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House of Representatives

The House met at 10 a.m.

PRAYER

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

May the glory of Your word, O God, be heard in every heart and every land; may that word bring gladness to people who seek hope and confidence and health in their daily lives; may that word remind of truth and integrity and honesty; may that word direct to the ways of peace and knowledge, and may that word of faith lift every person who yearns for justice and freedom. Bless us this day and every day, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. ROEMER] come forward and lead the House in the Pledge of Allegiance.

Mr. ROEMER 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.

REPUBLICAN CONTRACT WITH AMERICA

(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, our Contract With America states the following:

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

We kept our promise.

It continues that in the first 100 days, we will vote on the following items: A balanced budget amendment—we kept our promise; unfunded mandates legislation—we kept our promise; line-item veto—we kept our promise; a new crime package to stop violent criminals—we kept our promise; national security restoration to protect our freedoms—we kept our promise; Government regulatory reform—we are doing this now; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for middle-income families; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America, Mr. Speaker, and I just cannot say it enough; it is good policy, it is good government, and it is about time.

The SPEAKER pro tempore. The Chair will entertain 15 1-minutes on each side at this time.

A RESPONSIBLE WAY TO BALANCE THE BUDGET

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

Mr. SAWYER. Mr. Speaker, it does not make sense for a family to take out a bank loan just to pay for its weekly grocery bill. But if they are buying a house, it does make sense for a family to get a long-term mortgage. The groceries will be gone within a week. But the house will last for a long time.

It is the same way with the Federal budget. It does not make sense for our Government to take on debt for current consumption—to pay for the fuel and sailors that keep our Navy's ships at sea every day. But it does make sense to take on debt for long-range investments—to build the aircraft carrier that will last for a long time.

Yet under today's illogical budget rules, we treat consumption and investment the same way.

Today I am sponsoring a measure to create an operating budget and a capital budget. It would require the operating budget to be balanced by 2002. But it would permit borrowing for capital investments that will strengthen our future.

Our budget is in trouble because we fail to differentiate between consumption and investment. That outlook must change. My balanced-budget plan will help put our Nation's finances back onto a responsible footing.

CONSIDER WELFARE A LOAN

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

Mr. FRANKS of Connecticut. Mr. Speaker, I look forward to the day when as Members of Congress we are not debating the virtues of block grants versus entitlements for food, shelter, or child care programs. I look forward to the day, Mr. Speaker, when all able-bodied mothers and fathers and their extended families are carrying their own weight, a society where no one receives something that they have not earned.

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Now, we all hit bumps in the road, and there should be ways to assist people at such times. But if one is given something without working or paying for it, it should be deemed as a loan that would be paid back or worked off, not as a bottomless pit of money distributed with no strings attached.

Everyone should be merely entitled to an opportunity to succeed. Yes, Mr. Speaker, I look forward to the day when the word ''welfare'' is used as frequently as the word ''dinosaur.''

SCHOOL NUTRITION

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

Mr. HOYER. Mr. Speaker, I am appalled by the devastating cuts in children's programs which the Republicans are pushing through the House.

There are many cuts to choose from—but none is more galling than the attack on child nutrition.

Over the next 5 years, the proposed Republican block grants will cut more than $2.3 billion from school breakfast and lunch.

And, as if that were not enough, the block grant increases the proportion of Federal school food funding that can be used from State administrative costs.

How can a hungry child hear a teacher over the growling of an empty stomach?

How can a malnourished child keep healthy enough to stay in school?

Republicans have been telling us that these cuts are necessary to reduce our deficit. Yesterday evening the Committee on Appropriations voted on cutting taxes and reducing the deficit. Democrats voted yes in every instance. Republicans voted no in every instance.

STATES MUST BE GIVEN A CHANCE TO SOLVE SOCIAL WELFARE PROBLEMS

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

Mr. BALLENGER. Mr. Speaker, freedom and responsibility. These are two of the most important goals of our welfare programs, and right now, these are the two goals we have not achieved.

For over 3 years the Federal Government has thrown more and more money into entitlements that just continue the cycle of poverty and dependence. Throwing more money at our problems just does not work. Our social safety net has become a black hole from which there is often no return.

Let us give the States a chance to solve their own social welfare problems on their own. Giving the States back the right to take care of their own people makes good sense. The welfare needs of Idaho or Wyoming are certainly different from those of New York.

Congress should learn to appreciate the diversity between States and let each one tackle poverty and hunger in its own unique way.

We have had our chance. Now let us have the States show us what they can do.

GUAM HARDEST HIT BY BASE CLOSINGS

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

Mr. UNDERWOOD. Mr. Speaker, I rise today to point out the schizophrenia being experienced at the Pentagon these days.

Under the Secretary of Defense's recently released list of base closures to be considered by BRAC, Guam is the hardest hit American community on the list. It targets Guam for more personnel cuts than large States such as California, Virginia, and New York. The reductions represent between 5 and 10 percent of the entire work force on Guam, and as much as a quarter of Guam's economy could be adversely affected. Let me repeat: Up to 10 percent of the entire work force will be thrown out of work. If this magnitude or cut were undertaken in California, almost 1.5 million jobs would be affected.

To compound this problem, the Navy is trying to have it both ways. They are closing down facilities, saying they do not need them, and at the same time holding on to all the ports, drydocks, floating cranes, and other equipment in case they need the harbor in the future. This schizophrenia will leave our community in a straitjacket without the tools for our own economic survival. The military has the schizophrenia and we suffer the consequences. We need our facilities back.

NUTRITION BLOCK GRANT PROPOSAL

(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, I rise today to ask a simple question of my colleagues across the aisle—Since when did the Government have the right to use the taxes of low-income people to subsidize families who live in $400,000 houses and earn $300,000 a year? I always thought they supported giving money to the needy and making the wealthy pay their fair share. Well, that is just what the Republican nutrition block grant proposal does. Eighty percent of the funds will be used to provide meals for low-income children.

Democrats have been ranting and raving for years that we should not subsidize the rich. Here is the perfect opportunity for them to offer bipartisan support to a proposal which does just that. An Omaha World Herald editorial drove the point home well. School lunch bureaucrats would have you believe that children from upper-income families are paying the total cost of the lunch. Wrong. Full price for these children means the Government is subsidizing their lunches 30 cents for each lunch.

I think upper-income children can afford this extra 30 cents. We do not need to subsidize middle- and upper-income school lunchers. We need to subsidize the poor.

The proposed changes in the nutrition programs are a way to make sure that those who can pay their way will, and those who cannot get help.

THE DIFFERENCE A SINGLE VOTE CAN MAKE

(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, what a difference a single vote makes. Due to the two-thirds requirement in the Constitution, the Senate failed to pass a balanced budget amendment. One vote. One vote per precinct elected John Kennedy. One vote in March 1995 may have saved Social Security.

The truth is, Congress, the Constitution cannot be mended with microwave legislation. Good legislation requires a two-thirds burn in that crock pot. There is an old saying, if you want to cook it right, cook it long. Social Security does not deserve a microwave treatment.

COMMONSENSE LEGISLATION TO PROTECT OUR CHILDREN

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

Mr. JONES. Mr. Speaker, the Democrats portray us as a cold, callous, and insensitive group. How can someone truthfully claim that? In the past 58 days, we have done more to ensure a brighter future for the citizens of this country and especially the children.

We have worked night and day to pass a comprehensive crime package, a slew of regulatory reform bills, a balanced budget amendment, and unfunded mandate reform with the intention of getting the Government back on track by transferring authority to State governments. We have increased funding and have allowed greater growth for the School Lunch Program than in past years.

We are conscious of the need to protect our children from an ever increasing crime rate and a debt-ridden Government, while in turn creating a comfortable and productive environment for them to learn.

We will continue to work hard by passing commonsense legislation for the benefit of our prized and most important resource—our children.

SCHOOL NUTRITION

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

Mr. DINGELL. Mr. Speaker, I rise to praise our Speaker, one of the foremost figures in the field of American literature, and one of our most famous authors. He has been making generous contributions to organizations which pay children $2 for every book they read. At the same time his colleagues on the Republican side of the aisle are taking money away from needy children who need subsidies for their lunch.

The teacher is teaching school children a lesson at this time. He is showing there is money to be made in book deals, perhaps enough to buy their own lunch. I would like to share some information that I find important in this callous regard to our children.

The leadership nutritional block grant would terminate all nutrition standards. Seven hundred thousand Michigan children eat school lunch every day. More than half qualify for free or reduced price lunches. Michigan will lose $107 million a year.

With one hand, the Speaker has offered school kids a book deal do encourage learning. With the other hand, he is taking away their lunch money which provides them with an absolute necessity for proper learning, and that is decent nutrition.

At the rate Republicans are taking money from kids, the kids are going to have to read an awful lot of books to stay fed.

PARLIAMENTARY INQUIRY

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

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

Mr. VOLKMER. Do the rules of the House permit Members to walk in the well, be present in the well while a Member is speaking in the well?

The SPEAKER pro tempore. Members should not cross in front of Members while they are speaking in the well.

Mr. VOLKMER. Is it permissible to walk on the other side of the well while a Member is speaking in the well?

The SPEAKER pro tempore. Members should not walk between the Member speaking and the Chair.

Mr. VOLKMER. What I am trying to point out to Members on the other side, we have never done it on this side, is not to get your papers up and get ready to make your 1-minute while a Member is speaking in the well.

□ 1015

PRIVATE PROPERTY RIGHTS

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

Mr. COOLEY. Mr. Speaker, today we will again address private property rights. And there is only one issue: whether or not we will obey the fifth amendment.

For those who haven't read their constitution lately, I would like to quote these 12 profound words.

The final clause of the fifth amendment states the following: ''* * * nor shall private property be taken for public use without just compensation.''

This is a simple statement that requires little explanation. Just as a thief need not destroy the property he steals to be guilty, neither must the Government necessarily require a landowner to vacate his property for it to be taken for public use.

Mr. Speaker, without these 12 words, we would be little better than a socialistic society.

I, personally, subscribe to the axiom that if a man has done nothing wrong he has nothing to fear. Unfortunately, many law abiding citizens have a great deal to fear from the Federal Government.

Why? Because our environmental agencies create laws and regulations that destroy the value of their property.

In my district, millions of acres of timber lie unharvested because the government exercised its authority to save the spotted owl.

The Government has the authority to take my land. It also has the authority to save owls, but it does not have the right to do so without justly compensating you or me for it.

Mr. Speaker, let's reaffirm the fifth amendment, protect private property rights, and pass H.R. 925.

CAMPAIGN FINANCE REFORM

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

Mr. JOHNSON of South Dakota. Mr. Speaker, there has been a great deal of talk of reform and of change in this body over the past month. Some of it real; much of it for show; much of it cynical; and even some of it counterproductive, such as the current talk about cutting child nutrition programs not to reduce the deficit but to provide tax cuts for the very wealthy. But there has been one issue of change that there has been too much silence about, and that is the most fundamental need of all, and that is to reform our campaign spending laws in this country so that we have meaningful, real democratic elections rather than auctions, which is the direction this country is going now.

I am proud to join several of my colleagues in introducing legislation this week which would break the gridlock that currently exists over campaign spending reform by following the military base closure commission model in creating a bipartisan commission to recommend campaign reform legislation. In 1 year Congress would have to vote on its recommendations up or down, no excuses.

Let us clean up the political process and return it to the people of the United States.

THE REAL VICTIMS

(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, I want to read something to my liberal colleagues on the other side of the aisle who profess so much compassion for America's children while defending the current welfare system.

This is from Bill Bennett's article in the current Commentary magazine, which I would recommend that all my colleagues read, Bennett writes:

> Between 1962 and 1992, welfare spending in the United States increased by over 900 percent in 1992 dollars. At the same time the poverty rate dropped by less than 5 percent—and illegitimacy rates increased over 400 percent. Children are the real victims of this national tragedy. They are being conditioned into the same habits of dependency they are surrounded by, resulting in an almost unbreakable cycle of welfare.

And yet, Mr. Speaker, we get one liberal Democrat after another parading to the well to tell us how wonderful the current system is and how much the children need it.

The liberal Democrats may need it, but the children do not.

REFORM AT THE EXPENSE OF SCHOOL LUNCH PROGRAM

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

Mr. ROEMER. Mr. Speaker, the Republican meat ax has fallen once again and this time not just on chicken and meat but on tomatoes, on beans, on carrots, on milk, and on orange juice. The latest target is the school lunch and breakfast program.

Now some of them are going to argue, we have not cut it. Ask them then why is there a 20-percent transfer out provision in the block grant? Ask them why is there no inclusion of price increases for food? Ask them why, why is there no inclusion of a recession or unemployment rates? Those are basic questions and, furthermore, ask them why is there not the provision for entitlement for a child in poverty to be eligible.

I am all for cutting billions, but let us cut billions from star wars and space stations and not nickel and dime our lunch programs to death.

WELFARE REFORM

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

Mrs. VUCANOVICH. Mr. Speaker, why do we call it welfare? Under the current welfare system, people do not fare well—not at all.

Our current system has created a number of welfare addicts, some who will do anything to stay on the public dole. Congress must intervene with some tough love which will stop the addiction and create a more useful, caring society. The welfare plan which is being put forth by the Republicans is the only proposal which has offered people on welfare a chance to improve their lives.

While opponents have termed this proposal mean-spirited, it is nothing of the kind. Under the legislation, spending for school meals will increase by 4 percent next year, work training will be offered in exchange for benefits, and abuses of the system will be eliminated. What is mean-spirited is an administration which keeps feeding the addiction of individuals who cannot help themselves because they are trapped. The Republican proposal offers people an opportunity to break the addiction.

Mr. Speaker, it is time for Congress and the American public to say farewell to our current welfare system so that people in our Nation may actually fare well.

HUNGRY CHILDREN AT RISK IN MOVE TO BLOCK GRANT THE SCHOOL LUNCH PROGRAM

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

Mr. BALDACCI. Mr. Speaker, block granting the School Lunch Program, as called for in Contract With America, places our Nation's most precious natural resource—its children—at risk.

We can and should look for ways to improve the School Lunch Program. But we cannot create a block grant, cut the funding, and expect the States to do more with less.

This is not, as some would have us believe, a deficit reduction issue. We need to balance the Federal budget. But we cannot do it on the backs of children. Helen Rankin, a school food service director in Maine, expressed this sentiment very eloquently to me. She said:

> As an adult, I am willing to make sacrifices to reduce the deficit, but let us not begin by slashing funds for defenseless children who cannot speak for themselves and do not have the right to vote. As we look after the hungry children of the world, let us continue to protect our own.

This is an ill-considered and mean spirited proposal, and it should be soundly rejected by this Congress.

RESPONSIBILITY, FREEDOM, AND COMPASSION

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

Mrs. MYRICK. Mr. Speaker, mean spirited and callous and heartless. These are the terms the Democrats use to describe the welfare proposals moving through the House currently. As a former mayor of Charlotte who has seen firsthand the damage done by the welfare system over the years, I prefer the words responsibility, freedom, and compassion. Responsibility to be allowed to work and freedom to get off of welfare, compassion, caring, helping.

We had programs in our city that were innovative and they allowed people to take pride in themselves once again. We can do that through the proposals being offered by the Republican system that is currently underway now. Self-sufficiency is the key, not dependency.

IS CONGRESS LOSING ITS SENSE OF PRIORITIES?

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

Mr. LUTHER. Mr. Speaker, a great American and fellow Minnesotan, Hubert Humphrey, once said that the moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped.

For decades there has been bipartisan agreement in Congress on the importance of providing school lunches, and millions of children have been well-fed and well-educated.

But I am concerned today that Congress may be losing its sense of priorities. Clearly, we need to balance the budget. But as we allocate our country's scarce resources, let us be sure to keep things in proper perspective.

Last week this Congress voted to increase defense spending and next week we will consider a proposal to cut funding for school lunches.

That is not what the American people sent us here to do. If we really care about those Americans in the dawn of life, our children, and we should, then we better get our priorities straightened out soon.

SCHOOL LUNCH

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

Mrs. CUBIN. Mr. Speaker, it is a personal disappointment and affront to me that Members of the minority party persist in their attack on our plan to provide nutritious meals to the Nation's schoolchildren.

They claim that by block granting the nutrition programs thousands of children will starve. In plain English, that claim is a life and they know it. Funding for the School Lunch Program will increase by 4½ percent per year, that rate is above inflation but below what liberal Democrats think it should be so they label it a cut. Using accounting methods like this that has us headed for a debtor's prison without a get-out-of-jail-free card.

The only thing we will cut is a layer of Federal bureaucracy in the nutrition programs which will save money and allow the States to do what they do so well, take care of their citizens.

The basic difference in philosophies is all too clear on this issue, after 40 years, Democrats cannot bear the thought of independent States, I myself have all the faith in the world in the ability of our State and local officials.

LOBBYIST REFORM

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

Mr. MEEHAN. Mr. Speaker, the truth is that when that money was cut in committee, it did not take into account future enrollment figures. It did not take into account increases in food prices. They is why it is a cut. And how we can sit here and cut school lunches at a time when the same individuals who had an opportunity to cut lobbyists from paying meals for Members of Congress voted against it? The same Members who would vote to take away the school nutrition programs can be seen on a Tuesday or a Wednesday or a Thursday at the Capital Grill or at Morton's or La Colline or other restaurants around this Capitol having a free lunch paid for by lobbyists. It is a big thick steak.

Let us put that money back into the nutrition program and stop cutting around the issues. We are neglecting children in this country. Let us make investments where we ought to be making them.

WELFARE REFORM

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

Mrs. FOWLER. Mr. Speaker, the Republican welfare reform plan has been under attack from those who believe that bureaucrats in Washington know what is best for those in need. But after 30 years and $5 trillion, we know for sure that their way does not work.

No longer can we reward illegitimacy and nonwork. And no longer can we rely on the failed notion that we can just throw more money at the problem. The Personal Responsibility Act will help us end negative incentives and create a system that is leaner, more responsive and more truly compassionate.

The Republican welfare reform plan is based on the notion that giving States the flexibility to develop their own solutions means that we will be able serve those in need better with fewer Federal dollars. Experiments in

States like Florida show that this is the approach we should be taking.

I urge my colleagues to take a stand for positive, commonsense welfare reform and support this legislation.

□ 1030

DEMOCRATS WANT WELFARE REFORM, BUT NOT EXTREMISM

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I have not heard anyone here on either side of the aisle defend the present welfare system. All of us want change. The difference is, on my side of the aisle, we do not want extremism. We do not want a system that is going to just punish and not find a way out for independence.

I am from Texas, and I can tell the Members that the child nutrition program has been helpful. Every report tells us that once the program started, children are attending school better, their attention span is longer, and they are achieving grades. We cannot, as a nation who cares, send our children through life without some kind of caring.

Mr. Speaker, if we want to create 50 new bureaucracies by sending it to the States, then we will have more government than we ever bargained for. State's rights for poor children in Texas has never worked. One out of every nine children in Texas is now hungry. Almost half of the low-income families are now hungry.

Mr. Speaker, I can tell the Members that most of these families have at least one working person. Are we going to throw our children to the wolves to give a tax break for the rich? I hope not.

WELFARE REFORM: REAL CHANGE VERSUS FALSE HOPE

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

Mrs. KELLY. Mr. Speaker, I do not know what is more disheartening, the vicious cycle of dependency perpetuated by the current system of welfare, or the mindset on the part of some Members of this institution that a national welfare bureaucracy is the only way to help those in need.

The American taxpayer has not lacked in generosity. We have invested well over $5 trillion on welfare in this country since the mid-1960's, and welfare spending continues to rise.

And yet, despite this commitment, illegitimacy rates have risen, welfare dependence remains constant, and fewer recipients of assistance are working. Five million families received AFDC benefits in May 1993, up from 3.7 million in 1988, and over half of those families will remain dependent on welfare for over 10 years.

As working women and mothers, who among us does not remember earning their fist paycheck, meeting that first payroll, or the pride of seeing our own child bring home their first paycheck. It is this sort of restoration of self-esteem that we must achieve.

The Personal Responsibility Act of 1995 fundamentally restructures the way in which we think about welfare. It maintains a system of support for those in need, while restoring the notion that welfare recipients have an obligation to use this assistance to better themselves. We have an opportunity to accomplish real reform, and instill real hope in the lives of those caught in the welfare trap.

SAVINGS FROM REPUBLICANS' PLAN TO CUT CHILDREN'S SCHOOL LUNCHES WILL GO FOR TAX CUTS FOR THE WEALTHY

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

Mr. EVANS. Mr. Speaker, the Republican plan to decimate the school lunch program will penalize millions of America's kids, working families, and women, and the Republicans will use the savings to serve up a free lunch of tax cuts and tax concessions to millionaires and large multinational corporations.

Conservatives often say that the deficit will be passed on to our kids, but their approach to deficit reduction will mean that our kids will pay now and that they will pay with their potential. Their block grant proposal will block the future of 140,000 kids in Illinois alone.

The school lunch program is one of the most successful, one of the most cost-effective, and one of the most important programs that the Federal Government has ever administered.

I urge my colleagues to stop the Republicans from keeping this program and America's kids hostage to the Republican Contract on America.

REPUBLICANS' WELFARE REFORM PLAN OFFERS A HELPING HAND-UP, NOT A HANDOUT

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

Mrs. SMITH of Washington. Mr. Speaker, according to the Congressional Research Service, welfare spending in 1992 reached an all-time high of $210 billion. This is nearly three times as much as we need to abolish all poverty in the United States.

What does the American taxpayer get for this? What do we have to show for it? I will tell the Members: a bureaucracy that is wasting our money. Even worse, we have higher crime, higher illegitimacy, family disintegration, low educational achievement, neglect, and moral confusion.

Mr. Speaker, I do not think the devil himself could have come up with a better scheme to destroy America and her children. Yet, the Democrats come here day after day to defend a system that has produced nothing but misery for America's poor, and the poor children. They have done this after controlling Congress for over 40 years, building this system of misery.

We have pledged to change the failed liberal welfare system, not by giving a handout, but by giving a helping hand up.

SCHOOL LUNCHES ARE IMPORTANT FOR OUR CHILDREN

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

Mr. BENTSEN. Mr. Speaker, the proposal to change the Child Nutrition Program into block grants will hurt the children of the 25th District in Texas. This week the Texas School Food Service Association visited me and explained the consequences of this proposal.

With the new block grant scheme, which in essence will give fixed sums to the States, Texas will lose big—close to a 30-percent reduction in moneys to the children of Texas. It is estimated for instance that the Houston Independent School District [HISD], one of many school districts in the 25th District, would lose $1.677 million next year to provide nutritious breakfasts and lunches for children.

I do not believe that HISD will fail to serve these children. Instead other educational programs will have to be cut. If we want our kids to learn and grow up to be productive citizens, we cannot expect them to starve in the process. In many cases, school meals are the only nutritious meals that children will receive each day.

This Republican proposal will actually create 50 new bureaucracies in 50 States. In addition, the new program will not have one national nutritional standard. Without a good meal, many children will have trouble learning. We need to invest in our children to ensure our future. The School Lunch Program today successfully feeds an average of 13 million children each day with a well balanced meal.

Mr. Speaker, as we say at home, don't mess with Texas. Mr. Speaker, don't mess with the kids' school lunch.

TRUE COMPASSION AND THE WELFARE SYSTEM

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

Mr. CHABOT. Mr. Speaker, the so-called political experts say do not respond to your opponents attacks, just ignore them. But in this case I just

cannot sit idly by while I hear the whining and griping from the bitter defenders of the status quo who defend a welfare system that's bloated, scandal-ridden, and a huge waste of our hard-earned tax dollars.

Forty years of Democrat control of the House brought us this failed welfare system and now they are defending it with all of their might. The truth is they have turned their backs on those who are less fortunate and then they blame Republicans for trying to undo the damage that they took 30 years to create.

After spending billions of dollars on programs that have failed to work and after years of waging a phony war on poverty it is time for the defenders of the status quo to admit defeat and join us in creating a system that understands that true compassion is not measured in the number of our tax dollars spent on welfare, but in the number of Americans who are liberated from the grips of poverty.

CUTTING LIHEAP PROVES THE REPUBLICAN MAJORITY CONTINUES TO STREAMROLL SENIORS AND STRUGGLING FAMILIES

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

Mr. OLVER. Mr. Speaker, for 58 days now the Republican majority has had kids and seniors in their sights. Yesterday they hit both with one shot. LIHEAP, the Low-income Home Energy Assistance Program, is gone. LIHEAP helps almost 6 million families pay their heating bills in the winter.

The Republican majority is willing to trade the health of children and seniors for tax giveaways for the wealthiest 2 percent of Americans. The Republican majority will take away heat assistance from seniors on fixed incomes and families and living on minimum wage or less to give another tax break to people making over $200,000 a year. Without LIHEAP, 144,000 families in my State of Massachusetts will have to slip meals to keep heat in their homes.

Mr. Speaker, we do not have a balanced budget amendment because Republicans would not protect seniors on Social Security. That is a shame. What is worse is the Republican majority continues to streamroll seniors and struggling families. Cutting LIHEAP proves it.

URGING MEMBERS TO SUPPORT THE PRIVATE PROPERTY PROTECTION ACT

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

Mr. SHADEGG. Mr. Speaker, today on this floor we will vote on the Private Property Protection Act. This is critically important legislation, and I urge each and every one of my colleagues to support it. The principle in America that private property cannot be taken from our citizens without paying them just compensation for that private property is at the heart of our form of government. It is, indeed, one of those values that we as American hold sacred.

Yet, yesterday Interior Secretary Bruce Babbitt called this legislation an attack on America's great natural resources. Absolutely nothing could be further from the truth. It is a sad day in America when officials of our national government openly advocate taking property from our citizens without compensating that those who own that property.

We are all agreed that we must protect our natural resources, but we must not do that by stealing property from them or by nationalizing their resources. I urge my colleagues to support the Private Property Protection Act.

URGING MEMBERS TO JOIN IN CALLING FOR SPECIAL COUNSEL TO INVESTIGATE ALLEGATIONS AGAINST SPEAKER GINGRICH

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

Mr. VOLKMER. Mr. Speaker, last year Members of the present majority complained about the investigation by Special Counsel Robert Fiske. They claimed that Fiske was a friend of the White House and that his investigation of Whitewater was not going far enough.

I ask the Members of the House to consider these facts. The current chairman of the House Ethics Committee cast the deciding vote for the Speaker in the 1989 whip's race. The chairman of the Ethics Committee seconded the nomination for Speaker this year. The chairman of our Ethics Committee last year tried to help our current Speaker by closing the pending Ethics Committee complaint against him.

Two other majority members of the House Ethics Committee have had personal dealings with the personal PAC of the Speaker, GOPAC, one of them as a contributor, and another as a recipient for his reelection.

Given these facts, I am sure those who call for a replacement of Special Counsel Fiske will now join me in calling for a special counsel to investigate the allegations against Speaker GINGRICH, and it should not take 100 days.

PARLIAMENTARY INQUIRIES

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

The SPEAKER pro tempore (Mr. DOOLITTLE). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, was not the entire speech of the gentleman from Missouri [Mr. VOLKMER], just a moment ago, out of order, because it was a direct reference to Members of this body?

The gentleman keeps reminding us of our obligations under the rules. The gentleman has a responsibility to the rules. My parliamentary inquiry is, was not his entire speech out of order?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations.

Mr. WALKER. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Beyond the pending ethics investigation, he also may have had personal references to the chairman of the Ethics Committee. Is that also not out of order?

The SPEAKER pro tempore. Members should not so refer to the Standards Committee or any Members thereof.

Mr. WALKER. A further parliamentary inquiry, Mr. Speaker: My understanding is that what the gentleman has just done in the House was a speech which was entirely out of order before the body: is that correct?

The SPEAKER. The Chair is responding in a general way to the proper debate in the House with respect to ethics investigations.

Mr. WALKER. I thank the Chair.

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

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Is the Chair ruling that it is improper for any Member to request a special counsel in an investigation being conducted by the Ethics Committee, which action has not been taken by the Ethics Committee?

The SPEAKER pro tempore. Members should not refer to pending Standards Committee investigations, or suggest courses of action within that committee.

Mr. VOLKMER. I thank the Chair.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 925.

□ 1043

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 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. When the Committee of the Whole rose on Thursday,

March 2, 1995, pending was the amendment offered by the gentleman from California [Mr. MINETA]. Two hours remain for consideration of amendments under the 5-minute rule.

Is there further debate on the amendment?

□ 1045

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

The CHAIRMAN. Without objection, the gentleman from California is recognized for 5 minutes.

There was no objection.

Mr. MINETA. Mr. Chairman, the Mineta-Davis amendment is the bipartisan alternative to the Goss amendment which we considered and nearly approved last night.

When the Goss amendment was defeated by one vote, many members approached me—very concerned that a 10-percent threshold was just not workable. That is why Mr. DAVIS and I developed the bipartisan alternative.

A 10-percent threshold is too inexact. It leaves the basic issue of whether you have rights under this bill with the fluctuations in appraisals which normally accompany any real estate evaluation. As my colleague has stated so well, such a margin of error is not reasonable.

The 10-percent threshold is so ill-advised that not only could the taxpayer be ripped off through variances in the appraisal process, claims which would be allowed under this bill—claims of the very developers and individuals which the proponents of this bill are claiming to protect—could be denied because the margin for error is just too slim.

Last night, 210 Members of this House agreed that a 10-percent threshold was too low, too inexact, and that 30 percent was preferable. When that was defeated, in the spirit of compromise, Mr. DAVIS and I developed the bipartisan alternative at 20 percent.

This amendment is the Goss amendment reduced from 30 percent to 20 percent. If you believed last night that 20 percent was better than 10 percent, if you are on record as voting to support 30 percent, there can be no explanation for not now supporting a 20-percent compromise.

Let me repeat, if you were one of the 210 who shared my concern and supported the Goss amendment at 30 percent, there can now be no good reason to not support the Mineta-Davis bipartisan alternative at 20 percent.

I urge an ''aye'' vote.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, 10 percent can be a lot of money. Last night my friend, the gentleman from Texas [Mr. FIELDS], raised a question about an effort in San Antonio to control the water supply for several counties by declaring a snail that no one has ever seen endangered and put it on the list and threatening the entire economy of south Texas. Others have attempted to shut down five or six military bases in south Texas by using some bug or spider to declare the endangered species list. Think of what 10 percent of buying a metropolitan area with a million people in it would mean to the U.S. Government. There are many other examples around the country.

At this time I would like to yield to my friend, the gentleman from California [Mr. POMBO], to relate how 10 percent might affect the development of construction of a hospital, perhaps, because my understanding is that there are even flies on the endangered species list in California that are a big problem.

Mr. POMBO. I thank the gentleman for yielding. We in the past couple of years have had instances in California where in one specific example, eight flies stopped the construction of a $600 million hospital in southern California. Without any regard to what the use of that property was for, what the effect was on the citizens of that community, and with absolutely no regard at all for the well-being of the community, Fish and Wildlife came in and stopped the construction of a $600 million hospital.

They ended up having to mitigate their way out of it and give up, I believe it was 40 percent of their site to be permanent fly habitat on the grounds.

There are many instances where a little responsibility interjected into the actions of the agency would make a large difference.

Mr. BONILLA. The gentleman would agree that 10 percent of the cost of the hospital because of a fly or in the case of Texas, because of a snail or beetle could add up to millions of dollars and perhaps billions?

Mr. POMBO. Yes. We are talking about literally billions of dollars that are involved here. Recently in California we had the fairy shrimp listed. The fairy shrimp, I believe, will have a larger impact on California than anything that has been on the endangered species list or any proposal to the endangered species list that we have had yet. We literally have all the way from Bakersfield to Redding and now we are getting reports out of the Riverside and San Diego areas of fairy shrimp in those areas as well where any mud puddle that holds water for 14 days in the springtime is habitat for the fairy shrimp.

This definitely affects all farming and ranching activities. We have farmers who have fairy shrimp in their cow troughs, in their watering troughs, in their watering holes. We are looking at on the listing of the fairy shrimp alone billions of dollars that are affected in the State of California.

The fairy shrimp is a third of an inch long, an eighth of an inch across, an invertebrate that has been around for hundreds and hundreds of years, and there is absolutely no cost to the agency to go out and list this and declare all mud puddles habitat for the fairy shrimp.

What we are trying to do is instill a little common sense into the way the agency responds.

Mr. BONILLA. I appreciate the gentleman's remarks. Again to emphasize that we are trying to stop these shrimp, flies, snails, and spiders from costing people more money.

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

I will not take the full 5 minutes, but I just want to point out that this amendment is basically the same as the 30 percent, except instead of 30 percent, it is now 20 percent, but it is 20 percent of the total diminished value.

I would like to point out to the Members that what this amendment does in deference to what others do when they do a taking, as I have tried to point out to the gentleman from California where I consider the inconsistency between what he thinks is fair and what I think is fair.

If I have a 600-acre farm, Mr. Chairman, and the highway department, Missouri State highway department or commission comes along and takes 20 acres along the bottom of that for highway purposes and takes another 10 acres for right of way to abut the highway for an easement so there would not have to be any traffic in that area but they move it away from the farm, I get paid for every bit of that. No matter how much it diminishes in value that land, I get paid for the whole thing.

Under this amendment that we have pending before us, if I have that same 600-acre farm and if EPA or the Corps of Engineers or Fish and Wildlife find that there is a drainage ditch that runs through that farm with the same 20-acre amount and they say that that is swampland or that is wetlands, I cannot use it for farming anymore. It is no longer any use to me. I cannot do it. But under the present law, I get paid nothing for it. If I put my plow across it, I get fined. If I do anything to it, I get fined.

Under the bill, if that acreage, that 20 acres is diminished in value by 10 percent, then I am entitled to compensation.

Under the gentleman's amendment, my whole 600-acre farm has to be diminished in value by 20 percent. The likelihood of that happening is zero. What the gentleman's amendment is doing to most of my farmers out there who have small pockets in their fields that are now considered wetlands because they have an indentation and water has settled in there for a little while, no ducks have ever been on it, no geese have ever been on it, nothing has ever been on it, but they cannot touch it, they cannot use it, they are deprived of the use of it.

Under the present law, they get nothing. Under the gentleman's amendment, they will get nothing. At least

under the bill, there is an opportunity or a chance that they will be at least compensated for that taking of their property.

Someone will say it is not a total taking, it is still theirs. What difference does it make, Mr. Chairman, if it is still yours and you cannot use it? If that is not a taking, I would like to know what a taking is when you are deprived of the use of it, for what if has always been used for. I speak in opposition to the amendment.

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

Mr. Chairman, if we go right to the wording of the U.S. Constitution and the fifth amendment, it says, ''Nor shall private property be taken for public use without just compensation.'' That amendment was put in there in order to protect people from having the government steal their property for the general benefit of all.

Sad to say, up until today, from the time the Constitution was drafted, this has been a right without an effective remedy, because in order to get the remedy, you had to be wealthy enough to go through years and years of litigation, 5 to 10 years on the average, and be able to expend $50,000 to $500,000 or more in attorney's fees. We all know that problems, with attorneys and their fees that we have in this society today, and I know sometimes we need to get attorneys. Like to pursue a takings claim. You need darned good attorneys. You need lots of money to pay them.

When I hear Members act like this is some great remedy that we have right now, I am here to say, it is not. That is why we need this piece of legislation.

This effect of this amendment is to allow the government to take 19.9 percent of the entire value of your property without any compensation. I know they are going to say in response, ''Oh, yes. But we still allow you your fifth amendment right.''

Some right.

This bill is designed to give efficacy to that right, to make it applicable to the average American. It is so important that we understand that. We are not talking about standing up for big corporations, for large landowners. They have the resources to hire the attorneys to fight this. We are talking about the little guy, everyone in this country who owns a piece of property, has worked hard to get that, and would like not to see it wiped out.

Why are Members so worried about protecting the Federal Government, Mr. Chairman? I am just amazed when I hear these expressions of concern. You would think the Federal Government was the weakest thing around. It has got enormous resources. These agencies behave with impunity in many cases and there are dozens, indeed hundreds of abusive examples of Federal agencies. That is why we have gotten to this point where there is now a ground swell of support to rise up and make a change.

Mr. Chairman, I would just observe in closing, George Washington, understood what government was and he knew it was not our friend. He said, ''Government is not reasoned, it is not eloquence, it is force, and like fire it is a dangerous servant and a fearful master.''

This bill represents an attempt to give meaning to the fifth amendment and protect our citizens.

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

Mr. Chairman, the amendment before us is as flawed as the amendment that was previously offered that would have changed the 10 percent of any affected portion criteria to 30 percent of the whole of the property.

It is flawed primarily because it refers to the whole of the property. The whole of the property is a variable sum. I can change the whole of my property tomorrow by simply selling off a portion. I can divide it. I can do a number of things to game this system when the percentage is applied to the whole of my property.

We heard an eloquent statement from the gentleman from Missouri [Mr. VOLKMER] about how farmers would be treated under this kind of an arrangement when the percent diminution was applied to the whole of their property. What farmers would have to do in order to qualify for compensation, under this plan, under this amendment, they would be forced to sell off parts of their farm to divide it up in ways to qualify under this amendment. No one should be forced to game a system in order to receive fair compensation, but that is what this amendment was done as it is constructed.

I am informed by managers of this bill and this is a very important announcement that I hope Members are paying close attention to in their offices, that if we defeat this amendment providing for 20 percent of the entirety of one's property as a criteria, we will immediately offer an amendment that will provide the criteria 20 percent of the affected portion. This will get for those Members who think 10 percent is too small a criteria a change in the bill, that modifies it to 20 percent. But it will also make the bill workable. It will apply that 20 percent to the regulated portion of a person's property, not to the entirety of his property causing him and others to try to game the system.

In effect, let me say it again. If we are successful in defeating this amendment, which is inartfully drawn, as inartfully drawn as the 30 percent amendment was previously drawn, and apply instead the following amendment, we will reach the 20 percent criteria that some of the authors of this amendment want to achieve but we will do it correctly. We will apply it to the affected portion of the property regulated under the act.

I want to make a quick point.

□ 1100

In an editorial written by Sue Waldren, we find these words, and by the way this was January 2, 1994:

> The third amendment to the Bill of Rights states that no soldiers can be quartered in any home without the consent of the owner. Somehow, though, it apparently never occurred to the Founding Fathers that we might someday need an amendment against the arbitrary quartering of endangered species on private land. Good thing the Founders did not see this day when property owners all over America were to be told to idle their land and effectively turn it into a wildlife refuge without compensation from the government,

But that is what the endangered species law does now to farmers all over America.

In California most of my colleagues remember, let me remind them of the story that appeared April 19, 1994, where a southern farmer was arrested and charged with the possibility of a year in prison and $200,000 fine for doing what, for plowing his field because five dead rats were found on his field after he finished plowing it. About the same time, another farmer in Fresno, CA was brought to court for doing nothing more than plowing his field and in order to avoid going to jail, reached agreement with the Fish and Wildlife Service to pay a $5,000 fine, to give them 60 acres of his 160-acre farm, to give it to them, ordered by the court, and to sell the remaining 100 acres. Why? Because he had plowed his field and there on his property was apparently some sort of a bluenosed lizard that the Fish and Wildlife Service deemed threatened or endangered.

That kind of story needs to end. This amendment needs to be defeated. Then we can adopt an amendment for 20 percent of the affected portion and we will so offer that amendment.

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

Mr. Chairman, I come from a Western State where water is our lifeblood, where without water there is no production of agriculture at all, and without the systems of canals that were built beginning at the turn of the century, we would not be able to apply water to our land, and thus Idaho, whose largest industry is agriculture, would not be able to survive.

The prior appropriation doctrine, the legal water law in the 12 Western States, requires a proving up of beneficial use, which means that even if you had 100 acres to irrigate and you applied for a certain volume of water to irrigate that 100 acres, if you even paid for that water and there was more water that was left over, you would lose the volume of water that you paid for. In other words, if we do not use it we lose it. That is proving up of the beneficial use, which all of the 12 Western States must do.

If we were cut down to 20 percent of the whole, that would mean that 20

percent of our entire agricultural production in Idaho would be cut down, and I am so pleased to hear my colleague from Louisiana announce that there will be an amendment coming up which would require 20 percent of the value of the taking. That is much more acceptable but still not good enough for me.

I will support that amendment, however, but I do rise in opposition to this amendment.

Starting in the Warren court with Lynch versus Household Finance, the Supreme Court has historically backed up the fifth amendment. In Lynch versus Household Finance, the Warren court said that people have rights to use their property in its whole. It is not the property that has rights.

We have had a series of Supreme Court cases that have backed up the fact that we must reimburse people for their loss, the last one being the Dolan case out of Oregon in June 1994, which said there has to be a reciprocity in the exchange, which means equal value for equal loss.

Ladies and gentlemen, if this amendment succeeds, it is bound to be challenged in the U.S. Supreme Court because it is simply not just compensation.

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

The CHAIRMAN. Without objection, the gentleman from Idaho [Mr. CRAPO] is recognized for 5 minutes.

There was no objection.

Mr. CRAPO. Mr. Chairman, I ask the gentleman from Louisiana if he would be willing to engage in a colloquy.

Mr. TAUZIN. If the gentleman will yield, I will be more than happy.

Mr. CRAPO. I thank the gentleman from Louisiana. Yesterday we were pressed for time and we had a short colloquy on a matter I think we need to clarify further. I am referring specifically to section 5 of the legislation that we are discussing, which is entitled exceptions, and it basically states there that compensation will not be made under this act with respect to an agency action, the primary purpose of which is to prevent and identify damage to specific property other than the property whose use is limited.

The concern I want to clarify as much as we can here on the record is that this language is not intended to create an exception for compensation when wetlands are being considered by final agency action. My concern is that wetlands could be argued to be referring to specific property other than the property whose use is being limited and I would just, following up on our private conversations, like to make it a matter of record as to what this language is and is not intended to reach.

Mr. TAUZIN. If the gentleman will yield, I suggest it would truly be an oxymoron for anyone to argue that the bill provides compensation for private property takings when the reason for that private property taking is wetland protection under 404 and under sodbusters, and then to argue that you do not get compensated because the wetlands regulation on your property is designed to protect somebody else's wetlands regulation, it would certainly be an oxymoron.

The purpose of that exception is not indeed to allow such an oxymoron to occur, The purpose of that exemption is to provide a specific exemption for those regulations which are not designed for wetland protection but designed for other purposes, specifically purposes to prevent one from creating a harm or a nuisance on your neighbor. That is further amplified when as you know under the Tauzin amendment, we specifically said that nuisance laws and zoning laws which similarly regulate the property for valid reasons other than wetland protection create an exemption from the act.

Mr. CRAPO. I appreciate that; and so to emphasize again this is talking about when a person is seeking to use their own private property in a way that could cause damage to someone else's property, and somehow final agency action becomes involved. And in those specific limited circumstances, the act is not intended to apply.

Mr. TAUZIN. Mr. Chairman, if the gentleman will further yield, if I can make it crystal clear, it is not the intention in that exception to say that you cannot be compensated for wetland protection regulations on your own property. It is not the intent of that exception to say that you will not be able to be compensated because the regulation is designed to protect wetlands on somebody else's property. The idea is to prevent harm or damage to the property itself of the neighbor, not to carry out further wetlands protection. Therefore, that exemption would not exonerate the government from liability for the wetlands protection regulations as 404 or swamp-busters that diminish the value of someone's property.

Mr. CRAPO. I thank the gentleman.

I would also like to address the committee with the remainder of my time with regard to the amendment that is before us. There has been a lot said about whether 10 or 20 percent is the right level of demarcation in evaluating when compensation should occur. But it is important, and again as the gentleman from Louisiana stated earlier he hopes those listening to this in their offices or elsewhere will pay close attention, because there is a very big difference in this bill in addition to the 10 to 20 percent change that must be understood. This bill also changes the property to which the standard applies from the affected property to all of the property owned by the property owner, and that change is why it dramatically changes the standard, increases the potential for harm to private property owners and increases the potential for private property owners who want to go around the act, to game the act by subdividing their parcels, and so forth.

We are going to be following this amendment with another one which does the specific change which seems to be the one which is relied upon so much by the supporters of this amendment, and that is simply changing the figure from 10 to 20 percent in the act, but not changing the entire focus of the act on the affected property, rather than on more broadly other property that is contiguous.

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

Mr. CRAPO. I am glad to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I think we need to again make it crystal clear to the Members who are in their offices listening to this debate, when we defeat this amendment, which changes two provisions of the bill, it changes it from 10 to 20, but also from the affected portion to all of the property, we will offer an amendment that simply changes it from 10 to 20.

Mr. CRAPO. That is correct. With that clarification, I thank the gentleman.

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

The CHAIRMAN. Without objection, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, I was at a meeting and I did not get the welcome news bulletin we just got that apparently the Republican whip operation was not able to get 20 percent. I do not know if Members fully understood what we just heard but apparently the effort to persuade people who voted to go from 10 to 30, they would then vote to go from 10 to 20 was not successful, so apparently we have some concession.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I should remind the gentleman that offer was made to the gentleman yesterday when this amendment was made. We immediately offered to do that. It was turned down.

Mr. FRANK of Massachusetts. I understand that. But that also does not contradict what I just said, which is if the whip organization had been able to turn it all around it would not have happened.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from California, the author of the amendment.

Mr. MINETA. Mr. Chairman, I thank the gentleman for yielding. Mr. Chairman, it seems to me this is a significant list. These are people who voted yesterday on the Goss amendment and it seems to me Members ought to take a look at this list and see how they voted, if they voted ''aye'' on the Goss amendment for 30 percent, and again

there are 210 Members who voted ''yes'' on the Goss amendment, then it seems to me that these are the same people who ought to be voting ''yes'' on the Mineta-Davis amendment.

So, I am anxious to get this to a vote. And Members who would not yield to the arm twisting that is going on right now, they ought to vote their conscience, they ought to vote their constituency and vote ''yes'' on the Mineta-Davis amendment.

Mr. FRANK of Massachusetts. I thank the gentleman. Fortunate are those who can vote their conscience and their constituency at the same time. That is a great position to be in.

Let me say with regard to this whole 10 and 20 percent, one thing is very important to note. All of the horror stories we have heard, and many of them appear to be clear cases of abuse and misapplication of the statute, would be covered by the 20 percent, and the effort to restrict the number, the effort to defeat 30 percent and the effort to water down the 20 percent makes it very clear. This legislation is not aimed at alleviating those who have been the victims of horror stories, it is aimed at restricting the very operation of these laws as Congress intended them to operate, because if you were worried about the people who were cited in the very poignant examples we have heard, all of them would have been covered by the amendment that the gentleman from California has offered, because they were 100 percent disabilities of their property. Those were people who were told they could not live in their homes; those were people told they could not do anything at all. So the fight over the marginal number makes it very clear that this bill is aimed not at the occasional excess, but at the very heart of it today to correct the operations of these activities, and therefore, it is a very important amendment.

We get, by the way, as to 10 and 20, into the question of what is a de minimis level. Ten percent would mean that virtually every action taken by these entities would be litigated and administered.

I preferred 30 percent, but I think since that lost, the gentleman from California's amendment is a significant improvement. So take the two together, the insistence on a 10-percent threshold or 20 percent with the land so narrowly defined that it becomes far less than 10 percent to the whole property and what you see is this is not an effort, as I said, to prevent abuse of the statute. That is being done elsewhere when we rewrite the statute and deal with regulatory reform. This is an effort to severely hinder the operation of these statutes as written to say that there will be much less wetland regulation, that there will be much less environmental endangered species regulations because virtually every action that would be taken by these agencies would trigger such a thing.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Idaho.

Mr. CRAPO. I thank the gentleman for yielding. I just want to make it clear there has been some discussion here as to whether people are being pressured into voting for a different amendment. When we talked to the Members about what their concern was, it was exactly what has been debated on this floor; that is, the 10 to 20 percent. What the gentleman just debated, many of them did not get an opportunity to vote for a pure 10- to 20-percent change and wanted that rather than the amendment which was put forth which changed it dramatically.

Mr. FRANK of Massachusetts. I thank the gentleman's interest in giving people that opportunity. I am touched by it. He is a soul of generosity. But I do know that last night when we were ready to go to vote at 9:35 on this and leave time for other amendments so we would chew up the whole 12 hours, the Republican leadership said no because they did not have the votes lined up yet.

□ 1115

So I have not said there was pressure. It does seem to me, though, there was some very intense persuasion going on.

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

Mr. Chairman, as I listened to this debate all day yesterday and this morning as well, I think we are missing the point here. Let us go back to why we are really here. We are here to discuss the fifth amendment of the Constitution. Let us go back to the last phrase, ''Nor shall private property be taken for the public use without just compensation.''

We are starting now to dilute the Constitution by 10 percent, 20 percent, 30 percent. I do not think we should be doing it at all. But if we are going to do something, let us make it the lowest common denominator we possibly can. We should not be taking private property without just compensation at any level.

For some reason this body has violated the Constitution indirectly by passing environmental laws which have prohibited people from using their property, which have been a taking without any compensation. We in the West have suffered greatly from this action. We need to have relief from this action. This bill will do that.

I say to my colleagues on both sides of the aisle who voted for the change of 10, 20, 30 percent or whatever they want to talk about, if they really believe the Government should take their property without just compensation, next Monday when they go home let them donate 10, 20, 30 percent of their property to the Federal Government and let us help balance this budget.

I mean let us get right down to what the people really believe in. We do not want Government taking away our constitutional rights, and they have done this indirectly through legislation over the last 20 and 30 and 40 years and, some said, since the beginning of the Constitution.

We need to go back to that. We need to restore private property rights. This country was founded on private property rights. We were taught in high school and in grade school that the pilgrims came here for religious freedom. But they came here for another reason. They came in here to own property. What our Founding Fathers did when they put the Constitution together, the fifth thing on their mind was private property rights because they did not have that in the countries from which they came.

Since that time we have diluted this constitutional right. This is the first time in 207 years we went back to address that, to give back private property to the citizens and take away this horrible situation that government, both local and State, have infringed upon constitutional rights of the public.

So I urge my colleagues on both sides of the aisle, if they really believe that the Government should have the right to take their property, let them donate their property to the Government and help us balance this budget.

But I think we need to turn back to the Constitution and, therefore, return full property rights to the citizenry.

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

Mr. COOLEY. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I want to thank the gentleman from Oregon [Mr. COOLEY] for an excellent statement. That is exactly what we are talking about. Nobody in this room, I hope, believes that the Government has the right to come and take 10, 20, percent, any amount of your property. If you really believe that—the gentleman makes the point—how many people are willing to donate 20 percent of their homes to the Federal Government? But when the Government comes and takes it, clearly that requires the Government to pay compensation. That is what this fight is all about.

I want to make another point. The debate we are on right now, whether to accept the amendment offered by the gentleman from California [Mr. MINETA], will not only change it from 10 to 20 but will now involve all of the property of the owner, not just the affected regulated portion,

The court, in Florida Rock, said that is wrong. It said the fifth amendment prohibits uncompensated taking of private property without reference to the owner's remaining property. We defeated this amendment, and then we offered an amendment to change it from 10 to 20.

Mr. COOLEY. I concur with the gentleman.

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

Mr. Chairman, I rise in strong support of the remarks of the gentleman from Oregon [Mr. COOLEY] and in strong opposition to the amendment as offered.

I think we have seen here today, those who happen to be viewing across the Nation, we have seen good, strong bipartisan support for a reasonable action to be taken.

I could not help but note with interest today's headlines. In fact, I just came from the other side of this building where a Member of the new minority party has decided to join the new majority party on the very issue that has been characterized, at least in my portion of the country, as a war on the West. And as my friend from Louisiana points out, although we may call it the war on the West, the gentlewoman from Idaho would certainly concur, in essence, what we have here is a fundamental conflict on the notion of private property and what the government can demand from us.

As the gentleman from Oregon said so clearly, without just compensation, remembering that clause, that provision of the fifth amendment, we are tearing asunder the original intent of the Founding Fathers. It is indeed unfortunate we have to bring this to the floor in the first place. What should be a fundamental tenet of American rights an liberties somehow are being stripped away. But as emblematic, as systematic of the new approach by the new majority, we are engaged in a new partnership with America and we move to address those rights.

So I oppose the amendment as offered by my friend from California on the grounds mentioned so eloquently by the gentleman from Louisiana and the gentleman from Oregon.

I would urge a ''no'' vote on this and let us restore the nature of property rights.

My. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. HAYWORTH. I yield to the gentleman from Louisiana.

Mr. TAUZIN. I thank the gentleman for yielding.

Mr. Chairman, we need to make one more point before we end this debate. The gentleman from Massachusetts [Mr. FRANK] said or intimated that the real intent is to gut the Endangered Species Act, the Wetlands Act. Let me read from the article by Sue Waldron in the Wall Street Journal:

> The dispute over endangered species isn't over whether or not society should protect them. It's between a policy that refuses to set priorities and insists on preservation no matter what the costs to the human species or, alternatively, a more balanced approach.
>
> We are hard put to see how the species act can itself survive politically operating as an environmentalist land grab of other peoples property. The seriousness of the claims for these various species might be better tested if the government had to compensate landowners for their losses.

That is all we are asking: balance, respect. We want a good Endangered Species Act, a good Wetlands Act, but we also want balance in landowner rights.

Mr. HAYWORTH. Reclaiming my time, the gentleman stands and points out with eloquence the entire mission here. I cannot help but note the irony that the current administration, which campaigned on the notion of putting people first, would instead relegate people to the back benches, if you would, or at least take away from people their essential constitutional rights.

It is the mission of this body, as we stand in check with both the executive and judicial branches to right the wrong, to legislate for the people of this country, and to legislate effectively. It is in that spirit that I oppose the amendment but endorse wholeheartedly the concept of real property rights for the citizens of the United States.

Mr. GILCHREST. Mr. Chairman, I cannot help but comment on the remarks of gentleman from Arizona when he says we should put people first. I thank all of us agree with that. It is just how we do that which is important. Ignoring certain aspects, like clean water or biodiversity, and then say we are putting all the people first, I think we are losing some important aspects of their multidimensional discussion of property rights, endangered species, clean water, and so on.

In my area, clean water is absolutely essential for the quality of peoples lives, not only for their health but for our economy, protecting the wetlands in not a sterile, regimented regulatory form. The way we do it in Maryland, we all sit down at the table and we discuss this issue. Fish and Wildlife is there, the corps is there, the Department of Natural Resources is there, the affected property owners are there. We discuss how we can manage the resources and protect peoples' lives.

Mr. Chairman, I want to make two points. One is that the gentleman from Louisiana [Mr. TAUZIN] is continuing to refer to the Florida Rock case. Now, he refers to it in an accurate manner. He has not distorted the facts.

But I want to bring in some more of the facts that were not included there. It happens to deal with a person that wanted a limestone, in particular a 98-acre parcel piece of property. He bought the property for $1,900 per acre. The Corps of Engineers would not allow him to fill part of that acreage because there were wetlands there.

Now, he was going to sell the property because he was not going to engage in limestone mining, so he wanted to sell it for $10,500 per acre. Now, that is a pretty good profit.

As a result of the corps' regulation, the appraisers valued the property then at $4,000 per acre. Now, he was a little regulated there. The corps diminished some of the value there. But a profit of $1,900 per acre to $4,000 per acre is pretty significant.

But we have to look at some other values here when we are talking about that. That is, what is the value to the quality of the water that is purified by the wetlands to the neighboring property owners? Then what is the value of their property, the neighboring property owners, if the wetlands were filled in, water is degraded? Who is going to buy their homes, their property? Is that then diminished?

So the question in my mind, at least, is should we compensate people to refrain, or stop them, refrain them from degrading the value of somebody else's properties by filling in those wetlands?

Now, there is one other thing I want to bring out. One of these famous, wonderful Dear Colleagues that are circulated around the House for a number of reasons, there was a ''Dear Colleague'' circulated that a Maryland couple was denied the right to shore up their property because of an endangered beetle. And as a consequence of that, 15 feet of the bank fell off while they were trying to wait for a permit.

Well, here are the facts: It was a piece of property in Lusby, MD, which had a high bank. The guy that lived there wanted to move because he knew the erosion problem was so bad. So he did not even pay the mortgage, the bank took over the property.

This couple purchased the property at a very low price. While they were living there, they realized there is a problem because 15 feet of their bank falls off. It was at that point, after the 15 feet fell off, that they applied for a permit to put some riprap around it so no more would be falling off.

The Federal Endangered Species Act, in its infinite flexibility, at least in the State of Maryland, was going to permit that shoring up. But the State of Maryland, which has an Endangered Species Act more strict than the Federal act, was a little bit more inquisitive.

Now, they have built the riprap, they are protected at this point, and the State of Maryland Endangered Species Act is going to become more flexible, modeled after the Federal program. There still needs to be some flexibility with the Federal program, I grant you that.

But one last point: A beetle, a fairy shrimp, a butterfly, let us not forget the fact that biodiversity offers us a tremendous amount of good things for medicine, for agriculture, for a whole lot of good reasons.

I just wanted to get those points out.

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

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

Mr. MCINTOSH. Mr. Chairman, the Mineta amendment would massively reduce the number of Americans who would benefit from this the Private Property Protection Act of 1995. It would change the current bill ignoring existing case law and provide Government bureaucrats with the power to

impose onerous regulations without accountability.

□ 1130

The amendment is most destructive because it departs from providing compensation on affected parcels of property. Instead, it would provide compensation only if the entire whole of an individual's holdings were reduced in value.

In other words, if a property owner had 100 acres, 10 of which were wetlands, the Government could prevent that landowner from developing his property because of that wetlands on only 10 acres. Any other property owned by the individual could be used to offset the fair compensation due from the Government.

This is part of a conscious effort to support a national land-use policy. The supporters of the wetlands provisions in the Endangered Species Act have used those two acts to create a national intrusion into the property rights of Americans across the country, and the purpose of this amendment is to dilute the protections for property rights that landowners would have in standing up against that policy.

Let me just close by saying that the Florida Rock case has been mentioned earlier. It strikes me that in fact the value of protecting wetlands is something that society should take into account. The difference is that we should not ask innocent landowners to be the ones who foot the bill for that; instead, we should ask all of society to compensate that individual in order to preserve those truly valuable natural resources.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield just briefly?

Mr. MCINTOSH. I am delighted to yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

I am so glad my friend, the gentleman from Maryland, brought up Florida Rock again. The reason I quote it so often is that it is now Florida Rock III. These plaintiffs have made their third trip to the court of appeals. The case started in 1978. They finally got a judgment in March 1994 that says they are entitled to compensation. The case has been remanded again to the Court of Claims. They are on their fourth trip around. That is why this bill is so desperately needed.

Mr. MCINTOSH. That is right. My point is that if those are valuable wetlands, why should society not go ahead and pay compensation under the fifth amendment and under the provisions of this act so that someone who is an innocent landowner is not deprived of 60 percent of the value of his property.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MINETA] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MINETA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 173, noes 252, not voting 9, as follows:

[Roll No. 194]

AYES—173

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Thornton
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Green
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Kasich
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
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
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Bryant (TX)
Gonzalez
Graham
Hoyer
Jones
Moakley
Rangel
Reynolds
Roberts

□ 1150

The Clerk announced the following pair:

On this vote:

Mr. Rangel for, with Mr. Graham against.

Messrs. PORTER, LEACH, and SKEEN changed their vote from ''aye'' to ''no.''

Mr. LIPINSKI and Mrs. KELLY changed their vote from ''no'' to ''aye.''

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, I was unavoidably detained for rollcall No. 194. Had I been here, I would have voted ''no.'' I ask that the RECORD reflect that.

LIMITATION OF DEBATE ON PROSPECTIVE AMENDMENTS

Mr. CANADY of Florida. Mr. Chairman, I ask unanimous consent that the gentleman from Florida [Mr. GOSS] be

next recognized to offer an amendment and the debate on the amendment be limited to 20 minutes, equally divided and controlled by a proponent and an opponent thereto. I further ask unanimous consent that the gentleman from Mississippi [Mr. TAYLOR] and the gentleman from Ohio [Mr. TRAFFICANT] be next recognized to offer their amendments, and that debate on each of these two amendments be limited to 5 minutes, equally divided and controlled by a proponent and an opponent thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. FRANK of Massachusetts. Mr. Chairman, reserving the right to object, that timetable with a rollcall on the Goss amendment would, of course, preempt any other amendments. I would not be able to accept something that would preempt any other chance for any other amendments.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I understand the gentleman's concern, and I would be certainly willing to change the unanimous-consent request to further limit the debate on the Goss amendment to 10 minutes, 5 minutes debate on each side.

Mr. FRANK of Massachusetts. Mr. Chairman, that will not be agreeable, but it is the best we can get. We will still be at risk. I hope, if Members will cooperate, we can get to the amendment of the gentleman from North Carolina [Mr. WATT].

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida [Mr. CANADY], as amended?

Mr. WATT of North Carolina. Mr. Chairman, reserving the right to object, what I still have not heard is the final part of the uanimous-consent request. I never heard what I understood to be the final part of the unanimous-consent request.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

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

Mr. CANADY of Florida. Mr. Chairman, the first part of the unanimous-consent request, as now modified, is 10 minutes of debate on the Goss amendment. After that there will be 5 minutes debate on the Taylor amendment and 5 minutes debate on the Traficant amendment.

Mr. WATT of North Carolina. Mr. Chairman, I thought the final part was that the Watt amendment would come up last and be the final issue.

Mr. CANADY of Florida. Mr. Chairman, there was no mention of the Watt amendment in the unanimous-consent request.

Mr. WATT of North Carolina. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. GOSS TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS AMENDED

Mr. GOSS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. GOSS to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: In section 3(a), strike ''10'' and insert ''20''.

The CHAIRMAN. The gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

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

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

Mr. GOSS. Mr. Chairman, what we are involved in here is obviously a moving negotiation, and a number of things have happened in the last couple of votes on this in this very difficult area of trying to come to a compromise that will hold together a working block of votes to get on with the benefits of this legislation and to make it as good as possible and still attract a majority. A couple of things need to be pointed out here.

Mr. Chairman, the three particular areas of trouble that we wanted to discuss at this time were to get a further explanation on when we are talking about affected areas that are going to be subject to regulation, who sets those boundaries and how that happens. In a moment I am going to yield to my friend, the gentleman from Louisiana [Mr. TAUZIN], for that.

The second was an area where after the vote last night I had several Members, particularly from the Midwest, come to me and suggest they had a difficult time with my amendment that went to the total parcel, and they had not supported us because of concerns they had in explaining to me about prairie potholes and other types of situations that are very important, but somewhat unique to that part of the country, and they felt they did not understand it properly.

The third area was the question of the small lot owners. I am satisfied by moving this percentage to 20 percent, we still protect the small lot owners either way from unreasonable takings.

So I am, in the spirit of compromise, trying to get something that will work, and that is the purpose of this amendment. We now have a 20-percent threshold to trigger an automatic taking on the affected part of the property.

Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. TAUZIN] to explain about how these affected areas actually work.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what happens under the bill is that the property owner who believes he is affected by one of these statutes, endangered species, 404 wetlands or swampbusters, literally goes to the agency and makes a request, am I affected by those statutes. If so, what part of my property is affected.

A good example is the one I gave the other day from my farmer in Plaquemines Parish. Included in his letter to me was a map. The corps actually drew a map, showed him the affected area of his property affected by the wetlands determination.

So the agency determines what part of your property is affected by wetlands or endangered species. That area is defined, is certain, and that is why this new revision to the amendment makes sense.

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

Mr. Chairman, I wanted to make sure to all those who supported my original amendment, that that explanation was going to be forthcoming, it is forthcoming, and it is satisfactory to me, because it gives the precision we were looking for, it allows the agency to make that determination. That protects the public, and on the other hand the private property owner is protected with this 20 percent threshold.

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

□ 1200

The CHAIRMAN. Does any Member wish to speak in opposition to the amendment?

Mr. FRANK of Massachusetts. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

This is an amendment that is about a subspecies of land. This is the planting of shade trees to give cover to Members who switched their vote.

Since everything has already been arranged and since under this restrictive 12-hour rule, if I debate this at any length my friend from North Carolina will be preempted from offering his amendment, I would simply say that I think this is just to cover Members who voted the other way on the last one since all the votes have already been accounted for.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield back the balance of my time, in the hopes that we will be able to protect the right of the gentleman from North Carolina [Mr. WATT] to offer his amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. GOSS] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY] as amended.

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

RECORDED VOTE

Mr. DOOLITTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 338, noes 83, not voting 13, as follow:

[Roll No. 195]

AYES—338

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Condit
Costello
Cox
Cramer
Crane
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
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
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—83

Baker (CA)
Barton
Becerra
Beilenson
Bevill
Bonilla
Bonior
Borski
Cardin
Chenoweth
Clyburn
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Coyne
Crapo
Cubin
Dellums
Dingell
Dixon
Ehlers
Fattah
Fields (TX)
Filner
Flake
Foglietta
Frank (MA)
Frelinghuysen
Furse
Gilchrest
Hall (TX)
Hastings (FL)
Herger
Hinchey
Hostettler
Hunter
Lewis (GA)
LoBiondo
Lofgren
Markey
McDermott
McKinney
Meehan
Meek
Mineta
Morella
Nadler
Neal
Neumann
Oberstar
Owens
Parker
Pastor
Payne (NJ)
Porter
Reynolds
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Schaefer
Serrano
Smith (TX)
Souder
Stark
Stockman
Studds
Thompson
Thornberry
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Yates

NOT VOTING—13

Berman
Brown (CA)
Bryant (TX)
Clay
Dornan
Emerson
Gonzalez
Largent
Mfume
Moakley
Radanovich
Rangel
Stokes

☐ 1219

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Rangel against.

Ms. WATERS and Messrs. COMBEST, STOCKMAN, and CRAPO, Mrs. CHENOWETH, Mrs. CUBIN, and Messrs. HUNTER, RUSH, MEEHAN, FIELDS of Texas, and SCHAEFER changed their vote from ''aye'' to ''no.''

Mr. GUTIERREZ, Mrs. SMITH of Washington, Ms. ESHOO, and Messrs. GREENWOOD, MATSUI, JACOBS, and HILLIARD changed their vote from ''no'' to ''aye.''

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RADANOVICH. Mr. Chairman, I was unavoidably detained during rollcall No. 195, the vote on the Goss amendment to the Canady substitute. Had I been here, I would have voted ''yes'' on it.

PERSONAL EXPLANATION

Mr. LARGENT. Mr. Chairman, I was unavoidably detained on rollcall No. 195. Had I been present I would have voted ''aye'' on the Goss amendment to the Canady substitute to H.R. 925.

AMENDMENT OFFERED BY MR. TAYLOR OF MISSISSIPPI TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TAYLOR of Mississippi. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TAYLOR of Mississippi to the amendment in the nature of a substitute offered by Mr. CANADY of Florida, as amended: After paragraph (4) of section 9, insert the following:

(5) the term ''fair market value'' means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

Redesignate succeeding paragraphs accordingly.

The CHAIRMAN. The gentleman from Mississippi [Mr. TAYLOR] will be recognized for 2½ minutes, and a Member opposed will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, throughout the measure before us the term ''fair market value'' is referred to but never defined. What we have done is take two common uses of ''fair market value,'' one coming from the Treasury regulations, another coming from a court case, Banks versus the United States. We have combined those two definitions. We feel it is self-explanatory. That is why we asked the Clerk to read it. I hope the majority will accept this amendment.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I think the gentleman has a good amendment. We will be happy to accept and support the gentleman's amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Us, too, Mr. Chairman.

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

Mr. TAYLOR of Mississippi. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, is it the understanding of the gentleman, as we have discussed privately, that this amendment defines ''fair market value'' without consideration of the agency action. The agency action then occurs, and the next question is fair market value, after the agency action diminishes, if it does, the value of the property?

Mr. TAYLOR of Mississippi. Mr. Chairman, to clarify, the key words ''at the time the agency action occurs'' are included. It was in both of those. It is included in this.

The CHAIRMAN. If no Member is seeking time in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

So the amendment to the amendment in the nature of a substitute, as amended, was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA, AS AMENDED

Mr. TRAFICANT. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: After Sec. 7, insert the following:

SEC. . DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property directly affected explaining their rights under this Act and the procedures for obtaining any compensation that may be due to them under this Act.

Redesignate succeeding sections accordingly.

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.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] will be recognized for 2½ minutes and a Member in opposition will be recognized for 2½ minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, this amendment ensures that property owners will in fact be notified and given notice, and their rights will be explained, and the procedures for obtaining any compensation available under this act will be made known to them.

The big corporations and the big guys have attorneys that handle this. The little guys many times that are hurt, and the families that are hurt due to these limitations, may not necessarily know their rights under this bill.

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

Mr. TRAFICANT. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, let me first commend the gentleman on an excellent addition to the bill.

Secondly, I want to also commend him for the fact that he was the original author for the original 10- to 20-percent change we just adopted. I thank him for contributing this change to the bill.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

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

Mr. FRANK of Massachusetts. Mr. Chairman, the minority accepts the amendment.

The CHAIRMAN. If no Member rises in opposition, all time has expired.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

Mr. CANADY of Florida. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. DOOLITTLE) 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.

AUTHORIZING EXTENSION OF TIME FOR DEBATE ON AMENDMENTS TO H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that consideration of the bill, H.R. 925, in the Committee of the Whole be extended by 10 minutes.

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

There was no objection.

PRIVATE PROPERTY PROTECTION ACT OF 1995

The SPEAKER pro tempore (Mr. DOOLITTLE). Pursuant to House Resolution 101 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 925.

□ 1226

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 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. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Ohio [Mr. TRAFICANT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended, had been disposed of.

Pursuant to the order of the House, further consideration of the bill for amendment will end at 12:54.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CANADY OF FLORIDA AS AMENDED

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute, as amended.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina to the amendment in the nature of a substitute offered by the gentleman from Florida, Mr. CANADY, as amended: Strike section 6(f).

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] is recognized for 5 minutes.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the effect of this amendment will become apparent very quickly. If we read the provisions of the fifth amendment, my colleagues here have spent a lot of time and rhetoric talking about the fifth amendment. The provision we are talking about in this particular bill says ''nor shall private property be taken for public use without just compensation.'' They have told us throughout this debate that the purpose of this bill is to assure that people who are deprived of their property receive just compensation. They have told us that a reduction in value of people's property is a taking, and therefore, they should be compensated for it under the fifth amendment.

Mr. Chairman, I want to talk about this for a little bit, and find out from my colleagues whether we believe this right is a right that is a first-class right, or whether it is a right which is a second-class right that we have under the Constitution.

Mr. Chairman, we started out with a bill that said ''If you have a diminution in the value of your property, a reduction in the value of your property as a result of any agency action, you would be compensated.'' We then spent hours debating whether to limit that bill to compensation for just two kinds of agency action, that agency action being for the Endangered Species Act

and for the Clean Water Act, disregarding all of the other agency actions that might have the impact of reducing the value of an individual's property.

□ 1230

We then spent hours more debating the issue of whether the reduction in value that would be required to trigger this amendment, or this bill, would be 10 percent reduction or whether it would be 30 percent reduction, or where we finally got to under the last amendment, the 20 percent reduction.

I am not interested in talking about a constitutional right that triggers only if it is 70 percent. We do not have any constitutional rights in our country that trigger at 70 percent, or 80 percent, or even 90 percent. We cannot put a value on our constitutional rights.

Now we come to the amendment that I have offered, and I want to direct my colleagues' attention to the bill because in the first section of the bill, it says the Federal Government shall compensate on owner of property whose value has been diminished.

Then we read on over to the fine print of the bill and we got to the source of payment and it says, ''Any payment made under this section to an owner and any judgment obtained by an owner in a civil action shall come out of the agency's budget'' and the agency, if it gets a judgment against it, must come back and seek appropriations.

My question to my colleagues is, is this a constitutional right, or is it a second-class right?

The gentleman from Louisiana [Mr. TAUZIN] has been very articulate about the rights that we are talking about here. They are all constitutional rights. Do they apply only when the Clean Air Act steps on them or only when the Clean Water Act steps on them, or only when the Endangered Species Act?

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. Or is this a real constitutional right that we are wiling to pay for as we pay for all other constitutional rights in this country?

So when our constituents come and say, ''We can get recovery if our values are diminished,'' will we scratch our heads and say, ''Oh, well, if we appropriate the money, you will get a recovery''?

If someone gets a judgment against the United States of America and the agency does not have the money, will we say to them, ''Oh, no, the agency is bankrupt now. You must wait until next year's appropriation''? That is what the bill says. ''It shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.''

I have never known anybody who got a judgment against the United States who we can put off until the next fiscal year and tell we are not going to pay that judgment until a year from now, or 2 years from now, or we may not pay it at all if they do not appropriate the funds.

The question I ask my colleagues in this amendment is to abolish this provision that says you can get your money only from an agency. There is no agency. This is the U.S. Government.

I call on my colleagues to make this a first-class constitutional right, not a second-class constitutional right.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, some things change in time and some things just do not change in time. I want to bring that into focus in my comments. Some things that do not change in time is the nature of government, the nature of a government that when it grows too large, then it begins to encroach on our constitutional rights and our ability to make a living off the land.

I want to share with Members a little bit of history, and, that is, that about 125 years ago, the U.S. Army sent General Custer into the West to conquer the Sioux Nation. In doing so, what they did not realize is that the Sioux were very keen people in regard to the promises that the American Government had made them, promises that were broken, promises that were broken when the American Army went in and they wounded and sometimes killed women and children. It was a broken promise between the American Government and the Sioux Nation. And so the American Government sent General Custer out to the West to conquer the Sioux Nation, not realizing that the Sioux were people who did not take very kindly to broken promises.

Of course, we know the history of what happened at Wounded Knee, and, that is, that when General Custer went in, a terrible battle ensured and there was a great slaughter and a great setback of the American Army at that time. But the Army retaliated and in conquering the West, went ahead and sent other troops out and they chased the Sioux Nation into Canada and finally captured and conquered them.

Sitting Bull, a great medicine man from the Sioux Nation, was asked to stand in this gallery, in this place, nearly 125 years ago, and I am standing in the same place that Sitting Bull stood when he addressed a joint session of the House and the Senate.

Yes, ladies and gentlemen, some things change but some things never do, because this is what Sitting Bull said when he stood exactly in this place. He said, ''The government has made us many promises, more than I can remember, and they never kept but one. They promised to take our land and they took it.''

As a lady from Idaho, I can tell you I live with that every day, because more and more of our land is being taken. I appreciate the bill, H.R. 925. I think it is historic. It is part of living up to the Contract With America and beginning to reclaim our land.

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

Mr. Chairman, I accept the idea that society ought to pay for societal policies. When the public wants a highway, it wants to enjoy the benefits of the highway, those who have to suffer by losing their land are compensated so that everyone else can enjoy the benefits of the public policy.

If this bill is going to work, we have to acknowledge that no agency has in it the money for these reimbursements. When we again fund money for highway, we not only have money for the road itself but also in the appropriation enough money to fulfill expenses and condemnation as part of that budget.

If this is going to be implemented, we have to have a budget from which these payments can be made. The Watt amendment, Mr. Chairman, provides that resource.

Mr. Chairman, I would hope that this amendment would pass. Otherwise, the bill just cannot operate.

I would ask, Mr. Chairman, the gentleman from North Carolina to respond, if he would, to the question of how the judgments would be enforced if his amendment is not passed.

Mr. WATT of North Carolina. If the gentleman would yield, as I understand it, in every other situation where a judgment is obtained against Government agencies, it is the Federal Government that stands behind that judgment and the full faith and credit of the United States is at risk any time a judgment is entered.

If this amendment is to have any meaningful effect, if this bill is to have any meaningful effect, and people who we have not guaranteed if this bill passes that they will be compensated will be subjected to the whims of the appropriation process or nonappropriation. It is like we have got these naughty Federal Government agencies over there that are somehow separate and part from the Federal Government, itself, and the laws that the Congress passes who are out there acting as renegades and we are looking for somebody to blame, and trying to tell our constituents that somehow we are compensating them and protecting them against these naughty Federal Government agencies and hiding our head when really the agencies and the rules that they are applying and promulgating that result in these reductions in value are pursuant to the laws we passed here in this body and this is all a charade designed to make it appear that it is not us that is causing the problem by passing the Endangered Species Act or the Clean Water Act, but it is some Federal Government agency over there that is separate from us over here in Congress and they

ought to go over there and get their judgment satisfied.

What I want to make sure the public understands is that there is no Federal Government agency, and Congress, that this is one Federal Government. If the Federal Government agency does something wrong, it is being done pursuant to a law that we have passed and we cannot just pass the buck over there and leave the public out there saying they have a valuable constitutional right, yet they have no assured means of collecting the judgment that is at play.

Mr. SCOTT. Mr. Chairman, I finally say that as we pass future laws, we could include in those appropriations the money for reimbursement under this law as well as for the promulgation of the policy just as we do with highways. I would hope that his amendment would pass so that we could implement the law as soon as possible and not have to get into the situations as the gentleman from North Carolina has indicated.

I yield to the gentleman from North Carolina [Mr. ROSE].

Mr. ROSE. I thank the gentleman for yielding.

I would like to say about my colleague from North Carolina's amendment, that without this amendment, this is an unworkable piece of legislation, assuming that you feel that it needs to be enacted. I intend to vote for the bill, but it will be a much better bill with your amendment in it. Without it, it is rather mean-spirited as you pointed out. With it in it, it is extremely focusing of the public's mind and the Government's mind that the whole Government, not just some particular agency, has got to pay for it. I encourage my colleagues to support the Watt amendment. It perfects this bill.

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

Mr. Chairman, I have a different interpretation than my friend from North Carolina because what this amendment does is gut this legislation. It guts the private property rights of property owners which we are trying to protect because it takes out what is the real stick in this legislation. The real stick is if the Government comes in and takes your property because of an endangered species designation or a wetland declaration and you lose the beneficial use of your property as guaranteed by the Constitution, you are not going to be compensated by the Government.

It is my hope that you do not see this used as an entitlement. This is intended to be used when property is lost, when the Government comes in and says there really is a need for this particular piece of property as a wetland, or there really is a particular need for this property because of an endangered species.

When we passed the Endangered Species Act and when we passed Clean Water, it was never envisioned by this Congress that the basic water rights in the State of Texas would be abrogated because of a fountain darter.

□ 1245

It was never intended by this body when those two acts were passed that farmers and ranchers in the Texas hill country would lose the ability to control cedar on their property because of two birds. It was never intended when those acts were passed that a Golden Eagle's nest, and by the way, there never has been proof that there really was an eagle's nest in the example I cited, it was never intended that would stop the construction of a badly needed road in my congressional district.

Another particular story, Marge and Roger Krueger spent $53,000 of their savings on a lot for their dream house in the Texas hill country. They and other owners have been barred from building their dream houses because the Golden Cheek Warbler was found in adjacent canyons. Surely that was not the intent when the Endangered Species Act was passed and I think our forefathers had great foresight in understanding that through the actions of Government, property could be taken, and that is why they made provision in the Constitution for payment when in fact those takings have taken place.

So again I say to my friend from North Carolina I appreciate the sincerity with which he comes to the floor, but I have to say in all candor to my friend, this is a gutting amendment if you support the basic and fundamental private property rights guaranteed under the Constitution.

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

Mr. FIELDS of Texas. I am glad to yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I am concerned about Marge and Roger Krueger. The question I would ask the gentleman is if whatever agency that caused that adverse impact to Marge's land runs out of money, and they have gotten a judgment against the United States or against that agency, and the agency then comes back a year later and asks for an appropriation, what kind of protection has the gentleman provided in this bill for Marge Krueger?

Mr. FIELDS of Texas. First you have the civil court, but then second let me say what this is designed to do.

Mr. WATT of North Carolina. They have the judgment already.

Mr. FIELDS of Texas. Reclaiming my time, what this stick of compensation is designed to do is to force the Federal Government in the first instance to make the right decision, to protect in this particular instance the warbler and the vireo. Other things could be done. You have State properties in this particular area where there was a concerted effort to save those birds. The fountain darter, there are things that could be done to propagate and actually increase the population and actually introduce this to the ecosystem of Texas. In regard to the eagle's nest I talked about just a minute ago, through cooperative effort people would bend over backwards in my area to protect if in fact that was an eagle's nest. But what has happened is we have lost the cooperation and the consultation with and of that local private landowner and that is what this legislation is designed to protect. This amendment guts it.

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

Mr. FIELDS of Texas. I am glad to yield to my friend from Louisiana.

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding to make the point that it is the very language the gentleman's amendment would delete from the bill that provides the answer. It says that notwithstanding any other provision of law, payment must come from that agency. Therefore, the citizen can compel mandamus against that agency for payment.

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

Mr. Chairman, I just wanted to point out with respect to this amendment that it would eliminate the essential feature of this bill which provides an incentive for agencies to behave responsibly, for agencies to consider the real cost of their action, to take into account when they are imposing burdens on landowners, and I think for that reason this amendment would be counterproductive.

I believe that in many of the instances where we are currently seeing landowners burdened, we are seeing agencies that are overreaching, they are going beyond the real intent of the law, and agencies who are doing that can exercise their discretion not to do that. And I believe that would be the consequence, the major consequence of passing this law.

I want to also take this opportunity to thank all of those who have assisted and helped in the movement of this legislation. I want to particularly thank the gentleman from Texas [Mr. SMITH], the gentleman from California [Mr. POMBO], and the gentleman from Alaska [Mr. YOUNG], for their hard work in putting together the compromise, the substitute amendment which I have offered. Without their hard work on this issue we would not have been able to move this bill to the floor and I am very grateful to them for this.

I also want to thank particularly the gentleman from Idaho [Mr. CRAPO] for his hard work on this issue and his active participation in the floor debate. His very able participation here has been very important to the success of this bill.

Finally, it is very important also to thank the gentleman from Louisiana [Mr. TAUZIN] and the Members on the Democratic side who are participating in this effort. It is true that the gentleman from Louisiana [Mr. TAUZIN]

has worked on this issue for years. I am very pleased that we are now seeing this issue brought to the floor, and I believe we are going to see this issue move forward to the Senate, and I am hopeful that we are going to see this issue passed into law later this year. So I am very grateful to them.

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

Mr. CANADY of Florida. Mr. Chairman, I yield to the gentleman from California.

Mr. POMBO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think we all would like to thank the gentleman for the wonderful job he has done in managing this bill on the floor, and I appreciate all of the hard work you have put in in battling over the last 12 long hours.

Mr. Chairman, I would like to rise in opposition to this amendment and to bring it into perspective in that if you take the incentive away, the hammer away from the agencies, you run into the situation that is the result of this bill coming to the floor, where an agency like the Fish and Wildlife Service can list the fairy shrimp and declare most of California habitat and control most of California without any cost to the agency, without any fear that anything is going to happen to them. They have run amok. It is the bureaucracy out of control, it is the bureaucracy and the regulators with a free hand running all over the Western United States and the Southern United States, without anyone having the ability to come down on them, unless of course you happen to have 10 years and a half million dollars to spend on attorneys' fees.

That is what we are trying to correct in this bill. And I know what the gentleman's intentions are, but I feel that if this amendment were passed, it would completely damage the bill, so that we would not be able to accomplish what is truly needed, and that is to restore some responsibility to the agencies, and to put that hammer in the hands and I guess to restore the power to the people who are out there having to live under this.

I think this is an extremely damaging amendment, and I would urge all of my colleagues to vote ''no'' on it.

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

Mr. CANADY of Florida. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Mr. Chairman, I will just take a minute and thank the gentleman for yielding. Let me concur in the last remarks. I do not want to use words like gutting and all of that, but this is extremely damaging. It takes from the bill the method of payment.

Let me say to my friend who offered the amendment, this is a first class right under the Constitution. Any citizen under this bill that wants to exercise that right can do so at 1 percent, 2 percent, 10 percent, 20 percent. This bill simply creates a new remedy for citizens at home under the criteria set by this bill to get justice at home. For it to work the agency has to want to cooperate, and if you do not make the agency responsible for damage it does, and do not make the agency responsible for payment, you will never get cooperation. Just day before yesterday Mr. Babbitt just announced the first of its kind safe harbor provision for the red cockaded woodpecker offering to cooperate with a landowner instead of taking their land.

This is what we need.

The CHAIRMAN. All time has expired.

Under the previous order of the House of today, the question is on the amendment offered by the gentleman from North Carolina [Mr. WATT] to the amendment in the nature of a substitute offered by the gentleman from Florida [Mr. CANADY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WATT of North Carolina. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be on another of the pending amendments without intervening business or debate.

The vote was taken by electronic device, and there were—ayes 127, noes 299, not voting 8, as follows:

[Roll No. 196]

AYES—127

Abercrombie
Ackerman
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (FL)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Green
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Rahall
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—299

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
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
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Brown (CA)	Collins (IL)	Moakley
Bryant (TX)	Dornan	Rangel
Chapman	Gonzalez	

□ 1312

The Clerk announced the following pair:

On this vote:

Mr. Rangel for, with Mr. Dornan against.

Mrs. THURMAN, Mr. LEVIN, and Mr. MCHALE changed their vote from ''aye'' to ''no.''

Mr. FAZIO, Mr. OBEY, and Mrs. LOWEY changed their vote from ''no'' to ''aye.''

So the amendment to the amendment in the nature of a substitute, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended, offered by the gentleman from Florida [Mr. CANADY].

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. 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.

Mr. STUMP. Mr. Chairman, I rise in support of H.R. 925, the Private Property Protection Act of 1995 and I encourage my colleagues to support the bill as well.

The bill is not an assault on the Constitution and it is not a scheme to benefit a select few as some propaganda has suggested. The bill simply affords Americans the protection that they have been guaranteed under the Constitution's fifth amendment. The bill is easily the most important measure to protect private property rights since the Bill of Rights was ratified in 1791.

Tomorrow, March 4, 1995, marks the 206th year that the U.S. Congress has met. When the First Congress met, there was great concern that the Constitution did not include a basic Bill of Rights to limit the powers of the Federal Government. In their wisdom, the First Congress proposed a Bill of Rights and determined that the Bill of Rights should guarantee compensation for the taking of private property for public use.

When the Bill of Rights was ratified in 1789, guarantee of compensation for the taking of private property became the fifth amendment to the Constitution.

Since the Bill of Rights was ratified, the fifth amendment has been relied upon to limit Federal intrusion into private lives without due process of law. When we look back over the past 200 years, it is easy to see a clear pattern of increased takings of private property. The number of takings have rapidly escalated over the past two decades in direct relation to the increase in Federal regulatory actions. Unfortunately, private property owners who are victims of regulatory takings are not receiving due process guaranteed to them under the fifth amendment.

The Federal regulatory morass has unfairly punished private property owners by restricting the use of their lands. While such Federal regulations clearly ''take'' from private property owners, tragically, the private property owner must sue to get compensation due to them by the Federal Government.

We must not allow the Federal Government to continue to grow and regulate without regard for the public, of which private property owners are a part. We must not allow the Federal Government to take private lands for public purposes and then require the property owners to pay for costly, time consuming litigation in order to receive compensation.

We must pass H.R. 925 and protect the constitutional guarantee of compensation for the taking of private lands.

Mr. MINGE. Mr. Chairman, farmers and other landowners in the Second Congressional District are frustrated by a complex, burdensome, inefficient, and expensive set of procedures and restrictions dealing with wetlands and drainage. This has led to demands for compensation and reform of the process.

I am drafting and will introduce legislation to dramatically simplify the procedures and reduce the harsh effects of these drainage and wetlands restrictions. The problem must be solved, and it must be solved now.

The alternative approach set up in H.R. 925 of establishing a right to compensation for a loss of land value due to Federal restrictions is inviting but ill-advised. It will be a full employment act for attorneys and appraisers, potentially explosive liability, and an increase in the Federal debt. It is unworkable, unfair, and poorly thought out. For example, owners of areas with cattails that could be drained would be entitled to farmland value. Another example of the problem is how to handle parcels that are subject to, and then relieved of, restrictions. Should the land owner be obligated to refund the payment? Should the Federal Government have a lien on the land to receive the refund? Query, what is to be done about the situation where property both receives very substantial benefits from Federal activity that increases land value and then a more modest loss of value due to regulations?

The real goal is to eliminate the unreasonable burdens. The promise of compensation, contained in H.R. 925 that was hastily considered by the House of Representatives, is an inadequate, elusive, and unacceptable solution. For these reasons, I voted against the bill. Hopefully, the idea of reasonable compensation for unreasonable restrictions in H.R. 935 will be improved in the U.S. Senate to deal with the problems I have identified. If it is, I look forward to voting for the measure.

For the present, I look forward to working to lift the harsh burdens that are the real problem. Farmers in my area do not want a new and endless controversy. They want to farm. They are responsible stewards of the land.

Mr. LIGHTFOOT. Mr. Chairman, on March 2, 1995, I voted ''aye'' on the Tauzin amendment to H.R. 925. However, the computer did not record my vote. I would like to declare my support for this amendment which would protect the rights of property owners from overzealous government takings. I reaffirmed my support for this legislation by voting in favor of final passage of H.R. 925.

Mr. MFUME. Mr. Chairman, I rise in opposition to the H.R. 925, the Private Property Protection Act. The Private Property Protection Act comes under the guise of protecting private property rights, while in reality it pits the property rights of some against the rights of others and the rights of the community as a whole. Private property rights are sufficiently protected under the fifth amendment to the Constitution; codifying a specific interpretation of these rights is not only unnecessary, but dangerous as well. I urge a ''no'' vote on this legislation.

The courts have outlined the factors to be considered on a case-by-case basis in determining if a ''taking'' has occurred, including the economic impact on the property owner, the public purpose for which the regulation was adopted, and the character of the governmental action. H.R. 925 calls for an extended, legislated, interpretation of the fifth amendment of the Constitution. This bill would require the Federal Government to pay a private property owner for any decrease in value to his/her land due to Federal regulations. The effect of this legislation would be to have the Government—i.e. the taxpayers—pay land owners not to destroy the environment.

Along with property rights come property responsibilities. Nobody has the right to use his or her property in a manner that may harm the public health or damage the property of another landowner or the community as a whole. American citizens are able to use environmental laws in order to protect their property from damage at the lands of irresponsible industries and landowners. Environmental laws, in turn, have been established to preserve our natural resources for the benefit of future generations and so that Mother Earth can survive.

The intent of H.R. 925 is to make it fiscally impossible to enforce such important legislation as the Clean Water Act, the Endangered Species Act, and other environmental initiatives. A broader interpretation of this bill could limit the ability of the Federal Government to enforce such laws as the Americans with Disabilities Act, the Civil Rights Act, and other laws which protect American citizens but may place a financial burden on business. The possibilities of abuse under this legislation are enormous. We must not fall for the ''what's mine, is mine'' pitch used by ''takings'' legislation advocates if it comes at the expense of the American taxpayer, or the community at large. I urge my colleagues to vote against H.R. 925.

Mr. RADANOVICH. Mr. Chairman, bureaucracies have little respect for private property.

In my district, for example, a constituent has been fighting an uphill battle with USDA's Forest Service over an easement right.

Here is a letter from Jeffrey Green, county counsel of Mariposa County—my home community and on whose board of supervisors I formerly served. He explains the problem in a straightforward way that I believe my colleagues will find illuminating, and I ask that it be included with my remarks in the RECORD.

I also want to point out that the problem discussed by Mr. Green has a further dimension that illustrates the indifference Federal bureaucrats can display. More than a year ago—January 10, 1994—the district ranger of Stanislaus National Forest wrote Mr. Green that the requested road use permit for my constituents would be ready within the next 30 days.

When that didn't happen, Mr. Green made further inquiry. On May 17, 1994, the district ranger wrote that he could ensure that the permit would be received shortly. Knowing I planned to use this awful apathy by the Forest Service in remarks on the House floor, my

counsel called the district ranger to ask whether the promised permit yet had issued. Sad to say, Mr. Chairman, the answer was ''no.''

These are intolerable circumstances that, I am learning go on every day across our country. Citizens are at the mercy of a corps of overpaid, underworked dolts who make a mockery of the term, ''public service.''

THE COUNTY COUNSEL,
Mariposa County, CA, March 2, 1995.

Re National Forest Service Use Permit for Billy J. Lovelace.

OFFICE OF CONGRESSMAN RADANOVICH,
Cannon Building, Washington, DC:

I have previously forwarded to your office my correspondence relative to the above matter and the failure of the Forest Service, after numerous promises, to issue a Use Permit to Mr. Lovelace to access his property wherein he resides. You have requested that I provide you additional information as to why in my opinion this type of activity illustrates the federal government's failure to respect property rights of its citizens. Mr. Lovelace purchased his property with the access road to his dwelling already constructed. That access road did in fact cross a small portion of the Forest Service property and an easement existed for the use of that Forest Service strip of land. When the easement expired, the Forest Service basically took the position that Mr. Lovelace was going to have to find other access to his property, although as a practical matter no other access existed. Mr. Lovelace felt totally ineffectual in dealing with the National Forest Service personnel, as they made him feel that access to his property would be granted upon their whim only and not as any property right he may have acquired over a period of time. We all know that you cannot acquire a prescriptive easement against a governmental entity, however, there is a concept of fair play and due process when the federal government has allowed access over a period of years and then arbitrarily determined that it may not continue that access to the property owner. That is what happened in the Lovelace case and the possible denial of the Use Permit has caused great emotional distress to Mr. Lovelace. He feels totally helpless in dealing with the federal government and therefore contacted his County Supervisor, Doug Balmain, to intervene on his behalf. Supervisor Balmain and myself did in fact intervene on Mr. Lovelace's behalf and had a number of conversations with the Forest Service personnel. Essentially the first meetings indicated that the Forest Service was adopting a blanket policy without any regard to the private property rights of the individuals in that it was inappropriate to access private property over a Forest Service land if there was any other conceivable way to access the property. Of course, to the Forest Service, any conceivable way to access the property did not take into consideration the extreme expenses involved in most cases, and the topography of the land which may make it impossible to access. However, after a number of conversations and written correspondence, the Forest Service did in fact agree that Mr. Lovelace was entitled to a Use Permit to access his property. As you know, that permit has still not been issued even though it was promised well over a year ago. Certainly when Mr. Lovelace purchased his property, he felt he had a property right to access his dwelling over the road that had been constructed prior to his purchase. It was only after his purchase that he discovered that the Forest Service may restrict access to his property. In my opinion, as well as Supervisor Balmain's opinion, the federal government has a moral right and obligation to deal honestly and fairly with citizens who are affected by its rules and regulations. Access to an individual's dwelling is certainly viewed by that individual as a property right and the threat of removing that access generates a great deal of distress for the property owner.

Based upon other experiences with the Forest Service, this is not an unusual way in which the Forest Service personnel deals with citizens' property rights and values. In one of the letters which my office received from the District Ranger regarding this matter, the following language was contained in the letter which, in effect, chastised Supervisor Balmain and myself for becoming involved in this issue: ''Since the issues revolve around the administration and management of National Forest lands, all future correspondence will be carried out through the concerned individuals.'' I read that sentence to essentially tell Supervisor Balmain and myself to butt out of Supervisor Balmain's constituent's business with the federal government.

Should you desire any additional information regarding this matter, please feel free to contact me.

Very truly yours,

JEFFREY G. GREEN,
County Counsel.

Mr. COSTELLO. Mr. Chairman, I rise today to express my concern over legislation under consideration in the House today to place into statute guidance for takings allowance under the fifth amendment of the Constitution. While I support efforts to offer this guidance, I am concerned the original bill proposed by the majority goes too far.

This bill would require Federal agencies to reimburse private property owners if 10 percent of their land is affected by any Federal regulation. While the intent of this bill is good, the potential cost to the Federal Government for a 10-percent diminishment of property value is enormous.

In addition, the bill's basic provisions are unworkable. For instance, if the Federal Government raises the speed limit on a rural highway, property owners adjacent to the highway could claim their property has been devalued by at least 10 percent due to increased noise from greater automobile traffic or higher speed limits. They could then demand reimbursement from the Department of Transportation for that diminished land value.

I have made efforts to work with my colleagues to try and raise this threshold to a more reasonable level. I have voted for amendments to raise this threshold beyond the 10-percent level, to one which builds on current legal precedent but which is not too narrow. In addition, I am working with my Democratic colleagues who also favor protecting private property rights to narrow the bill to instances of likely takings—for wetlands protections, for example—instead of every Federal regulation. Making Federal regulations more reasonable is my goal, which is also why I have cosponsored wetlands reform in the past.

An effort was made to try and narrow this bill, but it did not go far enough. The amendment offered by Representative TAUZIN would have gone beyond just a wetlands provision to include rights of western water use, mining and other use western lands. It also raised the threshold to only 50 percent, one which I feel is still too unworkable. That is why I opposed the Tauzin amendment.

One amendment I did support would have required a private property impact assessment by an agency prior to any taking. This would have written into law an Executive order signed by President Ronald Reagan, that would allow property owners to seek compensation based on this assessment. Unfortunately, this amendment was rejected by a majority of my colleagues. However, this bill has improved as it has moved through the House, and it is my hope that in supporting this bill on final passage we may move it to the Senate and reach common ground to protect private property rights, and our Nation's critical environment areas, in a final package.

Mr. MCDERMOTT. Mr. Chairman, I rise in strong opposition to H.R. 925. This is yet another proposal offered by the new majority to undermine our Nation's health, safety, and environmental standards in order to benefit their favorite special interest: the pollution industry.

This bill is a cruel joke which endangers helpless private property owners throughout the country and allows land abusers the opportunity to raid the Federal treasury.

Make no mistake, this bill is incapable of protecting the public from health or safety hazards.

In my State of Washington, clear cut logging on steep slopes caused extreme run-off and excessive flooding along the Tolt River. Slides sent trees and debris choking the river and deflecting flows.

Meanwhile, the flooding caused a family's mobile home to be washed down river and significantly eroded several other properties. The effect: property devaluation and serious expense to the downstream landowners, serious harm to the environment, and huge profits for the loggers.

This bill does nothing to either prevent such environmental damages or protect the landowners who undoubtedly will be harmed by the ensuing reckless developments.

In fact, even as amended, H.R. 925 makes the government liable for the negligent actions of industry polluters, reckless developers, and the property owners whose land is harmed by such development.

For example, when a developer seeks a permit to clear cut a steep slope as occurred in my State, or to fill in a wetland which endangers the property of downstream landowners, the government is damned if it grants the permit and damned if it doesn't.

If the government issues the permit, it then becomes liable for the damages incurred by the developers on the downstream property owner's lands. Yet, if the government denies the permit, this bill forces it to compensate the developer who requested it—no matter how negligent the developer's proposal may be.

By voting in favor of H.R. 925, the majority will commit our government to a financial conundrum which will drain the Federal treasury.

There are not enough health, education, nutrition, or family programs for the new majority to eliminate in order to pay for a bill which mandates such financial recklessness.

Mr. Chairman, I hope that you take a look beyond your political focus groups and examine the actual, real world implications of this dangerous bill.

I hope my colleagues find the wisdom and courage to vote against this horrifying piece of legislation which, as usual in this new majority, benefits a select few and harms the rest of us.

Mr. UNDERWOOD. Mr. Chairman, the fifth amendment to the U.S. Constitution clearly speaks to the issue of Federal land acquisition when it states: ''[N]or shall private property be taken for public use, without just compensation.'' The Constitution is clear on the issue of Federal land takings and compels us to deal justly with the impact of Federal action on private land.

H.R. 925 is currently being touted as the cure for private land owners whose land has been devalued by Federal regulations. However, it does not answer Guam's outrage over Federal land policies.

The people of Guam have for many years been the victims of unjust land grabs and the heavy hand of Federal land policy. Within the borders of the war in the Pacific Park, land owners cannot develop their private property due to Federal regulations. Land owners at Ritidian Point, landlocked by the Andersen Air Force Base, are also denied free use of their land because access is restricted. Unfortunately, this legislation would not compensate these land owners or any others whose land is currently controlled by the Federal Government.

Guam needs more than just promises for the future; we need Congress to recognize and commit itself to resolving Guam's unique Federal land problems.

Mr. PETERSON of Minnesota. Mr. Chairman, today we are considering property rights legislation, one of the most important pieces of legislation we will vote on this year. The right to own property is one of the basic doctrines of our Constitution. The fifth amendment requires the Government to provide just compensation for property taken for public purposes. Property rights has come to the forefront of debate in rural America. This debate is vital to every landowner in this country, specially to the American farmer.

Over the past three decades, there has been an enormous expansion in Government regulation of private property. The intent of these regulations is for the most part positive. However, the rigidity of the regulations is completely unnecessary and over burdensome and often defeats the purpose of the objective of the regulation. The Federal Government makes it a practice to spell out step by step the method each person should use to accomplish the goal of a regulation. This rigidity is costly and actually creates more obstacles.

These regulation restrictions are out of control, specifically in regard to wetlands. For example, a farmer in my district bought 160 acres of land with the intent to farm the 160 acres. After talking to his local soil and conservation service [SCS], and looking at the records from the sight, including soil samples and all inclusive maps, the SCS office confirmed that no wetlands were contained on the land. My constituent then proceeded to purchase the land and begin to make the necessary changes to farm. His local SCS came out again to approve the site, and on the way out noticed some cattails in the field. The SCS then proceeded to discover, new wetlands which affected about 26 acres of land. This farmer would have reconsidered buying the property if he knew he could not farm on a large portion of his land.

As a result of this type of common practice by Federal agencies, private property owners repeatedly lose economic use of their property. In situations where the Government regulates to the point that the property owner may not use his property, or the property is substantially devalued, it is only fair and just for the property owner to be compensated.

No one argues that we need to regulate certain activities and restrict certain practices on land for the common good and well being of the country. We need clean water, we need clean air. And we need to protect the environment. However, the burden of providing public good should not be on an individual landowner. If the American public benefits from restrictions on land uses, then the public should pay for the costs.

Furthermore, as recourse to Federal taking, wealthy people and big corporations have the resources to protect their property rights through the legal process. The average person on the other hand doesn't have the money and should not have to defend his or her property rights in the current lengthy, complicated and expensive legal process. More often than not, the small property owner has no way to combat the expansive authority and resources of Federal agencies. We must set up a process where people don't have to hire a lawyer, spend a lot of their own money, and waste millions of taxpayer dollars to defend their basic property rights.

For these reasons, I strongly support H.R. 925, private property rights legislation. H.R. 925 ensures that private property owners are compensated when the use or value of their property is limited. This bill lays out clear and specific guidelines for government officials and property owners in determining when Federal regulations go too far, and result in violate individual property rights. Federal agencies will have to weigh their actions cautiously before issuing regulations and will be required to pay for the imposed regulations.

People in this country who purchase and pay taxes on property should not have to endure their rights being stripped away. The Federal Government must be responsible for its actions. Congress must act now to minimize the taking of our constitutionally protected property rights. I urge my colleagues to support H.R. 925.

Ms. PELOSI. Mr. Chairman, I rise today to oppose H.R. 925, the Private Property Protection Act of 1995. This legislation will create an entitlement program for polluters, a billion dollar sweepstakes for land speculators, and will leave the American taxpayer holding the bag.

In the words of a Justice Department official who testified before the House Judiciary Committee, ''hard-working American taxpayers * * * will be forced to watch as their hard-earned wages are collected by the Government as taxes and paid out to corporations and large landowners as takings compensation.''

At a time when so-called entitlement programs are under attack by the Republican Party, H.R. 925 would create an immense new entitlement program and bureaucracy with so much legal uncertainty that the only sure winners will be our Nation's lawyers.

Mr. Chairman, contrary to what the authors of this legislation would have us believe, American law is based on a deep respect for private property rights. The fifth amendment itself symbolizes this respect for property rights by ensuring that private property shall not be taken for public use without just compensation.

H.R. 925 represents a radical departure from long-settled Supreme Court doctrine. It abandons the modern definition of the fifth amendment's ''takings'' clause by requiring that private property owners be compensated if regulations limit land use and diminish property values by just 10 percent.

This means that almost any loss in market value would require compensation. This replaces an entire body of constitutional law with a clumsy measure that ignores the collective wisdom of two centuries of Supreme Court decisions.

Mr. Chairman, for over 200 years, private claims to compensation under the fifth amendment's ''takings'' clause have been successfully balanced against the public interest on a case-by-case basis.

H.R. 925 does not add to this delicate judicial balance in a constructive manner. Rather, it shatters legal precedent by imposing a heavy-handed new doctrine that will only result in unjust windfalls to wealthy corporations at a tremendous cost to the health, safety and pocketbooks of all Americans.

Who will pay for the costs of environmental clean-up when polluters degrade our environment? The American taxpayer. This bill protects the interests of polluters at the expense of the American taxpayer.

Mr. Chairman, we should heed the voice of our constituents as we consider this bill. In a recent CNN/Time poll, people were asked whether a landowner that is barred from installing a toxic waste dump should be compensated. Fully two-thirds of those interviewed, 66 percent, said no.

Let's not allow the American taxpayer to get ''taken'' by this legislation. I urge my colleagues to vote against H.R. 925.

Mr. JOHNSON of South Dakota. Mr. Chairman, once again the House Republican leadership has brought us a bill in H.R. 925, the Private Property Protection Act, which addresses a legitimately important issue, but which is overly broad, ill-considered and poorly drafted. I believe the debate on this important issue should continue, and so I will for now support this legislation in order for the Senate and the conference committees to have an opportunity to revise and improve the legislation. If no such significant improvement is forthcoming from those bodies, however, I am very doubtful that I will be able to vote for this bill on final passage.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in opposition to H.R. 925, the Private Property Protection Act. This bill establishes a dangerous and disturbing precedent that would allow individuals to do whatever they want with their property, regardless of whether it destroys their neighbors' property or not. Moreover, H.R. 925 would establish a new entitlement system to pay off these individuals to prevent them from using their property in a damaging way.

Imagine if this radical and extreme interpretation of the U.S. Constitution's fifth amendment had been adopted by an earlier Congress. We would have no civil rights, no child labor laws, no environmental standards, no car safety standards, no clean water requirements, no Americans with Disabilities Act, etc. We would live in a dirty, unsafe, and callous environment in which each individual and corporation would be out for his or her own best interest, regardless of the consequences on

their neighbors and surroundings. The Government's efforts to protect public health and safety would be completely compromised because agencies would have to choose between promulgating the laws we pass and going bankrupt or ignoring important federal laws.

Environmental justice efforts, and bills such as my Environmental Equal Rights Act would be completely undermined by H.R. 925 because environmentally disadvantaged communities would either have to allow a new waste facility site to be established or pay the polluter to not develop the site. This is dangerous, extreme and fundamentally unfair to the vast majority of Americans who own private property that is protected by our critical environmental, health, and public safety laws.

In fact, I prepared an amendment to this legislation that would ensure that private property owners could not seek compensation if an agency prevented them from using their land in a way that would decrease the property value of their neighbor's land. Currently, the bill prevents someone from seeking compensation if the agency's action seeks to prevent damage to other properties. Damage implies specific, visible harm to neighboring property. For example, if water or waste was backing up in someone's backyard. What about the loss of property value when an enormous, ugly waste treatment site is constructed at the end of your block? This has occurred throughout my district and it seems unfair that property owners should have to choose between watching their property value decrease or paying their neighbor not to construct a waste facility. My concerns with this legislation are so great, however, that I intend to oppose H.R. 925 completely.

What we have, Mr. Chairman, is a bad bill based on a bad idea. Members seem to be frustrated that Federal agencies are doing what they are required to do, which is to promulgate the laws that we pass. If this is the case, we should deal directly with this issue. But to pass a bill that makes taxpayers pay for our inaction is truly passing the buck. It is not only passing the buck but also endangering the future health and safety of the majority of our constituents. I urge my colleagues to join me in opposing this dangerous legislation.

Mr. SMITH of Texas. Mr. Chairman, some opponents of the Private Property Protection Act of 1995 are engaged in world class doublespeak.

Many of the same crowd that's run up a $4.5 trillion debt of our children's money criticize the Private Property Protection Act of 1995 as a raid on the Treasury. Those who supported the largest tax hike in history worry that the bill will harm the middle class.

Many of the same gang that supported a Governmental takeover of private health care in America condemn this bill as a new bureaucracy. Those who created cradle to grave entitlements attack this bill as a new entitlement. And the people who will oppose tort reform next week worried that this bill will be a boon for lawyers.

It's amazing the creative excuses that defenders of big Government will resort to in order to protect their power to tell the American people what to do. But, Mr. Chairman, the American people, many of whom are watching this debate on C–SPAN today, know better.

They know who is responsible for the deficit-raising, tax-elevating, mandate-creating, heavy-regulating, entitlement-formulating, lawsuit-generating policies of the regulatory state. And the American people understand who will, and won't, end those policies.

And if the opponents of the Private Property Protection Act of 1995 would read our bill, they'd know that this bill does not create a new entitlement, does not create new bureaucracy, is not a boon for lawyers, is not a threat to the middle class, and does not eliminate our Nation's environmental laws.

Read our bill. It simply makes the general public share the costs of regulations designed to benefit the general public. It prevents the Government from hiding those costs by foisting them on a single, innocent landowner.

Read our bill. It doesn't prevent Government from protecting endangered species or preserving wetlands. We the people can protect as many endangered species and as many wetlands as we the people are willing to pay for.

Read our bill. It doesn't create a new entitlement. Right now certain Americans who own the wrong land in the wrong place at the wrong time are forced to bear the entire cost of Government regulation. This bill simply relieves their burden brought on by the Government.

Read our bill. This has nothing to do with a raid on the Treasury. This bill prevents the Government from stealing private property. It provides relief to the victims of regulatory theft. This relief would be made available from annual agency appropriations, not the U.S. Treasury.

Read our bill. The Private Property Protection Act of 1995 would benefit the middle class. It would provide the people who do the work, pay the taxes, and pull the wagon with the same rights as the blind cave spider, golden cheeked warbler, and fairy shrimp. And it would make Government regulators public servants once again. No longer would these officials be the masters of middle class Americans.

Mr. Chairman, objections to this bill have nothing to do with entitlements, bureaucracy, middle-class rights, or lawyers. They don't object to any of these things; they've spent their careers working hard to expand each of them.

They have everything to do with their love of big Government control of the lives of middle class Americans. They'll say anything to defend it; they'll even talk in double-speak.

Mr. Chairman, this Congress was elected to end big Government and prevent it from trampling the rights of the American middle class. That's why we rise today, Republican and Democrat, from all over this Nation, to support the Private Property Protection Act of 1995. I urge my colleagues to read this bill and when they do they'll support it.

Mr. PACKARD. Mr. Chairman, Government imposed regulations chip away at the very cornerstone of our society—private property. It is time to stop Government's encroachment on our fifth amendment rights. Overzealous Federal regulations intrude on property owner rights and restrict individual freedom. Government exists to protect and serve the needs of private property owners, not to trespass on them.

H.R. 925, the Private Property Protection Act works to restore the sanctity of private property by ensuring fair compensation for unfair Federal takings. Our Republican property rights proposal represents a simple but constitutionally protected concept. Whether the Government wants your property to build a road or to preserve an endangered rat's habitat, the intent of our Founding Fathers is clear. If you take it, pay for it. H.R. 925 provides landowners with their first line of defense against overreaching Government regulations.

Our Nation's greatness arises in large part from the opportunities afforded by the use and ownership of private property. The restrictions imposed by overzealous regulatory agencies and legislatures limits the ability of property owners to manage and use their land. Bureaucrats abrogating our property rights and abusing the fifth amendment, assault the very fabric of our society.

Mr. Chairman, Government should be encouraging, not discouraging ownership of private property. Fair compensation for unfair Federal land taking will restore Government accountability and legitimacy. The people want Government to stop meddling in their private affairs. H.R. 925, the Private Property Protection Act, gets Government off of the people's back.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HANSEN) 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, pursuant to House Resolution 101, 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 by the Committee of the Whole?

If not, the question is on the amendment.

The amendment was agreed to.

□ 1315

The SPEAKER pro tempore (Mr. HANSEN). 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. CANADY of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 277, nays 148, not voting 9, as follows:

[Roll No. 197]

YEAS—277

Allard	Armey	Baesler
Archer	Bachus	Baker (CA)

Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Graham
Green
Gunderson
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
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Molinari
Mollohan
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Radanovich
Regula
Reynolds
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—148

Abercrombie
Ackerman
Andrews
Barrett (WI)
Becerra
Beilenson
Berman
Blute
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Goss
Greenwood
Gutierrez
Hastings (FL)
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
LaFalce
Lazio
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martini
Matsui
McCarthy
McDermott
Meehan
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Porter
Quinn
Rahall
Ramstad
Reed
Richardson
Rivers
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Thompson
Torkildsen
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—9

Brown (CA)
Bryant (TX)
Collins (IL)
Dornan
Gonzalez
Johnston
McKinney
Moakley
Rangel

□ 1331

The Clerk announced the following pair:

On this vote:

Mr. Dornan for, with Mrs. Collins of Illinois against.

Mr. ACKERMAN changed his vote from ''yea'' to ''nay.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN H.R. 925, PRIVATE PROPERTY PROTECTION ACT OF 1995

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill H.R. 925, as amended, the Clerk be authorized to correct section numbers, cross-references, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the action of the House in amending the bill.

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

There was no objection.

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 925, the bill just passed.

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

There was no objection.

JOB CREATION AND WAGE ENHANCEMENT ACT OF 1995

Mr. DELAY. Pursuant to section 2 of House Resolution 101, I call up 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, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 9 is as follows:

H.R. 9

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 ''Job Creation and Wage Enhancement Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CAPITAL GAINS REFORM

Sec. 1001. 50 percent capital gains deduction.
Sec. 1002. Indexing of certain assets for purposes of determining gain or loss.
Sec. 1003. Capital loss deduction allowed with respect to sale or exchange of principal residence.

TITLE II—NEUTRAL COST RECOVERY

Sec. 2001. Depreciation adjustment for certain property placed in service after December 31, 1994.

TITLE III—RISK ASSESSMENT AND COST/BENEFIT ANALYSIS FOR NEW REGULATIONS

Sec. 3001. Findings

Subtitle A—Risk Assessment and Communication

Sec. 3101. Short title.
Sec. 3102. Purposes.
Sec. 3103. Effective date; applicability; savings provisions.
Sec. 3104. Principles for risk assessment.
Sec. 3105. Principles for risk characterization and communication.
Sec. 3106. Guidelines, plan for assessing new information, and report.
Sec. 3107. Definitions.

Subtitle B—Analysis of Risk Reduction Benefits and Costs

Sec. 3201. Analysis of risk reduction benefits and costs.

Subtitle C—Peer Review

Sec. 3301. Peer review program.

TITLE IV—ESTABLISHMENT OF FEDERAL REGULATORY BUDGET COST CONTROL

Sec. 4001. Amendments to the Congressional Budget Act of 1974.
Sec. 4002. President's annual budget submissions.
Sec. 4003. Estimation and disclosure of costs of Federal regulation.

TITLE V—STRENGTHENING OF PAPERWORK REDUCTION ACT

Sec. 5001. Short title.

Subtitle A—Authorization of Appropriations

Sec. 5101. Authorization of appropriations.

Subtitle B—Reducing the Burden of Federal Paperwork on the Public
Sec. 5201. Coverage of all federally sponsored paperwork burdens.
Sec. 5202. Paperwork reduction goals.
Subtitle C—Enhancing Government Responsibility and Accountability for Reducing the Burden of Federal Paperwork
Sec. 5301. Reemphasizing the responsibility of the Director to control the burden of Federal paperwork.
Sec. 5302. Enhancing agency responsibility to obtain public review of proposed paperwork burdens.
Sec. 5303. Expediting review at the Office of Management and Budget.
Sec. 5304. Improving public and agency scrutiny of paperwork burdens proposed for renewal.
Sec. 5305. Protection for whistleblowers of unauthorized paperwork burden.
Sec. 5306. Enhancing public participation.
Sec. 5307. Expediting review of an agency information collection request with a reduced burden.
Subtitle D—Enhancing Agency Responsibility for Sharing and Disseminating Public Information
Sec. 5401. Prescribing governmentwide standards for sharing and disseminating public information.
Sec. 5402. Agency responsibilities for sharing and disseminating public information.
Sec. 5403. Agency information inventory/locator system.
Subtitle E—Additional Government Information Management Responsibility
Sec. 5501. Strengthening the statistical policy and coordination functions of the Director.
Sec. 5502. Use of electronic information collection and dissemination techniques to reduce burden.
Sec. 5503. Agency implementation.
Sec. 5504. Automatic data processing equipment plan.
Sec. 5505. Technical and conforming amendments.
Subtitle F—Effective Dates
Sec. 5601. Effective dates.
TITLE VI—STRENGTHENING REGULATORY FLEXIBILITY
Sec. 6001. Judicial review.
Sec. 6002. Consideration of direct and indirect effects of rules.
Sec. 6003. Rules opposed by SBA Chief Counsel for Advocacy.
Sec. 6004. Sense of Congress regarding SBA Chief Counsel for Advocacy.
TITLE VII—REGULATORY IMPACT ANALYSES
Sec. 7001. Short title.
Sec. 7002. Rule making notices for major rules.
Sec. 7003. Hearing requirement for proposed rules; extension of comment period.
Sec. 7004. Regulatory impact analysis.
Sec. 7005. Additional responsibilities of Director of the Office of Management and Budget.
Sec. 7006. Standard of clarity.
Sec. 7007. Report by OIRA.
Sec. 7008. Definitions.
TITLE VIII—PROTECTION AGAINST FEDERAL REGULATORY ABUSE
Subtitle A—Citizens' Regulatory Bill of Rights
Sec. 8101. Citizens' regulatory bill of rights.
Subtitle B—Private Sector Whistleblowers' Protection
Sec. 8201. Short title.
Sec. 8202. Purpose.
Sec. 8203. Coverage.
Sec. 8204. Prohibited regulatory practices.
Sec. 8205. Prohibited regulatory practice as a defense to agency action.
Sec. 8206. Enforcement.
Sec. 8207. Citizen suits.
Sec. 8208. Office of the Special Counsel.
Sec. 8209. Relation to criminal investigations.
TITLE IX—PRIVATE PROPERTY RIGHTS PROTECTIONS AND COMPENSATION
Sec. 9001. Statement of purpose.
Sec. 9002. Compensation for Federal agency infringement or deprivation of rights to private property.
Sec. 9003. Severability.
Sec. 9004. Definitions.
TITLE X—ESTABLISHMENT OF FEDERAL MANDATE BUDGET COST CONTROL
Sec. 10001. Amendments to the Congressional Budget Act of 1974.
Sec. 10002. President's annual budget submissions.
Sec. 10003. Estimation and disclosure of costs of Federal mandates.
TITLE XI—TAXPAYER DEBT BUY-DOWN
Sec. 11001. Designation of amounts for reduction of public debt.
Sec. 11002. Public Debt Reduction Trust Fund.
Sec. 11003. Taxpayer-generated sequestration of Federal spending to reduce the public debt.
TITLE XII—SMALL BUSINESS INCENTIVES
Sec. 12001. Increase in unified estate and gift tax credits.
Sec. 12002. Increase in expense treatment for small businesses.
Sec. 12003. Clarification of definition of principal place of business.
Sec. 12004. Treatment of storage of product samples.

TITLE I—CAPITAL GAINS REFORM

SEC. 1001. 50 PERCENT CAPITAL GAINS DEDUCTION.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended to read as follows:

"PART I—TREATMENT OF CAPITAL GAINS

"Sec. 1201. Capital gains deduction.

"SEC. 1201. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1201."

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 13113 of the Revenue Reconciliation Act of 1993 (relating to 50-percent exclusion for gain from certain small business stock), and the amendments made by such section, are hereby repealed; and the Internal Revenue Code of 1986 shall be applied as if such section (and amendments) had never been enacted.

(2) Section 1 of such Code is amended by striking subsection (h).

(3) Paragraph (1) of section 170(e) of such Code is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent of the amount of gain".

(4)(A) Paragraph (2) of section 172(d) of such Code is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES.—

"(A) LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation, the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets.

"(B) DEDUCTION UNDER SECTION 1201.—The deduction under section 1201 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) of such Code is amended by striking "paragraphs (1) and (3)" and inserting "paragraphs (1), (2)(B), and (3)".

(5) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1201 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1201 (relating to deduction of excess of capital gains over capital losses) shall not be taken into account."

(7) Paragraph (4) of section 691(c) of such Code is amended by striking "sections 1(h), 1201, and 1211" and inserting "sections 1201 and 1211".

(8) The second sentence of section 871(a)(2) of such Code is amended by inserting ''such gains and losses shall be determined without regard to section 1201 (relating to deduction for capital gains) and'' after ''except that''.

(9) Subsection (d) of section 1044 of such Code is amended by striking the last sentence.

(10)(A) Paragraph (2) of section 1211(b) of such Code is amended to read as follows:

''(2) the sum of—

''(A) the excess of the net short-term capital loss over the net long-term capital gain, and

''(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain.''

(B) So much of paragraph (2) of section 1212(b) of such Code as precedes subparagraph (B) thereof is amended to read as follows:

''(2) SPECIAL RULES.—

''(A) ADJUSTMENTS.—

''(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

''(II) the adjusted taxable income for such taxable year.

''(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

''(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

''(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year.''

(11) Paragraph (1) of section 1402(i) of such Code is amended by inserting '', and the deduction provided by section 1201 shall not apply'' before the period at the end thereof.

(12) Section 12 of such Code is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(13) Paragraph (2) of section 527(b) of such Code is hereby repealed.

(14) Subparagraph (D) of section 593(b)(2) of such Code is amended by adding ''and'' at the end of clause (iii), by striking '', and'' at the end of clause (iv) and inserting a period, and by striking clause (v).

(15) Paragraph (2) of section 801(a) of such Code is hereby repealed.

(16) Subsection (c) of section 831 of such Code is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(17)(A) Subparagraph (A) of section 852(b)(3) of such Code is amended by striking '', determined as provided in section 1201(a), on'' and inserting ''of 17.5 percent of''.

(B) Clause (iii) of section 852(b)(3)(D) of such Code is amended—

(i) by striking ''65 percent'' and inserting ''82.5 percent'', and

(ii) by striking ''section 1201(a)'' and inserting ''subparagraph (A)''.

(18) Clause (ii) of section 857(b)(3)(A) of such Code is amended by striking ''determined at the rate provided in section 1201(a) on'' and inserting ''of 17.5 percent of''.

(19) Paragraph (1) of section 882(a) of such Code is amended by striking ''section 11, 55, 59A, or 1201(a)'' and inserting ''section 11, 55, or 59A''.

(20) Subsection (b) of section 904 of such Code is amended by striking paragraphs (2)(B), (3)(B), (3)(D), and (3)(E).

(21) Subsection (b) of section 1374 of such Code is amended by striking paragraph (4).

(22) Subsection (b) of section 1381 is amended by striking ''or 1201''.

(23) Subsection (e) of section 1445 of such Code is amended—

(A) in paragraph (1) by striking ''35 percent (or, to the extent provided in regulations, 28 percent)'' and inserting ''17.5 percent (or, to the extent provided in regulations, 19.8 percent)'', and

(B) in paragraph (2) by striking ''35 percent'' and inserting ''17.5 percent''.

(24) Clause (i) of section 6425(c)(1)(A) of such Code is amended by striking ''or 1201(a)''.

(25) Clause (i) of section 6655(g)(1)(A) of such Code is amended by striking ''or 1201(a)''.

(26)(A) The second sentence of section 7518(g)(6)(A) of such Code is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (17.5 percent''.

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking ''during a taxable year to which section 1(h) or 1201(a) of such Code applies'', and

(ii) by striking ''28 percent (34 percent'' and inserting ''19.8 percent (17.5 percent''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(3) shall apply only to contributions on or after January 1, 1995.

(3) WITHHOLDING.—The amendment made by subsection (c)(23) shall apply only to amounts paid after the date of the enactment of this Act.

SEC. 1002. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 of the Internal Revenue Code of 1986 (relating to basis rules of general application) is amended by inserting after section 1021 the following new section:

''SEC. 1022. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

''(a) GENERAL RULE.—

''(1) INDEXED BASIS SUBSTITUTED FOR ADJUSTED BASIS.—Except as otherwise provided in this subsection, if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

''(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

''(b) INDEXED ASSET.—

''(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

''(A) stock in a corporation, and

''(B) tangible property (or any interest therein),

which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

''(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

''(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

''(B) OPTIONS.—Any option or other right to acquire an interest in property.

''(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (i)(3)).

''(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

''(E) STOCK IN FOREIGN CORPORATIONS.—Stock in a foreign corporation.

''(F) STOCK IN S CORPORATIONS.—Stock in an S corporation.

''(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRADED ON NATIONAL OR REGIONAL EXCHANGE.—Paragraph (2)(E) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, the national market system operated by the National Association of Securities Dealers, or any domestic regional exchange for which quotations are published on a regular basis other than—

''(A) stock of a foreign investment company (within the meaning of section 1246(b)),

''(B) stock in a passive foreign investment company (as defined in section 1296), and

''(C) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

''(4) TREATMENT OF AMERICAN DEPOSITORY RECEIPTS.—For purposes of this section, an American depository receipt for stock in a foreign corporation shall be treated as stock in such corporation.

''(c) INDEXED BASIS.—For purposes of this section—

''(1) GENERAL RULE.—The indexed basis for any asset is—

''(A) the adjusted basis of the asset, multiplied by

''(B) the applicable inflation ratio.

''(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

''(A) the gross domestic product deflator for the calendar quarter in which the disposition takes place, by

''(B) the gross domestic product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending on December 31, 1994).

The applicable inflation ratio shall never be less than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/1000.

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—The gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the first revision thereof).

''(d) SHORT SALES.—

''(1) IN GENERAL.—In the case of a short sale of an indexed asset with a short sale period in excess of 1 year, for purposes of this title, the amount realized shall be an amount equal to the amount realized (determined without regard to this paragraph) multiplied by the applicable inflation ratio. In applying subsection (c)(2) for purposes of the preceding sentence, the date on which the property is sold short shall be treated as the date of acquisition and the closing date for the sale shall be treated as the date of disposition.

''(2) SHORT SALE OF SUBSTANTIALLY IDENTICAL PROPERTY.—If the taxpayer or the taxpayer's spouse sells short property substantially identical to an asset held by the taxpayer, the asset held by the taxpayer and the substantially identical property shall not be treated as indexed assets for the short sale period.

''(3) SHORT SALE PERIOD.—For purposes of this subsection, the short sale period begins on the day after property is sold and ends on the closing date for the sale.

''(e) TREATMENT OF REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—

''(1) ADJUSTMENTS AT ENTITY LEVEL.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the adjustment under subsection (a) shall be allowed to any qualified investment entity (including for purposes of determining the earnings and profits of such entity).

''(B) EXCEPTION FOR QUALIFICATION PURPOSES.—This section shall not apply for purposes of sections 851(b) and 856(c).

''(2) ADJUSTMENTS TO INTERESTS HELD IN ENTITY.—

''(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

''(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

''(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

''(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

''(3) QUALIFIED INVESTMENT ENTITY.—For purposes of this subsection, the term 'qualified investment entity' means—

''(A) a regulated investment company (within the meaning of section 851), and

''(B) a real estate investment trust (within the meaning of section 856).

''(f) OTHER PASS-THRU ENTITIES.—

''(1) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

''(2) S CORPORATIONS.—In the case of an S corporation, the adjustment made under subsection (a) at the corporate level shall be passed through to the shareholders.

''(3) COMMON TRUST FUNDS.—In the case of a common trust fund, the adjustment made under subsection (a) at the trust level shall be passed through to the participants.

''(g) DISPOSITIONS BETWEEN RELATED PERSONS.—

''(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

''(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

''(A) persons bearing a relationship set forth in section 267(b), and

''(B) persons treated as single employer under subsection (b) or (c) of section 414.

''(h) TRANSFERS TO INCREASE INDEXING ADJUSTMENT.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is to secure or increase an adjustment under subsection (a), the Secretary may disallow part or all of such adjustment or increase.

''(i) SPECIAL RULES.—For purposes of this section:

''(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

''(A) A substantial improvement to property.

''(B) In the case of stock of a corporation, a substantial contribution to capital.

''(C) Any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

''(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—The applicable inflation ratio shall be appropriately reduced for periods during which the asset was not an indexed asset.

''(3) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased property where—

''(A) the term of the lease (taking into account options to renew) was 50 percent or more of the useful life of the property, and

''(B) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

''(4) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

''(5) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this paragraph) this section would create or increase a net ordinary loss to which section 1231(a)(2) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

''(6) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

''(7) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

''(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.''

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 of such Code is amended by inserting after the item relating to section 1021 the following new item:

''Sec. 1022. Indexing of certain assets for purposes of determining gain or loss.''

(c) ADJUSTMENT TO APPLY FOR PURPOSES OF DETERMINING EARNINGS AND PROFITS.—Subsection (f) of section 312 of such Code (relating to effect on earnings and profits of gain or loss and of receipt of tax-free distributions) is amended by adding at the end thereof the following new paragraph:

''(3) EFFECT ON EARNINGS AND PROFITS OF INDEXED BASIS.—

For substitution of indexed basis for adjusted basis in the case of the disposition of certain assets, see section 1022(a)(1).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1994, in taxable years ending after such date.

SEC. 1003. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 of the Internal Revenue Code of 1986 (relating to limitation on losses of individuals) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting ''; and'', and by adding at the end the following new paragraph:

''(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

TITLE II—NEUTRAL COST RECOVERY

SEC. 2001. DEPRECIATION ADJUSTMENT FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 (relating to accelerated cost recovery system) is amended by adding at the end thereof the following new subsection:

''(k) DEDUCTION ADJUSTMENT TO ALLOW EQUIVALENT OF EXPENSING FOR CERTAIN PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1994.—

''(1) IN GENERAL.—In the case of tangible property placed in service after December 31, 1994, the deduction under this section with respect to such property—

''(A) shall be determined by substituting '150 percent' for '200 percent' in subsection (b)(1) in the case of property to which the 200 percent declining balance method would otherwise apply, and

''(B) for any taxable year after the taxable year during which the property is placed in service shall be—

''(i) the amount determined under this section for such taxable year without regard to this subparagraph, multiplied by

''(ii) the applicable neutral cost recovery ratio for such taxable year.

''(2) APPLICABLE NEUTRAL COST RECOVERY RATIO.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The applicable neutral cost recovery ratio for the property for any taxable year is the number determined by—

''(i) dividing—

''(I) the gross domestic product deflator for the calendar quarter ending in such taxable year which corresponds to the calendar quarter during which the property was placed in service by the taxpayer, by

''(II) the gross domestic product deflator for the calendar quarter during which the property was placed in service by the taxpayer, and

''(ii) then multiplying the number determined under clause (i) by the number equal to 1.035 to the nth power where 'n' is the number of full years in the period beginning on the 1st day of the calendar quarter during which the property was placed in service by the taxpayer and ending on the day before the beginning of the corresponding calendar quarter ending during such taxable year.

The applicable neutral cost recovery ratio shall never be less than 1. The applicable neutral cost recovery ratio shall be rounded to the nearest 1/1000.

''(B) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of property described in paragraph (2) or (3) of subsection (b) or in subsection (g), the applicable neutral cost recovery ratio shall be determined without regard to subparagraph (A)(ii).

''(3) GROSS DOMESTIC PRODUCT DEFLATOR.—For purposes of paragraph (2), the gross domestic product deflator for any calendar quarter is the implicit price deflator for the gross domestic product for such quarter (as shown in the first revision thereof).

''(4) COORDINATION WITH INDEXING OF BASIS FOR PURPOSES OF DETERMINING GAIN OR LOSS.—Section 1022 shall not apply to any property to which this subsection applies.

''(5) ELECTION NOT TO HAVE SUBSECTION APPLY.—This subsection shall not apply to any property if the taxpayer elects not to have this subsection apply to such property. Such an election, once made, shall be irrevocable.

''(6) CHURNING TRANSACTIONS.—This subsection shall not apply to any property if this section would not apply to such property were subsection (f)(5)(A)(ii) applied by substituting '1995' for '1981' and '1994' for '1980'.

''(7) ADDITIONAL DEDUCTION NOT TO AFFECT BASIS OR RECAPTURE.—The additional amount determined under this section by reason of this subsection shall not be taken into account in determining the adjusted basis of any property or of any interest in a pass-thru entity (as defined in section 1201(d)(2)) which holds such property and shall not be treated as a deduction for depreciation for purposes of sections 1245 and 1250.''

(b) MINIMUM TAX TREATMENT.—

(1) Paragraph (1) of section 56(a) of such Code is amended by adding at the end thereof the following new subparagraph:

''(E) USE OF NEUTRAL COST RECOVERY RATIO.—In the case of property to which section 168(k) applies and which is placed in service after December 31, 1994, the deduction allowable under this paragraph with respect to such property for any taxable year (after the taxable year during which the property is placed in service) shall be—

''(i) the amount so allowable for such taxable year without regard to this subparagraph, multiplied by

''(ii) the applicable neutral cost recovery ratio for such taxable year (as determined under section 168(k)).

This subparagraph shall not apply to any property with respect to which there is an election in effect not to have section 168(k)) apply.''

(2) Subparagraph (C) of section 56(g)(4) of such Code is amended by adding at the end the following new clause:

''(v) NEUTRAL COST RECOVERY DEDUCTION.—Clause (i) shall not apply to the additional deduction allowable by reason of section 168(k).''

(c) COORDINATION WITH DEPRECIATION LIMITATION ON CERTAIN AUTOMOBILES.—Clause (i) of section 280F(a)(1)(B) of such Code is amended by adding at the end the following new sentence: ''For purposes of this clause, the unrecovered basis of any passenger automobile shall be treated as including the additional amount determined under section 168 by reason of subsection (k) thereof to the extent not allowed as a deduction by reason of this paragraph for any taxable year in the recovery period.''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

TITLE III—RISK ASSESSMENT AND COST/BENEFIT ANALYSIS FOR NEW REGULATIONS

SEC. 3001. FINDINGS.

The Congress finds that:

(1) Environmental, health, and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

(2) The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner and so that the incremental costs of regulatory options are reasonably related to the incremental benefits.

(3) To provide more cost-effective and costreasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

(4) Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

(5) The public stake holders must be fully involved in the risk-decision making process. They have the right-to-know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

Subtitle A—Risk Assessment and Communication

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the ''Risk Assessment and Communication Act of 1995''.

SEC. 3102. PURPOSES.

The purposes of this subtitle are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

SEC. 3103. EFFECTIVE DATE; APPLICABILITY; SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this subtitle, the provisions of this subtitle shall take effect 18 months after the date of enactment of this subtitle.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title applies to all risk assessments and risk characterizations prepared by, or on behalf of, any Federal agency in connection with Federal regulatory programs designed to protect human health, safety, or the environment.

(2) EXCEPTIONS.—(A) This title does not apply to risk assessments or risk characterizations performed with respect to either of the following:

(i) A situation that the head of the agency considers to be an emergency.

(ii) A screening analysis, including a screening analysis for purposes of product regulation, product reregistration, or premanufacturing notices.

(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analyses are used either—

(i) as the basis for imposing restrictions on substances or activities, or

(ii) to characterize a positive finding of risks from substances or activities in any final agency document made available to the general public.

(3) LABELS.—This title shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

(c) SAVINGS PROVISIONS.—Nothing in this subtitle shall be construed to modify any statutory standard or requirement designed to protect health, safety, or the environment. Nothing in this subtitle shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this title shall be construed to require the disclosure of any trade secret or other confidential information.

SEC. 3104. PRINCIPLES FOR RISK ASSESSMENT.

(a) IN GENERAL.—The head of each Federal agency shall apply the principles set forth in subsection (b) when preparing risk assessments in order to assure that such risk assessments and all of their components distinguish scientific findings from other considerations and are, to the maximum extent feasible, scientifically objective, unbiased, and inclusive of all relevant data. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document.

(b) PRINCIPLES.—The principles to be applied when preparing risk assessments are as follows:

(1) When assessing human health risks, a risk assessment shall consider and discuss both laboratory and epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the assessment shall include discussion of possible reconciliation of conflicting information, and as appropriate, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor.

(2) Where a risk assessment involves selection of any significant assumption, inference, or model, the Federal agency preparing the assessment shall—

(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

(B) explain the basis for any choices;

(C) identify any policy or value judgments;

(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

SEC. 3105. PRINCIPLES FOR RISK CHARACTERIZATION AND COMMUNICATION.

In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document which is made available to the public, each Federal agency characterizing the risk shall comply with each of the following:

(1) ESTIMATES OF RISK.—The head of such agency shall describe the populations or natural resources which are the subject of the

risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible and scientifically appropriate, provide—

(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the department, agency, or instrumentality); and

(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the Federal agency may present plausible upper-bound or conservative estimates in conjunction with plausible lower bounds estimates. Where appropriate, the Federal agency may present, in lieu of a single best estimate, multiple estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the Federal agency shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability in populations and uncertainties.

(2) EXPOSURE SCENARIOS.—The Federal agency shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

(3) COMPARISONS.—To the extent feasible, the Federal agency shall provide a statement that places the nature and magnitude of risks to human health in context. Such statement shall include appropriate comparisons with estimates of risks that are familiar to and routinely encountered by the general public as well as other risks. The statement shall identify relevant distinctions among categories of risk and limitations to comparisons.

(4) SUBSTITUTION RISKS.—When a Federal agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

(A) a Federal agency provides a public comment period with respect to a risk assessment or regulation,

(B) a commenter provides a risk assessment, and a summary of results of such risk assessment, and

(C) such risk assessment is consistent with the principles and the guidance provided under this subtitle,

the agency shall present such summary in connection with the presentation of the agency's risk assessment or the regulation.

SEC. 3106. GUIDELINES, PLAN FOR ASSESSING NEW INFORMATION, AND REPORT.

(a) GUIDELINES.—Within 15 months after the date of enactment of this subtitle, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 3104 and 3105 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

(b) PLAN.—Within 18 months after the date of enactment of this subtitle, each Federal agency shall publish a plan to review and revise any risk assessment published prior to the expiration of such 18-month period if the agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment. The plan shall provide procedures for receiving and considering new information and risk assessments from the public. The plan may set priorities for review and revision of risk assessments based on factors such Federal agency considers appropriate.

(c) REPORT.—Within 3 years after the enactment of this subtitle, each Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 3104(b)(2).

(d) PUBLIC COMMENT AND CONSULTATION.—The guidelines, plan and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

(e) REVIEW.—The President shall review the guidelines published under this section at least every 4 years.

SEC. 3107. DEFINITIONS.

For purposes of this subtitle:

(1) RISK ASSESSMENT.—The term ''risk assessment'' means the process of identifying hazards and quantifying or describing the degree of toxicity, exposure, or other risk they pose for exposed individuals, populations, or resources. Such term also refers to the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

(2) RISK CHARACTERIZATION.—The term ''risk characterization'' means that element of a risk assessment that involves presentation of the degree of risk in any regulatory proposal or decision, report to Congress, or other document which is made available to the public. The term includes discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions.

(3) BEST ESTIMATE.—The term ''best estimate'' means an estimate which, to the extent feasible and scientifically appropriate, is based on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

(4) SUBSTITUTION RISK.—The term ''substitution risk'' means a potential increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

Subtitle B—Analysis of Risk Reduction Benefits and Costs

SEC. 3201. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

(a) IN GENERAL.—Except as provided in subsection (b), the President shall require each executive branch agency to prepare the following for each major rule designed to protect human health, safety, or the environment that is proposed or promulgated by the agency after the date of enactment of this Act:

(1) For each such proposed or promulgated rule, an assessment of incremental costs and incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

(2) For each such proposed or promulgated rule, to the extent feasible, a comparison of any human health, safety, or environmental risks addressed by the regulatory alternatives to other risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

(3) For each such proposed or promulgated rule, a statement of other human health risks potentially posed by implementing or complying with the regulatory alternatives, including substitution risks.

(4) For each final rule, an assessment of the costs and risk reduction or other benefits associated with implementation of, and compliance with, the rule.

(5) For each final rule, a certification by the head of the agency of each of the following:

(A) A certification that the assessment under paragraph (4) is based on an objective and unbiased scientific and economic evaluation of all significant and relevant information provided to the agency by interested parties relating to the costs, risks, and risk reduction or other benefits addressed by the rule. Such information shall have been subjected to peer review to the extent required by section 3301.

(B) A certification that the rule will substantially advance the purpose of protecting human health or the environment, as applicable, against the risk addressed by the rule.

(C) A certification that the rule will produce benefits to human health or the environment that will justify the costs incurred by local and State governments, the Federal Government, and other public and private entities as a result of implementation of and compliance with the rule, as determined under paragraph (1).

(D) A certification that there is no regulatory alternative that is allowed by the statute under which the regulation is promulgated that would achieve an equivalent reduction in risk in a more cost-effective manner, along with a brief explanation of why other regulatory alternatives that were considered by the head of the agency were found to be less cost-effective.

(b) PUBLICATION.—For each major rule referred to in subsection (a) the head of each agency shall publish in a clear and concise manner in the Federal Register along with the proposed or final regulation, or otherwise make publicly available, the information required to be prepared under subsection (a) of this section.

(c) DEFINITIONS.—For purposes of this section:

(1) COSTS.—The term ''costs'' includes the direct and indirect costs to the United States government, costs to State and local governments, and costs to the private sector, of implementing and complying with a regulatory action.

(2) MAJOR RULE.— The term ''major rule'' means any regulation that is likely to result in one or more of the following:

(A) An annual effect on the economy of $25,000,000 or more.

(B) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(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 or export markets.

Subtitle C—Peer Review

SEC. 3301. PEER REVIEW PROGRAM.

(a) ESTABLISHMENT.—For regulatory programs addressing human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for peer review of risk assessments and economic assessments used by the agency. Such program shall be applicable across the agency and—

(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

(2) may provide for differing levels of peer review depending on the significance or the complexity of the problems or the need for expeditiousness;

(3) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency; and

(4) shall provide open opportunity to become part of a peer review panel at a minimum by soliciting nominations through a Federal Register announcement.

(b) REQUIREMENT FOR PEER REVIEW.—Each Federal agency shall provide for peer review of scientific and economic information used for purposes of any evaluation under section 3201(a)(5)(A) or for purposes of any significant risk or cost assessment prepared in connection with a major rule. In addition, the Director of the Office of Management and Budget shall order that peer review be provided for any major risk assessment or cost assessment that may have a significant impact on public policy decisions.

(c) CONTENTS.—

(1) IN GENERAL.—Each peer review under this section shall include a report to the Federal agency concerned with respect to each of the following:

(A) An evaluation of the technical, scientific, and economic merit of the data and methods used for the assessment and analysis.

(B) A list of any considerations that were not taken into account in the assessment and analysis, but were considered appropriated by a majority of the members of the peer review panel.

(C) A discussion of the methodology used for the assessment and analysis.

(2) COMMENTS AND APPENDIX.—Each peer review report under this subsection shall include—

(A) all comments supported by a majority of the members of the peer review panel submitting the report; and

(B) an appendix which sets forth the dissenting opinions that any peer review panel member wants to express.

(3) SEPARATION OF ASSESSMENTS.—Peer review of human health, safety, environmental, and economic assessments may be separated for purpose of this subtitle.

(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or analysis which has been previously subjected to peer review or for any component of any evaluation or assessment previously subjected to peer review.

(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

(h) MAJOR RULE DEFINED.—For purposes of this section, the term ''major rule'' has the same meaning as provided by section 3201(c) except that ''$100,000,000'' shall be substituted for ''$25,000,000''.

TITLE IV—ESTABLISHMENT OF FEDERAL REGULATORY BUDGET COST CONTROL

SEC. 4001. AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) FEDERAL REGULATORY BUDGET COST CONTROL SYSTEM.—Title III of the Congressional Budget Act of 1974 is amended by inserting before section 300 the following new center heading **"PART A—GENERAL PROVISIONS"** and by adding at the end the following new part:

"PART B—FEDERAL REGULATORY BUDGET COST CONTROL

"SEC. 321. OMB-CBO REPORTS.

''(a) OMB-CBO INITIAL REPORT.—Within 1 year after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains the following:

''(1) For the first budget year beginning after the issuance of this report, a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules.

''(2) A calculation of the estimated aggregate direct cost to the private sector of compliance with all Federal regulations and rules as a percentage of the gross domestic product (GDP).

''(3) The estimated marginal cost (measured as a reduction in estimated gross domestic product) to the private sector of compliance with all Federal regulations and rules in excess of 5 percent of the gross domestic product.

''(4) The effect on the domestic economy of different types of Federal regulations and rules.

''(5) The appropriate level of personnel, administrative overhead, and programmatic savings that should be achieved on a fiscal year by fiscal year basis by Federal agencies that issue regulations or rules with direct costs to the private sector through the reduction of such aggregate costs to the private sector by equal percentage increments in the 6 years following the budget year until the aggregate level of such costs does not exceed 5 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred.

''(6) Recommendations for budgeting, technical, and estimating changes to improve the Federal regulatory budgeting process.

''(b) UPDATE REPORTS.—OMB and CBO shall issue update reports on September 15th of the fifth year beginning after issuance of the initial report and at 5-year intervals thereafter containing all the information required in the initial report, but based upon all Federal regulations and rules in effect immediately before issuance of the most recent update report.

''(c) INITIAL BASELINE REPORT.—Within 30 days after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains an initial aggregate regulatory baseline for the first budget year that begins at least 120 days after that date of enactment. That baseline will be a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules.

"SEC. 322. AGGREGATE REGULATORY BASELINE.

''(a) IN GENERAL.—For the first budget year beginning after the date of enactment of this section and for every other fiscal year thereafter, the aggregate regulatory baseline refers to a projection of the aggregate direct cost to the private sector of complying with all Federal regulations and rules in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal regulations and rules into the budget year and the outyears based on those regulations and rules. However, in the case of each of the succeeding fiscal years, the baseline shall be adjusted for the estimated growth during that year in the gross domestic product (GDP).

''(b) OMB-CBO AGGREGATE REGULATORY BASELINE REPORTS.—(1) The first budget year for which there shall be an aggregate regulatory baseline shall be the budget year to which the initial OMB-CBO baseline report issued under section 321(c) pertains.

''(2) In the case of each budget year after the budget year referred to in paragraph (1), not later than September 15 of the current year, OMB and CBO shall jointly issue a report containing the baseline referred to in subsection (a) for that budget year.

"SEC. 323. RECONCILIATION AND ALLOCATIONS.

''(a) RECONCILIATION DIRECTIVES.—In addition to the requirements of section 310, a concurrent resolution on the budget for any fiscal year shall specify—

''(1) changes in laws and regulations and rules necessary to reduce the aggregate direct cost to the private sector of complying with all Federal regulations by 6.5 percent for the budget year (as measured against the aggregate regulatory baseline for the first budget year to which this part applies) and by equal percentage increments for each of the outyears (until the aggregate level of such costs does not exceed 5 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred) for Federal agencies that issue regulations or rules producing direct costs to the private sector; and

''(2) changes in laws necessary to achieve reductions in the level of personnel and administrative overhead and to achieve programmatic savings for the budget year and the outyears for those agencies of the following:

''(A) In the first outyear, one-fourth of the percent of reduction in regulatory authority from the aggregate regulatory base.

''(B) In the second outyear, one-third of the percent of reduction in regulatory authority from the aggregate regulatory base.

''(C) In the third, fourth, fifth, and sixth years following the budget year, one-half of the percent of reduction in regulatory authority from the aggregate regulatory base.

Section 310(c) shall not apply with respect to directions made under this section.

''(b) ALLOCATION OF TOTALS.—(1) The Committees on the Budget of the House of Representatives and the Senate shall each allocate aggregate 2-year regulatory authority among each committee of its House and by

major functional category for the first budget year beginning after the date of enactment of this section and for the second, fourth, and sixth years following the budget year and then every other year thereafter.

''(2) As soon as practicable after receiving an allocation under paragraph (1), each committee shall subdivide its allocation among its subcommittees or among programs over which it has jurisdiction.

''(c) POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, which would cause the appropriate allocation made under subsection (b) for a fiscal year of regulatory authority to be exceeded.

''(2) WAIVER.—The point of order set forth in paragraph (1) may only be waived by the affirmative vote of at least three-fifths of the Members voting, a quorum being present.

''(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the level of regulatory authority for a fiscal year shall be determined by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

''(e) EXCEEDING ALLOCATION TOTALS.—Whenever any Committee of the House of Representatives exceeds its allocation of aggregate 2-year regulatory authority under subsection (b)(1), any Member of the House of Representatives may offer a bill in the House (which shall be highly privileged, unamendable, and debateable for 30 minutes) which shall only prohibit the issuance of regulations and rules by any agency under the jurisdiction of that committee for the fiscal years covered by that allocation until that committee eliminates its breach.

''SEC. 324. ANALYSIS OF REGULATORY COSTS BY CONGRESSIONAL BUDGET OFFICE.

''CBO shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

''(1) an estimate of the costs which would be incurred by the private sector in carrying out or complying with such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis of each such estimate; and

''(2) a comparison of the estimate of costs described in paragraph (1) with any available estimates of costs made by such committee or by any Federal agency.

''SEC. 325. DEFINITIONS.

''As used in this part:

''(1) The term 'CBO' refers to the Director of the Congressional Budget Office.

''(2) The term 'OMB' refers to the Director of the Office of Management and Budget.

''(3) The term 'regulatory authority' or 'regulatory cost' means the direct cost to the private sector of complying with Federal regulations and rules.

''(4) The term 'direct costs' means (recognizing that direct costs are not the only costs associated with Federal regulation) all expenditures occurring as a direct result of complying with Federal regulation, rule, statement, or legislation, except those applying to the military or agency organization, management, and personnel.

''(5) The term 'regulation' or the term 'rule' means any agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of any agency, but does not include—

''(A) administrative actions governed by the provisions of sections 556 and 557 of title 5, United States Code; or

''(B) rules or regulations issued with respect to a military or foreign affairs function of the United States.

''(6) The term 'agency' means any authority of the United States that is an agency under title section 3502(1) of title 44, United States Code, including independent agencies.''.

SEC. 4002. PRESIDENT'S ANNUAL BUDGET SUBMISSIONS.

Section 1105(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(32) a regulatory authority budget analysis of the aggregate direct cost to the private sector of complying with all current and proposed Federal regulations and rules and proposals for complying with section 323 of the Congressional Budget Act of 1974 for the budget year and the outyears.''

SEC. 4003. ESTIMATION AND DISCLOSURE OF COSTS OF FEDERAL REGULATION.

Chapter 6 of title 5, United States Code, popularly known as the ''Regulatory Flexibility Act'', is amended—

(1) in section 603(a) in the second sentence by inserting before the period the following: ''and the monetary costs to small entities, other businesses, and individuals of complying with the proposed rule'';

(2) by adding at the end of section 603 the following:

''(d) Each initial regulatory flexibility analysis shall also contain a description of the nature and amount of monetary costs that will be incurred by small entities, other businesses, and individuals in complying with the proposed rule.'';

(3) in section 604(a)—

(A) in paragraph (2) by striking ''and'' after the semicolon;

(B) in paragraph (3) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(4) a statement of the nature and amount of monetary costs that will be incurred by small entities, other businesses, and individuals in complying with the rule.''; and

(4) in section 607 by inserting before the period the following: '', except that estimates of monetary costs under sections 603(d) and 604(a)(4) shall only be in the form of a numerical description''.

TITLE V—STRENGTHENING OF PAPERWORK REDUCTION ACT

SEC. 5001. SHORT TITLE.

This title may be cited as the ''Paperwork Reduction Act of 1995''.

Subtitle A—Authorization of Appropriations

SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

Section 3520(a) of title 44, United States Code, is amended by striking out ''$5,500,000 for each of the fiscal years 1987, 1988, and 1989.'' and inserting in lieu thereof ''$7,000,000 for fiscal year 1994, $7,500,000 for fiscal year 1995, $8,000,000 for fiscal year 1996, $8,500,000 for fiscal year 1997, and $9,000,000 for fiscal year 1998.''.

Subtitle B—Reducing the Burden of Federal Paperwork on the Public

SEC. 5201. COVERAGE OF ALL FEDERALLY SPONSORED PAPERWORK BURDENS.

Section 3502 of title 44, United States Code, is amended—

(1) by amending paragraph (3) to read as follows:

''(3) the term 'burden' means the time, effort, financial resources, and opportunity costs imposed on persons to generate, capture, assemble, process, maintain, and report information to or for a Federal agency, including—

''(A) the resources expended for obtaining, reviewing and understanding applicable instructions and requirements;

''(B) developing a way to comply with the applicable instructions and requirements;

''(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

''(D) searching existing data sources;

''(E) obtaining, compiling and maintaining the necessary data;

''(F) implementing recordkeeping requirements;

''(G) completing and reviewing the collection of information;

''(H) retaining, sharing, notifying, reporting, transmitting, labeling, or otherwise disclosing to third parties or the public the information involved; and

''(I) carrying out any other information transaction which occurs as a result of the collection of information;'';

(2) in paragraph (4) by striking out ''of facts or opinions by'' and inserting in lieu thereof ''(through maintenance, retention, notifying, reporting, labeling or disclosure to third parties or the public) of facts or opinions by or for''; and

(3) in paragraph (17) by inserting '', including the retention, reporting, notifying, or disclosure to third parties or the public of such records'' before the period.

SEC. 5202. PAPERWORK REDUCTION GOALS.

Section 3505 of title 44, United States Code, is amended to read as follows:

''§ 3505. Assignment of tasks and deadlines

''In carrying out the functions under this chapter, the Director shall—

''(1) set a governmentwide goal, consistent with improving agency management of the process for the review of each collection of information established under section 3506(e), to reduce by September 30, 1995, the burden of Federal collections of information existing on September 30, 1994, by at least 5 percent;

''(2) for the fiscal year beginning on October 1, 1995, and the following 3 fiscal years, set a governmentwide goal, consistent with improving agency management of the process for the review of each collection of information established under section 3506(e), to reduce the burden of Federal collections of information existing at the end of the immediately preceding fiscal year by at least 5 percent;

''(3) in establishing the governmentwide goal pursuant to paragraph (2), establish a goal for each agency that—

''(A) represents the maximum practicable opportunity to reduce the paperwork burden imposed upon the public by such agency's collections of information, after considering the recommendations of the senior agency official designated under section 3506(b)(1); and

''(B) permits the attainment of the governmentwide goal when such agency's goal is aggregated with the individual goals of all other agencies included in the governmentwide goal; and

''(4) in each report issued under section 3514, beginning with the report relating to fiscal year 1995, identify any agency initiatives to reduce the burden of the Federal collections of information associated with—

''(A) businesses, especially small businesses and those engaged in international competition;

''(B) State and local governments; and

''(C) educational institutions.''.

Subtitle C—Enhancing Government Responsibility and Accountability for Reducing the Burden of Federal Paperwork

SEC. 5301. REEMPHASIZING THE RESPONSIBILITY OF THE DIRECTOR TO CONTROL THE BURDEN OF FEDERAL PAPERWORK.

Section 3504(c) of title 44, United States Code, is amended—

(1) in paragraph (3) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and inserting after

subparagraph (A) the following new subparagraph:

''(B) display, to the extent practicable, an estimate of the burden for each response;'';

(2) by amending paragraphs (5) and (6) to read as follows:

''(5) establishing procedures under which an agency is to estimate the burden under this chapter to comply with the proposed collection of information;

''(6) coordinating with the Office of Federal Procurement Policy to eliminate paperwork burdens associated with procurement and acquisition;'';

(3) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following new paragraphs:

''(8) minimizing the Federal paperwork burden imposed through Federal collection of information, with particular emphasis on those individuals or entities most adversely affected, including—

''(A) businesses, especially small businesses and those engaged in international competition;

''(B) State and local governments; and

''(C) educational institutions; and

''(9) initiating and conducting, with selected agencies and non-Federal entities on a voluntary basis, pilot projects to test or demonstrate the feasibility and benefit of changes or innovations in Federal policies, rules, regulations, and agency procedures to improve information management practices and related management activities (including authority for the Director to waive the application of designated agency regulations or administrative directives after giving timely notice to the public and Congress regarding the need for such waiver).''.

SEC. 5302. ENHANCING AGENCY RESPONSIBILITY TO OBTAIN PUBLIC REVIEW OF PROPOSED PAPERWORK BURDENS.

Section 3507(a) of title 44, United States Code, is amended—

(1) in paragraph (2)(B) by inserting ''a summary of the request,'' after ''title for the information collection request,'';

(2) by striking out ''and'' at the end of paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following:

''(3) the agency provides at least 30 days for public comment to the agency and the Office of Management and Budget after publication of the notice in the Federal Register, except as provided under section 3507 (g) and (k), and the agency head and the Director consider comments received regarding the proposed collection of information; and''.

SEC. 5303. EXPEDITING REVIEW AT THE OFFICE OF MANAGEMENT AND BUDGET.

Section 3507(b) of title 44, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof ''The Director shall within 30 days after publication of the notice under subsection (a)(3) that is applicable to a proposed information collection request not contained in a proposed rule, notify the agency involved of the decision to approve or disapprove the proposed information collection request and shall make such decisions publicly available. Any decision to disapprove an information collection request shall include an explanation of the reasons for such decision.'';

(2) by striking out ''sixty'' each place it appears and inserting ''30'' in each such place;

(3) by striking out ''thirty'' and inserting in lieu thereof ''30''; and

(4) by striking out ''one'' and inserting in lieu thereof ''1''.

SEC. 5304. IMPROVING PUBLIC AND AGENCY SCRUTINY OF PAPERWORK BURDENS PROPOSED FOR RENEWAL.

(a) APPROVAL OF INFORMATION COLLECTION REQUEST.—Section 3507(d) of title 44, United States Code, is amended—

(1) by inserting ''(1)'' after ''(d)''; and

(2) by adding at the end thereof the following:

''(2)(A) If the head of the agency, or the senior official designated under section 3506(b)(1), decides to seek extension of the Director's approval granted for a currently approved information collection request, the agency shall, through the notice prescribed in subsection (a)(2)(B) and such other practicable steps as may be reasonable, seek comment from the agencies, and the public on the continued need for, and burden imposed by, the collection of information.

''(B) The agency, after having made a reasonable effort to seek comment under subparagraph (A), but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved information collection request, shall—

''(i) evaluate the public comments received;

''(ii) conduct the review established under section 3506(e); and

''(iii) provide to the Director the certification required by section 3506(f), including the text of the certification and any additional relevant information regarding how the information collection request comports with the principles and requirements of this chapter.

''(C) Upon receipt of such certification, and prior to the expiration of the control number for that information collection request, the Director shall—

''(i) ensure that the agency has taken the actions specified under section 3506(f)(2);

''(ii) evaluate the public comments received by the agency or by the Director;

''(iii) determine whether the agency certification complies with the standards under section 3506(f)(1); and

''(iv) approve or disapprove the information collection request under this chapter.

''(3) If a certification is not provided to the Director prior to the beginning of the 60-day period before the expiration of the control number as provided under paragraph (2)(B), the agency shall submit the information collection request for review and approval or disapproval under this chapter.

''(4) An agency may not make a substantive or material modification to an information collection request after it has been approved by the Director, unless the modification has been submitted to the Director for review and approval or disapproval under this chapter.''.

(b) APPROVAL OF INFORMATION COLLECTION REQUIREMENTS.—Section 3507 of title 44, United States Code, is further amended by adding at the end thereof the following new subsections:

''(i)(1) As soon as practicable, but no later than publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information requirement and upon request, information necessary to make the determination required under this chapter.

''(2) Within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments under the standards set forth in section 3508 on the collection of information requirement contained in the proposed rule.

''(3) When a final rule is published in the Federal Register, the agency shall explain how any collection of information requirement contained in the final rule responds to the comments, if any, filed by the Director or the public, or explain the reasons such comments were rejected.

''(4) The Director has no authority to disapprove any collection of information requirement specifically contained in an agency rule, if the Director has received notice and failed to comment on the rule within 60 days after the notice of proposed rulemaking.

''(5) No provision in this section shall be construed to prevent the Director, at the discretion of such officer, from—

''(A) disapproving any information collection request which was not specifically required by an agency rule;

''(B) disapproving any collection of information requirement contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

''(C) disapproving any collection of information requirement contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that such a collection of information requirement cannot be approved under the standards set forth in section 3508, after reviewing the agency's response to the comments of the Director filed under paragraph (2) of this subsection; or

''(D) disapproving any collection of information requirement, if the Director determines that the agency has substantially modified, in the final rule, the collection of information requirement contained in the proposed rule and the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information requirement, at least 60 days before the issuance of the final rule.

''(6) The Director shall make publicly available any decision to disapprove a collection of information requirement contained in an agency rule, together with the reasons for such decision.

''(7) The authority of the Director under this subsection is subject to subsection (c).

''(8) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

''(9) The decision of the Director to approve or not to act upon a collection of information requirement contained in an agency rule shall not be subject to judicial review.

''(j)(1) If the head of the agency, or the senior official designated under section 3506(b)(1), decides to seek extension of the Director's approval granted for a currently approved collection of information requirement, the agency shall, through the notice prescribed in subsection (a)(2)(B) and such other practicable steps as may be reasonable, seek comment from the agencies, and the public on the continued need for, and burden imposed by, the collection of information requirement.

''(2) The agency, after having made a reasonable effort to seek comment under paragraph (1), but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information requirement, shall—

''(A) evaluate the public comments received;

''(B) conduct the review established under section 3506(e); and

''(C) provide to the Director the certification required by section 3506(f), including the text of the certification and any additional relevant information regarding how the collection of information requirement comports with the principles and requirements of this chapter.

''(3) Upon receipt of such certification, and prior to the expiration date of the control

number for that collection of information requirement, the Director shall—

''(A) ensure that the agency has taken the actions specified in section 3506(f)(2);

''(B) evaluate the public comments received by the agency or by the Director;

''(C) determine whether the agency certification complies with the standards under section 3506(f)(1); and

''(D) approve or disapprove the collection of information requirement under this chapter.

''(4) If under the provisions of paragraph (3), the Director disapproves a collection of information requirement, or recommends or instructs the agency to make a substantive or material change to a collection of information requirement, the Director shall—

''(A) publish an explanation thereof in the Federal Register; and

''(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information requirement and thereafter to submit the collection of information requirement for approval or disapproval under this chapter.

''(5) Nothing in this subsection affects the review process for a collection of information requirement contained in a proposed rule, including a proposed change to an existing collection of information requirement, under subsection (i) with respect to such collection of information requirement.

''(6) The Director may not approve a collection of information requirement for a period in excess of 3 years.''.

SEC. 5305. PROTECTION FOR WHISTLEBLOWERS OF UNAUTHORIZED PAPERWORK BURDEN.

Section 3507(h) of title 44, United States Code, is amended in the second sentence by inserting before the period '', and any communication relating to a collection of information, the disclosure of which could lead to retaliation or discrimination against the communicator''.

SEC. 5306. ENHANCING PUBLIC PARTICIPATION.

Section 3517 of title 44, United States Code, is amended—

(1) by inserting ''(a)'' before ''In development''; and

(2) by adding at the end thereof:

''(b)(1) Under procedures established by the Director, a person may request the Director to review any collection of information conducted by or for an agency to determine, if—

''(A) the collection of information is subject to the requirements of this chapter;

''(B) the collection of information has been approved in conformity with this chapter; and

''(C) the person that is to respond to the collection of information is entitled to the public protections afforded by this chapter.

''(2) Any review requested under paragraph (1), unless the request is determined frivolous or does not on its face state a valid basis for such review, shall—

''(A) be completed by the Director within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension;

''(B)(i) be coordinated with the agency responsible for the collection of information to which the request relates; and

''(ii) be coordinated with the Administrator for Federal Procurement Policy, if the request relates to a collection of information applicable to an actual or prospective Federal contractor or subcontractor at any tier; and

''(C) result in a written determination by the Director, that shall be—

''(i) furnished to the person making the request; and

''(ii) made available to the public upon request (and listed and summarized in the annual report required under section 3514), unless confidentiality is requested by the person making the request.''.

SEC. 5307. EXPEDITING REVIEW OF AN AGENCY INFORMATION COLLECTION REQUEST WITH A REDUCED BURDEN.

Section 3507 of title 44, United States Code (as amended by section 5304(b) of this title) is further amended by adding at the end thereof the following new subsection:

''(k) Upon request by the head of an agency, the Director shall approve a proposed change to an existing information collection request (unless such proposed change is subject to subsection (i)) within 30 days after the Director receives the proposed change. The information collection request shall thereafter remain in effect at least for the remainder of the period for which it was previously approved by the Director, if—

''(1) the information collection request has a current control number; and

''(2) the Director determines that the revision—

''(A) reduces the burden resulting from the information collection request; and

''(B) does not substantially change the information collection request.''.

Subtitle D—Enhancing Agency Responsibility for Sharing and Disseminating Public Information

SEC. 5401. PRESCRIBING GOVERNMENTWIDE STANDARDS FOR SHARING AND DISSEMINATING PUBLIC INFORMATION.

Section 3504(h) of title 44, United States Code, is amended to read as follows:

''(h) The functions of the Director related to agency dissemination and sharing of public information shall include—

''(1) developing policies and practices for agency dissemination and sharing of public information consistent with the agency responsibilities under section 3506(g); and

''(2) developing policy guidelines that instruct Federal agencies on ways to fulfill agency responsibilities to disseminate and share information that, to the extent appropriate and practicable—

''(A) make information dissemination products available on timely, equitable and cost effective terms;

''(B) encourage a diversity of public and private information dissemination products;

''(C) avoid establishing, or permitting others to establish, exclusive, restricted, or other distribution arrangements that interfere with the availability of information dissemination products on a timely and equitable basis; and

''(D) avoid establishing restrictions or regulations, including the charging of fees or royalties, on the reuse, resale, or redissemination of Federal information dissemination products by the public; and

''(E) set user charges for information dissemination products at a level sufficient to recover the cost of dissemination, except—

''(i) where otherwise required by statute;

''(ii) where the information is collected, processed, and disseminated for the benefit of a specific identifiable group beyond the benefit to the general public; or

''(iii) where user charges are established at less than cost of dissemination because of a determination that higher charges would interfere with the proper performance of the agency's functions.''.

SEC. 5402. AGENCY RESPONSIBILITIES FOR SHARING AND DISSEMINATING PUBLIC INFORMATION.

Section 3506 of title 44, United States Code, is amended by adding at the end thereof the following new subsection:

''(g) The head of each agency shall, to the extent appropriate and practicable, and in conformance with the policy guidelines established under section 3504(h), establish and maintain a management system for the dissemination and sharing of information that—

''(1) ensures that the public has timely, equitable and cost-effective access to the agency's information dissemination products;

''(2) disseminates and shares information in a manner that achieves the best balance between maximizing the usefulness of the information and minimizing the cost to the Government and the public;

''(3) takes advantage of all appropriate channels, Federal and non-Federal, including State and local governments, libraries and private sector entities, in discharging agency responsibilities for the dissemination and sharing of information;

''(4) considers whether an information dissemination product available from other Federal or non-Federal sources is equivalent to an agency information dissemination product and reasonably achieves the objectives of the agency;

''(5) establishes and maintains inventories of all agency information dissemination products in conformance with the requirements of section 3511;

''(6) establishes and maintains communications with members of the public and with State and local governments so that the agency shares information and otherwise creates information dissemination products that meet their respective needs; and

''(7) provides adequate notice when initiating, substantially modifying, or terminating significant information dissemination products.''.

SEC. 5403. AGENCY INFORMATION INVENTORY/LOCATOR SYSTEM.

(a) IN GENERAL.—Section 3511 of title 44, United States Code, is amended to read as follows:

''§ 3511. Inventory systems of information dissemination products

''(a) Each agency having significant information dissemination products shall establish and maintain a comprehensive inventory of such products, which shall include, at a minimum, the title of each such product, an abstract of the contents of each product, the media in which each product is available, and the cost, if any, of each product, subject to any requirements promulgated pursuant to subsection (c).

''(b) The inventory created pursuant to subsection (a) shall be made available for public access by electronic means, and in such other media as are appropriate and practicable, at no charge to the public.

''(c) The Director, in consultation with the Secretary of Commerce, the Archivist of the United States, the Public Printer, and the Librarian of Congress, may establish a mechanism for developing technical standards and other minimum requirements for the agency inventory systems created under subsection (a).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by amending the item relating to section 3511 to read as follows:

''3511. Inventory systems of information dissemination products.''.

Subtitle E—Additional Government Information Management Responsibility

SEC. 5501. STRENGTHENING THE STATISTICAL POLICY AND COORDINATION FUNCTIONS OF THE DIRECTOR.

Section 3504(d) of title 44, United States Code, is amended to read as follows:

''(d)(1) The statistical policy and coordination functions of the Director shall include—

''(A) coordinating and providing leadership for development of the Federal statistical system;

''(B) developing and periodically reviewing and, as necessary, revising long-range plans for the improved coordination and performance of the statistical activities and programs of the Federal Government;

''(C) ensuring the integrity, objectivity, impartiality and confidentiality of the Federal statistical system;

''(D) reviewing budget proposals of agencies to ensure that the proposals are consistent with such long-range plans and developing a summary and analysis of the budget submitted by the President to the Congress for each fiscal year of the allocation for all statistical activities;

''(E) coordinating, through the review of budget proposals and as otherwise provided under this chapter, the functions of the Federal Government with respect to gathering, interpreting and sharing statistics and statistical information;

''(F) developing and implementing governmentwide policies, principles, standards and guidelines concerning statistical collection procedures and methods, statistical data classification, statistical information presentation and sharing, and such statistical data sources as may be required for the administration of Federal programs;

''(G) evaluating statistical program performance and agency compliance with governmentwide policies, principles, standards and guidelines;

''(H) promoting the timely release by agencies of statistical data to the public;

''(I) coordinating the participation of the United States in international statistical activities;

''(J) preparing an annual report to submit to the Congress on the statistical policy and coordination function;

''(K) integrating the functions described under this paragraph with the other information resources management functions specified under this chapter; and

''(L) appointing a chief statistician who is a trained and experienced professional to carry out the functions described under this paragraph.

''(2) The Director shall establish an interagency working group on statistical policy, consisting of the heads of the agencies with major statistical programs, headed by the chief statistician to coordinate agency activities in carrying out the functions under paragraph (1).

''(3) The Director shall provide opportunities for long-term training in the statistical policy functions of the chief statistician to employees of the Federal Government. Each trainee shall be selected at the discretion of the Director based on agency requests and shall serve for at least 6 months and no more than 1 year. All costs of the training are to be paid by the agency requesting training.''.

SEC. 5502. USE OF ELECTRONIC INFORMATION COLLECTION AND DISSEMINATION TECHNIQUES TO REDUCE BURDEN.

Section 3504(g)(1) of title 44, United States Code, is amended—

(1) by inserting ''development and'' after ''overseeing the''; and

(2) by inserting ''(including standards that improve the ability of agencies to use technology to reduce burden)'' after ''establishment of standards''.

SEC. 5503. AGENCY IMPLEMENTATION.

Section 3514(a) of title 44, United States Code, is amended—

(1) in paragraph (9)(C) by striking out ''and'' at the end thereof;

(2) in paragraph (10)(C) by striking out the period and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

''(11) a listing of any increase in the burden imposed on the public during the year covered by the report resulting from a collection of information conducted or sponsored by or for an agency, which was imposed by such agency—

''(A) as specifically mandated by the provision of a statute; or

''(B) as necessary to implement a statutory requirement, which requirement shall be identified with particularity;

''(12) a description of each such agency's efforts in implementing, and plans to implement, the applicable policies, standards and guidelines with respect to the functions under this chapter; and

''(13) a strategic information resources management plan for the Federal Government, developed in consultation with the Administrator of General Services, the Secretary of Commerce, and the Archivist of the United States, that includes an analysis of cross-cutting issues of governmentwide importance.''.

SEC. 5504. AUTOMATIC DATA PROCESSING EQUIPMENT PLAN.

Section 3504(g) of title 44, United States Code, is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

''(3) developing and annually revising, in consultation with the Administrator of General Services, a 5-year plan for meeting the automatic data processing equipment (including telecommunications) and other information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and the purposes of this chapter;''.

SEC. 5505. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3502(10) of title 44, United States Code, is amended by striking out ''the Federal Housing Finance Board'' and inserting in lieu thereof ''Federal Housing Finance Board''.

(b) REVIEW PERIODS.—Section 3507(g)(1) of title 44, United States Code, is amended to read as follows: ''(1) is needed prior to the expiration of the time periods for public notice and review by the Director pursuant to the requirements of this chapter,''.

(c) DIRECTOR REVIEW.—Section 3513(a) of title 44, United States Code, is amended in the first sentence by inserting ''resources'' after ''information''.

(d) RESPONSIVENESS.—Section 3514(a) of title 44, United States Code, is amended—

(1) in paragraph (9)(A) by inserting ''and'' at the end thereof;

(2) in paragraph (9)(B) by striking out the semicolon and inserting a period; and

(3) by striking out paragraph (9)(C).

Subtitle F—Effective Dates

SEC. 5601. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this title shall become effective 120 days after the date of the enactment of this Act.

(b) IN PARTICULAR.—section 5101 and this section shall become effective upon the date of the enactment of this Act.

TITLE VI—STRENGTHENING REGULATORY FLEXIBILITY

SEC. 6001. JUDICIAL REVIEW.

(a) IN GENERAL.—Section 611 of title 5, United States Code, is repealed.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by striking the item relating to section 611.

SEC. 6002. CONSIDERATION OF DIRECT AND INDIRECT EFFECTS OF RULES.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 610 the following new section:

''§ 611. Consideration of direct and indirect effects of rules

''In determining under this chapter whether or not a rule is likely to have a significant impact on a substantial number of small entities, an agency shall consider both the direct and indirect effects of the rule.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 6 of title 5, United States Code, is amended by inserting after the item relating to section 610 the following:

''611. Consideration of direct and indirect effects of rules.''.

SEC. 6003. RULES OPPOSED 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) STATEMENT OF OPPOSITION.—

''(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 OPPOSITION.—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 opposition of the proposed rule.

''(3) RESPONSE.—If the Chief Counsel for Advocacy transmits to an agency a statement of opposition to 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.''.

(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. 6004. 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.

TITLE VII—REGULATORY IMPACT ANALYSES

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Administrative Procedure Reform Act of 1995''.

SEC. 7002. RULE MAKING NOTICES FOR MAJOR RULES.

Section 553 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1)(A) The head of an agency shall publish in the Federal Register, at least 90 days before the date of publication of general notice under subsection (b) for a proposed

major rule, a notice of intent to engage in rule making.

''(B) A notice under subparagraph (A) 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 section 7004(c) (1), (2), and (8) of the Administrative Procedure Reform Act of 1995.

''(2) The head of an agency shall include in a general notice under subsection (b) for a major rule proposed by the agency—

''(A) a final Regulatory Impact Analysis for the rule prepared in accordance with section 7004 of the Administrative Procedure Reform Act of 1995; and

''(B) clear delineation of all changes in the information included in the final Regulatory Impact Analysis under section 7004(c)(1) and (2) of the Administrative Procedure Reform Act of 1995 from any such information that was included in the notice for the rule under paragraph (1)(B) of this subsection.

''(3) In this subsection, the term 'major rule' has the meaning given that term in section 7004(b) of the Administrative Procedure Reform Act of 1995.''.

SEC. 7003. HEARING REQUIREMENT FOR PROPOSED RULES; EXTENSION OF COMMENT PERIOD.

(a) HEARING REQUIREMENT.—Section 553 of title 5, United States Code, is further amended—

(1) in subsection (b), in the matter following paragraph (3), by inserting ''(except subsection (g))'' after ''this subsection''; and

(2) by adding after subsection (f) (as added by section 7002 of this title) the following:

''(g) If more than 100 interested persons acting individually submit comments to an agency regarding any rule proposed by the agency, the agency shall hold a public hearing on the proposed rule.''.

(b) EXTENSION OF COMMENT PERIOD.—Section 553 of title 5, United States Code, is further amended by adding after subsection (g) (as added by subsection (a)(2) of this section) the following:

''(h) If during the 30-day period beginning on the date of publication of notice under subsection (f)(1)(A) for a proposed major rule, or if during the 30-day 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 that 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) The head of an agency shall publish in the Federal Register with each rule published under section 552(a)(1)(D) of this title, responses to the substance of the comments received by the agency regarding the rule.''.

SEC. 7004. REGULATORY IMPACT ANALYSIS.

(a) APPLICATION OF EXECUTIVE ORDER AS STATUTORY REQUIREMENT.—Except as otherwise provided in this section, Executive Order 12291 (relating to Federal regulation requirements and regulatory impact analysis), as in effect on September 29, 1993, shall apply to each agency in accordance with the provisions of the Order.

(b) DEFINITION OF MAJOR RULE IN ORDER.—Notwithstanding section 1(b) of the Order, for purposes of subsection (a) of this section, the term ''major rule'' means any proposed rulemaking—

(1) which affects more than 100 persons; or

(2) compliance with which will require the expenditure of more than $1,000,000 by any single person which is not a Federal agency.

(c) CONTENTS OF REGULATORY IMPACT ANALYSES.—In lieu of the information specified in section 3(d) of the Order, each preliminary and final Regulatory Impact Analysis required under section 3 of the Order for a rule shall contain the following:

(1) An explanation of the necessity, appropriateness and reasonableness of the rule.

(2) A description of the current condition that the rule will address and how that condition will be affected by the rule.

(3) A statement that the rule does not conflict with nor duplicate any other rule, or an explanation of why the conflict or duplication exists.

(4) A statement of whether the rule is in accord with or in conflict with any legal precedent.

(5) A statement of the factual, scientific, or technical basis for the agency's determination that the rule will accomplish its intended purpose.

(6) A statement that describes and, to the extent practicable, quantifies the risks to human health or the environment to be addressed by the rule.

(7) A demonstration that the rule provides the least costly or least intrusive approach for meeting its intended purpose.

(8) A description of any alternative approaches considered by the agency or suggested by interested persons and the reasons for their rejection.

(9) An estimate of the nature and number of persons to be regulated or affected by the rule.

(10) An estimate of the economic costs of the rule, including those incurred by persons in complying with the rule.

(11) An evaluation of the costs versus the benefits derived from the rule, including evaluation of how those benefits outweigh the cost.

(12) Whether the rule will require onsite inspections.

(13) An estimate of the paperwork burden on persons regulated or affected by the rule, such as the number of forms, impact statements, surveys, and other documents required to be completed by the person under the rule.

(14) Whether persons will be required by the rule to maintain any records which will be subject to inspection.

(15) Whether persons will be required by the rule to obtain licenses, permits, or other certifications, and the fees and fines associated therewith.

(16) Whether persons will be required by the rule to appear before the agency.

(17) Whether persons will be required by the rule to disclose information on materials or processes, including trade secrets.

(18) Whether persons will be required by the rule to report any particular type of incidents.

(19) Whether persons will be required by the rule to adhere to design or performance standards.

(20) Whether persons may need to retain or utilize any lawyer, accountant, engineer, or other professional consultant in order to comply with the regulations.

(21) An estimate of the costs to the agency for implementation and enforcement of the regulations.

(22) Whether the agency can be reasonably expected to implement the rule with the current level of appropriations.

(23) A statement that any person may submit comments on the Regulatory Impact Analysis to the Administrator of the Office of Information and Regulatory Affairs.

The requirements of this section shall be consistent with, and not duplicative of, the requirements of section 3201.

(d) DEFINITIONS.—In this section—

(1) the term ''Order'' means Executive Order 12291, as in effect on September 29, 1993; and

(2) each of the terms ''agency'', ''regulation'', and ''rule'' has the meaning given that term in section 1 of the Order, except that the term ''agency'' includes an independent agency.

SEC. 7005. ADDITIONAL RESPONSIBILITIES OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

An agency may not adopt a major rule unless the final Regulatory Impact Analysis for the rule is approved in writing by the Director of the Office of Management and Budget or by an individual designated by the Director for that purpose.

SEC. 7006. STANDARD OF CLARITY.

To the extent practicable, the head of an agency may not publish in the Federal Register any proposed major rule, summary of a proposed major rule, or Regulatory Impact Analysis unless the Director of the Office of Management and Budget certifies that the proposed major rule, summary, or Analysis—

(1) is written in a reasonably simple and understandable manner and is easily readable;

(2) is written to provide adequate notice of the content of the rule, summary, or Analysis to affected persons and interested persons that have some subject matter expertise;

(3) conforms to commonly accepted principles of grammar;

(4) contains only sentences that are as short as practical and organized in a sensible manner; and

(5) to the extent practicable, does not contain any double negatives, confusing cross references, convoluted phrasing, unreasonably complex language, or term of art or word with multiple meanings that may be misinterpreted and is not defined in the rule, summary, or analysis, respectively.

SEC. 7007. REPORT BY OIRA.

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 rule making procedures of Federal agencies and an analysis of the impact of those rule making procedures on the regulated public and regulatory process.

SEC. 7008. DEFINITIONS.

For purposes of this title—

(1) except as provided in section 7004(d)(2), each of the terms ''agency'', ''rule'', and ''rule making'' has the meaning given that term in section 551 of title 5, United States Code; and

(2) the term ''major rule'' has the meaning given that term in section 7004(b).

TITLE VIII—PROTECTION AGAINST FEDERAL REGULATORY ABUSE

Subtitle A—Citizens' Regulatory Bill of Rights

SEC. 8101. CITIZENS' REGULATORY BILL OF RIGHTS.

(a) IN GENERAL.—Except as provided in subsection (c), each person that is the target of a Federal investigative or enforcement action shall, upon the initiation of an inspection, investigation, or other official proceeding directed against that person, have the right—

(1) to remain silent;

(2) to be advised as to whether the person has a right to a warrant;

(3) to be warned that statements can be used against them;

(4) to have an attorney or accountant present;

(5) to be informed as the the scope and purpose of the agency action;

(6) to be present at the inspection, investigation, or proceeding;

(7) to be reimbursed for unreasonable damages;

(8) to be free of unreasonable seizures of property or assets; and

(9) to receive attorneys fees and other expenses from the Government when the Government commences a frivolous civil action against such person, except that nothing in this paragraph shall be construed to affect the Equal Access to Justice Act.

(b) AGENCY RULES.—Each agency or other authority of the Federal Government with respect to which this section applies shall make appropriate rules within 90 days after the date of the enactment of this Act to implement this section in the context of that agency's functions.

(c) LIMITATION ON APPLICATION OF REQUIREMENTS.—A requirement of this section shall not apply if compliance with the requirement would—

(1) substantially delay responding to an imminent danger to person or property; or

(2) substantially or unreasonably impede a criminal investigation.

Subtitle B—Private Sector Whistleblowers' Protection

SEC. 8201. SHORT TITLE.

This subtitle may be cited as the ''Private Sector Whistleblowers' Protection Act of 1995''.

SEC. 8202. PURPOSE.

The Federal regulatory system should be implemented consistent with the principle that any person subject to Government regulation should be protected against reprisal for disclosing information that the person believes is indicative of—

(1) violation or inconsistent application of any law, rule, regulation, policy, or internal standard;

(2) arbitrary action or other abuse of authority;

(3) mismanagement;

(4) waste or misallocation of resources;

(5) inconsistent, discriminatory or disproportionate enforcement proceedings;

(6) endangerment of public health or safety;

(7) personal favoritism; and

(8) coercion for partisan political purposes; by any agency or its employees.

SEC. 8203. COVERAGE.

This subtitle shall apply to:

(1) Any agency of the Federal Government as defined in section 551 of title 5, United States Code.

(2) Any agency of a State government that exercises authority under Federal law, or that exercises authority under State law establishing a program approved by a Federal agency as a substitute for or supplement to a program established by Federal law.

SEC. 8204. PROHIBITED REGULATORY PRACTICES.

(a) DEFINED.—For purposes of this subtitle, ''prohibited regulatory practice'' means any action described in subsection (b)(i), (ii), or (iii) of this section.

(b) PROHIBITION.—(1) No employee of an Agency who has authority—

(A) to take or direct other employees to take,

(B) to recommend, or

(C) to approve,

any regulatory action shall—

(i) take or fail to take, or threaten to take or fail to take,

(ii) recommend or direct that others take or fail to take, or threaten to so recommend or direct, or

(iii) approve the taking or failing to take, or threaten to so approve,

such regulatory action because of any disclosure by a person subject to the action, or by any other person, of information that the person believed indicative of—

(I) violation or inconsistent application of any law, rule, regulation, policy, or internal standard;

(II) arbitrary action or other abuse of authority;

(III) mismanagement;

(IV) waste or misallocation of resources;

(V) inconsistent, discriminatory or disproportionate enforcement;

(VI) endangerment of public health or safety;

(VII personal favoritism; or

(VIII) coercion for partisan political purposes;

by any agency or its employees.

(2) An action shall be deemed to have been taken, not taken, approved, or recommended because of the disclosure of information within the meaning of paragraph (1) if the disclosure of information was a contributing factor to the decision to take, not to take, to approve, or to recommend.

SEC. 8205. PROHIBITED REGULATORY PRACTICE AS A DEFENSE TO AGENCY ACTION.

(a) IN GENERAL.—In any administrative or judicial action or proceeding, formal or informal, by an agency to create, apply or enforce any obligation, duty or liability under any law, rule or regulation against any person, the person may assert as a defense that the agency or one or more employees of the agency have engaged in a prohibited regulatory practice with respect to the person or to a related entity in connection with the action or proceeding.

(b) COMPLIANCE.—If the existence of a prohibited regulatory practice is established, the person may be required to comply with the obligation, duty or liability to the extent compliance is required of and enforced against other persons similarly situated, but no penalty, fine, damages, costs or other obligation except compliance shall be imposed on the person.

SEC. 8206. ENFORCEMENT.

(a) CIVIL PENALTY.—Any agency, and any employee of an agency, engaging in a prohibited regulatory practice may be assessed a civil penalty of not more than $25,000 for each such practice. In the case of a continuing prohibited regulatory practice, each day that the practice continues shall be deemed a separate practice.

(b) PROCEDURES.—The President shall, by regulation, establish procedures providing for the administrative enforcement of the requirements of subsection (a) of this section.

SEC. 8207. CITIZEN SUITS.

(a) COMMENCEMENT.—Any person injured or threatened by a prohibited regulatory practice may commence a civil action on his own behalf against any person or agency alleged to have engaged in or threatened to engage in such practice.

(b) JURISDICTION AND VENUE.—Any action under subsection (a) of this section shall be brought in the district court for any district in which the alleged prohibited regulatory practice occurred or in which the alleged injury occurred. The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to—

(1) restrain any agency or person who has engaged or is engaging in any prohibited regulatory practice;

(2) order the cancellation or remission of any penalty, fine, damages, or other monetary assessment that resulted from a prohibited regulatory practice;

(3) order the rescission of any settlement that resulted from a prohibited regulatory practice;

(4) order the issuance of any permit or license that has been denied or delayed as a result of a prohibited regulatory practice;

(5) order the agency and/or the employee engaging in a prohibited regulatory practice to pay to the injured person such damages as may be necessary to compensate the person for any harm resulting from the practice, including damages for—

(A) injury to, deterioration of, or destruction of real or personal property;

(B) loss of profits from idle or underutilized resources, and from business forgone;

(C) costs incurred, including costs of compliance where appropriate;

(D) loss in value of a business;

(E) reasonable legal, consulting and expert witness fees; or

(F) payments to third parties;

(6) order the payment of punitive damages, in an amount not to exceed $25,000 for each such prohibited regulatory practice, provided that, in the case of a continuing prohibited regulatory practice, each day that the practice continues shall be deemed a separate practice.

SEC. 8208. OFFICE OF THE SPECIAL COUNSEL.

(a) REQUEST FOR INVESTIGATION.—Any person who has reason to believe that any employee of any agency has engaged in a prohibited regulatory practice may request the Special Counsel established by section 1211 of title 5, United States Code, to investigate.

(b) POWERS.—The Special Counsel shall have the same power to investigate prohibited regulatory practices that it has to investigate prohibited personnel practices pursuant to section 1212 of title 5, United States Code.

SEC. 8209. RELATION TO CRIMINAL INVESTIGATIONS.

Nothing in this subtitle shall be construed so as substantially or unreasonably to impede a criminal investigation.

TITLE IX—PRIVATE PROPERTY RIGHTS PROTECTIONS AND COMPENSATION

SEC. 9001. STATEMENT OF PURPOSE.

It is the purpose of this title to compensate private property owners with respect to certain actions that are taken by the Federal Government for public purposes and that limit the use of private property by property owners.

SEC. 9002. COMPENSATION FOR FEDERAL AGENCY INFRINGEMENT OR DEPRIVATION OF RIGHTS TO PRIVATE PROPERTY.

(a) ELIGIBILITY.—

(1) IN GENERAL.—A private property owner is entitled to receive compensation from the United States in accordance with this section for any agency infringement or deprivation of rights to property that is owned by the private property owner.

(2) AGENCY INFRINGEMENT OR DEPRIVATION OF RIGHTS TO PROPERTY DEFINED.—For purposes of paragraph (1), the term ''agency infringement or deprivation of rights to property'' means a limitation or condition that—

(A) is imposed by a final agency action on a use of property that would be lawful but for the agency action, and

(B) results in a reduction in the value of the property equal to ten percent or more.

(3) CIRCUMSTANCES IN WHICH COMPENSATION NOT REQUIRED.—A private property owner shall not be entitled to receive compensation under this subsection for any of the following:

(A) A limitation on any action that would constitute a violation of applicable State or local law (including an action that would violate a local zoning ordinance or would constitute a nuisance under any applicable State or local law).

(B) A limitation on any use of private property, imposed pursuant to a determination by the President that the use poses or would pose a serious and imminent threat to public health and safety or to the health and safety of workers, or other individuals, lawfully on the property.

(C) A limitation imposed pursuant to the Federal navigational servitude.

(4) LIMITATION ON CUMULATIVE AMOUNT OF COMPENSATION.—No payment may be made pursuant to this subsection with respect to property if the sum of such payment and all other payments made pursuant to this subsection with respect to the property would exceed the fair market value of the property (as determined at the time of the payment).

(5) STATE OR LOCAL LIMITATIONS IMPOSED PURSUANT TO FEDERAL MANDATES.—A limitation or condition shall be considered to be a Federal agency infringement or deprivation of rights to property for purposes of paragraph (1) if it is a consequence of a limitation or condition on the use of the property by the private property owner that is imposed by a State or local government pursuant to an agency action that is intended to, or does, bind the State or local government.

(b) REQUEST FOR COMPENSATION.—Within 90 days after receipt of notice of an agency action with respect to which compensation is required under subsection (a), a private property owner may submit to the head of the agency a request in writing for compensation under this section.

(c) AGENCY DETERMINATION AND OFFER.—

(1) IN GENERAL.—Upon receipt of a request for compensation, submitted in accordance with subsection (b), with respect to an agency action affecting private property as described in subsection (a), the head of the agency that took the action shall determine whether the private property owner submitting the request has demonstrated entitlement to compensation under subsection (a). If the head of the agency finds that the private property owner has so demonstrated, the head of the agency shall offer to compensate the private property owner for the reduction in the value of the property, as demonstrated by the private property owner.

(2) TIMING OF DETERMINATION AND OFFER.—The head of an agency shall make the determination and offer, if any, required by paragraph (1) with respect to a request for compensation not later than 180 days after receiving the request.

(d) PRIVATE PROPERTY OWNERS' RESPONSE.—A private property owner shall have 60 days after the date of receipt of an offer under subsection (c) to accept or to reject the offer.

(e) ARBITRATION.—If the head of an agency determines, under subsection (c), that a private property owner is not entitled to compensation under subsection (a), or a private property owner rejects an offer made under subsection (c), the private property owner may submit the matter for arbitration to an arbitrator appointed by the head of the agency from a list of arbitrators submitted by the American Arbitration Association. The arbitrator shall determine whether the request meets the requirements of subsection (a) (if such determination is called for by the submission of the property owner) and shall determine the amount of compensation to which the property owner is entitled under this section, in accordance with subsection (c). The arbitration shall be conducted in accordance with the real estate valuation arbitration rules of that association. For purposes of this section, an arbitration is binding on the head of an agency and the private property owner as to whether the property owner is entitled to compensation under subsection (a) and as to the amount, if any, of compensation owed to the private property owner under this section.

(f) PAYMENT.—The head of an agency shall pay a private property owner any compensation required under the terms of an offer of the agency head that is accepted by the private property owner in accordance with subsection (d), or under a decision of an arbiter under subsection (e), by not later than 60 days after the date of the acceptance or the date of the issuance of the decision, respectively.

(g) NATURE OF REMEDY.—

(1) PROHIBITION OF LIMITATION ON OTHER CLAIMS.—No provision of this title shall be construed to limit the rights of any person to pursue any claim or cause of action under the Constitution or any other law (including a claim or cause of action concerning personal property).

(2) PROHIBITION OF USE AS CONDITION PRECEDENT.—Submission of a request for compensation, or receipt of compensation, under this title shall not be a condition precedent for any claim or cause of action under any law.

(h) LIMITATION ON DOUBLE RECOVERY.—

(1) COURT AWARDS OF DAMAGES.—Notwithstanding subsection (g), a court may credit a payment made pursuant to subsection (a) for any reduction in the value of property against the amount of damages awarded pursuant to any claim or cause of action, under the Constitution or any other law, that arises from the same reduction in the value of the same property.

(2) PAYMENTS UNDER THIS TITLE.—The amount awarded pursuant to any claim or cause of action, under the Constitution or any other law, for any reduction in the value of a property shall be credited against the amount of any payment made pursuant to subsection (a) with respect to the same reduction in the value of the same property.

(i) SOURCE OF PAYMENT FUNDS.—

(1) USE OF AGENCY FUNDS.—Except as provided in paragraphs (2) and (3), and notwithstanding any other provision of law, any payment made pursuant to subsection (a) shall be paid from the annual appropriation of the agency or agencies taking the action for which the payment is required. For the purpose of making such a payment, the head of the agency may transfer or reprogram any funds available to the agency.

(2) ALTERNATIVE SOURCE OF FUNDS.—If the agency taking the action referred to in paragraph (2) or (5) of subsection (a) does not have sufficient funds available to complete the payment required by this section with respect to the action, the Comptroller General of the United States shall identify the most appropriate Federal source of funds to complete the payment and the President shall complete the payment using funds from such source, notwithstanding any other provision of law.

(3) LAND EXCHANGE.—In lieu of payment under paragraph (1) or (2), the President may enter into an agreement with the private property owner who is entitled to the compensation for which the payment is required to provide all or part of the compensation by exchanging all or part of the affected private property for property owned by the United States and identified by the President as suitable for such an exchange. The properties transferred as part of such an exchange shall be of equal value, as determined under section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

SEC. 9003. SEVERABILITY.

If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons and circumstances shall not be affected.

SEC. 9004. DEFINITIONS.

For purposes of this title:

(1) AGENCY.—The term ''agency'' has the meaning given that term in section 551(1) of title 5, United States Code.

(2) AGENCY ACTION.—The term ''agency action'' has the meaning given that term in section 551(13) of title 5, United States Code.

(3) FAIR MARKET VALUE.—Unless stated otherwise, the term ''fair market value of the property'' means the fair market value of property determined as of the date on which the private property owner makes a claim under this title with respect to the property.

(4) FINAL AGENCY ACTION.—The term ''final agency action'' means an agency action that is intended to or does bind a private property owner with respect to the use of the property. Such term includes but is not limited to the following:

(A) Denial of a permit.

(B) Issuance of a cease and desist order.

(C) Issuance of a statement under section 7(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(3)).

(D) Issuance of a permit with conditions.

(E) Commencement of a civil or criminal proceeding arising out of failure to secure a permit.

(5) PRIVATE PROPERTY OWNER.—The term ''private property owner'' means a person (other than the United States, a department, agency, or instrumentality thereof, or an officer, employee, or agent thereof when acting on behalf of his or her employing authority) that—

(A) owns property referred to in paragraph (6)(A); or

(B) holds property referred to in paragraph (6)(B).

(6) PROPERTY.—The term ''property'' means—

(A) land; and

(B) the right to use or receive water.

(7) REDUCTION IN THE VALUE OF PROPERTY.—The term ''reduction in the value of property'' means the difference, if greater than zero, between—

(A) the fair market value of property, as determined based on the value of the property if an agency action referred to in paragraph (2) or (5) of section 9002(a), as the case may be, were not implemented; minus

(B) the fair market value of property, as determined based on the value of the property if an agency action referred to in paragraph (2) or (5) of section 9002(a), as the case may be, were implemented.

(8) USE—The term ''use'' means a prior, existing, or potential utilization of property, by the private property owner, which is—

(A) predictable; and

(B) consistent with the utilization of property of the same general type or with property usage in the geographic area in which the property is located.

TITLE X—ESTABLISHMENT OF FEDERAL MANDATE BUDGET COST CONTROL

SEC. 10001. AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

(a) FEDERAL REGULATORY BUDGET COST CONTROL SYSTEM.—Title III of the Congressional Budget Act of 1974, as amended by section 4001(a) of this Act, is further amended by adding after part B the following new part:

"PART C—FEDERAL MANDATE BUDGET COST CONTROL

"SEC. 331. OMB–CBO REPORTS.

''(a) OMB–CBO INITIAL REPORT.—Within 1 year after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains the following:

''(1) For the first budget year beginning after the issuance of this report, a projection of the aggregate direct cost to States and

local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates.

''(2) A calculation of the estimated aggregate direct cost to States and local governments of compliance with all Federal mandates as a percentage of the gross domestic product (GDP).

''(3) The estimated marginal cost (measured as a reduction in estimated gross domestic product) to States and local governments of compliance with all Federal mandates in excess of the cap (to be determined under paragraph (5)) allowable for the sixth year following the budget year and subsequent fiscal years.

''(4) The effect on the domestic economy of different types of Federal mandates.

''(5) The appropriate level of personnel, administrative overhead, and programmatic savings that should be achieved on a fiscal year by fiscal year basis by Federal agencies that issue mandates with direct costs to States and local governments through the reduction of such aggregate costs to States and local governments by 6.5 percent for the budget year (as measured against the aggregate mandate baseline for the first budget year to which this part applies) and by 6.5 percent increments for each of the outyears (until the aggregate level of such costs does not exceed 3 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred).

''(6) Recommendations for budgeting, technical, and estimating changes to improve the Federal mandate budgeting process.

''(b) UPDATE REPORTS.—OMB and CBO shall issue update reports on September 15th of the fifth year beginning after issuance of the initial report and at 5-year intervals thereafter containing all the information required in the initial report, but based upon all Federal mandates in effect immediately before issuance of the most recent update report.

''(c) INITIAL BASELINE REPORT.—Within 30 days after the date of enactment of this section, OMB and CBO shall jointly issue a report to the President and each House of Congress that contains an initial aggregate mandate baseline for the first budget year that begins at least 120 days after that date of enactment. That baseline will be a projection of the aggregate direct cost to States and local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates.

''SEC. 332. AGGREGATE MANDATE BASELINE.

''(a) IN GENERAL.—For the first budget year beginning after the date of enactment of this section and for every other fiscal year thereafter, the aggregate mandate baseline refers to a projection of the aggregate direct cost to States and local governments of complying with all Federal mandates in effect immediately before issuance of the report containing the projection for that budget year of the effect of current-year Federal mandates into the budget year and the outyears based on those mandates. However, in the case of each of the succeeding fiscal years, the baseline shall be adjusted for the estimated growth during that year in the gross domestic product (GDP).

''(b) OMB–CBO AGGREGATE MANDATE BASELINE REPORTS.—(1) The first budget year for which there shall be an aggregate mandate baseline shall be the budget year to which the initial OMB–CBO baseline report issued under section 331(c) pertains.

''(2) In the case of each budget year after the budget year referred to in paragraph (1), not later than September 15 of the current year, OMB and CBO shall jointly issue a report containing the baseline referred to in subsection (a) for that budget year.

''SEC. 333. RECONCILIATION AND ALLOCATIONS.

''(a) RECONCILIATION DIRECTIVES.—In addition to the requirements of section 310, a concurrent resolution on the budget for any fiscal year shall specify—

''(1) changes in laws, regulations, and rules necessary to reduce the aggregate direct cost to States and local governments of complying with all Federal mandates by 6.5 percent for the budget year (as measured against the aggregate mandate baseline for the first budget year to which this part applies) and by 6.5 percent increments for each of the outyears (until the aggregate level of such costs does not exceed 3 percent of the estimated gross domestic product for the same fiscal year as the estimated costs that will be incurred) for Federal agencies that issue mandates producing direct costs to States and local governments; and

''(2) changes in laws necessary to achieve reductions in the level of personnel and administrative overhead and to achieve programmatic savings for the budget year and the outyears for those agencies of the following:

''(A) In the first outyear, one-fourth of the percent of reduction in mandate authority from the aggregate mandate base.

''(B) In the second outyear, one-third of the percent of reduction in mandate authority from the aggregate mandate base.

''(C) In the third, fourth, fifth, and sixth years following the budget year, one-half of the percent of reduction in mandate authority from the aggregate mandate base.

Section 310(c) shall not apply with respect to directions made under this section.

''(b) ALLOCATION OF TOTALS.—(1) The Committees on the Budget of the House of Representatives and the Senate shall each allocate aggregate 2-year mandate authority among each committee of its House and by major functional category for the first budget year beginning after the date of enactment of this section and for the second, fourth, and sixth years following the budget year and then every other year thereafter.

''(2) As soon as practicable after receiving an allocation under paragraph (1), each committee shall subdivide its allocation among its subcommittees or among programs over which it has jurisdiction.

''(c) POINT OF ORDER.—(1) It shall not be in order in the House of Representatives or the Senate to consider any bill or resolution, or amendment thereto, which would cause the appropriate allocation made under subsection (b) for a fiscal year of mandate authority to be exceeded.

''(2) WAIVER.—The point of order set forth in paragraph (1) may only be waived by the affirmative vote of at least three-fifths of the Members voting, a quorum being present.

''(d) DETERMINATIONS BY BUDGET COMMITTEES.—For purposes of this section, the level of mandate authority for a fiscal year shall be determined by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

''(e) EXCEEDING ALLOCATION TOTALS.—Whenever any Committee of the House of Representatives exceeds its allocation of aggregate 2-year mandate authority under subsection (b)(1), any Member of the House of Representatives may offer a bill in the House (which shall be highly privileged, unamendable, and debateable for 30 minutes) which shall only prohibit the issuance of mandates by any agency under the jurisdiction of that committee for the fiscal years covered by that allocation until that committee eliminates its breach.

''SEC. 334. ANALYSIS OF MANDATES COSTS BY CONGRESSIONAL BUDGET OFFICE.

''CBO shall prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

''(1) an estimate of the costs which would be incurred by States and local governments in carrying out or complying with such bill or resolution in the fiscal year in which it is to become effective and in each of the 4 fiscal years following such fiscal year, together with the basis of each such estimate; and

''(2) a comparison of the estimate of costs described in paragraph (1) with any available estimates of costs made by such committee or by any Federal agency.

''SEC. 335. DEFINITIONS.

''As used in this part:

''(1) The term 'CBO' refers to the Director of the Congressional Budget Office.

''(2) The term 'OMB' refers to the Director of the Office of Management and Budget.

''(3) The term 'costs' when referring to 'mandates' means the direct cost to States and local governments of complying with Federal mandates.

''(4) The term 'direct costs' means (recognizing that direct costs are not the only costs associated with Federal mandates) all expenditures occurring as a direct result of complying with Federal mandates, except those applying to the military or agency organization, management, and personnel.''.

SEC. 10002. PRESIDENT'S ANNUAL BUDGET SUBMISSIONS.

Section 1105(a) of title 31, United States Code, as amended by section 4002 of this Act, is further amended by adding after paragraph (32) the following new paragraph:

''(33) a mandate authority budget analysis of the aggregate direct cost to States and local governments of complying with all current and proposed Federal mandates and proposals for complying with section 333 of the Congressional Budget Act of 1974 for the budget year and the outyears.''

SEC. 10003. ESTIMATION AND DISCLOSURE OF COSTS OF FEDERAL MANDATES.

(a) COSTS TO STATE AND LOCAL GOVERNMENTS.—Chapter 6 of title 5, United States Code, popularly known as the ''Regulatory Flexibility Act'', is amended—

(1) in section 603, as amended by section 4003(2) of this Act, by adding after subsection (d) the following:

''(e) Each initial regulatory flexibility analysis for a proposed rule that establishes or implements a new Federal mandate shall also contain a description of the nature and amount of monetary costs that will be incurred by State and local governments in complying with the Federal mandate.''; and

(2) in section 604(a), as amended by section 4003(3) of this Act—

(A) in paragraph (3) by striking ''and'' after the semicolon;

(B) in paragraph (4) by striking the period and inserting ''; and''; and

(C) by adding after paragraph (4) the following:

''(5) in the case of an analysis for a rule that establishes or implements a new Federal mandate, a statement of the nature and amount of monetary costs that will be incurred by State and local governments in complying with the Federal mandate.''.

(b) AGENCY REPORTS.—Each agency that under chapter 6 of title 5, United States Code, prepares an initial regulatory flexibility analysis for a proposed rule that establishes or implements a new Federal mandate shall at the same time submit to each House

of Congress and to CBO and OMB a cost estimate and cost/benefit analysis of any new Federal mandate that would have an aggregate direct cost to State and local governments of at least $10,000,000 for any fiscal year.

TITLE XI—TAXPAYER DEBT BUY-DOWN

SEC. 11001. DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT

''Sec. 6097. Designation.

"SEC. 6097. DESIGNATION.

''(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

''(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

''(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund).''

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

''Part IX. Designation for reduction of public debt.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 11002. PUBLIC DEBT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following section:

"SEC. 9512. PUBLIC DEBT REDUCTION TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

''(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be used by the Secretary of the Treasury for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt (other than an obligation held by the Federal Old-Age and Survivors Insurance Trust Fund, the Civil Service Retirement and Disability Fund, or the Department of Defense Military Retirement Fund). Any obligation which is paid, redeemed, or bought with amounts from the Public Debt Reduction Trust Fund shall be canceled and retired and may not be reissued.''

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

''Sec. 9512. Public Debt Reduction Trust Fund.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 11003. TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.

(a) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.

''(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session, and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending one year before the beginning of that session of Congress, as estimated by the Department of the Treasury on October 1 and as modified by the total of (1) any amounts by which net discretionary spending is reduced by legislation below the discretionary spending limits enacted after the enactment of this section related to the fiscal year subject to the sequestration (or, in the absence of such limits, any net deficit change from the baseline amount calculated under section 257 (except that such baseline for fiscal year 1996 and thereafter shall be based upon fiscal year 1995 enacted appropriations less any 1995 sequesters)) and (2) the net deficit change that has resulted from all direct spending legislation enacted after the enactment of this section related to the fiscal year subject to the sequestration, as estimated by OMB. If the reduction in spending under paragraphs (1) and (2) for a fiscal year is greater than the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 respecting that fiscal year, then there shall be no sequestration under this section.

''(b) APPLICABILITY.—

''(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority reduced under this section shall be done in a manner that makes such reductions permanent.

''(2) EXEMPT ACCOUNTS.—No order issued under this part may—

''(A) reduce benefits payable the old-age and survivors insurance program established under title II of the Social Security Act;

''(B) reduce payments for net interest (all of major functional category 900); or

''(C) make any reduction in the following accounts:

''Federal Deposit Insurance Corporation, Bank Insurance Fund;

''Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

''Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

''National Credit Union Administration, credit union share insurance fund; or

''Resolution Trust Corporation.''

(b) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (a), by inserting after the item relating to the GAO compliance report the following:

''October 1 . . . Department of Treasury report to Congress estimating amount of income tax designated pursuant to section 6097 of the Internal Revenue Code of 1986.'';

(2) in subsection (d)(1), by inserting '', and sequestration to reduce the public debt,'';

(3) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

''(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

''(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

''(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b).''; and

(4) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the public debt taxation designation report required on October 1.''.

(c) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this section. The amendments made by this section shall cease to have any effect after the first fiscal year during which there is no public debt.

TITLE XII—SMALL BUSINESS INCENTIVES

SEC. 12001. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDITS.

(a) ESTATE TAX CREDIT.—

(1) Subsection (a) of section 2010 of the Internal Revenue Code of 1986 (relating to unified credit against estate tax) is amended by striking ''$192,800'' and inserting ''the applicable credit amount''.

(2) Section 2010 of such Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) APPLICABLE CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The applicable credit amount is the amount of the tentative tax which would be determined under the rate schedule set forth in section 2001(c) if the amount with respect to which such tentative tax is to be computed were the applicable exclusion amount determined in accordance with the following table:

"In the case of estates of decedents dying, and gifts made, during:	The applicable exclusion amount is:
1996	$700,000
1997	$725,000
1998 or thereafter	$750,000.

''(2) COST-OF-LIVING ADJUSTMENTS.—In the case of any decedent dying, and gift made, in a calendar year after 1998, the $750,000 amount set forth in paragraph (1) shall be increased by an amount equal to—

''(A) $750,000, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1997' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.''

(3) Paragraph (1) of section 6018(a) of such Code is amended by striking ''$600,000'' and inserting ''the applicable exclusion amount in effect under section 2010(c) (as adjusted under paragraph (2) thereof) for the calendar year which includes the date of death''.

(4) Paragraph (2) of section 2001(c) of such Code is amended by striking ''$21,040,000'' and inserting ''the amount at which the effective tax rate under this section is 55 percent''.

(5) Subparagraph (A) of section 2102(c)(3) of such Code is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death''.

(b) UNIFIED GIFT TAX CREDIT.—Paragraph (1) of section 2505(a) of such Code is amended by striking ''$192,800'' and inserting ''the applicable credit amount in effect under section 2010(c) for such calendar year''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying, and gifts made, after December 31, 1995.

SEC. 12002. INCREASE IN EXPENSE TREATMENT FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking ''$17,500'' and inserting ''$25,000''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 12003. CLARIFICATION OF DEFINITION OF PRINCIPAL PLACE OF BUSINESS.

(a) IN GENERAL.—Subsection (f) of section 280A of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

''(2) PRINCIPAL PLACE OF BUSINESS.—For purposes of subsection (c), a home office shall in any case qualify as the principal place of business if—

''(A) the office is the location where the taxpayer's essential administrative or management activities are conducted on a regular and systematic (and not incidental) basis by the taxpayer, and

''(B) the office is necessary because the taxpayer has no other location for the performance of the administrative or management activities of the business.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

SEC. 12004. TREATMENT OF STORAGE OF PRODUCT SAMPLES.

(a) IN GENERAL.—Paragraph (2) of section 280A(c) of the Internal Revenue Code of 1986 is amended by striking ''inventory'' and inserting ''inventory or product samples''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1995.

MOTION OFFERED BY MR. DELAY

Mr. DELAY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Motion offered by Mr. DELAY: Mr. DELAY of Texas moves 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.

The text of the bills referred to in the foregoing motion; H.R. 830, H.R. 925, H.R. 926, and H.R. 1022, is as follows:

H.R. 830

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 ''Paperwork Reduction Act of 1995''.

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

''CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

''Sec.
''3501. Purposes.
''3502. Definitions.
''3503. Office of Information and Regulatory Affairs.
''3504. Authority and functions of Director.
''3505. Assignment of tasks and deadlines.
''3506. Federal agency responsibilities.
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''§ 3501. Purposes

''The purposes of this chapter are to—

''(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

''(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

''(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

''(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

''(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

''(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

''(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

''(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

''(A) privacy and confidentiality, including section 552a of title 5;

''(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

''(C) access to information, including section 552 of title 5;

''(9) ensure the integrity, quality, and utility of the Federal statistical system;

''(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

''(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

''§ 3502. Definitions

''As used in this chapter—

''(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

''(A) the General Accounting Office;

''(B) Federal Election Commission;

''(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

''(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

''(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

''(A) reviewing instructions;

''(B) acquiring, installing, and utilizing technology and systems;

''(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

''(D) searching data sources;

''(E) completing and reviewing the collection of information; and

''(F) transmitting, or otherwise disclosing the information;

''(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

''(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

''(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

''(4) the term 'Director' means the Director of the Office of Management and Budget;

''(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

''(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

''(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

''(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

''(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

''(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

''(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

''(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

''(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records, including a requirement to—

''(A) retain such records;

''(B) notify third parties or the public of the existence of such records;

''(C) disclose such records to third parties or the public; or

''(D) report to third parties or the public regarding such records.

''§ 3503. Office of Information and Regulatory Affairs

''(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

''(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

''§ 3504. Authority and functions of Director

''(a)(1) The Director shall—

''(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

''(B) provide direction and oversee—

''(i) the review and approval of the collection of information and the reduction of the information collection burden;

''(ii) agency dissemination of and public access to information;

''(iii) statistical activities;

''(iv) records management activities;

''(v) privacy, confidentiality, security, disclosure, and sharing of information; and

''(vi) the acquisition and use of information technology.

''(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

''(b) With respect to general information resources management policy, the Director shall—

''(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

''(2) foster greater sharing, dissemination, and access to public information, including through—

''(A) the use of the Government Information Locator Service; and

''(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

''(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

''(4) oversee the development and implementation of best practices in information resources management, including training; and

''(5) oversee agency integration of program and management functions with information resources management functions.

''(c) With respect to the collection of information and the control of paperwork, the Director shall—

''(1) review and approve proposed agency collections of information;

''(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement, acquisition, and payment and to reduce information collection burdens on the public;

''(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

''(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government;

''(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information; and

''(6) place an emphasis on minimizing the burden on small businesses with 50 or fewer employees.

''(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

''(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

''(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

''(e) With respect to statistical policy and coordination, the Director shall—

''(1) coordinate the activities of the Federal statistical system to ensure—

''(A) the efficiency and effectiveness of the system; and

''(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

''(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

''(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

''(A) statistical collection procedures and methods;

''(B) statistical data classification;

''(C) statistical information presentation and dissemination;

''(D) timely release of statistical data; and

''(E) such statistical data sources as may be required for the administration of Federal programs;

''(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

''(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

''(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

''(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

''(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

''(A) be headed by the chief statistician; and

''(B) consist of—

''(i) the heads of the major statistical programs; and

''(ii) representatives of other statistical agencies under rotating membership; and

''(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

''(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

''(B) all costs of the training shall be paid by the agency requesting training.

''(f) With respect to records management, the Director shall—

''(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

''(2) review compliance by agencies with—

''(A) the requirements of chapters 29, 31, and 33 of this title; and

''(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

''(3) oversee the application of records management policies, principles, standards,

and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

''(g) With respect to privacy and security, the Director shall—

''(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

''(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, the Director shall—

''(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

''(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

''(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

''(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759);

''(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

''(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

''(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

''(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

''(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

''§ 3505. Assignment of tasks and deadlines

''(a) In carrying out the functions under this chapter, the Director shall—

''(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least 10 percent, and set annual agency goals to—

''(A) reduce information collection burdens imposed on the public that—

''(i) represent the maximum practicable opportunity in each agency; and

''(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

''(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

''(2) with selected agencies and non-Federal entities on a voluntary basis, initiate and conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden; and

''(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

''(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

''(B) plans for—

''(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

''(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

''(iii) meeting the information technology needs of the Federal Government in accordance with the purposes of this chapter; and

''(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions.

''(b) For purposes of any pilot project conducted under subsection (a)(2), the Director may waive the application of any regulation or administrative directive issued by an agency with which the project is conducted, including any regulation or directive requiring a collection of information, after giving timely notice to the public and the Congress regarding the need for such waiver.

''§ 3506. Federal agency responsibilities

''(a)(1) The head of each agency shall be responsible for—

''(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

''(B) complying with the requirements of this chapter and related policies established by the Director.

''(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

''(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

''(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

''(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

''(b) With respect to general information resources management, each agency shall—

''(1) manage information resources to—

''(A) reduce information collection burdens on the public;

''(B) increase program efficiency and effectiveness; and

''(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

''(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

''(3) develop and maintain an ongoing process to—

''(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

''(B) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

''(C) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

''(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

''(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

''(c) With respect to the collection of information and the control of paperwork, each agency shall—

''(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

''(A) review each collection of information before submission to the Director for review under this chapter, including—

''(i) an evaluation of the need for the collection of information;

''(ii) a functional description of the information to be collected;

''(iii) a plan for the collection of the information;

''(iv) a specific, objectively supported estimate of burden;

''(v) a test of the collection of information through a pilot program, if appropriate; and

''(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

''(B) ensure that each information collection—

''(i) is inventoried, displays a control number and, if appropriate, an expiration date;

''(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

''(iii) contains a statement to inform the person receiving the collection of information—

''(I) the reasons the information is being collected;

''(II) the way such information is to be used;

''(III) an estimate, to the extent practicable, of the burden of the collection; and

''(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

''(C) assess the information collection burden of proposed legislation affecting the agency;

''(2)(A) except for good cause or as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

''(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

''(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

''(iii) enhance the quality, utility, and clarity of the information to be collected; and

''(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

''(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv);

''(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

''(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

''(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

''(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

''(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

''(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

''(iii) an exemption from coverage of the collection of information, or any part thereof;

''(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

''(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

''(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

''(G) contains the statement required under paragraph (1)(B)(iii);

''(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

''(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

''(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public; and

''(4) place an emphasis on minimizing the bureen on small businesses with 50 or fewer employees.

''(d) With respect to information dissemination, each agency shall—

''(1) ensure that the public has timely, equal, and equitable access to the agency's public information, including ensuring such access through—

''(A) encouraging a diversity of public and private sources for information based on government public information,

''(B) in cases in which the agency provides public information maintained in electronic format, providing timely, equal, and equitable access to the underlying data (in whole or in part); and

''(C) agency dissemination of public information in an efficient, effective, and economical manner;

''(2) regularly solicit and consider public input on the agency's information dissemination activities;

''(3) provide adequate notice when initiating, substantially modifying, or terminating significant information dissemination products; and

''(4) not, except where specifically authorized by statute—

''(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

''(B) restrict or regulate the use, resale, or redissemination of public information by the public;

''(C) charge fees or royalties for resale or redissemination of public information; or

''(D) establish user fees for public information that exceed the cost of dissemination, except that the Director may waive the application of this subparagraph to an agency, if—

''(i) the head of the agency submits a written request to the Director, publishes a notice of the request in the Federal Register, and provides a copy of the request to the public upon request;

''(ii) the Director sets forth in writing a statement of the scope, conditions, and duration of the waiver and the reasons for granting it, and makes such statement available to the public upon request; and

''(iii) the granting of the waiver would not materially impair the timely and equitable availability of public information to the public.

''(e) With respect to statistical policy and coordination, each agency shall—

''(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

''(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

''(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

''(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

''(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

''(6) make data available to statistical agencies and readily accessible to the public.

''(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

''(g) With respect to privacy and security, each agency shall—

''(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

''(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

''(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

''(h) With respect to Federal information technology, each agency shall—

''(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

''(2) assume responsibility and accountability for information technology investments;

''(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

''(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

''(5) assume responsibility for maximizing the value and assessing and managing the risks of major information systems initiatives through a process that is—

''(A) integrated with budget, financial, and program management decisions; and

''(B) used to select, control, and evaluate the results of major information systems initiatives.

''§ 3507. Public information collection activities; submission to Director; approval and delegation

''(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

''(1) the agency has—

''(A) conducted the review established under section 3506(c)(1);

''(B) evaluated the public comments received under section 3506(c)(2);

''(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations,

and other related materials as the Director may specify; and

''(D) published a notice in the Federal Register—

''(i) stating that the agency has made such submission; and

''(ii) setting forth—

''(I) a title for the collection of information;

''(II) a summary of the collection of information;

''(III) a brief description of the need for the information and the proposed use of the information;

''(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

''(V) an estimate of the burden that shall result from the collection of information; and

''(VI) notice that comments may be submitted to the agency and Director;

''(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

''(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

''(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except for good cause or as provided under subsection (j).

''(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

''(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

''(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

''(A) the approval may be inferred;

''(B) a control number shall be assigned without further delay; and

''(C) the agency may collect the information for not more than 1 year.

''(d)(1) For any proposed collection of information contained in a proposed rule—

''(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

''(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

''(2) When a final rule is published in the Federal Register, the agency shall explain—

''(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

''(B) the reasons such comments were rejected.

''(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

''(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

''(A) from disapproving any collection of information which was not specifically required by an agency rule;

''(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

''(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule, and after considering the agency's response to the Director's comments filed under paragraph (2), that the collection of information cannot be approved under the standards set forth in section 3508; or

''(D) from disapproving any collection of information contained in a final rule, if—

''(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

''(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

''(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

''(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

''(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

''(2) Any written communication between the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs, and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

''(3) This subsection shall not require the disclosure of—

''(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

''(B) any communication relating to a collection of information, the disclosure of which could lead to retaliation or discrimination against the communicator.

''(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

''(A) any disapproval by the Director, in whole or in part, of a proposed collection of information that agency; or

''(B) an exercise of authority under subsection (d) of section 3507 concerning that agency.

''(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

''(g) The Director may not approve a collection of information for a period in excess of 3 years.

''(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

''(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

''(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

''(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

''(A) publish an explanation thereof in the Federal Register; and

''(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

''(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

''(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

''(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

''(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

''(A) a collection of information—

''(i) is needed prior to the expiration of such time periods; and

''(ii) is essential to the mission of the agency; and

''(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

''(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

''(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

''(2) The Director shall approve or disapprove any such authorization request

within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

''§ 3508. Determination of necessity for information; hearing

''Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent, if any, that the Director determines that the collection of information by an agency is unnecessary for any reason, the agency may not engage in the collection of information.

''§ 3509. Designation of central collection agency

''The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

''§ 3510. Cooperation of agencies in making information available

''(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

''(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

''(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

''§ 3511. Establishment and operation of Government Information Locator Service

''In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

''(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

''(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

''(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

''(4) consider public access and other user needs in the establishment and operation of the Service;

''(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

''(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

''§ 3512. Public protection

''(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain or provide information to any agency if the collection of information involved was made after December 31, 1981, and at the time of the failure did not display a current control number assigned by the Director, or fails to state that such request is not subject to this chapter.

''(b) Actions taken by agencies which are not in compliance with subsection (a) of this section shall give rise to a complete defense or bar to such action by an agency, which may be raised at any time during the agency decision making process or judicial review of the agency decision under any available process for judicial review.

''§ 3513. Director review of agency activities; reporting; agency response

''(a) In consultation with the Administrator of General Services, the Archivist of the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

''(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

''(1) be taken to address information resources management problems identified in the report; and

''(2) improve agency performance and the accomplishment of agency missions.

''§ 3514. Responsiveness to Congress

''(a)(1) The Director shall—

''(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

''(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

''(2) The Director shall include in any such report a description of the extent to which agencies have—

''(A) reduced information collection burdens on the public, including—

''(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

''(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter;

''(iii) a list of any increase in the collection of information burden, including the authority for each such collection; and

''(iv) a list of agencies that in the preceding year did not reduce information collection burdens by at least 10 percent pursuant to section 3505, a list of the programs and statutory responsibilities of those agencies that precluded that reduction, and recommendations to assist those agencies to reduce information collection burdens in accordance with that section;

''(B) improved the quality and utility of statistical information;

''(C) improved public access to Government information; and

''(D) improved program performance and the accomplishment of agency missions through information resources management.

''(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

''§ 3515. Administrative powers

''Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

''§ 3516. Rules and regulations

''The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

''§ 3517. Consultation with other agencies and the public

''(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

''(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

''(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

''(2) take appropriate remedial action, if necessary.

''§ 3518. Effect on existing laws and regulations

''(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

''(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

''(c)(1) Except as provided in paragraph (2), this chapter shall not apply to obtaining,

causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions—

''(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

''(B) during the conduct of—

''(i) a civil action to which the United States or any official or agency thereof is a party; or

''(ii) an administrative action or investigation involving an agency against specific individuals or entities;

''(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

''(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

''(2) This chapter applies to obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

''(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

''(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

''§ 3519. Access to information

''Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

''§ 3520. Authorization of appropriations

''There are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter such sums as may be necessary.''.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1995.

H.R. 925

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 ''Private Property Protection Act of 1995''.

SEC. 2. FEDERAL POLICY AND DIRECTION.

(a) GENERAL POLICY.—It is the policy of the Federal Government that no law or agency action should limit the use of privately owned property so as to diminish its value.

(b) APPLICATION TO FEDERAL AGENCY ACTION.—Each Federal agency, officer, and employee should exercise Federal authority to ensure that agency action will not limit the use of privately owned property so as to diminish its value.

SEC. 3. RIGHT TO COMPENSATION.

(a) IN GENERAL.—The Federal Government shall compensate an owner of property whose use of any portion of that property has been limited by an agency action, under a specified regulatory law, that diminishes the fair market value of that portion by 20 percent or more. The amount of the compensation shall equal the diminution in value that resulted from the agency action. If the diminution in value of a portion of that property is greater than 50 percent, at the option of the owner, the Federal Government shall buy that portion of the property for its fair market value.

(b) DURATION OF LIMITATION ON USE.—Property with respect to which compensation has been paid under this Act shall not thereafter be used contrary to the limitation imposed by the agency action, even if that action is later rescinded or otherwise vitiated. However, if that action is later rescinded or otherwise vitiated, and the owner elects to refund the amount of the compensation, adjusted for inflation, to the Treasury of the United States, the property may be so used.

SEC. 4. EFFECT OF STATE LAW.

If a use is a nuisance as defined by the law of a State or is already prohibited under a local zoning ordinance, no compensation shall be made under this Act with respect to a limitation on that use.

SEC. 5. EXCEPTIONS.

(a) PREVENTION OF HAZARD TO HEALTH OR SAFETY OR DAMAGE TO SPECIFIC PROPERTY.—No compensation shall be made under this Act with respect to an agency action the primary purpose of which is to prevent an identifiable—

(1) hazard to public health or safety; or

(2) damage to specific property other than the property whose use is limited.

(b) NAVIGATION SERVITUDE.—No compensation shall be made under this Act with respect to an agency action pursuant to the Federal navigation servitude, as defined by the courts of the United States, except to the extent such servitude is interpreted to apply to wetlands.

SEC. 6. PROCEDURE.

(a) REQUEST OF OWNER.—An owner seeking compensation under this Act shall make a written request for compensation to the agency whose agency action resulted in the limitation. No such request may be made later than 180 days after the owner receives actual notice of that agency action.

(b) NEGOTIATIONS.—The agency may bargain with that owner to establish the amount of the compensation. If the agency and the owner agree to such an amount, the agency shall promptly pay the owner the amount agreed upon.

(c) CHOICE OF REMEDIES.—If, not later than 180 days after the written request is made, the parties do not come to an agreement as to the right to and amount of compensation, the owner may choose to take the matter to binding arbitration or seek compensation in a civil action.

(d) ARBITRATION.—The procedures that govern the arbitration shall, as nearly as practicable, be those established under title 9, United States Code, for arbitration proceedings to which that title applies. An award made in such arbitration shall include a reasonable attorney's fee and other arbitration costs (including appraisal fees). The agency shall promptly pay any award made to the owner.

(e) CIVIL ACTION.—An owner who does not choose arbitration, or who does not receive prompt payment when required by this section, may obtain appropriate relief in a civil action against the agency. An owner who prevails in a civil action under this section shall be entitled to, and the agency shall be liable for, a reasonable attorney's fee and other litigation costs (including appraisal fees). The court shall award interest on the amount of any compensation from the time of the limitation.

(f) SOURCE OF PAYMENTS.—Any payment made under this section to an owner, and any judgment obtained by an owner in a civil action under this section shall, notwithstanding any other provision of law, be made from the annual appropriation of the agency whose action occasioned the payment or judgment. If the agency action resulted from a requirement imposed by another agency, then the agency making the payment or satisfying the judgment may seek partial or complete reimbursement from the appropriated funds of the other agency. For this purpose the head of the agency concerned may transfer or reprogram any appropriated funds available to the agency. If insufficient funds exist for the payment or to satisfy the judgment, it shall be the duty of the head of the agency to seek the appropriation of such funds for the next fiscal year.

SEC. 7. LIMITATION.

Notwithstanding any other provision of law, any obligation of the United States to make any payment under this Act shall be subject to the availability of appropriations.

SEC. 8. DUTY OF NOTICE TO OWNERS.

Whenever an agency takes an agency action limiting the use of private property, the agency shall give appropriate notice to the owners of that property explaining their rights under this Act and the procedures directly affected for obtaining any compensation that may be due to them under this Act.

SEC. 9. RULES OF CONSTRUCTION.

(a) EFFECT ON CONSTITUTIONAL RIGHT TO COMPENSATION.—Nothing in this Act shall be construed to limit any right to compensation that exists under the Constitution or under other laws of the United States.

(b) EFFECT OF PAYMENT.—Payment of compensation under this Act (other than when the property is bought by the Federal Government at the option of the owner) shall not confer any rights on the Federal Government other than the limitation on use resulting from the agency action.

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) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(B) the Endangered Species Act of 1979 (16 U.S.C. 1531 et seq.);

(C) title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.); or

(D) with respect to an owner's right to use or receive water only—

(i) the Act of June 17, 1902, and all Acts amendatory thereof or supplementary thereto, popularly called the ''Reclamation Acts'' (43 U.S.C. 371 et seq.);

(ii) the Federal Land Policy Management Act (43 U.S.C. 1701 et seq.); or

(iii) section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(6) the term ''fair market value'' means the most probable price at which property would change hands, in a competitive and open market under all conditions requisite to a fair sale, between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts, at the time the agency action occurs;

(7) the term ''State'' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States; and

(8) the term ''law of the State'' includes the law of a political subdivision of a State.

H.R. 926

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''.

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 one year notwithstanding any other provision of law 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. 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 one year notwithstanding any other provision of law after the date the analysis is made available to the public.

''(2) 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.

''(3) 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.

''(4)(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.

''(5) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (4) (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.

''(6) 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)(4)) 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.

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 summary of 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).

The agency shall provide the complete text of a final regulatory impact analysis upon request.

''(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.

''(6) 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.''.

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 requests for a hearing to an agency regarding any major 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 major 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 least 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, 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.

''(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 adopt 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;

''(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;

''(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, 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; and

''(E) any regulation proposed or issued pursuant to section 553 of title 5, 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.

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.

''(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.''.

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.

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.

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.

H.R. 1022

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 ''Risk Assessment and Cost-Benefit Act of 1995''.

SEC. 2. FINDINGS.

The Congress finds that:

(1) Environmental, health, and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

(2) The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner and so that the incremental costs of regulatory alternatives are reasonably related to the incremental benefits.

(3) To provide more cost-effective and cost-reasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

(4) Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

(5) The public stake holders must be fully involved in the risk-decision making process. They have the right-to-know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

(6) Although risk assessment is one important method to improve regulatory decision-making, other approaches to secure prompt relief from the burden of unnecessary and overly complex regulations will also be necessary.

SEC. 3. COVERAGE OF ACT.

This Act does not apply to any of the following:

(1) A situation that the head of an affected Federal agency determines to be an emergency. In such circumstance, the head of the agency shall comply with the provisions of this Act within as reasonable a time as is practical.

(2) Activities necessary to maintain military readiness.

(3) Any individual food, drug, or other product label, or to any risk characterization appearing on any such label, if the individual product label is required by law to be approved by a Federal department or agency prior to use.

(4) Approval of State programs or plans by Federal agencies.

SEC. 4. UNFUNDED MANDATES.

Nothing in this Act itself shall, without Federal funding and further Federal agency action, create any new obligation or burden on any State or local government or otherwise impose any financial burden on any State or local government in the absence of Federal funding, except with respect to routine information requests.

SEC. 5. DEFINITIONS.

For purposes of this Act:

(1) COSTS.—The term ''costs'' includes the direct and indirect costs to the United States Government, to State, local, and tribal governments, and to the private sector, wage earners, consumers, and the economy, of implementing and complying with a rule or alternative strategy.

(2) BENEFIT.—The term ''benefit'' means the reasonably identifiable significant health, safety, environmental, social and economic benefits that are expected to result directly or indirectly from implementation of a rule or alternative strategy.

(3) MAJOR RULE.—The term ''major rule'' means any regulation that is likely to result in an annual increase in costs of $25,000,000 or more. Such term does not include any regulation or other action taken by an agency to authorize or approve any individual substance or product.

(4) PROGRAM DESIGNED TO PROTECT HUMAN HEALTH.—The term ''program designed to protect human health'' does not include regulatory programs concerning health insurance, health provider services, or health care diagnostic services.

(5) EMERGENCY.—As used in this Act, the term ''emergency'' means a situation that is immediately impending and extraordinary in nature, 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.

SEC. 6. AVAILABILITY OF INFORMATION AMONG FEDERAL AGENCIES.

Covered Federal agencies shall make existing databases and information developed under this Act available to other Federal agencies, subject to applicable confidentiality requirements, for the purpose of meeting the requirements of this Act. Within 15 months after the date of enactment of this Act, the President shall issue guidelines for Federal agencies to comply with this section.

TITLE I—RISK ASSESSMENT AND COMMUNICATION

SEC. 101. SHORT TITLE.

This title may be cited as the ''Risk Assessment and Communication Act of 1995''.

SEC. 102. PURPOSES.

The purposes of this title are—

(1) to present the public and executive branch with the most scientifically objective and unbiased information concerning the nature and magnitude of health, safety, and environmental risks in order to provide for sound regulatory decisions and public education;

(2) to provide for full consideration and discussion of relevant data and potential methodologies;

(3) to require explanation of significant choices in the risk assessment process which will allow for better peer review and public understanding; and

(4) to improve consistency within the executive branch in preparing risk assessments and risk characterizations.

SEC. 103. EFFECTIVE DATE; APPLICABILITY; SAVINGS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise specifically provided in this title, the provisions of this title shall take effect 18 months after the date of enactment of this title.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), this title applies to all significant risk assessment documents and significant risk characterization documents, as defined in paragraph (2).

(2) SIGNIFICANT RISK ASSESSMENT DOCUMENT OR SIGNIFICANT RISK CHARACTERIZATION DOCUMENT.—(A) As used in this title, the terms ''significant risk assessment document'' and ''significant risk characterization document'' include, at a minimum, risk assessment documents or risk characterization documents prepared by or on behalf of a covered Federal agency in the implementation of a regulatory program designed to protect human health, safety, or the environment, used as a basis for one of the items referred to in subparagraph (B), and—

(i) included by the agency in that item; or

(ii) inserted by the agency in the administrative record for that item.

(B) The items referred to in subparagraph (A) are the following:

(i) Any proposed or final major rule, including any analysis or certification under title II, promulgated as part of any Federal regulatory program designed to protect human health, safety, or the environment.

(ii) Any proposed or final environmental clean-up plan for a facility or Federal guidelines for the issuance of any such plan. As used in this clause, the term ''environmental clean-up'' means a corrective action under the Solid Waste Disposal Act, a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a covered Federal agency with respect to any substance other than municipal waste.

(iii) Any proposed or final permit condition placing a restriction on facility siting or operation under Federal laws administered by the Environmental Protection Agency or the Department of the Interior. Nothing in this section (iii) shall apply to the requirements of section 404 of the Clean Water Act.

(iv) Any report to Congress.

(v) Any regulatory action to place a substance on any official list of carcinogens or toxic or hazardous substances or to place a new health effects value on such list, including the Integrated Risk Information System Database maintained by the Environmental Protection Agency.

(vi) Any guidance, including protocols of general applicability, establishing policy regarding risk assessment or risk characterization.

(C) The terms ''significant risk assessment document'' and ''significant risk characterization document'' shall also include the following:

(i) Any such risk assessment and risk characterization documents provided by a covered Federal agency to the public and which are likely to result in an annual increase in costs of $25,000,000 or more.

(ii) Environmental restoration and waste management carried out by or on behalf of the Department of Defense with respect to any substance other than municipal waste.

(D) Within 15 months after the date of the enactment of this Act, each covered Federal agency administering a regulatory program designed to protect human health, safety, or the environment shall promulgate a rule establishing those additional categories, if any, of risk assessment and risk characterization documents prepared by or on behalf

of the covered Federal agency that the agency will consider significant risk assessment documents or significant risk characterization documents for purposes of this title. In establishing such categories, the head of the agency shall consider each of the following:

(i) The benefits of consistent compliance by documents of the covered Federal agency in the categories.

(ii) The administrative burdens of including documents in the categories.

(iii) The need to make expeditious administrative decisions regarding documents in the categories.

(iv) The possible use of a risk assessment or risk characterization in any compilation of risk hazards or health or environmental effects prepared by an agency and commonly made available to, or used by, any Federal, State, or local government agency.

(v) Such other factors as may be appropriate.

(E)(i) Not later than 18 months after the date of the enactment of this Act, the President, acting through the Director of the Office of Management and Budget, shall determine whether any other Federal agencies should be considered covered Federal agencies for purposes of this title. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

(I) regulatory programs administered by that agency; and

(II) the communication of risk information by that agency to the public.

The effective date of such a determination shall be no later than 6 months after the date of the determination.

(ii) Not later than 15 months after the President, acting through the Director of the Office of Management and Budget, determines pursuant to clause (i) that a Federal agency should be considered a covered Federal agency for purposes of this title, the head of that agency shall promulgate a rule pursuant to subparagraph (D) to establish additional categories of risk assessment and risk characterization documents described in that subparagraph.

(3) EXCEPTIONS.—(A) This title does not apply to risk assessment or risk characterization documents containing risk assessments or risk characterizations performed with respect to the following:

(i) A screening analysis, where appropriately labeled as such, including a screening analysis for purposes of product regulation or premanufacturing notices.

(ii) Any health, safety, or environmental inspections.

(iii) The sale or lease of Federal resources or regulatory activities that directly result in the collection of Federal receipts.

(B) No analysis shall be treated as a screening analysis for purposes of subparagraph (A) if the results of such analysis are used as the basis for imposing restrictions on substances or activities.

(C) The risk assessment principle set forth in section 104(b)(1) need not apply to any risk assessment or risk characterization document described in clause (iii) of paragraph (2)(B). The risk characterization and communication principle set forth in section 105(4) need not apply to any risk assessment or risk characterization document described in clause (v) or (vi) of paragraph (2)(B).

(c) SAVINGS PROVISIONS.—The provisions of this title shall be supplemental to any other provisions of law relating to risk assessments and risk characterizations, except that nothing in this title shall be construed to modify any statutory standard or statutory requirement designed to protect health, safety, or the environment. Nothing in this title shall be interpreted to preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability. Nothing in this title shall be construed to require the disclosure of any trade secret or other confidential information.

SEC. 104. PRINCIPLES FOR RISK ASSESSMENT.

(a) IN GENERAL.—The head of each covered Federal agency shall apply the principles set forth in subsection (b) in order to assure that significant risk assessment documents and all of their components distinguish scientific findings from other considerations and are, to the extent feasible, scientifically objective, unbiased, and inclusive of all relevant data and rely, to the extent available and practicable, on scientific findings. Discussions or explanations required under this section need not be repeated in each risk assessment document as long as there is a reference to the relevant discussion or explanation in another agency document which is available to the public.

(b) PRINCIPLES.—The principles to be applied are as follows:

(1) When discussing human health risks, a significant risk assessment document shall contain a discussion of both relevant laboratory and relevant epidemiological data of sufficient quality which finds, or fails to find, a correlation between health risks and a potential toxin or activity. Where conflicts among such data appear to exist, or where animal data is used as a basis to assess human health, the significant risk assessment document shall, to the extent feasible and appropriate, include discussion of possible reconciliation of conflicting information, and as relevant, differences in study designs, comparative physiology, routes of exposure, bioavailability, pharmacokinetics, and any other relevant factor, including the sufficiency of basic data for review. The discussion of possible reconciliation should indicate whether there is a biological basis to assume a resulting harm in humans. Animal data shall be reviewed with regard to its relevancy to humans.

(2) Where a significant risk assessment document involves selection of any significant assumption, inference, or model, the document shall, to the extent feasible—

(A) present a representative list and explanation of plausible and alternative assumptions, inferences, or models;

(B) explain the basis for any choices;

(C) identify any policy or value judgments;

(D) fully describe any model used in the risk assessment and make explicit the assumptions incorporated in the model; and

(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

SEC. 105. PRINCIPLES FOR RISK CHARACTERIZATION AND COMMUNICATION.

Each significant risk characterization document shall meet each of the following requirements:

(1) ESTIMATES OF RISK.—The risk characterization shall describe the populations or natural resources which are the subject of the risk characterization. If a numerical estimate of risk is provided, the agency shall, to the extent feasible, provide—

(A) the best estimate or estimates for the specific populations or natural resources which are the subject of the characterization (based on the information available to the Federal agency); and

(B) a statement of the reasonable range of scientific uncertainties.

In addition to such best estimate or estimates, the risk characterization document may present plausible upper-bound or conservative estimates in conjunction with plausible lower bounds estimates. Where appropriate, the risk characterization document may present, in lieu of a single best estimate, multiple best estimates based on assumptions, inferences, or models which are equally plausible, given current scientific understanding. To the extent practical and appropriate, the document shall provide descriptions of the distribution and probability of risk estimates to reflect differences in exposure variability or sensitivity in populations and attendant uncertainties. Sensitive subpopulations or highly exposed subpopulations include, where relevant and appropriate, children, the elderly, pregnant women, and disabled persons.

(2) EXPOSURE SCENARIOS.—The risk characterization document shall explain the exposure scenarios used in any risk assessment, and, to the extent feasible, provide a statement of the size of the corresponding population at risk and the likelihood of such exposure scenarios.

(3) COMPARISONS.—The document shall contain a statement that places the nature and magnitude of risks to human health, safety, or the environment in context. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) SUBSTITUTION RISKS.—Each significant risk assessment or risk characterization document shall include a statement of any significant substitution risks to human health, where information on such risks has been provided to the agency.

(5) SUMMARIES OF OTHER RISK ESTIMATES.—If—

(A) a commenter provides a covered Federal agency with a relevant risk assessment document or a risk characterization document, and a summary thereof, during a public comment provided by the agency for a significant risk assessment document or a significant risk characterization document, or, where no comment period is provided but a commenter provides the covered Federal agency with the relevant risk assessment document or risk characterization document, and a summary thereof, in a timely fashion, and

(B) the risk assessment document or risk characterization document is consistent with the principles and the guidance provided under this title,

the agency shall, to the extent feasible, present such summary in connection with the presentation of the agency's significant risk assessment document or significant risk characterization document. Nothing in this paragraph shall be construed to limit the inclusion of any comments or material supplied by any person to the administrative record of any proceeding.

A document may satisfy the requirements of paragraph (3), (4) or (5) by reference to information or material otherwise available to the public if the document provides a brief summary of such information or material.

SEC. 106. RECOMMENDATIONS OR CLASSIFICATIONS BY A NON-UNITED STATES-BASED ENTITY.

No covered Federal agency shall automatically incorporate or adopt any recommendation or classification made by a non-United

States-based entity concerning the health effects value of a substance without an opportunity for notice and comment, and any risk assessment document or risk characterization document adopted by a covered Federal agency on the basis of such a recommendation or classification shall comply with the provisions of this title. For the purposes of this section, the term ''non-United States-based entity'' means—

(1) any foreign government and its agencies;

(2) the United Nations or any of its subsidiary organizations;

(3) any other international governmental body or international standards-making organization; or

(4) any other organization or private entity without a place of business located in the United States or its territories.

SEC. 107. GUIDELINES AND REPORT.

(a) GUIDELINES.—Within 15 months after the date of enactment of this title, the President shall issue guidelines for Federal agencies consistent with the risk assessment and characterization principles set forth in sections 104 and 105 and shall provide a format for summarizing risk assessment results. In addition, such guidelines shall include guidance on at least the following subjects: criteria for scaling animal studies to assess risks to human health; use of different types of dose-response models; thresholds; definitions, use, and interpretations of the maximum tolerated dose; weighting of evidence with respect to extrapolating human health risks from sensitive species; evaluation of benign tumors, and evaluation of different human health endpoints.

(b) REPORT.—Within 3 years after the enactment of this title, each covered Federal agency shall provide a report to the Congress evaluating the categories of policy and value judgments identified under subparagraph (C) of section 104(b)(2).

(c) PUBLIC COMMENT AND CONSULTATION.—The guidelines and report under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

(d) REVIEW.—The President shall review and, where appropriate, revise the guidelines published under this section at least every 4 years.

SEC. 108. RESEARCH AND TRAINING IN RISK ASSESSMENT.

(a) EVALUATION.—The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

(b) STRATEGY AND ACTIONS TO MEET IDENTIFIED NEEDS.—The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the head of each covered agency shall submit to the Congress a report on the evaluations conducted under subsection (a) and the strategy and schedule developed under subsection (b). The head of each covered agency shall report to the Congress periodically on the evaluations, strategy, and schedule.

SEC. 109. STUDY OF COMPARATIVE RISK ANALYSIS.

(a) IN GENERAL.—(1) The Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall conduct, or provide for the conduct of, a study using comparative risk analysis to rank health, safety, and environmental risks and to provide a common basis for evaluating strategies for reducing or preventing those risks. The goal of the study shall be to improve methods of comparative risk analysis.

(2) Not later than 90 days after the date of the enactment of this Act, the Director, in collaboration with the heads of appropriate Federal agencies, shall enter into a contract with the National Research Council to provide technical guidance on approaches to using comparative risk analysis and other considerations in setting health, safety, and environmental risk reduction priorities.

(b) SCOPE OF STUDY.—The study shall have sufficient scope and breadth to evaluate comparative risk analysis and to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk reduction. The study shall compare and evaluate a range of diverse health, safety, and environmental risks.

(c) STUDY PARTICIPANTS.—In conducting the study, the Director shall provide for the participation of a range of individuals with varying backgrounds and expertise, both technical and nontechnical, comprising broad representation of the public and private sectors.

(d) DURATION.—The study shall begin within 180 days after the date of the enactment of this Act and terminate within 2 years after the date on which it began.

(e) RECOMMENDATIONS FOR IMPROVING COMPARATIVE RISK ANALYSIS AND ITS USE.—Not later than 90 days after the termination of the study, the Director shall submit to the Congress the report of the National Research Council with recommendations regarding the use of comparative risk analysis and ways to improve the use of comparative risk analysis for decision-making in appropriate Federal agencies.

SEC. 110. DEFINITIONS.

For purposes of this title:

(1) RISK ASSESSMENT DOCUMENT.—The term ''risk assessment document'' means a document containing the explanation of how hazards associated with a substance, activity, or condition have been identified, quantified, and assessed. The term also includes a written statement accepting the findings of any such document.

(2) RISK CHARACTERIZATION DOCUMENT.—The term ''risk characterization document'' means a document quantifying or describing the degree of toxicity, exposure, or other risk posed by hazards associated with a substance, activity, or condition to which individuals, populations, or resources are exposed. The term also includes a written statement accepting the findings of any such document.

(3) BEST ESTIMATE.—The term ''best estimate'' means a scientifically appropriate estimate which is based, to the extent feasible, on one of the following:

(A) Central estimates of risk using the most plausible assumptions.

(B) An approach which combines multiple estimates based on different scenarios and weighs the probability of each scenario.

(C) Any other methodology designed to provide the most unbiased representation of the most plausible level of risk, given the current scientific information available to the Federal agency concerned.

(4) SUBSTITUTION RISK.—The term ''substitution risk'' means a potential risk to human health, safety, or the environment from a regulatory alternative designed to decrease other risks.

(5) COVERED FEDERAL AGENCY.—The term ''covered Federal agency'' means each of the following:

(A) The Environmental Protection Agency.

(B) The Occupational Safety and Health Administration.

(C) The Department of Transportation (including the National Highway Transportation Safety Administration).

(D) The Food and Drug Administration.

(E) The Department of Energy.

(F) The Department of the Interior.

(G) The Department of Agriculture.

(H) The Consumer Product Safety Commission.

(I) The National Oceanic and Atmospheric Administration

(J) The United States Army Corps of Engineers.

(K) The Mine Safety and Health Administration.

(L) The Nuclear Regulatory Commission.

(M) Any other Federal agency considered a covered Federal agency pursuant to section 103(b)(2)(E).

(6) FEDERAL AGENCY.—The term ''Federal agency'' means an executive department, military department, or independent establishment as defined in part I of title 5 of the United States Code, except that such term also includes the Office of Technology Assessment.

(7) DOCUMENT.—The term ''document'' includes material stored in electronic or digital form.

TITLE II—ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS

SEC. 201. ANALYSIS OF RISK REDUCTION BENEFITS AND COSTS.

(a) IN GENERAL.—The President shall require each Federal agency to prepare the following for each major rule within a program designed to protect human health, safety, or the environment that is proposed or promulgated by the agency after the date of enactment of this Act:

(1) An identification of reasonable alternative strategies, including strategies that—

(A) require no government action;

(B) will accommodate differences among geographic regions and among persons with different levels of resources with which to comply; and

(C) employ performance or other market-based mechanisms that permit the greatest flexibility in achieving the identified benefits of the rule.

The agency shall consider reasonable alternative strategies proposed during the comment period.

(2) An analysis of the incremental costs and incremental risk reduction or other benefits associated with each alternative strategy identified or considered by the agency. Costs and benefits shall be quantified to the

extent feasible and appropriate and may otherwise be qualitatively described.

(3) A statement that places in context the nature and magnitude of the risks to be addressed and the residual risks likely to remain for each alternative strategy identified or considered by the agency. Such statement shall, to the extent feasible, provide comparisons with estimates of greater, lesser, and substantially equivalent risks that are familiar to and routinely encountered by the general public as well as other risks, and, where appropriate and meaningful, comparisons of those risks with other similar risks regulated by the Federal agency resulting from comparable activities and exposure pathways. Such comparisons should consider relevant distinctions among risks, such as the voluntary or involuntary nature of risks and the preventability or nonpreventability of risks.

(4) For each final rule, an analysis of whether the identified benefits of the rule are likely to exceed the identified costs of the rule.

(5) An analysis of the effect of the rule—

(A) on small businesses with fewer than 100 employees;

(B) on net employment; and

(C) to the extent practicable, on the cumulative financial burden of compliance with the rule and other existing regulations on persons producing products.

(b) PUBLICATION.—For each major rule referred to in subsection (a) each Federal agency shall publish in a clear and concise manner in the Federal Register along with the proposed and final regulation, or otherwise make publicly available, the information required to be prepared under subsection (a).

SEC. 202. DECISION CRITERIA.

(a) IN GENERAL.—No final rule subject to the provisions of this title shall be promulgated unless the agency certifies the following:

(1) That the analyses under section 201 are based on objective and unbiased scientific and economic evaluations of all significant and relevant information and risk assessments provided to the agency by interested parties relating to the costs, risks, and risk reduction and other benefits addressed by the rule.

(2) That the incremental risk reduction or other benefits of any strategy chosen will be likely to justify, and be reasonably related to, the incremental costs incurred by State, local, and tribal governments, the Federal Government, and other public and private entities.

(3) That other alternative strategies identified or considered by the agency were found either (A) to be less cost-effective at achieving a substantially equivalent reduction in risk, or (B) to provide less flexibility to State, local, or tribal governments or regulated entities in achieving the otherwise applicable objectives of the regulation, along with a brief explanation of why alternative strategies that were identified or considered by the agency were found to be less cost-effective or less flexible.

(b) EFFECT OF DECISION CRITERIA.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law, the decision criteria of subsection (a) shall supplement and, to the extent there is a conflict, supersede the decision criteria for rulemaking otherwise applicable under the statute pursuant to which the rule is promulgated.

(2) SUBSTANTIAL EVIDENCE.—Notwithstanding any other provision of Federal law, no major rule shall be promulgated by any Federal agency pertaining to the protection of health, safety, or the environment unless the requirements of section 201 and subsection (a) are met and the certifications required therein are supported by substantial evidence of the rulemaking record.

(c) PUBLICATION.—The agency shall publish in the Federal Register, along with the final regulation, the certifications required by subsection (a).

(d) NOTICE.—Where the agency finds a conflict between the decision criteria of this section and the decision criteria of an otherwise applicable statute, the agency shall so notify the Congress in writing.

SEC. 203. OFFICE OF MANAGEMENT AND THE BUDGET GUIDANCE.

The Office of Management and Budget shall issue guidance consistent with this title—

(1) to assist the agencies, the public, and the regulated community in the implementation of this title, including any new requirements or procedures needed to supplement prior agency practice; and

(2) governing the development and preparation of analyses of risk reduction benefits and costs.

SEC. 204. ENVIRONMENTAL CLEAN-UP.

For purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as major rule subject to the provisions of this title (other than the provisions of section 201(a)(5)). As used in this section, the term ''environmental clean-up'' means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.

TITLE III—PEER REVIEW

SEC. 301. PEER REVIEW PROGRAM.

(a) ESTABLISHMENT.—For regulatory programs designed to protect human health, safety, or the environment, the head of each Federal agency shall develop a systematic program for independent and external peer review required by subsection (b). Such program shall be applicable across the agency and—

(1) shall provide for the creation of peer review panels consisting of experts and shall be broadly representative and balanced and to the extent relevant and appropriate, may include representatives of State, local, and tribal governments, small businesses, other representatives of industry, universities, agriculture, labor, consumers, conservation organizations, or other public interest groups and organizations;

(2) may provide for differing levels of peer review and differing numbers of experts on peer review panels, depending on the significance or the complexity of the problems or the need for expeditiousness;

(3) shall not exclude peer reviewers with substantial and relevant expertise merely because they represent entities that may have a potential interest in the outcome, provided that interest is fully disclosed to the agency and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

(4) may provide specific and reasonable deadlines for peer review panels to submit reports under subsection (c); and

(5) shall provide adequate protections for confidential business information and trade secrets, including requiring peer reviewers to enter into confidentiality agreements.

(b) REQUIREMENT FOR PEER REVIEW.—In connection with any rule that is likely to result in an annual increase in costs of $100,000,000 or more (other than any rule or other action taken by an agency to authorize or approve any individual substance or product), each Federal agency shall provide for peer review in accordance with this section of any risk assessment or cost analysis which forms the basis for such rule or of any analysis under section 201(a). In addition, the Director of the Office of Management and Budget may order that peer review be provided for any major risk assessment or cost assessment that is likely to have a significant impact on public policy decisions.

(c) CONTENTS.—Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and economic merit of data and methods used for the assessments and analyses.

(d) RESPONSE TO PEER REVIEW.—The head of the Federal agency shall provide a written response to all significant peer review comments.

(e) AVAILABILITY TO PUBLIC.—All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record.

(f) PREVIOUSLY REVIEWED DATA AND ANALYSIS.—No peer review shall be required under this section for any data or method which has been previously subjected to peer review or for any component of any analysis or assessment previously subjected to peer review.

(g) NATIONAL PANELS.—The President shall appoint National Peer Review Panels to annually review the risk assessment and cost assessment practices of each Federal agency for programs designed to protect human health, safety, or the environment. The Panel shall submit a report to the Congress no less frequently than annually containing the results of such review.

TITLE IV—JUDICIAL REVIEW

SEC. 401. JUDICIAL REVIEW.

Compliance or noncompliance by a Federal agency with the requirements of this Act shall be reviewable pursuant to the statute granting the agency authority to act or, as applicable, that statute and the Administrative Procedure Act. The court with jurisdiction to review final agency action under the statute granting the agency authority to act shall have jurisdiction to review, at the same time, the agency's compliance with the requirements of this Act. When a significant risk assessment document or risk characterization document subject to title I is part of the administrative record in a final agency action, in addition to any other matters that the court may consider in deciding whether the agency's action was lawful, the court shall consider the agency action unlawful if such significant risk assessment document or significant risk characterization document does not substantially comply with the requirements of sections 104 and 105.

TITLE V—PLAN

SEC. 501. PLAN FOR ASSESSING NEW INFORMATION.

(a) PLAN.—Within 18 months after the date of enactment of this Act, each covered Federal agency (as defined in title I) shall publish a plan to review and, where appropriate revise any significant risk assessment document or significant risk characterization document published prior to the expiration of such 18-month period if, based on information available at the time of such review, the agency head determines that the application of the principles set forth in sections 104 and 105 would be likely to significantly alter the results of the prior risk assessment or risk characterization. The plan shall provide procedures for receiving and considering new information and risk assessments from the

public. The plan may set priorities and procedures for review and, where appropriate, revision of such risk assessment documents and risk characterization documents and of health or environmental effects values. The plan may also set priorities and procedures for review, and, where appropriate, revision or repeal of major rules promulgated prior to the expiration of such period. Such priorities and procedures shall be based on the potential to more efficiently focus national economic resources within Federal regulatory programs designed to protect human health, safety, or the environment on the most important priorities and on such other factors as such Federal agency considers appropriate.

(b) PUBLIC COMMENT AND CONSULTATION.—The plan under this section, shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State, local, and tribal governments, and such other departments and agencies, offices, organizations, or persons as may be advisable.

TITLE VI—PRIORITIES

SEC. 601. PRIORITIES.

(a) IDENTIFICATION OF OPPORTUNITIES.—In order to assist in the public policy and regulation of risks to public health, the President shall identify opportunities to reflect priorities within existing Federal regulatory programs designed to protect human health in a cost-effective and cost-reasonable manner. The President shall identify each of the following:

(1) The likelihood and severity of public health risks addressed by current Federal programs.

(2) The number of individuals affected.

(3) The incremental costs and risk reduction benefits associated with regulatory or other strategies.

(4) The cost-effectiveness of regulatory or other strategies to reduce risks to public health.

(5) Intergovernmental relationships among Federal, State, and local governments among programs designed to protect public health.

(6) Statutory, regulatory, or administrative obstacles to allocating national economic resources based on the most cost-effective, cost-reasonable priorities considering Federal, State, and local programs.

(b) STATE, LOCAL, AND TRIBAL PRIORITIES.—In identifying national priorities, the President shall consider priorities developed and submitted by State, local, and tribal governments.

(c) BIENNIAL REPORTS.—The President shall issue biennial reports to Congress, after notice and opportunity for public comment, to recommend priorities for modifications to, elimination of, or strategies for existing Federal regulatory programs designed to protect public health. Within 6 months after the issuance of the report, the President shall notify the Congress in writing of the recommendations which can be implemented without further legislative changes and the agency shall consider the priorities set forth in the report and priorities developed and submitted by State, local, and tribal governments when preparing a budget or strategic plan for any such regulatory program.

The SPEAKER pro tempore. Pursuant to section 2 of House Resolution 101, the previous question is ordered on the motion to amend and on the bill.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DELAY].

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.

MOTION TO RECOMMIT OFFERED BY MR. SPRATT

Mr. SPRATT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SPRATT. In its present form I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SPRATT moves to recommit the bill H.R. 9 to the Committee on Science with instructions to report the same back to the House forthwith with the following amendment:

In Division D of H.R. 9, consisting of the text of H.R. 1022, as passed by the House, strike the following text:

''Section 204. Environmental Clean-up.

''For the purposes of this title, any determination by a Federal agency to approve or reject any proposed or final environmental clean-up plan for a facility the costs of which are likely to exceed $5,000,000 shall be treated as a major rule subject to the provisions of this title (other than the provisions of section 205(a)(5)). As used in this section, ''environmental clean-up'' means a corrective action under the Solid Waste Disposal Act, a remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration and waste management carried out by or on behalf of a Federal agency with respect to any substance other than municipal waste.''

Mr. DELAY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit 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.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. SPRATT] is recognized for 5 minutes.

Mr. SPRATT. Mr. Speaker, in the waning minutes of debate on H.R. 1022, the Risk Assessment and Cost-Benefit Analysis Act, Mr. WALKER offered a final amendment which was barely considered at all because we had run out of time. The Walker amendment then passed on a voice vote. This amendment expands the scope of H.R. 1022 far beyond what I think most Members appreciated, because there was no time to explain it when it came before us.

Basically, this Walker amendment provides that when any Federal agency approves or rejects any environmental cleanup plan, and the costs of the clean up plan will exceed $5 million, then the Risk Assessment Cost-Benefit Act is triggered. What in turn that means is that a full-blown risk assessment and cost-benefit analysis is required before the agency can move forward with the plan. If the benefits do not exceed the costs under the act, then the plan cannot be carried forward.

What is the environmental cleanup plan, a $5 million cleanup plan? First of all, the amendment says an environmental cleanup plan is any corrective action taken under CERCLA, the Superfund Act, or under the Solid Waste Disposal Act. That is the first application of it.

Mr. Speaker, I think we all agree that CERCLA or Superfund has taken too much time and involved too many lawyers. If we allow this amendment to stand in this bill, then we have just found another way to take more time and involve more lawyers, and I do not think that is the direction we want to move in. That is enough of a problem with the amendment.

But it goes beyond that, because it also says an environmental clean up decision is ''any other environmental restoration and waste management carried out on behalf of a Federal agency with respect to any substance other than municipal waste.'' So this amendment applies to any environmental restoration decision taken with respect to a Federal facility and any waste management decision. That is Clean Water Act disposal, even Clean Air Act disposal problems. What does this mean?

All DOE facilities, Department of Energy facilities scattered across 17 States, from Savannah River to Oak Ridge, TN to Rocky Flats, to Hanford, WA, there is an enormous array of cleanup problems that could cost billions upon billions of approximate dollars, approximate, that have been accumulated over 50 years, toxic waste, hazardous waste, and very, very dangerous radioactive waste.

This amendment means that the Department of Energy does not have to deal with these nuclear and toxic waste problems if the cost-benefit analysis does not show the benefits will exceed costs.

This means that these problems, which have been overlooked and delayed for 50 years, will have to go through further delay because before DOE can do anything with respect to them, they have to put them through risk assessment and cost-benefit analysis. And this means that the risk assessment/cost-benefit analysis track becomes preempted.

Each one of these 17 sites now in the DOE complex now has a complicated, difficult negotiation ongoing with the State regulatory authorities, and most of them have compliance agreements. The States are no longer involved. what rules is risk assessment and cost-benefit analysis. At Hanford, at Rocky Flats, at Savannah River, all across the country.

The Department of Defense also has major cleanup decisions to make with respect to all the bases it closes. In fact, when we adopted the Base Closing Act, we said you cannot close a base and leave it and turn it over to local communities or new developers until you have resolved all the environmental cleanup problems.

Now the Department of Defense must add on to the time delays it is already experiencing the additional burden of doing cost-benefit analysis. If the cost-benefit analysis does not show the benefits will exceed the costs, then DOD will simply leave those problems unattended. They have been immunized by this bill if the benefits do not exceed the costs, leave them unattended, turn them over to a local community, and then guess what? The next landowner inherits the property with the sites there, but without immunity.

If that is not enough, this also applies to waste management. The word ''waste management'' is used. Waste management does not mean environmental problems that have accumulated through neglect or ignorance of the law over the past years. It means management of ongoing waste streams, waste water emissions into streams. This means DOD, DOE, and others that discharge in a waste management scheme, do not have to comply with waste management decisions unless the benefits can be proven to exceed the costs.

Now, we do not know all the ramifications of this provision, but think a few things are clear. This is not good law; it was made too hastily, it is ill-considered, ill-conceived, and should be stricken from the bill. Let us start over.

Mr. BROWN of California. Mr. Speaker, on February 28, in the waning minutes of the debate on the Risk Assessment and Cost-Benefit Act, H.R. 1022, the House added 17 short lines that potentially do a lot of damage. In adopting the Walker amendment, we have classified virtually every proposed or final environmental cleanup plan for a facility as a major rule subject to all the exacting provisions of the act.

This is yet another instance where, in our rush to pass legislation that improves the regulatory process, we have unnecessarily created a bigger mess than we started with.

Earlier in the debate we dramatically shrunk agency emergency exemption powers to get out from under this burden. Under the Walker amendment, we have dramatically reduced the dollar limit. The combination of these two provisions will end environmental enforcement as we know it to the detriment of anyone who lives near a site which could benefit from a federally aided cleanup. It also will be the last straw for many who would consider rehabbing industrial and Government sites to provide badly needed jobs.

Not all of the ramifications of this provision are known, but this we do know: First, it is going to cost a great deal more time and money to clean up a brownfield site and make it economically useful.

Second, any unemployed regulatory lawyers or environmental lawyers should be shouting hallelujah because they can prolong in court most facility cleanups under the Clean Air Act, the Clean Water Act, the Superfund law, the Department of Defense cleanup programs, and the Department of Energy cleanups.

Third, anyone in the business of doing environmental studies is set for life.

Fourth, since cleanups are now to be based strictly on cost-benefit analyses, States rights to participate in the process and the needs and preferences of local communities no longer matter.

Since this provision applies to every agency of the Federal Government, we do not know what else has been swept up. What is the effect on the Coast Guard, on FEMA, on the Nuclear Regulatory Commission, on our international commitments? No one knows.

Once again we have rushed through an amendment without thinking, without hearings, and without understanding the consequences of our actions. Let's recommit this bill with instructions so that we can avoid the economic and environmental harm that we will otherwise inadvertently spread throughout the country.

I urge my colleagues to vote for the motion to recommit.

Mr. MINETA. Mr. Speaker, I rise in strong support of the motion to recommit.

Mr. Speaker, the motion would direct the deletion of the Walker amendment on environmental cleanup. Rarely has such an ill-considered provision been added to legislation with so little discussion of its broad consequences.

Let me talk about the broad consequences of the amendment. This amendment will greatly delay environmental cleanups, undercut community participation in determining the level of cleanup, preempt States, and slow down the base closure and transfer process. I don't believe we should support any of those results.

What is the major complaint we have heard about Superfund? It takes too long to achieve cleanup and it is a field day for lawyers.

Let me be clear, adding the entire cost-benefit and risk analysis provisions of this bill on top of the current requirements of Superfund will surely delay cleanups. The law today precludes parties from delaying cleanup through court action. Don't forget that this bill also allows for judicial review of agency decisions. Lawyers will have the time of their lives and delay cleanups for years.

Delaying cleanups will have nothing but disastrous effects on the cost of cleanups. Although the proponents of the bill think they are reducing costs, this bill could result in greatly increased costs with less protection to show for it. The human cost through additional time of exposure is immeasurable, but we can measure the additional cost of cleanup which will occur if contaminants are allowed to migrate while the cleanup decision is tied up in court. I cannot support additional work for lawyers while human health is endangered and costs are increasing.

In addition, because this bill also applies to Department of Defense cleanups, the entire base closure process will be brought to its knees. What is the most important issue to local governments in the base closure process? Getting the property out of Federal ownership and into productive use. The Walker amendment will delay that process for years.

The Walker amendment preempts State and local governments from any effective role in determining cleanups. Currently, Federal cleanups are required to consider State laws and local preferences. The amendment overlays a Federal cost-benefit test over any local preference.

This could lead to less protective standards in direct contravention to local desires. Local input on long-term protectiveness, redevelopment considerations, and preservation of local amenities will fall silent in the face of cost considerations, even if the State or local government is willing to pay for them.

If you favor further delays in environmental cleanup; if you favor creating another new issue for lawyers to fight about in court; if you favor delaying the transfer of closed military installations to the local government; if you favor increasing the cost of cleanup; if you favor preempting the States in protecting their citizens; if you favor ignoring the desires of local government in addressing cleanups, then you can vote ''no.''

But if you want to look out for the interests of your constituents and the interests of State and local governments, you should support the motion to recommit.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DELAY] is recognized for 5 minutes in opposition to the motion to recommit.

Mr. DELAY. Mr. Speaker, I rise in opposition to this motion to recommit, and in support of H.R. 9.

Over the last week, in a bipartisan fashion, the House has taken a dramatic step in favor of the American people. We have finally started the process of freeing small business, of protecting private property owners, of inserting some sanity into our rulemaking process.

Today, with H.R. 9, we put the Federal Government on notice: Don't tread unfairly on the American taxpayer.

As we all know, over the last several decades, the Federal Government has run roughshod over the American people. We have taxed them. We have taken their land. We have taken their businesses.

In this last election, the people said enough. They voted out incumbents in huge numbers, and threw out the leadership in both Houses of Congress for the first time in 40 years.

This 104th Congress has been called a second American revolution.

H.R. 9 is an important battle in the second American revolution.

If you are for real change and real reform, you will support H.R. 9. If you want to defend the status quo, if you believe that the American people are wrong in their disregard for the heavy hand of the Federal Government, you will vote for the motion to recommit.

I urge my colleagues to vote down the motion to recommit, and vote for H.R. 9.

□ 1345

The SPEAKER pro tempore (Mr. HANSEN). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. SPRATT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 239, not voting 15, as follows:

[Roll No. 198]

AYES—180

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Cramer
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Mineta
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—239

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Brown (CA)
Bryant (TX)
Burr
Collins (IL)
Dornan
Gonzalez
Green
Hayes
Johnston
Laughlin
Miller (CA)
Moakley
Montgomery
Pelosi
Rangel

□ 1401

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Dornan against.

Mrs. Collins of Illinois for, with Mr. Burr against.

Mr. SKELTON changed his vote from ‘‘no’’ to ‘‘aye.’’

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

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. POMBO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 277, nays 141, not voting 17, as follows:

[Roll No. 199]

YEAS—277

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Moorhead
Moran
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—141

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Boehlert
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson

Gephardt	Mascara	Sabo
Gibbons	Matsui	Sanders
Gilchrest	McCarthy	Sawyer
Greenwood	McDermott	Schroeder
Gutierrez	McHale	Schumer
Hall (OH)	McKinney	Scott
Hastings (FL)	Meehan	Serrano
Hinchey	Meek	Shays
Hoyer	Menendez	Skaggs
Jackson-Lee	Mfume	Slaughter
Jefferson	Mineta	Stark
Johnson, E.B.	Mink	Stokes
Kanjorski	Morella	Studds
Kaptur	Murtha	Thompson
Kennedy (MA)	Nadler	Torres
Kennedy (RI)	Neal	Torricelli
Kennelly	Oberstar	Towns
Kildee	Obey	Tucker
Kleczka	Olver	Velazquez
Klink	Owens	Vento
LaFalce	Pallone	Visclosky
Lantos	Pastor	Ward
Levin	Payne (NJ)	Waters
Lewis (GA)	Porter	Watt (NC)
Lipinski	Rahall	Waxman
Lofgren	Reed	Williams
Lowey	Reynolds	Wise
Luther	Richardson	Woolsey
Maloney	Rivers	Wyden
Manton	Roukema	Wynn
Markey	Roybal-Allard	Yates
Martinez	Rush	Zimmer

NOT VOTING—17

Brown (CA)	Green	Moakley
Bryant (TX)	Hayes	Montgomery
Collins (IL)	Johnson (CT)	Myers
Collins (MI)	Johnston	Pelosi
Dornan	Laughlin	Rangel
Gonzalez	Miller (CA)	

□ 1421

The Clerk announced the following pair:

On this vote:

Mr. Dornan for, with Mr. Moakley against.

Mr. VOLKMER 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.

LEGISLATIVE PROGRAM

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

Mr. GEPHARDT. Mr. Speaker, I ask for 1 minute in order to inquire of the distinguished majority leader about the schedule.

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

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

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, on Monday, March 6, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will take up the rule and the debate of H.R. 988, the Attorney Accountability Act. We do not expect a vote to be called on the rule for H.R. 988, and we expect no votes before 5 p.m. on Monday. We hope to complete legislative business on Monday night as close to 9 p.m. as possible.

On Tuesday, the House will meet at 9:30 a.m. for morning hour and 11 a.m. for legislative business. We expect to complete H.R. 988 and being consideration of H.R. 1058, the Securities Litigation Reform Act, which is subject to a rule. It is our understanding that there are several events scheduled on Tuesday night that Members on both sides of the aisle will wish to attend. For that reason, we plan to finish legislative business on Tuesday between 6:30 and 7 p.m.

On Wednesday, as we announced last week, it is our desire to begin legislative business at 10 a.m. At that time, we expect to finish H.R. 1058, and move to consideration of H.R. 1075, the Common Sense Product Liability and Legal Reform Act, which is subject to a rule.

On Thursday and Friday, the House will meet at 10 a.m. for legislative business to complete consideration of H.R. 1075. It is our hope to have Members on their way home to their families and their districts by 3 p.m. on Friday.

Mr. GEPHARDT. Would the gentleman be able to tell us what he expects the rule to be providing for consideration of the product liability caps bill?

Mr. ARMEY. If the gentleman will yield, the Committee on Rules has not met on that. I cannot advise you at this time on what that rule will be. We will be consulting with the minority in that process.

Mr. GEPHARDT. Amendments are due to the Committee on Rules this afternoon by 3 p.m. I was just wondering if it was expected that all amendments submitted will be made in order. But it is my understanding they have to be presented by 3.

Mr. ARMEY. If the gentleman will yield, the gentleman is absolutely correct. Again, I cannot tell the gentleman anything further than that about the rule at this time.

Mr. GEPHARDT. Further inquiring, could the gentleman confirm on the longer term schedule, does the gentleman expect the term limits and rescissions bill to come to the floor the following week, March 13?

Mr. ARMEY. If the gentleman will yield, we anticipate the term limits will be brought to the floor on the 13th and 14th of March, and we expect rescissions to be on the floor the 15th or the 16th of March.

Mr. GEPHARDT. I take it, then, that welfare reform and spending cuts and the tax bill would come in the weeks after that?

Mr. ARMEY. If the gentleman would yield, the gentleman is absolutely correct.

Mr. GEPHARDT. I yield to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. I thank the distinguished minority leader for yielding.

I would appreciate engaging the distinguished majority leader in a couple of questions if I could.

First of all, I would like to thank him, he was not on the floor when I rose 2 weeks ago to thank him for his cooperation on getting not just Members with their families but staffs with their families on Valentine's Day. Certainly the majority leader does not want to hear more of my terrible, horrible poetry to try to get us back on the family-friendly schedule. I don't want to have to resort to torture to do that. But certainly a lot of Members and their families want to see increased efficiency in terms of the congressional schedule. They want to see if we work 70-hour, 80-hour weeks, that maybe there are procedures that we can use at the end of the day so that we do not see repeats of Monday and Thursday night of this past week, of staying in an hour over when we could have informed Members that we had the last vote.

I would just ask the majority leader a couple of questions. First of all, can you give us any more idea, with predictability in mind, on the schedule for Wednesday and Thursday of next week, specific times?

Mr. ARMEY. If the gentleman would yield, let me just say, I cannot give you a more definitive answer at this time. It is always a matter of how well the day goes. We try to watch it, we try to schedule and stay in long enough to be sure that on the ensuing day we are able to complete that work which we hope to complete.

If the gentleman would continue to yield, Mr. Speaker, I understand the concern of the gentleman from Indiana [Mr. ROEMER]. His expression of concern the other day about wanting to be home and tuck in his children touched me, and if I could just make a recommendation, please do not read them your poems when you do that. We want them to have a good night's sleep. But we will try to do the best we can.

I too have had the pleasure at another time of tucking in my little ones and I know how special that can be and I do want to be attentive to it.

Mr. ROEMER. If the gentleman would answer a few more questions, do we intend to be in on Saturdays in March or April at this point?

Mr. ARMEY. If the gentleman would yield, it is possible, though I dare speak with some, what should I say, qualified confidence that I think I can dare say it seems fairly, perhaps even very unlikely. I have no expectation that I can see that that would happen. But I do have to make a reservation of a possibility that that could happen.

□ 1430

It is my sincere hope and expectation that that will not be the case.

Mr. ROEMER. Finally, a question to the majority leader.

Many of us know that there are very, very difficult sessions ahead. We know that the Republicans are on a 100-day schedule for the contract. But after the first 100 days very difficult decisions are going to face this body on appropriations matters, on budget matters, and on rescission matters and on a farm bill that is critical to many of our States.

Can the gentleman give us some sense of the predictability and how efficacious we are going to be in terms of the schedule between April and August,

and are we going to see a repeat of this first 100 days?

Mr. ARMEY. If the gentleman will yield, we are working on a schedule that we expect will be, in fact, much more family friendly that we hope to be able to give to the gentleman to take with him before his April recess so he and his family could have a better planning of the remainder of the year.

If the gentleman will just bear with us, we would try to complete that and make it available as soon as possible.

Mr. ROEMER. I thank the majority leader.

Mr. GEPHARDT. If the gentleman would just answer one more question of mine, the distinguished majority leader and I have had a conversation before about Members being able to depend upon getting out of here for the Easter recess on or about April 7 or no later than April 8, which is the Saturday before Palm Sunday. I take it we are still on a schedule that would give Members some certainty that they could make plans for after that date?

Mr. ARMEY. If the gentleman will yield, the distinguished minority leader knows I am by nature a rather cautious person in my optimism regarding these things, but what I have been telling my colleagues is I would feel very confident that I can guarantee you that you will wake up in your bed in your home district on Palm Sunday. I am not confident that you will not also retire to your bed in your home district on Palm Sunday. But I think it is a realistic optimism and I believe in fact that definitely by the Saturday prior to Palm Sunday the gentleman should have been on his way home and have his 3 weeks' time.

Mr. GEPHARDT. I thank the gentleman.

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

Mr. GEPHARDT. I yield to the gentleman from West Virginia.

Mr. WISE. If I could address the majority leader for just a second, would he be able to inform us that he has a nonrefundable ticket that gets him home on that day, and then we would all take great security in that.

If I could just ask in a serious moment, Mr. Majority Leader, you do not see me rise on this subject too often, but I would just like to follow on a second on the gentleman from Indiana's theme. And I think I speak for both parties and I speak for members of the staff as well, that this schedule is working a great toll. And we understand, while perhaps not agree that there is the commitment to 100 days, if I could just share a couple of examples with the gentleman, I have not seen my two children awake, my young children, 7 and 5, in a waking state after 8 a.m. in the last 2 work weeks. My son drew a picture, my 7-year-old on Dads' Day and on Valentines Day, and on Dads' Day at school he drew a picture, they all drew pictures of their fathers, and the picture he drew of his father was a pretty good cartoon, actually, with a moustache, with a suitcase in one hand and a hand on the door and a balloon coming out of the mouth that said, ''Goodbye.'' Those things get to you after a while.

Now, in fairness, our constituents do the same thing. The gentleman and I have constituents who are truck drivers, coal miners, sales people working two or three jobs trying to make it. They agonize that they do not see their children in every bit the same way. But there might be sometimes a little bit of a difference though. Sometimes they see a point at the end where they are going to get to. If nothing else, they understand that they are working for hours and they are paid on that basis.

I walked out of here last night knowing I was not going to see my children for dinner again, walked out of here and walked down the hall. I wanted to see what the other body was doing. It had been a historic day. The Chamber was shut, and so as I drifted around the Senate it suddenly occurred to me that we are missing a lot of meals over here to push the contract out. I do not know that they have missed one in anticipation of it.

So I guess I would just close, Mr. Leader, with more of a statement than a question. It is not meant to be acrimonious, but just a statement that both parties, everyone in here I believe professes to be for family values. We argue about that goal. We argue about how to get there. But we both believe we are standing up strongly for American families. I guess I do not think we really represent America's families if we are not with them, and I guess I believe that we do not move America's families very far ahead if we are leaving our own behind.

So, on the theme of the gentleman from Indiana, I would just ask that as the majority leader plans a schedule for the 100 days and what comes after, I would greatly appreciate the considerations raised here. As I say, I know the other side is feeling the same and wants to accommodate, but we have to remember our families as we seek to represent all of America's families.

Mr. ARMEY. If the gentleman will yield, I cannot help but observe to the gentleman from West Virginia that I have found in my own life that the time that I have seen him spend with his family has been much more enjoyable than the time I have spent with him, and we would like to keep the gentleman with his family as much as possible, and we will be working toward that objective.

Mr. WISE. We can reach a consensus on that.

ADJOURNMENT TO MONDAY, MARCH 6, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12:30 p.m. on Monday next for morning hour debate.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

Mrs. SEASTRAND. Mr. Speaker, I ask unanimous consent to remove my name as a cosponsor of House Joint Resolution 2.

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

There was no objection.

REFORM THE SYSTEM

(Mrs. SEASTRAND asked and was given permission to address the House for one minute.)

Mrs. SEASTRAND. Mr. Speaker, we are entering one of the most difficult debates about fundamental reform in our Nation's history. Through perverse incentives, our Government has created a morally corrupt welfare state that discourages work and subsidizes illegitimacy. The welfare system is a tragic failure.

This debate is not about saving money, it is about saving family and the next generation. It is not about more spending, it is about more sincerity. It is not about stopping payments, it is about stopping poverty. It is not about an election cycle, it is about the dependency cycle. This is the greatest country the world has ever known. After 30 years and $5 trillion of failure, we can—we must—do better.

We have a plan we will be debating soon on the floor of the House that sets out to end incentives that promote self-destructive behavior. This plan has a vision for ending the welfare state, the Clinton plan offer only a mirage. We must work with compassion and common sense to end a system that has hurt the very people the very families we have set out to help.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1058, SECURITIES LITIGATION REFORM ACT

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–65) on the resolution (H. Res. 103) providing for consideration of

the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 988, ATTORNEY ACCOUNTABILITY ACT OF 1995

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. 104–66) on the resolution (H. Res. 104) providing for consideration of the bill (H.R. 988) to reform the Federal civil justice system, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING CONSIDERATION OF AMENDMENTS TO HOUSE JOINT RESOLUTION 2, THE TERM LIMITS CONSTITUTIONAL AMENDMENT

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

Mr. SOLOMON. Mr. Speaker, the Rules Committee anticipates meeting on Thursday, March 9, to report a rule for the consideration of House Joint Resolution 2, the term limits constitutional amendment.

The rule may include a provision permitting only the offering of amendments in the nature of a substitute, by Members who have caused their amendments to be printed in the amendment section of the CONGRESSIONAL RECORD not later than Wednesday, March 8.

If Members are interested in having their amendment considered as a substitute for House Joint Resolution 2, they are encouraged to submit a summary and copy of the amendment to the Rules Committee before 5 p.m. on Wednesday, March 8 and testify before the Rules Committee, in addition to preprinting the amendment in the CONGRESSIONAL RECORD.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should be titled, ''Submitted for printing under clause 6 of rule XXIII,'' and submitted at the Speaker's table.

GENERAL LEAVE

Mr. SCARBOROUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 9.

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

There was no objection.

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.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ARCHER] is recognized for 5 minutes.

Mr. ARCHER. Mr. Speaker, today I am introducing the Tax Technical Corrections Act of 1995. I am joined on this legislation by SAM GIBBONS, the distinguished ranking minority member of the Ways and Means Committee.

This legislation makes necessary technical corrections to implement the intent of prior tax legislation. Virtually all of the items in this bill were included in H.R. 3419, which passed in the House during the 103d Congress. However, the bill does include some new technical corrections.

I am introducing this legislation in order to give the public an opportunity to comment on it. Because I intend to mark up the technical corrections legislation during the Ways and Means Committee's consideration of the Contract With America tax provisions within the next 2 weeks, I would ask that any comments be submitted to the Ways and Means Committee as soon as possible.

The following are the new technical corrections which were not included in the prior legislation:

First, the bill clarifies that a U.S. shareholder's inclusion of a controlled foreign corporation's earnings invested in excess passive assets is treated like a dividend for purposes of the foreign tax credit limitation. Thus, like other amounts included in income with respect to a controlled foreign corporation, the inclusion would be characterized by reference to the underlying nature of the earnings and profits of the foreign corporation.

Second, the bill provides an inflation adjustment of the dollar amounts where a parent elects to include child's unearned income on the parent's return.

Third, the bill provides that the exclusion from income for a taxpayer's investment in an annuity contract applies to his entire investment in the contract, in the case of an annuity contract with a refund feature.

The bill also includes a number of new clerical changes, deletions of obsolete provisions, and date changes necessitated by the passage of time.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

[Mr. HOYER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

BALANCED BUDGET AMENDMENT

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. Mr. Speaker, I rise to speak regarding the issue of our balanced budget amendment. The balanced budget amendment yesterday in the other body failed to receive the necessary votes required to pass this amendment on to the State legislatures. I believe that if it had it would have been one of the most rapidly approved constitutional amendments in U.S. history, that it would have very quickly been approved by the required three-fourths of the State legislatures necessary according to our Constitution. I feel that this would have occurred because the people really do want this, and it really, truly is a bipartisan effort.

I was very, very disappointed to see our President using the issue of the scare tactic of Social Security cuts as a way of fighting this bill or fighting this amendment. Indeed, former Senator and Democratic Presidential candidate Paul Tsongas recently said it is embarrassing to be a Democrat and watch a Democrat President raise the scare tactic of Social Security to defeat the balanced budget amendment.

The greatest threat to Social Security is not the balanced budget amendment, but our continued deficit spending. We have a national debt of $4.8 trillion and growing. Last year we spent $296 billion just to pay the interest on the public debt. This year we will spend $333 billion; next year it is anticipated that it will be $364 billion.

The interest on the debt is one of the fastest growing accounts in the Federal budget. This is the greatest threat to Social Security and the greatest threat to every other element of the Federal budget.

□ 1445

Passage of the balanced budget amendment would have been the best guarantee of the integrity and protection of the Social Security trust fund. Let us remember that in 1993, when faced with a $300 billion deficit and a desire to find funding for his new programs, President Clinton's tax-and-spend plan cut seniors' Social Security benefits by $25 billion.

Also let us not forget, last October Alice Rivlin's memo where President Clinton's economic top advisors proposed tens of billions of dollars in additional cuts in Social Security benefits.

Mr. Speaker, the American people are not fooled by the rhetoric out of the White House about Social Security. The American people know that the White House is not concerned about the effects the balanced budget amendment would have on Social Security. The American people know that the real fear by the White House is that the balanced budget amendment would curb the growth of new liberal spending programs.

Mr. Speaker, a recent survey by CBS News/New York Times found that 79 percent, 79 percent of Americans favor the balanced budget amendment. Last week's poll by the Seniors Coalition found that 80 percent of those 55 to 65 favor the balanced budget amendment. Of those over 65, 71 percent favor the balanced budget amendment.

Mr. Speaker, seniors know the truth. The balanced budget amendment will stop the wasteful spending and reduce the threat that the deficit and growing interest payments cause to the Social Security trust fund.

Several weeks ago one of the President's chief economic advisors was asked if she had a family budget that her family lived by, and she responded ''no.'' I think that this is part of the problem.

My family lives by a budget, and we plan for our future. Indeed when I was elected to this office, we had to budget for the cost of maintaining two households and we had to reduce our spending accordingly to compensate for those increased expenses that we were going to encounter.

We need to instill some of those basic fundamental rules that families govern their finances by. We need to instill into this body, the Government of the United States.

I believe this balanced budget amendment will become an issue in the next election of 1996, and I believe that we will see more Members elected both to this body and the one on the other side, more Members elected who will support the balanced budget amendment, and the will of the people of the United States will not be thwarted and that we will have a balanced budget amendment to the Constitution.

RECOMMENDATIONS OF THE BASE REALIGNMENT CLOSURE COMMISSION

The SPEAKER pro tempore (Mr. OXLEY). Under a previous order of the House, the gentleman from Alabama [Mr. BROWDER] is recognized for 5 minutes.

Mr. BROWDER. Mr. Speaker, I am convinced that Secretary of Defense William Perry's recommendation to the Base Realignment and Closure [BRAC] Commission to close Fort McClellan, AL, is a mistake with significant and dangerous ramifications.

With this recommendation, the Pentagon Jeopardizes the American soldier's ability to survive chemical warfare, breaks faith with hundreds of thousands of Alabamians at risk from their neighboring stockpile of aging chemical weapons, and seriously undermines the Chemical Weapons Convention and Bilateral Destruction Agreement.

Let me be specific about what's wrong with the proposed closure of Fort McClellan:

First, it contradicts two earlier directives of the Base Realignment and Closure Commission refusing closure efforts of 1991 and 1993. The BRAC Commission has ruled twice—and the President and Congress concurred—that the chemical defense mission performed at Fort McClellan is vital to our national defense and that the Army's recommendation violates the criteria of military value established by law. The 1993 Commission reprimanded the Pentagon for attempting a second closure—following the unsuccessful initiative of 1991—and warned:

> . . . if the Secretary of Defense wants to move the Chemical Defense School and Chemical Decontamination Training Facility in the future, the Army should pursue all of the required permits and certification for the new site prior to the 1995 Base Closure process.

The Pentagon has not acquired any of the required permits and certification; its only justification for the proposal is its assumption that the requisite permits can be granted to allow operation of the Chemical Defense Training Facility elsewhere.

Second, it would shut down the only facility in the free world where live agent chemical weapons defense training can be conducted for America and its allies. All United States services, 27 allied foreign nations, and the international CWC Preparatory Commission train at this facility. National and international experts have testified that relocation of the Chemical School and live agent facility would seriously disrupt our chemical defense program for a decade; even more importantly, they maintain, it is highly unlikely that such a move can be accomplished under today's environmental restrictions.

Third, it would destroy a chemical defense capability which is considered vital to the success of the Chemical Weapons Convention, whose article 10 guarantees chemical defense assistance to threatened signatory countries.

Fourth, it would dismantle a working chemical weapons program considered critical to the training of international inspectors for carrying out the requirements of the Chemical Weapons Convention.

Fifth, it would abrogate a written commitment of extensive Fort McClellan resources—medical, technical, and security personnel and facilities—to help protect the hundred thousand at-risk civilians in case of a chemical accident/incident during the storage and planned demilitarization of the across-town Anniston Army Depot chemical weapons stockpile—as required by the Bilateral Destruction Agreement and Chemical Weapons Convention. This commitment was made in the 1990 demilitarization permit request filed by the U.S. Army with the Alabama Department of Environmental Management [ADEM], which has authority over the demilitarization process. This commitment has been incorporated into numerous emergency response plans and agreements among Fort McClellan, Anniston Army Depot, and the surrounding community. It has been operationalized in chemical stockpile emergency preparedness drills throughout the local area under the direction of the Army and Federal Emergency Management Agency. Finally, it was reconfirmed to me in a meeting with and letter from Deputy Secretary of Defense John Deutch 6 months ago. ADEM has assured me that the loss of these resources—through closure of Fort McClellan—will virtually prohibit issuance of the permit.

I am shocked and disappointed that the Secretary of Defense who has broad responsibilities for the national and international security of our country, has yielded to the bean-counters and numbers-crunchers in the bowels of the Pentagon.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

[Mr. DREIER 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 North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

[Mrs. CLAYTON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

ADMIT TURKEY TO THE EUROPEAN UNION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. WHITFIELD] is recognized for 5 minutes.

Mr. WHITFIELD. Mr. Speaker, 2 years ago, prior to being elected to the U.S. Congress, my wife and I visited in the home of Tansu Ciller, now the prime minister of Turkey. Turkey has been a strategic ally of the United States for many years, particularly in our efforts to contain Soviet communism, and of course Turkey was an indispensable ally to the United States during the Persian Gulf war.

Today the country of Turkey is at a crossroads. A Kurdish insurrection is raging in the southeast. An Islamic fundamentalist movement is spreading throughout Istanbul and Ankara.

In the Islamic world there are two models of government; one is the Khomeni model in Iran, and the other is Turkey, the only country among 52 Moslem countries that is secular and democratic.

Turkey's most immediate problem is economic. In 1993, the Turkish lira began to engage in a sharp fall. Since then, investment has slowed down and inflation has reached an annual rate of 150 percent.

To help solve these economic problems, it is essential for Turkey's long-term stability that it be admitted to the European Union. The Clinton administration has acknowledged that they have not paid enough attention to this issue, and they are stepping up their activities.

Today, southern Europe is one of the most volatile areas in the world, and it is time for the U.S. Government to step up diplomatic activities to assure admittance of our longtime ally, Turkey, into the European Union.

If Turkey is not admitted, it will add fuel to the popular conviction that the West is rejecting Turkey out of religious bias.

Turkey and its people should be granted membership in the European

Union. I think it is important for that area of the world that they be admitted. It will help them economically, and they have been a longtime valuable ally of America. I hope that the President will follow through on his efforts to step up his diplomatic activities in that regard.

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.]

BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. SCARBOROUGH] is recognized for 5 minutes.

Mr. SCARBOROUGH. Mr. Speaker, yesterday the Senate failed to do what American middle-class citizens and State legislators have had to do for some time, and that is, step up to the plate and finally have to balance their checkbooks, to take in only as much, and spend only as much, as they take in.

Unfortunately, they failed to grasp this very simple concept. It has been a quarter of a century since we balanced our Federal budgets, and yet the liberal Democrats again were afraid to restrict themselves, to live by this very simple, very American concept.

Now, earlier today we heard Democrats talking about wanting a family-friendly Congress and worrying about their children, and that is great. I have got children. I worry about my children, too.

But where were they when we were voting on the most important amendment that would have as big an impact on our children's future as anything? Well, I will tell you where some of them were a year ago. They were supporting this amendment when they knew that it did not have a chance of passing.

We had Senator TOM DASCHLE, who is now beating his chest in self-righteous indignation that anyone would dare pass a balanced budget amendment because locusts would descend from the heavens and senior citizens would die in their homes. This was the worst thing TOM DASCHLE said, and he was proud to stand up for it.

The SPEAKER pro tempore (Mr. OXLEY). The gentleman is admonished to not mention specific Members of the other body.

Mr. SCARBOROUGH. And this Representative was quoted a year ago saying this about this balanced budget amendment, there was going to be such a scourge on humanity. February 28, 1994: ''In this debate for a balanced budget amendment, we are being forced to face the consequences of our inaction. Quite simply, we are building a legacy of debt for our children and grandchildren and hamstringing their ability to address pressing national priorities.''

And what happened? Does he not care about children a year later? It does not make a lot of sense to me.

Another Senator stated a year ago, this constitutional amendment, no matter what one thinks of it, will add to the pressure that we reconcile that we spend what we raise and that we begin to assure a better economic future with economic growth and hope and opportunity for our children once again.

□ 1500

It seems he changed his mind, too. Now he is saying the same thing, bringing up this Social Security card. Frankly, I am getting a little tired of hearing Democrats come out and say how they are the protectors of Social Security, while Republicans want to steal money from our senior citizens.

Why do we not try to think back a few years ago in 1993, when their President sent a budget to the floor that increased taxes on Social Security recipients? How many Republicans voted to take more money out of senior citizens' checkbooks? Zero. Zilch. Zip. Nada. None. How do they sleep at night? I mean, how hypocritical can you be to say, ''I want to protect Social Security, so I am going to make sure that we don't balance our checkbooks. I am going to save senior citizens. These bad Republicans are against senior citizens.

But he does not tell the rest of the story. He does not tell the story that it was the Republicans that stood up for senior citizens. Every single Republican in both houses stood up for senior citizens when the Democratic President, the Democratic House, and the Democratic Senate was ready to sell them down the river.

It is a disgrace. It is hypocritical. I do not know how they sleep at night. I do not know how the Senator from California, who stole her election from the California people by promising to support the balanced budget amendment and then voted against it and killed it a few months later, I do not know how she sleeps at night. And she will not allow the California people to have a chance to vote on the balanced budget amendment, only to make Congress abide by the same laws that middle-class citizens have had to abide by for too long.

I am going to be able to sleep at night. I do not know how they will.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. OXLEY). The gallery is admonished there will be no demonstration.

PARTIES SHOULD AGREE ON COURSE OF ACTION TO AVOID ECONOMIC DOWNTURN

The SPEAKER pro tempore. Under the previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, some months ago, after having been through the election and after having campaigned to support the provisions of the Contract With America, I came to the realization that subsequent to the policies that have been prevalent during this administration that had to do with tax policy, and then with the Fed increasing interest rates along with that tax policy at the same time we had high taxes, that history would ultimately repeat itself, and that our economy could not sustain itself with relatively high taxes and with increasing interest rates. There would come a time when our economy would turn down and that things would not be as this administration and all of us would like them to be. Perhaps that is not far away.

I take this special order this afternoon to just bring light to the fact that there are clouds on the horizon, and that we as Republicans and Democrats need to agree on a course of action to avoid what could be an economic downturn, serious economic downturn.

I picked up the Wall Street Journal this morning, and as I turned through the pages and got to page 2, I found three articles that disturbed me. The headline on one was ''Consumers Held Down Spending During January.'' In reading that article, it simply said that consumers were hesitant to spend, as perhaps they has been at some previous times recently.

I looked at another article that disturbed me along the same vein that said ''Retailers See Mildly Disappointing Sales for February Amid Slowing Economy.'' Of course, that headline speaks for itself. Everyone can understand why we would be disappointed to see that the economy, as this headline says, is slowing.

But then I saw a headline that really disturbed me, because a very important part of the Contract With America, things that Republicans and some Democrats agree on that are part of the contract, is that we can do some things here in the House of Representatives that will help to avoid a slowdown in the economy. And this third article, which really disturbed me, has a headline which says, ''Rubin Questions the Economic Impact of Capital Gains Tax Cuts, Tax Reform.''

This is Secretary Rubin, President Clinton's Secretary of the Treasury, and, of course, he is a very important person when it comes to directing economic policy. And that part of this that disturbed me the most said that he is being reported to have said ''No significant tax reform is likely to emerge from Congress without substantial leadership from the Treasury, and

Mr. Rubin said he is not inclined to deploy the Treasury's limited resources to design a tax reform scheme of its own.''

Now, we have laid out before the America people as Republicans in the Contract With America our ideas of how to do this, and I would just say to Secretary Rubin, please, if you do not agree with us, at least recognize that the economy is showing signs of slowing, and please recognize that we have had seven interest rate increases in the last year, and please recognize that we had the largest tax increase to date in 1990, surpassed only by another more immense tax increase in 1993, and that taxes are at relative high rates and interest rates are relatively high, and yet Secretary Rubin does not worry about out Tax Code inhibiting savings investment and economic growth. He apparently does not want us to make changes to put in place tax policy proven to promote economic growth and savings.

Today our Tax Code and other Government policies promote dependence in my view on government and retard economic growth. Let me just point to a couple of examples.

Last week the Joint Economic Committee held a hearing here on the minimum wage and whether or not it should be increased as President Clinton has suggested. One of the things that we pointed out in that, and I will conclude with this, as to how government policy can promote dependence, is that $1 out of every $4.25, which is the minimum wage, comes to the Federal Government in terms of taxes. If that is in fact the case, it simply makes more sense for people of remain unemployed or go on welfare. These are the kinds of policies that we need to address as Republicans and Democrats with Secretary Rubin's help.

BALANCED BUDGET AMENDMENT SHOULD LIMIT SPENDING

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. Mr. Speaker, yesterday, the Senate failed to muster the courage to join us in passing the balanced budget amendment. Thomas Jefferson once called public debt ''the greatest of dangers to be feared.'' Borrowing and spending is addictive for politicians, Thomas Jefferson, in a letter to Elbridge Gerry in 1799, wrote:

> I am for a government rigorously frugal and simple, applying all the possible savings of the public revenue to the discharge of the national debt; and not for a multiplication of officers and salaries merely to make partisans, and not for increasing by every device, the public debt, on the principle of it's being a public blessing.

I agree with Mr. Jefferson wholeheartedly, and I suspect that most other Americans do as well.

Today, I am introducing a constitutional amendment that would attack the root cause of our budget deficit, that is Government spending. My amendment would limit the growth of Federal spending to the rate of economic growth as measured by gross domestic product. This would freeze the growth of Government as a percentage of the U.S. economy. The language of the amendment is an adaptation of a spending control proposal in Milton Friedman's book, ''Free to Choose.'' Professor Walter Williams, Chairman of the Economics Department at George Mason University, and the National Taxpayers' Union have endorsed this concept. The CATO Institute has given their enthusiastic support and suggested that this might be an acceptable compromise position to the balanced budget amendment.

Today, the Federal debt is in excess of $4.7 trillion and growing at a rate of $200 to $300 billion per year. This is both an economic and a moral problem. The economic problem is that deficit financing is the ultimate form of hidden taxation. Federal borrowing injects a huge pro-spending bias into the budget process by allowing politicians to hand out a dollar of Government spending to voters, while only imposing 80 cents of taxes.

Unbridled Federal spending will eventually lead to what economists call monetizing of the debt, which in plain English means that the government pays for its debt by increasing the money supply, thereby causing inflation. This hidden tax, which Adam Smith called the worst form of taxation, strikes most heavily on those who save. As every senior citizen knows, their security can be wiped out in short order by even moderate inflation. At 8 percent inflation, the Government can effectively take away half of the money one has saved over a lifetime of work in about 9 years.

The moral argument for a balanced budget is that Federal borrowing is taxation without representation. Recall the words of the Declaration of Independence which refers to the repeated injuries and usurpations of King George because he imposed taxes on us without our consent. Can't our children make this same claim against a Congress that saddles them with debt interest payments that are already at $339 billion annually? None of our children and grandchildren currently have a say in the political process. Federal deficits may almost be thought of as a form of fiscal child abuse.

I call on my colleagues to stop deficit spending, and I call on all citizens to commit themselves to do their part, to sacrifice some of the many things they get from Government, so we can cut spending, look our kids in the eye, and tell them that we will no longer force them to pay future taxes to enhance our current standard of living.

As a nation of people who look to the future, and care about our children as much as we care about ourselves, we can make the commitment to limit spending, and keep that commitment.

BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. HOKE] is recognized for 5 minutes.

Mr. HOKE. Mr. Speaker, the events yesterday and in the past several days in the other body have compelled me to come to the well to, if nothing else, at least vent a little bit to you and to the American people regarding the disgrace and hypocrisy that we have seen come out of the other side of this building unfortunately.

It is just stunning that we stood on the brink, right on the brink of actually enacting at least from our Congress a balanced budget amendment that would then go to the States and the State legislatures could make their own decisions on these things, that we stood on the very brink of that, and now we have been completely—we are not able to find out even what the States want to do in this area. The truth is that there was hypocrisy, there was deceit, there was deception, and there was lying on the other side of this building, in the other body, with respect to promises that were made and promises that certainly were not kept.

Let's go back to what this amendment is all about. Really to find out what it is all about you have to go back to the year 1789, when Thomas Jefferson wrote:

> I fear there is only one thing that we have kept out of the Constitution of the United States. It has one flaw, and that is that we have not restricted the Federal Government's ability to borrow money. We have not restricted the Federal Government's ability to borrow money.

What extraordinary clairvoyance Thomas Jefferson could have, that he would see in 1789 what has truly come home to roost in 1995.

□ 1515

And with a $5 trillion or nearly $5 trillion debt, the ability of this Federal Government to borrow, borrow, borrow and mortgage the future of our country, of our children, of our grandchildren, and that he was able to see in 1789 that there ought to be some restriction on borrowing money by the Federal Government, because if we do not restrict it, as we did not, then the Government finally figures it out. It figures out that you can buy constituencies. You can purchase influence. You can buy votes. And that is exactly—I mean the votes of people that elect Members of Congress, elect people to the Senate—and that is exactly what has happened. That is how it is possible that this Government could be so far in the red that it could exist so far beyond its means.

In 1789 he recognized that. And what is it exactly that this balanced budget amendment would do? It is pretty

straightforward what it would do. It restricts the ability of the Government to borrow money. It requires in its one single absolutely dispositive section, it says, you must have a three-fifths majority in order to raise the amount of money, the debt ceiling on what, in order to raise the amount of money that the United States can borrow. The limit on that amount of money, in order to raise the limit on the amount of money we can borrow, you have to have a three-fifths majority. That is precisely the kind of restriction that Thomas Jefferson was talking about in 1789.

And what did the Senate do? Well, one Senator from the State of Florida who had personally campaigned on a promise to vote in favor of a balanced budget amendment voted against it, campaigned not more than 5 months ago on that promise, not more than 4 months ago on that promise, said in a solemn promise to the people that she was wanting to represent, I am going to vote for a balanced budget amendment. And then come yesterday, she voted against it. And what was the excuse given by her and by other Members of the other body? The excuse given was that somehow this would possibly, this could somehow have an impact on Social Security.

Well, A, that is not true. And B, where were those people in August of 1993, when they voted to cut Social Security by $25 billion and every single Republican in the Senate and every single Republican in the House of Representatives voted against that? But they voted to increase or to tax Social Security and cut Social Security payments to senior citizens $25 billion. Where were they then?

And then to say, well, this is just, this is just a hidden ploy to make it possible to cut Social Security. It is a lie. They know it is a lie. It is a smoke screen.

What is the smoke screen for? I will tell you what the smoke screen is for. It is for those people who truly believe that the Federal Government can solve all our problems. If you believe that the Federal Government can solve all of our problems through more spending, through bigger spending programs, through throwing more money at these problems, through hiring more Federal bureaucrats to do it, then you ought to be opposed to a balanced budget amendment. And if you are going to be truthful about it and if you are going to be honest about it, then that is what you will tell people, that is the way that you will explain it.

The smoke screen is Social Security recipients, when every single one of them voted to cut Social Security.

THE FEDERAL DEFICIT

The SPEAKER pro tempore (Mr. OXLEY). Under a previous order of the House, the gentleman from New York [Mr. SOLOMON] is recognized for 5 minutes.

Mr. SOLOMON. Mr. Speaker, I was going to stand up here today and talk about the fact that over the last 16 years I have been trying to enact legislation dealing with regulatory reform that would give back property rights to the people of this country, but I was so angered this morning when I woke up about 6 a.m. in the morning and I was watching CNN. I saw the President and his press secretary talking about how they had killed the balanced budget amendment. And how they now could get down to the serious business of balancing the budget over the next 7 years.

I have never been so mad in my life. I have a chart here, which says, ''deficit projections and debt accumulation.'' This was President Clinton's budget as he offered it last year. And as you can see, he projected a deficit in 1995 of $165 billion, and it grew all the way over so that at the end of 5 years, there is an accumulation of $894 billion in new accumulated debt to go to the $4.5 trillion we already have.

This year, in January, he just gave us his new 5-year projection. This is just a year later. And what does this show? It shows in 1995, $193 billion in accumulated debt in just this first year. That is 30 billion higher than last year. And if you look at 1996, it goes from $170 billion deficit to $197 billion and so on over to the end of the 5-year period.

So what has he done? He has increased the national debt by almost a trillion dollars over the next 5 years. And they talk about wanting to balance the budget.

The one thing that is said is true, and that is that Congress just does not have the guts to balance the budget themselves. That is too bad. And, therefore, they do need that prodding. That is what those five Senators that promised to vote for a balanced budget amendment last year during their election said that needed to happen. Yet today they turned around and voted ''no.''

You know, Mr. Speaker, I introduced a budget last year. It was an alternative to both the Democrat and Republican budgets. And if you look at this bottom figure, we accumulated, instead of a trillion dollars over 5 years, we accumulated only $252 billion. But the interesting thing is that every single year the deficit dramatically dropped from $132 billion the first year down to $69 billion the second year, $47 billion the third year, $12 billion the fourth year, and a surplus of $8 billion in the fifth year.

You say, how did you do that? Because all of the pundits say, you cannot do that without raising taxes. You cannot do that without cutting Social Security. You cannot do that without cutting into contractual obligations to veterans.

Well, my colleagues, we did that. How did we do it. We did it by eliminating 150 programs like the Interstate Commerce Commission, that is totally wasteful. We privatized 125 government agencies, like the Federal Aviation Administration. We consolidated 35 government functions like the Bureau of Indian Affairs that has been there for 70 years and does nothing today. And downsized the Department of Education from 5,000 employees down to an office of only 500. We abolished the Department of Energy, which has not produced a gallon of gasoline or a quart of oil, we cut out 16,000 employees there and let the free market system work.

We converted the Department of Commerce from an overblown department of 36,000 employees down to only 3,000 and made them a consultative body to business and industry instead of this huge bureaucratic department. And then we means tested every single Federal program, including school lunch programs.

People say, Republicans want to do away with school lunch programs. We do not want to do away with school lunch programs. What we want to do is make Members of Congress ineligible because of their total wages. We make $129,000 or $130,000 a year. Why should the Government be subsidizing my children's school lunches? They should not, because we cannot afford it. And we means test that with people with incomes over $50,000.

Medicare, people with incomes of over $100,000 or $200,000 are being subsidized by the Federal Government for their health care. That is all well and good, I suppose, if you can afford it. But we do not have the money. And we means test everything else across the board.

Do you know what that did? That gave us an $800 billion savings over 5 years, and we balanced the budget without hurting people, by truly taking care of the needy.

It can be done, but we cannot do it the way this president is trying to do it.

HARVEST OF TREES ON FEDERAL LANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. DICKS] is recognized for 5 minutes.

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

Mr. DICKS. Mr. Speaker, yesterday the House Committee on Appropriations took very dramatic action to deal with a very serious environmental problem in our country. Yesterday the House Committee on Appropriations directed the Forest Service to double their salvage program from approximately 1.5 billion board feet up to 3 billion board feet over the next 2 years. What that will do in essence will be to expand this program that is used to go out and take down dead, dying, diseased, bug-infested, and burnt trees that are going to rot and will be of no use to us over the next 2½ years.

What we said is, this is an emergency. We need to go out and do a good

job for the American people, allow our foresters to go out and gather in those burnt, bug-infested trees. And that we could, if we did this, probably bring in about a billion dollars over the next 2 years in additional revenues to the treasury.

Also we would be protecting the forest health. It is clear in my mind and all the experts say this, if we do not get rid of these dead and dying trees, then we are going to be faced with the problem of increased forest fires.

Last year we spent in fighting forest fires in the west $1 billion. So we passed this emergency program yesterday and in it we created expedited procedures. We said that for the next 2 years, every sale will have to have an environmental assessment. There will have to be a biological opinion done, in which you look at the effect on endangered species, and if an agency, the Forest Service or the BLM are arbitrary and capricious, you can go into Federal court and stop that sale, that there will also be a period of time for administrative review. So we have created expedited judicial procedures and expedited environmental review, because if we do not act, if we do not get those trees while we can, we are going to lose this potential revenue to the Federal taxpayers.

Now, how much salvage is out there in the entire country? The Forest Service estimates that there is somewhere between 18- and 21-billion-board feet of this salvage that is out there. And today our lumber mills need saw logs. Our pulp and paper mills need chips. We have seen a dramatic reduction in harvesting of our Federal forest lands. And because of that, our mills are going out of business, particularly in the Pacific Northwest.

So I hope that the American taxpayers and the American people will support the Committee on Appropriations, will support the Taylor-Dicks amendment, which will allow this to happen.

I am glad that we had a bipartisan approach to this. The gentleman from North Carolina, Congressman TAYLOR, is a forester. He knows a lot about these matters. I have been working on these issues and trying to urge additional salvage for many, many years.

I think this is a win-win. We can protect the forest health by getting rid of these dead and dying trees, because if we do not do it, if we leave it out there, then we will have increased forest fires next year and we will have to spend billions more fighting the fires out in the west.

We also, by the way, the home builders of our country support this, because the cost of lumber in an ordinary $135,000 has gone up by $5,000 a house, because of the shortage of lumber.

This will give additional lumber supply and hopefully will reduce those prices. So it has a positive effect on housing as well.

I regret that we have to take this emergency step. I regret that we had to do this in the Committee on Appropriations. But I want you to know that the chairman of the Committee on Resources and the chairman of the Committee on Agriculture, the two committees with authorizing jurisdiction, approved this measure, because they recognize the emergency.

In my own State of Washington, we have seen a dramatic reduction in timber harvesting of our Federal lands over the last several years. Many of the people who I grew up with, went to school with, have lost their jobs, have gone into bankruptcy because they used to depend on logs off our Federal lands and they cannot get them any longer.

And they come to me and say, ''Norm, can't we please have those dead and dying trees, the ones that are burnt, that are going to rot and we can't use them after two or three years? Can't we go out there and get them?''

So this amendment will allow that to happen, and I hope when it comes to the floor that we will have unanimous support, as we did in the Committee on Appropriations of the House of Representatives.

□ 1530

AFFIRMATIVE ACTION

The SPEAKER pro tempore (Mr. OXLEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from California [Mr. TUCKER] is recognized for 60 minutes as the designee of the minority leader.

Mr. TUCKER. Mr. Speaker, I would like to take this time today in this special order to talk about an issue that is admittedly controversial but an issue that is going to be important to the well-being and the future of this country. That is, the issue of affirmation action.

This issue is about the fundamental right of minorities and women to participate in this society on every level without arbitrary and capricious barriers.

Mr. Speaker, affirmative action is a sledge hammer, created by this society, to smash the concrete barriers to opportunity. It was designed and implemented to erode the dual barriers of racism and sexism in this country, be it individual or institutional—intended or unintended. Mr. Speaker, throughout the history of this country, African-Americans have experienced the most humiliating and dehumanizing treatment every perpetrated on any group of people save the Native American.

The freedom of women and minorities to participate has been both a recent phenomenon and more importantly, a direct result of the Suffrage Movement, the Civil Rights Movement, the Voting Rights Act and just as importantly—affirmative action. While I know support for affirmative action has dwindled, its necessity is as apparent as ever before.

I am here today to tell those Americans who would dismantle affirmative action and undermine the gains of minorities and women that their efforts will not succeed.

Before the discussion can begin on the dismantlement of a policy, before attempts can be made to reverse the gains made by people in the areas of diversity, access and inclusion, before America can even think about having race and gender neutral laws, America must answer the question—have we really removed race and gender bias? Every statistic seems to suggest that we have not.

Let me begin by defining what affirmative action is and how it came to be.

Affirmative action is a term that first appeared in the text of the 1935 Wagner Act.

Inder the Wagner Act, employers who were found to have intentionally engaged in unfair labor practices against union organizers and members had to take ''affirmative action, including reinstatement of employees.''

In 1941, prior to U.S. entry into World War II, President Franklin D. Roosevelt issued Executive Order 8802 affirming that it was U.S. policy ''To encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color or national origin.''

Further, the order required that all future Defense contracts negotiated by the U.S. Government contain a nondiscrimination clause.

Executive orders for the next 20 years built upon the nondiscrimination mandate of Executive Order 8802. These orders reaffirmed the Federal Government's commitment to equal opportunity and reorganized the administrative structures to implement nondiscrimination policies in Federal employment under Government contract.

In 1961 President Kennedy issued Executive Order 10925 which endorsed a more proactive approach to equal opportunity and created the President's Committee on Equal Employment Opportunity.

The committee was directed ''to consider and recommend additional affirmative steps which should be taken by executive departments and agencies to realize more fully the national policy of nondiscrimination within the executive branch of the Federal Government. The order required that Government contractors agree not to engage in employment discrimination based on race, creed, color, or national origin, and agree to ''Take affirmative action to ensure that applicants are employed, and that employers are treated during employment'' without regard to these characteristics.

Not until the Civil Rights Act of 1964 did the U.S. House of Representatives see fit to apply affirmative action to private employers.

The Civil Rights Act of 1964 made it unlawful for employers to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin; or to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

The act went on to provide a remedy in the event a court found that an employer had ''intentionally engaged in * * * an unlawful employment practice.''

For the first time in American history, women and people of color had a guarantee of an opportunity to do what white males had always been able to do; the right to dream of a future and a real opportunity to realize that dream.

Since the 1960's both the executive and legislative branch have crafted a wide range of Federal laws and regulations authorizing, either directly or by judicial or administrative interpretation, affirmative race and gender conscious strategies to promote minority and women opportunities in jobs, housing, education, voting rights, and Government contracting.

Every President since President Kennedy has supported affirmative action as a tool to overcome past as well as present discrimination. Current standards for affirmative action were recommended in the late 1960's to the Nixon administration by a group of several hundred large corporations. These recommendations, accepted by President Nixon and implemented by Secretary of Labor George Schultz, included the management by objectives concepts of employment goals and time tables.

During the Reagan administration, the majority of the Cabinet, led by Secretary Bill Brock, successfully fought efforts by Ed Meese and Clarence Thomas to undermine the executive order on affirmative action. They were joined by bipartisan majorities in both the House and Senate. By 2-to-2 votes, bipartisan majorities in the Senate have defeated Senator HELMS' last two attempts to ban affirmative action. The language in Senator HELMS' legislation was much like that of the referendum now being presented to voters in the State of California.

Polls consistently show that Americans, by a 3-to-2 margin, support Federal affirmative action programs as long as they do not involve quotas. In addition, a January 1995 Los Angeles Times poll showed that when people were asked whether ''affirmative action programs designed to help minorities get better jobs and education go to far these days, or don't go far enough, or are just about adequate,'' fifty-five percent said the programs are adequate or do not go far enough, while only 39 percent said the programs go too far.

I would submit that all Americans want a color or gender blind society, and that should be the goal of every American citizen. But serious discrimination still persists throughout this country. Study after study concludes that in employment, education, housing, and voting, minorities and women do not have equal opportunity. All too often, individual or institutional discrimination, whether it is intended or unintended, precludes minorities and women from participating in many levels of our society. As long as there is discrimination based on race and gender we must fashion remedies that take race and gender into account. Race and gender conscious remedies have proven to be essential and remain essential.

For nearly 20 years there have been those who have attempted to reverse the gains made in affirmative action. Each and every time they have been defeated. Moreover, the U.S. Supreme Court has repeatedly upheld the constitutionality of race and gender-based remedies. The Court has held that if Discrimination is based upon the hue of a persons skin or the anatomy to which that person is born—then the same shall be taken into account when fashioning a remedy.

For years, many opponents of affirmative action have been misrepresenting the law and the facts regarding affirmative action.

Too many politicians have attempted to divide this Nation by playing racial politics with the quota issue. Those tactics have led many to believe that affirmative action and quotas are one in the same.

In tough economic times, when people fear losing—and are in fact losing—their jobs, their promotions, and their quality of life, they feel the need to blame and to scapegoat others. In such an environment, divisive quota politics will always find a receptive audience. For years the courts have struggled contentiously to balance competing interests in order to meet the test of practical fainess to all parties. Our Nation's Highest Court has ruled that minority workers may be denied positions. If awarding the position would require the displacement of a white worker already holding the position. The test as articulated in United Steel Workers versus Weber is whether race-conscious remedies unnecessarily impede the progress or interests of the white employees. In employing Weber, courts have drawn lines between actions that ''disappoint the expectations of whites and those that take away from them'' a status that they have already attained. Various means have been utilized to provide redress to workers, black or white, whose legitimate expectations have been defeated through no fault of their own. Political bodies have a wider array of options than the courts to assure that no one bears disproportionate burden in adjusting civil rights and seniority claims during tough economic times. If Predictions of future labor shortages are accurate, the dilemma should arise less frequently.

With respect to claims of the disintegration of merit standards by affirmative actions policies, it has been clear from the outset that Federal affirmative action policy recognizes and incorporates the principle of merit. The courts have repeatedly stated that the purpose of affirmative action is to create an environment where merit can prevail and that if a party is not qualified for a position in the first place, then affirmative action considerations do not come into play.

Though critics argue that the merit requirement is widely flouted, they have yet to produce any evidence of its widespread abuse. Most often, those critics argue not for the correction of the abuse, but the total dismantlement of affirmative action.

Mr. Speaker, after 250 years of slavery, 100 years of apartheid, and 40 years of intentional discrimination made legal by the States, minorities and women find themselves under attack.

The vitriolic attacks on affirmative action being spewed from the youths of persons across this Nation, in States and localities throughout this country, is alarming. To those who would suggest that America has reached a point where a nation blind to pigment and gender is now at hand and affirmative action is no longer needed, just take a look around.

White males are 33 percent of the U.S. population, yet 80 percent of tenured professors are white male, 80 percent of this body is white male, 90 percent of the other body is white male, 92 percent of the Forbes 400 is white male, 97 percent of all school superintendents and 99.9 percent of all professional sports owners are white males.

Since the beginning of this country, white males have been and continue to receive preferential treatment in hiring, in services, in contracting, in educational opportunities, and in housing.

Since Members of this body like to use anecdotes, let me relate a story of what happened to the speaker of the California State Assembly, one of the most—if not the most powerful man in the State, Willie Brown, Jr. Some years ago the honorable assembly speaker attempted to lease an apartment in the city of San Francisco. Upon inquiring about the availability of an apartment, the speaker was told that no apartments were available. Mr. Speaker, Speaker Brown asked a white friend to make the same inquiry at the same location—upon requesting to see that apartment that friend was promptly shown an available unit. Now some would argue that the incident has nothing to do with race, but for some of us we can find no other explanation.

The signals are clear that there are those in this country and in this body

who intend to roll back efforts on affirmative action and to call America's war on discrimination over.

I stand firm in my belief ''that all men are created equal'' and that given the recent history of this country, measures like the 1964 Civil Rights Act and subsequent court rulings were and continue to be necessary. If this were a homogeneous society without its history of hatred of oppression by the majority on the minority and women, there would be no need for affirmative action. This is not a homogeneous society. This is America, black, white, red, yellow, and brown: A nation of great diversity, representing every part of the world. Those who profess to support equality of opportunity while denigrating the remedies available to overcome this sad history, while offering no solutions, do nothing more than pay lip service to what women and minorities see as the most fundamental of human rights: The right to participate fairly and freely without arbitrary and capricious barriers.

I would submit to you, Mr. Speaker, and to this great Nation, that we cannot accept as truth, the notion that remedies designed to redress past, present, and future discrimination, are now somehow special rights conferred upon women and minorities. No matter how loud and how often these words are spoken, the truth is that these remedies are designed to lead to a more inclusive society. And on this issue there will be no retreat and there will be no surrender. All Americans should be guaranteed equality of opportunity. This proposed movement away from the inclusive policies of the past, presumes that we are now an inclusive society. The facts however reveal that we as a nation are not yet there.

If America wants to eliminate affirmative action while never frankly discussing her invidious racial past, and never accepting as a principle the equality of all persons; America will see the return of an era gone by. An era of mass demonstrations, boycotts, sit-ins, and whatever else is necessary, by any means necessary, to show this Nation and the world that American women and people of all colors; red, yellow, black, white, and brown, will not go back—and again I state on this issue there shall be no retreat and there shall be no surrender.

□ 1545

ACCOMPLISHMENT OF REPUBLICAN CONGRESS

The SPEAKER pro tempore (Mr. OXLEY). Under the Speaker's announced policy of January 4, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. NORWOOD. Mr. Speaker, we have now completed 59 days of very hard work in this House, and as I sit back and ponder what we have accomplished in these 59 days I am really struck by the differences in what we on this side of the aisle are doing and what the Democrats are saying in opposition.

We want to take this country forward. We want to protect our Nation's future by reducing our national debt. But from the other side we hear very meek defenses and sometimes very loud defenses of the status quo.

We hear their cries to save the failed policies of the welfare state that they created over the last 40 years. And we hear their pleas to save the precious bureaucracy, for only the Federal bureaucrats know how to govern this Nation, they say.

Mr. Speaker, we owe very near $5 trillion. We are adding another trillion every 4 years. We are paying almost $300 billion annually in interest on our debt. There is no greater thing we must fear than our debt.

A trillion is a large number. I never can keep the zeros correct behind a trillion. But we owe almost $5 trillion, and maybe to put that in perspective just a little bit, I would say that if we tried to pay off $1 trillion of our debt and we chose to do that by paying $1 every second, we would pay off that trillion dollars in 144,000 years. And I remind my colleagues perhaps that organized agriculture only started on this planet 10,000 years ago.

I hope that says to Members as it does to me that though 5 is small, trillion is a lot, and the young people in this room today surely must realize that if we continue on the path that we have been going we are spending their inheritance, and we are spending their future, and those of us who sit over here every day and listen to the mistruths on this side every day are simply trying to bring that in balance.

The Federal bureaucrats who seem to run this Nation are people that are hired by us with our tax dollars. These people are nonelected officials, and it is not my opinion that they know what is best. In this great country, it is true that we are responsible for ourselves, we have individual responsibilities, and the great thing about this Nation is that we are free, and we should all be able to reach for the heavens and be all we can be according to our abilities and our willingness to work without interference from a Federal bureaucracy, and that is what we have been saying for 59 days.

These people must get off our backs and quit taking our freedoms away.

Mr. Speaker, I would like for you to consider all of the things that we have accomplished. On the first day of this Congress we passed reforms to make this body more responsible, to limit the power of the committee chairmen who for years, along with the Speaker have run this government, who had dictatorial control during their Democratic regime.

We have cut the number of staffers, just like we said we would, and we have eliminated funding for the caucuses, just like we said we would. We have made this body more open and more responsible, all the while every day the Democrats gripe and complain.

Mr. Speaker on January 26 we took a step in this body that the vast majority of Americans asked us to do. We passed the BBA, the balanced budget amendment, after trying for years, and I cannot tell you how excited I was that night when over 300 Members of this body cast their veto giving us finally a balanced budget amendment.

It was exciting because the number was 300, in fact because it was a bipartisan effort, Members from both sides of the aisle finally realized that in order to get this Congress to have the guts to do what they are supposed to do there was no option left but to change the Constitution. Three hundred Members of this body voted for it. And this will basically restore fiscal sanity and bring us back from the brink of disaster that we peer over, and we do.

It was a vote to save the children of this great Nation from a daunting future ahead of them, it was a vote to save my granddaughter from a very uncomfortable future. We did the right thing. I know we did. And even though the amendment did not pass the Senate yesterday, I know we in this body did what we said we would do. We did what 80 percent of the Americans in this country asked us to do: We passed a balanced budget amendment.

And I know that you are watching, I know that the American people are watching, they are watching C–SPAN in greater numbers than any time in the history of C–SPAN. They will remember who stopped this amendment.

They will recognize that those in the Senate who voted against this amendment, though, said just a year ago they would gladly vote for a balanced budget amendment were some of the very same people that cut Social Security benefits to our senior citizens just last year by a tax increase; yet this year they say, no, we cannot have a balanced budget amendment because it might affect Social Security.

The American people will remember the names of those who voted for the amendment last year and against it this year. The American people will remember. And there will be, ladies and gentlemen, there will be accountability for defeating the will of the majority.

All the while a small group of Democrats in this body cried about the precious programs that they would lose because of a balanced budget amendment. It is almost as if these programs are more important to them than the fiscal security of this Nation.

We heard much the same arguments when we passed the line-item veto and the Unfunded Mandates Reform Act. With the line-item veto we gave the President the same power possessed by most of the Nation's Governors. We gave the President an important tool in our fight against the deficit. We released the States from a choking grasp of unfunded Federal mandates and all the while the Democrats fretted that

we would take the power away from the Federal Government.

Ladies and gentlemen, the power in this country is the power within the people's lands, not a Federal Government. In these 59 days we have made great strides in improving the quality of life in this Nation. Our crime bill, for example, will give local law enforcement the power to attack crime only as they know how. The National Security Restoration Act will ensure that no American soldier in the service of this Nation will die at the whim of an Egyptian bureaucrat.

We have passed legislation to bring the massive regulatory bureaucracy under control, and thank God. We have released the American people from the mindless bureaucrats that inflict billions and billions of dollars of unnecessary burden on the American economy, large business, small business and all.

In passing these acts we have kept our promise to the American people. We have put in more hours, held more hearings, cast more votes than any previous Congress had to this point in recent history. We have shown this Nation, with the work that we have done, that the U.S. House of Representatives can be an effective legislature.

We have shown the American people that Government can get the important business of this Nation accomplished. And we are going to accomplish still more in the next 41 days.

In the next 41 days we will reform the legal system to make our system more responsible and reduce the dragging effect that frivolous lawsuits have on this Nation. We are going to pass term limits to make legislators value public service over professional politics. We will take steps to treat seniors equitably with the Senior Citizens Equity Act, and yes, we will make reforms of our morally bankrupt welfare system.

And we will continue to hear the guardians of the old order whine and cry as we dismantle the system that they created over 40 years. We will continue to hear Democrats tell the American people how the Federal Government always knows best, as they did in the unfunded mandates debate.

We will continue to hear the Democrats say that local officials cannot be trusted to do the right thing, as they did in the crime bill debate. We will continue to hear the Democrats fight to save the power of the Federal bureaucrats, as they did in the regulatory reform debate.

It is offensive to me to sit here and listen day in and day out as they trumpet the capabilities of the bureaucracy to make our life better, as they clamor for the necessity of a bureaucracy that lives in our daily lives from the minute we get up to the minute we go to bed.

□ 1600

The hardworking folks back at home know better. The Federal Government has never been the cure-all the Democrats would like for you to think. The Federal Government is more often than not a nightmare waiting to happen to the hardworking people of this Nation.

The American people know better, and that is why the Democrats are in the minority today.

Ah, but now, Mr. Speaker, they have finally found a way to disguise this bankrupt argument that the Federal Government knows best. They have found a way to disguise their love of the Federal bureaucracy. We are now beginning to hear arguments that Republicans are out to starve the American children. Mr. Speaker, this is utter and complete nonsense.

I was on this floor last night for 1 hour listening to one lie right after the other about our nutrition programs, lies told by people who know better. If the American people knew how much the Democrats are willing to distort the truth to save the bureaucracy, they would be absolutely outraged. Yes, we are combining many nutritional programs into block grants; yes, we are sending the moneys back to the States where the teachers and the dietitians and the superintendents know best.

But, no, we are not sending less, we are sending more. We are increasing the funding because it involves children. But if you listen to the other side, you do not get the truth. Mr. Speaker, it is exasperating to have to put up with the rhetoric the other side hurls at us. I voted in committee to increase the funding for child nutrition programs, to increase the funding child nutrition programs are getting. Yet people are calling my office worried that we are gutting these programs. Why? We are not. Where do they read such things? Where do they hear such things? It is not happening.

We are increasing funding and eliminating the wasteful Federal bureaucracy to help get more money to the States, more money for food, not for bureaucrats. The charge that we are cutting funding is patently false. Perhaps, Mr. Speaker, Americans should consider why Democrats have sought to distort reality to protect Federal bureaucrats. Could it be, Mr. Speaker, for financial reasons? Could it be because Democrats receive millions and millions of dollars in campaign funding from bureaucrats? Could it be because these contributions to Democrats outnumber contributions to Republicans by a margin of 9 to 1?

Could it be that Democrats have a vested interest in protecting Federal bureaucrats?

Mr. Speaker, I would simply ask that the American people look at the facts. It is a fact that we are putting more money into child nutrition, it is a fact that our bill dismantles part of the Federal bureaucracy and it is a fact that Democrats receive significant campaign contributions from Federal bureaucrats.

All I ask is that the American people consider the facts.

Mr. Speaker, this Congress will continue to do what is best for America, this 104th Congress will. We will continue to keep the promises we made to make this Nation a better place, even in the face of distorted arguments made by the other side.

Mr. Speaker, if the Democrats really cared about children, they would stop fighting to save the bureaucracy and engage in an honest discussion about how to improve our welfare system.

For the good of this Nation, I surely hope they will join us in doing what is right for America.

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. BROWDER) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BROWDER, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Mr. SCARBOROUGH) to revise and extend their remarks and include extraneous material:)

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. SAXTON, for 5 minutes, today.

Mr. ARCHER, for 5 minutes, today.

Mrs. MORELLA, for 5 minutes on March 8.

Mr. SMITH of Michigan, for 5 minutes, today and on March 7.

Mr. SOLOMON, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DICKS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BROWDER) and to include extraneous matter:)

Ms. MCKINNEY.

Mr. FARR.

Mr. FOGLIETTA.

Mr. VENTO.

Mr. WARD.

Mr. TRAFICANT.

Ms. ESHOO in 11 instances.

Mr. COLEMAN.

Mr. UNDERWOOD.

Mr. MCDERMOTT.

Mr. OBERSTAR.

Mr. JOHNSON of South Dakota.

Mr. ACKERMAN.

Ms. MCCARTHY.

Mr. RAHALL.

(The following Members (at the request of Mr. SCARBOROUGH) and to include extraneous matter:)

Mr. COLLINS of Georgia.

Mr. SMITH of New Jersey.

Mr. PORTMAN.

(The following Members (at the request of Mr. NORWOOD) and to include extraneous matter:)

Mr. HALL of Texas in two instances.

Mr. MENENDEZ in six instances.

Mr. KIM.

Mr. FILNER.

Mr. LARGENT.

Mr. DAVIS.

Mr. YOUNG of Florida.

ADJOURNMENT

Mr. NORWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until Monday, March 6, 1995, at 12:30 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

458. A letter from the Deputy Secretary of Defense, transmitting a report pursuant to section 1075 of the National Defense Authorization Act for fiscal year 1995; to the Committee on National Security.

459. A letter from the Department of Defense, Director of Defense Research and Engineering, transmitting a report on creation and operation of new federally funded research center, pursuant to 10 U.S.C. 2367(d)(1); to the Committee on National Security.

460. A letter from the Director, Defense Security Assistance Agency, transmitting the quarterly reports in accordance with sections 36(a) and 26(b) of the Arms Export Control Act, the March 24, 1979 report by the Committee on Foreign Affairs, and the seventh report by the Committee on Government Operations for the first quarter of fiscal year 1995, October 1, 1994 through December 31, 1994, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

461. A letter from the Chairman, Board for International Broadcasting, transmitting the Board's annual report on its activities, as well as its review and evaluation of the operation of Radio Free Europe/Radio Liberty for the period October 1, 1993, through September 30, 1994, pursuant to 22 U.S.C. 2873(a)(9); to the Committee on International Relations.

462. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the nonproliferation and disarmament fund report, fiscal year 1994, pursuant to section 504 of the Freedom Support Act of 1992; to the Committee on International Relations.

463. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–16, ''Salvation Army Equitable Real Property Tax Relief Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

464. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–17, ''Methodist Cemetery Association Equitable Real Property Tax Relief Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

465. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–18, ''Christ United Methodist Church Equitable Real Property Tax Relief Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

466. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–19, ''Real Property Deed Recordation Amendment Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

467. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–21, ''Metropolitan Baptist Church Equitable Real Property Tax Relief Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

468. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–22, ''Riverside Baptist Church Equitable Real Property Tax Relief Act of 1995,'' pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

469. A letter from the Assistant Secretary (Management), Department of Treasury, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

470. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

471. A letter from the Chairman, Federal Maritime Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

472. A letter from the Secretary of Health and Human Services, transmitting the annual report with respect to actions taken to recruit and train Indians to qualify them for positions subject to Indian preference; the annual report on actions taken to place non-Indians employed by the Indian Health Service in other Federal agencies, pursuant to 25 U.S.C. 472a(d); to the Committee on Resources.

473. A letter from the Chairman, Administrative Conference of the United States, the Conference's report entitled, ''Toward Improved Agency Dispute Resolution: Implementing the ADR Act''; to the Committee on the Judiciary.

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. DREIER: Committee on Rules. House Resolution 103. Resolution providing for consideration of the bill (H.R. 1058) to reform Federal securities litigation, and for other purposes (Rept. 104–65). Referred to the House Calendar.

Mr. GOSS: Committee on Rules. House Resolution 104. Resolution providing for consideration of the bill (H.R. 988) to reform the Federal civil justice system (Rept. 104–66). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ARCHER (for himself and Mr. GIBBONS):

H.R. 1121. A bill to make technical corrections relating to the Revenue Reconciliation Act of 1990 and the Revenue Reconciliation Act of 1993, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 1122. A bill to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and for other purposes; to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWDER;

H.R. 1123. A bill to repeal statutory limitations on the transportation of chemical munitions; to the Committee on National Security.

By Mr. COLEMAN:

H.R. 1124. A bill to amend chapters 83 and 84 of title 5, United States Code, to provide that, for civil service retirement purposes, inspectors of the Immigration and Naturalization Service, inspectors and canine enforcement officers of the U.S. Customs Service, and revenue officers of the Internal Revenue Service shall be treated in the same way as law enforcement officers; to the Committee on Government Reform and Oversight.

By Mr. TRAFICANT:

H.R. 1125. A bill to prohibit economic assistance and military assistance or arms transfer to the Government of Trinidad and Tobago until appropriate action is taken to eliminate illicit drug trafficking in Trinidad and Tobago; to the Committee on International Relations.

By Mr. FRANKS of New Jersey (for himself, Mr. PALLONE, Mr. LIPINSKI, Mr. SAXTON, Mr. FLAKE, Mr. ZIMMER, Mr. PAYNE of New Jersey, Mr. LOBIONDO, Mr. TORRICELLI, Mrs. ROUKEMA, and Mr. MARTINI):

H.R. 1126. A bill to strengthen and improve the pipeline safety provisions of chapter 601 of title 49, United States Code, and for other purposes; to the Committee on transportation and Infrastructure, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GANSKE (for himself and Mr. WYDEN):

H.R. 1127. A bill to limit the issuance of patents on medical procedures; to the Committee on the Judiciary.

By Mr. GILMAN:

H.R. 1128. A bill to amend title 28, United States Code, to provide an additional place for holding court in the southern district of New York; to the Committee on the Judiciary.

By Mr. LEWIS of Georgia (for himself, Mr. HILLIARD, Mr. ACKERMAN, Mr. BALDACCI, Mr. BARRETT of Wisconsin, Mr. BISHOP, Ms. BROWN of Florida, Mr. BRYANT of Texas, Mr. CLAY, Mrs. CLAYTON, Mr. CLYBURN, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. CRAMER, Mr. DELLUMS, Mr. DEFAZIO, Ms. DELAURO, Mr. ENGEL, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. FRAZER, Mr. FROST, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. JACOBS, Ms. JACKSON-LEE, Mr. JEFFERSON, Ms. EDDIE BERNICE JOHNSON of Texas. Mr. KILDEE, Ms. LOFGREN, Mrs. LOWEY, Mrs.

MALONEY, Mr. MCDERMOTT, Mrs. MEEK of Florida, Mr. MILLER of California, Mr. OWENS, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. RANGEL, Mr. RICHARDSON, Mr. RUSH, Mr. SANDERS, Mrs. SCHROEDER, Mr. SCOTT, Mr. STUPAK, Mr. THOMPSON, Mr. TOWNS, Mr. TUCKER, Mr. UNDERWOOD, Ms. VELÁZQUEZ, Mr. WILLIAMS, Mr. WARD, Mr. WATT of North Carolina, Mr. WYNN, Mr. REYNOLDS, Miss COLLINS of Michigan, Ms. MCKINNEY, Mr. MFUME, Mr. WATERS, Mr. HASTINGS of Florida, Mr. STOKES, and Mr. DIXON):

H.R. 1129. A bill to amend the National Trails Systems Act to designate the route from Selma to Montgomery as a National Historic Trail; to the Committee on Resources.

By Mr. DORNAN:

H.R. 1130. A bill to prohibit award, grant, and contract recipients from lobbying for the continuation of their awards, grants, and contracts and to repeal authority for the payment of expenses of intervening and the payment of attorney's fees, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MCCRERY (for himself, Mr. HANCOCK, Mr. SHADEGG, and Mr. SMITH of Michigan):

H.R. 1131. A bill to balance the Federal budget by fiscal year 2002 through the establishment of Federal spending limits; to the Committee on the Budget, and in addition to the Committee on Rules, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR:

H.R. 1132. A bill to amend the Federal Water Pollution Control Act to establish requirements and provide assistance to prevent nonpoint sources of water pollution, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. STEARNS:

H.R. 1133. A bill to provide that pay for Members of Congress may not be increased by any adjustment scheduled to take effect in a year immediately following a fiscal year in which a deficit in the budget of the U.S. Government exists; to the Committee on Government Reform and Oversight, 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.

By Mr. SMITH of Michigan (for himself, Mr. SHADEGG, Mr. HANCOCK, Mr. BARTON of Texas, Mr. HERGER, Mr. TAYLOR of Mississippi, Mr. LARGENT, Mr. BURR, Mr. SCARBOROUGH, and Mr. ZIMMER):

H.J. Res. 74. Joint resolution proposing a balanced budget amendment to the Constitution of the United States; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 6: Mr. LEACH, Mr. NETHERCUTT, Mr. SKEEN, and Mr. SOUDER.

H.R. 26: Mr. HANCOCK and Mr. MEEHAN.

H.R. 28: Mr. SHAYS.

H.R. 52: Mr. HERGER and Mr. PARKER.

H.R. 104: Mr. PARKER and Mr. FOLEY.

H.R. 209: Mr. HERGER, Mr. DUNCAN, and Mr. CALVERT.

H.R. 312: Mr. SHAYS.

H.R. 441: Mr. COOLEY, Mr. LEACH, Mr. ENGLISH of Pennsylvania, Mrs. CLAYTON, Mr. WELLER, Mr. EHLERS, Mr. EVANS, and Mr. WICKER.

H.R. 462: Mr. BEILENSON and Mr. UNDERWOOD.

H.R. 483: Mr. MEEHAN, Mr. BORSKI, Ms. ROYBAL-ALLARD, Mr. KIM, and Mr. BILBRAY.

H.R. 488: Mr. DELLUMS.

H.R. 548: Mr. LIPINSKI and Mr. PARKER.

H.R. 549: Mr. WICKER, Mr. CANADY, Mr. RIGGS, Mr. DIAZ-BALART, and Mr. MCCOLLUM.

H.R. 559: Mr. MEEHAN and Mr. BORSKI.

H.R. 575: Mr. DAVIS, Mr. CANADY, Mr. ENGLISH of Pennsylvania, Mr. FRANKS of New Jersey, Mr. BARTLETT of Maryland, Mr. TORKILDSEN, Mr. SOUDER, Mr. MCKEON, Mr. LARGENT, Mr. GRAHAM, Mr. LATOURETTE, Mr. SHAYS, Mr. NEY, and Mr. GUTKNECHT.

H.R. 592: Mr. SKEEN, Mr. PARKER, and Mr. FOLEY.

H.R. 645: Mr. PAYNE of New Jersey and Mr. SERRANO.

H.R. 658: Mr. OLVER and Mr. WATT of North Carolina.

H.R. 708: Mr. SMITH of Texas and Mr. FORBES.

H.R. 777: Mr. ANDREWS, Mr. BENTSEN, Mr. BILBRAY, Mr. BORSKI, Mr. BUNNING of Kentucky, Mr. FOX, Mr. KING, Mr. LIPINSKI, Ms. MOLINARI, Mrs. MORELLA, Mr. OLVER, Ms. PRYCE, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mrs. SEASTRAND, and Mr. PARKER.

H.R. 778: Mr. ANDREWS, Mr. BENTSEN, Mr. BILBRAY, Mr. BORSKI, Mr. BUNNING of Kentucky, Mr. FOX, Mr. KING, Mr. LIPINSKI, Ms. MOLINARI, Mrs. MORELLA, Mr. OLVER, Ms. PRYCE, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mrs. SEASTRAND, and Mr. PARKER.

H.R. 779: Mr. FALEOMAVAEGA, Mr. FOX, Mr. MARTINEZ, Mrs. MORELLA, Mr. OLVER, Mr. RANGEL, Mr. ROMERO-BARCELÓ, Mr. SCOTT, Mr. VENTO, Mr. WYNN, and Mr. PARKER.

H.R. 780: Mr. FALEOMAVAEGA, Mr. FOX, Mr. MARTINEZ, Mrs. MORELLA, Mr. OLVER, Mr. RANGEL, Mr. SCOTT, Mr. VENTO, Mr. WYNN, and Mr. PARKER.

H.R. 789: Mr. ROTH, Mr. FOX, Mr. BARR, and Mr. BOEHNER.

H.R. 800: Mr. ENGLISH of Pennsylvania and Mr. LATHAM.

H.R. 803: Mr. LEWIS of California and Mr. BILBRAY.

H.R. 820: Mr. TOWNS, Mr. CRAMER, and Mr. WAMP.

H.R. 860: Mr. KINGSTON.

H.R. 899: Mrs. SMITH of Washington, Mrs. CHENOWETH, Mr. NETHERCUTT, Mr. GORDON, Mr. HOSTETTLER, Mr. QUILLEN, Mr. TATE, Mr. LATHAM, Mr. BRYANT of Tennessee, Mr. COBURN, Mr. WHITE, Mr. HEFLEY, and Mr. HINCHEY.

H.R. 922: Mr. MARTINEZ and Mr. LIPINSKI.

H.R. 942: Ms. ROYBAL-ALLARD, Ms. MCKINNEY, Mr. SCHIFF, Mr. BLUTE, Mrs. ROUKEMA, Mr. ENGLISH of Pennsylvania, Mr. ZIMMER, Mr. MEEHAN, Mr. EVANS, Mr. LIPINSKI, Mr. YATES, and Mr. LOBIONDO.

H.R. 945: Mr. FROST, Mr. STUPAK, Mrs. ROUKEMA, Mr. WILSON, Mr. BOEHLERT, Mr. TORRICELLI, Mr. RAMSTAD, Mr. VENTO, Mr. BARCIA, Mr. RAHALL, Mr. FRANKS of Connecticut, Mr. SOLOMON, Mr. DIAZ-BALART, Mr. GEJDENSON, and Mr. FOGLIETTA.

H.R. 957: Mr. ABERCROMBIE, Mr. BURTON of Indiana, Mr. SHAYS, Mr. TRAFICANT, Mr. TALENT, Mr. CANADY, and Mr. TORRICELLI.

H.R. 971: Mr. HINCHEY.

H.R. 1003: Mr. HAYES, Mr. LIGHTFOOT, Mr. CARDIN, and Ms. LOFGREN.

H.R. 1020: Mr. WELLER, Mrs. COLLINS of Illinois, Mr. EWING, Mr. PETERSON of Minnesota, Mr. BARCIA, and Mr. CONYERS.

H.R. 1039: Mr. FORBES and Mr. SAXTON.

H.R. 1041: Mr. FORBES and Mr. SAXTON.

H.R. 1042: Mr. FORBES and Mr. SAXTON.

H.R. 1052: Mr. ROTH.

H.R. 1058: Mr. MOORHEAD, Mr. OXLEY, Mr. BILIRAKIS, Mr. SCHAEFER, Mr. BARTON of Texas, Mr. HASTERT, Mr. STEARNS, Mr. PAXON, Mr. GILLMOR, Mr. CRAPO, Mr. BILBRAY, Mr. GANSKE, Mr. NORWOOD, Mr. WHITE, Mr. EDWARDS, Mr. BARCIA of Michigan, and Mr. COBURN.

H.R. 1061: Mr. CHRISTENSEN.

H.R. 1118: Mr. FORBES and Mr. SOLOMON.

H.J. Res. 61: Mr. FOX, Mr. BURR, and Mr. SALMON.

H. Con. Res. 5: Mr. LAHOOD, Mr. YOUNG of Alaska, Mr. DOOLITTLE, Mr. NETHERCUTT, Mr. SPENCE, Mr. HOSTETTLER, Mr. SCHAEFER, and Mr. BARCIA of Michigan.

H. Con. Res. 12: Mr. WISE.

H. Con. Res. 19: Mrs. WALDHOLTZ.

H. Con. Res. 23: Mr. EMERSON, Ms. LOFGREN, Mr. TOWNS, Ms. ESHOO, Mr. FOX, Mr. SENSENBRENNER, Ms. MOLINARI, Mr. GILCHREST, Ms. PRYCE, Mr. MARTINEZ, Mrs. SMITH of Washington, Mr. PACKARD, Mr. EHRLICH, Mr. COYNE, Mr. PAYNE of New Jersey, Mr. BORSKI, Mr. LANTOS, Mr. WALSH, Ms. ROYBAL-ALLARD, Mr. MENENDEZ, Mr. WISE, Mr. HASTINGS of Florida, Mr. HANSEN, Mr. SKEEN, Mr. BARRETT of Wisconsin, Mrs. CHENOWETH, Mr. STEARNS, and Mr. HINCHEY.

H. Con. Res. 25: Mr. WOLF, Mr. GILMAN, and Mr. SOLOMON.

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: Mrs. SEASTRAND.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 988

OFFERED BY: MR. BRYANT OF TEXAS

AMENDMENT NO. 1: Page 4, insert the following after line 21 and redesignate the succeeding paragraph accordingly:

''(8) This subsection applies only to a claim brought against a small business concern as defined under section 3 of the Small Business Act.''.

H.R. 988

OFFERED BY: MR. CARDIN

AMENDMENT NO. 2: At the end of section 4, insert the following:

(c) subsection (a) and (b) shall apply to the United States or any agency or any official of the United States acting in his or her official capacity.

H.R. 988

OFFERED BY: MS. HARMAN

AMENDMENT NO. 3: Page 2, line 9, strike ''offer'' and insert ''reasonable offer made in good faith''.

H.R. 988

OFFERED BY: MR. HOKE

AMENDMENT NO. 4: Page 6, after line 24 (after section 4) insert the following:

SEC. 5. CONTINGENT FEES OF ATTORNEYS.

(a) IN GENERAL.—Part III of title 28, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 80—CONTINGENT FEES OF ATTORNEYS

''1051. Limitations on contingent fees.

''1052. Definition of qualifying settlement offer.

''§ 1051. Limitations on contingent fees

''(a) EFFECT OF QUALIFYING SETTLEMENT OFFER.—In any Federal civil action (except an action for the protection of civil rights, including the right to vote) in which a monetary recovery is sought, the compensation to the attorney representing a plaintiff—

''(1) shall, if a qualifying settlement offer is made to and accepted by that plaintiff not exceed the lesser of—

''(A) the sum of—

''(i) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed; and

''(ii) actual expenses of the attorney in the action; or

''(B) 10 percent of the amount of the accepted qualifying settlement offer; and

''(2) shall, if no qualifying settlement offer is accepted by that plaintiff, not exceed the sum of—

''(A) that portion not greater than 33 percent, agreed upon by the attorney and the plaintiff before trial, of the amount by which the final recovery in the action exceeds the amount of the final qualifying settlement offer;

''(B) a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed before the final qualifying settlement offer is made; and

''(C) actual expenses of the attorney in the action.

''§ 1052. Definition of qualifying settlement offer

''For the purposes of this chapter a qualifying settlement offer is an offer by all defendants—

''(1) to settle all claims against the defendants in the pending action; and

''(2) made not later than 60 days after the date of initial contact in writing between the attorneys for the parties notifying the defendant of the claim against the defendant.''.

(b) CLERICAL AMENDMENT.—The table of chapters for part III of title 28, United States Code, is amended by adding at the end the following new item:

''80. Contingent Fees of Attorneys.....1051''.

Redesignate succeeding sections accordingly.

H.R. 988

OFFERED BY: MR. LATOURETTE

AMENDMENT NO. 5: Page 6, line 24 (after section 4) insert the following:

SEC. 5. PROHIBITION OF CONTINGENCY FEES IN CASES OF UNDISPUTED LIABILITY.

(a) IN GENERAL.—If, not later than 180 days after the date of initial contact, the defendant informs the plaintiff in writing that the defendant no longer contest liability, the compensation to the plaintiff's attorney shall not exceed a reasonable hourly rate, previously agreed upon by the attorney and the plaintiff, for legal work actually performed in the action, and actual expenses of the attorney in the action.

(b) ENFORCEMENT.—Whoever is aggrieved by any violation of this section may in a civil action recover appropriate relief.

(c) DEFINITIONS.—For the purposes of this section the term ''initial contact'' means the receipt by the defendant of notice of the claim sent by the plaintiff through registered mail, return receipt requested, or commencement of the civil action, whichever occurs first.

Redesignate succeeding sections accordingly.

H.R. 988

OFFERED BY: MR. PARKER

AMENDMENT NO. 6: Beginning on page — redesignate Sections as Sections —, respectively, and insert at line — on page — the following:

SEC. . TRUTH IN ATTORNEYS' FEES.

It is the sense of the Congress that each State should require, under penalty of law, each attorney admitted to practice law in such State to disclose in writing, to any client with whom such attorney has entered into a contingency fee agreement—

(1) the actual services performed for such client in connection with such agreement, and

(2) the precise number of hours actually expended by such attorney in the performance of such services.

H.R. 988

OFFERED BY: MR. SMITH OF MICHIGAN

AMENDMENT NO. 7: Page 4, at the end of line 5, add the following:

To the extent that the offeree does not pay the offeror's costs and expenses, including attorneys' fees, as ordered by the court, the attorney of the offeree shall be liable for such costs, such expenses, and such fees.

H.R. 1058

OFFERED BY: MR. KENNEDY OF MASSACHUSETTS

AMENDMENT NO. 1: Page 28, after line 2, insert the following new section (and redesignate the succeeding sections and conform the table of contents accordingly):

SEC. 6. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

''SEC. 37. LIMITATIONS PERIOD FOR IMPLIED PRIVATE RIGHTS OF ACTION.

''(a) IN GENERAL.—Except as otherwise provided in this title, an implied private right of action arising under this title shall be brought not later than the earlier of—

''(1) 5 years after the date on which the alleged violation occurred; or

''(2) 3 years after the date on which the alleged violation was discovered.

''(b) EFFECTIVE DATE.—The limitations period provided by this section shall apply to all proceedings pending on or commenced after the date of enactment of this section.''.

H.R. 1075

OFFERED BY: MR. FRANK OF MASSACHUSETTS

AMENDMENT NO. 1: Page 11, strike lines 17 through 24 and insert the following:

SEC. 107. SEVERAL LIABILITY FOR ECONOMIC AND NON-ECONOMIC LOSS.

In any product liability action, the liability of each defendant found to be less than 20 percent responsible for the claimant's economic and noneconomic loss shall be several only and shall not be joint. Each defendant found to be less than 20 percent responsible shall be liable only for the amount of economic and noneconomic loss attributable to such defendant in direct proportion to such defendant's proportional share of fault or responsibility for the claimant's harm, as determined by the trier of fact.

H.R. 1075

OFFERED BY: MR. ROTH

AMENDMENT NO. 2: Page 13, redesignate section 110 as section 111 and insert after line 2 on that page the following (and conform the table of contents accordingly):

SEC. 110. EXPEDITED PRODUCT LIABILITY SETTLEMENTS.

(a) IN GENERAL.—Any claimant may bring a civil action for damages against a person for harm caused by a product pursuant to applicable State law, except to the extent such law is superseded by this title.

(b) SETTLEMENT.—

(1) CLAIMANT.—Any claimant may, in addition to any claim for relief made in accordance with State law, include in such claimant's complaint an offer of settlement for a specific dollar amount.

(2) DEFENDANT.—The defendant may make an offer of settlement for a specific dollar amount within 60 days after service of the claimant's complaint or within the time permitted pursuant to State law for a responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may tender such relief to the claimant within 10 days after the court's determination regarding such motion.

(3) COURT ACTION.—

(A) EXTENSION ORDER.—In any case in which an offer of settlement is made pursuant to paragraph (1) or (2), the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than 60 days. Any such motion shall be accomplished by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(B) DEFENDANT NOT ACCEPTING.—If the defendant, as offeree, does not accept the offer of settlement made by a claimant within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within 30 days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owned by the claimant to the claimant's attorney by reason of the verdict.

(C) CLAIMANT NOT ACCEPTING.—If the claimant, as offeree, does not accept the offer of settlement made by a defendant within 30 days after the date on which such offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reductions shall not exceed that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits.

(D) ATTORNEY'S FEES.—For purposes of this subparagraph, attorney's fees shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

(c) ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.—In lieu of or in addition to making an offer of settlement under subsection (b), a claimant or defendant may, within the time permitted for the making of such an offer under such section, offer to proceed pursuant

to any voluntary alternative dispute resolution procedure established or recognized under the law of the State in which the civil action for damages for harm caused by a product is brought or under the rules of the court in which such action is maintained.

(d) OFFEREE REFUSAL.—If the offeree refuses to proceed pursuant to such alternative dispute resolution procedure and the court determines that such refusal was unreasonable or not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree.

(e) REBUTTABLE PRESUMPTION.—For the purposes of this section, there shall be created a rebuttable presumption that a refusal by an offeree to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, if a verdict is rendered in favor of the offeror.