authority to bring that up in the House and debate it, or the Endangered Species Act.

The fact of the mater is the Republican contract, which is so proudly proclaimed a contract with the people, does not in fact mention the word ''environment.'' Yet as you look through the fabric of that contract and the specifics, time and time again a goodly portion of it has a significant adverse impact on what constitutes 25, 30, 40 years of environmental law.

I would just suggest to my Republican colleagues, the new majority in this House, that in all deference, these are not Democratic laws. The reasons that we stayed in a position of responsibility is because we often did respond to these laws which are very important and very significant to the people we represent.

I would just suggest you ought to deal with these issues forthrightly. I think there is a very substantial change that is being perpetrated here in terms of the public, and that is, of course, increasing the cost of doing business. These regulations represent very often, this assault regulation, these regulations represent the wheels on the vehicle that puts laws into effect. Can you not put laws into effect

unless we can sit here and precisely write in detail all of that?

My good friend and colleague Mo Udall used to say there are two kinds of people in Washington, those that don't know and those that don't know they don't know. The Members of the House will be well-advised to recognize the limitations we have and the responsibilities that we give to the Executive in terms of putting laws into effect. These rules and regulations that are being beat about the head these days are the basis of putting laws into effect.

What we are doing here, of course, is trying to write regulations and specifics for the Court with regards to the fifth amendment of the Constitution. I would say in doing that, cutting it out of whole cloth, so-to-speak, and defining what constitutes a property right, a takings, we are doing a great injustice in terms of putting a burden on the Federal Government and limiting its ability to carry out the public good in this country. If that public good is manifested in environmental and regulatory laws, and I know the amendments you have you are going to specifically target in on the environmental laws specified in the Tauzin amendment. I understand that. But I think in terms of doing it and attempting to superimpose this particular ruling and takings, we are doing great injustice and causing great expense on the taxpayers. We should not have to pay the polluters, in essence pay them so they will not pollute, Mr. Speaker. I would ask Members to defeat this rule and this bill.

[From the Minneapolis Star Tribune, Feb. 25, 1995]

ENVIRONMENT—DID AMERICA VOTE TO TRASH REGULATION?

Did the Republican triumph in last fall's elections mean that voters wanted to eliminate major environmental, public health and safety protections? According to polls and common sense, the answer is no. Instead, the public wants less bureaucracy and more flexible regulation. What they will get if Congress passes the bills sprouting from HR 9, the so-called ''Job Creation and Wage Enhancement Act,'' is less protection for the public, more bureaucracy and higher costs.

Federal regulation and bureaucracy can be burdensome and senseless, as with ''one size fits all'' regulations that impose identical landfill design requirements for dry Arizona and swampy Louisiana. Sometimes the cost to remove the last few parts per billion of a toxic compound from a water supply simply does not justify the expense. And red tape can be voluminous. Business groups have good reason to target reduction of regulations as their top legislative priority.

Reasonable regulations must take appropriate risk-benefit calculations into account. And reasonable regulations must be based on hard science, not public hysteria or political influence. But the solution to an occasional problem is not a wholesale abrogation of 35 years of legislation that has demonstrably improved public and environmental health. Yet that's what the convoluted bills growing out of HR 9 could do. Consider:

Risk/benefit analysis? HR 926 requires an assessment of regulatory costs—but not benefits—before a rule can be promulgated. Health benefits may be difficult to quantify, but it's stupid to leave them out. ''Radical'' organizations such as the American Lung Association are dismayed at the public health disaster such mindless accounting will bring, reminding Congress that current, successful pollution regulations were created only after extensive local efforts failed to curb pollution.

Less bureaucracy? Adding 22 or 23 additional analytical exercises prior to any rulemaking action involves more bureaucracy, not less.

Tort reform to reduce the influence of lawsuits and lawyers? This legislation offers a feast for lawyers wishing to impede regulatory processes. The law allows numerous new avenues for lawsuits including—wildly—suits against individual regulators.

Save money? EPA director Carol Browner estimates that compliance within her agency alone would require nearly a thousand additional employees and $200 million annually. The cost to business and public inefficiency would be much higher.

Cut entitlements? HR 925 would create a whole new entitlement, requiring reimbursement of landowners if their property value was reduced by 10 percent due to a regulation. That's a huge new fiscal burden, and of course no mention is made of requiring private property owners to share with taxpayers the financial benefits they routinely receive as a consequence of government actions.

The bills resulting from HR 9 are overt efforts to gum up Washington, not make it more efficient. Congress should reject such wholesale, ideologically based trashing of this nation's environmental laws, then go about saving business from inappropriate regulation the old-fashioned way: with common sense, one regulation at a time.

Mrs. WALDHOLTZ. Mr. Speaker, most of the debate tonight has centered on budget waivers, and it is appropriate that when we decide to waive the requirement of the Budget Act in a rule, that we take it very seriously.

The new Republican majority in fact takes the budget so seriously that we enacted rule XI, clause 4(e) that states as follows: ''Whenever the Committee on Rules reports a resolution providing for the consideration of any measure, it shall to the maximum extent possible specify in the resolution the object of any waiver of a point of order against the measure or against its consideration.''

We take this seriously, Mr. Speaker. And because we took it seriously, we outlined in this rule every budget waiver that we are asking this body to consider so that we can consider this very important legislation.

But, Mr. Speaker, it has been alleged tonight that this is the most serious waiver of the budget rules that has ever happened to this House. Nothing could be further from the truth.

Mr. Speaker, I refer the House to the survey of activities of the House Committee on Rules of the 103d Congress, the last Congress. In that Congress, 193 rules were offered to this House and passed. Of those 193 rules, 114 rules waived all of the rules of the House. All of the rules of the House, including the Budget Act. This does not even begin, Mr. Speaker, to be the most egregious example.

Now, why are we trying to waive budget rules tonight? Not because we intend to create a new entitlement. We do not. Not because we are going to allow this to be a budget buster. It is not. The reason that we are trying to waive these rules tonight is to allow us to bring forward legislation that will address this, and to make in order an amendment that will make it clear that the authors of this bill did not intend to create a new entitlement, did not intend to add 1 more dollar to the budget deficit or appropriate 1 more dollar to agencies.

What they did intend and what the amendments will establish is that agencies who take the property of private citizens of the United States will have to pay for that property out of their existing budgets.

So, Mr. Speaker, we ask tonight to waive these rules to allow us to bring forward legislation that will make it clear that we are not creating a new entitlement, that we are not adding 1 more dollar to the budget deficit that is far too high already, and that we are not appropriating a single extra dollar to agencies to pay for their invasion of the rights of private citizens.

□ 2100

What we are doing is bringing forward a rule that allows us to get to this radical idea of making agencies pay through existing funds for the actions that they take. That is the intent of this rule. That is the intent of this legislation, and that is what this rule will provide.

Let me address one other thing, Mr. Speaker. It has been suggested that one of the greatest failings of this bill is there is no estimate from the CBO as to how much this bill will cost.

Mr. Speaker, when these amendments pass that are made in order specifically under this rule, there will be no additional cost. But I would suggest, Mr. Speaker, that the fact that the Congressional Budget Office today does not even know how much we are costing private citizens every year through taking their property is the best argument there is for passing this bill, becuase the Government of the United States, which is here to protect these private citizens, is taking hundreds of thousands, if not millions or billions of property away from private citizens every year without compensating them.

We do not even know, Mr. Speaker, how much we are costing them becuase we have been so cavalier in the past.

Mr. Speaker, this is a fair rule. It is a rule that will allow us to enact the intent of the authors to make agencies compensate citizens through existing funds.

I urge my colleagues to support this rule and the bill.

Mr. Speaker, I include for the RECORD the following information.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of March 1, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	16	84
Modified Closed [3]	49	47	3	16
Closed [4]	9	9	0	0
Totals:	104	100	19	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of March 1, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/2?/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

The previous question was ordered.

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

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

Mr. BEILENSON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this vote will be postponed.

Pursuant to the order of the House of today and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 925.

□ 2102

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions, with Mr. SHUSTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the order of the House of today, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida [Mr. CANADY] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise tonight in support of H.R. 925—a bill which provides a reasonable means of redress for landowners who are subjected to Federal regulation which substantially reduces the value of their property.

We can appropriately begin our consideration of H.R. 925 by referring to a recent court decision. Chief Judge Loren Smith of the Court of Federal Claims recently voiced his concern over the inadequacy of the law of takings at addressing the impact of regulation on private property rights. In Bowles v. United States, Judge Smith stated:

> This case presents in sharp relief the difficulty that current takings law forces upon both the federal government and the private citizen. The government here had little guidance from the law as to whether its action was a taking in advance of a long and expensive course of litigation. The citizen likewise had little more precedential guidance than faith in the justice of his cause to sustain a long and costly suit in several courts. There must be a better way to balance legitimate public goals with fundamental individual rights. Courts, however, cannot produce comprehensive solutions. They can only interpret the rather precise language of the fifth amendment to our Constitution in very specific factual circumstances. . . . Judicial decisions are far less sensitive to societal problems than the law and policy made by the political branches of our great constitutional system. At best courts sketch the outlines of individual rights, they cannot hope to fill in the portrait of wise and just social and economic policy. (Bowles v. United States 31 Fed. Cl. 37 (1994).

H.R. 925 is aimed at filling in ''the portrait of wise and just social and economic policy'' with regard to private property rights.

It will establish a mechanism which represents in the words of Judge Smith a ''better way to balance legitimate public goals with fundamental individual rights.''

It provides a workable way to ensure that property owners receive compensation when Federal regulation causes a significant reduction in the market value of the owners' property.

It is important to understand some things this bill does not do.

The bill expressly prohibits compensation for any agency action undertaken to prevent an identifiable hazard to public health and safety or identifiable damage to specific property other than the property whose use is limited.

Contrary to the claims of some critics, this bill will not pay polluters to stop polluting.

The bill provides that any payment made under the act shall be paid from the annual appropriation of the agency whose action resulted in the limitation on the use of the property.

If the agency does not have sufficient funds to compensate the owner, the agency head is required to seek the appropriation of such funds in the next fiscal year. Contrary to the claims of some opponents of the bill, it does not create a new entitlement. This point is made clear beyond any doubt in the amendment in the nature of a substitute which I will offer.

H.R. 925 will force agencies to recognize that when they limit the use of an owner's property, there are economic consequences. Agencies will have to weight the benefits and costs of their

actions carefully—paying close attention to the impact of those actions on individuals and the general public. Agencies also will be more accountable to Congress, and therefore, will be more likely to carry out the true intent of the statutes they are charged with enforcing—rather than continually extending their bureaucratic reach.

Supreme Court Justice Joseph Story many years ago stated that, ''One of the fundamental objects of every good government must be the due administration of justice; and how vain it would be to speak of such an administration, when all property is subject to the will or caprice of the legislature and the rulers.''

H.R. 925 will help to ensure that private property is not subjected ''to the will or caprice of'' agencies. I urge my colleagues to support this important legislation.

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

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

The opposition to this measure comes from the view of compensating private property owners under the Constitution's taking clause when Government regulation results in reducing the fair market value of private property by more than 10 percent. This is a serious departure from long-established Supreme Court doctrine in an effort that, I think, is very clear and is getting clearer the more this debate goes on, to undermine the Government's ability to promote the common good by providing for clean skies, fresh water, and safe and fair work places that the American people have come to expect.

The result of such a measure passing would be, as one witness testified, hard-working American taxpayers will be forced to watch as their hard-earned wages are collected by the Government, as taxes are paid out to corporations and large landowners as takings compensations and large landowners as takings compensation. And all this at a time when the Government downsizing is the rallying cry with the new majority in the contract.

This measure senselessly creates a vast new bureaucracy and a new entitlement program with so much uncertainty that endless litigation is a distinct likelihood.

Oh, yes, there is another motivation for takings legislation, to undermine the enforcement of one of the Nation's most important civil rights laws, the Americans with Disabilities Act, which will surely occur once a measure of this drastic nature is brought into our law.

This measure radically expands subtle Supreme Court law and leads to an absurd result and windfalls to investors of every stripe.

For centuries now the courts have grappled with the essential questions arising from the few words in the fifth amendment which drives the takings law. What uses are public and how much compensation is just and what is property and what amounts to a taking? In the Armstrong versus the United States case, the Court described the takings clause underlying purpose:

> The fifth amendment's guarantee that private property shall not be taken without just compensation was designed to bar the government from forcing some people alone to bear burdens which in all fairness and justice should be borne by the public as a whole.

In several subsequent cases, there have been further definitions of the ways that a taking can occur. We proceed in this general debate absolutely stunned at the way we would turn this concept of taking on its head.

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

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman from Florida for yielding time to me.

Mr. Chairman, there is a giant sucking sound in America in 1995. It is the governmental grabbing of private property through ruinous regulation.

Our farmers in the Midwest and across the Great Plains are unable to use their farmland because the Government calls their dry lands ''wetlands.''

Property owners on the east coast are denied the right to build homes for their families because bureaucrats oppose construction.

Across Texas, homeowners, ranchers, and farmers are warned they may not be able to use private land if a golden-cheeked warbler decides to nest there.

And in southern California, ranchers, farmers, and homeowners are denied access to water because of a fairy shrimp upstream.

These are today's forgotten Americans. Their rights are trampled by a government that forces them to shoulder the entire costs of ruinous regulations. These citizens are denied the productive use of farms, ranches, and businesses acquired after a lifetime of hard work.

And many of those who claim to speak for society's neglected and left out are strangely silent and often hostile to the plight of these citizens.

Mr. Chairman, today help has arrived. Through a bipartisan effort in the people's House, these Americans will be forgotten no longer. The people who do the work, pay the taxes, and pull the wagon will have the same rights as the golden-cheeked warbler, fairy shrimp, and blind cave spider.

The private property rights legislation we are considering stands for a fundamental and very simple principle of basic fairness: If a landowner is prevented from using a portion of his or her land in order to provide a public benefit like a wetlands reserve or wildlife preserve, the costs of acquiring these benefits should be shared by the public as a whole. It's not fair to force the individual landowner to shoulder the entire burden.

The Private Property Protection Act of 1995 will not eliminate our Nation's environmental laws. It won't prevent the protection of endangered species or preservation of wetlands. It will permit us to protect as many endangered species and as many wetlands as we the people are willing to pay for.

The Private Property Protection Act of 1995 is about fairness, accountability, and shared responsibility. It's about holding the Federal Government to standards of public accountability. And it's about putting people first.

On November 8, 1994, the American people demanded that their government reduce its size, scope, and burden. Regulatory burdens imposed in the name of protection of the environment are among the most onerous. The Private Property Protection Act of 1995 would relieve those burdens, fulfill the American people's mandate, and restore freedom and fairness to all Americans.

□ 2115

Mr. CONYERS. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from California [Mr. FARR].

Mr. FARR of California. Mr. Chairman, I rise on the general debate on the bill, and I think we really ought to take a very close look at this, because this bill shifts the law, really shifts the law from an issue which has been long held in our Constitution, that when the Government takes something, they ought to pay for it.

Certainly that is the role of our courts, to determine, if landowners and Government regulators cannot agree on it, exactly what that taking process is and what the value is.

This bill shifts that. Just in the bill itself, it says that this bill relates to diminishing the fair market value of the property by 10 percent. Let me repeat that again. This bill goes to any action that diminishes the fair market value of the property by 10 percent.

That, Mr. Chairman, is absolutely ridiculous. What is the fair market value? Who determines fair market value? Is it what we thought we would make if we got a big windfall in a big development? Is that the fair market value: expectation?

What is the price of that? What is 10 percent? My God, when you went out and bought a house, there was an appraisal on that house. You probably did not pay full price. You bargained it down. But this bill says no, if the value of the owner is diminished by 10 percent, then you trigger a taking.

This legislation is going to cost State, Federal, and local governments billions of tax dollars. It is going to increase the government bureaucracy, not only for the government agencies to try to figure out what a taking is and whether 10 percent is diminished, but then the argument will be carried out by appraisers, land appraisers, lawyers.

This is a wonderful bill for lawyers, because it is going to guarantee a full-

time employment act for them. It is going to clog our court systems. It is going to create a new entitlement program.

Just think, you can own a piece of land and you know that land may be thousands of acres, but you have a couple of acres that are in a wetland. Maybe you have a couple of acres that are in that habitat of an identified endangered species; not the whole property, just that couple of acres.

You can say, ''All right, I want to do all my development right on those couple of acres.'' You know that the government will prohibit you from taking, and you can then trigger and say, ''That is a taking. You have taken my land. Compensate me for it. Then I am going to use that compensation to build all over the rest of the land.'' That indeed is going to create chaos.

Mr. Chairman, I think we ought to look at the people that are down in the trenches. I have been there as a county supervisor dealing with land use regulation and master plans and zoning and elements of those master plans that require that the zoning be consistent.

I have dealt with the State legislature in those issues when I was in the California State Legislature, a very complex State. Look at the people down in the trenches. What do the State legislatures say about it? The National Conference of State Legislators' policy resolution passed this last year strongly opposes any legislation or regulations at the national level that would, one, attempt to define or categorize compensable takings under the fifth amendment of the U.S. Constitution, or, two, interfere with the State's ability to define and categorize regulatory taking requirements requiring State compensation.

Let us look at the League of Cities, all the cities in the United States; these are the people that do this land-use regulation at the local level. They oppose this.

Let us look at the State attorneys general, who have to go to court and defend what State and local governments have done. The attorneys general oppose this legislation.

Virtually everybody who knows anything about land-use planning at the local level opposes this legislation. It is a bad bill, and I urge Members to defeat it.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I rise today in support of H.R. 925.

It is time Congress injected some substance into the spirit of the fifth amendment.

Perhaps James Madison put it best when he said ''No land or merchandise shall be taken directly even for public use without indemnification to the owner.''

I could not agree more.

And neither could the people of middle and west Tennessee who I represent.

Time and again, I hear from propertyowners who have seen their land values decline.

This is thanks to the propensity of this Government to regulate and mandate and to effectively limit the use of this property.

I have a good friend, Anthony Bolton, from my hometown of Henderson, TN, who is experiencing this right now.

He and his family own about 500 acres on the Forked Deer River in west Tennessee.

The land used to consist of about 50 acres in production with the other 450 acres in prime hardwood.

But a beaver built a dam, and that's where their nightmare began.

The 500 prime acres have since become nothing more than a muddy swamp, with no real economic value.

Now rather than earning money with the land, he instead only gets to pay its taxes.

Why? Because the Federal Government says they can't remove the beaver dam because it has created a wetland.

Where is the common sense in this?

Why does this Government deem it necessary to place unnecessary financial burdens on hard-working taxpayers?

It is time we reverse these unfair burdens on America's landoweners.

That is exactly what H.R. 925 will do.

This legislation will not take away the sovereignty of this Government.

It will begin to put the constitutional rights of landowners before the rights of spotted owls, woodpeckers, and kangaroo rats. And yes, beavers too.

If we as a government and society want to conserve something, that is fine.

But we should not place that entire burden on the shoulders of property owners.

Mr. Chairman, the issue before us is paramount.

There are few rights more important in this republic than the right to own property.

It is indeed one of the basic elements on which our Founding Fathers crafted our Constitution.

Therefore, it is imminently fair to compensate a property owner for the taking of their property by declaring it a wetland or a sanctuary for endangered species.

Why can't we put this commonsense philosophy into law?

I urge my colleagues to support H.R. 925.

The Anthony Boltons of this country deserve it.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from New York [Mr. NADLER], a member of the committee.

Mr. NADLER. Mr. Chairman, I rise in opposition to this bill. It is a truly radical piece of legislation and goes against the entire thrust of the constitutional history of the United States Government for the last 200 years.

Mr. Chairman, the Supreme Court has said that in construing the takings provision of the fifth amendment, the court has defined that, ''Elimination of the most profitable use of the property is not a taking.''

It has stated that, ''A reduction of property value occasioned by government regulation must generally be severe or total for there to be a taking; a mere diminution in the value of property, however serious, is insufficient to demonstrate a taking.''

It is not a taking if ''the property owner retains some viable use of the property (as measured by the owner's reasonable investment backed expectations).'' Those are all from the Supreme Court.

Why? Why have the courts consistently read the fifth amendment this way? The answer is because to read it any other way, to read it the way this bill would read it, would totally undermine the ability of the Federal Government, or if applied to local government, of local governments, to protect the general welfare. The Federal Government was instituted to protect the general welfare.

With this bill, Mr. Chairman, we say that if the Federal Government wants to protect the air or the water or any other environmental aspect, or anything else, in a way that imposes any kind of burden on the piece of property, then it may not do so unless it will compensate for the change in value of that property, which would be infinite, almost infinite.

I note that this bill does not provide, and the gentlewoman from Utah [Mrs. WALDHOLTZ] says it has no fiscal impact because the agency would have to pay from its own money. How could an agency pay from its own money when any action that may impose a burden on the property may impose it on hundreds or thousands or millions unpredictably?

The philosophy of this legislation is radical because it says that private property is absolute and that the rights of the public are greatly subordinate. Teddy Roosevelt said to the contrary. President Roosevelt, the great Republican President, said, ''Every man holds his property subject to the general right of the community to regulate it to whatever degree the public welfare may require it.''

I have carried this around in my pocket for the last 12 years, waiting for an appropriate occasion to read it, and this is the appropriate occasion, to remind the people here that the proper philosophy of government is that private property is not absolute. The right of the public ultimately is superior, and that to legislate this bill would say that the public welfare has no bearing in this country.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Chairman, I rise in support of this legislation, and specifically, I rise in support of an amendment that will be offered tomorrow by the gentleman from Louisiana [Mr. TAUZIN] and myself.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Louisiana, to clear up a statement made earlier, that was made in error.

Mr. TAUZIN. Mr. Chairman, one of the things that is going to happen, I suppose, in this debate is that we are going to be debating the old bill, the bill that was filed in some other year, perhaps, or some other bill that is not before us.

The bill that will be before us tomorrow, that would have been today, is a bill that applies only to Federal statutes and only gives a cause of action for recovery for takings under Federal statutes, not State statutes, not local statutes, city statutes.

The bill will only cover the right of property owners to be compensated when Federal regulations take away their property. Tomorrow, the gentleman from Texas [Mr. FIELDS] and I will be offering an amendment to even limit the Federal statutes we are dealing with to a very few, the Endangered Species Act, wetlands regulations under 404, and sodbuster provisions and Federal statutes dealing with water rights.

It will be those limited Federal statutes only, so the objections of Attorneys General and cities and counties and States to us meddling with their problems with taking laws are objections that are not well founded when it comes to the bill that will be before us tomorrow.

Mr. FIELDS of Texas. Mr. Chairman, people are probably wondering why are we standing here at this later hour debating this issue. This is a significant issue, becuase we are talking about something that is basic and fundamental to all Americans. That is the ability to not only own but to beneficially use our private property.

I got involved in this issue becuase of some specific instances in my home State of Texas. I had a road that was very important, that needed to be built, connecting a major subdivision called Kingwood in Tuskakita with a major beltway system. Local property owners came together and donated the property for that road.

All of sudden, some people walked through and said, ''That road cannot be built becuase we see what we think is an abandoned eagle's nest.'' My family had lived in that area since the 1860's. We had never seen an eagle's nest. We hope eagles are there. No one could prove it was an abandoned eagle's nest, but because of that, the property owners had to mitigate, as if the eagle flew back to that one specific tree, if it was an eagle, rebuilt the nest, reestablished, climbed down the tree, and then walked a distance to Lake Houston.

We thought that was the problem and that it was over. The landowners had given up more of their property.

Then as we begin to go further with the road, someone walked in and said, ''Oh, my gosh, you have upland hardwood, wetlands.'' For me it was a little hit hard to understand that if something was upland, how it could be a wetland. The property owners came together, mitigated once again.

Then we though the road was going to be built. Then someone walked in and said, ''Oh, my gosh, you've got prairie dawn,'' which is a dressed-up word for bitter weed. The property owners played the game one more time and said, ''We will find property to mitigate.'' They found property without the prairie dawn, but someone said, ''This property does not have prairie dawn, but it is conducive for the growth of prairie dawn.''

It took approximately 5 years to finally get the permits needed to built a very short piece of road. It just is not that problem. North of us we have a red cockaded woopecker. If that lands on your property and a colony is established, you lose the ability to use your property.

West of us in Travis country there is the black-capped vireo, the golden-cheeked warbler. That has cost Travis county in Austin, TX, literally hundreds of millions of dollars in property value. The local ranchers in the hill country cannot cut their cedar because of those particular species.

One last example, a darter in the Comel Springs and also in New Braunsfels, the springs there, have forced the city of San Antonio to look for a new water supply that could end up costing that city billions of dollars, with the farmers and ranchers west of there having to have there wells permitted, their use restricted, and at some point in the future of total abrogation of their rights.

Mr. Chairman, this is not right. Their must be reform. The most important thing that has been lost by the conservation community, they have lost most of the hospitality and the cooperation of the landowner.

□ 2130

Without that cooperation, species will not be saved, and wetlands will not be preserved.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 4 minutes to the gentleman from Colorado [Mr. SKAGGS]. I presume that will leave me with 15 minutes for tomorrow?

The CHAIRMAN. The gentleman is correct.

The gentleman from Colorado [Mr. SKAGGS] is recognized for 4 minutes.

Mr. SKAGGS. Mr. Chairman, I want to thank the ranking member for yielding the time to me.

In a 1-minute speech this morning I told you, in brief, the story of the deadly Summitville Mine—Colorado's worst environmental disaster in a decade. Tonight I'd like to tell you more about that catastrophe, and about the insult that this takings bill would add to that injury.

For about 6 years, Summitville was an active gold mine near Del Norte, CO, in the spectacular San Juan Mountains. Like many such mines, the Summitville operation used cyanide to leach the gold from the ore that was taken from the site.

In 1991, during the spring run-off from the melting winter snowpack, the mine's poorly designed holding ponds overflowed, sending a poisonous surge of cyanide, heavy metals, and other toxins into Alamosa Creek. The contamination was so severe that fish and other river creatures were killed for 17 miles downstream. Lesser effects of the contamination were felt more than 50 miles downstream. We don't yet know the extent of the lasting environmental consequences—on other wildlife, on downstream farmers, on drinking water supplies.

A year and a half later, Summitville Consolidated Mining Company, the foreign-owned company that leased the property and had been running the mine, declared bankruptcy and walked away, avoiding all responsibility and liability for preventing further contamination. We were left with an environmental time bomb, with no protection against future overflows or collapse of the impoundments holding the cyanide wastes. The companies that owned the land—Aztec Minerals, Gray Eagle Mining, and South Mountain Minerals—did nothing to step in to protect the environment, or their downstream neighbors, or even their own property.

At the request of the State of Colorado, the Environmental Protection Agency took over, designated the mine a Superfund site, and began emergency action to prevent more poison from finding its way downstream.

So the American people have already paid twice for this disaster. First, we've suffered environmental damages. Second, we're paying for the EPA to prevent future spills, an effort which is costing the taxpayer about $30,000 a day, more than $50 million so far.

Now here's where insult is added to the injury. The corporate owners are now suing the Federal Government, claiming that EPA's emergency cleanup amounts to a governmental taking of their property. They claim that they should be compensated because the Government's cleanup of the abandoned, leaking, poisonous mine on their property is keeping them from using it to turn a profit.

So the bizarre scenario we're faced with is corporate landowners and a foreign mining company abdicating all responsibility for an environmental catastrophe, refusing to lift a finger to protect or clean up their own property, and running for the hills. And when the Government steps into the emergency to clean up the property, the companies show up in time to sue the Government for its trouble.

This is the sort of mindlessness the Republicans want to encourage with the takings bill.

Of course, the irony of this is that the Constitution is already perfectly clear in saying that private property owners are protected from genuine takings. The fifth amendment says that property can't be ''taken for public use, without just compensation,'' and the courts have made plenty of consistent rulings on what this means. As recently as 1994, in Dolan versus City of Tigard, the Supreme Court held that a city government could not require a hardware store owner to build a bicycle pathway on her property as a condition for getting a permit to increase the size of her store and build a parking lot. And if the city did require it, she'd have to be compensated.

Under the Constitution, this ridiculous Summitville suit, which is a money grab, and not a genuine taking, would be thrown out of court. But if the takings bill passes, the suit would no doubt prevail, and every American taxpayer would pay for this catastrophe a third time when they're forced to write a check to Aztec Minerals, Gray Eagle Mining, and South Mountain Minerals.

If the takings bill passes, here's the choice we'd face at Summitville: EPA could continue to contain the chemicals at the plant, and protect the people and environment downstream. The companies who are suing the Federal Government would win their ridiculous suit, and the taxpayers would be forced to pay them who knows how much money. Or, in order to avoid the lawsuit, EPA could stop the containment efforts, pull up stakes, and let cyanide run down the river. That's the choice—the absurd, incredible choice.

Mr. CANADY of Florida. Mr. Chairman, may I inquire as to the amount of time remaining for each side?

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] has 14½ minutes remaining, and the gentleman from Michigan [Mr. CONYERS] has 15 minutes remaining.

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

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. WALDHOLTZ), having assumed the chair, Mr. SHUSTER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 925) to compensate owners of private property for the effect of certain regulatory restrictions, had come to no resolution thereon.

THE CASE FOR MAINTAINING NUTRITION FEEDING PROGRAMS

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

Mr. FALEOMAVAEGA. Mr. Speaker, it has been my privilege in recent years to listen and to observe some of the most lively and historical debates in this Chamber on issues that affect the lives and well-being of all the citizens of our great Nation.

Certainly the 104th Congress is no exception, and we are again at the crossroads to deliberate fully—and hopefully—the merits of the important issues that are now before us.

Mr. Speaker one of these issues is whether our national government should just eliminate the several social and nutritional programs currently in place, and just ''block grant'' the funding to States and let the State governors conduct the redistribution of the resources since they supposedly know better where the needs are.

I want to share with my colleagues an article that appeared in yesterday's Washington Post, written by Dr. Louis Sullivan, former U.S. Secretary of the Department of Health and Human Services during the administration of President George Bush. Dr. Sullivan's statements are quite profound—in my humble opinion—as he clearly reminded all of us here in this Chamber to examine the merits of these programs, and let's not rush into a feeding frenzy by just cutting and slashing these programs without meaningful review and examination.

In the WIC Program, for example, Dr. Sullivan states:

> . . . This prescriptive program has enjoyed bipartisan support since it was established by such leaders as Senator Bob Dole and the late Senator Hubert Humphrey. By providing necessary nutrition to pregnant women, lactating mothers and one-third of all children born in the United States, WIC—quite simply—works . . ..
>
> In the case of WIC, nutrition requirements guide the program toward better health, and Medicaid savings, while avoiding the potential confusion associated with creating a complex web of 50 different State rules . . ..

Mr. Speaker, someone once said that haste makes waste. As we deliberate on the fate of these social and nutritional programs that affect the lives of millions of families, women and children throughout America—let's tread carefully and let's not appeal to political expediency and convenience as the basis of how we make decisions in this important institution of our national government.

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

ONE FOR OUR CHILDREN

(By Louis W. Sullivan)

As the nation engages in debate over the future role and direction of the federal government's activities in a host of programs, there is much that can be learned about federal-state cooperation and cost effectiveness in the example of one program that delivers tremendous benefits to some of the most vulnerable in our society.

The WIC Program—the Special Supplemental Nutrition Program for Women, Infants and Children—has a 20-year track record demonstrating how federal programs implemented by states can achieve important national goals, while saving taxpayers billions of dollars in preventable health care costs. In the drive to streamline and improve government programs, the need for WIC and WIC's success should not be obscured.

This prescriptive program has enjoyed bipartisan support since it was established by such leaders as Sen. Bob Dole and the late Senator Hubert Humphrey. By providing necessary nutrition to pregnant women, lactating mothers and one-third of all children born in the United States, WIC—quite simply—works. The program serves nearly 7 million mothers and children each month at a cost of less than $1.50 a day for each participating child. For that small amount, this program results in significant Medicaid savings that far outweigh the program's costs—by a ratio of 3-to-1, according to several studies. That is clearly an overwhelming return on a small national investment.

WIC's well-documented success is founded in its rock-solid nutrition standards. The foods offered must achieve requirements for iron, calcium, Vitamin A, Vitamin C and protein. Goals for these nutrients were selected based on firmly documented scientific evidence that increasing the intake of these nutrients at key junctures in fetal development and in infants' lives would improve health, reduce low birthweight and lower infant mortality.

There is no question that the societal costs of undernourished children are stunning. During my tenure as secretary of the U.S. Department of Health and Human Services, I recall visiting neonatal intensive care facilities at hospitals in Fort Lauderdale and in Detroit. In both facilities, I was saddened to observe low birthweight infants who had been hospitalized for the first six months of their lives. Hospital bills for these tender babies had already exceeded hundreds of thousands of dollars. I've always believed that the frequency of these perilous beginnings of life could be reduced by proper nutrition at critical stages in an infant's development.

Those compelling experiences aided me in formulating one of our major undertakings at HHS—development of the Healthy people 2000 initiative. By establishing health promotion and disease-prevention goals for the nation, we sought to achieve realistic concrete results by the year 2000. These included goals of reducing infant mortality, reducing the incidence of low birthweight and increasing early prenatal care. Our efforts were motivated by persuasive research documenting savings of $14,000 to $30,000 for every infant born without low birthweight.

The results of WIC's short-term nutrition intervention are compelling evidence that this type of preventive care works. A USDA study of WIC children found a 33 percent reduction in infant mortality and as much as a 23 percent reduction in premature births. A 1992 GAO study found a reduction of as much as 20 percent in low birthweights among WIC participants. The Centers for Disease Control and Prevention documented a dramatic reduction in childhood anemia among WIC participants. What's more, the GAO study found that WIC's role in connecting participants to health care providers produced an improvement in immunization rates among WIC participants.

Perhaps the wisest provision of WIC is that it is administered by caring people at 9,000 clinics who teach young mothers how to eat properly and how to feed their children properly. With convenient, nutritious food, WIC serves as an in-home laboratory for proper eating. For many mothers, WIC is often their first course in nutrition.

Among my concerns as we reform our welfare system is that we may inadvertently strip programs of the national standards and guidelines that make them work. In the case

of WIC, nutrition requirements guide the program toward better health, and Medicaid savings, while avoiding the potential confusion associated with creating a complex web of 50 different state rules. Our children's health is not defined by state boundaries. Our nutritional standards should not be either.

As we come to grip with the changes voters demanded three months ago, we must find ways to more effectively achieve national policy goals with fewer dollars. WIC has been a real success story, and it should be used as a model and not lost, in the block grant debate.

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

CHEWING ON A POOR IMAGE

(By Mary McGrory)

Can Republicans blush? Now is the time if they can.

White House Chief of Staff Leon E. Panetta believes it is possible and is embarked on a campaign to shame them for their moves against the poor in the string of slash-and-burn votes that made them look—as one of them said on background—''more like the party of Herbert Hoover than Abraham Lincoln.''

Panetta is taking the cuts personally. He worked on many of the nutrition programs himself during his 17 years in the House. He worked with many Republicans who voted to dump them and replace them with block grants to states.

''I wake up in the night and I say they can't be doing this in the '90s. These are programs they have never criticized. Why are they messing with programs that work? This is worse than Reagan trying to call catsup a vegetable. They're saying catsup is a meal, they're trying to get rid of the whole meal.''

Republicans protest that they have been misunderstood and misrepresented by the Democrats. They admit they have a perception problem, but say that just because a Republican-led House Appropriations subcommittee voted to repeal the school lunch program and transferred money to the states to feed children doesn't mean they don't care about hungry kids. And they say booting the Women, Infants and Children feeding program to the states doesn't mean heartlessness. They increased funding—which critics say can be used for other purposes at the discretion of the governors.

While they were in the grip of this revolutionary fervor, the Republicans also dumped the summer jobs program, which Labor Secretary Robert B. Reich rightly says is an insurance policy for urban peace, and have issued an eviction notice to the National Service Corps, the new program that lets young people be idealistic while earning money for college.

But the tumbrels did not roll for the Food Stamps program. Somehow, it escaped. House Agriculture Committee Chairman Pat Roberts (R-Kan.) convinced House Republican leaders that food stamps should be spared the guillotine, although the ''Contract With America'' had prescribed it. This was the first domestic setback for the November victors, who lost a foreign policy round two weeks ago when balky freshmen refused to finance a revival of a ''Star Wars'' antimissile system.

Panetta speaks dryly of the miraculous deliverance of food stamps. While it is a good sign and shows some recognition of the need for the safety net, he says that ''farm organizations may have had more to do with that than concern for kids.''

Unfortunately, the school lunch program has no lobby, no PACs, no clout. But Panetta says that it isn't only liberal Democrats who will stick up for the $11 billion program which feeds breakfast and lunch to children who otherwise would have to try to learn Latin on empty stomachs. Panetta has sent out a call to the educational, religious and business organizations that want to convince Republicans that America did not vote to take bread out of children's mouths last November.

Panetta does not want to wait for the expected Senate reversal of the House rampage. He thinks it has to be stopped now, before the full House votes. The conventional wisdom is that if the House is ''Hellzapoppin,'' the Senate is reason, but Panetta wants to scotch right now the idea that it is okay for ''a government to attack its own people.''

He wants people to remember the '80s, when President Ronald Reagan assaulted the school lunch program on the grounds that he wanted to target the truly needy, of course. ''What happened,'' says Panetta, is ''that 1,000 school cafeterias shut down. The schools could not afford to keep them open, and 1.2 million children did not get school lunch.''

The fad of deifying governors and insisting that states can do everything better is not new. Panetta remembers from his days as a California congressman when LEAA (Law Enforcement Assistance Administration) was the rage and sheriffs used federal grants to buy hunting trucks instead of hiring new deputies.

He will try to rally his old House colleagues. He hopes they will offer a stream of corrective amendments. Sample: House Speaker Newt Gingrich (R-Ga.) should divert the additional $600,000 he requested for office expenses to school lunches.

One governor entirely of the Panetta persuasion is Howard Dean of Vermont, the Democrat who is chairman of the National Governors' Association. He stormed through the Capitol, holding news conferences, calling the cuts ludicrous and a vote on them ''a test of decency.''

''You cut out school lunches, you cut down their chances to learn and you increase the risk they'll end up in foster homes or prison,'' says Dean, who was voted by the conservative Cato Institute as the fourth most conservative of the nation's governors.

SPECIAL ORDERS

The SPEAKER pro tempore. 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.

MAKE THE IMMIGRATION AND NATURALIZATION SERVICE MORE RESPONSIBLE

Mr. KLINK. Madam Speaker, the United States Government in all of its ineptitude is keeping an 18-month-old child from being able to live with her family. Our Government is keeping 18-month-old Heather Corbett in Poland while her family lives in Butler County, north of Pittsburgh.

The Corbetts are like many families who for one reason or another choose to adopt a child. Heather Michell Corbett was born Dominika Katarzyna Hrabia. Her birth mother was unmarried and her father Jacek Hrabia is married, but to another woman. Both parents have consented that Heather Michelle, as she is now known, would be adopted by Dennis and Cindy Corbett of Butler, PA. In fact they gave their consent to the adoption in open court on November 8, 1993.

But to this day—after 1 year and four months have passed—Heather Michelle has not been able to travel to her new home in Butler, PA. The reason—the Immigration and Naturalization Service will not give the child a visa to travel to America. Now understand this is the same INS that cannot protect our borders, as they allow thousands of illegal aliens from coming to this country every day—many with criminal records. Yet when it comes to this young child and her family no visa can be given, no rule can be stretched, no solution can be found to allow this young family to be together.

If Heather's birth mother had abandoned her at birth, she could get a visa, but because both her birth mother and birth father cared enough to see that she got into foster care and was adopted by loving caring parents, the child and the loving caring parents are being kept apart by the INS.

This situation has caused the Corbetts tremendous stress financially and emotionally. Mrs. Corbett has spent time traveling between Butler, PA, and Poland taking care of family members at both ends.

Mr. Speaker, the building blocks of this great Nation are our families. If the family is not strong the Nation cannot be strong. Dennis and Cindy Corbett want to bring Heather Michelle home where she will be loved and will grow to be a contributing member of our society, but the Immigration and Naturalization Service says that because the child was not abandoned or deserted by the natural parents, because they specifically said the Corbetts should be the adoptive parents, Heather Michelle Corbett, age 2, cannot come to America.

Drug dealers and murderers cross our borders every day. The INS is helpless to stop them, but now they have found someone they can stop and it doesn't matter what is wrong or right, it only matters to the INS that their rules are kept by the letter in this case, no matter how innocent the people are who are being hurt.

This is no more that bureaucratic child abuse and the INS are the bullies that are perpetrating that abuse. And now, Mr. Speaker, you and others are aware and if we do not take action to make the INS more responsible we share in that abuse.

I want to share with you, Madam Speaker, a letter that I received from Heather Michelle's grandmother, and she signed this letter June 14 of 1994. We have been working very hard for a long time trying to bring this situation to some conclusion, we have tried everything that we can, and virtually we have run into a roadblock with the INS. The letter says:

June 14, 1994.

Mr. Ron Klink I am writing to you regarding Cindy and Dennis Corbett of 195 Pineteck

Road, Butler, PA. 16001, the adoptions visa of Heather Corbett. I am Cindy mother and it has been a physical and emotionally strain for me as well as the rest of the family. I am a widow and live alone so I depend on Cindy for moral support as well as financial decisions. It has also been a physical and emotional strain on Cindy living in Poland not knowing their language. It is also unfair for Heather. She has done no wrong and in being punished. It has also been a financial strain and emotional strain for Dennis being separated from Cindy. Thank you for your help and support for Cindy, and Dennis but try again.

Madam Speaker, I just say to the Members of this House when we find this kind of problem in the Federal Government, that is why more than half of this House of Representatives was elected brandnew Members since 1990, because the people of this country do not want to see our government fail these families. They do not want to see these bureaucratic rules and red tape tie up innocent people, and that is exactly what happens.

NEUTRAL COST RECOVERY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Madam Speaker, the great 18th century political economist David Hume warned legislators against passing any legislation which impedes commerce and industry. Unfortunately, our current laws regarding taxation of capital, that is, the machines and equipment and facilities and buildings used by our Nation's businesses, are exactly what David Hume was talking about.

As a result, we all have lower wages, we have less efficient tools, we have fewer factories, and we have trailed our competitors around the world in productivity growth.

I am the sponsor of a vital piece of the Contract With America that will solve this problem. Estimates by economic researchers are that it will boost the growth of our gross domestic product by 25 percent, that it will create more than 2.5 million jobs, and will increase the average worker's wages by more than $4,500 per year.

□ 2145

The name that is given to my bill is not as catchy as most. It is neutral cost recovery. This explains what the bill does from a technical tax standpoint, but from an economic effect standpoint it should be called green thunder. It is what Steven Entin, resident scholar at the Institute for Research on the Economics of Taxation, called, and I quote, a win/win proposal that deserves prompt passage, end of quote.

As we work ardently on fulfilling the Contract with America, we should keep in mind that nearly three quarters of the contract's increase in economic activity, our country's gross domestic product, comes from neutral cost recovery. While it may not be as well known as the rest of the contract, and it may not have the first blush appeal, it is crucial to our Nation's economic growth.

What is this neutral cost recovery which will do so much for economic growth? It is a change in the way we tax capital, the way we tax buildings and equipment that we work in and with. Under my bill businesses would be able to deduct the first $25,000 of investment in machines and buildings in the first year of purchase and index the depreciation of the rest of the value for inflation. It would allow businesses to continue with a current tax treatment or to choose the neutral cost recovery method. When choosing neutral cost recovery, businesses that currently choose the 200 percent declining balance method could shift to a 150 percent declining balance in return for being able to match depreciation for tax purposes more closely with economic depreciation of the assets.

Neutral cost recovery is not arbitrary. Unlike what we have tried to do in past years, it allows all businesses to deduct the full present value of the purchase of a capital asset regardless of the years of life. Unlike current law, it would not be biased and penalize a business for buying new machinery or equipment, and it would not bias against the construction of new buildings and factories.

What does this mean to you? If you are a wage earner, it means you will have better tools to work with, better and newer buildings to work in, higher wages and greater job opportunities. If you are a small business owner, you will be able to invest in a new building or new equipment and get a deduction which effectively allows you to treat those purchases like any other business cost. If you are a decision maker in a large corporation, you will be able to expand your company and meet the foreign competition on a more equal tax footing. This happens because neutral cost recovery reduces the cost of that machinery, that equipment, those facilities, by an estimated 16 percent.

According to the National Academy of Sciences, private investment in plant and equipment in the United States has fallen to less than 10 percent of gross domestic product, and most of that goes to replace the old capital rather than equipment that embodies entirely new capabilities, the state of the art equipment. Our low rate of investment can be increased quickly through expensing and the use of neutral cost recovery.

Madam Speaker, our future and that of our children depend upon the seed corn which we are setting aside today, the quality of tools and equipment that we are buying in our investment in factories. The provision in the Contract with America that I am proud to sponsor, neutral cost recovery, will provide us and our children and grandchildren with a stronger, wealthier America.

THE STORY OF THE SUMMITVILLE MINE

The SPEAKER pro tempore (Mrs. WALDHOLTZ). Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Madam Speaker, when the House suspended debate on the takings bill, I had gotten about halfway through the story of the Summitville Mine in Colorado. Just to recount quickly, Madam Speaker, this was a cyanide leaching gold mine that ended up spilling the holding ponds of cyanide laced liquids downstream in the Alamosa Creek creating a monumental disaster. After Summitville Mine went bankrupt, the owners of the land that had leased it to the mining company took back over, and even though EPA was on site trying to prevent further environmental disaster from occurring, these lands owners, Aztec Minerals, Gray Eagle Mining and South Mountain Minerals, have now sued the Federal Government claiming that EPA's actions to intercede here constitute a taking.

Madam Speaker, it does not take much more than the story of Summitville to illustrate the bureaucratic, fiscal and environmental nightmare that we'd be getting if we pass the takings bill and enable this sort of idiocy to be duplicated nationwide—as it absolutely would be.

We've heard a great deal from the Republicans about how concerned they are about entitlement programs. But this bill would create the mother of all entitlements, to benefit the Nation's largest corporations whenever they're inconvenienced by environmental or public health regulations. Under this bill, the companies that own the Summitville Mine would be among hundreds of huge corporations demanding a handout from the American taxpayer.

We've heard a great deal from Republicans about the evils of Big Government. So their answer is to create an enormous new bureaucracy—to carry out the land appraisals that would be mandated every time companies complain about compliance with an environmental law—and to handle the flood of frivolous lawsuits and to write out the checks to the corporations and landowners.

We've heard a great deal from the Republicans about their desire to send power back out to the States and to the people. So they give us this bill, and create a big new national program to manage.

We've heard from the Republicans about the need for a government that works better. So their answer is to create a regulatory ''gotcha,'' where the EPA will be reluctant to pass or enforce even the tamest of regulations, or clean up even the worst disaster, for fear of the lawsuits this legislation will encourage.

And, of course, we've heard about the need to cut spending. But now they're

trying to pass a new law to mandate the spending of billions of taxpayer dollars every year—to go mainly to this country's biggest corporations and largest landowners. A huge new Federal corporate welfare program, in other words.

Remember, these are the same Republicans who are looking to cut billions from housing for the poor, and nutrition programs for our kids, and student loan programs, and a hundred other programs that benefit the working people of this country.

I believe that if we pass this bill, we're going to see the absurdity of false takings claims like the one at the Summitville mine repeated over and over and over.

If you're concerned about the deficit, if you're concerned about entitlements, if you're worried about bureaucracy and red tape, and if you're worried about taxpayers, you should be very worried about this takings bill.

WE ARE GOING TO BALANCE THE BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut [Mr. SHAYS] is recognized for 5 minutes.

Mr. SHAYS. Madam Speaker, I wanted to take this time to kind of just register my concern and to just discuss a little bit the commitment I think we have on this side of the aisle to get our financial house in order, and my purpose for speaking is not to take a partisan tone, but to just express a tremendous amount of concern about what is really shaping up to be a battle between the White House and Congress over something that, if we work together, would be extraordinarily helpful for our Nation. I speak of the fact that, when President Clinton was elected, he found that he had a national debt of $4.3 trillion, and he felt that he had worked out a plan to bring our annual deficits down, but we are going to see under his 5-year plan that he presented to Congress just last month that our national debt by the year 2000 will be $6.7 trillion, that it will go up $2.3 trillion, or 54 percent, during this period of time.

What concerns me is the fact that there are some who are saying, well, this is a smaller percentage, but it is a smaller percentage on a larger base, and so this two trillion, 2.3 trillion, will be the largest increase ever experienced at any time in our history, and I look now and think what are we going to do to resolve this? What opportunities do we have as Republicans and Democrats to get together?

One of the things that the President deserves high marks on is the fact that we have, in fact, started to get a handle on what we call discretionary spending, what we vote out of the Committee on Appropriations, and this has resulted in some hope for the fact that at least with what we spend in defense and what we spend in nondefense that we are starting to show the kind of restraint that we need. We have simply decided that we will not add to discretionary spending. We have not in the last few years, and we are destined to keep it at a freeze for the next few years, but where we see the challenge is with, in fact, entitlements which constitute half of our budget, Social Security, Medicare, Medicaid, and what we refer to as other entitlements.

The concern that I have is that the President has really taken a hard position that he is not going to touch entitlements, which is really the same old story. Republicans have not wanted to cut defense, and they did not. Democrats have not wanted to slow the growth of entitlements, and they did not. And Republicans and Democrats for 20 years got together and voted out budgets with large deficits so that we saw the national debt just continue to go up, and up, and up, and up.

The challenge we have today is that the fastest part of our budget are entitlements that are growing at 10 percent annually. I am talking particularly of Medicare and Medicaid. We need to slow the growth of Medicare and Medicaid to about 5 percent annually. We are going to spend 5 percent more next year than we did the year before, and 5 percent the year after. We are going to see Medicare and Medicaid grow. But if we cannot get those numbers down, we will never ever get our financial house in order.

I look at this budget, and I see that our foreign affairs expenditures are actually going down each year. I see the defense is going down each year. I see the domestic discretionary spending is basically at a hard freeze. Then I look at Medicare, and Medicaid, and other entitlements, food stamps, AFDC, and they are going up at triple the amount of inflation. What an opportunity we have to work together as Republicans and Democrats to get our financial house in order, but the kind of response we are getting when we start to try to make logical changes.

I happen to think the welfare state is dead. I think that 12-year-olds having babies, I think that 14-year-olds who are out selling drugs, 15-year-olds killing each other, 18-year-olds who cannot read their diplomas, 25-year-olds who have never had a job, 30-year-olds who are grandparents, is the legacy of the welfare state. It is dead. It is not going to be allowed to continue, and what I am pledging as one Member of Congress is that I believe that we Republicans in particular are going to get our financial house in order, and I speak as someone who is a moderate Republican, and I would like to think I am extremely moderate, someone who comes more from the center than from the right or left, and I can tell you that we have absolute conviction that we are going to work together to get our financial house in order. We are going to balance the budget.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MILLER] is recognized for 5 minutes.

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BRYANT] is recognized for 5 minutes.

[Mr. BRYANT of Tennessee 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 Alabama [Mr. BROWDER] is recognized for 5 minutes.

[Mr. BROWDER 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 Florida [Mr. WELDON] is recognized for 5 minutes.

[Mr. WELDON of Florida 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. TOWNS] is recognized for 5 minutes.

[Mr. TOWNS 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 South Carolina [Mr. GRAHAM] is recognized for 5 minutes.

[Mr. GRAHAM 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 gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR 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 California [Mrs. SEASTRAND] is recognized for 5 minutes.

[Mrs. SEASTRAND 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 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 Georgia [Mr. KINGSTON] is recognized for 5 minutes.

[Mr. KINGSTON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 2200

Mr. HAYWORTH. Madam Speaker, I ask unanimous consent to rescind the 1-hour special order granted earlier this evening to the gentleman from California [Mr. HORN] for March 3.

The SPEAKER pro tempore (Mrs. WALDHOLTZ). Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONTRACT WITH AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. HAYWORTH] is recognized for 5 minutes.

Mr. HAYWORTH. Madam Speaker, my friends from California tell me the swallows return to Capistrano. My friends from Ohio tell me the buzzards return to Hinkly. And, Madam Speaker, as you and I have come to discover during our brief time here in the Congress of the United States, and indeed as the people of this Nation are discovering, Madam Speaker, liberal Democrats again and again come to the well of this House and distort and exaggerate and basically tell falsehoods about the aims of this new Republican majority with reference to our Contract With America, and especially when it comes to nutrition programs in the public schools.

It is amazing as we take a look at the publications from around the country, and I would simply point out to those assembled here, Madam Speaker, a very interesting article penned by Nancy Roman in today's Washington Times. I hesitate to read the headline because it contains a three-letter word that I really do not want to use in the course of this discourse, and yet it is part of the RECORD. The headline reads ''Democrats Lie About Lunch.'' And the thrust of this article, to read the subhead line really sums it up. Madam Speaker, it is worth repeating and articulating so that the people of this Nation will really know the facts behind this debate. Quoting from the subhead line in today's Washington Times: ''The GOP's school lunch program will grow by $203 million. The government spends $4.5 billion. The GOP would spend $4.7 billion.''

In other words, Madam Speaker, according to simple mathematics, we see an actual increase in this school lunch program of $200 million. Simply stated, Madam Speaker, there is no cut, there is no cut. There is an increase in spending.

Now, in fairness to the way this town works, to the way the guardians of the old order have done their accounting for the past four decades, we should point out that there is some form of reduction, but it is only a reduction in the overall increase. Only in Washington would you call an increase reduced in some way, shape, fashion or form, acute.

Indeed, as we have looked at the challenge we face in putting our fiscal house in order, I believe that fair minded people, Madam Speaker, from both sides of the aisle realize that one of the problems we have had continually is in this creative form of accounting, which would call that increase acute.

I listened with great interest to my good friend from Connecticut, who stood before this House moments ago and talked about a cooperative effort to change the spending habits in this Nation. And I respect my good friend from Connecticut because he authored what again inside this beltway was a revolutionary concept, but to the rest of us throughout the country, Madam Speaker, was a very simple, rational, logical concept. And that is that the people who serve in this House, which we call the people's House, should live under the same laws as everyone else in this country.

I salute my friend from Connecticut for spearheading that fundamental tenet of self-government so vital to this House and so dominant, indeed being the cornerstone of reform as adopted in our rules package when we were sworn in here earlier this year. I applaud his cooperative spirit. In fact, I would say that that cooperative spirit is what we hope to build upon in the days ahead, and we call on our good friends across the aisle to end the discourse and move forward in the constructive debate.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOX] is recognized for 5 minutes.

[Mr. FOX of Pennsylvania addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

LEGAL IMMIGRATION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. BECERRA] is recognized for 58 minutes as the designee of the minority leader.

Mr. BECERRA. Thank you, Madam Speaker.

Madam Speaker, I would like to talk tonight about a subject which has gotten some attention in this country, and these days we see it perhaps grabbing more and more of the attention not just of this Congress and of legislators, but of the American people, and it is a subject which is dear to my heart and which I believe needs more clarity and more discussion, because it affects human beings and it affects Americans.

The subject is that of immigrants. Not immigrants who come into this country without permission, without documents to be here, not so-called illegal immigrants, but legal immigrants, those who have come in through application, waited, in some cases 10 or 15 years, to come to this country, and have now received the permission of this country to come and reside and make this their home and ultimately become U.S. citizens.

These are the lawful permanent residents in this country, and we have approximately 9 million residing in this country, some who just got here and are waiting the 5 years before they can become U.S. citizens, others who have been here for decades and working and doing what most people in this country do, and that is paying their taxes and abiding by the laws and raising their families.

I would like to discuss legal immigrants because it happens that in this process here in Congress of discussing reforms and in discussing the Republican contract on America, one of the proposals, a welfare reform proposal, proposes to use legal immigrants to fund the cost of this reform proposal within welfare. I think it is important not only that my colleagues have a chance to hear and understand more about legal immigrants, but quite honestly, the greater public should have a chance as well.

So I would like to do a little bit here by discussing legal immigrants and perhaps do some personal discussions as well as some factual discussions and providing some data as well.

Let me begin by giving a couple of examples of people who I happen to know in some cases, others that I know of and have been told about, and I think are worth sharing with you today.

Mr. King Tam and Mrs. Tsui Kung Tam are two legal permanent residents in this country. Both came into the United States back in the 1960's. Mr. Tam and Mrs. Tam came from China, Mrs. Tam actually from Hong Kong, and as they arrived in this country they found right away they had to retrain themselves for jobs here in the United States. Mr. Tam went from a cabinetmaker to a cook, Mrs. Tam from a salesperson to a seamstress. They have lived their entire life and they still do in Chinatown in Los Angeles, CA. They have raised three children. All three have graduated from college; David from UCLA as an engineer, Linda from Cal State University of Los Angeles with a business degree, and Mai Li from Cal State, Los Angeles, with a degree in finance.

Each one of them had a chance to undertake the opportunity to go to college, they had a chance to receive some student loans and some grants, and they worked every year while they

were in school to try to pay their way through as well. Never has the Tam family been on welfare.

This is a family that in some cases, like son David, is providing volunteer services outside of his job with Habitat For Humanity, helping to build homes for people who cannot afford them on their own, and tutoring students. They have done in many ways what we all would love to be able to say at the end of our lives, that we have contributed to society.

I should give a story about Mrs. Tam, who is very active in the community. Mrs. Tam quite some time ago found that there was quite a bit of traffic in one busy intersection in the Chinatown area, so busy in fact that at one point a child was killed. She became very active and pushed and pushed until finally she was able to get a four-way stop sign installed in that intersection.

Now, let me tell you a little bit more about the Tams. The Tams were never rich, as you can tell from their jobs. They had to work very hard to do what they did for their children and also to raise children that were able to go on to college. The Tams mentioned, actually I should say that in discussions with a gentleman, a dear friend by the name of Don Toi, who is an activist and been a community organizer and a businessman in the Chinatown area for years and is sort of the person people turn to in Chinatown in Los Angeles for so much.

He mentioned that these are kids who he knows who made use of school lunch programs because, again, their parents worked very hard, but were never rich. They were able to take advantage of the Chinatown teen post center the Chinatown area which provided recreational and diversion activities for the kids. They were each, all three kids were participants in the summer youth employment program, so they had a job. That was their first time learning how to fill out an employment application. And they were able, of course, to earn a little bit of money to help pay for their education.

Now, the Tams never had enough money to buy health insurance to provide themselves with adequate health care, but they were able to make use of county hospitals and clinics and pay a small fee for the services. David at one point when he was about 13 broke his arm, but his family did not have enough money to go to a private doctor, so they had to use the county clinic. He was fortunate to have his arm reset.

I mention this because Mr. Toi mentioned a very interesting story to me. Right around the time that David broke his arm, there was another young man in the Chinatown area who also had a broken limb, a broken leg. His family, however, perhaps did not make use or know how to make use of those facilities that were available, and they did not do a very good job, the family did not, of making sure their son was treated. It turned out that he ended up with a limp.

This is significant because Don tells me that this young man, young boy at the time, he was about 14, he was a straight A student, he was doing very well, and after that, he developed a nickname, and in Chinese the nickname is Bai. That means crip. That is a short version of ''cripple.'' And quickly things started deteriorating for this young man, to the point where he became involved in a gang. Not just any gang, but the Wa Ching Gang, which is notorious, not just in the Los Angeles Chinatown area, but throughout the western region of the United States, because it is a very sophisticated gang.

He has been in trouble in the past, and much of this Don says occurred after he had this problem with the limp. Unfortunate, because he was apparently a very bright student.

I mention that because here you have an example of a young man who was able to take care of his broken limb, and another who didn't, and the path that their two lives took.

Mai Li, the Tam's daughter, had a hearing problem a while back. Now, at one point the schools and teachers were classifying her as a slow learner, perhaps mentally retarded, and certainly mentally regressed. So what the Tams did, because they knew about the clinic, they were able to take her to get some preventive health services, and they found out she had a hearing problem.

As I mentioned to you before, Mai Li now is a graduate from Cal State Los Angeles University, she has a degree in finance and is now an auditor, by the way, for the State Board of Equalization in California, which is the equivalent of the IRS here in the Federal Government. She clearly has no, we are hoping, we are certain now she has no particular mental impairment, because obviously she has a very important job. But clearly she had a chance to take advantage of services made available to her, and for which the Tams were paying, if not directly for the full price of the medical care, clearly through their taxes they were paying as workers through payroll taxes, the many property taxes, business taxes if they had a business. They were paying their taxes.

Now, let me move on and tell you a little bit about another family. This family is the Rodriguez family. Juan and Delores Rodriguez came to the United States in 1956 from Mexico. Mr. Rodriguez served in the U.S. Army from 1956 until 1960. In fact, he was drafted into the Army 6 months after entering this country. After an honorable discharge, he worked as a stockbroker clerk. Later he went on to earn his MBA and he opened his own stockbroker firm. He now works as an internal auditor. Mr. Rodriguez became a U.S. citizen in 1984. Mrs. Rodriguez is still a legal resident and she has been a homemaker raising five children and doing a very good job at it and working very hard at that.

□ 2215

She has been a PTA volunteer. She has been a schoolroom mother, a Cub Scout den mother and a church volunteer. This family, the Rodriquez family, has never been on welfare either.

As I mentioned, they have five kids. Four are U.S. citizens. One is a legal resident. Ed, the child Edward, is a transportation planner who I know very well. Juan is a college professor at California State University. Victor is an investment banker as well, and Carol is an environmental specialist with the California Coastal Conservancy. And Miriam is a homemaker, five children, five law-abiding individuals, four of them U.S. citizens.

Finally, let me tell you about one other individual. This individual is named Claudia. Claudia actually happens to live in Washington, DC. She came to this country when she was 14 with her parents.

She enrolled in a community youth center shortly after coming. And before long, she was developing tutoring programs for other young people in this area. She work very hard in school, and she was encouraged to go on to apply to college.

At the age of 17, she did so, and she applied for student loans. Now, until Claudia turns 18, she is ineligible, like any other person under the age of 18, to become a U.S. citizen. But she is now someone who not only wishes to become a U.S. citizen but also intends to go on and further her career.

I mention these folks because they are important to us. These people in every respect to what they all consider to be the right thing by anyone in this country, citizen or not, law-abiding, pay taxes, they serve in the military defending this country in time of war. They do everything we would want any upstanding person to do, but there is a difference here, because the fact that they may not be U.S. citizens means that under the welfare reform proposal under the contract for America, these individuals would not qualify for benefits for which they have paid taxes. That, to me, seems to be a contradiction of the American dream and the American work ethic.

Let me do this. Let me talk about immigrants a bit more and give some summary and some background on what we mean by the population of immigrants.

People often ask, how many immigrants, legal immigrants are thee in this country? If you take a look, in our country of about 260 million people, about 3.8 percent are lawful permanent residents, legal immigrants. That amounts to about 9 million people in this country who at some point after about 5 years are eligible to become U.S. citizens.

Now, I will mention later, if I have a chance, that when we talk about folks

who are receiving welfare, it is interesting to note that this population of legal immigrants actually has a lower usage rate of welfare than the U.S. citizen population. U.S. citizens, there are about 3.7 percent of the entire U.S. citizen population which is on welfare. That is about twice as much, almost twice as much as for legal immigrants being on welfare. So clearly, even though they are eligible to receive welfare benefits, they are less likely than U.S. citizens to use them.

Now, let me move on and talk a little bit about what others have said about immigrants, because I do not want to just tell you what I think about immigrants.

We have had a lot of folks tell us that we should take these services away from legal immigrants because they happen to not be U.S. citizens. They are not eligible to vote.

These are people, let me show you a chart, these are people who have been recognized as contributors by not just one individual or a group of individuals but by a lot of very important individuals. Even the Council of Economic Advisors for President Bush in 1990 recognized that when they said that immigrants are more likely than the native population citizen to be self-employed and start new businesses. I am sorry. That was said by Commissioner Doris Meissner, who at the time in 1990 was with the Carnegie Endowment for International Peace.

What the President's advisors in 1990 said was that the long-term benefits of immigrants, as you can see here, greatly exceed any short run costs.

What we are saying really, in these two quotes, is very consistent with what we have found. That is, that for the most part you have able-bodied people coming in as legal immigrants, ready to work. They do so. And they start contributing right away. And because you are talking about folks who are, for the most part, had to go through quite a bit to get in this country, whether it was waiting 15 years or trying to make the trek by themselves or with family, they are ready to be industrious. And that is reflected in both the quotes that you see from the Council of Economic Advisors, that President Bush had, and also from Miss Doris Meissner and Mr. Robert Bach.

As I said, Miss Meissner happens to be the INS Commissioner, the Immigration and Naturalization Service Commissioner.

Other things that have been said, the Urban Institute, which is known for doing extensive studies and did an extensive study for the administration recently to determine the effects of immigration and the numbers of immigrants, found in its study that for every increase of 100 people in the native population, in the citizen population, employment grew by 26 jobs. For every increase of 100 in the immigrant population, employment grew by 46 jobs. The Urban Institute further reports that immigrants actually complement native workers rather than substitute or displace native workers.

That is important, because people say they are taking all our jobs. Most studies find that that is not the case.

Immigrants make it possible for industry to survive here in the United States. Without their manpower, many businesses would have no choice but to shut down or perhaps move overseas.

Do immigrants, as I said before, really pay taxes? Of course, they do.

A lot of analysis has been done on this particular subject as well. Let me show you a chart that quotes a report by the periodical Business Week back in 1992.

As you can see, Business Week, in this report, cited the fact that immigrants, while they earn in this country about $240 billion and they pay taxes to the tune of about $90 billion, their use of welfare is about $5 billion. Again, that is consistent with what President Bush's Council of Economic Advisors found to be the case, and it is consistent with what we have found in the past history with immigrants, that they work very hard to produce.

Madam Speaker, I yield to the gentleman from Texas, Mr. GENE GREEN.

Mr. GENE GREEN of Texas. Madam Speaker, I thank the gentleman for the opportunity to be here tonight and talk about some of the issues involving legal immigration. I am glad you differentiated between illegal and legal immigration. Because the two stories you told of the families, I think anyone in this chamber, not just tonight but when we are actually here, could relate to that because we all have family or friends who we know who have come here as legal residents and worked their way into becoming full-fledged citizens.

During that time that they are legal residents, they also experience the same thing as someone who is here as a citizen. They experience job growth, as you have shown. They pay taxes. They raise their children. But they also may have problems. They may be laid off, whether they be in Texas or California or anywhere else. And because of that, they are here legally, they should also benefit from the services of the system that we have.

You and I sit on the Economic and Educational Opportunity Committee that considered and marked up a portion of the welfare reform bill last week and the Republican version of the welfare reform bill. I had an amendment during that time that we did not get to that would have said, the bill obviously exempted anyone from any public service who is a legal resident, who is not a full citizen. I had an amendment that would have exempted legal immigrants, would have allowed them to be eligible for these programs if they at least paid taxes for five years over and above being a legal resident. We did not get to consider that amendment because, one, we had a two-day markup on probably the most important bill that we may see this session, and so our amendment was cut off, and I hope when we do get to that legislation in the next two weeks, we will see it. We also had an amendment that was available that maybe the Ways and Means Committee, in their section, will deal with it. But even a legal immigrant who is in the United States, who laid their life down maybe for our country would be ineligible for benefits under the bill that came out of our committee.

I know the other committees may be addressing it. I hope they do so we do not have to tell a veteran in my district in Houston that may have fought in World War II, may be a legal citizen and yet they cannot go and have a senior citizen nutrition meal because they are not 79 years old.

I think there are some travesties in that bill. I am glad you asked for this time tonight to talk about it.

I wanted to add to a little bit of what you have said. In that bill, a legal immigrant would be ineligible for Pell grants, for example, even though they pay taxes and their families may have paid taxes to the Federal Government. As you said, 240 billion in earnings and 90 billion in taxes and only 5 billion in social services or welfare. So they have paid taxes. A good example of that bill, 111 legal residents in Houston participating in Pell grants right now would be ineligible for those programs. These are legal residents who very well may have paid their taxes, and we were trying to provide that ability for.

Like I said earlier, it seems ironic that we would, in our bill that came out of committee, that a legal immigrant would be ineligible for a hot meal at a senior citizen center or a meals on wheels. Under the bill, they would be eligible if they are 79 years old, I believe. Hopefully, we will be able to address that again when that bill comes up next week or the week after. Or maybe it could be addressed in the other committees that have jurisdiction. But these centers, I have a number of them in my district, they do not check people's citizenship much less whether they are legal or illegal, because that is not their job. They are mainly concerned about providing a hot meal and the social contact that we need for these seniors that is provided under the Older Americans Act.

Let me remind my colleagues that we are not talking about someone who broke the law. We are not talking about somebody who came here illegally. We are not talking about somebody who is just taking jobs as we are worried about. We are talking about somebody who has admitted, who may have waited, as you said, for many years to gain legal residence, who obeyed the rules and still is not allowed to partake of some of the good things that maybe our country may provide them, whether it be low income housing, income energy assistance, or even job training for adults and disadvantaged youth. Someone who comes here legally and because of the

downsizing that we see all over our country, they may be out of a job and they would not be eligible for some of the job training that we have and that we are trying to expand more and even consolidate so it is more effective.

I guess the difference is we are trying to ask Congress to differentiate between someone who is here legally, who obeyed the rules, and someone who is not here legally.

And that is all we are saying. Do not tell a senior citizen that you cannot have a hot meal even though you may have lived here 30 years and raised your family and have, like you said, some great examples of young people who have grown up in the country and obviously productive citizens. And their family would not be eligible to have a hot meal at their local community senior citizen center. Several times during the discussion, members of the committee, particularly from the majority side, said that we have limited resources and we should provide for citizens first. And, of course, that assumes we are pitting our citizens against legal residents. As if any of us would say, we are going to support withholding assistance to citizens to help a legal immigrant.

I think that is not what we are all about. We are about providing the services to people who are here legally, whether you are born here or whether you are here as a legal immigrant. We should not argue with the citizen, argue citizen over legal immigrant. We should try to discuss the needs of the people on our committee, particularly when we are talking about a welfare reform bill or a reform bill that deals with social services.

□ 2230

If a person cannot afford their electricity bill during the summer or their heating during the winter, we should not mandate that the local agency play the INS agent. For one thing, if that person is here legally, whether it be in L.A. or Houston or anywhere else, are we really going to ask that HLNP in Houston or some agency to verify their papers? That is just not the case. It could work, and work efficiently.

I think we are building even more cost into our cost, and particularly after November 8 we surely do not want to build more government bureaucracy.

Restricting legal immigrants from assistance also does not affect that they pay into the system, again, as you said, they pay taxes just like everyone else. They pay sales taxes in Texas, they pay school taxes. If they rent, I have people all the time who say they do not pay any taxes. The last time I looked, even rental property has to pay property taxes, and if they pay whatever they pay per month, their property taxes are built into it, because as someone who owns property, hopefully I do not lose money on renting that property.

Mr. BECERRA. If we can engage in a colloquy, Mr. Speaker, I think that is an important point. One, we have to stress again that what we are talking about here is people who have a legal right now to be in this country, and eventually will become U.S. citizens.

We are not talking about folks who have come across this country clandestinely or without permission of this government. They are people who have been told by the people of the United States, ''You are here, you are allowed to stay here permanently and become U.S. citizens.''

We are not talking about visitors on a visa, or about students who come on a visa to stay and then have to go back. We are talking about people who have been told by this country, ''Yes, you can come now and make this your permanent home and become U.S. citizens.''

They are people who are saying, ''We are coming with the intention of coming permanently. That is why we have waited,'' in some cases, ''10 or 15 years, because we are asking for a visa to stay here permanently, not for a visa to visit as a student or tourist.''

Then the point about taxes. In every respect, a legal immigrant is like any U.S. citizen except in perhaps two or three situations. Obviously, they cannot yet vote because they are not citizens. They cannot hold certain classified Government jobs, for example, with the CIA. They cannot, obviously, be Members of Congress.

But except for a few things like that, they do everything that citizens do. They have every obligation that citizens have. They have to conduct themselves and comport themselves under the laws the way every citizen must, so that if they own a home they pay the same property taxes.

If they have a business, they must pay the same business taxes. If they work, they must pay the same payroll, social security, all the different taxes, FICA, everything we see in a pay stub deduction they must have deducted, as well; unemployment insurance, they pay that as well.

In every respect they do that. They pay the local taxes, States taxes for schools, et cetera, so in every respect, they are the same. In fact, there is no way to distinguish between a citizen and a legal immigrant unless somehow you can ask them for some verification of their status to try to prove citizenship.

Mr. GENE GREEN of Texas. Mr. Speaker, if the gentleman will continue to yield, these are people who had permission to come here, like the gentleman said. If we want to say, today, March 1st, we are not going to let any more people come in legally, if that is the decision this Congress wants to make, or the American people want to make, but not tell someone who has invested not only their life in some cases, and particularly with our veterans, they could have invested their life in defense of our country and not make them eligible even though they have paid the bill just like everyone else.

I always use the example that our forefathers were not citizens of our country. All of us came from somewhere. I am glad my great-great-grandmother happened to be born in Baltimore Harbor, because that made my great grandmother a citizen. I guess we have to recognize that, that we are a nation of immigrants, because every one of us came from somewhere. Even Native Americans walked across the Alaska bridge to come here.

We need to remember that when we are talking about it and not say that someone is here legally, because for many years we had no immigration controls at all. When a lot of our forefathers came, if you could make it here, that was fine, because we were building a country.

We are still building a country, but we have immigration controls, and we are asking people to abide by the law, and yet these people who have abided by the law, we are now saying, No matter how many years you have invested in this country that you wanted to come here, nobody forced you to come here, that you have invested, now we are going to take these benefits away, or take something away from you.

Mr. BECERRA. Mr. Speaker, I would like to give some examples about what the Contract With America's welfare reform proposal would do to certain individuals and families. Let me give some examples.

A pregnant woman who is a legal immigrant would not be eligible for the Women, Infants, and Children's Program, called WIC, which gives, in some cases, infant formula—it helps a woman who just had a child, a U.S. citizen child, even though she is preparing to give birth or if she already gave birth, as I said, to what would be a U.S. citizen.

A 7-year-old child would be denied foster care and adoption assistance if, by some accident, her parents happened to die. Because, solely because, she would be a legal immigrant and her parents had expired, she would not be eligible for any foster care or adoption services under the Contract With America.

A 23-year-old woman, again, legally present in the United States, who may have been forced to flee her home from an abusive husband would be denied services coordinated by a battered woman's shelter under the Contract With America's welfare proposal.

A 35-year-old man granted political asylum because the country he was fleeing might have tortured him or was intending to torture him, in some capacity this gentleman's life was in danger and that is why he was granted political asylum, it could have been because of religious beliefs, political beliefs, but he has now been granted by this country refuge because he has proven that he was in danger of losing his life, that person legally in this

country would be ineligible to receive canned goods from the food bank run by his local church under this welfare reform proposal by the Republican Contract With America.

Two more examples: A legal immigrant, again, who served in the armed services and fought in the Persian Gulf War could be ineligible to receive Social Security, excuse me, Supplemental Social Security income benefits, even if he was disabled during the line of duty.

Finally, let us take a 60-year-old woman who may have emigrated to this country legally when she was 15 years of age. She worked in this country, say, all her life, and somehow was rendered incapable of continuing to work because of, say, a heart condition. She would not qualify for any Medicaid under the welfare proposal that the Republicans have in their Contract on America.

Those are the types of things that we face in this particular proposal which make no sense, because we are not talking about people who are somehow sloughing off, taking advantage of this country, not paying taxes, breaking the laws. They are in every respect abiding by the laws of this country and contributing, yet we are now telling them that they will be excluded simply because of the distinction between citizenship and not yet getting there.

Mr. GENE GREEN of Texas. Mr. Speaker, let me give an example, like the gentleman did. I have a family that I grew up with. Their children are my same age now. They have lived here all their life.

Their mother is still alive. She is not a citizen, she is here legally. The children were all born here. The children are now in their forties, and they are law enforcement officers, they are managers of business, they are superintendents at companies, and those children are providing—and that mother raised those children here. They pay taxes with their father, and they have lived here, and yet to tell that elderly senior citizen that now, I'm sorry, you are 77 years old, and even though your children are hard-working and paying lots of taxes, because I know their income, that she is not going to be able to have the socialization and the hot lunch with the senior citizen center that is 7 blocks from her house.

I do not think that is the Americanism that we all understand, and the compassion for people, and also the feeling that we have for everyone who, again, tries to obey the law and is a productive citizen. That is why I think hopefully the committees will change, the other committees, because we were not able to in ours, because of the abbreviated session, and I don't know if we would have had the votes anyway, even if we had the time to have the amendment.

But I hope when it comes to the House floor we will at least make that correction so we can address it for legal immigrants, and particularly for legal immigrants who are also veterans, who again have put down their lives and sacrificed their time in defense of the freedoms that they now enjoy, but we may be taking some of them away if we pass this bill.

Mr. BECERRA. Mr. Speaker, I thank my colleague from Texas for coming down tonight at this late hour to participate in this special order. I appreciate his words. He has always been there to talk about families and people, and it is clear that he has a concern for people who are contributors to this society. I thank him for adding some very eloquent words to this particular discussion.

Mr. Chairman, I would like to discuss a little bit more about welfare, more of the specifics about welfare. What most of us know as welfare includes a number of different programs, from AFDC, which is Aid to Families with Dependent Children, to Supplemental Security Income to Medicaid and food stamps.

AFDC costs the Federal Government about $16.5 million. SSI is about $26 billion. Medicaid is $82 billion. That is, of course, medical services to the aged, the blind, and the disabled. Food stamps is about $25.5 billion. If we add up those programs, they amount to about 1 percent of the Nation's budget, annual budget.

Mr. Speaker, folks think of that as welfare, when we talk about welfare, but most people do not recognize other things as welfare. Welfare is really government assistance of some form or another, whether it is AFDC to a woman with a child who is poor, or in many cases, most of us do not think of it this way, but I know I own property.

I own a home. I am able before April 15 of every year to deduct the interest I pay on my mortgage from my taxes. I am also able to deduct the property taxes I pay on that home from my taxes, and I get to reduce the tax load that I have by that particular deduction.

In essence, I have reduced the amount of taxes the government collects, which makes it necessary, of course, to collect from some other source, or have that budget deficit. That in a sense is assistance that is offered to me, because I am subsidized by the Federal Government for the purchase of my home.

Mr. Speaker, most folks do not think of the mortgage interest deduction or the property tax deduction as welfare. We think of them as incentives that we have to purchase property, to own property, and ways to make it possible for families to, obviously, buy a home.

Most people would find it very difficult to purchase a home and actually maintain that residence if they found that they had to pay the full amount and actually pay it off in less than 30 years, so we have ways to try to encourage home ownership, which I hope most families growing these days and becoming participants in society have a chance to do, even though it is becoming tougher and tougher these days to do it.

However, that is an example of something that could be considered public assistance or government assistance that most folks do not consider obviously welfare. We never classify that as welfare.

However, let me say that the mortgage interest deduction by itself, without the property tax deduction, amounts to about $51 billion. that is what we will probably see deducted from tax forms from people's taxes just in 1955.

By the way, Mr. Speaker, 44 percent of that deduction, 44 percent, about $23 or so billion of that $51 billion, goes to taxpayers with incomes in excess of $100,000 or more.

Compare that, Mr. Speaker, $51 billion just in the mortgage interest rate deduction that I get to participate in, and anyone who owns a home gets to participate in, with some of the proposals in the majority party's Contract on America welfare reform proposal.

They are talking about cutting school lunch programs, they are talking about cutting back student loan programs, and there you are talking about sums that are even less than what we are talking about for the mortgage interest rate deduction.

We have subsidies for agricultural products and crops. In my mind, what concerns me greatest is this idea that we see floating around these days of cutting taxes at a time when we have a large deficit, where we are trying to balance the budget, and at the same time, we have discussions about a capital gains tax cut.

The capital gains tax is something that is used by people who own capital, certain types of capital. If you happen to own a big tractor or a bulldozer and a construction company, that is capital. If you happen to sell it, you would be able to reduce your taxes on the capital gains, on the gain from that particular product or that equipment, by a certain amount if a capital gains tax cut were actually implemented.

Mr. Speaker, the Republicans are talking about a capital gains tax cut of about $200 billion over the next five years. That means that somewhere we are going to have to find the money to make up for the $200 billion.

When we put that on top of the $1.2 or so trillion deficit that we have to make up over the next seven years or so, you see that the task is monumental, to try to balance the books.

When you see proposals to cut capital gains taxes which will benefit mostly those who make over $100,000, about 70 percent of the benefits will go to those who make over $100,000, you will see that it is going to be difficult to swallow having to cut a program that would make a legal immigrant who has paid taxes ineligible for services that he has already paid for.

That, I think, shows a contradiction that we are going through right now, the reason I wanted to have a chance in

this special order to discuss the whole issue of legal immigrants.

What we have to do is come up with some reasonable approaches to fund welfare. We have to come up with things that will help us change the way we provide welfare assistance. We have to streamline, obviously, the process. We have to make it workable, so that ultimately, people will work and be off of welfare, but we have to attack the problem where the problem lies.

Why go after legal immigrants who, as we can see from the studies, the empirical data, all of which show that immigrants by far contribute much more than they ever consume. Not only that, but if you are going to attack a population for purposes of welfare reform, why attack the group that is making least use of welfare? It does not make any sense. But that is the direction some of the Members of Congress would seem to want to head in, and I think that is unfortunate because what we find is that rather than have reform we are ending up with expediency, and to me that does not make the best sense; this is not the way to legislate.

□ 2314

I believe when we have a chance to closely look at the issue, especially the issue with regard to legal immigrants, we are going to see that rather than try to dissuade or punish people who are showing industry and entrepreneurship, the American dream, that are trying to do the things that make us America, what we will see is there will be I hope a change of heart and a recognition that what we must do is tackle the problem, and with welfare that means of course making sure we put people on a program where we tell them here is the plan, you have to follow this plan. You may need some assistance now, so we are going to give you some assistance. You may need some education, you may need some training and we are going to give you that. And once that is done, we want you to work. And you are going to work, because that is why you are on welfare, to transition off of welfare back to being a productive, paying member of society.

And when we do that, when we provide that training and the education, if the person happens to lack some skills and education is necessary, and if the person maybe has a child, maybe provide the child care to let the person get to school or get to work, and make some health care available so a person does not have to worry about the child getting sick or the individual getting sick, when we can transition them off and see them become productive, then we have true welfare reform. And in the process of coming up with that program we have to come up with the financing for it, and in coming up with the financing for it we should be addressing the issues that relate to welfare, not going after a population that is demonstrating in every respect the American dream.

I think that is where we have to head and I hope that is where we will head, and perhaps by having full, open discussions on this we will head in that direction.

That is my hope, and I hope to have a chance over the course of the next days and weeks as we discuss welfare reform to bring this issue closer to the fore so people can have an opportunity to understand it, recognize it, and then act based on full, complete and accurate information.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California [Mr. BECERRA] for calling this special order tonight on the subject of immigrants and welfare benefits. As we debate the complex and sometimes heated issues surrounding immigration generally, I am hopeful that the tone of this discussion will be both reasonable and balanced.

Furthermore, I hope that this special order, and others to follow, will deflate some of the politically-charged myths surrounding the immigration debate.

One of the myths often cited to support the contention that immigrants cost more than they contribute is that they are heavy users of welfare. The facts, however, are very different. When refugees are excluded, statistics show that immigrants of working age are considerably less likely than native-born residents of working age to receive welfare.

Only 3.9 percent of immigrants, who come to the United States to join family members or to work, rely on public assistance, compared to 4.2 percent of native-born residents.

The failure to differentiate between the legal status of refugees—who are explicitly entitled to public benefits upon arrival—and other immigrants contributes greatly to continuing misperceptions and to proposals of potentially ineffective policies.

It should also be noted that those legal immigrants who seek public assistance must meet much tougher standards for the major programs than native-born residents, while undocumented immigrants are ineligible for any public assistance except emergency medical care under Medicaid and some nutrition programs.

Another one of the myths surrounding immigrants and welfare benefits is that these benefits act as a magnet which attract immigrants to the United States. According to an INS report on the legalized alien population, this is simply untrue.

Fully 64 percent of legal immigrants come to the United States to join family members, 14 percent come because U.S. employers need their skills, and 16 percent are fleeing political persecution. Very few immigrants come to the United States seeking public assistance.

Undocumented immigrants legalized under the amnesty program come to the United States for the same reasons: to join close family members—62 percent, to work—94 percent, and to flee repression—28 percent, not to use public services like welfare.

Mr. Speaker, most of the Republican welfare reform proposals would hurt U.S. citizens and their sponsored relatives. Some of these proposals involve outright bans on more than 60 Federal programs for legal immigrants who have not yet become citizens.

One of these proposals would require Federal programs to report to the INS all legal immigrants who receive benefits for more than 1 year. These immigrants would be considered public charges by the INS and therefore subject to deportation.

I urge my colleagues to examine the facts and not the myths surrounding the debate on immigrants and welfare benefits.

The facts are these, Mr. Speaker, and they speak for themselves.

Immigrants pay more in taxes than they receive in benefits. According to the Urban Institute, legal and undocumented immigrants combined, pay approximately $70.3 billion per year in taxes and receive $42.9 billion in services such as education and public assistance.

Legal immigrants' Social Security deductions help keep the Social Security system solvent. Because immigrants tend to be young and have years of work ahead of them, they are significant contributors to the Social Security system.

The combined total of all immigrants' income came to $285 billion according to the 1990 census. This was 8 percent of all income earned in the United States, and equal to immigrants' share of the population—7.9 percent. Immigrants spend much of their income on U.S. goods and services, helping to spur the U.S. economy forward.

Undocumented immigrant workers provide tax dollars to the United States because undocumented workers are subject to payroll deductions and income taxes, they help to support programs like unemployment insurance and Social Security, even though they themselves are not eligible for benefits from these programs. In 1990, undocumented immigrants paid $2.7 billion in Social Security and $168 million in unemployment insurance.

Once again, I thank Mr. BECERRA for his leadership on this important issue.

RETURNING DECISIONMAKING TO THE STATES AND LOCALITIES

The SPEAKER pro tempore (Mrs. WALDHOLTZ). Under the Speaker's announced policy of January 4, 1995, the gentleman from Maryland [Mr. EHRLICH] is recognized for 30 minutes as the designee of the majority leader.

Mr. EHRLICH. Madam Speaker, I rise to enter into a colloquy with my colleague from California. Madam Speaker, cliches are very popular in politics as we all know, particularly in election years. Everyone is pro-small business, everyone loves the family, everyone is tough on crime, everyone likes the middle class, cares about the middle class, wants to support the middle class.

The problem, Madam Speaker, is that right here in the House of Representatives is where the rubber meets the road, and cliches are know longer good enough. This is where the votes occur, this is where the lines are drawn in the sand and this is where positions are taken that we must defend come every other November.

Right now the tough votes with respect to regulatory reform are being taken every day in this House. It is part of the Contract With America, it is a very important part of the Contract With America, but it is also what the people want.

I direct a comment to my colleague from California. I was amazed, Madam Speaker, that in the course of our campaign we targeted the small business community, we went around top strip shopping malls and would ask owners what is the number one issue for you ma'am, or sir. And I thought the answer I would receive would concern itself with the legal environment in the State of Maryland, or the availability of capital, or employee problems. But, Madam Speaker, by far and away the No. 1 problem that the small business community in the second district has is the regulatory burden that government at all levels has placed upon it. And this was surprising to me.

And I direct a question to my colleague from California. Did he also find this to be the case in his campaign?

Mr. RADANOVICH. If I may, if the gentleman will yield, I would like to tell the audience a bit of a story that happened in my district with regard to small business. There was a killer in my district. My name is GEORGE RADANOVICH from the San Joaquin Valley in California. A little to the south of me, not necessarily in my district but very close, there was a killer on the loose and the Federal Government swooped down on this person one day and came down on this killer as he was disking his farm there in Kern County, CA and arrested the man. He was, as I said, out on a tractor disking his field as he was preparing it for the crop he was hoping to harvest a few months later. This man was the killer. They arrested him and they took the weapon at the scene of the crime. And the weapon itself was a tractor and in disking what he had done was he had killed five rats, and this was under the Endangered Species regulation. Actually, he is in court right now facing I believe a 6-year sentence and a $100,000 fine, and what he did was he killed five rats while he was trying to go about the business of farming on the ground that he owned.

This is the kind of legislation, Madam Speaker, that we are running into in our districts, and it is not so much, granted you know the way that they are dealing with this issue is a real problem, but the whole point of the problems in endangered species legislation or any regulation is where it is coming from.

And I think we heard plenty today and over the past few weeks when we are trying to get rid of some of the regulations that come out of this body, what we are trying to do is send it to the local level so that at the local level those regulations will begin to make a little bit of sense. When the far-reaching arm of Washington reaches down from 3,000 miles away and abducts a farmer for disking his own field or killing rats, it is a pretty good indication of the fact that regulation from Washington does not work very well. Food programs from Washington do not work very well, crime programs from Washington do not work very well in Fresno.

What we need to do and I hope what we are doing by block granting is getting those funds into the district and placing them into the proper hands for people to take care of the problem locally, because I do not know, nobody in this body knows how to take care of crime better in Fresno than my mayor, Jim Patterson, and my police chief, Ed Winchester and my sheriff, Steve Magarian. Those guys know it the best, and that is the problem I have with regulation coming out of this floor out of Washington, DC.

My colleague from Maryland has some similar examples as well, and I am sure he would like to be able to relate them. I have a whole list of these too.

Mr. EHRLICH. I know you know, but I only have all night. Actually we do not have all night, and I thank the gentleman from California.

I think the American people are finding out that one of the themes behind the Contract With America was this devolution of power back from the Federal Government to the States, to the local, because as the gentleman so eloquently stated, the locals know better. They know what best to do with the money that the taxpayers generate. And in this way we can cut out the middle-man and in fact send them the same amount of money and get better service, and that is what this whole thing is all about.

I know the gentleman is familiar with some of the more dramatic numbers, Madam Speaker, that have been generated over the last few years. The number of pages in the Federal Register reached 64,914 in 1994, the most since 1980. Federal regulatory agencies currently employ 131,412 people at an annual cost of $11.9 billion, both record numbers.

The Clinton regulatory plan released last November, which I know the gentleman is familiar with, shows that the administration plans to pursue 43,000 additional regulatory actions after FY 1995 and beyond. In the last 6 months of FY 1994 alone, the Federal Government completed 767 rules and regulations. The Clinton Administration's National Performance Review stated that the compliance costs imposed by Federal regulations on the private sector alone were ''at least $430 billion per year or 9 percent of our gross domestic product,'' and as the gentleman knows, one of the frustrating parts of this debate is the fact that we have not focused in on the job loss. We zero in on costs, we talk about anecdotes, we have our anecdotes, the other side has their anecdotes, but we do not quantify. And I am not sure it is quantifiable, the extent to which overregulation costs us jobs in this economy.

Mr. RADANOVICH. Madam Speaker, if the gentleman will yield, I have another tale of what happens in my district. I also represent grazing land in the Sierra National Forest. Part of my district allows, over the past 20 years, cattleman to do summer grazing in the Sierras by permit. There are people who have been up there and using the same ground over a 20-year period.

Let me tell you, Madam Speaker, what is happening in my district right now, and this is through the National Environmental Policy Act which requires a biological study now for everybody who goes up in there. Remember, these people have been up there for the past 20 years. And they are gearing up for their season which when the snow melts will start this spring. They are being told through this National Environmental Policy Act that they have to do a biological study. This requires thousands of dollars, it requires months to do. If they were to do it now, it would be ready in the winter of the following year. They could be locked out of 1 year in the Sierra Nevadas.

My cattleman in my area are facing the fact of having to sell down the herds they have built up over many many years and taking capital gains losses over that, simply because a rule that stated that these people have to go through biological studies that will take months instead of being flexible to allow that to happen over a period of maybe 1 or 2 years, knowing the fact that they have been up there for the last hundreds of years and the Sierras are still there, that they cannot demonstrate any flexibility. That represents a loss of business and a loss of jobs, and again it is just another example of laws and regulations coming out of Washington that are better served coming out at the local level because they make more sense.

Mr. EHRLICH. If the gentleman will yield, the point is very well-taken. When we talk about regulations sometimes we forget it is the American consumer in fact who actually pays the cost, not just with respect to job loss but also increased prices at the grocery store for instance, because it is at the supermarket where the impact of all of the regulations we have been talking about on this floor for the last week hit home.

I was shocked when the Food Marketing Institute, for instance, which represents supermarkets and grocery wholesale ears described to me all of the regulations that go into the distribution of grocery products to consumers.

I think the gentleman will agree we have the most efficient food distribution system in the world, bringing customers a wide variety of goods at lowest possible prices despite the best efforts of bureaucrats and regulators to add layers of inefficiency and costs to the process, but it is acronym city and that is the problem. We have the USDA, we have FDA, we have the FTC, we have the ICC we have the DOT, we have OSHA, we have EPA, we have the DOI, we have the CPSC and who knows what other collection of letters and acronyms that govern and

micromanage, in my view, the way this particular industry operates.

Most of the regulations are well-intended; we all know that. I think we can all agree with the other side with respect to that point. Some are necessary. But all of them add up to a staggering amount of paperwork and we are going to get into that in a minute I know, and red tape and costs that often makes food distributors feel as though their primary business is satisfying government regulators and not meeting consumer demands. And if the gentleman would let me just have another 20 seconds I will throw an example in here, and I know the gentleman has a lot of anecdotes he wants to share with the American people and I also want to hear them, but let us begin with the basic food group, fruits and vegetables.

Does the gentleman know under PACA, the 65-year-old Perishable Agricultural Commodities Act, retailers and wholesale grocers are forced to pay a fee for the privilege of selling fresh and frozen products in their own stores? Grocers pay millions of dollars in license fees, and that is what they are, license fees, for this outdated, inefficient, and unfair program.

Five years ago an advisory committee recommended changes to PACA. No changes have been implemented.

□ 2300

I have in my hand, in fact, a letter from a constituent in Maryland. He owns a small chain of grocery stores right around the corner from where I live with my wife. PACA costs his four stores alone $1,600 a year; his contribution, one grocer in Maryland's contribution, to the $500 billion annual cost of Federal regulation in the grocery industry alone.

It gets crazier.

Mr. RADANOVICH. Madam Speaker, if the gentleman would yield, I have another story.

I think in my district an article was written recently in our local paper that talked about the hand ''Biting the Hand that Feeds Us'' was the name of this article in Fresno, and it talked about how we are biting the hand of big Government that is feeding my valley to the tune of about $4.6 billion a year, and the article went on to say that it covers the various benefits, quote unquote benefits, that come from Washington into the district to the tune of about $4.6 billion. That includes everything, pensions, AFDC, farm subsidies, the whole bit. You name it. Four point six billion dollars in there.

And the tone of the article, which is quite interesting, was the fact that we are—you know, can the valley survive a hit of $4.6 billion, and went on to say how, no, we cannot, we cannot survive without the help of the Federal Government. In a small sentence at the end of the article it did say, however, that $5.3 billion left the valley to come to Washington, and so the point that was never made was that $5.3 billion was paid in taxes from my district. My district got $4.6 billion less. Now there is a discrepancy there of about $700 million, and I would like to make the case that if that, those dollars, never left Fresno, solving the same problems, they would have $700 million more to deal with on the local level, and, my colleagues, that is what I think we are trying to get at here in Washington when we are talking about regulatory control.

No. 1, the regulations do not make sense from Washington. No. 2, you give the money back to the States and let them deal with their own problems. They got more money to begin with, and they are going to be much more reasonable in their regulation.

It boils down to me, too, of trusting other people.

Mr. EHRLICH. Madam speaker, I thank the gentleman, and I know many people on our side have thousands of anecdotes we would love to share with the American people. We have all been doing that on talk radio, C–Span, in newspapers, in town meetings with our constituents.

Just a short one for you:

What about the cardboard boxes that contain grocery products that we all buy? The Department of Labor has fined grocers literally millions of dollars, and they are still doing it because a 1954 regulation named the Hazardous Occupation Order No. 12 prohibits 16- and 17-year-olds from even tossing a cardboard box into a baler. Has the administration revised the law to keep up with the safety design standards found in all modern balers? No. Does the administration have any data to justify its unrelenting enforcement? No.

Last year, before we got here, 72 Members of Congress, Democrats and Republicans alike, asked the administration to address this issue. Still no action, and that goes back to the earlier point, the job loss. We need to focus in on that in the course of our debate over this whole issue of regulatory reform in our country.

Do you agree?

Mr. RADANOVICH. I agree with you, and I have got another tale to tell:

Madam Speaker, water is an important commodity in our district. We have a network of dams that supply agricultural water and also water to our cities. Under a different majority in 1992 we had what is called the CVPIA, which is the Central Valley Project Improvement Act. During that time there was a study to be initiated on one of the major streams in my district that was dammed, and the study would require $5 million allocated for that study as well to study the establishment, reestablishment, of a fishery, and what the study was intended to show in 1996 was a way that we could take water from agriculture and reestablish a fishery that had disappeared with the establishment of the dam in the 1960's. The study was supposed to say that any project that came up with that, those results, had to be reasonable, prudent and feasible, and so since 1992 they began their study, and just the mere consideration of this study, which everybody knew would bankrupt agriculture in the valley for the amount of water that would have to be taken from agriculture to replenish this stream, my farmers were facing decrease in land values. They were not getting loans at the bank simply because of the mere thought of doing something like this. Everybody knew that it was going to take so much water that it would literally destroy agriculture in my valley.

Thank God the other day we were able to stop this study, but it is just another example of somebody's idea of, yes, it would be very nice to have fish back in the San Joaquin River. You put a price tag to that with these ideas that come out of Washington. You can quickly find that they are neither reasonable, prudent and feasible, and you do not have to spend $5 million finding that out.

And the list goes on, and again I think that it drives home the point that we in Washington and these Members of Congress on both sides of the aisle are going to have to realize that America can trust not only us, but every other elected official all the way down to dog catcher in Main Street USA to successfully deal with problems and allow them to do that. I think that is what the evolution is all about, and I think that is what block granting is all about. It is by Members of Congress admitting that they do not know, they do not know every detail of the problems in every little town and downtown America.

Mr. EHRLICH. Madam Speaker, if the gentleman would yield on that point, just a short question.

All the horror stories that we hear, regardless of the issue, welfare, crime, regulation, at the very foundation of these horror stories, or these alleged horror stories, or these fear-mongering stories, it seems to me is implicit distrust of the State governments in this country, of local governments in this country, and concomitant with that is the thought that only the Federal Government can do it right, and we cannot trust in this country any other level of government.

Mr. RADANOVICH. In the recent crime bill, which is interesting because it illustrates this point, during the debate on the crime bill which were block granting funds down to the State level, and hopefully to the local level and back into the jurisdictions where they can solve their problems, a comment was made by someone on the other side of the aisle saying the very same thing, that we cannot trust. What we cannot do is trust the people on the local level to properly implement those funds.

And I am sitting here thinking I have got prime problems in Fresno, CA. That is the heart of my district. It is a wonderful place, but it has got a problem with crime, and I am sitting here

thinking I am going to trust this person on the other side of the aisle who has never been to Fresno, I guarantee it, to know how to solve problems in my community. By the way, midnight basketball would not work there—and not trust the people, the good people that are really on the frontlines trying to solve the problems, and to trust them to do it, and I mean I do not even know enough about how to solve crime in Fresno.

What I do is I rely on the people that the citizens of those communities elected to solve those problems and give them every resource that I can unencumbered, and it is this basic mistrust that is why I wanted to give that argument. It is that basic mistrust of local and State officials is what the problem the other side of the aisle has.

Mr. EHRLICH. Let alone the private sector; G-d forbid we would trust the private sector.

In fact, and I do not think the gentleman from California saw this, just the roofers in my district, just one small industry in the Second Congressional District in Maryland, sent to me 50 pages of petitions asking me to support House Bill 450. Can you imagine if we magnify, if we multiply, this times all the small business people in this country who are crying out for help who cannot afford to hire a lawyer to represent them in an administrative action or a legal proceeding or cannot afford the plane fare to come here in Washington and plead their case?

I know the gentleman from California wants to comment on this, but it seems to me that we need House Bill 450. We need the moratorium. Let us inventory all these regulations. We are not saying they are all bad; some are absolutely required. We have built in emergency exceptions, as the gentleman will recall from the debate last week. We need cost-benefit analysis and risk assessment. Since when did this become such a radical thought? When did looking at the relative costs and looking at the relative benefits, in addition to the absolute risk that a particular regulation brings into question, when did that become such a radical thought in this government?

□ 2310

I think the gentleman will also agree that the Regulatory Flexibility Act, House Bill 926 we debated today with respect to judicial review, is an idea whose time has come; paperwork reduction on the floor last week, is an idea whose time has come, making it stronger; and, of course, private property protection. Since when did the idea that government should pay for infringing on your right, your constitutional right, to enjoy your own private property, when did that become a radical thought in this country, I would ask the gentleman?

Mr. RADANOVICH. If the gentleman will yield, I guess I want to respond by saying that we on this side of the aisle, the gentleman from Maryland and I, are both freshmen, we are new here, but everybody on this side of the aisle has been accused of hating mom and kids and apple pie and dogs and everything else. The point that we are trying to get across to the American people is that we have more resources to solve problems if they depend less on 435 elected officials and begin to depend more on the thousands of elected officials all across the land. That is when we will start getting regulation that makes sense, and people will begin respecting this body once we begin to respect other elected officials on the local level to do the right thing. Because I have no question, I am here to do the right thing, and I do not question any other Member of this House to say that they are not doing the right thing, because I believe they are. But the fact of the matter is we have got to begin to trust in the elected system and that the people that sent us here also sent other people to other posts and we can allow them to have the responsibility to do their jobs, and keeping tax dollars in districts.

Mr. EHRLICH. I think the gentleman makes a good point. No one questions motive.

Mr. RADANOVICH. I get tired of hearing I hate apple pie, mom, and kids.

Mr. EHRLICH. It is fear mongering. you see it played out time and time again in the national politics everyday that we have the Contract With America on the floor of this House. Because the problem is, and I think some people either do not want to admit this, they still deny it, they do not want to confront it, is that the American people voted for fundamental change in this country on November 8th. And we are here, me and you, we are a tangible result of that change. And it is not a partisan issue, but it is a conservative issue. The people that the American people sent to this House this time are willing to challenge the fundamental assumptions that this Government and this House in fact has operated under for the last 40 years. We are ready to return power to the states, we are ready to return power to the local governments, and we are ready to return power to the people. That is what we campaigned on, and that is what we intend to deliver, Madam Speaker. I know the gentleman from California has a lot of anecdotes he would like to share.

Mr. RADANOVICH. I think I got my point across. I just needed to say that. I think American needs to hear the fact we are here trying to do some good, and I think we are. But until we start relying on other people in this country, you know, it is going to get worse.

Mr. EHRLICH. It is that concept of personal responsibility.

Madam Speaker, we appreciate the opportunity to talk about this issue tonight, and we will at this point yield back the remainder of our time.

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. KLINK) to revise and extend their remarks and include extraneous material:)

Mr. KLINK, for 5 minutes, today.
Mr. SKAGGS, for 5 minutes, today.
Mr. MILLER of California, for 5 minutes, today.
Mr. BROWDER, for 5 minutes, today.
Mr. TOWNS, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. HAYWORTH) to revise and extend their remarks and include extraneous material:)

Mr. BRYANT of Tennessee, for 5 minutes, today.
Mr. WELDON of Florida, for 5 minutes each day, on March 1, 2, and 3.
Mr. GRAHAM, for 5 minutes, today.
Mrs. SEASTRAND, for 5 minutes, today.
Ms. ROS-LEHTINEN, for 5 minutes, on March 2.
Mr. KIM, for 5 minutes, on March 3.
Mr. KINGSTON, for 5 minutes, today.
Mr. HEFLEY, for 5 minutes, on March 2.
Mr. HAYWORTH, for 5 minutes, today.
Mr. FOX of Pennsylvania, for 5 minutes, today.
Mr. SMITH of Michigan, for 5 minutes, on March 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KLINK) and to include extraneous matter:)

Mr. MINETA.
Mr. HAMILTON.
Mr. VISCLOSKY.
Mr. ANDREWS of New Jersey.
Mrs. MALONEY.
Mr. DELLUMS.
Mr. CARDIN.
Ms. WOOLSEY.
Ms. ESHOO.
Ms. DANNER.
Mr. KLECZKA.
Mr. BRYANT of Texas.
Mr. UNDERWOOD.
Mr. POSHARD.
Mr. BECERRA.
Mr. FOGLIETTA.
Mr. NADLER.
Mrs. COLLINS of Illinois.

(The following Members (at the request of Mr. HAYWORTH) and to include extraneous matter:)

Mr. ARCHER.
Mr. HOUGHTON.
Mr. GILMAN.
Mr. ROGERS.
Mrs. SEASTRAND.
Mr. MYERS of Indiana.
Mr. PETRI.
Mr. SOLOMON.

Mr. KIM.
Mr. HEFLEY.
(The following Members (at the request of Mr. EHRLICH) and to include extraneous matter:)
Mr. BLILEY.
Mr. PACKARD.
Mr. BEVILL.
Mr. PAYNE of New Jersey
Mr. DE LA GARZA.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 257. An act to amend the charter of the Veterans of Foreign Wars to make eligible for membership those veterans that have served within the territorial limits of South Korea.

ADJOURNMENT

Mr. EHRLICH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 15 minutes p.m.), the House adjourned until Thursday, March 2, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

426. A letter from the President and chairman, Export-Import Bank of the United States, transmitting the semiannual report on the tied aid credits, pursuant to Public Law 99–472. section 19 (100 Stat. 1207); to the Committee on Banking and Financial Services.

427. A letter from the Secretary of Energy, transmitting a draft of proposed legislation entitled, ''Nuclear Waste Disposal Funding Act''; to the Committee on Commerce.

428. A letter from the Assistant Secretary (Civil Rights), Office for Civil Rights, transmitting the annual report summarizing the compliance and enforcement activities of the Office for Civil Rights and identifying significant civil rights or compliance problems, pursuant to 20 U.S.C. 3413(b)(1); jointly, to the Committee on Economic and Educational Opportunities and the Judiciary.

429. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, ''Coast Guard Authorization Act for fiscal years 1996 and 1997,'' pursuant to 31 U.S.C. 1110; jointly, to the Committee on Transportation and Infrastructure, National Security, Commerce, the Judiciary, Resources, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD: Committee on the Judiciary. H.R. 988. A bill to reform the Federal civil justice system; with an amendment (Rept. 104–62). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee on Commerce. H.R. 917. A bill to establish procedures for product liability actions; with an amendment (Rept. 104–63 Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DEFAZIO:

H.R. 1088. A bill to amend the Internal Revenue Code of 1986 to provide that the employment taxes shall not apply to amounts paid by certain State funds as compensation for unpaid wages; to the Committee on Ways and Means.

By Mr. CREMEANS:

H.R. 1089. A bill to ensure that the acquisition of lands for inclusion in the National Forest System does not result in reduced property tax revenues for the county in which the acquired lands are located; to the Committee on Agriculture.

By Mr. BILIRAKIS:

H.R. 1090. A bill to provide a minimum survivor annuity for the unremarried surviving spouses of retired members of the Armed Forces who died before having an opportunity to participate in the survivor benefit plan; to the Committee on National Security.

By Mr. BLILEY (for himself, Mr. GOODLATTE, Mr. BATEMAN, and Mr. WOLF):

H.R. 1091. A bill to improve the National Park System in the Commonwealth of Virginia; to the Committee on Resources.

By Mr. CARDIN (for himself and Mr. LEVIN):

H.R. 1092. A bill to amend the Internal Revenue Code of 1986 to provide that the depreciation rules which apply for regular tax purposes also shall apply for alternative minimum tax purposes; to the Committee on Ways and Means.

By Mr. DE LA GARZA (for himself, Mr. HOLDEN, Mr. FARR, Mr. BROWN of California, Mr. PASTOR, and Mr. STENHOLM):

H.R. 1093. A bill entitled ''Food Stamp Program Integrity Act of 1995''; to the Committee on Agriculture, and in addition to the Committees on Ways and Means, and the Judiciary, 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. DURBIN (for himself, Mr. SKEEN, and Mr. GUNDERSON):

H.R. 1094. A bill to amend the Food Stamp Act of 1977 to reduce fraud by establishing forfeiture applicable to property exchanged, used in, or resulting from trafficking in food stamp benefits; to the Committee on Agriculture.

By Mr. FIELDS of Louisiana:

H.R. 1095. A bill to establish a State system of licensing or registering persons engaged in a business which regularly and primarily charges fees for cashing checks, and to provide for insured financial depository institutions to cash checks issued by States of the United States; to the Committee on Banking and Financial Services.

By Mr. FRANKS of Connecticut:

H.R. 1096. A bill to assure compliance with the guarantees of the 5th, 14th, and 15th amendment to the Constitution by prohibiting the intentional creation of legislative districts based on race, color, or language minority status of voters within such districts; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. TAUZIN, Mr. BALLENGER, Mr. JONES, and Mr. TAYLOR of North Carolina):

H.R. 1097. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Commerce.

By Mr. HEFLEY (for himself, Mr. HERGER, and Mr. FIELDS of Texas):

H.R. 1098. A bill to provide for the elimination of the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking and Financial Services, and in addition to the Committee on the Judiciary, 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. HOUGHTON (for himself, Mr. BREWSTER, Mr. SHAW, and Mr. JACOBS):

H.R. 1099. A bill to amend the Internal Revenue Code of 1986 to limit the applicability of the generation-skipping transfer tax; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. JOHNSON of South Dakota, Mr. MEEHAN, Mr. TORRICELLI, Ms. RIVERS, Ms. LOWEY, Mr. BARRETT of Wisconsin, Mr. SERRANO, Ms. WOOLSEY, and Mr. FATTAH):

H.R. 1100. A bill to establish a temporary commission to recommend reforms in the laws relating to elections for Federal office; to the Committee on House Oversight, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MORAN (for himself, Mr. DAVIS, and Mrs. MORELLA):

H.R. 1101. A bill to abolish the Board of Review of the Metropolitan Washington Airports Authority, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. PETRI (for himself, Mr. OBEY, Mr. SENSENBRENNER, Mr. ROTH, Mr. GUNDERSON, Mr. KLECZKA, Mr. KLUG, Mr. BARRETT of Wisconsin, and Mr. NEUMANN):

H.R. 1102. A bill to amend the Federal Water Pollution Control Act to reserve a portion of the funds made available for capitalization grants for water pollution control revolving funds for the purpose of making grants to States that set aside amounts of State funds for water pollution control in excess of the amounts required under such act, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. POMBO (for himself, Mr. DOOLITTLE, Mr. FOLEY, Mrs. THURMAN, Mr. PASTOR, and Mr. FARR):

H.R. 1103. A bill entitled ''Amendments to the Perishable Agricultural Commodities Act, 1930''; to the Committee on Agriculture.

By Mr. SANFORD (for himself, Mr. DEAL of Georgia and Mrs. CHENOWETH):

H.R. 1104. A bill to protect and enforce the equal privileges and immunities of citizens of the United States and the constitutional rights of the people to choose Senators and Representatives in Congress; to the Committee on House Oversight.

By Mr. SCHUMER:

H.R. 1105. A bill to amend the Truth in Lending Act to require additional disclosures with respect to credit card accounts, to require a study of the competitiveness of the credit card industry, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. STUDDS:

H.R. 1106. A bill to deauthorize a portion of the project for navigation, Falmouth, MA, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. VISCLOSKY:

H.R. 1107. A bill to direct the Secretary of the Army to develop a watershed management plan for the Lake George area of Indiana, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MCNULTY (for himself and Mr. SHAYS):

H.J. Res. 71. Joint resolution proposing an amendment to the Constitution of the United States repealing the 22d article of amendment, thereby removing the restrictions on the number of terms an individual may serve as President; to the Committee on the Judiciary.

By Mr. OBERSTAR (for himself, Mr. BURTON of Indiana, Mr. LIPINSKI, Mr. YOUNG of Alaska, and Mr. SMITH of New Jersey):

H.J. Res. 72. Joint resolution proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

By Mr. SANFORD (for himself, Mr. KLUG, Mr. BROWNBACK, Mr. ENSIGN, Mr. SOUDER, Mr. SALMON, Mr. DAVIS, Mr. STOCKMAN, Mr. COOLEY, Mr. THORNBERRY, Mr. BRYANT of Tennessee, Mr. LARGENT, Mr. NEUMANN, Mr. MCINTOSH, Mr. LATHAM, Mr. FOLEY, Mr. GRAHAM, Mrs. CUBIN, Mr. GANSKE, and Mr. HOSTETTLER):

H. Res. 102. Resolution requiring the transfer to private sector providers of responsibility for certain administrative and maintenance entities and functions of the House of Representatives, and for other purposes; to the Committee on Rules, and in addition to the Committee on House 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.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROTH introduced a bill (H.R. 1108) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for each of two barges; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. MCDERMOTT, Mr. UNDERWOOD, Mr. GREENWOOD, Mr. SCOTT, and Mr. EVANS.

H.R. 65: Mr. RIGGS and Mr. CRAMER.

H.R. 70: Mr. ANDREWS.

H.R. 78: Mr. WELDON of Florida.

H.R. 103: Ms. BROWN of Florida.

H.R. 104: Ms. LOFGREN.

H.R. 109: Mr. GALLEGLY and Ms. SLAUGHTER.

H.R. 159: Mr. HANCOCK, Mr. HOSTETTLER, Mr. BILBRAY, and Mr. SAXTON.

H.R. 240: Mr. SPENCE and Mr. BURR.

H.R. 246: Mr. FUNDERBURK.

H.R. 303: Ms. WOOLSEY, Mr. RIGGS, and Mr. CRAMER.

H.R. 328: Mr. FORBES and Mr. JEFFERSON.

H.R. 359: Mrs. CHENOWETH.

H.R. 482: Mr. HERGER and Mr. SCHAEFER.

H.R. 491: Mr. STUMP.

H.R. 495: Mr. NEUMANN, Mr. ZELIFF, and Mr. BARTLETT of Maryland.

H.R. 564: Mr. LIPINSKI.

H.R. 595: Mr. BONILLA.

H.R. 598: Mr. DICKEY, Mr. KLECZKA, Mr. PETRI, Mr. SAXTON, Mrs. JOHNSON of Connecticut, Mr. GANSKE, Mr. THORNBERRY, Mr. BILBRAY, and Mr. WELLER.

H.R. 692: Mr. COLEMAN, Mr. THOMPSON, and Mr. OLVER.

H.R. 698: Mr. SENSENBRENNER, Mr. LAHOOD, and Mr. SPENCE.

H.R. 789: Mr. ANDREWS and Mrs. ROUKEMA.

H.R. 809: Mr. CANADY.

H.R. 822: Mr. WICKER, Mr. GUTKNECHT, and Mr. BACHUS.

H.R. 838: Mr. MINGE.

H.R. 844: Mr. FROST, Mr. LIGHTFOOT, Mr. COOLEY, Mr. JOHNSON of South Dakota, and Mr. EWING.

H.R. 860: Mr. GOSS, Mr. ROYCE, and Mr. HEFLEY.

H.R. 887: Mr. PETERSON of Minnesota.

H.R. 895: Mr. GUTKNECHT, Mr. ROMERO-BARCELO, Ms. LOFGREN, and Mr. KNOLLENBERG.

H.R. 939: Mrs. KELLY.

H.R. 971: Ms. FURSE.

H.R. 977: Mr. DORNAN.

H.R. 1023: Mr. WELDON of Pennsylvania.

H.R. 1029: Mrs. SCHROEDER, Mrs. JOHNSON of Connecticut, Mr. MANTON, Mr. WELLER, Ms. LOWEY, Mr. UNDERWOOD, and Ms. LOFGREN.

H.R. 1047: Mr. SHUSTER.

H. Con. Res. 12: Mr. FUNDERBURK, Mr. PALLONE, Mr. BOEHNER, and Mr. PETE GEREN of Texas.

H. Res. 25: Mr. ROYCE, Mr. EMERSON, and Mr. NETHERCUTT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 2: Mr. HILLEARY, Mr. MCINTOSH, and Mr. ROYCE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 925

OFFERED BY: MR. BRYANT

AMENDMENT NO. 9: Amend section 9 (relating to definitions) to read as follows:

SEC. 9. DEFINITIONS.

For the purposes of this Act—

(1) the term ''property'' means land and includes the right to use or receive water;

(2) a use of property is limited by an agency action if a particular legal right to use that property no longer exists because of the action;

(3) the term ''agency action'' has the meaning given that term in section 551 of title 5, United States Code, but also includes the making of a grant to a public authority conditioned upon an action by the recipient that would constitute a limitation if done directly by the agency;

(4) the term ''agency'' has the meaning given that term in section 551 of title 5, United States Code;

(5) the term ''specified regulatory law'' means—

(A) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) the Coastal Zone Management Act (16 U.S.C. 1451 et seq.);

(D) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(E) only with respect to an owner's right to use or receive water—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the ''Reclamation Acts'' (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(6) the term ''State'' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(7) the term ''law of the State'' includes the law of a political subdivision of a State.

H.R. 925

OFFERED BY: MRS. COLLINS OF ILLINOIS

AMENDMENT NO. 10. Page 3, line 7, after ''damage'' insert ''or loss in value''.

H.R. 925

OFFERED BY: MR. GOSS

AMENDMENT NO. 11. Page 2, line 5, strike ''10'' and insert ''30''.

H.R. 925

OFFERED BY: MR. GOSS

AMENDMENT NO. 12. Page 1, line 17, strike ''10'' and insert ''30''.

H.R. 925

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 13. Page 2, line 3, after ''owner of property'' insert ''who is a small property owner''.

Page 5, after line 24, insert the following:

(5) the term ''small property owner'' means an owner of property of 10 acres or less, of which a portion has been diminished in value by the limitation.

Redesignate succeeding paragraphs accordingly.

H.R. 925

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 14: Page 3, after line 11, insert the following:

(c) INFORMATION RELATING TO RIGHTS.—No compensation shall be made under this Act with respect to an agency action of an agency that, upon request, furnishes information to owners of private property, affected by agency action, with respect to their rights, under the fifth article of amendment to the Constitution of the United States, relating to just compensation for property taken for a public purpose.

H.R. 925

OFFERED BY: MR. MILLER OF CALIFORNIA

AMENDMENT NO. 15: Page 2, after line 17 insert the following:

(c) LIMITATION.—The amount of compensation made under this Act shall be decreased by an amount equal to—

(1) the total of any Federal subsidies associated with the property arising from below-fair-market pricing of Federal irrigation water contracts, grazing leases, and other similar Federal programs; and

(2) the total of any payments associated with the property received by the owner from the Department of Agriculture or any other Federal agency.

H.R. 925

OFFERED BY: MR. MINETA

AMENDMENT NO. 16: In section 2(a) strike ''any portion of'' and ''of that portion''.

At the end of section 6, add the following:

(g) DETERMINATION OF VALUE.—In determining the diminution of value of property, any limitation on the use of the property that existed, or was formally proposed by an agency, at the time the property was acquired by the owner shall be taken into account. The computation of the fair market

value of the property before the limitation on use was imposed shall exclude any component of that fair market value attributable to Federal agency action, including any Federal financial assistance. The value of the entire parcel of the property shall be the value to which any percentage threshold requirements under this Act are applied.

H.R. 925

OFFERED BY: MR. PORTER

AMENDMENT NO. 17: Page 3, after line 11, insert the following:

SEC. 6. EFFECT OF PRIVATE PROPERTY IMPACT ANALYSIS.

(a) IN GENERAL.—No compensation shall be made under this Act with respect to any agency action for which the agency has completed a private property impact analysis before taking that agency action.

(b) CONTENT.—For the purposes of this section, a private property impact analysis is a written statement that includes.—

(1) the specific purpose of the agency action;

(2) an assessment of the likelihood that a taking of private property will occur under such action; and

(3) alternatives to the agency action, if any, that would achieve the intended purpose and lessen the likelihood of a taking of private property.

(c) PRECLUSION OF JUDICIAL REVIEW.—Neither the sufficiency nor any other aspect of a private property impact analysis made under this section is subject to judicial review.

(d) EFFECT ON OTHER RIGHTS.—The fact that compensation may not be made under this Act by reason of this section does not affect the right to compensation for takings of private property for public use under the fifth article of amendment to the Constitution.

(e) DEFINITION.—As used in this section, the term ''taking of private property'' means an action whereby property is taken in such a way as to require compensation under the fifth article of amendment to the Constitution.

Redesignated succeeding sections accordingly.

H.R. 925

OFFERED BY: MR. PORTER

AMENDMENT NO. 18. Page 3, after line 11, insert the following:

SEC. 5. EFFECT OF PRIVATE PROPERTY IMPACT ANALYSIS.

(a) IN GENERAL.—No compensation shall be made under this Act with respect to any agency action for which the agency has completed a private property impact analysis before taking that agency action.

(b) CONTENT.—For the purposes of this section, a private property impact analysis is a written statement that includes.—

(1) the specific purpose of the agency action;

(2) an assessment of the likelihood that a taking of private property will occur under such action; and

(3) alternatives to the agency action, if any, that would achieve the intended purpose and lessen the likelihood of a taking of private property.

(c) PRECLUSION OF JUDICIAL REVIEW.—Neither the sufficiency nor any other aspect of a private property impact analysis made under this section is subject to judicial review.

(d) EFFECT ON OTHER RIGHTS.—The fact that compensation may not be made under this Act by reason of this section does not affect the right to compensation for takings of private property for public use under the fifth article of amendment to the Constitution.

(e) DEFINITION.—As used in this section, the term ''taking of private property'' means an action whereby property is taken in such a way as to require compensation under the fifth article of amendment to the Constitution.

Redesignated succeeding sections accordingly.

H.R. 925

OFFERED BY: MRS. SCHROEDER

AMENDMENT NO. 19: Page 2, line 8, after the period, insert ''The amount of compensation made under this Act shall be decreased by an amount equal to any increase in value of the property that resulted from any agency action.''.

H.R. 925

OFFERED BY: MRS. SCHROEDER

AMENDMENT NO. 20: At the end of section 3(a) insert ''The amount of compensation made under this Act shall be decreased by an amount equal to any increase in value of the property that resulted from any agency action.''.

H.R. 925

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 21: Page 3, lines 2 and 3, change the heading to read:

''(a) CIRCUMSTANCES IN WHICH NO COMPENSATION SHALL BE AWARDED.—''

Page 3, after line 8, add the following:

''No compensation shall be made under this Act with respect to an agency action which is reasonably related to or in furtherance of the purposes of any law enacted by Congress, unless such law is determined to be in violation of the United States Constitution.''

Page 4, strike lines 19–25 and page 5, strike lines 1–8.

H.R. 925

OFFERED BY: MR. WATT OF NORTH CAROLINA

AMENDMENT NO. 22: Page 4, strike lines 19–25 and page 5, strike lines 1–8.

H.R. 925

OFFERED BY: MR. WYDEN

AMENDMENT NO. 23: Page 5, after line 8, insert the following:

SEC. 6. HOMEOWNER PROPERTY IMPACT ANALYSIS.

(a) IN GENERAL.—No compensation shall be made under this Act with respect to any agency action if the agency has completed a homeowner property impact analysis of such action before taking that agency action and if the analysis indicates that the agency action would prevent or restrict any activity likely to diminish the fair market value of private homes.

(b) CONTENT.—For the purposes of this section, a homeowner property impact analysis is a written statement that includes.—

(1) the specific purpose of the agency action;

(2) an assessment of the likelihood that the agency action would prevent or restrict any activity likely to diminish the fair market value of a private home; and

(3) alternatives to the agency action, if any, that would achieve the intended purpose and lessen the likelihood of reductions in the value of private homes.

(c) PRECLUSION OF JUDICIAL REVIEW.—Neither the sufficiency nor any other aspect of a homeowner property impact analysis made under this section is subject to judicial review.

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

(1) The term ''homeowner'' means the owner of a private home.

(2) The term ''private home'' means any owner occupied dwelling, including any multi-family dwelling and any condominium.

Redesignate section 6 as section 7.

H.R. 925

OFFERED BY: MR. WYDEN

AMENDMENT NO. 24: Page 3, line 8, strike the period and insert '', or''.

Page 3, after line 8, insert:

with respect to an agency action that would prevent or restrict any activity likely to diminish the fair market value of any private homes.

Page 5, after line 24, insert the following new paragraph and redesignate paragraphs (5) and (6) on page 6 as (6) and (7):

(5) the term ''private home'' means any owner occupied dwelling, including any multi-family dwelling and any condominium.